California Regional Water Quality Control Board, Los Angeles Region
Los Angeles County MS4 Permit
Response to Comments on the Tentative Order
GENERAL AND MISCELLANEOUS MATRIX

Section/Topic	Comment Summary	Commenter(s)	Response	Change Made
Public Participation and Permit Development Process				
Public review and comment period	The 45-day review and comment period on the draft tentative permit has been unreasonably short and/or inadequate given the breadth of the permit, and has denied permittees due process rights under state and federal law.	Cities of Agoura Hills, Artesia, Beverly Hills, Bradbury, El Segundo, Hidden Hills, La Mirada, Malibu, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, West Hollywood, and Westlake Village; Peninsula Cities; LACFCD; County of Los Angeles	This comment was addressed in the Chair's "Order on Objections and Requests Concerning Hearing Procedures and Process" dated September 26, 2012. The Regional Board also provided written responses to multiple Permittees' time extension requests on July 13, 2012 and July 26, 2012.	None
Public review and comment period	The 45-day review and comment period does not satisfy the Clean Water Act standard that requires a reasonable and meaningful opportunity for stakeholder participation.	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	The Board has provided a reasonable and meaningful opportunity for stakeholder participation in compliance with the Clean Water Act. Federal regulations implementing the Clean Water Act only require that the Board provide at least 30 days for public comment. Stakeholders were thus provided with more time than federal law requires. Moreover, the Board has made extraordinary efforts to provide opportunities for stakeholder participation during the permit development process. The permit development process began in May 2011. Since that time, the Board has provided countless opportunities for stakeholders to raise concerns, ask questions, and engage in dialogue with Board staff regarding permit	None

			provisions. The Board has held five staff-level workshops and three Board workshops. Board staff has also regularly met with several permittees, either individually or jointly. Board staff also recognized the value of providing permittees and other stakeholders with working proposals of the permit prior to issuing the tentative. Board staff released working proposals for the five principal sections of the permit in March 2012 and April 2012, and allowed for informal written and oral comments. As a result, the draft tentative permit was revised to address many of the concerns raised by permittees and stakeholders during meetings, as well as the written and oral comments received on the working proposals. The tentative permit that was released for a 45-day public comment period reflected those changes.	
Request for Extension of Time in Which to Submit Comments and to Continue the Hearing	The Cities request an extension of 180 working days to include a Revised Tentative Permit to be released with a 45-day comment period. LACFCD and the County of Los Angeles request an extension of at least 6-7 months that would include an extension of the current public comment period and a second draft with an extended public comment period. The extension request would also resolve a conflict city management and officials have with the current September 6-7, 2012 hearing date, which overlaps with the annual League of Cities conference in San Diego.	Cities of Agoura Hills, Artesia, Beverly Hills, Bradbury, Hidden Hills, La Mirada, La Verne, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, West Hollywood, and Westlake Village; LACFCD; County of Los Angeles	The commenters' proposed schedules would delay the issuance of a new MS4 permit by at least six months. Reissuance of the permit is already 6 years overdue. The additional delay is not justified in light of the numerous opportunities for comment that have already been made available to stakeholders since May 2011. As indicated in a memorandum from the Executive Officer to permittees and interested persons on August 7, 2012, the date of the public hearing to consider the tentative permit was changed from September 6-7, 2012 to October 4-5, 2012 that resolved the scheduling conflict with the Annual League of Cities Conference and Expo.	None
Revised copy of tentative	Before the LARWQCB adopts this order, the City of Vernon requests a revised copy of the Tentative Order with an	City of Vernon	The Regional Board has structured its hearing on this permit as a two part hearing. On October 4-5, 2012, the Board held a hearing on the tentative permit circulated on June 6, 2012. On October 18, 2012, a revised	None

	opportunity to comment after it has been revised.		tentative permit was circulated, which included revisions made to the tentative permit since June 6, 2012. The revisions reflected in the revised tentative permit were the result of written and oral comments received by the Board, including oral comments made during the public hearing held on October 4-5, 2012. The City will have an opportunity to provide oral comments on the revisions in the revised tentative permit at the November 8, 2012 hearing.	
Public Participation	Most of these workshops have had the Regional Board staff present the main topics/programs to the Regional Board members, and have then opened up the floor for public comments for three minutes each. In short, the Regional Board members have asked questions of their staff and responses were given without much, if any consideration of the public's concerns. The process is frustrating for permittees in that our issues and concerns are not being adequately heard or addressed. The permittees represent their constituents when appearing before the Board, and we are concerned that various pressing concerns with this permit have yet to be heard.	City of Burbank	The permittees' concerns have been heard and have been considered by the Board. The Board has made extraordinary efforts to provide opportunities for stakeholder participation during the permit development process. The permit development process began in May 2011. Since that time, the Board has provided countless opportunities for stakeholders to raise concerns, ask questions, and engage in dialogue with Board staff regarding permit provisions. The Board has also held five staff-level workshops and three Board workshops. While the workshops were topical in format, permittees and stakeholders were provided time to present their concerns. During the workshops, permittees and stakeholders were often provided more than 3 minutes to present their issues/concerns to the Board and/or Board staff. Some permittees that requested extra time were provided time allotments of 10 minutes or more to present their concerns and the LA Permit Group was provided 30 minutes or more to express joint issues/concerns. During staff-level workshops permittees were not constrained to a specific amount of time to present their concerns. Board staff has also regularly met with several permittees, either individually or jointly, over the last 18 months, affording permittees countless hours to discuss their concerns with staff in detail. Permittee and stakeholder input was considered in the drafting of the tentative permit. Board staff recognized the value of providing permittees and other stakeholders	None

			with working proposals of the permit prior to issuing the tentative. Board staff released working proposals for the five principal sections of the permit in March 2012 and April 2012, and allowed for informal written and oral comments. As a result, the draft tentative permit was revised to address many of the concerns raised by permittees and stakeholders during meetings, as well as the written and oral comments received on the working proposals. The tentative permit that was released for a 45-day public comment period reflected those changes based on a consideration of the permittees' concerns.	
Request for Extension of Time in Which to Submit Comments and to Continue the Hearing	The Board should not conduct a hearing on a new permit while a case that could directly impact the scope of the new Permit, *LACFCD v. NRDC*, is pending before the U.S. Supreme Court. The Board should not adopt a new permit while there is uncertainty over it. There is no pending need for the Board to act precipitously prior to the Supreme Court's hearing which is only 90 to 120 days from the currently scheduled date for the consideration of the Permit.	LACFCD; County of Los Angeles	The pending case before the U.S. Supreme Court concerns citizen enforcement of certain provisions of the current 2001 permit. As such, the Board does not anticipate that the Court's decision will impact the Board's regulatory authority or the scope of a new permit. In the event that the decision in that case would require changes in the permit, Part VI.A.7.a.vi. of the tentative permit allows the Board to reopen the permit to make necessary changes in response to judicial decisions that become effective after adoption of the permit. Further, while the Court has scheduled oral arguments on December 4, 2012, it is uncertain when the Court will issue a decision. It is likely that the Court would not issue a decision until several months after oral arguments. In addition, it is possible that the Court's decision may remand the case to a lower court. Thus, it could be several months, perhaps even years, before the case is fully resolved.	None
Permit Adoption	Given the continuing threat to public health and the environment posed by stormwater pollution in Los Angeles County, and consistent with the Board's repeatedly stated intent, the Board should	Environmental Groups	The Board agrees that additional delay is not justified in light of the numerous opportunities for comment that have already been made available to stakeholders since May 2011. However, as indicated in a memorandum from the Executive Officer to permittees and interested persons on August 7, 2012, the date of the public hearing to consider the tentative permit was changed	None

	avoid any further delay in the permit adoption process and ensure that a new MS4 permit is finalized in September.		from September 6-7, 2012 to October 4-5, 2012 that resolved a scheduling conflict for several permittee representatives with the Annual League of Cities Conference and Expo.	
Delay in Compliance	We strongly oppose further delay. Extensions on compliance will only signal dischargers that their unwillingness to comply will be rewarded by more extensions.	Surfrider Foundation	The Board agrees that additional delay is not justified in light of the numerous opportunities for comment that have already been made available to stakeholders since May 2011. This permit will establish enforceable provisions, with compliance schedules as appropriate, to protect water quality as required by the Clean Water Act.	None
Alternative Approach to Compliance	The current Draft Permit looks to old methods of pollutant control and is based upon a punitive, not incentive, mentality. LACFCD believes that a regional approach should be incorporated into the MS4. The next Draft Permit should include an alternative requirement in the RWL section that would set forth a procedure for permittees to develop and implement a stormwater infiltration and reuse program as a path to compliance. Once implementation of the program is complete, the permittee will be deemed in full compliance with the RWL section requirements. Thus, LACFCD sees the potential for a two-track road to compliance with water quality standards. Permittees who choose to continue to follow the current iterative process may do so with the additional requirements set by	County of Los Angeles	The Board disagrees that the tentative order looks to old methods of pollutant control. The tentative order provides Permittees the opportunity to develop and implement Watershed Management Programs and, where a Permittee elects to do so, allows customization of requirements and prioritization of implementation of watershed control measures based on the water quality issues specific to a watershed management area. This shift to a more flexible, tailored approach to permit implementation is innovative and encourages Permittees to work collaboratively to find the most cost effective solutions by tailoring storm water management programs to address specific water quality issues. However, the Regional Board also recognizes and supports storm water capture and infiltration to achieve not only the requirements of the tentative order but other benefits including water supply, flood control and other environmental benefits. Therefore, the tentative order has been revised to provide Permittees with the option to develop an enhanced Watershed Management Program. An enhanced Watershed Management Program is one that comprehensively evaluates opportunities, with the participating Permittees' collective jurisdictional area in a Watershed Management Area, for collaboration among Permittees and other partners on multi-benefit regional projects to	Part VI.C. revised.

	TMDLs. But Permittees who believe that a more effective method exists to reduce massive amounts of pollutant loads by simply reducing the amount of runoff will be encouraged to implement stormwater reuse projects. However, permittees and Board staff need time to work together to determine how such a program may exist within the framework of the currently proposed MS4 Permit.		control MS4 discharges of storm water by, wherever feasible, retaining the 85th percentile, 24-hour storm event for the drainage areas tributary to the projects, while also achieving other benefits including flood control and water supply, among others. Where retention of the 85th percentile, 24-hour storm event is not feasible, the enhanced Watershed Management Program shall include a Reasonable Assurance Analysis to demonstrate that applicable water quality based effluent limitations and receiving water limitations shall be achieved through implementation of other watershed control measures. Permittees who elect to participate in such a program will be provided with a longer time period to develop an enhanced Watershed Management Program in recognition of the time necessary to establish partnerships, provide opportunities for meaningful stakeholder involvement and plan regional, multi-benefit projects. The tentative order has been revised to establish that a Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or enhanced Watershed Management Program will constitute compliance with the receiving water limitations in Part V.A. addressed by the program.	
Facility Information				
Title of the Permit	The title of the permit is not accurate. The Permit covers several MS4 systems and there are discharges within the LACFCD's jurisdiction that are not covered by this Permit. To be accurate, the title should be "Waste Discharge Requirements for 84 Incorporated Cities Within the County of Los Angeles, the County of Los	LACFCD	The title has been revised to "Waste Discharge Requirements for MS4 Discharges within the Coastal Watersheds of the County of Los Angeles, Except Those Discharges Originating from the City of Long Beach MS4."	Title revised.

	Angeles, and the Los Angeles County Flood Control District."			
References to the "LA County MS4"	References to the "L.A. County MS4" or "Los Angeles County MS4" are confusing and inaccurate because the County itself is a Permittee. The reference could be taken as referring to the County's MS4, as opposed to all of the Permittees' MS4's. This also unfairly suggests that the County has principal responsibility for this MS4. The reference also assumes the existence of a single MS4 instead of a collection of separate MS4s which may or may not be interconnected. The County requests that all references (inc. findings and fact sheet) be replaced in the more accurate reference of "MS4s subject to this Order." The County requests that all references to the "L.A. County MS4 Permit" or "Los Angeles County MS4 Permit" be replaced with a reference to the "permit for the MS4s" or "MS4s subject to this Order."	County of Los Angeles	Short-hand references such as "L.A. County MS4" or "Los Angeles County MS4" are merely used for ease of reference and do not suggest that the County has principal responsibility for the MS4s subject to the Order. By definition, a "municipal separate storm sewer" includes "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) . . .." (40 CFR § 122.26(b)(8).) The term MS4 means a municipal separate storm sewer system. Thus, the term "Los Angeles County MS4" already acknowledges that there are several components that make up the MS4, including city streets. Nevertheless, these references have been changed to the "Permittees' MS4s" throughout the Order.	Language revised.
Use of LACFCD area as a jurisdictional boundary	The current language in Tables 1, 3, 6, and 7, Part II.B and II.D, and the Fact Sheet (Tables F-1, F-3, and F-4) that "…84 incorporated cities within the Los Angeles County Flood Control District…" implies LACFCD has jurisdiction or	LACFCD	The Order and attachments have been changed to reference MS4 discharges within the coastal watersheds of Los Angeles County rather than the Los Angeles County Flood Control District.	Language revised.

	oversight over the municipalities. The LACFCD boundary is merely a service area boundary. The language should be revised to read "…84 incorporated cities within the Los Angeles County Flood Control District"			
Contact information	In Table 2, the contact person for the LACFCD is incorrect. Revise to: Gary Hildebrand, Assistant Deputy Director 626-458-4300 ghildeb@dpw.lacounty.gov	LACFCD	The contact information has been revised.	Table 2 revised.
Contact information	In Table 2, the contact person for the County of Los Angeles is incorrect. Revise to: Gary Hildebrand, Assistant Deputy Director 626-458-4300 ghildeb@dpw.lacounty.gov	County of Los Angeles	The contact information has been revised.	Table 2 revised.
Contact information	Facility Contact info in Table 2 should be updated as follows: 100 Civic Center Way, Calabasas CA 91302	City of Calabasas	The contact information has been revised.	Table 2 revised.
Contact information	Please update the Facility/ Discharger Information for the City of El Segundo (WDID# *4B190170001*). Change the Facility Contact to: Stephanie Katsouleas, Public Works Director, skatsouleas@elsegundo.org. The Mailing: Address for the City of El Segundo is still 350 Main Street, El Segundo, CA 90245 and my contact phone number	City of El Segundo	The contact information has been revised.	Table 2 revised.

	should be (310) 524-2356.			
Contact information	The contact information should be changed as follows: Mailing Address: 1 W. Manchester Blvd, 3rd Floor Public Works Department Inglewood, CA 90301 Facility Contact: Lauren Amimoto, Senior Administrative Analyst	City of Inglewood	The contact information has been revised.	Table 2 revised.
Contact information	Please modify the City's Facility Contact Name and Email to: Jennifer Brown, jbrown@malibucity.org, and the City Hall address to 23825 Stuart Ranch Road, Malibu, CA 90265.	City of Malibu	The contact information has been revised.	Table 2 revised.
Contact information	The City's Facility Contact and Title in Table 2 of the Draft Tentative Order should be amended to read: "Bernardo Iniguez, Environmental Services Manager"	City of Bellflower	The contact information has been revised.	Table 2 revised.
Contact information	Also, please replace the City of Covina's Facility Contact name listed in the Tentative Order with my name, Vivian Castro, Environmental Services Manager. The other contact information listed for the City, including my email, is correct.	City of Covina	The contact information has been revised.	Table 2 revised.
Contact information	Please correct the City of Pomona contact information on Page 6 to read as follows: Julie Carver, Environmental Programs Coordinator, Julie_Carver@ci.pomona.ca.us	City of Pomona	The contact information has been revised.	Table 2 revised.

Contact information	Please replace the City of West Hollywood's Facility Contact name listed in the Tentative Order with Sharon, City Engineer. The mailing address for the City of West Hollywood is correct.	City of West Hollywood	The contact information has been revised.	Table 2 revised.
Contact information	The open section that lists the names of the contact person, thus incorporating the names into the MS4 permit is inappropriate as City personnel are very likely to change over the next 5 or more years. Only the City titles and addresses should be listed.	Cities of Downey, Monterey Park, Temple City, Torrance; Peninsula Cities; South Bay Cities	The inclusion of permittee personnel with contact information, as of the date of Order adoption, is appropriate.	None
Findings				
Nature of Discharges and Sources of Pollutants	The finding lists the primary pollutants of concern as identified in by the LACFCD Integrated Receiving Water Impacts Report from 1994-2000. A more recent report from 1994-2005 determined constituents of concern based on the more recent mass emission monitoring data. The findings should reference the more recent 1994-2005 report that indicates the constituents of concern are: indicator bacteria, total aluminum, copper, lead, zinc, diazinon, and cyanide.	LACFCD	The finding has been revised to reflect the 1994-2005 report.	Finding revised.
Nature of Discharges and Sources of Pollutants	Primary pollutants of concern should be those identified on the 303d list for receiving waters in the LA Basin that have been identified as being impaired, not	City of Torrance; South Bay Cities	The inclusion of the LACFCD Integrated Receiving Water Impacts Report in the finding is appropriate. The reference provides a basis for watershed management prioritization. However, as noted above, the finding has been revised to reflect the 1994-2005 report.	Finding revised.

	a twelve-year-old receiving water impact report. Strike the reference to LACFCD Integrated Receiving Water Impacts Report from 1994-2000 and substitute reference to 303d list.			
Nature of Discharges and Sources of Pollutants	The finding states that stormwater and non-stormwater discharges of debris and trash are also a pervasive water quality problem in the Los Angeles Region. This finding apparently ignores the tremendous efforts made on the various Trash TMDLs. The finding should include a statement that the trash TMDLs and the significant efforts on the part of the Permittees have reduced trash generation in the various watersheds.	LACFCD	The finding has been revised to reflect the significant strides that have been made by a number of permittees in addressing discharges of debris and trash.	Finding revised.
Nature of Discharges and Sources of Pollutants	It should be clearly stated that it is not the intent of this Permit to address naturally occurring pollutants, which are outside the control of the Permittees. Other MS4 Permits, such as Order No. R8-2009-0030 (NPDES No. CAS 618030) already include such language.	County of Los Angeles	To the contrary, it is the Board's intention to regulate all pollutants, whether they are anthropogenic or naturally occurring, that are discharged from the MS4 to receiving waters. The entire purpose of a NPDES permit is to regulate discharges of "pollutants" from point sources to receiving waters. The Clean Water Act's definition of "pollutant" in section 502(6) does not distinguish between pollutants that are caused by anthropogenic or naturally occurring sources. Further, the definition of "waste" in California Water Code section 13050(d) specifically includes waste "associated with human habitation, or of human or animal origin." Even if a permittee is not able to control the source of a	None

			naturally occurring pollutant, the Clean Water Act requires permittees to control pollutants through an MS4 to receiving waters. The above notwithstanding, the Board has addressed the issue of natural sources of pollutants through its water quality standards program in the case of bacteria objectives. This Regional Board continues to discuss this issue with regard to other pollutants that are naturally occurring with other regional boards and the State Water Board.	
Permit Coverage and Facility Description	The finding inappropriately singles out LACFCD when it should address the area being covered by the permit. There are areas within the service area of the LACFCD that are not covered under the permit. The finding should also state that the MS4 also includes the street networks from all Permittees. In addition, the last paragraph should be revised as follows: "The ~~Los Angeles County Flood Control District~~ area covered under this Order encompasses more than 3000 square miles. ~~The LACFCD~~ This area contains a vast drainage network…Maps depicting the major drainage infrastructure of the ~~LA County MS4~~ area covered under this Order are included in Attachment C ~~of this Order~~."	LACFCD	The finding has been revised. The definition of MS4 included in Attachment A, which is consistent with 40 CFR § 122.26(b)(8), already acknowledges that the MS4 includes street networks. Thus, no further clarification is needed on what the MS4 includes.	Finding revised.
Geographic Coverage and Watershed Management Areas	The fourth paragraph suggests that it is the responsibility of the Permittees, who do not have primary jurisdiction over entities outside the LACFCD, to address	County of Los Angeles	The fourth through eighth paragraphs of this finding factually discuss sources of discharges into receiving waters within the County of Los Angeles that are not covered by this MS4 permit. Therefore, the fourth paragraph is appropriate as-is.	None

	these discharges. Unlike Order No. 01-182, which in Finding D.2 acknowledges both uncontrolled entities within the Permit coverage area and outside the area, this finding only references sources located outside the area of the LACFCD. There are dischargers within the area of the LACFCD that are beyond the control of the Permittees. These facilities are subject to the jurisdiction of the Board. This finding should be modified to reflect sources both within and without the Permit coverage area, as was done in Finding D.2 of Order 01-182.		The Board acknowledges that there are dischargers and sources of pollutants within the LACFCD service area that are beyond the control of the permittees. However, the permittees have ultimate authority and responsibility to prohibit, prevent, or otherwise control the discharges that enter and exit the portions of the MS4 for which they are owners and/or operators. Even if the permittees cannot control the sources or do not themselves generate the pollutants entering/exiting their MS4s, the permittees are nevertheless responsible for ensuring that the pollutants do not reach receiving waters through their MS4. As recently stated by the 9th Circuit Court of Appeals, "the Clean Water Act does not distinguish between those who add and those who convey what is added by others - the Act is indifferent to the originator of water pollution." (*NRDC v. County of Los Angeles* (2011) 673 F.3d 880, 900.) Thus, the Clean Water Act, and this permit, appropriately places responsibility for preventing or controlling illicit discharges on the permittees.	
Geographic Coverage and Watershed Management Areas	The finding states " … each Permittee shall maintain the necessary legal authority to control the contribution of pollutants to its MS4 and shall include in its storm water management program a comprehensive planning process that includes intergovernmental coordination, where necessary." If the MS4/catch basin is owned by the LACFCD, does this mean that the LACFCD needs to control the contribution of pollutants?	LA Permit Group	Co-permittees must comply with permit conditions relating to discharges from the MS4s (including catch basins) for which they are owners or operators. (40 CFR § 122.26(a)(3)(vi)).	None
MS4 Requirements	The last paragraph of this finding misstates the	County of Los Angeles	The finding has been revised to use the exact language from the Clean Water Act, which requires MS4 permits	Finding revised.

	requirements of the CWA. There is no provision in the CWA that requires the Board to include "other provisions that the Regional Water Board determines necessary for the control of pollutants in MS4 discharges in order to achieve water quality standards." As the 9th Circuit held in *Defenders of Wildlife v. Browner,* the state has "discretion" to require stormwater discharges to achieve water quality standards, but also the discretion not to require such controls.		include "other provisions the Regional Water Board has determined appropriate for the control of such pollutants."	
Water Quality Control Plans	Please remove table 6- confusing and seems to assume all reaches have all beneficial uses. List the uses by watershed if necessary to list, but do not assign the uses to all bodies of water from all outfalls	City of Santa Clarita	Table 6 is not meant to be a detailed listing of the beneficial uses applicable to each surface water body and reaches. Before Table 6, the finding states: "Beneficial uses applicable to the surface water bodies that receive discharges from the Los Angeles County MS4 *generally* include those listed below."(emphasis added.)	None
Total Maximum Daily Loads	Please remove language in last paragraph of Finding J.1. regarding interagency. Cities do not have authority over other agencies' discharges.	City of Santa Clarita	The finding does not state that Permittees have control or authority over another Permittee's discharges. As noted in the finding, federal regulations state that co-permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators (40 CFR § 122.26(a)(3)(vi)). Federal regulations, however, also require that permittees include in its storm water management program a comprehensive planning process that includes intergovernmental coordination, where necessary. Given the interconnected nature of the permittees' MS4s, the Board expects permittees' to work cooperatively to facilitate compliance efforts through inter-agency agreements or other formal arrangements.	None

Endangered Species Act	Clarify that L.I.D. Ordinances and Developer required L.I.D. exemptions include preserving flows to established freshwater ecosystems that have been identified by a Naturalist would be degraded by having dry and wet weather run off diverted	City of Torrance	The Order does not mandate diverting all flows. Rather, permittees must implement LID BMPs that attempt to mimic the runoff volume and duration of an undeveloped parcel. Permittees may develop its LID ordinance to preserve freshwater ecosystems. In implementing LID BMPs and developing LID ordinances, permittees are responsible for meeting all requirements of the federal and state Endangered Species Acts.	None
Economic Considerations	Please show this exceeds federal standards through stricter interpretation of rules than is required under the Clean Water Act.	City of Santa Clarita	The Board disagrees. The requirements in the permit are not more stringent than the minimum federal requirements. While a Water Code section 13241 analysis is not required, the Board has nevertheless considered the factors in section 13241. That analysis is provided in the Fact Sheet.	None
Permit Application				
Permit Application	The Board has no authority to issue a combined system-wide MS4 permit to parties, such as Signal Hill and LACFCD, who filed separate Reports of Waste Discharge (ROWD) requesting individual permits and who have not agreed to be included as co-permittees in a combined system-wide permit. Pursuant to 40 CFR section 122.26(a)(3)(iii), any individual MS4 operator has the right to apply for and obtain its own individual permit. No individual MS4 permittee can be forced, against its will and without the agreement of the various other jurisdictions to be included in the combined system-wide permit.	City of Signal Hill; LACFCD	While federal regulations do allow individual MS4 owners/operators to apply for individual permits, the Regional Water Board retains the discretion as the permitting authority to determine whether to actually issue an individual permit. The Board has the authority to issue permits for discharges from MS4s on a system-wide or jurisdiction-wide basis. (CWA § 402(p)(3)(B)(i); 40 CFR section 122.26, subdivisions (a)(1)(v), (a)(3)(ii), and (a)(3)(iv)). USEPA's responses to comments for its regulations pertaining to large and medium MS4s also make it clear that the permitting authority has the flexibility to establish system- or region-wide permits. In the Final Rule published in the Federal Register and containing its responses to comments, USEPA noted that section 122.26(a)(3)(iv) would allow an entire system in a geographical region under the purview of a State agency to be designated under a permit. (55 Fed. Reg. 47990, 48042.) USEPA also indicated that many commenters wanted to allow permitting authorities broad discretion to establish system-wide permits, and that USEPA believed that section 122.26, subdivisions (a)(1)(v) and (a)(3)(ii),	None

			allowed for such broad discretion. (*Id.* pp. 48039-48043.) Because of the complexity and networking of the MS4 within Los Angeles County, which often results in commingled discharges, the Regional Water Board has previously adopted a system-wide approach to permitting MS4 discharges within Los Angeles County. In evaluating the separate ROWDs and the factors described in 40 CFR § 122.26(a)(1)(v), the Regional Water Board again considered the appropriateness of permitting discharges from MS4s within Los Angeles County on a system-wide or jurisdiction-wide basis or a combination of both. Based on that evaluation, as detailed in the Fact Sheet of the tentative permit, the Regional Water Board again determined that, because of the complexity and networking of the MS4 within Los Angeles County, that one system-wide permit is appropriate. However, in order to provide individual permittees with more specific requirements, certain provisions of the tentative permit are organized by watershed management area, which is appropriate given the requirements to implement 33 watershed-based TMDLs. In addition, because the LACFCD owns and/or operates large portions of the MS4 infrastructure in each coastal watershed management area within Los Angeles County, the LACFCD should remain a permittee in the single system-wide permit. However, as requested by LACFCD, the tentative permit relieves LACFCD of its role as "Principal Permittee." Further, a separate section in the permit that describes the minimum control measure requirements applicable to the LACFCD has been added to the permit, reflecting the different institutional structure and land use authority of the LACFCD as compared to the other permittees.	
Permit Application	Federal regulations pertaining to small MS4 permittees make clear that Signal Hill cannot be forced into a joint system-wide	City of Signal Hill	The federal regulations pertaining to small MS4s are not applicable. The City of Signal Hill is appropriately regulated under the regulations pertaining to large and medium MS4s. Under the Phase I regulations, USEPA	None

	NPDES permit (citing 40 CFR section 122.33)		required NPDES permit coverage for discharges from medium and large MS4s with populations of 100,000 or more. The USEPA and the Regional Water Board have classified the Greater Los Angeles County MS4 as a large MS4 pursuant to 40 CFR section 122.26(b)(4) due to the total population of Los Angeles County, including that of unincorporated and incorporated areas, and the interrelationship between the MS4s throughout Los Angeles County. The total population of the cities and County unincorporated areas covered by the 2001 permit was 9,519,338 in 2000 and has increased to 9,818,605 in 2010, according to the United States Census.	
Permit Application	If the Board does not delete LACFCD from the permit and issue LACFCD a separate individual permit, the Board should include a separate chapter in the permit that clearly describes the requirements applicable to the LACFCD.	LACFCD	A separate section in the permit that describes the minimum control measure requirements applicable to the LACFCD has been added to the permit.	New section added.
Permit Application	The permit is not a system-wide permit because the Board has specifically excluded the City of Long Beach from the permit, even though that city's MS4 is as much a part of the regional storm sewer "system" (and its area as much a part of the watersheds) as those MS4s and cities included under the Permit. The Board has provided no justification for excluding Long Beach. Providing Long Beach a separate permit, but denying the same to Signal Hill, who is entirely surrounded by Long Beach, is proof positive that	City of Signal Hill; LACFCD	The Board decided in 1999, over a decade ago, to issue a separate MS4 permit to the City of Long Beach, in response to the City's request and its submittal of a complete ROWD. Over the last decade, the City of Long Beach has developed and implemented a robust individual monitoring and reporting program to characterize water quality and track implementation of permit requirements within the City. The Board found that the City's proven track record in implementing its individual permit over the past decade and its readiness to work cooperatively with permittees in the Los Angeles County MS4 Permit on watershed based implementation supported its continued desire to operate under an individual permit.	None

	there is no rational justification for not providing Signal Hill with its own separate permit.			
Permit Application	LACFCD, while a significant MS4 operator in LA County, is not the "primary owner and operator of the Los Angeles County MS4." Even if the county-wide MS4 were considered a single system, since city streets form the single most significant part of the County MS4, and the LACFCD owns or operates no streets, there would be no support for such a finding. That language should be deleted.	LACFCD	References to LACFCD being the "primary owner and operator" have been removed.	Language deleted
Permit Application	The statement that LACFCD should remain a Permittee in a single system-wide permit because it is the primary owner and operator of the Los Angeles County MS4 is misleading since it does not acknowledge that MS4 also includes streets and roads. As such, other Permittees also own and operate a significant portion of the LA County MS4. The language should be revised to read: "The Regional Water Board also determined that as the primary owner and operator of the Los Angeles County MS4, because it operates MS4 infrastructure in each watershed management area, the LACFCD should remain a Permittee in the single system-wide permit;…"	LACFCD	As noted above, references to LACFCD being the "primary owner and operator" have been removed. Changes reflecting LACFCD as owning and/or operating portions of the MS4 infrastructure in each coastal watershed management area within Los Angeles County have been made.	Language revised.

Permit Application	The Fact Sheet cites consideration of the large inter-connected nature of the Los Angeles County MS4 system and the fact that the discharges from multiple cities often co-mingle in the MS4 prior to discharging to receiving waters in evaluating the Reports of Waste Discharge (ROWDs) requesting separate MS4 permits. This factor should not preclude the City of Signal Hill from having its own separate permit. The City discharges to both the Los Angeles River and the Los Cerritos Channel through the City of Long Beach that already has a separate MS4 permit	City of Signal Hill	This factor does not "preclude" the City from having its own permit. The Board has the authority to issue a jurisdiction-wide or system-wide permit. In issuing this system-wide permit, the Board considered *all* of the factors identified in the Fact Sheet combined. Further, it should be noted that the Board determined in 2006 that the City of Signal Hill's ROWD did not satisfy federal regulations. Accordingly, the Board deemed the City's ROWD incomplete. The City did not submit a complete ROWD thereafter. Had the City submitted a complete ROWD, the Board could have taken that into consideration in issuing this permit. Board staff has met with City representatives and explained that the City must submit a complete ROWD, consistent with the CWA and implementing regulations, to the Board that outlines the programs that the City will implement before Board staff can consider recommending issuance of a separate permit.	None
Permit Application	The fact sheet asserts that having separate permits would make implementation of TMDLs more cumbersome. The City of Signal Hill strongly disagrees with this assertion. The City led the organization of Jurisdictional Group 1 for the Los Angeles River Metals TMDLs and accommodated the withdrawal of the City of Los Angeles and the County of Los Angeles by organizing the remaining cities and Caltrans through MOAs with the Gateway Council of Governments. The City of Long Beach is one of the cities in Jurisdiction Group 1, and both Caltrans and the City of Long	City of Signal Hill	Board staff has met with City representatives and explained that the City must submit a complete ROWD to the Board that outlines the programs that the City will implement before Board staff can consider recommending issuance of a separate permit.	None

	Beach have separate MS4 permits. Because all the entities are subject to the same metals TMDLs and have organized themselves pursuant to MOAs with the Council of Governments, having separate permits has absolutely no impact the ability of the entities within the Jurisdictional Group to work together to implement the TMDLs			
Permit Application	The third factor mentioned in the Fact Sheet is the passage of AB 2554, the development of the County's Water Quality Funding Initiative, and the fact that 50% of the funding is allocated to Watershed Authority Groups (WAGs) to implement collaborative water quality improvement plans. Long Beach, with its separate permit, is in two of the WAGs. Furthermore, the WAGs are to be organized as joint powers authorities, so the fact that one or more Permittee might have a separate MS4 permit will have no impact.	City of Signal Hill	Board staff has met with City representatives and explained that the City must submit a complete ROWD to the Board that outlines the programs that the City will implement before Board staff can consider recommending issuance of a separate permit.	None
Permit Application	A fourth factor apparently considered by Regional Board staff was the results of the on-line survey administered by the Regional Board staff. The fact that only four Permittees expressed a preference for individual permits is not	City of Signal Hill	This permit does not require a one-size-fits-all approach. The Board has determined that this permit ensures consistency and equitability in regulatory requirements within Los Angeles County, while watershed-based sections within the permit provides flexibility to tailor permit provisions to address distinct watershed characteristics and water quality issues.	None

	justification for a single, one-size-fits-all, approach			
Permit Application	Furthermore, issuing a separate MS4 permit will not end the City's leadership in responding to multiple TMDLs nor place undue burdens on the Regional Water Board. The City is committed to continuing to organize and lead the 42 entities in the Los Angeles River Watershed with respect to coordinated monitoring and special studies. We are also committed to working with the entities in Jurisdictional Group 1 for the Los Angeles River Metals TMDLs and with the cities in the Los Cerritos Channel Watershed. In addition, we will be working with multiple jurisdictions to address several TMDLs.	City of Signal Hill	The Board acknowledges that the City of Signal Hill has lead and implemented programs to comply with TMDLs. Board staff has met with City representatives and explained that the City must submit a complete ROWD to the Board that outlines the programs that the City will implement before Board staff can consider recommending issuance of a separate permit.	None
Permit Application	With respect to the extra work for the Regional Water Board, there should not be much. Since the Tentative Order for the new Los Angeles County MS4 permit does not include a Principal Permittee, each Permittee will submit its own annual report and presumably its own Report of Waste Discharge (ROWD) 180 days prior to the Order expiration date. In addition, Permittees and/or Watershed Monitoring Programs will be submitting monitoring	City of Signal Hill	Board staff has met with City representatives and explained that the City must submit a complete ROWD to the Board that outlines the programs that the City will implement before Board staff can consider recommending issuance of a separate permit.	None

	plans, multiple monitoring reports, and financially supporting regional studies			
Permit Application	One other reason that there should not be undue burden placed on Regional Water Board staff as a result of giving the City of Signal Hill its own permit is that the structure of the Tentative Order is such that it could easily be converted to an individual permit. We expect we would be subject to essentially the same requirements as the others cities in the County. However, the number of attachments would be fewer since we are not subject to all 33 of the TMDL documents being addressed in the Tentative Order. To assist Regional Board staff, we would be willing to prepare a suggested revision in Word "track changes" mode to facilitate development of a separate MS4 permit for the City	City of Signal Hill	Board staff has met with City representatives and explained that the City must submit a complete ROWD to the Board that outlines the programs that the City will implement before Board staff can consider recommending issuance of a separate permit.	None
Permit Application	We agree with Member Glickfeld that the permit should provide a variety of options. One option that we would like to see is for proactive cities, especially those in multiple watersheds, to receive separate permits. Such separately permitted cities could still work with watershed or sub-watershed groups through Memoranda of Agreement to address TMDL implementation	City of Signal Hill	This permit does provide a variety of options for permittees to demonstrate compliance with the terms of the permit. As noted above, this permit does not require a one-size-fits-all approach. The Board has determined that this permit ensures consistency and equitability in regulatory requirements within Los Angeles County, while watershed-based sections within the permit provides flexibility to tailor permit provisions to address distinct watershed characteristics and water quality issues. Board staff has met with City representatives and	None

	and other water quality issues. Given its unique geographic characteristics, its industrial heritage, its comprehensive and effective stormwater quality program, and its regional leadership in organizing municipalities to address water quality problems in multiple watersheds, the City of Signal Hill should be given its own MS4 permit		explained that the City must submit a complete ROWD to the Board that outlines the programs that the City will implement before Board staff can consider recommending issuance of a separate permit.	
ROWD	Please clarify why the ROWD was insufficient and provide a copy of the USEPA Interpretative Policy Memorandum of Reapplicaton referenced.	City of Santa Clarita	The reasons identified in the Regional Board's July 2006 letter to Mark Pestrella are: • The elimination of Local SWPPP for sites 1 acre and greater. • The proposal to include TMDL requirements only in memorandum of understanding in lieu of TMDL WLAs included in NPDES Permits as required by Federal regulations The USEPA Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems, Final Rule, August 9, 1996, is published in Volume 61 of the Federal Register on pages 41698-41699.	None
Technology Based Effluent Limitations (TBELs)				
TBELs	Part IV.A.1 of the tentative order states that TBELs shall reduce pollutants in storm water discharges from the MS4 to the maximum extent practicable (MEP). It is not clear as to the reason for including TBELs into the tentative order because they are generally not required of Phase	Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	Section 301(b)(1)(A) of the CWA and 40 CFR section 122.44(a) require that NPDES permits include technology based effluent limitations. In 1987, the CWA was amended to require that municipal storm water discharges "reduce the discharge of pollutants to the maximum extent practicable." (CWA § 402(p)(3)(B)(iii).) The "maximum extent practicable" (MEP) standard is the applicable federal technology based standard that MS4 owners and operators must attain to comply with their NPDES permits. Thus, to comply with CWA sections 301 and	None

	MS4 permits. TBELS are referenced in the tentative order, but are not found under section 402(p), which addresses storm water, nor anywhere else in federal regulations. It is a term used to collectively refer to best available technologies, but again not in 402(p). If clarification or justification cannot be provided, the TBEL provision should be removed.		402 for MS4 discharges, MS4 permits must, at a minimum, include effluent limitations to meet the technology-based MEP standards. A technology based effluent limitation is based on the capability of a model treatment method to reduce a pollutant to a certain concentration (NPDES Permit Writer's Manual, Appendix A).	
TBELs	A technology-based effluent limitation (TBEL) is established on the basis of the capabilities of available technologies, as opposed to the MEP, to control and reduce discharges of pollutants. The TBEL is established in accordance with technological standards set forth in the CWA: the best practicable control technology currently available (BPT), applicable to discharges of any constituents defined as pollutants under the Clean Water Act; the best available technology economically achievable (BAT), applicable to discharges of pollutants listed as toxic under the CWA; and best conventional pollutant control technology (BCT), applicable to discharges of pollutants listed as conventional under the CWA. [33 U.S.C Section 1314(b).] Proposed Solution- Revise the	City of Vernon	Section 301(b)(1)(A) of the CWA and 40 CFR section 122.44(a) require that NPDES permits include technology based effluent limitations. In 1987, the CWA was amended to require that municipal storm water discharges "reduce the discharge of pollutants to the maximum extent practicable." (CWA § 402(p)(3)(B)(iii).) The "maximum extent practicable" (MEP) standard is the applicable federal technology based standard that MS4 owners and operators must attain to comply with their NPDES permits. Thus, to comply with CWA sections 301 and 402 for MS4 discharges, MS4 permits must, at a minimum, include provisions to meet the technology-based MEP standards. A technology based effluent limitation is based on the capability of a model treatment method to reduce a pollutant to a certain concentration (NPDES Permit Writer's Manual, Appendix A).	None

	Tentative Permit to provide accurate and non-conflicting provisions that are consistent with the federal Clean Water Act.			
TBELs	The Fact Sheet states that "Section 301(b)(1)(A) of the CWA and 40 CFR section 122.44(a) require that NPDES permits include technology based effluent limits" and that the MEP standard is the "applicable federal technology based standard that MS4 owners and operators must attain to comply with their NPDES permits." The MEP standard is "technology-based," in the sense that it does not require compliance with water quality standards, but not in the sense that it is a technology based effluent limit derived from CWA Section 301. Footnote 16 of the Fact Sheet accurately states this distinction.	County of Los Angeles	The statements in the Fact Sheet, as written, are accurate. The Board agrees that the MEP standard is just that, a standard. It is not, in and of itself, a technology based effluent limit. Rather, to comply with sections 301 and 402 of the Clean Water Act, MS4 permits must, at a minimum, include effluent limitations necessary to achieve compliance with the technology-based standard to reduce pollutants to the "maximum extent practicable.	None
Effluent Limitations	Revise Effluent Limitations to be Technology Based Effluent Limitations as approved in Watershed Management Program	City of Torrance	The permit provides permittees the flexibility to demonstrate compliance with the MEP standard and interim water quality based effluent limitations through an approved Watershed Management Program.	None
Standard Provisions				
Attachment D	Section I.A.2, or any similar provision, is not in the current MS4 Permit. This provision establishes standards and prohibitions Permittees must comply with which are not	City of Vernon	The standard provisions in Attachment D are required by sections 122.41 and 122.42 of Title 40 of the Code of Federal Regulations. Section 122.41 states: "The following conditions apply to all NPDES permits. Additional conditions applicable to NPDES permits are in § 122.42. All conditions applicable to NPDES permits	None

	specified in this Order. As the Tentative Permit is currently written (without the subject provision) it will already be an economical, logistical, scientific, legal, and likely "impossible" challenge to achieve compliance. Responsible planning and spending of limited public resources cannot be performed for items outside of the Tentative Permit. This provision is not sustainable. The City of Vernon insists that this provision be omitted.		shall be incorporated into the permits expressly or by reference." For clarity and ease of reference, the Board has opted to incorporate the standards provisions expressly into the permit. The requirement in Section I.A.2. of Attachment D is required by section 122.41(a)(1).	
Legal Authority	The reference to construction activity and construction sites in Part VI.A.2.a.i. should be deleted. Federal regulations only require permittees to control pollutants to the MS4 by storm water discharges associated with industrial activity. Such discharges may be required to be controlled under other provisions, such as those prohibiting illicit discharges.	County of Los Angeles; LA Permit Group; Vernon	The reference to construction activity and construction sites is consistent with the existing requirement in the 2001 permit. The reference is still appropriate as permittees must have legal authority to control discharges to the MS4. (40 CFR § 122.26, subds. (d)(1)(ii) and (d)(2)(i).) Further, permittees are required to develop, implement, and enforce controls to reduce the discharge of pollutants from MS4s which receive discharges from construction sites. (*Id*. § 122.26, subds. (d)(2)(iv)(A)(2) and (d)(2)(iv)(D).) Accordingly, permittees must have adequate legal authority to carry out these requirements.	None
Legal Authority	The reference to grading ordinances in Part VI.A.2.i. should be removed, as this specification of the method of compliance violates Water Code § 13360.	County of Los Angeles; LA Permit Group; Vernon	As municipalities, the permittees routinely issue grading and building permits to construction site operators. In accordance with federal regulations, permittees must implement a construction program that applies to all activities involving soil disturbance, including grading. Accordingly, permittees must have adequate legal authority to update grading ordinances necessary to comply with these requirements. As explained in greater detail below, the commenter's reference to Water Code section 13360 is misplaced.	None

			That section involves enforcement and implementation of state water quality law, not compliance with the federal Clean Water Act. The Regional Water Board, as the permitting agency, has discretion to decide what practices, techniques, methods and other provisions are appropriate and necessary to control the discharge of pollutants. However, even if Water Code section 13360 applies, the permit does not violate the statute. This requirement does not set forth a specific method of compliance or "fix" on permittees, but rather sets forth limitations, standards, guidelines, and/or goals to be achieved or attained in order to meet the requirements of the Clean Water Act.	
Legal Authority	Part VI.A.2.a.i The authority to control the contribution of pollutants from both industrial and construction sites, through an NPDES permit, is bestowed upon the SWRCB and RWQCBs. Those sites which are subject to a State permit should be regulated by the State. It is not the local permittee's responsibility to enforce all conditions of the industrial or construction site's statewide NPDES permit. Such enforcement is the responsibility of the State Water Board as the issuer of said permit. In addition, a failure of a construction or industrial permittee to prevent discharge of pollutants (violation of the State stormwater permit) would likely result in a violation for the Municipal Permittee. If this is indeed a joint effort of the Water Board and the	City of Vernon; City of Malibu	Federal law requires that MS4 permittees control the contribution of pollutants to the MS4 from industrial and construction sites, regardless of whether a regional Board or the State Board is also exercising its own independent authority to regulate industrial and construction sites. This provision is consistent with the existing requirement in the 2001 permit. Permittees are required to develop, implement, and enforce controls to reduce the discharge of pollutants from MS4s which receive discharges from industrial and construction sites. (*Id*. § 122.26, subds. (d)(1)(ii), (d)(2)(i), (d)(2)(iv)(A)(2), (d)(2)(iv)(C), and (d)(2)(iv)(D).) Accordingly, permittees must have adequate legal authority to carry out these requirements. Further, as discussed in greater detail in Sections VI.C.5. and VI.C.7. of the Fact Sheet, both the Los Angeles County Superior Court and the California Court of Appeal have specifically rejected arguments that the State and Regional Water Boards improperly delegated to permittees its inspection duties and that permittees were being required to conduct inspections for facilities covered by other state-issued general NPDES permits. The courts noted that obligations under state-issued permits were separate and distinct, and that there was no duplication of efforts and no shifting of inspection	None

	Municipal Permittee (as stated by LARWQCB during the July 9, 2012 workshop), why are the permit fees not shared with the Municipal Permittees and why is the Municipal Permittee the only culpable agency receiving a violation?		responsibility in derogation of the Regional Board's responsibility. *In re L.A. Cnty. Mun. Storm Water Permit Litig.* (L.A. Super. Ct., No. BS 080548, Mar. 24, 2005), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, pp. at 17-18; *City of Rancho Cucamonga v. Regional Water Quality Control Board-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389-1390.) State collected fees under the general permits pay for the State's oversight of storm water sites and facilities, which as noted is a separate obligation from that of the municipalities MS4 obligations under federal law.	
Legal Authority	In section VI.A.2.a.vii, the draft permit states that [permittees shall] "control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Co-permittees." The intent and scope of this provision is not clear. For example, it is not clear which permittees or which portions of the MS4 this is intended to cover. Please clarify what a "Shared MS4" means, as that is not a defined term. Additionally, if you can please provide some clarification as to what this provision is attempting to accomplish, permittees will be better able understand if they have the legal authority to comply with this mandate. Without additional information, it is difficult to determine the scope of this proposed requirement.	City of Malibu	This provision is required by 40 CFR § 122.26(d)(2)(i)(C). The provision acknowledges that, given an interconnected MS4 (such as that within Los Angeles County), permittees are expected to work cooperatively to facilitate compliance efforts through inter-agency agreements. For example, there may be instances where discharges from two cities commingle and the cities may enter into an agreement to implement load reduction measures.	None
Legal Authority	The Regional Board cannot	Cities of Agoura	The Board is not requiring permittees to enter into	None

	require the Cities to enter into interagency agreements (p. 39) or coordinate with other co-permittees as part of their stormwater management program (pp. 56-58). The Permit creates the potential for City liability in circumstances where the permittee cannot ensure compliance due to the actions of third party state and local government agencies over which the Cities have no control.	Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	interagency agreements or coordinate with other co-permittees. The Board, however, is requiring that permittees have the legal authority to do so. Consistent with federal regulations at 40 CFR § 122.26(d)(2)(i)(D), permittees must have legal authority to "[c]ontrol through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system." The Board certainly encourages co-permittees to enter into such agreements and coordinate their actions. As the MS4 is a system shared by several permittees, cooperation and coordination between co-permittees would result in efficient and cost-effective actions to comply with the permit.	
Legal Authority	For Part VI.A.2.a.viii., regulations require legal authority for agreements between co-Permittees, but not between non-Permittees. This provision should be deleted.	County of Los Angeles	This provision is appropriate as some portions of the MS4 owned and/or operated by the California Department of Transportation connect with portions of the Permittees' MS4s. In these cases, MS4 discharges from Caltrans highways and facilities commingle with those of the Permittees prior to being discharged to receiving waters. The provision acknowledges that, given an interconnected MS4 (such as that within Los Angeles County), MS4 permittees are expected to work cooperatively with other MS4 owners and operators to facilitate compliance efforts through inter-agency agreements.	None
Legal Authority	Section VI.A.2.a.viii It is not clear how the Regional Board expects permittees to meet this requirement. Please provide examples of interagency agreements that would be applicable and effective to meet this requirement. The City fails to grasp the importance of interagency agreements for all permittees and	City of Malibu; City of Torrance; South Bay Cities	The Board is not requiring permittees to enter into interagency agreements. The Board, however, is requiring that permittees have the legal authority to do so. Consistent with federal regulations at 40 CFR § 122.26(d)(2)(i)(D), permittees must have legal authority to "[c]ontrol through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system." The Board certainly encourages co-permittees to enter into such agreements and coordinate their actions. As the MS4 is a system shared by several	None

	finds it to be an excessive requirement. Instead, this provision should be changed to suggest that permittees consider adopting interagency agreements where necessary to establish responsibilities when an MS4 is substantially shared by multiple agencies.		permittees, and even some non-permittees such as the California Department of Transportation, cooperation and coordination with other owners and operators of the MS4 would result in efficient and cost-effective actions to comply with the permit. An example of an interagency agreement could result from a situation where discharges from two cities commingle and the cities enter into an agreement to implement load reduction measures.	
Legal Authority	VI. A. 2. a. vii. and viii. Please remove. Cities are not responsible for other agencies' discharges. Agreements between the permittees and other agencies is at the discretion of City Councils.	City of Santa Clarita	These provisions do not state that one permittee is responsible for other agencies' discharges. As noted in the permit, federal regulations states that co-permittees must comply with permit conditions relating to discharges from the MS4s for which they are owners or operators. (40 CFR § 122.26(a)(3)(vi)). Federal regulations, however, also require that permittees include in its storm water management program a comprehensive planning process that includes intergovernmental coordination, where necessary. Given the interconnected nature of the permittees' MS4s, the Board expects permittees' to work cooperatively to facilitate compliance efforts through inter-agency agreements or other formal arrangements.	None
Legal Authority	Part VI.A.2.a.i., iv., vii., and viii. The word "control" in these provisions erroneously suggests permittees have discretionary authority to authorize the contribution of pollutants, discharge of spills, and the contribution of pollutants to its MS4. In addition, these sections also conflict with Parts VI.A.2.a.ii., iii., ix., and the Illicit Discharge/Connection Elimination Program which cite the word "prohibit".	City of Vernon	The term "control" is consistent with language in the federal regulations pertaining to legal authority for MS4 owners and operators. (See 40 CFR § 122.26(d).) Therefore, the use of the term is appropriate.	None

	Proposed solution- Replace the word "control" with the word "prohibit" to be consistent with Section 402(p)(B)(ii) of the federal Clean Water Act.			
Legal Authority	For Part VI.A.2.a.ix., federal regulations only require that Permittees have legal authority to carry out inspections to determine compliance with permit conditions, "including the prohibition on illicit discharges to the municipal separate storm sewer." 40 CFR § 122.26(d)(2)(i)(F). There is no requirement in the CWA or the regulations for the control of discharges into "receiving waters," but rather discharges into the MS4.	County of Los Angeles	The requirement is appropriate. As the commenter notes, 40 CFR § 122.26(d)(2)(i)(F) requires that permittees have legal authority to carry out inspections and monitoring necessary "to determine compliance with permit conditions…" Consistent with the 2001 permit, the permit prohibits non-storm water discharges from reaching receiving waters, which is wholly consistent with Congress' ultimate intent in the CWA and USEPA's regulations that such non-storm water discharges not reach receiving waters. (55 Fed. Reg. 47990, 47997 ["The entire thrust of today's regulation is to control pollutants that enter receiving water from storm water conveyances."].)	None
Legal Authority	Part VI.A.2.a.ix Does this requirement mean the Permittee must have legal authority to enter every private property? This requirement is vague and unclear. Typically, the City obtains authority to enter private property by either a) receiving consent of the owner to enter the property to carry out inspections etc, or b) obtaining an inspection warrant from the court by providing sufficient evidence why an inspection warrant is required. Please clarify the scope of the legal authority for inspections that is being proposed in the permit.	City of Malibu; City of Torrance	This provision is consistent with the existing requirement in the 2001 MS4 permit and federal regulations at 40 CFR § 122.26(d)(2)(i)(F). Permittees must have adequate legal authority to control the contribution of pollutants to the MS4, even if those pollutants originate from private property. Permittees therefore must have legal authority to enter private property (in accordance with applicable laws) to abate the discharges of pollutants through the MS4 to receiving waters. In cases where pollutants originate from private property, and the permittees is unable to gain access to the property, it is possible that the permittee can abate the discharges without entering the private property (such as preventing the discharge from reaching the MS4).	None

Legal Authority	Part VI.A.2.b. - The requirement to submit statement certified by chief legal counsel annually makes no difference to an agency's legal authority and has no impact on water quality and there are far too many certifications and submittals in this order that could easily result in non-compliance. Revise the statement to "Each Permittee shall submit this certification as part of the first Annual Report under this Order."	City of Torrance	This requirement has been revised to allow permittees to submit the certification statement annually beginning with the first Annual Report required under this Order, which will be December 15, 2013.	Language revised.
Legal Authority	Part VI.A.2.b - To sign this statement, chief counsel will have to analyze this 500 page Permit, analyze the municipal code, and prepare a statement as to whether actions can be commenced and completed in the judicial system. An annual certification is redundant and unnecessary in addition to being extraordinarily costly. At most, legal analysis should be done once during the Permit term. Otherwise, please delete this requirement.	LA Permit Group	Annual certification is appropriate and necessary to ensure that permittees have the requisite legal authority, and maintain that authority, to carry out the terms of the permit. Assuming that a permittee has the requisite legal authority, and there are no changes to that legal authority during the permit term, the Board does not believe annual certification would be costly or burdensome.	None
Fiscal Resources	Numerous commenters objected to the inclusion of Part VI.A.3.a. that states "Each Permittee shall exercise its full authority to secure the fiscal resources necessary to meet all requirements of this Order." The commenters asserted this provision is not required by federal law, is not an existing	Cities of Bradbury, Santa Monica, Vernon, Santa Clarita, Signal Hill, Torrance, La Verne; Peninsula Cities; South Bay Cities; and County of Los Angeles	The requirement has been deleted. Accordingly, there is no need to respond to the substance of the comments.	Requirement deleted.

	requirement, is an impossible requirement to meet, infringes on the authority of municipal governments to prepare budgets, and/or is an unfunded state mandate.			
Fiscal Resources	The SWRCB and LARWQCB should initiate and support a proposal for a statewide stormwater tax. Furthermore, the SWRCB should distribute funds collected though the General Industrial and Construction Activity Stormwater Permits to the Permittees to support the required inspections of these permitted facilities.	City of Vernon	Municipalities must secure their own fiscal resources. The Board, however, notes that the State Water Board offers many grants and low-interest loans that permittees can apply for, if eligible. State collected fees under the general permits pay for the State's oversight of storm water sites and facilities, which is a separate obligation from that of the municipalities MS4 obligations under federal law.	None
Fiscal Resources	VI.A.3.c. … shall conduct a fiscal analysis of the annual cost . . . This task requires staff time away from other tasks; or consultant, e.g. cash from completely encumbered budget or pay for this analysis with funds normally used to install BMPs; what if analysis shows a city doesn't have the cash to comply? Will voters pass a new tax?	City of Santa Monica	This provision is consistent with existing requirements in the 2001 MS4 permit. The provision is also required by federal regulations at 40 CFR § 122.26(d)(2)(vi), which states that "For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the [storm water management] programs…Such analysis shall a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds."	None
Fiscal Resources	In the standard provision, please add a spending cap. Recently, the US Conference of Mayors suggested that, nationwide, permittees should be found in compliance if the community has spent the equivalent of 2% of the household median income or if	City of Santa Clarita	There is no basis in the CWA for including such a provision. The permit, however, provides permittees substantial flexibility on how to comply with the terms of this permit, including options to customize requirements. In addition, compliance with TMDL-based requirements often have lengthy compliance schedules that allow	None

	the state and/or federal government cost shares infrastructure retrofits 50/50 even if they are exceeding final WLA, MALs or other numeric standards as part of the iterative process.		permittees to comply with a less costly phased approach.	
Fiscal Resources	Additional costs of monitoring are significant and we request this be noted here.	City of Santa Clarita	While the Board acknowledges that this permit will increase costs for monitoring, it is not appropriate to discuss costs within the Standard Provisions section of the permit. Further, Permittees can elect to participate in a CIMP or IMP for cost savings if desired.	None
Responsibilities of the Permittees	The requirement in Part VI.A.4.a.ii. is proscriptive as well as vague and is in violation of Water Code § 13360. Permittees will presumably wish to comply with the permit in an "efficient and cost-effective manner" but that standard is vague and ambiguous and should not be a source of separate liability imposed by the Board or a citizens' suit plaintiff. There is also no support for this requirement in the CWA or the implementing regulations. This provision should be deleted.	County of Los Angeles	This is an existing requirement carried over from the 2001 MS4 permit.	None
Responsibilities of the Permittees	Part VI.A.4.a.iii. is not supported by the CWA or regulations, and is a violation of Water Code § 13360 as specifying a method of compliance. While permittees will need to cooperate with regard to many of the provisions of the draft Permit and will need to coordinate, these common sense steps should not be a separate requirement of the	County of Los Angeles	This is an existing requirement carried over from the 2001 MS4 permit. In addition, storm water management programs must include a comprehensive planning process that involves intergovernmental coordination to meet the requirements of the Clean Water Act. (40 C.F.R. § 122.26(d)(2)(iv).) In addition, permittees must have procedures to ensure effective coordination with other permittees. (*Id*., § 122.26(d)(2)(vii).)	None

	Permit and should be deleted.			
Public Review	It is unclear why Part VI.A.5.a. is in the Permit, as the Board, as the custodian of the document, will have responsibility to comply with these statutes, not the Permittees. Since these statutes in any event are applicable to public documents, this provision is unnecessary and should be deleted.	County of Los Angeles	This is an existing requirement carried over from the 2001 MS4 permit. In any event, this provision just reinforces what is already required by the Board in providing access to public records.	None
Public Review	Please remove. Cities are already required to comply with the Freedom of Information Act and the Regional Board is not the enforcing agency.	City of Santa Clarita	This is an existing requirement carried over from the 2001 MS4 permit. In any event, this provision just reinforces what is already required by the Board in providing access to public records.	None
Public Review	This provision states, "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." It is not clear whether the Regional Board or the permittee will be required to hold the 30-day public review of documents. Please clarify this language.	City of Malibu	The Public Review process is in reference to the Regional Board. Thus, after a permittee submits a document for approval, the Board will make the document available for a 30-day public comment period. In addition, this does not preclude the posting of documents by Permittees prior to or after submittal if the circumstances warranted.	None
Public Review	It is not practicable for all documents submitted to the Regional Board for approval to be first submitted to the public for a 30 day period. This would add a minimum of 30 days to all submittal schedules. There are far too many certifications and submittals in this order that could easily result in non-compliance.	City of Torrance	The Public Review process is in reference to the Regional Board. Thus, after a permittee submits a document for approval, the Board will make the document available for a 30-day public comment period. In addition, this does not preclude the posting of documents by Permittees prior to or after submittal if the circumstances warranted.	None

	Revise statement to read, "The Regional Board shall make all documents submitted to the Regional Board for approval available to the public for a 30 day period to allow for public comment."			
Regional Water Board Review	Please add if the Executive Officer choses to go before the Board, permittees should not be responsible for implementing or complying with those sections of the permit affected until such time as the issue has been resolved.	City of Santa Clarita	During the pendency of any approval or review of any approval, Permittees must continue to implement any existing obligations until deemed otherwise.	None
Regional Water Board Review	It is imperative that this Permit add a condition providing that when a permittee submits a plan or program to the Regional Board for review to meet a condition of this Permit, the Regional Board shall notify an agency of approval, denial and reasons for denial, or provide a request for corrections for within 60 days, or else the plans shall be deemed automatically approved. This condition is not unusual and, in fact, is a standard process with the California State Department of Fish and Game for applicants submitting an application for a streambed alteration agreement. Failure of the Regional Board staff to provide responses and comments or approval after a permittee submits a mandatory plan or	City of Malibu	A document submitted shall only be approved upon actual approval by the Executive Officer or the Board, not through a mere lapse in time. Nevertheless, the Board understands that the time between submittal and approval can cause permittees' uncertainty. The Board will make every effort to make determinations on submittals (approve, deny, or request revisions) as expeditiously as possible.	None

	report leaves the permittee in a state of uncertainty as to how it should proceed under its permit obligations.			
Reopener and Modification	Part VI.A.7.a. of the Order and Part VI.E.4. of the Fact Sheet must include a reference to the requirements of California law, including the Water Code and the Administrative Procedure Act applicable to adjudicative hearings.	County of Los Angeles	The reopener and modification provisions are consistent with federal regulations governing the Board's authority to modify, revoke, reissue, or terminate NPDES permits. If and when the Board exercises this authority, the Board will comply with any necessary and applicable state laws and regulations in conducting its hearings. It should be noted that in some cases, e.g. for a minor modification, the Board would not be required to conduct an adjudicative hearing.	None
Reopener and Modification	"USEPA guidance concerning regulated activities" should be deleted from Part VI.A.7.a.vi. as such "legislative guidance" has no regulatory significance unless incorporated through formal rulemaking.	County of Los Angeles	This provision is appropriate. While USEPA guidance is just that, guidance, and is thus not binding on the Board, such guidance may present or reveal new information that would warrant modifications to the permit. If and when the Board desires to make a change based on USEPA guidance, permittees would have the opportunity to make objections at that time.	None
Reopener and Modification	Part VI.A.7.d. of the Order and Part VI.E.4 of the Fact Sheet should be revised to allow for an additional modification, the changing of an interim compliance date.	County of Los Angeles	This is an existing requirement carried over from the 2001 MS4 permit. However, if warranted, the Board could change an interim compliance date utilizing provision VI.A.7.a.iv.	None
Part VI.A.8.	What does this comment mean? Where are the discharge points described in this order? Omit this section	City of Torrance	Discharge points described in this Order are MS4 outfalls. No other discharge points are appropriate in this Order.	None
Parts VI.A.11 and VI.A.12	These provisions are not relevant to the Permit and should be deleted. The provisions of Part	County of Los Angeles	These provisions are routinely required in NPDES permits issued by the Board. These provisions are also appropriate as discharges of waste resulting from the	None

	VI.C of the Permit relating to public agency activities adequately cover the releases noted in Parts VI.A.11 and VI.A.12. Moreover, these provisions are vague and ambiguous, and do not address discharges to the MS4, which is the CWA requirement applicable to the Permittees.		combustion of toxic or hazardous waste and oily material should not be discharged from the MS4 to receiving waters. Unless covered by the exemption for emergency fire-fighting activities, such discharges are not authorized in this Order.	
Part VI.A.11.	Permittees may not have the knowledge or means to prevent the discharge of any waste resulting from the combustion of toxic or hazardous wastes resulting from a building fire or through aerial deposition. Hazardous Waste incinerators should be required to obtain an Industrial Discharge Permit. Omit this section	City of Torrance	This provision is routinely required in NPDES permits issued by the Board. The provision is also appropriate as discharges of waste resulting from the combustion of toxic or hazardous waste should not be discharged from the MS4 to receiving waters. Unless covered by the exemption for emergency fire-fighting activities, such discharges are not authorized in this Order.	None
Part VI.A.12. & 13	These comments refer to Corporation Yards that are required to have an Industrial Discharge Permit. Move to VI.D.8	City of Torrance	These provisions are routinely required in NPDES permits issued by the Board. These provisions are also appropriate as discharges of waste resulting from the combustion of toxic or hazardous waste and toxic or hazardous materials should not be discharged from the MS4 to receiving waters. Unless covered by the exemption for emergency fire-fighting activities, such discharges are not authorized in this Order. The language is also appropriate if a municipality has a yard that does not require General Industrial Permit coverage	None
Enforcement	The definition here of “effluent limitation” is different than the definition in Attachment A which draws on 40 CFR 122.2. Define effluent limitation only in Attachment A consistent with federal regulations	City of Torrance; Peninsula Cities; South Bay Cities	The definition of effluent limitation in this provision is consistent with the definition of effluent limitation in California Water Code section 13385.1, as it pertains to the imposition of mandatory minimum penalties. As this provision is discussing enforcement under state law, it is appropriate to provide the definition of effluent limitation in that state law for clarity. As noted in this	None

			provision, the definition provided is for the purposes sections 13385.1 and 13385, subdivisions (h)(i), and (j). For all other purposes in this Order, the definition of effluent limitation in Attachment A is controlling.	
Enforcement	The definition of "effluent limitation" on its face appears to be problematic. Does use of this definition preclude a WQBEL (especially a narrative or non-numeric WQBEL) or BMP-based compliance? Please clarify how this term is being used and why "for these purposes" it does not include a receiving water limitation, a compliance schedule or a best management practice.	City of Malibu	The definition of effluent limitation in this provision is consistent with the definition of effluent limitation in California Water Code section 13385.1, as it pertains to the imposition of mandatory minimum penalties. As noted in this provision, the definition provided is for the purposes sections 13385.1 and 13385, subdivisions (h)(i), and (j). For all other purposes in this Order, the definition of effluent limitation in Attachment A is controlling.	None
Enforcement	Enforcement should include a provision that a permittee is not subject to the MMP and CWC fines if it is actively implementing an adaptive management/iterative approach through watershed management program and integrated monitoring plan. Please include the four step approach in the enforcement section	City of Santa Clarita	This comment is adequately discussed in other parts of the permit, including Parts VI.C. and VI.E.	None
Enforcement for Trash TMDLs	Trash TMDL should not be in enforcement section. Please delete and place in TMDL section only	City of Santa Clarita	The language is carried over from the 2001 MS4 permit, which was added in 2009 when the Board reopen the permit to incorporate provisions to implement the LA River Trash TMDL. Because trash is different from other pollutants, a discussion of enforcement of trash was provided in the 2001 permit. It is appropriate to carry over these provisions for clarity.	None
Enforcement for Trash TMDLs	Part VI.A.14.h. is not consistent with the language included in the adopted trash TMDLs, which allows for installation of full	County of Los Angeles	Compliance with the trash TMDLs through the use of a full capture compliance strategy is adequately addressed in Part VI.E.5.b. of the Order.	None

	capture devices as a compliance method. For consistency, the Board should include or at minimum, reference, language describing the various compliance methods per the approved trash TMDLs. Recommend adding a new subparagraph iii stating: "iii. Subparagraphs i. ii. do not apply to Permittees who have installed approved, full capture systems throughout their jurisdictional area covered by the Trash TMDLs."			
Enforcement for Trash TMDLs	VI.A.14.h. This section states, "With respect to the final effluent limitation of zero trash, any detectable discharge of trash necessarily is a serious violation…" This implies that regardless of installation of full capture systems, any detectable trash is a violation of the final effluent limitation. Clearly state in VI.A.14.h. that "except where a Permittee has complies with the installation of full capture systems…"	City of Torrance	Compliance with the trash TMDLs through the use of a full capture compliance strategy is adequately addressed in Part VI.E.5.b. of the Order.	None
Enforcement for Trash TMDLs	Please clarify how this provision with respect to enforcement will apply in instances where a permittee has complied with a final trash TMDL via installation of certified full capture devices which are not designed to control a storm event of greater than the	City of Torrance; South Bay Cities	Compliance with the trash TMDLs is adequately addressed in Part VI.E.5.b. of the Order. For the Trash TMDL the 1-year, 1-hour storm size was found to be sufficient to achieve the WLA.	None

	1-year, 1-hour storm			
Attachment A - Definitions				
Add Definition	Add the definition of "outfall" in 40 CFR §122.26(b)(9)	County of Los Angeles	The definition of "outfall" has been added to Attachment A.	Definition added.
Add Definitions	There are various terms used throughout the documents that are unclear or vague and need to be clearly defined. Include definitions for terms used throughout the Permit.	County of Los Angeles	The commenter does not identify which terms it believes are unclear or vague. Without such information, the Board cannot respond to this comment.	None
Acronyms and Abbreviations	Revise list to show the following: ROWD; CERCLA; O&M; MEP; CIMP; IMP; WMPP; EIA; ESAs; TMRP; and PMRP.	County of Los Angeles	It is not necessary to define acronyms already defined in statute but the Board has included definitions for acronyms unique to this Order.	Language revised.
Definitions	The Maximum Extent Practicable (MEP) definition needs to be revised to reflect is updated definition found in the draft Phase II MS4 permit and in the draft Caltrans MS4 permit.	Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel West Covina, and Vernon	The MEP definition currently in Attachment A is appropriate. If the State Board adopts precedential language, the Board may incorporate it.	None
Definition	Remove Maximum Extent Practicable from the definition attachment and rely instead for an understanding of the term on the discussion in the Fact Sheet on pages F-30 to F-31 which references State Board and USEPA interpretation	City of Torrance; South Bay Cities; Peninsula Cities;	It is appropriate to include a definition of MEP in Attachment A and provide a discussion in the Fact Sheet.	None
Definitions	Attachment A: Please provide definitions for: Construction Activity, Industrial Parks and Commercial Strip malls, Trash excluders, AMAL and MDAL (page G-13)	Cities of Downey, Monterey Park, Norwalk	Definitions were added to Attachment A.	Definitions added.
Definitions	Provide a definition of "residual	City of Malibu;	A definition for "residual water" has been included in the	Language

	water" in Attachment A	South Bay Cities	Order.	revised.
Definitions	BMPs – There is already a definition for BMPs in Attachment A, but it should be revised to specifically reference source control, including true source control. Adding true source control to the definition of BMPs would encourage Permittees to be mindful of it as they design their stormwater quality improvement programs	City of Signal Hill	The definition in the Order is inclusive of source control practices.	None
Definitions	Development – The definitions of Development, New Development, and Redevelopment should be clearly defined and added to the Definitions Section as they are in the existing MS4 permit, except that the 5,000 square foot threshold in the definition of redevelopment should be increased to at least 10,000 square feet	City of Signal Hill	The definitions were included in the revised Tentative. Several project categories have a 5,000 sq ft. threshold so the citing of 5,000 sq. ft. is appropriate.	Language revised.
Definitions	Environmentally Sensitive Areas (ESAs) – This term should be defined	City of Signal Hill	The definition was included in the revised Tentative.	Language revised.
Definitions	Green Infrastructure - This term should be defined. EPA states on the LID page of its website that green infrastructure "is a relatively new and flexible term" that "has been used differently in different contexts." EPA also states, "Green infrastructure can be used at a wide range of landscape scales in place of, or in addition to, more traditional stormwater control elements to	City of Signal Hill	The term Green infrastructure is not used anywhere in the Order where it would need to be defined.	None

	support the principles of LID."			
Definitions	Operational Source Control – This term needs to be clearly identified and utilized throughout the document to differentiate it from True Source Control	City of Signal Hill	Operational source control is used to distinguish from pollution prevention. These terms are used as defined in the Cal. Water Code.	None
Definitions	Predevelopment conditions – This term is used in Provision VI.D.6.c.v(1)(c)(ii)2 and could be viewed in an overly broad manner unless it is clearly defined in the definition section	City of Signal Hill	Defining predevelopment could be restrictive in allowing Permittees to comply with New/Redevelopment requirements.	None
Definitions	Stormwater harvest and use – Since it may be desirable in the course of implementing TMDLs to harvest stormwater from an existing built-up area to infiltrate or use for irrigation, this term should be defined	City of Signal Hill	Rainfall Harvest and Use is defined and addresses the commenters concern as it is defined in the revised Tentative.	Language revised.
Definitions	True Source Control – This term needs to be defined. Staff could use the definition from CASQA's True Source Control Initiative.	City of Signal Hill	The term True Source Control is not used anywhere in the Order where it would need to be defined.	None
Definitions	Infiltration definition should be revised to be entitled Infiltration BMP	City of Torrance	The Board agrees and has revised the definition accordingly.	Language revised.
Definitions	Revise the definition of "Rainfall Harvest and Use" to avoid describing the source of the runoff, but simply use the term "rainfall runoff" and leave to the discretion of the Permittees to determine what sources of runoff can be beneficially used for irrigation and non-potable uses	City of Torrance; Peninsula Cities; South Bay Cities	The definition has been revised to allow capture throughout a site.	Language revised.
Definitions	HUC 12 Boundaries should be used as guidance. Provide a definition of HUC 12 boundaries	City of Torrance	The language is appropriate as is, and the Order allows Permittees to go beyond the HUC 12 boundary with approval.	None

	as "watershed boundaries that most closely align with HUC 12 boundaries"			
Definitions	ACWA is somewhat concerned that the wording of these provisions is somewhat difficult to follow. It is often difficult to discern which BMPs are required for both the essential CENSWDs and other types. ACWA believes that it would helpful to all parties if the permit more clearly delineated these two groups of CENSWDs. The permit should explicitly title the two groups, Essential CENSWD (including discharges from CWSs) and Non-Essential CENSWD, and have all BMPs and other requirements explicitly associated with each group.	ACWA	The section is appropriate as is. The Order is written for municipalities who don't separate the discharges into essential and non-essential categories.	None
Definition	On Page 29 of the Tentative Permit there is a provision that CENSWDs need to obtain "local permits." We would like clarification on the definition of "local permits" in this sentence. Further, the requirement for the CENSWD to obtain a "local permit" is conditional upon the MS4 Permittee already requiring such a permit. We understand this to mean that if the local MS4 Permittee does not already require CENSWDs to get a local permit, the MS4 does not require one be obtained. This seems unnecessary; if local authority	ACWA	The Order states "obtain any local permits required by the MS4 Owners/Operators." The local Permit is in reference to the MS4 Owner/Operator accepting the discharge. The Order language already denotes the requirement is conditional upon their operator requiring one.	None

	already requires a permit, the MS4 does not also have to require it.			
Definition	In Attachment A, acronyms IMP, CIMP, CMP, and SQMP are not included. Please include these acronyms in the list.	Dept. Water & Power, City of Los Angeles	The Board agrees and has included the definitions where necessary.	Language revised.
Definition	Definition of "infiltration" is not a description of the process of infiltration but rather a description of best management practices that utilize the infiltration process. The term "infiltration" must be istinguished from "infiltration BMP.". Infiltration definition should be revised to be entitled Infiltration BMP.	Peninsula Cities; South Bay Cities	The language was revised per commenter's suggestion.	Language revised.
Footnotes	Important definitions should not be in footnotes, but should be included in Attachment A. Footnote 5 states that uncontaminated groundwater infiltration is distinguished from "inflow", however the term "inflow" is not defined—typically it is used to refer to stormwater which infiltrates the sanitary sewer collection system, and if that is the reference this case it doesn't really seem to be relevant. Delete footnote 5. Move definition of "groundwater infiltration" from footnote 5 to Definitions in Attachment A.	Peninsula Cities	The footnote is appropriate as it is referencing a definition contained in federal regulation that is very specifically related to Part III.A.	Language revised.

	Eliminate reference to "inflow" as it is not relevant in this situation.			
Definition	We would recommend that the definition of potable water include the term "raw water." While untreated water is not a common discharge, it does occur and some MS4 permittees have expressed reservations about accepting this water unless it is explicitly stated in the permit.	ACWA; Main San Gabriel Basin Watermaster; Upper San Gabriel Valley Municipal Water District	The use of the term potable is consistent with Federal requirements. The Board recognizes that discharges of raw water from water supply sources may be essential and will clarify the language of the permit such that these discharges will also be considered conditionally exempt essential discharges.	Revisions will be made.
Definitions	Add definitions for potable water, potable water distribution systems, and raw water to Appendix A-Definitions.	MWD	A definition has been added for potable water distribution systems and one will be added for potable water.	Language revised.
Definitions	The changing of the Authorized Non-Stormwater Discharge definition appears to be arbitrary and capricious. Proposed Solution- Maintain the current definition of Authorized Discharge as identified on the current MS4 Permit	City of Vernon	The language is appropriate as-is. The commenter has not explained why it believes the definition is appropriate.	None
Attachments B and C				
Attachment B	The HUC boundaries do not match the watershed boundaries. This means that certain areas drain to different locations depending on whether you look at the HUC or Watershed boundary. The maps should be revised to match boundaries.	County of Los Angeles	The HUC denotations are used in the Order to delineate subwatersheds for various requirements. The Order contains sufficient flexibility to deal with areas where the watershed and HUC boundaries conflict.	None
Attachment B	There are eight HUC 12 boundary areas for the monitoring program in the Santa Clara River that affect the City, which makes	City of Santa Clarita	Additional flexibility has been incorporated in the Monitoring program to allow a more cost effective program.	Language revised.

	monitoring cost prohibitive; please allow for some HUC 12 areas to be eliminated if there is sufficiently similar land use			
Attachment B	It is problematic that the Watershed Boundaries do not align with the HUC 12 Boundaries in many areas. Appears that the HUC 12 boundaries need to be revised, or else reference to the HUC 12 boundaries should be eliminated in favor of watershed boundaries.	Peninsula Cities; South Bay Cities	The HUC 12 boundaries establish areas which guide where certain requirements must be implemented, in particular within the New and Redevelopment Section. They define sub-watersheds not watersheds. The Order for the New Development/Redevelopment Program, allows Permittees to go outside of the HUC 12 if it is not feasible to comply within the HUC 12.	None
Attachment C	MS4 Map appears to be a misnomer. The "MS4" also includes municipal streets, curb and gutters, ditches, etc. However, the maps in Attachment C do not show these portions of the MS4. The maps also include Waters of the United States. The title of Attachment C should be revised : Storm Drain ~~MS4~~ Maps by Watershed Management Area	County of Los Angeles	Comment noted. While the Maps do not capture the entire MS4, the storm drain system is a major part of the MS4 system and typically is the information used by Permittees and stakeholders.	None
Attachment F – Fact Sheet				
Introduction	A number of permit provisions do not apply to various dischargers. The second paragraph in the introduction to the Fact Sheet should be revised as follows: "This Order has been prepared under a standardized format to accommodate a broad range of discharge requirements for dischargers in California." ~~Only those sections or subsections of this Order that are specifically~~	LACFCD	The second paragraph has been revised as requested.	Fact Sheet revised.

	~~identified as "not applicable" have been determined not to apply to the Dischargers covered by this Order. Sections or subsections of this Order not specifically identified as "not applicable" are fully applicable to the Dischargers."~~			
MS4 in the County	Section II.A. and Table F-2: The Board should delete "controlled in large part by the Los Angeles County Flood Control District (LACFCD), among others…" in II.A. Since the MS4 is defined to include not only catch basins, storm drains and channels but also "roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains," 40 CFR § 122.26(b)(8), the actual extent of the MS4 within the boundaries of the LACFCD is much greater than set forth in Table F-2. Table F-2 needs to be corrected as proposed to reflect the correct land area for the County, which does not include federal national forest lands or the land areas of incorporated cities.	County of Los Angeles	The Fact Sheet has been revised.	Table F-2 revised.
History of LACFCD	The first full paragraph on F-5, relating to the history of the LACFCD and the development of the MS4, contains numerous errors. The genesis of the LACFCD was serious flooding that occurred in 1914, prior to major development of the Los	LACFCD	The paragraph was revised as requested.	Paragraph revised.

	Angeles County watersheds. LACFCD requests that the existing paragraph be replaced with proposed language.			
Facility Description	The current language, "The Los Angeles County Flood Control District boundaries encompass …85 incorporated cities…and approximately 2.1 million land parcels" implies the LACFCD has jurisdiction or oversight. The LACFCD is merely a service area boundary. Revise to state: "The Los Angeles County Flood Control District ~~boundaries~~ service area..."	LACFCD	Comment noted, but a "service area boundary" is appropriately labeled as a boundary.	None
LACFCD Facilities	The first and third full paragraphs on p. F-6 describe facilities owned or operated by the LACFCD. These facilities are very limited and occupy a tiny area of the entire urbanized watershed. Various large municipalities that are Permittees, such as the City of Los Angeles, operate extensive maintenance yards and facilities as well as numerous city-owned buildings that are more extensive than those operated by the LACFCD. There is no justification for the description of LACFCD facilities being included in the Fact Sheet, and these references should be deleted.	LACFCD	The first paragraph was revised and the third paragraph was deleted.	Paragraphs revised.
LACFCD Infrastructure	On F-6, part of the second full paragraph is erroneous. The MS4 is operated by multiple Permittees, including the LACFCD, and each	LACFCD	The second paragraph was revised as requested.	Paragraph revised.

	of these MS4s "receive storm water and non-storm water flows from various sources." The MS4 includes the streets and gutters, so every Permittee's MS4 receives such non-stormwater and stormwater flows. It is thus inaccurate to specify the role of that part of the MS4 operated by the LACFCD.			
LACFCD ROWD	The last sentence in the first paragraph on F-15 states that the "Regional Water Board also evaluated the LACFCD's 2010 ROWD and found that it too did not satisfy federal requirements nor reflect the current status for MS4s." The Board has not provided LACFCD with any written evaluation of the 2010 ROWD. Given this fact, this sentence should be deleted.	LACFCD	The statement is appropriate. The Board need not have provided LACFCD with a written evaluation to make this a true statement.	None
LA County MS4	In subparagraph i. on F-15 regarding the factors evaluated by the Board in evaluating the five ROWDs and the structure for the Permit, it is stated that the Los Angeles County MS4 is "controlled in large part by the Los Angeles County Flood Control District, among others . . ." This statement is incorrect and should be deleted.	LACFCD	Comment noted, but the Board has not been provided with any evidence to the contrary.	None
LACFCD Request to No Longer be Designated Principal	The statement on p. F-16 that LACFCD "requested that if the Regional Water Board does not issue an individual permit to the LACFCD, that it is no longer	LACFCD	The statement in the Fact Sheet has been revised.	Fact Sheet revised.

Permittee	designated as Principal Permittee and relieved of Principal Permittee responsibilities" is incorrect and should be deleted. LACFCD requested that it no longer be designated as Principal Permittee, but not in return for not being issued an individual permit.			
LACFCD as Primary Owner and Operator of LA MS4	On F-17, it is erroneous to term LACFCD as the "primary owner and operator" of the MS4 or that it is the "owner and operator of the majority of the Los Angeles MS4." The MS4 is comprised of more than 30,000 miles of infrastructure, of which the LACFCD operates less than an estimated 10 percent.	LACFCD	References to LACFCD being the "primary owner and operator" have been deleted.	Finding revised.
LACFCD Not Principal Permittee	The tentative order cites the LACFCD's lack of ownership or control over land from which most pollutants originate as the reason for relieving it of the Principal Permittee role. Although it is true that the LACFCD does not have land use authority, the reason it will no longer be the Principal Permittee because the request was made in the ROWD submitted November 2011.	LACFCD	The reference has been deleted.	Fact Sheet revised.
Findings	Finding I indicates that the Fact Sheet provides background and rationale for the permit requirements and incorporates the Fact Sheet into the Order as Attachment F, however many elements of the Fact Sheet rather than being explanatory of policy	City of Torrance; Peninsula Cities; South Bay Cities	The commenters have not provided examples of any perceived inconsistencies. The Fact Sheet can be updated, if necessary, if the permit is revised	None

	or background restate or expand the implementation requirements in the permit and in some cases statements in the fact sheet are inconsistent or contradictory with the main body of the permit. Eliminate inconsistencies between Attachment F and main body of permit by eliminating duplicative elements from Fact Sheet. This will eliminate the need to update the Fact Sheet as revisions are made to the Permit.			
Permit Layout	Timeline for Implementation of Permit Requirements is a helpful synopsis of all the deadlines in the permit. This table should be incorporated into the body of the permit rather than in the Fact Sheet as a helpful reference for permittees. Move Table F-5 into main body of permit as it is a vital reference for implementation of permit requirements. Make sure that timelines in Table F-5 are consistent with statements made in the permit.	Peninsula Cities; City of Torrance; South Bay Cities	Moving Table F-5 into the main body of the permit is unnecessary. The Fact Sheet is already a part of the permit.	None
General Legal Comments				
General	There is no factual support for the Board's finding that "the requirements in this Permit are not more stringent than the minimum federal requirements." There are numerous requirements that exceed "the minimum federal	County of Los Angeles	The requirements of the permit are not more stringent than the minimum federal requirements. Section 402(p)(3)(B)(iii) of the Clean Water Act requires the Regional Water Board to impose permit conditions, including: "management practices, control techniques and system, design and engineering methods, and *such other provisions as the Administrator of the State*	None

	requirements." For example, the Board may include "other provisions" in an MS4 permit, but they are placed there at the complete discretion of the Board, not as a result of any requirement in the CWA.		*determines appropriate for the control of such pollutants*." (emphasis added.) Section 402(a)(1) of the Clean Water Act also requires states to issue permits with conditions necessary to carry out the provisions of the Clean Water Act. The federal regulations pertaining to NPDES permit in general, as well as large and medium MS4s, also mandate certain requirements. In issuing MS4 permits, "[t]he permitting agency has discretion to decide what practices, techniques, methods and other provisions are appropriate and necessary to control the discharge of pollutants." (*City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389.) However, the "Regional Board must comply with federal law requiring detailed conditions for NPDES permits." (*Ibid*.) Further, USEPA expects the permitting authority to develop the specific practices that comply with the Clean Water Act on a permit-by-permit basis. (*NRDC v. USEPA* (9th Cir. 1992) 966 F.2d 1292, 1308.) To the extent the Board is exercising discretion in including "such other provisions" the Board deems appropriate to control pollutants, the Board is exercising discretion required and/or authorized by federal law, not state law. (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.)	
Tenth Amendment	The permit imposes land use regulations, dictates specific methods of compliance, and/or requires a municipal permittee to modify city ordinances in a specific manner. This improperly intrudes upon the Cities' land use authority in violation of the Tenth Amendment of the U.S. Constitution. Constitutionally conferred land use powers cannot	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	The permit does not impose land use regulations, nor does it restrict or control local land-use decision-making authority. Rather, the permit requires the permittees to fulfill Clean Water Act requirements and protect water quality in their land use decisions. The requirements in the permit allow for flexibility in compliance options to the extent allowable under the Clean Water Act. The substantive regulatory requirements of the Clean Water Act are a valid exercise of the federal government's enumerated powers and authority over navigable waters. (*NRDC v. USEPA* (9th Cir. 1998) 863 F.2d 1420, 1436.)	None

	be overridden by State or federal statutes. Rather than adopting programs that dictate the precise method of compliance, the Board should collaborate with the Cities and other permittees to develop a range of model programs that each municipality could then modify and adopt according to its own individual circumstances.		Environmental regulation is not land use regulation, and therefore does not infringe upon local authority over land use decisions. (*California Coastal Commission v. Granite Rock* (1987) 480 U.S. 572; see also *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 13-16.) In addition, local land use planning must be consistent with general statewide laws. (*County of Los Angeles v. California State Water Resources Control Board* (2006) 143 Cal.App.4th 985, 1003.) Article 11, section 7, of the California Constitution states that a county or city may not enact laws that conflict with general laws. The Porter-Cologne Water Quality Control Act contains the California Legislature's finding that water quality is a matter of state-wide concern, requiring a statewide program administered at a regional level. (See, e.g., Wat. Code, § 13000; see also generally *Southern California Edison v. State Water Resources Control Board* (1981) 116 Cal.App.3d 751, 758.) Section 101 of the CWA has a companion policy statement, where Congress found that water quality is a matter of federal concern. The permit also does not dictate specific methods of compliance or dictate the manner in which the permittees use their land. Where the permit includes detailed requirements, it is to comply with the Clean Water Act and its regulations. USEPA's regulations mandate that certain requirements be included in MS4 permits in order to achieve the requirements of the Clean Water Act. Thus, federal law mandates that permits issued for MS4s require certain actions that will result in the elimination or reduction of pollutants to receiving waters and the state is required, by federal law, to select the controls necessary to meet this standard. (See *NRDC v. USEPA* (9th Cir. 1992) 966 F .2d 1292, 1308; *City of Rancho*	

			Cucamonga v. Regional Water Quality Control Bd., Santa Ana Region (2006) 135 Cal.App.4th 1377, 1389-90.) In issuing the permit, the Board is acting as part of a joint state and federal process to enforce the Clean Water Act. The Clean Water Act requires states either to administer a federally-directed regulatory program or allow the federal authorities to administer the program. In 1972, the California Legislature amended the Porter-Cologne Act to implement the Clean Water Act and assume administrative responsibility for the issuance of NPDES permits such as this permit. Cooperative federalism is a valid means for Congress to implement its enumerated authorities in compliance with the Tenth Amendment of the United States Constitution. By providing the states a choice, "there can be no suggestion that the Act commandeers the legislative processes of the States by directly compelling them to enact and enforce a federal regulatory program." (*Hodel v. Virginia Surface Min. and Reclamation Ass'n* (1981) 452 U.S. 264, 288.) Rather, the States, "within limits established by federal minimum standards, [] enact and administer their own regulatory programs, structured to meet their own particular needs." (*Hodel*, 452 U.S. at 289.)	
Water Code section 13360	The detailed prescriptive requirements of the draft permit violate Water Code § 13360. The Board should delete all specific activities and all provisions of the draft permit that specify the design, location, type of construction, or particular manner required to comply with obligations of the draft Permit. Alternatively, the Board should include a provision that states, "No Permittee is required to comply with any provision of this	County of Los Angeles	The commenter's reliance on Water Code section 13360 is misplaced. That section involves enforcement and implementation of state water quality law, not compliance with the federal Clean Water Act. The federal law preempts the state law. (*City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 626.) The specific programs required by the Clean Water Act must take precedence over any statutes within the Water Code. Water Code section 13360 is not part of the Porter-Cologne Water Quality Control Act's Chapter 5.5, which authorizes issuance of permits under the Clean Water Act. Chapter 5.5 takes precedence over any conflicting statutes found elsewhere in the Water Code. Water Code section 13372 reads, in part: "The	None

	Order that specifies the design, location, type of construction, or particular manner required to comply with the obligations of this Order, which are included as suggestions only."		provisions of this chapter shall prevail over other provisions of this division to the extent of any inconsistency." If the commenter is suggesting that Water Code section 13360 prohibits programs necessary to comply with the federal requirements, then as a matter of statutory construction and preemption, federal requirements must take precedence over Water Code section 13360. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, pp. 24-29.) MS4 permits issued by the Regional Water Board must ensure compliance with the Clean Water Act. (Wat. Code, §§ 13370(c), 13372(a), 13377.) Federal law mandates that permits issued for MS4s require certain actions that will result in the elimination or reduction of pollutants to receiving waters and the state is required, by federal law, to select the controls necessary to meet this standard. (See *NRDC v. USEPA* (9th Cir. 1992) 966 F .2d 1292, 1308; *City of Rancho Cucamonga v. Regional Water Quality Control Bd., Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389-90.) In creating a permit system for dischargers from MS4s, Congress intended to implement actual programs. (*Natural Resources Defense Council, Inc. v. Costle* (D.C.Cir.1977) 568 F.2d 1369, 1375.) Section 402(p)(3)(B)(iii) of the Clean Water Act authorizes the imposition of permit conditions, including: "management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator of the State determines appropriate for the control of such pollutants." Section 402(a)(1) of the Clean Water Act also authorizes states to issue permits with conditions necessary to carry out its provisions. The Regional Water Board, as the permitting agency, thus has discretion to decide what practices, techniques, methods and other provisions are appropriate	

			and necessary to control the discharge of pollutants. Even if Water Code section 13360 applies, the permit does not violate the statute. The permit does not set forth a specific method of compliance or "fix" on permittees, but rather sets forth limitations, standards, guidelines, and/or goals to be achieved or attained in order to meet the requirements of the Clean Water Act. Such limitations and standards does not equate to specifying the manner of compliance. (See, e.g., *Tahoe-Sierra Preservation Council v. State Water Resources Control Bd.* (1989) 210 Cal.App.3d 1421, 1438.) Furthermore, the permit affords the permittees discretion and flexibility in how to meet the requirements of the permit. Throughout the permit, the permittees are granted considerable autonomy and responsibility in the development and implementation of programs to control the discharge of pollutants. For example, it is the permittees who design programs for compliance, such as implementing BMPs selected by the permittees and approved by the Board.	
Agency and Public Oversight	The permit fails to provide for meaningful agency and/or public review and comment on several programs that would be developed by the Permittees, including Parts VI.C.1.b., VI.C.3.b.iv.(5)(b), VI.C.3.c., VI.D.1.a., and VI.E.2.d.i. This violates the requirement that "stormwater management programs that are designed by regulated parties must, in every instance, be subject to meaningful review by an appropriate regulating entity. . . ." (*Environmental Defense Center v. USEPA* (9th Cir. 2003) 344 F.3d 832, 854-56. These provisions must be removed, or must be	Environmental Groups	The tentative permit includes adequate public participation processes. Part VI.A.5.b. of the tentative permit includes an opportunity for public review and comment on submittals that would be approved by the Executive Officer. For those submittals, the permit includes criteria for the Executive Officer to use in evaluating the submittals. Part VI.A.6. also provides a process whereby a permittee or a member of the public may request Board review of any formal determination or approval by the Executive Officer. The case cited by the commenter – *Environmental Defense Center v. USEPA* – is not directly relevant to the permit at issue. That case involved a challenge to USEPA regulations regarding Phase II MS4 permits. The court in that case determined that the USEPA rule did not provide for USEPA or public review of the minimum control measures. This permit is a Phase I	None

	substantially re-written to provide for meaningful review and public process or they threaten to invalidate the entire MS4 permit.		MS4 permit, not a regulation. This permit, including the minimum control measures, has been subject to extensive public notice and Regional Board review. While the permit proposes to allow some specific submittals to be approved by the Executive Officer, the permit provides for public review and comment on such submittals.	
California Water Code section 13241				
Economic Considerations	The Board failed to adequately consider economic impacts of the permit as required by Water Code sections 13000 and 13241. Because the Permit requires new and higher levels of service in numerous key regards, consideration of economic factors is necessary.	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	Water Code section 13000 does not require the Board to consider economic impacts of the permit. The Board has no affirmative duty to consider the statements of legislative intent found in section 13000 in adopting MS4 permits and incorporating TMDL requirements into it. (*City of Arcadia v. State Water Resources Control Board* (2011) 191 Cal.App.4th 156, 176.) A statute containing "a general statement of legislative intent…does not impose any affirmative duty that would be enforceable…." (*Shamsian v. Department of Conservation* (2006) 136 Cal.App.4th 621, 640-641; see also *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 444 ["the precatory declaration of intent expressed in the statute must be read in context" and "cannot be viewed as independently creating substantive duties…in addition to those imposed by the regulation"].) Water Code section 13241 requires the Regional Water Board to consider certain factors, including economic considerations, in the adoption of water quality objectives. Water Code section 13263 requires the Board to take into consideration the provisions of section 13241 in adopting waste discharge requirements. In *City of Burbank v. State Water Resources Control Board* (2005) 35 Cal.4th 613, the California Supreme Court considered whether regional water boards must comply with section 13241 when issuing waste discharge requirements under section 13263(a) by taking into account the	Further clarification added to Fact Sheet.

			costs a permittee will incur in complying with the permit requirements. The Court concluded that whether it is necessary to consider such cost information "depends on whether those restrictions meet or exceed the requirements of the federal Clean Water Act." (*Id.* at p. 627.) The Court ruled that regional water boards may not consider the factors in section 13241, including economics, to justify imposing pollutant restrictions that are less stringent than the applicable federal law requires. (*Id*. at p. 626-627 ["[Water Code s]ection 13377 specifies that [] discharge permits issued by California's regional boards must meet the federal standards set by federal law. In effect, section 13377 forbids a regional board's consideration of any economic hardship on the part of the permit holder if doing so would result in the dilution of the requirements set by Congress in the Clean Water Act…Because section 13263 cannot authorize what federal law forbids, it cannot authorize a regional board, when issuing a [] discharge permit, to use compliance costs to justify pollutant restrictions that do not comply with federal clean water standards"].) While the *Burbank* decision does require an analysis of the factors in section 13241, including costs, when the Regional Water Board adopts permit conditions that are more stringent than federal law, this permit does not impose requirements that are more stringent than federal law. Therefore, consideration of the factors set forth in section 13241 is not required for permit requirements that implement the effective prohibition on the non-storm water discharges, or for controls to reduce the discharge of pollutants in storm water to the maximum extent practicable, or other provisions that the Board has determined appropriate to control such pollutants, as those requirements are mandated by federal law. Although the Board is not required to consider the factors set forth in section 13241 in issuing the permit,	

			the Board has nevertheless done so. See Part XIV of the Fact Sheet. Based on the consideration of costs, the Board has provided permittees a significant amount of flexibility to choose how to implement the permit. The permit provides permittees the flexibility to address critical water quality priorities, namely discharges to waters subject to TMDLs, but aims to do so in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act and other applicable requirements. For example, the inclusion of a watershed management program option allows permittees to submit a plan, either individually or in collaboration with other permittees, for Board approval that would allow actions to be prioritized based on specific watershed needs. The permit also allows permittees to customize monitoring requirements, which they may do individually or in collaboration with other permittees. In the end, it is up to the permittees to determine the effective BMPs and measures needed to comply with the permit. Permittees can choose to implement the least expensive measures that are effective in meeting the requirements of the permit. The permit also does not require permittees to fully implement all requirements within a single permit term. Where appropriate, the Board has provided permittees with additional time outside of the permit term to implement control measures to achieve final WQBELs and/or water quality standards. Lastly, the permit includes several reopener provisions whereby the Board can modify the permit based on new information gleaned during the term of the permit. In addition, there is an element of cost consideration inherent in the maximum extent practicable (MEP) standard. While the term “maximum extent practicable” is not specifically defined in the Clean	

			Water Act or its implementing regulations, USEPA, courts, and the State Water Board have addressed what constitutes MEP. MEP is not a one-size fits all approach. Rather, MEP is an evolving, flexible, and advancing concept, which considers practicability. This includes technical and economic practicability. Compliance with the MEP standard involves applying BMPs that are effective in reducing or eliminating the discharge of pollutants in storm water to receiving waters. BMP development is a dynamic process, and the menu of BMPs may require changes over time as experience is gained and/or the state of the science and art progresses. MEP is the cumulative effect of implementing, evaluating, and making corresponding changes to a variety of technically appropriate and economically practicable BMPs, ensuring that the most appropriate controls are implemented in the most effective manner. The State Water Board has held that "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 costs would be prohibitive." (State Water Board Order WQ 2000-11.) In addition, there are instances outside of this permit where the Board previously considered economics. First, when the Board adopted the water quality objectives that serve as the basis for several requirements in the permit, it took economic considerations into account. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 21.) Second, the cost of complying with TMDL wasteload allocations was previously considered during the adoption of each TMDL. Thus, the costs of complying with the water quality based effluent limitations and	

			receiving water limitations derived from the 33 TMDLs should not be added to determine the cost of compliance with all TMDLs. Further, the Board's considerations of economics in developing each TMDL have often resulted in lengthy implementation schedules to achieve water quality standards. Where appropriate, these implementation schedules have been used to justify compliance schedules in the permit. Lastly, it should be noted that where statutes require "consideration" of economics, the requirement is just that: a consideration. Water Code section 13241 does not require a "cost-benefit analysis" or dictate any course of action upon consideration. Economics is merely a factor to be considered. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 22.)	
California Water Code section13241	The Board needs to clarify whether the permit requirements set forth in the final permit will be imposed because they are (i) themselves precisely mandated by federal law, or (ii) instead as an exercise of the Board's discretion. Unless the Board can point to any specific federal limitations that compel it to impose its chosen permit requirements, the Board must comply with the Porter-Cologne Act's requirements for exercising its discretion.	BILD	The Board has already indicated that the permit requirements are not more stringent than the minimum federal requirements. Section 402(p)(3)(B) of the Clean Water Act requires the Board to include permit requirements that implement the effective prohibition on the non-storm water discharges, and to require controls to reduce the discharge of pollutants in storm water to the maximum extent practicable, and other provisions that the Board has determined appropriate to control such pollutants. Section 402(a)(1) of the Clean Water Act also requires states to issue permits with conditions necessary to carry out the provisions of the Clean Water Act. The federal regulations pertaining to NPDES permit in general, as well as large and medium MS4s, also mandate certain requirements. In issuing MS4 permits, "[t]he permitting agency has discretion to decide what practices, techniques, methods and other provisions	None

			are appropriate and necessary to control the discharge of pollutants." (City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region (2006) 135 Cal.App.4th 1377, 1389.) However, the "Regional Board must comply with federal law requiring detailed conditions for NPDES permits." (Ibid.) Further, USEPA expects the permitting authority to develop the specific practices that comply with the Clean Water Act on a permit-by-permit basis. (NRDC v. USEPA (9th Cir. 1992) 966 F.2d 1292, 1308.) To the extent the Board is exercising discretion in including certain permit requirements, the Board is exercising discretion required and/or authorized by federal law, not state law.	
California Water Code section13241	The Board cannot reasonably maintain that federal law compels the Board to impose numeric effluent limits. The Board is exercising its own discretion by imposing WQBELs in MS4 permits, which exceeds the MEP congressional mandate. Therefore, the Board's election to promulgate such WQBELs would be subject to the consideration of Section 13241 factors. Here, the Draft Permit would impose many new and onerous requirements upon the permittees and their constituents, but it reflects no effort by the Board's staff to marshal evidence necessary to consider and reconcile the six balancing factors that are specifically prescribed by California Water Code § 13241.	BILD	The Board is not asserting that federal law specifically requires the Board to impose numeric limits. Section 402(p)(3)(B)(iii) of the Clean Water Act requires the Regional Water Board to impose "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 [Regional Water Board] determines appropriate for the control of such pollutants." Section 402(a)(1) of the Clean Water Act also requires states to issue permits with conditions necessary to carry out the provisions of the Clean Water Act. In issuing MS4 permits, "[t]he permitting agency has discretion to decide what practices, techniques, methods and other provisions are appropriate and necessary to control the discharge of pollutants." (City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region (2006) 135 Cal.App.4th 1377, 1389.) Federal law authorizes both narrative and numeric effluent limitations to meet state water quality standards. Federal law thus authorizes the Board to impose numeric limits and the Board has determined that numeric limits are appropriate to control pollutants	None

			subject to a TMDL. To the extent the Board is exercising discretion in establishing numeric limits, the Board is exercising discretion required and/or authorized by federal law, not state law. Although the Board is not required to consider the factors set forth in section 13241 in establishing numeric limits, the Board has nevertheless done so. See Part XIV of the Fact Sheet.	
California Water Code section13241	The Board cannot reasonably maintain that federal law precludes the Board's application of the California Water Code § 13241 considerations to the policy choices before it. First, there is no express federal preemption here that would preclude consideration of the Section 13241 factors. Second, the Board cannot reasonably argue that the federal regulatory scheme at issue here "left no room" for supplementary state regulation. Finally, given the Board's broad discretion when deciding exactly what pollution controls to require, it cannot reasonably maintain that it also lacked the power to consider and reconcile – at a minimum – the six non-exclusive factors for consideration which the California Legislature prescribed in Water Code section 13241.	BILD	The Board is precluded from considering the factors in section 13241 to justify permit requirements that do not comply with federal law. In City of Burbank v. State Water Resources Control Board (2005) 35 Cal.4th 613, the California Supreme Court ruled that regional water boards may not consider the factors in section 13241, including economics, to justify imposing pollutant restrictions that are less stringent than the applicable federal law requires. (Id. at p. 626-627 ["[Water Code s]ection 13377 specifies that [] discharge permits issued by California's regional boards must meet the federal standards set by federal law. In effect, section 13377 forbids a regional board's consideration of any economic hardship on the part of the permit holder if doing so would result in the dilution of the requirements set by Congress in the Clean Water Act…Because section 13263 cannot authorize what federal law forbids, it cannot authorize a regional board, when issuing a [] discharge permit, to use compliance costs to justify pollutant restrictions that do not comply with federal clean water standards."].) Further, under the federal Constitution's supremacy clause (Article VI), a state law that conflicts with federal law is "without effect." (Id. at p. 626.) Although the Board is not required to consider the factors set forth in section 13241 in issuing the permit, the Board has nevertheless done so. See Part XIV of the Fact Sheet. In considering costs, the Board has	None

			established requirements that would allow permittees the flexibility to address critical water quality priorities in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act.	
Factors Affecting Pollutants Concentrations in MS4 Discharges	In the Water Code § 13241 analysis, and the discussion of water quality conditions that could reasonably be achieved, it is stated that the six factors "generally accepted" to affect pollutant concentrations in MS4 discharges were land use, climatic conditions, seasons, percentage impervious, rainfall amount and intensity, runoff amount and watershed size. The County also believes that additional factors, including motor vehicle operation and aerial deposition create pollutant loadings and influence pollutant concentrations. These should be added to the Fact Sheet.	County of Los Angeles	The Board agrees. The factors were added as requested.	Fact Sheet revised.
Economic Considerations				
Economic Considerations	The alleged facts in the economic consideration section of the Fact Sheet misrepresent the permittees' data and fail to consider the economic impact of new, costly aspects of the Permit. The Fact Sheet's open skepticism of municipal financial reports is troubling, and indicates the Board has not taken permittees' actual expenses seriously. Speculations about what people may be willing to pay for cleaner water and social benefits from clean water have no	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	As previously noted, the Regional Water Board is not required to consider economics in issuance of this federal permit. Nevertheless, the Board did consider cost estimates that were reported by the permittees in their annual reports during the term of the 2001 permit, as well as a State Water Board funded study that examined the costs of municipal MS4 programs statewide. In Part XIV of the Fact Sheet, the Board acknowledges that the permit would impose additional conditions beyond those included in the 2001 permit. As noted in the Fact Sheet, it is very difficult to determine the true costs of implementing MS4 management programs because of highly variable factors and unknown level of implementation among	None

	real effect on cities' bottom lines.		different municipalities and inconsistencies in reporting by permittees. In addition, it is difficult to isolate program costs attributable to permit compliance. Reported costs of compliance for the same program element can vary widely from permittee to permittee, often by a very wide margin that is not easily explained. Despite these problems, efforts have been made to identify MS4 management costs. In so doing, the Board has seriously considered the economic impact of new provisions of the permit and established requirements that would allow permittees the flexibility to address critical water quality priorities in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act. The Board also disagrees with the commenters' statement that "speculations about what people may be willing to pay for cleaner water and social benefits from clean water have no real effect on cities' bottom lines." However, even assuming this is true, the Board appropriately considered not only the economics associated with permittees complying with the permit provisions, but also the costs associated with the negative impacts of pollution on the economy and the positive impact of improved water quality. The commenters provide no support for their insinuation that the Board should only consider costs to permittees, and not to society, including the millions of individuals who reside in the permittees' subject to this permit.	
Economic Considerations	The Cities have other functions that require funding. If this Permit is adopted as proposed, even in the best case scenario, spending cuts to other crucial services such as police, fire, and public works are certain. The permittees' dwindling general funds simply cannot take	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, Lakewood, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, Rolling	The Board recognizes that municipalities may be in a position to balance competing interests in a time where there is limited staff and resource to implement actions to address its MS4 discharges. However, the Clean Water Act requires MS4 permits to include limitations and controls in order to achieve the standards set forth in the Clean Water Act. This permit is consistent with the Clean Water Act. The	None

	the financial hit the Permit is poised to impose on them. The Cities believes a more measured approach is necessary, especially regarding how compliance in this Permit is achieved.	Hills, San Marino, South El Monte, and Westlake Village	permit, as noted above, includes a significant amount of flexibility for permittees to choose how to implement the permit consistent with other responsibilities of the permittees.	
Economic consideration	The Fact Sheet seeks to rely on cost estimates from the 2001 Permit that do not reflect compliance with the numeric WQBELs and receiving water limits sought to be imposed under the new permit.	City of Signal Hill	The Board considered cost estimates that were reported by the permittees in their annual reports during the term of the 2001 permit, as well as a State Water Board funded study that examined the costs of MS4 programs statewide. As previously noted, the costs of complying with the water quality based effluent limitations and receiving water limitations derived from the 33 TMDLs should not be added to determine the cost of compliance with all TMDLs. Although not required, the Board has considered costs in establishing numeric WQBELs. This is especially evident in the Board allowing permittees to achieve many of the final numeric WQBELs in accordance with lengthy compliance schedules, such that permittees can spread out costs over time. While compliance with most of the numeric WQBELs is a new requirement in this permit, compliance with receiving water limitations is not a new requirement in this permit. That requirement is an existing requirement in the 2001 permit. Thus, the cost estimates self-reported by the permittees should have included that information. In addition, when the Board adopted the water quality objectives that are the receiving water limitations in the permit, it took economic considerations into account. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 21.)	None

Funding/Costs	Relying on the funding formula adopted by the cities to pay for the LA River Metals TMDL requirements, the City of Bradbury would need 180% of its current General Fund budget to pay for the TMDL's annual costs. That is impossible. Local resources are also directed to a number of health, safety and quality of life factors, such as Police and Fire. Thus, all these factors, health, safety, quality of life and clean water need to be developed in balance with each other. While Bradbury may be the most dramatic case, the new costs will be difficult for any of these cities to absorb under the best of economic circumstances and is complicated by the current economic recession. The 2/3rds (Proposition 218) vote for storm water taxes is a difficult hurdle to overcome, so Bradbury would most likely be forced to cut existing services to afford the TMDL or consider even worse options. By this I mean the City would cease to exist - - placing a greater burden on the other cities and the County of Los Angeles. While the City does not believe the Board's intent is to bankrupt cities, the simple fact of implementing many of these TMDL's without further	Cities of Bradbury, Signal Hill, and Pomona	The Los Angeles River Metals TMDL was initially effective January 11, 2006. Following a writ of mandate filed by several cities on February 16, 2006, the Los Angeles Water Board was asked to provide a more detailed alternative analysis on May 24, 2007. The TMDL with the included alternative analysis was readopted and subsequently approved on October 29, 2008 with its original compliance dates. Therefore the City of Bradbury has had 6 years, 9 months to plan for the implementation of the Los Angeles River Metals TMDL. Furthermore, the final compliance date for the Los Angeles River Metals TMDL is January 11, 2028 providing another 16 years to implement the TMDL including determining funding sources and cost effective budgeting strategies. No evidence has been offered to support the claim that any resources would need to be "diverted," much less, how much, why such alleged "diversions" of resources are significant, and why no other funding sources are available to pay for the needed services, considering possible tax assessments, user fees, grants, loans, etc. Notably, Signal Hill applied and obtained a 100% grant from the State Water Resources Control Board for its Hamilton Bowl project, to comply with the Trash TMDL. Thus TMDL compliance cost Signal Hill virtually nothing. Other such grants, favorable loans, and other funding mechanisms are plainly available. In fact, no specific showing of any sort, much less evidence of any kind, has ever been offered to support the claim that the cost of the Los Angeles River Metals TMDL and other TMDLs will feasibly prevent any municipality or other jurisdiction from providing basic health and safety services to its constituents. While not required, the Board considered the factors in California Water Code section 13241, including	None

	consideration to their economic impact balanced with improved water quality, this is exactly what will happen around the San Gabriel Valley and throughout the State. We respectfully request the Board complete an economic analysis regarding the economic implications of the permit's implementation and work directly with the cities to find cost effective solutions to these issues affecting all of us.		economic considerations, in the Fact Sheet. The commenters do not detail what they believe is inadequate in the analysis.	
Cost/Funding	Any additional funds needed to raise money for stormwater programs would need to come from increased/new stormwater fees and grants. New fees for stormwater are regulated under the State's Prop 218 regulations, and require a public vote; so, this is an item that is not under direct control of the municipalities-the Permit language should reflect this.	Cities of Inglewood, La Verne, Lakewood, Signal Hill, Pomona	The commenters have not provided adequate evidence for these assertions. The language in the Fact Sheet is appropriate as-is.	None
Cost/Funding	It is also worth noting that the cost for complying with both the stormwater regulations and TMDL requirements should be carefully considered. With these types of economic implications, it is critical that this Regional Board and their staff more carefully complete a fiscal analysis of what it will cost cities to be in compliance with the draft order.	Cities of Bradbury, LaVerne, Rolling Hills, Signal Hill	Although not required, the Board considered the factors in section 13241 of the Water Code, including economic considerations, in the Fact Sheet. The commenter does not detail what portions of this analysis was inadequate. As noted in the Fact Sheet, it is very difficult to determine the true costs of implementing MS4 management programs because of highly variable factors and unknown level of implementation among different municipalities and inconsistencies in reporting by permittees.	None
Cost/Funding	The loss of redevelopment funding is a significant problem for Signal	City of Signal Hill	The Board has seriously considered the economic impact of new provisions of the permit and	None

	Hill, where the Signal Hill Redevelopment Agency had budgeted over $800,000 this year to begin to address five of the six TMDLs that currently regulate our small, 2.2 square mile community. AB 1X26 effectively dissolved redevelopment agencies statewide and has resulted in Signal Hill's having to devote additional General Fund revenues to implement our stormwater program at a very difficult financial time for the community. Without the planned Redevelopment Agency expenditures, the City has budgeted $869,235 for the coming fiscal year (see table below) to fund its Stormwater Program. However, this amount is far below what is required to fully address the TMDLs that impact our city. Our estimated stormwater budget for the next few years to fully address permit requirements and TMDL implementation is approximately $1.6 million per year. We don't foresee a time in the next four to five years when our General Fund will be able to keep up with the stormwater costs resulting from the Tentative Order, as written, which means that existing programs will need to be severely reduced or eliminated to fund the new stormwater requirements		established requirements that would allow permittees the flexibility to address critical water quality priorities in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act. The permit, as noted above, includes a significant amount of flexibility for permittees to choose how to implement the permit consistent with limited resources and other responsibilities of the permittees.	
Cost/Funding	The Watermaster supports the	Main San Gabriel	The Regional Water Board has always encouraged	None

	"Watershed Approach" of developing tailor-made solutions for unique conditions in each watershed. We respectfully suggest that the Board consider encouraging cost-effective activities to increase upstream storm water capture for groundwater recharge to enhance local water supply and reliability.	Watermaster	and supported cost effective means of storm water capture for groundwater recharge for the enhancement of local water supply and reliability. There are several cost effective BMPs suggested in the MCM section of the permit. In addition, the tentative permit was revised in response to other comments to allow an enhanced watershed management program that would promote groundwater recharge.	
Permit Provisions	We urge that the permit provisions are developed on conditions based on a reasonable timeframe in balance with the existing economy, fiscal resources available, and other health, safety, regulatory and quality of life factors that local agencies are responsible for.	City of Inglewood, City of La Verne	The Board believes that the permit provides reasonable timeframes, while protecting water quality as required by the Clean Water Act.	None
Cost consideration	The Board, who are appointed and not elected, are approving a system that has no real solution and sets up a financing tool that should be established by elected officials with considerations of revenue and budgets.	Joyce Dillard	The commenter does not detail why she believes the permit will be unsuccessful. In issuing the permit, the Board has considered costs in the Fact Sheet. The commenter does not explain why the Board's consideration is inadequate.	None
Assembly Bill (AB) 2554	It is premature and improper to assume that permittees will obtain funding from proposed ballot measures and other sources of funding that have not been approved or voted on by the public. The discussions about AB 2554 on pages F-16 and F-142 to F-143 is inaccurate and misleading and should be deleted because there is no assurance the fee will be adopted. Neither AB 2554 nor a	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, Pomona, San Marino, Santa Monica, South El Monte, and Westlake Village; LACFCD; County of	The permit does not presume that permittees will obtain funding from proposed ballot measures, including AB 2554. The Board acknowledges that there is no guarantee that the funds from Assembly Bill 2554 will be approved. The permit simply describes possible funding sources that may be available to permittees. The Fact Sheet analyzes several other sources of funding including grants and loans. Furthermore, the revenues presented in the Fact Sheet are based on numbers provided by the Los Angeles	Clarifying changes made

	fee is awaiting voter approval. No fee has been determined or imposed by the LACFCD and it cannot be imposed unless it has first been considered by LACFCD's Board of Supervisors at a public hearing at which the property owners subject to the fee have the right to submit protests. Therefore, the revenue estimates are speculative. Even if the initiative is approved, funds would not be available until 2014 well after the deadline for a majority of the compliance deadlines in the Permit. Also, the initiative will not cover all the costs imposed on all permittees by the Permit.	Los Angeles	County Flood Control District in a presentation dated October 20, 2011 (www.smbrc.ca.gov/about_us/agendas/2011oct/Ordinance Presentation (SMBRC).pdf). Clarifying changes reflecting the status of AB 2554 and providing clarity about the approval process have been made.	
Assembly Bill (AB) 2554	It appears from the magnitude of increased costs associated with the Tentative Order that Regional Board staff assumes that the stormwater fee proposed by the Los Angeles County Flood Control District will be approved by property owners next spring. Actually, passage of the fee is far from certain. In fact, the proposed fee came before the County Board of Supervisors three times before staff was directed to move forward with creation of a Final Draft Ordinance, a protest hearing, and a possible vote. If the Regional Water Board agrees with staff that the new costly programs should be required, perhaps those programs should be contingent upon passage of the stormwater quality fee next	City of Signal Hill	The permit does not presume that permittees will obtain funding from proposed ballot measures, including AB 2554. The Board acknowledges that there is no guarantee that the funds from Assembly Bill 2554 will be approved. The permit simply describes possible funding sources that may be available to permittees. The Fact Sheet analyzes several other sources of funding including grants and loans.	None

	year. This would be parallel to the actions taken by the University of California Board of Regents in freezing undergraduate and some graduate school tuitions pending the vote on the Proposition 30 tax hike measure in November			
Assembly Bill (AB) 2554	At this time, there is no guarantee that the Los Angeles County Flood Control District's water quality funding initiative will be passed and approved by the property owners. Given this uncertainty and the current economic climate which has also affected the State Regional Water Quality Control Board programs and staffing, reasonable and achievable requirements are a must. The draft MS4 permit as currently written is not achievable and will subject permittees to violations, penalties, and fines.	Cities of Burbank, Signal Hill, and Pomona	The permit does not presume that permittees will obtain funding from proposed ballot measures, including AB 2554. The Board acknowledges that there is no guarantee that the funds from Assembly Bill 2554 will be approved. The permit simply describes possible funding sources that may be available to permittees. The Fact Sheet analyzes several other sources of funding including grants and loans. The Board disagrees with the commenter's assumptions that the permit is not achievable and will ultimately lead to permittee violations, penalties and fines. The commenters do not detail what potential violations and penalties will occur. The Board has seriously considered the economic impact of new provisions of the permit and established requirements that would allow permittees the flexibility to address critical water quality priorities in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act. The permit, as noted above, includes a significant amount of flexibility for permittees to choose how to implement the permit consistent with limited resources and other responsibilities of the permittees. Furthermore, the permit allows for many options for flexibility, including application for Time Schedule Orders and creating a Watershed Management Program to tailor an implementation program based on the specific priorities identified by permittees.	None
Unfunded State Mandates				

Jurisdiction	The Board has no jurisdiction to determine whether requirements included in the permit are federal, as opposed to state, mandates for the purposes of Article XIII B, section 6 of the California Constitution. The California Legislature has specifically charged the Commission on State Mandates with the task of determining whether a mandate is a state or federal mandate and whether a local agency or school district is entitled to a subvention of funds pursuant to the California Constitution. As such, any such finding or determination in this Permit is entitled to no deference and carries no weight.	County of Los Angeles	The Board agrees that the Commission on State Mandates (Commission) ultimately has jurisdiction to determine whether a permit provision constitutes an unfunded state mandate requiring state subvention. However, it is entirely appropriate for the Board to set forth its legal basis to support the provisions in the tentative permit, finding them to be necessary and appropriate to meet the federal Clean Water Act standards. While the Commission may be an expert in state mandates, it has no expertise in the field of water law. The Board's findings are the expert conclusions of the principal state agency charged with implementing the NPDES program in California. (Cal. Wat. Code, §§ 13001, 13370.) Thus, the Commission should defer to the Board's implementation of federal water quality law. Further, many commenters insist that the Board must recognize that certain permit provisions constitute unfunded state mandates. These commenters state or insinuate that certain permit provisions may not be adopted at all or may not adopted unless the State first provides funding to the permittees to carry out those provisions. Accordingly, the Board's findings and determinations on this issue are nonetheless appropriate and necessary to express the Board's opinion that the tentative permit is the result of a federal, and not a state, mandate.	None
Unfunded State Mandates	The statement that the requirements of this order do not constitute a new program or higher level of service is factually incorrect. The draft Permit contains many new obligations and requirements that were not previously imposed on the Permittees, including incorporation of a number of TMDLs into the Permit. These	County of Los Angeles; Cities of Pomona, Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake	The Board acknowledges that several of the elements of the tentative permit have been improved upon by including more specific requirements. The additional specificity that will likely require modifications to the permittees existing programs, however, does not mean that the specific requirements constitute new programs or higher levels of service as compared to the requirements contained in Order No. 01-182. While certain specific requirements are new to this permit, the overarching requirements to prohibit or reduce pollutants in discharges from MS4s is dictated by the	None

	requirements are new programs or higher levels of service.	Village	Clean Water Act and is not new to this permit cycle. The relevant "activity" for purposes of state mandates law is the federal requirements contained in section 402(p)(3)(B) of the Clean Water Act. The Clean Water Act mandates that all NPDES permits for discharges from MS4s effectively prohibit non-storm water discharges and include "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." (33 U.S.C. §1342(p)(3)(B)(ii)-(iii).) These requirements are not new and are imposed on all entities that own or operate a MS4. The inclusion of new and advanced measures as the MS4 programs evolve and mature over time is anticipated under the Clean Water Act (55 Fed. Reg. 47990, 48052 (Nov. 16, 1990)), and these new and advanced measures do not constitute a new program or higher level of service and, thus, no state mandate. With regards to the incorporation of TMDLs into the permit, those provisions are not only required by federal law (as explained below), they also do not constitute a new program or higher level of service. Since at least 2001, through Order No. 01-182, the permittees have been required to ensure that their MS4 discharges to do not cause or contribute to a violation of water quality standards. TMDLs are required to be developed when waterbodies are considered impaired; i.e., water quality standards are not being achieved. Through adoption of the various TMDLs being incorporated into the permit, the Board determined that the permittees MS4 discharges are causing or contributing to violations of water quality standards and assigned the MS4 discharges wasteload allocations. Thus, for the TMDLs being incorporated	

			into the permit, permittees are actually subject to less stringent requirements than that required in Order No. 01-182 because permittees are not being required to comply with water quality standards for those pollutants. The vast majority of the TMDL provisions being incorporated into the permit allow permittees to comply with effluent limitations and/or receiving water limitations according to compliance schedules, often very lengthy ones, in order to eventually achieve water quality standards.	
Unfunded State Mandates	The Board makes a unilateral statement that the permit requirements do not exceed Federal Requirements and therefore are not unfunded mandates. Requests that the Regional Board substantiate this statement for each section of the permit. Bradbury would also like to refer that the court decisions on unfunded mandates claims are still on appeal and it is premature to conclude on the merits of the appeal.	Cities of Bradbury and Torrance	The Board has already indicated throughout the permit and in various responses to comments that the permit requirements are not more stringent than the minimum federal requirements. A determination of whether the conditions contained in the permit exceed the requirements of federal law cannot be based on a point by point comparison of the permit conditions. Rather, the correct analysis in determining whether a MS4 permit constitutes a state mandate is to evaluate whether the permit as a whole -- and not a specific permit provision -- exceeds federal law. (*State of Cal. v. Comm. On State Mandates* (Super. Ct. Sacramento County, 2012, No. 34-2010-80000604), *State of Cal. v. County of Los Angeles* (Super. Ct. Los Angeles County, 2011, No. BS130730.) The requirements of the permit, taken as a whole rather than individually, are necessary to protect water quality in accordance with federal law. The Board acknowledges that the court decisions on unfunded mandates claims are still on appeal. The Board may, however, refer to such decisions. The fact that the decisions are on appeal does not change the Board's views on this issue. The Board maintains at this time that the provisions of the permit are not unfunded state mandates and will continue to include appropriate provisions in MS4 permits to protect the water quality and beneficial uses of the waters of the region in accordance with federal law.	None

Unfunded State Mandates	The permit contains provisions that exceed federal requirements, such as complying with monitoring, numeric WQBELs, TMDLs, RWLs, non-stormwater discharge prohibition through and from the MS4, MCMs, groundwater recharge requirements, and construction/development requirements. These mandates are imposed at the Regional Board's discretion and go beyond the specific requirements of either the Clean Water Act or the EPA's regulations implementing the Clean Water Act, and thus exceed the "Maximum Extent Practicable" ("MEP") standard. These provisions should therefore be deleted.	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, Westlake Village, Baldwin Park, Bradbury, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, La Verne, and Pomona	This permit implements federally mandated requirements. 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 Regional Water Board determines appropriate for the control of such pollutants. (33 U.S.C. §1342(p)(3)(B).) The Board has determined that the requirements in the permit are necessary to protect water quality in accordance with federal law. This includes requirements pertaining to monitoring, numeric WQBELs, TMDLs, RWLs, non-stormwater discharge prohibition through and from the MS4, MCMs, groundwater recharge requirements, and construction/development requirements. The Board has explained its rationale for these requirements in the Fact Sheet and in various responses to comments. In addition, in issuing MS4 permits, "[t]he permitting agency has discretion to decide what practices, techniques, methods and other provisions are appropriate and necessary to control the discharge of pollutants." (*City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389.) However, the "Regional Board must comply with federal law requiring detailed conditions for NPDES permits." (*Ibid*.) Further, USEPA expects the permitting authority to develop the specific practices that comply with the Clean Water Act on a permit-by-permit basis. (*NRDC v. USEPA* (9th Cir. 1992) 966 F.2d 1292, 1308.) To the extent the Board is exercising discretion in including certain permit requirements, the Board is exercising discretion required and/or authorized by federal law, not state law. (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.)	None

			Further, the MEP standard is a flexible standard that balances a number of considerations, including technical feasibility, cost, public acceptance, regulatory compliance, and effectiveness. (*Id*. at pp. 873, 874, 889.) Such considerations change over time with advances in technology and with experience gained in storm water management. (55 *Fed. Reg.* 47990, 48052 (Nov. 16, 1990).) Accordingly, a determination of whether the conditions contained in this permit exceed the requirements of federal law cannot be based on a point by point comparison of the permit conditions with federal law. Rather, the appropriate focus is whether the permit conditions, as a whole, exceed the MEP standard. (*State of Cal. v. Comm. On State Mandates* (Super. Ct. Sacramento County, 2012, No. 34-2010-80000604), *State of Cal. v. County of Los Angeles* (Super. Ct. Los Angeles County, 2011, No. BS130730.) The commenters have also failed to cite to any evidence that actually shows how these specific requirements exceed the MEP standard, or applicable requirements of federal law. Lastly, unless and until a particular provision is determined by the Commission on State Mandates, through a Test Claim proceeding, to be an unfunded state mandate for which reimbursement is required, the Regional Water Board is not, as some commenters assert, precluded from adopting such provisions. The Commission does not determine the validity of any particular provision; it address only whether the State or the local governments will be required to pay for that provision.	
Unfunded State Mandates	Where the draft Permit directs the Permittees to undertake a specific program in order to implement the MEP standard, as opposed to	County of Los Angeles	MS4 permits issued by the Regional Water Board must ensure compliance with the Clean Water Act. (Wat. Code, §§ 13370(c), 13372(a), 13377.) Federal law mandates that permits issued for MS4s require	None

	allowing the Permittees to design their own program, this directive constitutes a state mandate.		certain actions that will result in the elimination or reduction of pollutants to receiving waters and the state is required, by federal law, to select the controls necessary to meet this standard. (See *NRDC v. USEPA* (9th Cir. 1992) 966 F.2d 1292, 1308; *City of Rancho Cucamonga v. Regional Water Quality Control Bd., Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389-90.) In creating a permit system for dischargers from MS4s, Congress intended to implement actual programs. (*Natural Resources Defense Council, Inc. v. Costle* (D.C.Cir.1977) 568 F.2d 1369, 1375.) In issuing MS4 permits, "[t]he permitting agency has discretion to decide what practices, techniques, methods and other provisions are appropriate and necessary to control the discharge of pollutants." (*City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389.) However, the "Regional Board must comply with federal law requiring detailed conditions for NPDES permits." (*Ibid.*) Further, USEPA expects the permitting authority to develop the specific practices that comply with the Clean Water Act on a permit-by-permit basis. (*NRDC v. USEPA* (9th Cir. 1992) 966 F.2d 1292, 1308.) The Regional Water Board, as the permitting agency, thus has discretion to decide what controls, practices, techniques, methods and other provisions are appropriate and necessary to control the discharge of pollutants. To the extent the Board is exercising discretion in including provisions the Board deems appropriate to control pollutants, the Board is exercising discretion required and/or authorized by federal law, not state law. Further, notwithstanding the above, the Board has provided permittees a significant amount of flexibility to choose how to implement the permit. The permit provides permittees the flexibility to address critical water quality priorities, namely discharges to waters	

			subject to TMDLs, but aims to do so in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act and other applicable requirements. For example, the inclusion of a watershed management program option allows permittees to submit a plan, either individually or in collaboration with other permittees, for Board approval that would allow actions to be prioritized based on specific watershed needs. The permit also allows permittees to customize monitoring requirements, which they may do individually or in collaboration with other permittees.	
Unfunded State Mandates	Obligations under the draft Permit are not similar to obligations on non-governmental dischargers. Obligations to inspect for illicit connections and discharges, to inspect commercial, industrial and construction sites, to reduce wasteload pollutant loads in compliance with TMDLs, to impose minimum BMPs for roadway paving and repairs and to implement regional watershed management programs, monitoring, and other requirements are obligations that are not imposed on non-governmental dischargers.	County of Los Angeles	There are a number of factors that must be established before a requirement will be found to be an unfunded state mandate warranting state reimbursement. One of the statutory bases for establishing that a permit provision amounts to an unfunded state mandate requiring reimbursement is for the municipality to show that the requirements are unique to local government and do not apply generally to all residents and entities in the state. Another factor is that the municipality has to show the requirement is a state mandate as opposed to a federal mandate. Most of the obligations noted by the commenter as only being imposed on governmental dischargers are specifically required by federal law, not state law. (See generally 40 C.F.R. § 122.26.) Further, obligations to reduce wasteload pollutant loads in compliance with TMDLs are imposed on both governmental and non-governmental dischargers. The commenter also fails to acknowledge the obligations that are imposed on the governmental permittees in this permit that are less stringent than non-governmental dischargers. Many provisions of the permit regulate the discharge of waste in municipal storm water under the federal MEP standard, not the BAT/BCT standard that applies to other types of discharges. In addition, this permit only	None

			includes numeric effluent limits for pollutants that are subject to TMDLs. Non-governmental dischargers are routinely subject to numeric effluent limits for pollutants that are subject to TMDLs and pollutants that are not. These provisions, therefore, regulate the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.	
Unfunded State Mandates	Permittees have not requested this permit; they are obligated under federal law to apply for it.	County of Los Angeles	The Board disagrees. Permittees do have a choice. The permittees may request coverage under a MS4 permit or comply with the complete prohibition against the discharge of pollutants contained in Clean Water Action section 301(a). (33 U.S.C. § 1311(a)). This choice is provided by the federal Clean Water Act, not state laws. To the extent that the local agencies have voluntarily availed themselves of the permit, the program is not a state mandate. (Accord *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 107-108.) Thus, meeting the requirements of a MS4 permit is a federal mandate, and not an unfunded state mandate.	None
Unfunded State Mandates	The permittees do not necessarily have the requisite authority to levy fees to pay for compliance with the permit. Funding mechanisms are speculative because they may either be contingent upon voter approval or limited to cover all or some of the costs imposed by the Permit. Such speculative funding sources cannot count as viable sources of funding so as to preclude a subvention claim. The fee authority of the Permittees is extremely limited, and more so in the wake of the recent passage of Proposition 26.	County of Los Angeles; Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	Section 6 of Article XIII B of the California Constitution requires subvention only when the costs in question can be recovered solely from tax revenues, and not if the costs can be reallocated or paid for with fees. Numerous activities contribute to the pollutant loading in the MS4. The permittees can levy fees on these activities, independent of real property ownership. (See, e.g., *Apartment Ass'n of Los Angeles County, Inc. v. City of Los Angeles* (2001) 24 Cal.4th 830, 842 [upholding inspection fees associated with renting property].) The permittees have the authority to levy fees to pay for compliance with the permit within the meaning of Government Code section 17556(d), even if adoption of a fee is contingent on the outcome of an election or vote. (See California Constitution XIII D, section 6, subdivision (c); see also *Howard Jarvis Taxpayers Association v. City of*	None

			Salinas (2002) 98 Cal. App. 4th 1351, 1358-1359.) When local agencies have the legal authority to levy fees, they do not have to spend tax proceeds to fund activities and no subvention is therefore required. (*County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1189; *Redevelopment Agency v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.) The plain language of the exception in Government Code section 17556(d) is based on a claimant's authority, i.e., the right or power, to levy fees, not on the claimant's practical ability in light of surrounding economic circumstances to levy fees. (*Connell v. Superior Court* (1997) 59 Cal.App.4th 382, 401-402.) In addition, additional fee authority has recently been established through amendments to the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915, as amended by Assembly Bill 2554 (2010)) to provide funding for municipalities, watershed authority groups, and the LACFCD to initiate, plan, design, construct, implement, operate, maintain, and sustain projects and services to improve surface water quality and reduce storm water and non-storm water pollution within the LACFCD service area. The Board acknowledges that this initiative is currently awaiting consideration by the LACFCD Board of Supervisors. However, if approved, the initiative could create estimated annual revenue of $300 million, which would directly support the permittees' implementation of the requirements in the permit.	
Unfunded State Mandates	The Permit goes beyond federal law, as the Permit is at least twice as long, and in some cases, three times as long as other MS4 permits developed by other Regional Boards in the State of California, such as the Lahontan	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San	The permit is consistent with federal requirements and does not go beyond federal law. The permit includes requirements the Board has deemed necessary to protect water quality to meet Clean Water Act standards. MS4 permits from different regions cannot be compared without looking at the different issues facing each region. The length of a permit is not	None

	and Central Valley Regional Boards, not to mention permits developed by EPA. This means that either some Regional Boards are failing to impose federally mandated requirements pursuant to the Clean Water Act, or the more likely explanation is that the Regional Board is imposing requirements that go beyond federal law.	Marino, South El Monte, and Westlake Village	indicative of consistency with the Clean Water Act. The discharges that the Lahontan and Central Valley Regions are most concerned with are typically nonpoint source discharges that cannot be regulated under NPDES requirements (e.g., agriculture and silviculture). There are, however, examples of MS4 permits with similar provisions and lengths in the San Diego and San Francisco Bay Regions. Each region implements the requirements of the Clean Water Act by including provisions in the MS4 permits with the specificity that is necessary to protect water quality and beneficial uses for the waters in that region. The requirements in this permit include the specificity that has been demonstrated to be necessary to be protective of water quality, consistent with the Clean Water Act, and do not constitute an unfunded state mandate.	
MCMs	The Permit's Minimum Control Measure program ("MCM Program") qualifies as a new program or a program requiring a higher level of service for which state funds must be provided. The particular elements of the MCM Program that constitute unfunded mandates are: • The requirements to control, inspect, and regulate non-municipal permittees and potential permittees (Permit at pp. 38-40); • The public information and participation program (Permit at pp. 58-60); • The industrial/ commercial facilities program (Permit at p. 63); • The public agency activities	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	The Board disagrees. The MCM program is required by federal regulations. (See 40 C.F.R. § 122.26(d)(2)(iv).) In addition, the MCM program is not a new program or a program requiring a higher level of service. The previous permit, Order No. 01-182, included many of the same MCM requirements, which have been carried over to this permit.	None

	program (Permit at pp. 56-63); and • The illicit connection and illicit discharge elimination program (Permit at pp. 106-109).			
Inspections	The requirement that the permittees inspect and regulate other, non-municipal NPDES permittees constitutes an unfunded mandate. Controlling pollutants from construction and industrial activities is a state responsibility. There are no adequate alternative sources of funding for inspections. NPDES permittees already pay the Regional Boards fees that cover such inspections in part. It is inequitable to both cities and individual permittees for the Regional Board to charge these fees and then require cities to conduct and pay for inspections without providing funding.	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, Westlake Village, Signal Hill, and Santa Clarita	"Federal law, either expressly or by implication, requires NPDES permittees to perform inspections for illicit discharge prevention and detection; landfills and other waste facilities; industrial facilities; construction sites; certifications of no discharge; non-storm water discharges; permit compliance; and local ordinance compliance." (*City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1390.) Federal regulations require that actions designed to reduce pollutants to the maximum extent practicable include management practices or controls, including priorities and procedures for inspections, of industrial facilities and construction sites. (See 40 C.F.R. § 122.26(d)(2)(iv), subdivisions (B), (C)(1), and (D).) Such inspections are necessary to confirm that best management practices are being effectively implemented in compliance with federal law. The provisions contained in the permit pertaining to the inspection and facility control program requirements for industrial and commercial facilities, as well as construction sites, are based on the requirements of Order No. 01-182. Those requirements, among others, were the subject of litigation between several permittees and the Regional Water Board. In that case, the Los Angeles County Superior Court upheld the inspection and facility control program requirements for industrial/commercial facilities and construction sites in Order No. 01-182 as being consistent with federal law. (*In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles	None

			County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, pp. 16-19.) The Court also addressed the permittees' claims that the requirements in Order No. 01-182 shifted the Regional Water Board's inspection responsibility under State Water Board issued general NPDES permits for these types of facilities onto the local agencies. The Court disagreed, stating: "The Court agrees with [the Regional Water Board] and Intervenors that the United States EPA considered obligations under state-issued general permits to be separate and distinct. Despite the similarity between the general permits and the local storm water ordinances, both must be enforced. [Citations.] EPA requires permittees to conduct inspections of commercial and industrial facilities, as well as of construction sites. [Citation.] …..This Court finds that the state-issued general permits do not preempt local enforcement of local storm water ordinances. (See State Board Order No. 99-08, [citation].) [¶] Therefore, this Court finds that requiring permittees to inspect commercial and industrial facilities and construction sites is authorized under the Clean Water Act, and both the Regional Board and the municipal permittees or the local government entities have concurrent roles in enforcing the industrial, construction and municipal permits. The Court finds that the Regional Board did not shift its inspection responsibilities to Petitioners. [¶] … The Court further notes that the Permit issued to local entities, who are Petitioners here, does not refer to any inspection obligations related to state-issued permits. [Citation.] There is no duplication of efforts and no shifting of inspection responsibility in derogation of the Regional Board's responsibility here. The Regional Board is not giving up its own responsibilities, and there is nothing arbitrary or capricious about the Permit's inspection provisions." (*Id*. at 17-18.) Moreover, the comments stating the	

			Board can collect a fee for state inspections required under the state-issued permit is not relevant as these inspections are independent from the obligations imposed on the permittees under the permit. Further, USEPA has concluded that the inspection requirements in Order No. 01-182 are within the maximum extent practicable standard. (See Letter dated April 10, 2008; signed by Alexis Strauss, USEPA.) In addition to being required by federal law, the inspections requirements are existing requirements, and thus do not constitute a new program or a program requiring a higher level of service.	
Water Quality Standards	If strict compliance with state water quality standards in receiving water bodies is required - including state water quality standard-based wasteload allocations - in the MS4 itself or at outfall points and in receiving water bodies, the entire Permit will constitute an unfunded mandate because such a requirement exceeds both the Federal standard and the requirements of prior permits, despite the fact no funding will be provided.	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	The permit does not require strict compliance with water quality standards in that it provides permittees with schedules that Board has determined necessary to provide a path to compliance with water quality standards. If it did require strict compliance, permittees would not only be subject to numeric WQBELs for pollutants that are subject to TMDLs, but also would be immediately subject to numeric WQBELs for pollutants that are not subject to TMDLs. This permit only establishes numeric WQBELs for pollutants that are subject to a TMDL. Notwithstanding the above, even if the Board were requiring strict compliance with state water quality standards, such a requirement would not exceed federal law. Section 402(p)(3)(B)(iii) of the Clean Water Act requires the Regional Water Board to impose permit conditions, including: "management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator of the State determines appropriate for the control of such pollutants." (emphasis added.) As determined by the Ninth Circuit Court of Appeal, "[u]nder [the] discretionary provision [of section 402(p)(3)B)(iii)], the EPA has the authority to	None

			determine that ensuring strict compliance with state water-quality standards is necessary to control pollutants." (*Defenders of Wildlife v. Browner* (9th Cir. 1999) 191 F.3d 1159, 1166.) The Board, which is authorized to enforce the Clean Water Act pursuant to California Water Code sections 13370 and 13377, can also require strict compliance with water quality standards. To date, the permittees have been unable to adequately protect water quality in the receiving waters, as demonstrated by the number of Clean Water Action section 303(d) listed impaired water bodies. Thus, if the Board were to require strict compliance with water quality standards, it would be federally authorized. Such a requirement would also not exceed requirements in the prior permit. Since at least 2001, through Order No. 01-182, the permittees have been required to ensure that their MS4 discharges to do not cause or contribute to a violation of water quality standards. Thus, such a requirement would be considered an existing requirement, and could not be considered a new program or a program requiring a higher level of service. In addition, in the judicial litigation concerning Order No. 01-182, the Los Angeles Superior Court found that the terms of Order No. 01-182, including the receiving water limitations, were consistent with the MEP standard. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 4-9.)	
Numeric Limits	The incorporation of numeric limits as a means of requiring compliance with TMDLs or receiving water limits are unfunded state mandates as they are requirements that are not	City of Signal Hill	The inclusion of numeric limits does not cause the permit to be more stringent than federal law. Federal law authorizes both narrative and numeric effluent limitations to meet state water quality standards. Thus, the inclusion of numeric limits as discharge specifications in an NPDES permit in order to achieve	None

	mandated by federal law.		compliance with water quality standards is not a more stringent requirement than the inclusion of BMP based permit limitations to achieve water quality standards. While expressed differently, both types of limits have the same goal, which are to achieve compliance with water quality standards. The Board also notes that Order No. 01-182 required permittees to comply with receiving water limitations. The receiving water limitations are the water quality standards for a specific water body, which are generally expressed numerically. In the judicial litigation concerning Order No. 01-182, the Los Angeles Superior Court found that the terms of Order No. 01-182, including the receiving water limitations, were consistent with the MEP standard. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 4-9.)	
Trash receptacles/ Trash excluders	The trash receptacle provisions and the requirement to install trash excluders or equivalent devices in areas not subject to a trash TMDL are unfunded state mandates. The City of Pomona is not able to charge a fee for the installation of trash excluders on "Priority A" catch basins, monies will be taken directly out of the City's General Fund.	Cities of Signal Hill and Pomona	The Board disagrees. The requirements to place trash receptacles in high trash generation areas or install trash excluders on or in catch basins or outfalls to prevent the discharge of trash to the MS4 or receiving water are within the scope of the MEP standard imposed on MS4 permittees under the Clean Water Act. As already explained, the MEP standard requires flexible, best management practices, to eliminate or reduce the discharge of pollutants in storm water or runoff through MS4s. Without question, the placement and maintenance of trash receptacles at high trash generation areas and the installation of trash excluders will help prevent trash from reaching receiving waters. These requirements are an obvious remedy for a known source of pollutants. In addition, the relevant management practices required under federal law include "practices for operating and maintaining public streets, roads and highways and	None

			procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems." (40 C.F.R. § 122.26 (d)(2)(iv)(A)(3).) Thus, because these requirements are within the MEP standard under the mandatory provisions of the Clean Water Act, it is imposed by federal law and, therefore, is not a state mandate. Further, according to USEPA, the trash receptacle requirements are well within the MEP standard. (See Letter dated April 10, 2008; signed by Alexis Strauss, USEPA.) In addition to being required by federal law, the trash receptacle requirements are existing requirements, and thus do not constitute a new program or a program requiring a higher level of service. Lastly, the Los Angeles County Superior Court recently determined that the trash receptacle requirements were clearly within the MEP standard and not unfunded state mandates. (*State of Cal. v. County of Los Angeles* (Super. Ct. Los Angeles County, 2011, No. BS130730.) This followed a previous determination during the judicial litigation concerning Order No. 01-182 that the terms of Order No. 01-182 were consistent with the MEP standard. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 4-9.)	
Unfunded State Mandates	The City is concerned with the issue of whether these permit requirements constitute an unfunded mandate claim and believes that this issue should be addressed.	City of Inglewood	The issue has been addressed in the permit, more specifically in the Fact Sheet, and in these responses to comments.	None
Regional	Part XI.A. of the MRP is clearly	City of Vernon	The MS4 is regional in nature and its discharges can	Pyrethroid

Studies	an unfunded mandate. This provision is not part of the federal Clean Water Act; therefore, California Water Code section 13263 requires that the Water Boards consider economic factors described in section 13241 as they apply to these specific restrictions. Why does our MS4 permit require permittees to participate in a pyrethroid study if the pesticide is being banned? Also, the new regulations appear to ban the use of the pesticide in sanitary sewer.		affect water quality region-wide. The objective of the Federal Clean Water Act is to restore and maintain the chemical, physical, and *biological* integrity of the Nation's waters (CWA section 101(a)). The requirement for Permittees to assess biological impacts of MS4 discharges on receiving waters is consistent with this objective. Biological assessment of receiving waters is necessary to evaluate cumulative effects of multiple pollutants discharged from the MS4. The provisions for regional studies are required and/or authorized by federal law. (CWA section 308(a); 40 CFR sections 122.26(d)(2)(i)(F) and (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.) The Board has determined that this provision is necessary to determine compliance with the conditions of this permit and to determine the impacts of the permittees discharges on receiving waters. Therefore, this requirement is not an unfunded state mandate. Although not required, the Board has considered the factors in section 13241 of the Water Code, including costs, in the Fact Sheet. The permit also provides for regional monitoring to allow Permittees to coordinate resources and reduce costs. The pyrethroid regional study requirement has been eliminated. The study requirement has been eliminated in light of new regulations issued by the Department of Pesticide Regulation, which the Board anticipates will significantly reduce discharges of pyrethroids to receiving waters.	Study deleted
Miscellaneous				
General	It is imperative that the Regional Board include strong and enforceable provisions in the	Environmental Entrepreneurs (E2), Malibu Surfing	Comment noted. The permit includes strong and enforceable provisions, while allowing permittees the flexibility to address critical water quality priorities in	None

	region's new MS4 permit that require compliance with water quality standards set to protect the public health and that will promote important recreational and commercial uses of our waters. The permit should also prioritize use of green infrastructure practices to address stormwater runoff. These practices, which infiltrate, capture and re-use, or evapotranspirate runoff at its source, reduce the volume of runoff and pollution that reaches our beaches and inland waters, while potentially replenishing groundwater resources and increasing our local water supplies	Association, Surfrider Foundation	a focused and cost-effective manner that also maintaining the level of water quality protection mandated by the Clean Water Act.	
LACFCD authority	The Los Angeles County Flood Control District (LACFCD) is identified as having to mandate reporting by CWSs. ACWA is unaware of any legal mechanism that the LACFCD currently has to enforce this provision. Further, there are hundreds of potable water sources in Los Angeles County, and it is unclear if the LACFCD would have the resources to implement such a requirement. We believe it would be more appropriate for each individual MS4 Permittee (or perhaps groups of MS4 Permittees through the watershed groups) to be responsible for this function.	ACWA	The language has been revised to require the operator of the MS4 who is receiving the discharge to require reporting.	Language revised.
Responsibility	Municipalities have little or no control over the behavior of	City of Burbank	The Board disagrees. The permittees have ultimate authority and responsibility to prohibit, prevent, or	None

	individuals who may intentionally or inadvertently contribute to storm water pollution through their actions e.g. littering, animal/pet droppings, illegal discharges and illicit connections to the storm drain system. While we believe permittees should institute non-structural and structural controls to prevent or control pollutants to the "maximum extent practicable", permittees should not be responsible for the actions of which we have no control		otherwise control the non-storm water discharges that enter and exit the portions of the MS4 for which they are owners and/or operators. Even if the permittees do not themselves generate the pollutants entering/exiting their MS4s, the permittees are nevertheless responsible for ensuring that the pollutants do not reach receiving waters through their MS4. As recently stated by the 9th Circuit Court of Appeals, "the Clean Water Act does not distinguish between those who add and those who convey what is added by others - the Act is indifferent to the originator of water pollution." (*NRDC v. County of Los Angeles* (2011) 673 F.3d 880, 900.) Thus, the Clean Water Act, and this permit, appropriately places responsibility for preventing or controlling illicit discharges on the permittees. Further, the intent of the Public Information and Participation Program is to provide information to facilitate behavior changes that will reduce/eliminate pollutant generating activities. The Board acknowledges that there is no guarantee that behavior will be modified.	
No Guarantee that Permit will Improve Water Quality	It should also be noted that the draft MS4 permit as currently written will not necessarily lead to improved water quality – for instance, meeting interim or final waste load allocations for a particular Total Maximum Daily Load (TMDL) at the outfall will not necessarily mean the receiving water's beneficial use criteria are being met – in other words, point sources are not the only source of pollutants and yet this MS4 permit places a great burden on the permittees to meet stringent numeric standards without having	City of Burbank	The Board disagrees and believes the permit will improve water quality, as required by the Clean Water Act.	None

	first assessed the condition of the receiving water/watershed			
General Permit	The permit proposes an extensive list of substantial new requirements without regard for the need to prioritize water quality objectives and municipal resources, without consideration for unique geography and geology, and without credible scientific evidence that the additional requirements will actually achieve a set of prioritized water quality objectives	Peninsula Cities	The permit allows permittees the flexibility to address critical water quality priorities in a focused and cost-effective manner, while also maintaining the level of water quality protection mandated by the Clean Water Act. Permittees can prioritize water quality objectives through development of a watershed management program plan.	None
Permittee Requirements	Section III.A.4.f. Permittee Requirements This condition prohibits discharge "from" MS4. This language should be changed to "to" in order to keep it consistent with Part III.A.4.d.i.	City of Malibu	The language is appropriate as-is.	None
Typographical Error	Section VIII.B Identification of Outfalls with Significant with Non-Storm Water Discharge Please delete the extra "with" in the title (after "Significant").	City of Malibu	Typographical error was corrected	Language revised.
Typographical Error	Section VIII The numbering is off in this section. Inventory of MS4 Outfalls with Non-Storm Water Discharges should be "C" not "D." Please revise.	City of Malibu	Numbering was corrected	Language revised.
General	General Comment: The Board may wish to consider using the terms Essential CENSWD and	City of Sierra Madre	The terminology is not necessary and may not increase the clarity of the Section III. Discharge Prohibitions	None

	Non-Essential CENSWD for clarity's sake. It is difficult to discuss the provision of this permit without some sort of definitive terminology			
General Permit	As this tentative permit is written, all permittees will be in violation of the permit if the receiving water exceeds the numeric effluent limits. There is no real opportunity for individual cities to prove that they did not contribute to the exceedance unless all outfalls, regardless of size, are monitored continuously and simultaneously.	City of Vernon	The Board disagrees. Permittees can demonstrate compliance with RWLs in a number of different manners, including compliance with the schedule and milestones of a watershed management program plan.	None
General Permit	Rrevise the Final NPDES Permit for MS4 Discharges to provide local governments with the flexibility to determine how best to meet the State's water quality objectives as opposed to a 'one-size-fits-all' approach that fails to acknowledge the unique characteristics and environment of cities. We request that requirements in the permit be made to expire if the City demonstrates compliance and achievement of the policy goals and the permit include provisions that focus on cleaning storm water rather than indefinitely monitoring and reporting. The Tentative Permit does not provide a compliance standard that is consistent with other National Pollutant Discharge Elimination	City of Rolling Hills	The Permit does provide the flexibility that this comment calls for through the watershed management program and the monitoring and reporting program which allows permittees the flexibility to address critical water quality priorities in a focused and cost-effective manner that also maintaining the level of water quality protection mandated by the Clean Water Act. Requirements mandated by the Clean Water Act cannot expire, but requirements can evolve; for example from BMP installation to BMP maintenance.	None

	System (NPDES) permits located statewide or within Los Angeles County. For example, the General Construction and Industrial Permits are not held to the Maximum Extent Practicable (MEP) standard. Nor do they contain Numeric Effluent Limits. To that extent, the current and proposed Caltrans Permits also do not contain Numeric Effluent Limits. The Tentative Permit should provide Permittees fair and equal opportunity to achieve compliance.			
Findings	What is the Regional Water Board Watershed Management Initiative? Please provide a copy or link.	City of Santa Clarita Detailed	The Watershed Management Initiative (WMI) is designed to integrate various surface and ground water regulatory programs within the regional water boards, while promoting cooperative, collaborative efforts within a watershed. It is also designed to focus limited resources on key issues and use sound science. For initial implementation of the WMI, each Regional Board identified the watersheds in their Region, prioritized water quality issues, and developed watershed management strategies. These strategies and the State Board's overall coordinating approach to WMI are contained in the Integrated Plan for Implementation of the WMI which is updated as needed. In following years, the Regional Boards have continued to build upon their early efforts to utilize this approach. The full version of our WMI Chapter, including permit lists, is available on the Board's website; it outlines the Board's ongoing efforts to continue implementation of the WMI. Any questions about the WMI can be directed to the Watershed Coordinator, Shirley Birosik, Staff Environmental Scientist, at sbirosik@waterboards.ca.gov.	None

Green Streets Reference	The website link provided for the Green Infrastructure Green Streets guidance was not sufficient to locate the document. Please confirm that this is the document that is referenced, and if not, clarify which is the intended reference: Managing Wet Weather with Green Infrastructure, Municipal Handbook: Green Streets. Prepared by: Robb Lukes, Christopher Kloss, Low Impact Development Center. December 2008 EPA-833-F-08-009 Please provide a more effective reference for the USEPA guidance document on Green Streets than a website link by referencing exact document title, authors, year of publication and USEPA document ID number.	Peninsula Cities Detailed	Managing Wet Weather with Green Infrastructure Municipal Handbook Green Streets prepared by Robb Lukes Christopher Kloss Low Impact Development Center The Municipal Handbook is a series of documents to help local officials implement green infrastructure in their communities. December 2008 EPA-833-F-08-009	References have been included.
Effluent Limitations	Assume this does not conflict with A.2. Water quality-based limits (WQBELs) for when there is a TMDL numerical standard. But when there is no such numerical standard for a pollutant, then if we are doing BMPs, are we safe from any Board or 3rd party lawsuit? Do Basin Plan standards supersede BMP MEP and follow the WQBELs?	City of Santa Monica	The Watershed Management Program option has been revised to clarify Permittee's requirements in complying with receiving water limitations.	Language revised.
IV.A.2	Revise "a." to read, "Each Permittee shall comply with applicable WQBELs as set forth in	City of Torrance	The language is appropriate as written.	None

	Part VI.E of this Order, pursuant to applicable BMP implementation schedules included in approved Watershed Management Program(s)			
Design Storm	The Tentative Permit fails to establish or define a compliance storm event for wet weather compliance. It is irresponsible for the LARWQCB to compel Permittees to comply with Numeric Effluent Limits at all costs and without any consideration of a storm event's magnitude.	City of Vernon	The permit has been revised to allow Permittees to develop an enhanced Watershed Management Program that maximizes retention of the 85th percentile, 24 hour storm within a watershed. Where permittees elect to implement such a program, compliance determination may be based on a permittees full compliance with the approved enhanced Watershed Management Program that retains all of the storm water from the 85th percentile, 24 hour storm event. Where retention is infeasible, Permittees may propose other BMPs and demonstrate through a Reasonable Assurance Analysis that the BMPs will be sufficient to achieve applicable WQBELs and ensure that MS4 discharges will not cause or contribute to exceedances of receiving water limitations.	Revisions made.
Sampling	Because of the dynamic variability of stormwater and non-stormwater discharges, the City of Vernon would like an opportunity to witness and/or acquire duplicate samples during any RWQCB, SWRCB, or US EPA sampling operations. In addition, if sampling operations will be performed on City of Vernon property, an encroachment permit is required prior to sampling activity. Proposed Solution- Staff (or duly authorized representatives) of the RWQCBs, SWRCB, and US EPA	City of Vernon	The City can collect duplicate samples during Board sampling. However, an encroachment permit is not necessary and 72-hour notification may not be practical given the dynamic variability of stormwater as the commenter stated.	None

	shall obtain proper encroachment permits in addition to providing a minimum of 72-hour notification to the appropriate Permittees Stormwater Program Manager prior to any sampling operations within the jurisdiction of the Permittee.			
General	We question the accessibility and use of current scientific data for the areas presented. How were measurements taken, at what source points and at what intervals.	Joyce Dillard	Monitoring reports are normally submitted annually and detail not only monitoring methods but also frequency and location. Monitoring reports are available either from the Regional Water Board or the permittees themselves.	None
General	Is monitoring only to be taken into receiving waters or are outfalls more important in this permitting.	Joyce Dillard	Monitoring will occur both in the receiving water and at the outfall depending on the discharge being monitored.	None
General	How do you determine if the permittee caused action into receiving waters if other permittees, such as Caltrans, may hold some responsibility. Is it location, location, location.	Joyce Dillard	Permittees may demonstrate compliance with the receiving water limitations provisions through either outfall monitoring or receiving water monitoring. The permit also provides various ways that permittees can demonstrate compliance, such as providing evidence that the permittee did not discharge.	None
General	How are effluent maximums determined without any consideration to the General Plans and the Land Uses.	Joyce Dillard	All known sources are identified in the TMDLs when determining loads. Generally, sources are determined by various factors including land uses, area, and monitoring data. General Plans and Land Uses information are important sources of information that the Regional Board utilizes in determining source loadings.	None
General	Even now, a Public Facilities land use designation may be multi-family housing with a commercial mixed use aspect such as with School property.	Joyce Dillard	The Board does not understand how this land use designation has bearing on the permit.	None
General	How can BMPs be determined to be effective without the proper planning, mapping, identification,	Joyce Dillard	BMPs are determined by the permittees. Permittees utilize all their resources to determine the best BMPs to address the sources and best utilize their funds.	None

	listing of grandfathered properties and such.		BMP development is a dynamic process, and the menu of BMPs may require changes over time as experience is gained and/or the state of the science and art progresses.	
General	What is the state of the underground infrastructure as required in the Circulation Element. You do not ask for the state mandated requirements for Public Health and Safety issues.	Joyce Dillard	The Board does not understand this comment and cannot respond to it.	None
General	You have no requirements for weather reporting and history which is what stormwater is all about.	Joyce Dillard	Contrary to the comment, many monitoring requirements revolve around storm events and reporting of rainfall data representative of the watershed and monitoring location is required.	None
General	With that, how is sediment management incorporated into limitations.	Joyce Dillard	Sediment is a key pollutant carrier and is taken into account into many TMDLs.	None
General	How are fires incorporated into the limitations.	Joyce Dillard	If the commenter is referring to water discharged during firefighter activities, that is taken into account in the non stormwater discharges section.	None
General	Watershed Management Areas may really be under the jurisdiction of municipalities who grant permits and entitlements and not under LA County's control.	Joyce Dillard	The permit does not assert that watershed management areas are under the control of Los Angeles County.	None
General	This is where you are voiding CEQA and not allowing the public to participate and comments on issues of importance to their persons and their property.	Joyce Dillard	An action to adopt an NPDES Permit is exempt from the provisions of Chapter 3 of the CEQA pursuant to California Water Code section 13389. (*County of Los Angeles v. Cal. Water Boards* (2006) 143 Cal.App.4th 985.) Further, both permittees and the public had ample opportunities to participate in the development of this permit reissuance including several workshops and opportunities to provide comments since May 2011.	None
General	The County Flood Control District is planning a vote-of property owners not of registered voters, to assess a parcel fee for Watershed	Joyce Dillard	Assembly Bill 2554 is not under the control of the Regional Water Board. Comments regarding this possible funding source should be directed to the Los Angeles County Flood Control District or the Los	None

	Management Areas and their governance. Property owners include corporations and government agencies. There is no vote of the People for elected representatives. The bill will go to the property owner, in perpetuity, for requirements not well planned and documented. This disconnection will never achieve the reduction of pollutants into receiving waters because a financial aspect of mitigation banking will be created as offsets.		Angeles County Board of Supervisors.	
General	Not considered is the geology and soils, practices like fracking which the State Department of Oil, Gas and Geothermal DOGGR does not regulate, and remaining oil deposits, methane and other hazardous gases. No one knows the content of the fracking fluid that enters the system.	Joyce Dillard	This is beyond the scope of the permit. Fracking and oil development are addressed in other industrial permits.	None
General	This agency is just too myopic in its scope of the problem.	Joyce Dillard	The commenter does not detail why she believes the Regional Board is myopic.	None
General	This is a developers dream-no CEQA, no source point identification, no responsibility but to the taxpayer.	Joyce Dillard	This permit incorporates several MCMs upon new development and construction including Low Impact Development and on site infiltration strategies. There is a non stormwater discharges section in the permit. The commenter doesn't detail why she believes these requirements are not satisfactory.	None
General	This is a contractors dream-projects without any required proof of productivity and benefit.	Joyce Dillard	The comment does not appear to comment on any portion of the permit. The Board does not understand this comment and therefore cannot respond.	None
General	This is a oil company's dream because there is no oversight and accountability as to the use of	Joyce Dillard	Oil companies are not regulated by this permit. As previously stated, oil companies are regulated under other various industrial permits that are beyond the	

	water and its wasteproducts.		scope of this permit.	
General	Is there any consideration for birds, fish and wildlife. Or water-born diseases that could kill out industries if mishandled?	Joyce Dillard	Yes, these are incorporated into the beneficial uses of waterbodies. If a waterbody is impaired, a TMDL is created to address these problems.	None
General	Have you considered tidal flows and the Southern California Bight geography.	Joyce Dillard	Tidal flows and geography are taken into account in all of the beach, harbor, and estuary related TMDLs.	None
General	These generic methods of Best Management Practices BMPs need to be revised.	Joyce Dillard	The commenter does not detail what she finds inadequate regarding the BMP section of the permit.	None
General	You should be working with the Governor's Office of Planning and Research and create an effective system with measurable and documented results. This process should involve more than just one State agency.	Joyce Dillard	The Regional Board believes that the MS4 permitting system in place is and will continue to be effective with measurable and documented results. The commenter does not illustrate why she believes other State agencies like the Governor's Office of Planning and Research would improve the permitting process.	None