

WILLIAM H HAIR  
 ROBERT L COMPTON  
 MARC L CHARNEY  
 RONALD H GILL  
 KENNETH M HIGH JR  
 MICHAEL C O'BRIEN  
 RANDALL H GEORGE  
 PAUL W KURZENA  
 ANTHONY H TREMBLEY  
 JONATHAN FRASER LIGHT  
 WILLIAM E WINFIELD  
 CHRISTOPHER K NITASAKI  
 SCOTT B SAMSKY  
 GLENN J DICKINSON  
 NANCY MILLER  
 JOEL MARK  
 DIANE L BECKER  
 MARIA L CAPRITTO  
 NANCY KIERSTYN SCHREINER  
 KAREN L GABLER  
 MEGHAN B CLARK  
 MELISSA H SAYER  
 CURTIS A GRAHAM  
 BROOK J CARROLL  
 SYLVIA SOTO  
 ANGELA V LOPEZ  
 RAMON L GUIZAR  
 JOSHUA M BEST  
 CHRISTOPHER J KUNKE  
 MELISSA C WATERS  
 BRIAN D HEFELFINGER  
 GANNON E JOHNSON  
 PETER B BROMMACHIM  
 RYAN M HAWS  
 ANDREW J REID

LAW OFFICES OF  
 NORDMAN CORMANY HAIR & COMPTON LLP

1000 TOWN CENTER DRIVE  
 SIXTH FLOOR  
 OXNARD, CALIFORNIA 93036-1132  
 (805) 485-1000

6<sup>TH</sup> FLOOR FAX (805) 988-8387  
 5<sup>TH</sup> FLOOR FAX (805) 988-8397

WEBSITE: WWW.NCHC.COM

BEN E NORDMAN  
 (1913 - 1985)  
 RALPH L CORMANY  
 (1921 - 2002)  
 LOUIS A CAPPADONA  
 PHILIP C DRESCHER  
 LARRY L HINES  
 (OF COUNSEL)  
 16133 VENTURA BOULEVARD  
 PENTHOUSE A  
 ENCINO CALIFORNIA 91436  
 (818) 986-8080  
 FAX (818) 789-0947  
 WRITER'S DIRECT DIAL  
 (805) 988-8318  
 WRITER'S DIRECT FAX  
 (805) 988-7718  
 WRITER'S EMAIL ADDRESS  
 NSCHREINER@NCHC.COM

June 7, 2010

VIA E-MAIL IRIDGEWAY@WATERBOARDS.CA.GOV  
 AND VIA U.S. MAIL

Mr. Ivar Ridgeway  
 Los Angeles Regional Water Quality  
 Control Board  
 320 W. 4th Street  
 Los Angeles, CA 90013

Re: Ventura MS4 Permit

Dear Mr. Ridgeway:

As a stakeholder and as a representative of numerous stakeholders in the development process, in Ventura County, I am concerned about the existing tentative draft MS4 permit currently being circulated for public comment.

Since there is a unique opportunity to review this permit a second time and make the numerous corrections needed and to thoughtfully consider the impact of this permit upon the development community, public entities and its potentially serious environmental impacts that were not previously considered, I will take this opportunity to comment upon some of the areas that should be considered by the Los Angeles Regional Water Quality Control Board (Board).

**Potential Significant Environmental Impacts**

Over the years in Ventura County numerous wetlands have actually been created as a result of urban runoff. The habitat consequences of now requiring all new and expanded projects to capture, treat, retain and infiltrate runoff from storm events was never evaluated by the Board. Although this permit has been touted as

Mr. Ivar Ridgeway  
Los Angeles Regional Water Quality Control Board  
June 7, 2010  
Page 2

improving water quality and the environment, it also has the potential for degrading and potentially eliminating existing environmental habitat. This potential adverse environmental impact should be evaluated by the Board before imposing the permit. The Board should be fully informed of all positive and negative consequences before full implementation is required. I urge the Board to have a thorough and complete review of the impacts associated with the implementation of this permit.

### **Economic Impacts on Public Entities**

As general counsel for various special districts, I know input was never requested from these special districts in the development of this permit. The cost associated with permit compliance is extremely high. In the current economic climate of the State of California and all of the respective public entities in Ventura, the staff costs associated with implementation of this permit, the infrastructure costs for public capital construction projects, redevelopment projects and affordable housing projects associated and imposed on public entities to comply with the permit cannot be afforded. For example a transit district, by its vary nature, is required to have impervious surfaces to withstand the weight of buses. The cost associated with the development of a new transit facility to comply with the permit has increased exponentially. In California, statutes such as A.B. 32 and S.B. 375 seek to promote clean air and comprehensive transportation. The great capital cost increases that will result from MS4, will mean that the public entities cannot afford to build new transit facilities since the cost of the capital improvements associated with MS4 will be prohibitive. I believe everyone agrees we should have clean air and water but we need to develop a logical, rational and stepped process to reaching the goal.

MS4 has had a chilling impact upon creation of affordable housing in Ventura County. The costs associated with compliance with this permit will prevent redevelopment agencies from being able to fully fund affordable housing projects and even private developers cannot fund such needed affordable housing projects. Creation of affordable housing is a State mandated goal. This permit has frozen implementation of this goal. The Board must consider the costs associated with imposition of this permit and its detrimental impact upon affordable housing. It would be significantly better if there were a stepped and progressive approach to implementation of this permit.

Mr. Ivar Ridgeway  
Los Angeles Regional Water Quality Control Board  
June 7, 2010  
Page 3

### **Financial Impacts**

Since the Board's adoption of the MS4 permit last year, development in Ventura County has almost come to a halt because lending institutions will not fund new development projects. The costs involved with compliance with the MS4 permit and the proposed technical manual requirement cannot be quantified and are in such a state of flux that lenders are refusing to fund new projects for both private and public development. This too has had a serious impact upon public entities since many public entities source of funding is development permit fees.

This permit discourages redevelopment and infill projects. Since many redevelopment and infill area are located within large impervious surfaced areas and consist of small parcels. To develop sufficient pervious surfaces or develop percolation is almost impossible. Even if the redevelopment or infill project is deemed technically infeasible, it is virtually impossible to achieve the required 30% effective impervious area (EIA) on site. Thus, no development occurs.

The lack of development impacts the whole County fiscally. There is loss of jobs, business migration and lack of business expansion. When one sees the economic statistics associated with this lack of economic expansion it is stifling on the Ventura County economy. The imposition of such restrictive conditions may cause the collapse of potential development in the County.

### **Recommended Suggestions**

- Remove the EIA metric compliance requirement
- Continue to allow bio-filtration and bio-treatment as best management practices as permitted by the Board under the preceding permits.
- Do not usurp the planning and land use authority and allow flexibility for the designated land use authorities to use and implement good and balanced planning principles.
- Allow a permit that is less restrictive as has been approved in other permits more recently granted by the Board.
- Develop a staged and progressive approach to implementation of this permit. For example, provide first a set time period for public entities to develop alternative compliance programs that can be utilized by both public and private developers before implementation of the

Mr. Ivar Ridgeway  
Los Angeles Regional Water Quality Control Board  
June 7, 2010  
Page 4

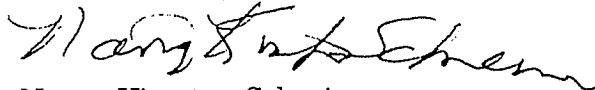
permit. This will allow a thoughtful and progressive approach within each community to address compliance. The development of these alternative compliance projects should actually assist in obtaining better water quality and less environmental and economic impacts.

- Extend the time period for Alternative Compliance Project to be completed. The existing time period is not realistic for public capital projects.
- Clearly define all terms within the permit, especially who and what is exempt.
- Consider and adopt many of the very technical engineering changes suggested by experts in their fields. (I incorporate these suggested technical and engineering revisions herein).
- Toll implementation of the permit until all of the following has occurred: 1) potential environmental impacts have been reviewed and addressed; 2) the economic costs upon the public entities, private developers and the Ventura County economy as a result of this permit have been evaluated and considered, and 3) the Board has developed a progressive, staged and tiered approach to implementation of this permit.

Thank you for your anticipated thoughtful consideration of this matter.

Very truly yours,

NORDMAN CORMANY HAIR & COMPTON LLP



Nancy Kierstyn Schreiner