



# California Regional Water Quality Control Board

## Los Angeles Region



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April 29, 2008

Mr. Jeff Pratt, Director  
Ventura Countywide Stormwater Quality Management Program  
Ventura Watershed Protection District  
800 South Victoria Avenue, L#1600  
Ventura, CA 93009

Ventura County Municipal Storm Water Permittees

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

Dear Mr. Pratt:

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

Permittee comments and comments from the public and other interested persons on the draft Tentative Ventura County MS4 Order are appreciated and due to the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) by 5 p.m. on May 29, 2008. Comments may be mailed to the Regional Water Board, attention: Xavier Swamikannu, Storm Water Permitting at the above address or e-mailed to: [3rdddraftVCMS4@waterboards.ca.gov](mailto:3rdddraftVCMS4@waterboards.ca.gov). The Los Angeles Water Board will conduct a public workshop in the City of Ventura on July 10, 2008 to receive comment on the draft Tentative Ventura County MS4 Order. The Board will not vote on the draft Tentative Ventura County MS4 Order at this workshop. A future public meeting will be scheduled to consider adoption of the Ventura County MS4 Order by the Los Angeles Water Board.

*California Environmental Protection Agency*



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

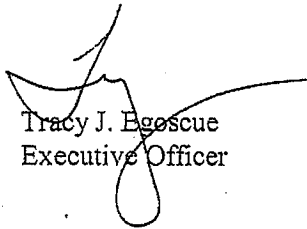
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Mr. Jeff Pratt, Director  
Ventura Countywide Stormwater Quality Management Program  
Ventura Watershed Protection District

April 29, 2008

We welcome the Principal Permittee and other municipal Permittees' participation continued and assistance during the development of the MS4 permit. Should you have any question, please do not hesitate to call me at (213) 576-6605, or Dr. Xavier Swamikannu at (213) 620-2094.


Sincerely,



Tracy J. Egoscue  
Executive Officer

Enclosure

*California Environmental Protection Agency*

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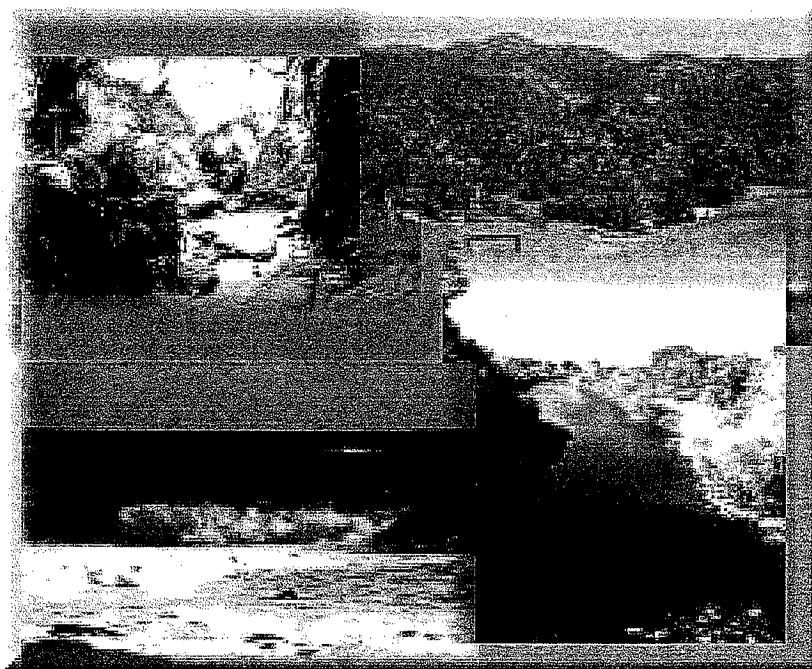


STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION

ORDER 08-xxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS  
FOR  
STORM WATER (WET WEATHER) AND NON-STORM WATER (DRY WEATHER)  
DISCHARGES FROM  
THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS WITHIN THE VENTURA  
COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND  
THE INCORPORATED CITIES THEREIN.

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STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION

ORDER 08-xxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS  
FOR

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

**FINDINGS**

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

**A. Permit Parties and History**

1. Ventura County Watershed Protection District (Principal Permittee), County of Ventura, cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura (Ventura), Santa Paula, Simi Valley and Thousand Oaks (hereinafter referred to separately as permittees) have joined together to form the Ventura Countywide Storm Water Quality Management Program to discharge wastes. The permittees discharge or contribute to discharges of storm water and non-storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems, into the Watershed Management Areas of Ventura River, Santa Clara River, Calleguas Creek, Malibu Creek and Miscellaneous Ventura Coastal all within Ventura County and Los Angeles County (see Attachment "A").
2. Prior to the issuance of this permit storm water discharges from the Ventura County MS4 are covered under countywide waste discharge requirements contained in Order No. 00-108, adopted by the Regional Water Board on July 27, 2000, which replaced Order No. 94-082, adopted by the Regional Water Board on August 22, 1994. Order No. 00-108 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.
3. The Ventura County Board of Supervisors approved the concept of a countywide NPDES permit program and the use of the Flood Management District (presently the Watershed Protection District) benefit assessment authority to finance it on April 14, 1992. On June 30, 1992, the Ventura County Board of Supervisors adopted a benefit assessment levy for storm water and flood management in the unincorporated areas of Ventura County and the cities within the County, to be used in part to finance the implementation of a countywide NPDES municipal storm water



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permit program. The Ventura County MS4 Permittees have entered into an agreement with the Watershed Protection District to finance the activities related to the Ventura County MS4 Permit for shared and district wide expenses. The Permittees are also given the option to use the Benefit Assessment Program to finance their respective activities related to reducing the discharge of storm water pollutants under the MS4 Permit.

4. The Regional Water Board may require a separate NPDES permit for any entity that discharges storm water into the watersheds of Ventura County. Such an entity can be any State or Federal facility, special district or other public or private party.

**B. Nature of Discharge**

1. Storm water discharges consist of surface water runoff generated from various land uses in all the hydrologic drainage basins, which discharge into Waters of the State. The quality of these discharges varies and is affected by geology, land use, season, hydrology, and sequence and duration of hydrologic events. Based on the Ventura Countywide Storm Water Monitoring Program's Water Quality Monitoring Reports which were required under Order No. 00-108, the dry weather and wet weather Pollutants of Concern (POC) include an anion, bacteria, conventional pollutants, metals, a nutrient, organic compounds, and pesticides. The POC are identified in Attachment "B" of this Order. Many of the POC listed are causing impairments identified on the federal Clean Water Act (CWA) § 303(d) list of impaired waterbodies.

The State Water Board submits a report (a list of water quality limited segments (§ 303[d] list)) on the State's water quality to the U.S. EPA pursuant to § 305(b) of the 1972 CWA, and Title 40, CFR130.7, every 2 years. The Report provides water quality information to the general public and serves as the basis for U.S. EPA's National Water Quality Inventory Report to Congress. Section 303(d) requires that all waters that are not attaining standards after the implementation of those controls required by 1977, shall be included on the list. Title 40 CFR130.7(b)(3) defines "water quality standard applicable to such waters" as "those water quality standards established under § 303 of the [Clean Water] Act, including numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements."

2. Common pollutants in storm water and their respective sources are: bacteria from animal droppings and illegal discharges; Polycyclic Aromatic Hydrocarbons (PAHs) from the products of internal combustion engine operation and parking lot sealants wash off; nitrates from fertilizer application; pesticides from pest mitigating applications and from plant mitigating applications; bis (2-ethylhexyl) phthalate from the break down of plastic products; mercury from atmospheric fallout and improper disposal of mercury switches; lead from fuels, paints, automotive parts; copper from

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brake pad wear and roofing materials, zinc from tire wear and galvanized sheeting and fencing; sediment from land disturbance and erosion; and dioxins as products of combustion.

3. In general, the pollutants that are found in municipal storm water runoff can harm human health and aquatic ecosystems. In addition, the high volumes and high velocities of storm water discharged from MS4s into natural watercourses can adversely impact aquatic ecosystems and stream habitat and cause stream bank erosion and physical modifications. These changes are collectively termed hydromodification. Municipal point source discharges of runoff from urbanized areas remain a leading cause of impairment of surface waters in California.
4. Ammonia as Nitrogen, and Nitrate plus Nitrite Nitrogen are biostimulatory substances that can cause or contribute to eutrophic effects such as low dissolved oxygen and algae growth impairing warm freshwater and wildlife habitats. Ammonia is highly toxic to fish and other aquatic life. Excessive ammonia can cause aquatic life toxicity.
5. Elevated bacterial indicator densities impair the water contact recreation (REC-1) beneficial use at beaches, creeks, estuaries, lagoons, and marinas. Swimming in waters with elevated bacterial indicator densities has been associated with adverse health effects. Specifically, local and national epidemiological studies indicate that there is a causal relationship between adverse health effects and recreational water quality, as measured by bacterial indicator densities. Sources of elevated bacteria to marine and fresh waters may also include illegal discharges from improperly maintained standard septic systems, onsite wastewater treatment systems (OWTS) and illicit discharges from private drains.
6. Pesticides are substances used to prevent, destroy, repel or mitigate pests such as insects, weeds, and microorganisms. Their effects can be direct (e.g. fish die from exposure to a pesticide entering waterways, or birds do not reproduce after ingesting contaminated fish), or indirect (a hawk becomes sick from eating a mouse dying from pesticide poisoning). Pesticide categories include: Organochlorine, Organophosphorus, Organophosphate, and Pyrethroid.
7. Polychlorinated Byphenyls (PCBs) are a subset of the synthetic organic chemicals known as chlorinated hydrocarbons. Concern over PCBs toxicity, persistence (chemical stability) in the environment and that they have been shown to bioconcentrate significantly in aquatic organisms has led to prohibitions on PCBs.
8. Rising groundwater and swimming pool water have been found to be sources of pollutants such as salts (Chloride). Salts increase the salinity of otherwise freshwater systems and disrupt physiological processes. The Regional Water Board has waterbodies listed on the CWA § 303(d) list for impairment due to salts and has

adopted Basin Plan amendments to include Total Maximum Daily Loads (TMDLs) for salts, and this Order includes provisions to control the discharges from these activities in order to directly or indirectly reduce or eliminate the discharge of salts to fresh water systems where salts may impair water quality and beneficial uses.

9. Trash and debris are pervasive pollutants which accumulate in streams, rivers, bays, and ocean beaches throughout Southern California. They pose a serious threat to our oceans and coasts, navigation, biological resources, recreation, human health and safety, aesthetics, and economies.
10. Municipal storm water (wet weather) and non-storm water (dry weather) discharges may contain pollutants that cause or threaten to cause an exceedance of the water quality standards, as outlined in the Los Angeles Region's Basin Plan, wet weather and dry weather discharges are subject to the conditions and requirements established in the Basin Plan for point source discharges. The water quality standards must be complied with at all times, irrespective of the source and manner of discharge.
11. Biological communities act to integrate the effects of water quality conditions in a stream by responding with changes in their population abundances and species composition over time. These populations are sensitive to multiple aspects of water and habitat quality, and provide expressions of ecological health easier to understand than the results of chemical and toxicity tests. Biological assessments and criteria address the cumulative impacts of all stressors, especially habitat degradation, and chemical contamination, which result in a loss of biological diversity. Biological information can help provide an ecologically based assessment of the status of a waterbody. Bioassessment is a cost-effective tool and protocol for assessing the biological and physical/ habitat conditions of streams and rivers for evaluation of the overall health a watershed. The Principal Permittee consents to participate in the Southern California Storm Water Monitoring Coalition (SMC) Southern California Regional Bioassessment Monitoring Program.
12. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat in natural drainages. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 3-10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development.
13. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as: strip malls, parking lots, commercial business parks, and fast food

## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

restaurants), or facilities that perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of POC in storm water.

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

17. The implementation of Low Impact Development techniques across the United States and Canada has demonstrated that the proper implementation of LID techniques not only results in water quality protection benefits and in a reduction of the cost of land development and construction but also bears other positive attributes that go beyond economic benefits such as enhanced property values, improved habitat, aesthetic amenities, and improved quality of life. *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices, USEPA Doc No. EPA 841-F-07-006, December 2007. Further, properly implemented LID techniques reduce the volume of runoff leaving a newly developed or re-developed area thereby lowering the peak rate of runoff, and thus minimize the adverse affects of hydromodification on stream habitat. A Review of Low Impact Development Policies: Removing Institutional Barriers to Adoption, Low Impact Development Center and State of California, State Water Resources Control Board, December 2007.* The requirements of this Order facilitate the implementation of LID strategies to protect water quality, reduce runoff volume, and to benefit from these additional enhancements.
18. The Regional Water Board adopted a Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R4-2005-0080) on November 3, 2005. The objective of the program is to monitor runoff from irrigated agriculture facilities in the coastal watersheds of Ventura and Los Angeles Counties. The Basin Plan, which designates beneficial uses and establishes water quality objectives for the Region, recognizes that agricultural activities can generate pollutants such as sediment, pesticides, and nutrients that upon discharge to receiving water, can degrade water quality and impair beneficial uses. A category identified by the Conditional Waiver as a source of pollutants is nursery operations. This Order includes requirements for the municipal operator to insure that nursery operators implement pollutant reduction and control measures with the objective of reducing pollutants in storm water runoff discharges.
19. Research conducted on the contribution of aerial deposition of trace heavy metals in Los Angeles County watersheds indicates that dry indirect deposition may account for a significant load of pollutants into surface waters. Similar patterns of aerial deposition likely occur in Ventura County. Of the atmospherically deposited pollutants on the watersheds, ten to twenty percent may account for the total load for copper, zinc, nickel, lead, and chromium to the waterbodies. Land reservoirs and sequestration may account for the remaining ninety to eighty percent of the atmospherically deposited pollutants on the watersheds. Emissions of semi-volatile organics such as polycyclic aromatic hydrocarbons (PAHs) and pesticides and their subsequent deposition may contribute to the contamination of receiving waters but appear to be less significant. The remaining percentage is stored in land reservoirs and eventually shows up in receiving waters.

**C. Permit Background**

1. The essential components of the Storm Water Management Program, as required by the Code of Federal Regulations (CFR) [40 CFR122.26(d)] are:
  - (a) Adequate Legal Authority.
  - (b) Fiscal Resources.
  - (c) Storm Water Quality Management Program (SMP)
    - (1) Public Information and Participation Program
    - (2) Industrial/ Commercial Facilities Program
    - (3) Planning and Land Development Program
    - (4) Development Construction Program
    - (5) Public Agency Activities Program
    - (6) Illicit Connection and Illicit Discharges Elimination Program
  - (d) Reporting Program (Monitoring Report and Program Report)
  
2. The Ventura County SMP, dated November 2001 (revision 2) identifies seven program areas, which are listed below and were previously approved under Board Order No. 00-108. For purposes of consistence are titled as follows:
  - (a) Ventura County SMP.
    - (1) Program Management
    - (2) Programs for Residents
    - (3) Programs for Industrial/ Commercial Businesses
    - (4) Programs for Planning and Land Development
    - (5) Programs for Construction Sites
    - (6) Programs for Public Agency Activities
    - (7) Programs for Illicit Connections/ Illegal Discharges
  - (b) For purposes of region-wide consistency, the program titles are revised and consolidated into the six areas listed in the preceding C.1(c). All permittee storm water documents submitted to the Regional Water Board are to follow the organization enumerated in C.1(c).
  
3. The permittees filed a Report of Waste Discharge (ROWD), dated January 26, 2005. The permittees applied for renewal of their waste discharge requirements for a 5-year period, which serves as an NPDES permit to discharge wastes to surface waters.
  
4. The Regional Water Board reviewed the ROWD and determined it to be partially complete under the reapplication policy for MS4s issued by the United States Environmental Protection Agency (U.S. EPA) (61 Fed. Reg. 41697). The Regional Water Board has prepared this Order so that implementation of provisions contained in this Order by permittees will meet the requirements of the federal NPDES regulations at 40 CFR122.26.

5. The permittees Report of Waste Discharge contained a proposed Storm Water Management Program and a Monitoring Program to be considered by the Regional Water Board for incorporation into an MS4 NPDES Permit as permit conditions and to demonstrate compliance with federal law. The permittees are entitled, but did not elect to pursue a permit with numeric end-of-pipe limits for storm water discharges, which would have required them to satisfy specific effluent limitations rather than implement storm water management programs. Where a MS4 permittee voluntarily chooses a Best Management Practice (BMP) based storm water management program as permit effluent limitations rather than end-of-pipe numeric effluent limits, there exists no compulsion of a specific regulatory scheme that would violate the 10th Amendment to the United States Constitution. (City of Abilene V. EPA, 325 F.3d 657 (5th Cir., 2003)).
6. To-date, the monitoring program has consisted of mass emission, receiving water (tributaries), and land-use monitoring stations, toxicity testing, special studies for bioassessment of the Ventura River and hydrology, identification of ESAs, implementation of the Storm Water Quality Urban Impact Mitigation Plan (SQUIMP), and provides support for volunteer monitoring programs. This Order requires a monitoring program consisting of mass emission, toxicity, TMDL storm water (wet weather) MS4 water quality-based effluent limits, TMDL non-storm water (dry weather) MS4 water quality-based effluent limits, trash and debris study, Pyrethroid assessment that includes bio-assessment of Calleguas Creek tributary stations, continuation of the hydromodification study, low impact development study, participation in the Southern California Regional Bioassessment Program and Southern California Bight Project (SCBP).
7. The Principal Permittee is a member of the Southern California Coastal Water Research Project (SCCWRP) Commission. The Principal Permittee also participates in the Regional Monitoring Programs and research partnerships, such as the Southern California Storm Water Monitoring Coalition (SMC) and the Bioassessment Working Group.

#### **D. Permit Coverage**

1. The area covered by this Order includes all areas within Ventura County boundaries and all areas within each co-permittee's boundaries (see Figure 1) that drain into the MS4.
2. The permittees covered under this Order were designated on a system-wide basis under Phase I of the CWA § 402(p)(3)(B)(i). The action of covering all Ventura County municipalities under a single MS4 permit on a system-wide basis was consistent with the provisions of 40 CFR122.26(a)(3)(iv), which states that one permit application may be submitted for all or a portion of all municipal separate

## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems; and the Regional Water Board may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

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

**E. Federal, State and Regional Regulations**

1. The Water Quality Act of 1987 added § 402(p) to the CWA (33U.S.C. § 1251-1387). This section requires the U.S. EPA to establish regulations setting forth NPDES requirements for storm water discharges in 2 phases.
  - (a) U.S. EPA Phase I storm water regulations were directed at MS4s serving a population of 100,000 or more, including interconnected systems and storm water discharges associated with industrial activities, including construction activities.



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The Phase 1 Final Rule was published on November 16, 1990 (55 Fed. Reg. 47990).

- (b) U.S. EPA Phase II storm water regulations are directed at storm water discharges not covered in Phase I, including small MS4s (population of less than 100,000), small construction projects (less than 5 acres), municipal facilities with delayed coverage under the Intermodal Surface Transportation Efficiency Act of 1991, and other discharges for which the U.S. EPA Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard, or is a significant contributor of pollutants to waters of the U.S. The Phase II Final Rule was published on December 8, 1999 (64 Fed. Reg. 68722).
2. The U.S. EPA published an 'Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits on August 9, 1996 (61 Fed. Reg. 41697). This policy requires that MS4 reapplication for reissuance for a subsequent five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.
  3. The U.S. EPA has entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service for enhancing coordination regarding the protection of endangered and threatened species under section 7 of the Endangered Species Act, and the CWA's water quality standards and NPDES programs. Among other actions, the MOA establishes a framework for coordination of actions by the U.S. EPA, the Services, and CWA delegated States on CWA permit issuance under § 402 of the CWA [66 Fed. Reg. 11202-11217].
  4. The CWA allows the U.S. EPA to authorize states with an approved environmental regulatory program to administer the NPDES program in lieu of the U.S. EPA. The State of California is a delegated State. The Porter-Cologne Water Quality Control Act (California Water Code) authorizes the State Water Resources Control Board (State Water Board), through the Regional Water Boards, to regulate and control the discharge of pollutants into all waters of the State, including waters of the United States, and tributaries thereto.
  5. Under CWA § 303(d) of the CWA, States are required to identify a list of impaired water-bodies and develop and implement TMDLs for these waterbodies (33 USC § 1313(d)(1)). The most recent 303(d) list's U.S. EPA approval date was June 28, 2007. The U.S. EPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Water Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This Order incorporates provisions incorporating approved WLAs for municipal storm water discharges and

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requires amending the SMP after subsequent pollutant loads have been allocated and approved.

6. Collectively, the restrictions contained in the TMDL Provisions for Storm Water (Wet Weather) Discharges and Non-Storm Water (Dry Weather) Discharges of this Order on individual pollutants are no more stringent than required to implement the provisions of the CWA. Where a TMDL has been approved, NPDES permits must contain effluent limits and conditions consistent with the assumptions and requirements of the available WLAs in TMDLs (40 CFR122.44(d)(1)(vii)(B)).
7. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. This Order implements federally mandated requirements under CWA § 402, subdivision (p)(3)(B). (33 U.S.C. § 1342(p)(3)(B).) This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (Natural Resources Defense Council, Inc. v. U.S. E.P.A. (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. Burbank v. State Water Resources Control Bd. (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead, is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region (2006) 135 Cal.App.4th 1377, 1389; Building Industry Ass'n of San Diego County v. State Water Resources Control Bd. (2004) 124 Cal.App.4th 866, 882-883.)

Likewise, the provisions of this Order to implement TMDLs are federal mandates. The CWA requires TMDLs to be developed for waterbodies that do not meet federal water quality standards. (33 U.S.C. § 1313(d).) Once the U.S. EPA or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation. (40 CFR122.44(d)(1)(vii)(B).)\*\*\*]

Second, the local agency permittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicable exceptions, the Clean Water Act regulates the discharge of pollutants from point

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sources (33 U.S.C. § 1342) and the Porter-Cologne regulates the discharge of waste (Wat. Code, § 13263), both without regard to the source of the pollutant or waste. As a result, the “costs incurred by local agencies” to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and nongovernmental dischargers. (See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

The Clean Water Act and the Porter-Cologne Water Quality Control Act largely regulate storm water with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Except for municipal separate storm sewer systems, the Clean Water Act requires point source dischargers, including discharges of storm water associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. § 1311(b)(1)(C), *Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1164-1165 [noting that industrial storm water discharges must strictly comply with water quality standards].) As discussed in prior State Water Resources Control Board decisions, in many respects this Order does not require strict compliance with water quality standards. (SWRCB Order No. WQ 2001-15, p. 7.) The Order, therefore, regulates the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.

Third, the local agency permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. The fact sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments 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 ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487-488.)

Fourth, the permittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their discharges. (See finding 5., supra.) To the extent, 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.) Likewise, the permittees have voluntarily sought a program-based municipal storm water permit in lieu of a numeric limits approach. (See *City of Abilene v. U.S. E.P.A.* (5th Cir. 2003) 325 F.3d 657, 662-663 [noting that municipalities can choose between a management permit or a permit with numeric

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limits].) The local agencies' voluntary decision to file a report of waste discharge proposing a program-based permit is a voluntary decision not subject to subvention. (See *Environmental Defense Center v. USEPA* (9th Cir. 2003) 344 F.3d 832, 845-848.)

Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under state law predates the enactment of Article XIII B, Section (6) of the California Constitution.

8. Under § 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Coastal States with approved coastal zone management programs are required to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: 1) agriculture; 2) silviculture; 3) urban; 4) marinas; and 5) hydromodification. This Waste Discharge Requirement addresses the management measures required for the urban category and the hydromodification category, with the exception of septic systems.
9. The Regional Water Board addresses septic systems through the administration of non-Chapter 15 regulatory programs and the implementation of Regional Water Board Order No.R4-2004-0146. Septic systems are also addressed under State Assembly Bill (AB) 885 (2000). The Regional Water Board will implement and enforce regulations issued by the State Board pursuant to AB 885. Taken together, these State and Local agency requirements when imposed on septic system operators are expected to reduce the bacterial contamination of storm water from improperly maintained septic systems.
10. The State Water Board has issued waste discharge requirements for discharges from utility vaults (CAG990002). The Regional Water Board has issued waste discharge requirements for discharges from well heads and hydrostatic pipe testing (CAG674001). These discharges to the MS4 shall be conducted under coverage of a separate NPDES permit specific to that activity.
11. On May 18, 2000, the U.S. EPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule (CTR) 65 Fed. Reg. 31682 (40 CFR131.38) for the protection of human health and aquatic life. These apply as ambient water quality criteria for inland surface waters, enclosed bays and estuaries. The State Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (SIP) - 2000, on March 2, 2000, for implementation of the CTR (State Board Resolution No. 2000-15, as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL derived waste load allocations as soon as possible, but no later than 2020.

12. The State Water Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) in 2005. The California Ocean Plan establishes water quality objectives for California's ocean waters and provides the basis for regulation of wastes discharged into the State's coastal waters. It applies to point and nonpoint source discharges. The Ocean Plan identifies the applicable beneficial uses of marine waters that include preservation and enhancement of designated Areas of Special Biological Significance (ASBS) (now called "State Water Quality Protection Areas") and establishes a set of narrative and numerical water quality objectives designed to protect beneficial uses. The SWRCB adopts the California Ocean Plan, and both the SWRCB and the six coastal Regional Water Quality Control Boards (RWQCBs) implement and interpret the California Ocean Plan.
  
13. This Regional Water Board adopted a revised Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994. The Basin Plan, specifies the beneficial uses of Ventura County waterbodies and their tributary streams, and contains both narrative and numerical water quality objectives for these receiving waters. The following beneficial uses identified in the Basin Plan apply to all or portions of each watershed covered by this Order:
  - (a) Municipal and domestic supply
  - (b) Agricultural supply
  - (c) Industrial service supply
  - (d) Industrial process supply
  - (e) Ground water recharge
  - (f) Freshwater replenishment
  - (g) Navigation
  - (h) Hydropower generation
  - (i) Water contact recreation
  - (j) Non-contact water recreation
  - (k) Ocean commercial and sport fishing
  - (l) Warm freshwater habitat
  - (m) Cold freshwater habitat
  - (n) Preservation of Areas of Special Biological Significance
  - (o) Saline water habitat
  - (p) Wildlife habitat
  - (q) Preservation of rare and endangered species
  - (r) Marine habitat
  - (s) Fish migration
  - (t) Fish spawning
  - (u) Shellfish harvesting
  
14. On March 22, 1999 the Consent Decree in Heal the Bay, Inc.; Santa Monica BayKeeper, Inc. v. Browner, Case No. 98-4825 SBA was approved. Under Establishment of TMDLs- The parties understand that California has the initial

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opportunity pursuant to § 303(d) of the CWA to adopt and submit to U.S. EPA for approval TMDLs to be established under this Consent Decree. TMDLs developed by Regional Water Boards are generally adopted through Basin Plan amendments. Basin plan amendments the State Board pursuant to Water Code section 13246, and the regulatory portions must be approved by the Office of Administrative Law pursuant to Government Code section 11353(b). TMDLs established pursuant to CWA section 303(d)(1) must be submitted to U.S. EPA for approval pursuant to section 303(d)(2), and incorporated into the state's water quality management plan

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

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- (G) Compliance for Final WLA is 2 years after effective date  
(March 24, 2008)
- (4) Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs), and Siltation in Calleguas Creek, Its Tributaries and Mugu Lagoon.
  - (A) Regional Water Board Resolution No. 2005-010
  - (B) State Water Board Resolution No. 2005-0068
  - (C) OAL file No. 05-1206-03 S
  - (D) U.S. EPA approval date March 14, 2006
  - (E) Final fee exemption date March 24, 2006 (effective date)
  - (F) Compliance for Interim WLA is effective date (March 24, 2006)
  - (G) Compliance for Final WLA is 20 years after effective date  
(March 24, 2026), which is beyond the term of this Order
- (5) Calleguas Creek Watershed Metals
  - (A) Regional Water Board Resolution No. 2006-012
  - (B) State Water Board Resolution No. 2006-0078
  - (C) OAL file No. 06-1222-015 S
  - (D) U.S. EPA approval date March 26, 2007
  - (E) Final fee exemption date March 27, 2007 (effective date)
  - (F) Compliance for Interim WLA is effective date (March 27, 2007)
  - (G) Compliance for Final WLA is Within 15 years after the effective date  
(March 27, 2022), which is beyond the term of this Order
- (6) Revolon Slough & Beardsley Wash Trash TMDL
  - (A) Regional Water Board Resolution No. 2007-007
  - (B) State Water Board Resolution No 2007-0076
  - (C) OAL file No 2007-1227-05 S
  - (D) U.S. EPA approval date February 27, 2008
  - (E) Final fee exemption date March 6, 2008 (effective date)
  - (F) Compliance for Trash Monitoring & Reporting Plan Submittal is  
6 months from effective date (September 6, 2008)
  - (G) Compliance for Final WLA is 8 years from effective date  
(March 6, 2016)
- (7) Ventura River Estuary Trash TMDL
  - (A) Regional Water Board Resolution No. 2007-008
  - (B) State Water Board Resolution No 2007-0072
  - (C) OAL file No 2007-1227-01 S
  - (D) U.S. EPA approval date February 27, 2008
  - (E) Final fee exemption date March 6, 2008 (effective date)
  - (F) Compliance for Trash Monitoring & Reporting Plan Submittal is  
6 months from effective date (September 6, 2008)

(G) Compliance for Final WLA is 8 years from effective date  
(March 6, 2016)

16. The Regional Water Board adopted and approved requirements for new development and significant redevelopment projects in Ventura County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Water Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000 for Los Angeles County and the Cities in Los Angeles County. Since 2000, new development and redevelopment water quality criteria have been implemented by the permittees to be consistent with SUSMP. The State Board affirmed the Regional Water Board action and SUSMPs in State Board Order No. WQ 2000-11, issued on October 5, 2000.
- (a) A statewide policy memorandum (dated December 26, 2000), which interprets the Order to provide broad discretion to Regional Water Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in environmentally sensitive areas, and water quality design criteria for Retail Gasoline Outlets (RGOs, see part 7 for definition). The Regional Water Board properly justified the extensions of SUSMPs and water quality criteria to ministerial projects, projects in environmentally sensitive areas, and RGOs, during the adoption of Regional Water Board Order 01-182. The Regional Water Board's action was upheld by the County of Los Angeles Superior Court (*In Re: County of Los Angeles v. State Water Resources Control Board* (2006) 143 Cal.App.4<sup>th</sup> 985).
- (b) The State Water Board's Chief Counsel interpreted the Order to encourage regional solutions and endorsed a mitigation fund or "bank" as alternatives for new development and significant redevelopment. The Regional Water Board has included provisions for regional solutions and the establishment of a mitigation bank in this Order.
17. The Regional Water Board supports Watershed Management planning to address water quality protection in the region. The objective of the Watershed Management planning is to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources.



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18. To facilitate compliance with federal regulations, the State Water Board has issued the following 4 Statewide General NPDES Permits associated with storm water:
  - (a) Industrial General Permit (IASGP- Industrial Activities Storm Water General Permit), NPDES No. CAS000001, issued on November 19, 1991, reissued on September 17, 1992 and April 17, 1997, currently under review for reissuance.
  - (b) Construction General Permit (CASGP- Construction Activities Storm Water General Permit), NPDES No. CAS000002, issued on August 20, 1992, reissued August 19, 1999, currently under review for reissuance.
  - (c) Small Linear Underground/ Overhead Construction Projects General Permit (small LUPs), NPDES No. CAS000005, issued on June 18, 2003.
  - (d) Small MS4 Permit WQ Order No. 2003-0005-DWQ adopted on April 30, 2003.
  
19. Facilities discharging storm water associated with industrial activities, construction projects that disturb one or more acres of soil, or construction projects that disturb less than one acre but are part of a larger common plan of development or sale that in total disturbs 1 or more acres, and construction activities associated with small linear underground/ overhead projects that result in land disturbances greater than one acre, but less than five acres (small LUPs), are all required to obtain individual NPDES permits for storm water discharges, or be covered by the statewide General Permits by completing and filing a Notice of Intent (NOI) with the State Board. The U.S. EPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.
  
20. State Water Board Resolution No. 68-16 contains the state Antidegradation Policy, titled "Statement of Policy with Respect to Maintaining High Quality Waters in California" (Resolution 68-16), which applies to all waters of the state, including ground waters of the state, whose quality meets or exceeds (is better than) water quality objectives. Resolution No. 68-16 incorporates the federal Antidegradation Policy (40 CFR131.12) where the federal policy applies, (State Water Board Order WQO 86-17). Both, federal and state antidegradation policies acknowledge that an activity that results in a minor water quality lowering, even if incrementally small, can result in violation of Antidegradation Policies through cumulative effects, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.
  - (a) Federal Antidegradation Policy (40 CFR131.12) states that the State shall develop and adopt a statewide antidegradation policy and identify the methods for implementing such policy pursuant to this subpart. The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following:
    - (1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.
    - (2) Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that

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quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

(3) Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

(4) In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with section 316 of the Act.

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

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

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

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

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

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

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

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

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

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

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

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

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21. The State Water Board on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitation language to be included in all municipal storm water permits issued by the State and Regional Water Boards.
22. Cal. Water Code § 13263(a) requires that waste discharge requirements issued by Water Boards shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; and the need to prevent nuisance.
23. Cal. Water Code § 13370 et. seq. requires that waste discharge requirements issued by the Water Boards implement the provisions of the CWA (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto.
24. The California State Assembly passed AB 1721 (Pavley Environmental Education) on September 8, 2005, to add § 13383.6 to the Water Code, relating to environmental education. On and after January 1, 2007, if a Regional Water Board or the State Board issues a municipal storm water permit pursuant to § 402(p) of the CWA (33 U.S.C. Sec. 1342(p)) that includes a requirement to provide elementary and secondary public schools with educational materials on storm water pollution, the permittee may satisfy the requirement, upon approval by the Regional Water Board or State Board, by contributing an equivalent amount of funds to the Environmental Education Account established pursuant to subdivision (a) of § 71305 of the Public Resources Code.

**F. Implementation**

1. The California Environmental Quality Act (CEQA) (Cal. Pub. Resources Code § 2100 et seq.) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary (a governmental agency can use its judgment in deciding whether and how to carry out or approve a project, § 15357) and does not apply to ministerial projects (the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, § 15369). A ministerial project may be made discretionary by adopting local ordinance provisions or imposing conditions to create decision-making discretion in approving the project. In the alternative, permittees may establish standards and objective criteria administratively for storm water mitigation for ministerial projects. For water quality purposes regardless of whether a project is discretionary or ministerial, the Regional Water Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements.

2. The objective of this Order is to ensure that discharges from the MS4 in Ventura County comply with water quality standards, including protecting the beneficial uses of receiving waters. To meet this objective, the Order requires that Best Management Practices (BMPs) will be implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable (MEP), and achieve water quality objectives and standards. The U.S. EPA envisioned that municipal storm water program would be implemented in an iterative manner and improved with each iteration by using information and experience gained during the previous permit term (*Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits* - 61 Fed. Reg. 41697). Municipalities are required to evaluate what is effective and make improvements in order to protect beneficial uses of receiving waters. This Order requires implementation of an effective combination of pollution control and pollution prevention measures, education, public outreach, planning, and implementation of source control BMPs and Structural and Treatment Control BMPs. The better-tailored BMPs combined with the performance objectives outlined in this Order have the purpose of attaining water quality objectives and standards (*Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits*- 61 Fed. Reg. 43761). Where WLAs have been adopted for storm water (wet weather) and non-storm water (dry weather) discharges from MS4s, this Order requires permittees to implement controls to achieve the WLAs within the compliance schedule provided in the TMDLs.
3. The implementation of measures set forth in this Order are reasonably expected to reduce the discharge of pollutants conveyed in storm water discharges into receiving waters, and to meet the TMDL WLAs for discharges from MS4s that have been adopted by the Regional Water Board.
4. The U.S. EPA has recommended that all future TMDLs and TMDL amendments be expressed as daily increments consistent with a federal court ruling (*Friends of the Earth, Inc. v. EPA, et al.* No. 05-5015 (D.C. Cir. 2006)). However, this interpretation does not affect the discretionary authority of the Regional Water Board to express NPDES permit limits and conditions in non daily terms because there is no express or implied statutory limitation (CWA §502(11)) (*Establishing TMDL "Daily Loads" in Light of the Decision by the U.S. Court of Appeals for the D.C. Circuit in Friends of the Earth, Inc. v. EPA, et al. (April 2006) and Implications for NPDES Permits*, U.S. EPA Office of Water, memorandum, Nov 15, 2006). This Order translates MS4 TMDL WLAs adopted by the Regional Water Board into forms "consistent with the assumptions and requirements of the TMDL".
5. During the term of the Order, the permittees shall implement all necessary control measures to reduce pollutant(s) which cause or continue to cause or contribute to water quality impairments, but for which TMDLs have not yet been developed or approved, to eliminate the water quality impairment(s). Successful efforts to reverse

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the wet weather impairments during the permit term for such pollutants, may avoid the need for a WLA for wet weather or the need to develop a TMDL in the future.

6. This Order promotes a land development and redevelopment strategy that considers the water quality and water management benefits associated with smart growth techniques. Such measures include hydromodification mitigation requirements, minimization of impervious surfaces, integrated water resources planning, and low impact development guidelines. (Reference: *Protecting Water Resources with Smart Growth*, EPA 231-R-04-002, U.S. EPA 2004; *Using Smart Growth Techniques as Storm Water Best Management Practices*, EPA 231-B-05-002, U.S. EPA 2005; *Parking Spaces/Community Places: Finding the Balance through Smart Growth Solutions*, EPA 231-K-06-001, U.S. EPA 2006; *Protecting Water Resources with Higher-Density Development*, EPA 231-R-06-001, U.S. EPA 2006.)
7. The implementation of an effective Public Information and Participation Program is a critical component of a storm water management program. While commercial and industrial facilities are traditionally subject to multiple environmental regulations and receive environmental protection guidance from multiple sources, the general public, in comparison, receives significantly less education in environmental protection. An effective Public Information and Participation Program is required because:
  - (a) Activities conducted by the public such as vehicle maintenance, improper household waste materials disposal, improper pet waste disposal and the improper application of fertilizers and pesticides have the potential to generate a significant amount of pollutants that could be discharged in storm water.
  - (b) An increase in public knowledge of storm water regulations, proper storage and disposal of household wastes, proper disposal of pet wastes and appropriate home vehicle maintenance practices can lead to a significant reduction of pollutants discharged in storm water.
8. The California Supreme Court ruled that although Water Code section 13263 requires the Water Boards to consider the factors set forth in Water Code section 13241 when establishing waste discharge requirements, when issuing an NPDES permit, the Water Boards may not consider the factors to justify imposing pollutant restrictions that are less stringent than the applicable federal regulations require (*City of Burbank v. State Water Resources Control Bd.*, 35 Cal.4d, 618 (2005)). However, when the pollutant restrictions in an NPDES are more stringent than federal law, Water Code section 13263 requires that the Water Boards consider the factors described in section 13241. The requirements in this Order may be explicit or more specific than those enumerated in federal regulations under 40 CFR122.26 or in U.S. EPA guidance. However, the requirements have been prescribed to be consistent with the federal statutory mandates described in CWA § 402(p)(3)(B)(ii) and (iii) and the related federal regulations. Consistent with federal law, all of the conditions in this permit could have been included in a permit adopted by U.S. EPA in the absence of the in

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lieu authority of California to issue NPDES permits. These requirements are necessary to reduce the discharges of pollutants to the maximum extent practicable, and to attain water quality standards. Hence they are not more stringent than federal law.

9. This Order also provides flexibility for permittees to petition the Regional Water Board Executive Officer to substitute a BMP under this Order with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.
10. This Order contemplates that the permittees are responsible for considering potential storm water impacts when making planning decisions in order to fulfill the permittees' CWA requirement to reduce the discharge of pollutants in municipal storm water to the MEP and attain water quality objectives from new development and redevelopment activities. However, the permittees retain authority to make the final land-use decisions and retain full statutory authority for deciding what land uses are appropriate at specific locations within each permittee's jurisdiction. This Order and its requirements are not intended to restrict or control local land use decision-making authority.
11. The State Water Board amended the Policy for the Implementation of Toxics Standards In Inland Surface Waters, Enclosed Bays and Estuaries of California (State Implementation Policy – SIP) on February 24, 2005. This Order includes a Monitoring Program that incorporates Minimum Levels (MLs) established under the State Implementation Policy. The MLs represent the lowest quantifiable concentration for priority toxic pollutants that is measurable with the use of proper method-based analytical procedures and factoring out matrix interference. The SIP's MLs therefore represent the best available science for determining MLs and are appropriate for a storm water monitoring program. The use of MLs allows the detection of toxic priority pollutants at concentrations of concern using recent advances in chemical analytical methods.
12. This Order establishes Municipal Action Levels (MALs) for selected pollutants based on nationwide Phase I MS4 monitoring data for pollutants in storm water. (<http://unix.eng.ua.edu/~rpitt/Research/Research.shtml>, last visited on August 14, 2007). The MALs were computed using the statistical based population approach, one of three approaches recommended by the California Water Board's Storm Water Panel in its report, 'The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 2006). The MALs were obtained by multiplying the Median (central tendency measure) with 2 x the Coefficient of Variance (estimate of variance measure). MALs are identified in Attachment "C". Permittees shall

implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the MALs. MALs express an integration of the adequacy/inadequacy of programmatic measures and BMPs required in this Order. The exceedance of an MAL will create a presumption that MEP is not being met..

13. The International Storm Water Best Management Practices (BMP) Database was established in 1996 as a cooperative initiative between the U.S. EPA and the American Society of Civil Engineers (ASCE) to provide scientifically sound information to improve the design, selection and performance of storm water BMPs. The BMP database includes standardized BMP monitoring and reporting protocols, a storm water BMP database, BMP performance evaluation protocols, and BMP monitoring guidance. The storm water BMP database is updated approximately semi-annually to add new BMP studies and performance data. BMP performance data from the database was used to establish that it is practicable for municipalities to achieve the MALs in this Order. (<http://www.bmpdatabase.org/>, last visited August 15, 2007.) The International Storm Water Database is now maintained by the Water Environment Research Foundation (WERF).
14. This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Health Services or local vector agencies in accordance with CA Health and Safety Code, § 116110 et seq. Certain Treatment Control BMPs if not properly designed, operated or maintained may create habitats for vectors (e.g. mosquitoes and rodents). This Order contemplates that the permittees will closely cooperate and collaborate with local vector control agencies and the State Department of Health Services for the implementation, operation, and maintenance of Treatment Control BMPs in order to minimize the risk to public health from vector borne diseases.
15. This Order contemplates that permittees will ensure that implemented Treatment Control BMPs will not pose a safety or health hazard to the public. This Order contemplates that permittees will ensure that the maintenance of implemented Treatment Control BMPs will comply with all applicable health and safety regulations, such as, but not limited to requirements for worker entry into confined spaces under OSHA Safety and Training education, § 1926.21(b)(6)(i).
16. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from construction sites to the MEP. The BMPs are identified in Table 6 (BMPs at Construction sites less than 1 acre), Table 7 (BMPs at Construction Sites 1 acre or greater but less than 5 acres), and Table 8 (BMPs at Construction sites 5 acres or greater). These BMPs include erosion control, sediment control, and construction site waste management practices. The BMPs listed in part 5.F of the Order were selected based on the Water Boards' experience of regulating such sites since 1992,

and are referenced in the *California Stormwater Quality Association (CASQA) Storm Water Best Management Practice Handbook Construction (January 2003)* and from the *Stormwater Quality Handbooks, Project Planning and Design Guide, Stormwater Pollution Prevention Plan (SWPPP) and Water Pollution Control Plan (WPCP) Preparation Manual, Construction Site Best Management Practices (BMPs) Reference Manual, March 2007* (Caltrans Document Number CTSW-RT-06-171.11-1) which serve as an industry standard for California. The BMPs identified in the Tables are technically feasible, practicable, and cost-effective. For the exceptional case where an identified BMP may be impracticable on a particular site, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.

17. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from commercial and industrial sites to the MEP. The BMPs are identified in Table 2 (BMPs at Restaurants), Table 3 (BMPs at Automotive Service Facilities), Table 4 (BMPs at Retail Gasoline Outlets), and Table 5 (BMPs at Nurseries). These BMPs include the implementation of good housekeeping practices designed to control pollutants at the source, promote the use of proper waste management practices, and implement control practices to keep pollutants away from any entrance to the storm drainage system. The BMPs listed in part 5.D of the Order were selected based on the Water Boards' experience of regulating such sites since 1992 and referenced in the *California Stormwater Quality Association (CASQA) Storm Water Best Management Practice Handbook Commercial/Industrial Activity (January 2003)* and from the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide May 2003* (Caltrans Document Number CTSW-RT-02-057), which serve as an industry standard for California. The BMPs identified in the Tables are technically feasible, practicable, and cost-effective. For the exceptional case where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.
  
18. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from Public Agency Activities to the MEP. The BMPs are identified in Table 9 (BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards). These BMPs include the implementation of good housekeeping practices designed to control pollutants at the source, promote the use proper waste management practices, implement control practices to keep pollutants away from any entrance to the storm drainage system and from being deposited or discharged directly into waters of the U.S. The BMPs listed in part 5.G of the Order were selected based on the Water Boards' experience of regulating such sites since 1990, and are referenced in the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide May 2003* (Caltrans Document Number CTSW-RT-02-057), which serve as a statewide standard for the California Department of Transportation (Caltrans). The



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BMPs identified in the Table are technically feasible, practicable, and cost-effective, and are the standard of practice for Caltrans sites statewide. For the exceptional case where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.

19. This Order incorporates BMPs to ensure that authorized Non-Storm Water Discharges are not a source of pollutants to the MS4, Table 1 (Required Conditions for Non-Storm Water Discharges). The BMPs included are for the purpose of dechlorination and/or for prevention of erosion and sediment loss, or to reduce other harmful pollutants during the discharge of authorized non storm water discharges to the MS4. The BMPs listed in part 1.B of the Order were selected from the *American Water Works Association AWWA Guidelines For The Development Of Your Best Management Practices (BMP) Manual For Drinking Water System Releases Developed by the CA-NV AWWA Environmental Compliance Committee (2005)* which serve as an industry standard for California, from the results of studies directed by the Los Angeles Water Board, - *Evaluation of Non-Storm Water Discharges to California Storm Drains and Potential Policies for Effective Prohibition Methods, Final Report*, University of California, Los Angeles, Contract No. 5-104-140-0 (1997), and *Water Quality Concerns and Regulatory Controls for Non Storm Water Discharges to Storm Drains*, Duke L.D. and M. Kihara, Journal of the American Water Resources Association, Vol. 34: 661-676, (1998), and from the Water Boards' experience of controlling authorized non-storm discharges to the MS4 since 1990. The BMPs identified in the Table are technically feasible, practicable, and cost-effective. For the exceptional case where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.
20. In accordance with Federal regulations at 40 CFR 124.8, a Fact Sheet has been prepared to explain the principal facts and the significant factual, legal, methodological, policy, and economic matters considered in preparing the Tentative Order. Also included are the analyses of factors required under Cal. Water Code 13241. This Fact Sheet has been made a part of the Administrative Record.
21. The State Water Board adopted statewide General Waste Discharge Requirements for Sanitary Sewer Systems, (WQ Order No. 2006-0003) on May 2, 2006, to provide a consistent, statewide regulatory framework to address sanitary sewer overflows ("SSO Order's"). The SSO Order establishes requirements for public agencies that own or operate sanitary sewer systems to develop and implement sewer system management plans and to report SSOs. SSOs that enter MS4s have the potential to impair the recreational use of receiving waters, and to harm public health. This Order establishes coordination, response, and notification requirements for MS4 permittees when SSOs result in a discharge to the MS4 system.

22. This Order takes into consideration the housing needs in the area under the permittees' jurisdiction by balancing the implementation of Smart Growth and Low Impact Development techniques with the protection of the water resources of the region. Although not required, the Regional Water Board considered the need for housing and the appropriate techniques to allow for reasonable development while protecting the receiving waters from degradation.
23. This Order may have an incremental effect on costs required for compliance with the provisions contained herein. Although not required, the Regional Water Board has considered costs in preparing this Order. Though also not required, the Regional Water Board has also considered the factors set forth in Water Code section 13241.
24. The California Department of Finance has determined that municipal storm water waste discharge requirements and provisions requiring trash controls and the inspection of industrial facilities and construction sites to reduce the discharges of pollutants in storm water did not impose a reimbursable state burden on local agencies under the California Constitution, Article XIII B, Section 6 (see Letter notifying conclusions of review of Los Angeles County MS4 Permittees test claims, from Ms. Ducay, California Department of Finance to Ms. Higashi, Executive Director, California Commission on State Mandates, dated March 27, 2008). The Department of Finance concluded that because federal law requires that the conditions be imposed on local agencies, the requirements are not reimbursable pursuant to the federal mandate exception (Cal. Govt. Code 17556 (c)).

#### **G. Public Notification**

1. The issuance of waste discharge requirements is exempt from the California Environmental Quality Act in accordance with California Water Code section 13389. County of Los Angeles et al., v. California Water Boards et al., (2006), 143 Cal.App.4<sup>th</sup> 985.
2. The Regional Water Board has notified the permittees, and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to make statements and submit their comments.
3. The Regional Water Board staff has conducted 24 scoping meetings from February 9, 2007 through October 3, 2008, with permittees their representatives (Larry Walker and Associates, and Somach, Simmons & Dunn), and various stakeholders (Building Industry Association of Southern California/ Greater Los Angeles Ventura Chapter (BIAGLA/ VC), California State Dept. of Health Services, Calleguas Water District, California Stormwater Quality Association (CASQA), City of Downey, City of Los Angeles-EMD, Coalition for Practical Regulation (CPR), Construction Industry Coalition on Water Quality (CICWQ), County of Orange,

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Geosyntec Consultants, Golden State, Heal The Bay; Local Government commission, Los Angeles City; Los Angeles County Department of Public Works, Los Angeles County-SD, Los Angeles Department of Water & Power, Metropolitan Water District, Natural Resources Defense Council (NRDC), Richard Watson Association, San Bernardino Flood Control District, Santa Monica Bay Restoration Commission, Southern California Coastal Water Research Project, University of California Sea Grant, Ventura CoastKeeper). On April 5, 2007 and September 20, 2007 the Regional Water Board conducted workshops to discuss drafts of the NPDES Order and received input from the permittees and the public regarding proposed changes.

4. This Order shall serve as a NPDES permit, pursuant to CWA § 402, and shall take effect 90 days from Order adoption date provided the Regional Administrator of the U.S. EPA has no objections.
5. Pursuant to Cal. Water Code § 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board within 30 days of the date of adoption the Order by the Regional Water Board. A petition must be sent to:

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

6. This Order may be modified or alternatively revoked or reissued prior to its expiration date or any administrative extension thereto, in accordance with 40 CFR122.41(f) and 122.62.

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

#### **PART 1 - DISCHARGE PROHIBITIONS**

##### **A. Prohibitions – Discharges**

1. Discharges into and from the MS4 in a manner causing or contributing to a condition of pollution, contamination or nuisance (as defined in Cal. Water Code § 13050), in waters of the State are prohibited.
2. Discharges from the MS4, which cause or contribute to exceedances of receiving water quality standards are prohibited.

3. Discharges to the MS4 that are not authorized by an NPDES individual or general permit are prohibited except as set forth in part B., Prohibitions – Non-Storm Water Discharges, below.

**B. Prohibitions - Non-Storm Water Discharges**

1. The permittees shall effectively prohibit non-storm discharges into the MS4 and watercourses, except where such discharges either:
  - (a) Originate from a State, federal, or other source which they are pre-empted by State or Federal law from regulating.
  - (b) Fall within one of the categories below and in Table 1 (Required Conditions for Non-Storm Water Discharges), are not a source of pollutants, and meet all conditions where specified by the Regional Water Board Executive Officer:
    - (1) Stream diversions authorized by the State Water Board
    - (2) Natural springs and rising ground water
    - (3) Uncontaminated ground water infiltration [as defined by 40 CFR35.2005(20)]<sup>1</sup>
    - (4) Flows from riparian habitats or wetlands
    - (5) Flows from emergency fire fighting activity
    - (6) Discharges from potable water sources<sup>2</sup>
    - (7) Gravity flow from foundation, footing and crawl space drains.
    - (8) Air conditioning condensate
    - (9) Reclaimed and potable landscape irrigation runoff
    - (10) Dechlorinated/ debrominated swimming pool discharges [see def. part 7]
    - (11) Non-commercial car washing by residents or non-profit organizations
    - (12) Sidewalk rinsing
    - (13) Pooled storm water from treatment BMPs<sup>3</sup>

Table 1 – Required Conditions for Non-Storm Water Discharges

Type of Discharges:	Conditions under which allowed:	Required conditions for discharge to occur:
Stream diversions permitted by the State Water Board;	Authorization by the State Water Board	Permittees shall comply with all conditions in the authorization.
Natural springs and rising ground water	1. Ground water dewatering requires a separate NPDES permit. 2. Segregate flow to	Permittees shall comply with all conditions in the authorization.

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

<sup>2</sup> The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge [see section G for specific BMPs].

<sup>3</sup> All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer, and designed to drain within 72 hours of the end of a rain. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.

Type of Discharges:	Conditions under which allowed:	Required conditions for discharge to occur:
	prevent introduction of pollutants.	
Uncontaminated ground water infiltration [as defined by 40 CFR35.2005(20)] (Utility vault dewatering requires a separate NPDES permit.)	NPDES permit for ground water dewatering is required within the Los Angeles Region including Ventura County	Permittees shall comply with all conditions in the authorization.
Flows from riparian habitats or wetlands	Provided that all necessary permits or authorizations are received prior to diverting the stream flow.	Permittees shall comply with all conditions in the authorization.
Flows from emergency fire fighting activity	Pooled water after fire must be controlled.	
Discharges from potable water sources	See Footnote #2 on page 29.  Provided discharges from water lines and potable water sources shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments.	See Footnote #2 on page 26. To be discharged, this type of water shall be dechlorinated using aeration and/ or sodium thiosulfate and/ or other appropriate means and/or be allowed to infiltrate to the ground. BMPs such as sand bags or gravel bags, or other appropriate means shall be utilized to prevent sediment transport. All sediments shall be collected and disposed of in a legal and appropriate manner.
Drains for foundation, footing and crawl drains	Dewatering requires a separate NPDES permit.	Permittees shall comply with all conditions in the authorization.
Air conditioning condensate	Segregation of flow to prevent introduction of pollutants. Percolation whenever possible.	Permittees shall comply with all conditions in the authorization.
Water from crawl space pumps	Dewatering requires a separate NPDES permit within the Los Angeles Region including Ventura County	Permittees shall comply with all conditions in the authorization.
Reclaimed and potable landscape irrigation runoff	Segregation of flow to prevent introduction of pollutants.	Implement conservation programs to minimize this type of discharge by using less water.

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<b>Type of Discharges:</b>	<b>Conditions under which allowed:</b>	<b>Required conditions for discharge to occur:</b>
Dechlorinated/debrominated swimming pool discharges [see definition part 8]	<p>Where the discharge is not accepted by the sanitary sewer operator. Swimming pool discharges are to be dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments.</p> <p>Waste water and filter back wash shall not be discharged to municipal separate storm sewers.</p> <p>Water that has been hyperchlorinated shall not be discharged to municipal separate storm sewers, even after de-chlorination.</p> <p>No discharges are allowed containing salts in excess of Water Quality Standards.</p> <p>Chlorine residual in discharge shall not exceed 0.1mg/L.</p>	Pool water may be dechlorinated using time, aeration, and/ or sodium thiosulfate, or other alternative effective means.
Non-commercial car washing by residents or non-profit organizations	Preferably at a commercial car wash or designated area where wash water can infiltrate. Pumps or vacuums may be used to direct water to pervious areas.	Permittees shall comply with all conditions in the authorization.
Sidewalk rinsing	This may be undertaken only if high pressure low volume is used as described in the glossary under "Sidewalk Rinsing".	
Pooled storm water from treatment BMPs	All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer. All storm water BMPs shall be designed to drain within 72 hours of the end of the rain event to avoid the breeding of vectors. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. The discharge shall cease before the discharge has become a source of a pollutant(s), (bottom sediment included). Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.	

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

## **PART 2 – MUNICIPAL ACTION LEVELS**

1. Beginning Year 3 after Order adoption date, a running average of twenty percent or greater of exceedances of any discharge of storm water from the MS4 to waters of the U.S. that exceed the Municipal Action Levels (MALs) for the pollutants listed in Attachment "C" (Municipal Action Levels) will require each permittee to affirmatively augment and implement all necessary storm water controls and measures to reduce the discharge of the associated class of pollutant(s) in accordance with the Maximum Extent Practicable (MEP) provision in subpart 4.A.2. Continued exceedances after Year 3 of the operative MAL(s) shall create a presumption that the permittee(s) have not complied with the MEP provision in subpart 4.A.2, and have failed to implement adequate storm water control measures and BMPs to comply with the MEP criteria.
2. The end-of-pipe assessment points for the determination of MAL exceedances are the major outfalls, as defined in 40 CFR122.26(b)(5) and (b)(6).
3. The absence of MAL exceedances does not give rise to a presumption that the permittee is complying with the MEP criteria.

## **PART 3 – RECEIVING WATER LIMITATIONS**

1. Discharges from the MS4 that cause or contribute to a violation of water quality standards are prohibited.
2. Discharges from the MS4 of storm water, or non-storm water, for which a permittee is responsible, shall not cause or contribute to a condition of nuisance.
3. The permittee shall comply with the Order through timely implementation of control measures and other actions to reduce pollutants in storm water discharges in accordance with this Order. This Order shall be implemented to achieve compliance with receiving water limitations. If exceedance(s) of water quality objectives or water quality standards persist, notwithstanding implementation of the Order and its

components and other requirements of this Order, the permittee shall ensure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

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

#### **PART 4 - STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION**

##### **A. General Requirements**

1. Each permittee shall, at a minimum, adopt and implement applicable terms of this Order within its jurisdictional boundary. The Principal Permittee shall be responsible for program coordination as described in this Order as well as compliance with applicable portions of the permit within its jurisdiction. This Order shall be implemented no later than (90 days after Order adoption date), unless a later date has



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been specified for a particular provision in this Order and provided the Regional Administrator of the U.S. EPA has no objections.

2. Each permittee shall, comply with the requirements of 40 CFR122.26(d)(2) and implement programs and control measures so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality standards.
3. Each permittee shall require that treatment control BMPs being implemented under the provisions of this Order shall be designed, at a minimum, to achieve the BMP performance criteria for common storm water pollutants as identified in Attachment "C", Table 3 and Table 4. Expected BMP pollutant removal performance for effluent quality was developed from the WERF-ASCE/ U.S. EPA International BMP Database.
4. Each permittee shall implement programs and measures to comply with the TMDLs' WLAs for the MS4.

**B. Legal Authority**

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

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- (11) Stationary and mobile pet grooming facilities
  - (12) Trash container leachate
2. The permittees shall possess adequate legal authority to:
    - (a) Control through interagency agreement, the contribution of pollutants from one portion of the MS4 to another portion of the MS4.
    - (b) Require persons within their jurisdiction to comply with conditions in the permittees' ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows).
    - (c) Utilize enforcement measures (e.g., stop work orders, notice of violations, fines, referral to City, County, and/ or District Attorneys, referral to strikeforces, etc.) by ordinances, permits, contracts, orders, administrative authority, and civil and criminal prosecution.<sup>1</sup>
    - (d) Control pollutants, including potential contribution<sup>2</sup> in discharges of storm water runoff associated with industrial activities, including construction activities to its MS4, and control the quality of storm water runoff from industrial sites, including construction sites.
    - (e) Carry out all inspections, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the MS4.
    - (f) Require the use of control measures to prevent or reduce the discharge of pollutants to achieve water quality objectives.
    - (g) Require that Treatment Control BMPs be properly operated and maintained.
  3. Each permittee has adopted a Storm Water Quality Ordinance based upon a countywide model. Each permittee shall ensure, no later than (365 days after Order adoption date), that its Storm Water Quality Ordinance authorized the permittee to enforce all requirements of this Order.
  4. Each permittee shall submit no later than (365 days after Order adoption date), a statement by its legal counsel that the permittee has obtained and possesses all necessary legal authority to comply with this Order through adoption of ordinances and/ or municipal code modifications.

<sup>1</sup>In the case of private responsible parties such as, HOAs, the Permittee must retain enforcement authority.

<sup>2</sup>“Potential contributions” and “potential to discharge,” means adequate legal authority to prevent an actual discharge of pollutants to the municipal separate storm sewer system.

**C. Fiscal Resources**

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

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

**D. Modifications/ Revisions**

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

**E. Designation and Responsibilities of the Principal Permittee**

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

**F. Responsibilities of the Permittees**

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

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

## **PART 5 - SPECIAL PROVISIONS (BASELINE)**

### **A. General Requirements**

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

### **B. Watershed Initiative Participation**

1. The Principal Permittee consents to participate in water quality meetings for watershed management and planning, including but not limited to the following:
  - (a) Southern California Stormwater Monitoring Coalition (SMC)
  - (b) Other Watershed planning groups as appropriate
2. The Principal Permittee consents to participate in the following regional water quality programs, and projects for watershed management and planning:
  - (a) SMC Regional Monitoring Programs
    - (1) Southern California Regional Bioassessment
      - (A) Level of effort per watershed
        - (i) Probabilistic sites per watershed
          - (I) Ventura River - Six
          - (II) Santa Clara River - Three
          - (III) Calleguas Creek - Six
        - (ii) Integrator sites per watershed
          - (I) Ventura River - One

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- (II) Santa Clara River - One
- (III) Calleguas Creek - One
- (b) Southern California Bight Projects
  - (1) Regional Monitoring Survey – 2008, and successive years.

**C. Public Information and Participation Program (PIPP)**

I. The Principal Permittee shall implement a Public Information and Participation Program (PIPP) that includes, but is not limited to, the requirements listed in this part. The Principal Permittee shall coordinate with permittees to implement specific PIPP requirements. The objectives of the PIPP are as follows:

- i. To measurably increase the knowledge of the target audience about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts
- ii. To measurably change the waste disposal and storm water pollution generation behavior of target audiences by encouraging implementation of appropriate solutions
- iii. To involve and engage communities in Ventura County to participate in mitigating the impacts of storm water pollution

1. Residential Program

(a) "No Dumping" Message

Each permittee shall label all storm drain inlets that they own with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping shall be posted at designated public access points to creeks, other relevant waterbodies, and channels. Signage and storm drain messages shall be legible and maintained.

(b) Public Reporting

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

(c) Outreach and Education

- (1) The Principal Permittee shall implement the following activities:
  - (A) Conduct a Storm Water pollution prevention advertising campaign.

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

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submit a plan to the Regional Water Board Executive Officer for consideration no later than (90 days of adoption of the Order), to provide outreach outside of the school curriculum. Pursuant to Water Code section 13383.6, the permittees, in lieu of providing educational materials/ funding to School Districts in the County, may opt to provide an equivalent amount of funds or fraction thereof to the Environmental Education Account established within the State Treasury.<sup>1</sup>

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

(d) Pollutant-Specific Outreach

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

2. Businesses Program

(a) Corporate Outreach

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

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



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parts franchisers, two home improvement center franchisers and six restaurant franchisers. At a minimum, this program shall include:

- (A) Confer with corporate management to explain storm water regulations.
- (B) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide managers with recommendations to facilitate employee and facility compliance with storm water regulations.

(b) Business Assistance Program

- (1) The permittees shall implement a Business Assistance Program to provide technical resource assistance to small businesses to advise them on BMPs implementation to reduce the discharge of pollutants in storm water. The Program shall include:
  - (A) On-site technical assistance or consultation via telephone or e-mail to identify and implement storm water pollution prevention methods and best management practices.
  - (B) Distribution of storm water pollution prevention education materials to operators of auto repair shops, car wash facilities (including mobile car detailing), mobile carpet cleaning services, commercial pesticide applicator services and restaurants.

**D. Industrial/ Commercial Facilities Program**

- I. Each permittee shall require implementation of pollutant reduction and control measures at industrial and commercial facilities, with the objective of reducing pollutants in storm water. Except where specified otherwise in this Order, pollutant reduction and control measures may be used alone or in combination, and may include Structural Treatment Control, Source Control BMPs, and operation and maintenance procedures, which may be applied before, during, and/ or after pollution generating activities. At a minimum, the Industrial/ Commercial Facilities Control Program shall include requirements to:
  - i. Track
  - ii. Inspect
  - iii. Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water
- 1. Inventory of Critical Sources
  - (a) Each permittee shall maintain a watershed-based inventory or database of all facilities within its jurisdiction that are critical sources of storm water pollution. Critical Sources to be tracked are summarized below, and specified in Attachment "D":
    - (1) Commercial Facilities
      - (A) Restaurants

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- (B) Automotive service facilities
  - (C) RGOs and automotive dealerships
  - (D) Nurseries and nursery centers
- (2) U.S. EPA Phase I, II Facilities
- (3) Other Federally-mandated Facilities [as specified in 40 CFR122.26(d)(2)(iv)(C)]
- (A) Municipal landfills
  - (B) Hazardous waste treatment, disposal, and recovery facilities
  - (C) Facilities subject to SARA Title III (also known as the Emergency Planning and Community Right-to-Know Act (EPCRA))
- (b) Each permittee shall include the following minimum fields of information for each critical sources industrial and commercial facility
- (1) Name of facility and name of owner/ operator.
  - (2) Address of facility
  - (3) Coverage under the IASGP or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Board pertaining to runoff discharges.
  - (4) A narrative description including Standard Industrial Classification (SIC) System/ North American Industry Classification System (NAICS) Codes that best describe the industrial activities performed and principal products used at each facility and status of exposure to storm water.
- (c) The Regional Water Board recommends that permittees include additional fields of information, such as material usage and/ or industrial output, and discrepancies between SIC System/ NAICS Code designations (as reported by facility operators) and identify the actual type of industrial activity that has the potential to pollute storm water. In addition, the Regional Water Board recommends the use of an automated database system, such as a Geographical Information System (GIS) or Internet-based system.
- (d) Each permittee shall update its inventory of critical sources at least annually. The update may be accomplished through collection of new information obtained through field activities or through other readily available inter and intra-agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits, and similar information).
2. Inspect Critical Sources
- (a) Commercial Facilities
- Permittee shall inspect all facilities identified in subpart 5.D.2. twice during the 5-year term of the Order, provided that the first inspection occurs no later than (2 years after Order adoption date). A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. In addition, each permittee shall implement the activities outlined in the following subparts.

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At each facility, inspectors shall verify that the operator is implementing the source control BMPs. The permittees may require implementation of additional treatment control BMPs where storm water flows from the MS4 discharge to an environmentally sensitive area (ESA, see part 7 for definition) or a CWA § 303(d) listed waterbody (see subpart 3(b) below). Likewise, for those BMPs that are not adequate to achieve MALs and/ or water quality objectives, permittees may require additional site-specific controls, such as treatment control BMPs.

## (1) Restaurants-

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

Table 2 - BMPs at Restaurants

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

## (2) Automotive Service Facilities-

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

Table 3 - BMPs at Automotive Service Facilities

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

## (3) Retail Gasoline Outlets and Automotive Dealerships-

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

Table 4 - BMPs at Retail Gasoline Outlets

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

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

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

Table 5 - BMPs at Nurseries

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

## (b) Industrial Facilities

Each Permittee shall conduct compliance inspections as specified below.

## (1) Frequency of Inspection

- (A) Each permittee shall perform an initial inspection at all industrial facilities identified by the U.S. EPA in 40 CFR122.26(c) no later than (2 years after Order adoption date). After the initial inspection, all facilities determined as having exposure of industrial activities to storm water are subject to a second mandatory compliance inspection. A minimum interval of 6 months between the first and the second compliance inspection is required.
- (B) Following the first mandatory compliance inspection, a permittee shall perform a second mandatory compliance inspection yearly at a minimum of 20% of the facilities determined not to have exposure of

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industrial activities to storm water. The purpose of this inspection is to verify the continuity of the no exposure status. Facilities determined as having exposure will be notified that they must obtain coverage under the IASGP. A facility need not be inspected more than twice during the term of the Order unless subject to an enforcement action. A minimum interval of 6 months in between the first and the second compliance inspection is required.

- (C) Applicable to all facilities: A permittee need not inspect facilities that have been inspected by the Regional Water Board within the previous 24 month interval. However, if the Regional Water Board performed only one inspection, the permittee shall conduct the second required mandatory compliance inspection.
- (2) **Level of Inspection:** Each permittee shall confirm that each operator:
  - (A) Has a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a Storm Water Pollution Prevention Plan (SWPPP) is available on-site.
  - (B) Is effectively implementing BMPs in compliance with County and municipal ordinances. Facilities must implement the source control BMPs identified in subpart 5.D.3. and Appendix D, *California Stormwater Industrial and Commercial BMP Handbook (2003)*. The permittees shall require implementation of additional treatment control BMPs where the storm water from the MS4 discharges to a CWA § 303(d) listed waterbody; or
  - (C) Has applied and has a current No Exposure Certification (and WDID number) for facilities subject to this requirement.
- 3. Ensure Compliance of Critical Sources
  - (a) **BMP Implementation:** In the event that a permittee determines that a BMP is infeasible at any site, including those specified in the California Stormwater Industrial and Commercial BMP Handbook (2003), the permittee shall require implementation of similar BMPs that will achieve the equivalent reduction of pollutants in the storm water discharges. Likewise, for those BMPs that are not adequate to achieve water quality objectives, permittees may require additional site-specific controls, such as treatment control BMPs for pollutants identified in Attachment "B".
  - (b) **Environmentally Sensitive Areas (ESAs) and Impaired Waters:** For critical sources that discharge to ESAs or that are tributary to CWA § 303(d) listed impaired waterbodies, the permittees shall require operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality objectives.

- (c) **Progressive Enforcement:** Each permittee shall implement a progressive enforcement policy to ensure that facilities are brought into compliance with all storm water requirements within a reasonable time period as specified below.
- (1) In the event that a permittee determines, based on an inspection conducted, that an operator has failed to adequately implement all necessary BMPs, that permittee shall take progressive enforcement actions which, at a minimum, shall include a follow-up inspection within 4 weeks from the date of the initial inspection.
  - (2) In the event that a permittee determines that an operator has failed to adequately implement BMPs after a follow-up inspection, that permittee shall take further enforcement action as established through authority in its municipal code and ordinances or through the judicial system.
  - (3) Each permittee shall maintain records and make them available on request to the Regional Water Board, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.

#### 4. Interagency Coordination

- (a) **Referral of Violations of the Municipal Storm Water Ordinances and California Water Code § 13260:** A permittee may refer a violation(s) of § 13260 by Industrial and Commercial facilities to the Regional Water Board provided that under its municipal storm water ordinance the permittee has made a good faith effort of progressive enforcement. At a minimum, a permittee's good faith effort must be documented with:
- (1) Two follow-up inspections
  - (2) Two warning letters or notices of violation
- (b) **Referral of Violations of the Industrial Activities Storm Water General Permit (IASGP), including Requirements to File a Notice of Intent or No Exposure Certification:** For those facilities in violation of the municipal storm water ordinance and subject to the IASGP, permittees may escalate referral of such violations to the Regional Water Board (electronically on a quarterly basis to the Regional Water Board's Storm Water Site at [MS4stormwaterb4@waterboards.ca.gov](mailto:MS4stormwaterb4@waterboards.ca.gov)) after one inspection and one written notice (copied to the Regional Water Board) to the operator regarding the violation. In making such referrals, permittees shall include, at a minimum, the following documentation:
- (1) Name of the facility
  - (2) Operator of the facility
  - (3) Owner of the facility
  - (4) WDID Number (if applicable)



- (5) Industrial activity being conducted at the facility that is subject to the IASGP
- (6) Records of communication with the facility operator regarding the violation, which shall include at least an inspection report
- (7) The written notice of the violation copied to the Regional Water Board
- (c) **Investigation of Complaints Regarding Facilities – Transmitted by the Regional Water Board Staff:** Each permittee shall initiate, within one business day,<sup>1</sup> investigation of complaints of non-storm water discharges to the MS4 from facilities within its jurisdiction (other than non-storm water discharges). The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm the complaint to determine if the facility is effectively complying with the municipal storm water urban runoff ordinances, and to oversee corrective action.
- (d) **Assistance of Regional Water Board Enforcement Actions:** As directed by the Regional Water Board Executive Officer, permittees shall assist Regional Water Board enforcement actions by: helping in identification of current owners, operators, and lessees of facilities; providing staff, when available, for joint inspections with Regional Water Board inspectors; appearing as witnesses in Regional Water Board enforcement hearings; and providing copies of inspection reports and other progressive enforcement documentation.
- (e) **Participation in a Task Force:** The permittees consent to participate with the Regional Water Board, and other public agencies on an enforcement task force such as the Storm Water Task Force, to communicate concerns regarding special cases of storm water violations by industrial and commercial facilities and to develop a coordinated approach to enforcement action.

## E. Planning and Land Development Program

### I. Purpose

1. The permittees shall implement a Planning and Land Development Program pursuant to part 5.E. for all New Development and Redevelopment projects subject to this Order to:
  - (a) Minimize the adverse impacts from storm water runoff on the biological integrity of Natural Drainage Systems and the beneficial uses of waterbodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21100).
  - (b) Minimize the percentage of impervious surfaces on land developments to support the percolation and infiltration of storm water into the ground.
  - (c) Minimize pollutant loadings from impervious surfaces such as roof-tops, parking lots, and roadways through the use of properly designed, technically appropriate

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

BMPs (including Source Control BMPs such as good housekeeping practices), Low Impact Development Strategies, and Treatment Control BMPs.

- (d) Properly select, design and maintain Treatment Control BMPs and Hydromodification Control BMPs to address pollutants that are likely to be generated, reduce post-development surface flows, assure long-term function, and to avoid the breeding of vectors.<sup>1</sup>
- (e) Prioritize the selection of BMPs suites to remove storm water pollutants, reduce storm water runoff volume, and beneficially reuse storm water to support an integrated approach to protecting water quality and managing water resources in the following order of preference:
  - (1) Low Impact Development Strategies (see subpart E.III.2 below)
  - (2) Integrated Water Resources Management Strategies
  - (3) Multi-benefit Landscape Feature BMPs
  - (4) Modular/ Proprietary Treatment Control BMPs

## II. Applicability

### 1. New Development Projects.

- (a) Development projects subject to permittee conditioning and approval for the design and implementation of post-construction treatment controls to mitigate storm water pollution, prior to completion of the project(s), are:
  - (1) All development projects equal to 1 acre or greater of disturbed area
  - (2) Industrial park 5,000 square feet or more of surface area
  - (3) Commercial strip mall 5,000 square feet or more of surface area
  - (4) Retail gasoline outlet 5,000 square feet or more of surface area
  - (5) Restaurant (SIC 5812) 5,000 square feet or more of surface area
  - (6) Parking lot 5,000 square feet or more of surface area, or with 25 or more parking spaces
  - (7) Street and road construction of 5,000 square feet or more of surface area
  - (8) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more of surface area]
  - (9) Redevelopment projects in subject categories that meet Redevelopment thresholds (identified in subpart E.II.2 below)
  - (10) Projects located in or directly adjacent to, or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
    - (A) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat.
    - (B) Create 2,500 square feet or more of impervious surface area
  - (11) Single-family hillside homes
    - (A) Measures to be implemented:
      - (i) Conserve natural areas

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

- (ii) Protect slopes and channels
- (iii) Provide storm drain system stenciling and signage
- (iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability
- (v) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability

2. Redevelopment Projects

(a) Redevelopment projects subject to permittee conditioning and approval for the design and implementation of post-construction treatment controls to mitigate storm water pollution, prior to completion of the project(s), are:

- (1) Land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site on development categories identified in subpart 5.E.II.1.
- (2) Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.
- (3) Where Redevelopment results in an alteration to less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the alteration must be mitigated, and not the entire development.

(b) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways, is not considered a routine maintenance activity.

(c) Redevelopment does not include the repaving of existing roads to maintain original line and grade.

(d) Existing single-family structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.

3. Effective Date – The New Development and Redevelopment requirements contained in part E. of the Order shall apply to projects or project phases that have not:

- (a) Received post construction control approval prior to [90 days after Order adoption date], or
- (b) Began grading or construction activity prior to [30 days after Order adoption date], after having received post construction control approval under Board Order No. 00-108.

### III. New Development/ Redevelopment Performance Criteria

1. Integrated Water Quality/ Flow Reduction/ Resources Management Criterion
  - (a) Permittees shall require that all New Development and Redevelopment projects identified in subpart 5.E.II control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces through percolation, infiltration, storage, or evapo-transpiration, by reducing the percentage of Effective Impervious Area (EIA) to less than 5 percent of total project area
  - (b) Impervious surfaces may be rendered "ineffective" if the storm water runoff is:
    - (1) Drained into a vegetated cell, over a vegetated surface, or through a vegetated swale, having soil characteristics either as native material or amended medium using approved soil engineering techniques; or
    - (2) Collected and stored for beneficial use such as irrigation, or other reuse purpose; or
    - (3) Discharged into an infiltration trench
  - (c) Any excess surface discharge of the storm water runoff shall be mitigated in accordance with subpart 5.E.III.4
  - (d) Alternatively, where a permittee or a coalition of permittees have a Redevelopment Project Area Master Plan (RPAMP) approved in accordance with subpart 5.E.IV that balances multiple considerations, the provisions of the RPAMP will substitute for the EIA requirements identified above.
  
2. Low Impact Development (LID) Measures
  - (a) All new development and redevelopment projects identified in subpart 5.E.II shall integrate Low Impact Development (LID) principles into project design. LID is a storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect predevelopment hydrologic functions.
  - (b) The permittees shall develop a LID Technical Guidance section to the Ventura County Water Guidance Manual for Storm Water Quality Control Measures no later than (365 days from the Order's adoption date) for use by land planners and developers. The LID Technical Guidance section shall include objectives and specifications for integration of LID strategies in the areas of:
    - (1) Site Assessment
    - (2) Site Planning and Layout
    - (3) Vegetative Protection, Revegetation, and Maintenance
    - (4) Techniques to Minimize Land Disturbance
    - (5) Techniques to Implement LID Measures at Various Scales
    - (6) Integrated Water Resources Management Practices
    - (7) LID Design and Flow Modeling Guidance
    - (8) Hydrologic Analysis
    - (9) LID Credits

- (A) Alternatively, the permittees may satisfy this requirement by jointly developing a Southern California Regional LID Technical Guidance Document in partnership with the SMC, no later than (365 days from the Order's adoption date) if the Southern California Regional LID Technical Guidance Document at a minimum addresses all the objectives and integration strategies identified in the preceding (1) through (9).
  - (c) The permittees shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications contained in the LID Technical Guidance Section through a training program. The LID training program will include the following:
    - (1) LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders
    - (2) A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects
    - (3) Materials and data from LID pilot projects and demonstration projects including case studies
    - (4) Guidance on how to integrate LID requirements into the local regulatory program(s) and requirements
    - (5) Availability of the LID Technical Guidance regarding integration of LID measures at various project scales
    - (6) Guidance on the relationship among LID strategies, Source Control BMPs, Treatment Control BMPs, and Hydromodification Control requirements
3. Hydromodification (Flow/ Volume/ Duration) Control Criteria
- (a) Each permittee shall require all New Development and Redevelopment projects identified in subpart 5.E.II to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems. The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration. This shall be achieved by maintaining the project's pre-development storm water runoff flow rates and durations.
    - (1) Description
      - (A) Hydromodification control in natural drainage systems shall be achieved by maintaining the Erosion Potential ( $E_p$ ) in streams at a value of 1, unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat (see Attachment "E" - Determination of Erosion Potential)
      - (B) Hydromodification control may include one, or a combination of on-site, regional subregional hydromodification control BMPs, LID strategies, or stream restoration measures, with preference given to

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- LID strategies and hydromodification control BMPs. Any in-stream restoration measure shall not adversely affect the beneficial uses of the natural drainage systems
- (C) Natural drainage systems, which include unlined or unimproved (not engineered) creeks, streams, rivers and their tributaries, are located in the following watersheds:
    - (i) Ventura River
    - (ii) Santa Clara River
    - (iii) Calleguas Creek
    - (iv) Miscellaneous Ventura Coastal
  - (D) The Southern California Storm Water Monitoring Coalition (SMC) is developing a regional methodology to eliminate or mitigate the adverse impacts of hydromodification as a result of urbanization, including hydromodification assessment and management tools.
    - (i) The SMC has identified the following objectives for the Hydromodification Control Study (HCS):
      - (I) Establishment of a stream classification for Southern California streams
      - (II) Development of a deterministic or predictive relationship between changes in watershed impervious cover and stream-bed/ stream bank enlargement
      - (III) Development of a numeric model to predict stream-bed/ stream bank enlargement and evaluate the effectiveness of mitigation strategies
  - (E) The permittees shall participate in the SMC HCS to develop:
    - (i) A regional stream classification system
    - (ii) A numerical model to predict the hydrological changes resulting from new development
    - (iii) A numerical model to identify effective mitigation strategies
  - (F) Until the completion of the SMC HCS, permittees shall implement the Interim Hydromodification Control Criteria, described in subpart 5.E.III.3(a)(2) below, to control the potential adverse impacts of changes in hydrology that may result from new development and redevelopment projects identified in subpart 5.E.II
  - (G) Existing single-family structures are exempt from the Hydromodification control requirements unless such projects disturb one acre or more of land or create, add, or replace 10,000 square feet or more of impervious surface area
- (2) Interim Hydromodification Control Criteria
- (A) The Interim Hydromodification Control Criteria to protect natural drainage systems until permittees complete Hydromodification Control Plans (HCPs), described in subpart 5.E.III.3(a)(3) below, are as follows:

- (i) **Projects disturbing land area of less than fifty acres**  
Projects in this category shall implement hydromodification controls such that the 2-year 24-hour storm event post development hydrograph peak flow and volume will match within one percent of the 2-year 24-hour storm event pre-development peak flow and volume hydrograph.
  - (ii) **Projects disturbing land areas of fifty acres or greater**  
Projects in this category shall develop and implement a Hydromodification Analysis Study (HAS) that demonstrates that post development conditions are not expected to alter the duration of sediment transporting flows in receiving waters. The HAS must demonstrate that the selected hydromodification control BMPs will maintain an Erosion Potential value of 1 unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage systems.
    - (I) Alternatively, project proponents in this category may elect to develop, in partnership with permittees, an equivalent implementation method based on flow duration control in the form of nomographs relating planned impervious area and local soil type (infiltration rates) to determine hydromodification control BMP volume and land area requirements for the proposed project. The nomographs shall be derived from continuous simulation modeling using Ventura County specific rain gauge records and soil types, and calibrated using data from a local undeveloped watershed.
- (3) Final Criteria
- (A) The permittees shall develop and implement watershed specific HCPs no later than 180 days after the completion of the SMC HCS.
    - (i) The HCP shall identify:
      - (I) Stream classifications
      - (II) Flow rate and duration control methods
      - (III) Sub-watershed mitigation strategies
      - (IV) Stream restoration measures, which will maintain the stream and tributary Erosion Potential at 1 unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage system tributaries

- (B) The HCP shall contain the following elements:
  - (i) Hydromodification Management Standards
  - (ii) Natural Drainage Areas and Hydromodification Management Control Areas
  - (iii) New Development and Redevelopment Projects subject to the HCP
  - (iv) Description of authorized Hydromodification Management Control BMPs
  - (v) Hydromodification Management Control BMP Design Criteria.
  - (vi) For flow duration control methods, the range of flows to control for, and goodness of fit criteria
  - (vii) Allowable low critical flow,  $Q_c$ , which initiates sediment transport
  - (viii) Description of the approved Hydromodification Model.
  - (ix) Any alternate Hydromodification Management Model and Design
  - (x) Stream Restoration Measures Design Criteria
  - (xi) Monitoring and Effectiveness Assessment
  - (xii) Record Keeping

4. Water Quality Mitigation Criteria

- (a) Each permittee shall require all New Development and Redevelopment projects identified in subpart 5.E.II to implement post-construction storm water treatment BMPs and control measures to mitigate storm water pollution as follows:
  - (1) Projects disturbing land areas less than 50 acres
    - (A) Volumetric Treatment Control BMP
      - (i) The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area using a 48 to 72-hour draw down time, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998)*; or
      - (ii) The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions); or
      - (iii) The volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system;<sup>1</sup>  
and/ or
    - (B) Flow Based Treatment Control BMP
      - (i) The flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity; or

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



- (ii) The flow of runoff produced from a rain event equal to at least 2 times the 85th percentile hourly rainfall intensity as determined from local rainfall records; or
  - (iii) Eight percent of the 50-year storm design flow rate as determined from the method recommended in the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions)
- (2) Projects disturbing land area of 50 acres or greater
- (A) Eighty percent of the average runoff volume using an appropriate public domain continuous flow model (such as Storm Water Management Model (SWMM) or Hydrologic Engineering Center – Hydrologic Simulation Program – Fortran (HEC-HSPF), using the local rainfall record and relevant BMP Performance data.

#### IV. Implementation

##### 1. Maintenance Agreement and Transfer

- (a) Each permittee shall require that all new development and redevelopment projects subject to post-construction BMP requirements provide verification of maintenance provisions for Structural BMPs, Treatment Control BMPs, and Hydromodification Control BMPs including but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, CEQA mitigation requirements, conditional use permits, and/ or other legally binding maintenance agreements.
  - (1) Verification at a minimum shall include the developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either
    - (A) A signed statement from the public entity assuming responsibility for all Structural BMP, Treatment Control BMP, and Hydromodification Control BMP maintenance; or
    - (B) Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection at least once a year; or
    - (C) Written text in project covenants, conditions, and restrictions (CCRs) for residential properties assigning BMP maintenance responsibilities to the Home Owners Association (HOA); or
    - (D) Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of BMPs.

##### 2. Tracking, Inspection, and Enforcement of Post-Construction BMPs

- (a) Each permittee shall implement a tracking system, and an inspection and enforcement program for new development and redevelopment post-construction

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storm water BMPs as set fort in part 5.E no later than (365 days after Order adoption date).

(1) Implement a GIS or other electronic system for tracking projects that have been conditioned for construction/ post-construction BMPs. The electronic system, at a minimum, should contain the following information:

- (A) Municipal Project ID
- (B) State WDID No
- (C) Project Acreage
- (D) BMP Type and Description
- (E) BMP Location (coordinates)
- (F) Date of Acceptance
- (G) Date of O&M Certification
- (H) Maintenance Records
- (I) Inspection Date and Summary
- (J) Corrective Action
- (K) Date Certificate of Occupancy Issued
- (L) Replacement or Repair Date

(b) Inspect all development sites upon completion of construction and prior to the issuance of occupancy certificates to ensure proper installation of LID measures, structural BMPs, treatment control BMPs and Hydromodification control BMPs. The inspection may be combined with other inspections provided it is conducted by trained personnel.

(c) Verify proper maintenance and operation of post-construction BMPs previously approved for new development and redevelopment. The post construction BMP maintenance inspection program shall incorporate the following elements:

- (1) Post-construction BMP Maintenance Inspection checklist.
- (2) Inspection at least once every 2 years, beginning (365 days after Order adoption date), of post-construction BMPs to assess operation conditions with particular attention to:
  - (A) For Non-proprietary BMPs – hydraulic function, failure, invasive vegetation, vector risk, fugitive material, sediment clogging, and improper modifications.
  - (B) For Proprietary BMPs – solids removal, pump-out, blockage and drawdown drainage.
- (3) Criteria and procedures for post construction Treatment Control and Hydromodification Control BMP repair, replacement, or re-vegetation.

(d) Undertake enforcement based on the results of the inspection.

3. Permitting Authorities Post Construction BMP Implementation Coordination and Enforcement

(a) The Regional Water Board, State Water Board, or U.S. EPA may include the following actions for coordination of the permittees' program with the post-

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construction BMP provisions of the statewide construction activity storm water general permit or individual construction activity storm water permits.

- (1) Absence, Inadequate or Ineffective Post-Construction BMPs.
  - (A) If the permitting authorities' inspection does not readily identify the implementation of post-construction control BMPs at the site, progressive enforcement action will be initiated against the permittee and/ or project owner/ developer.
  - (B) If the permitting authorities' inspection identifies the implementation of post-construction BMPs, but they are determined to be inadequate or ineffective (e.g. undersized, or non-specific to pollutants of concern, or poorly maintained), progressive enforcement action will be initiated against the permittee and/ or project owner/ developer.
  - (C) Failure to implement or the implementation of inadequate or ineffective BMPs may be grounds for the permitting authorities to deny the construction activity storm water permit Notice of Termination (NOT) for the project.
  
4. Alternative Post Construction Storm Water Mitigation Programs
  - (a) A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements.
  - (b) Upon review and a determination by the Regional Water Board Executive Officer that the proposal is technically valid and appropriate, the Regional Water Board may consider for approval such a program if its implementation will:
    - (1) Result in equivalent or improved storm water quality
    - (2) Protect stream habitat
    - (3) Be fiscally sustainable and has secure funding
    - (4) Promote cooperative problem solving by diverse interests
    - (5) Be completed in four years or less including the construction and start-up of treatment facilities
  - (c) A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) for redevelopment projects within Redevelopment Project Areas, in consideration of balancing water quality protection with the needs for adequate housing, population growth, public transportation and management, land recycling, and urban revitalization.
  - (d) For the RPAMP to be considered, a technical panel of the Local Government Commission or an equivalent state or regional planning agency must have reviewed and approved the proposed RPAMP, prior to its submittal to the Regional Water Board, for conformity with the balancing of interests identified in (b), including water quality. The Regional Water Board Executive Officer may then consider the RPAMP for approval, or elect to submit it to the Regional Water Board for consideration.

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- (e) The RPAMP, on approval, may substitute in part or wholly for on-site post-construction and hydromodification requirements.
  - (f) Redevelopment Project Areas include the following:
    - (1) City Center areas
    - (2) Historic District areas
    - (3) Brownfield areas
    - (4) Infill Development areas
    - (5) Urban Transit Villages
    - (6) Any other redevelopment area so designated by the Regional Water Board
  - (g) Nothing in these provisions shall be construed as to delay the implementation of post-construction control requirements, as approved in this Order.
5. Mitigation Funding
- (a) A permittee or a coalition of permittees may create a management framework to fund regional or subregional solutions to storm water pollution, where any of the following situations occur:
    - (1) A waiver for impracticability is granted
    - (2) Funds become available
    - (3) Off-site mitigation is required because of loss of environmental habitat; or
    - (4) An approved watershed management plan, or an integrated water resources management plan, or a regional storm water mitigation plan, or a wetlands recovery plan exists that incorporates an equivalent or improved strategy for storm water pollution mitigation
6. Developer Technical Guidance and Information
- (a) The permittees shall update the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures to include, at a minimum, the following:
    - (1) Hydromodification Control criteria described in this Order, including numerical criteria.
    - (2) Expected BMP pollutant removal performance including effluent quality and removal efficiency ranges (ASCE/ U.S. EPA International BMP Database, CASQA New Development BMP Handbook, technical reports, local data on BMP performance, and the scientific literature).
    - (3) Selection of appropriate BMPs for storm water pollutants of concern.
    - (4) Data on Observed Local Effectiveness and performance of implemented BMPs.
    - (5) BMP Maintenance and Cost Considerations.
    - (6) Criteria to facilitate integrated water resources planning and management in the selection of BMPs, including water conservation, groundwater recharge, public recreation, multipurpose parks, open space preservation, and redevelopment retrofits.
    - (7) LID principles and specifications.

**7. Project Coordination**

(a) Each permittee shall facilitate a process for effective approval of post-construction storm water control measures. The process shall include:

- (1) Detailed BMP review including BMP sizing calculations, BMP pollutant removal effectiveness, and municipal approval; and
- (2) An established structure for communication and delineated authority between and among municipal departments that have jurisdiction over project review, plan approval, and project construction through memoranda of understanding (MOU) or an equivalent agreement.

**V. State Statute Conformity****1. California Environmental Quality Act (CEQA) Document Update**

(a) Each permittee shall incorporate into its CEQA process no later than (6 months from Order adoption date), those additional procedures necessary for considering potential storm water quality impacts and providing for appropriate mitigation when preparing and reviewing CEQA documents.

- (1) The procedures shall require consideration of the following:
  - (A) Potential impact of project construction on storm water runoff.
  - (B) Potential impact of project post-construction activity on storm water runoff.
  - (C) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.
  - (D) Potential for discharge of storm water to impair the beneficial uses of the receiving waters.
  - (E) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and waterbodies.
  - (F) Potential for significant changes in the flow velocity or volume of storm water runoff to cause harm to or impair the beneficial uses of natural drainage systems.
  - (G) Potential for significant increases in erosion at the project site or surrounding areas.

**2. General Plan Update**

(a) Each permittee shall amend, revise or update its General Plan to include watershed and storm water quality and quantity management considerations and policies when any of the following General Plan elements are updated or amended:

- (1) Land Use
- (2) Housing

- (3) Conservation
- (4) Open Space
- (b) Each permittee shall provide the Regional Water Board with the draft amendment or revision when a listed General Plan element or General Plan is noticed for comment in accordance with Cal. Govt. Code § 65350 *et seq.*

## F. Development Construction Program

- I. Soil disturbing activities during construction and demolition exacerbate sediment losses. Sediment is a primary pollutant impacting beneficial uses of watercourses. Sediments, and other construction activity pollutants must be properly controlled to reduce or eliminate adverse impacts.
  - 1. Grading Restrictions
    - (a) Each permittee shall implement a program to control storm water discharges from construction activity at all construction sites within its jurisdiction. During the wet season, the program shall ensure that the following requirements are effectively implemented at all the construction sites in the categories listed below:
      - (1) No grading shall occur between October 1 – April 15 (wet season) for construction projects in the following areas of high erosivity:
        - (A) On hillsides with slopes 20% or steeper prior to land disturbance (If hillside development is not defined by a zoning ordinance, then the prohibition will apply to steep or long continuous slopes, or areas with silty soils, fine sands, or soils lacking vegetative cover.).
        - (B) Directly discharging to a waterbody listed on the CWA § 303 (d) list for siltation or sediment; or
        - (C) Within or adjacent to an environmentally sensitive area (ESAs)
      - (b) If grading operations in these areas are not completed before the onset of the wet season beginning October 1st, grading shall be halted and effective erosion control measures shall be put in place to minimize erosion. Grading shall not resume until after April 15<sup>th</sup>. Depending on the project area, the developer shall implement the Erosion and Sediment control BMPs listed in the following Tables 6, 7, and 8.
      - (c) A Grading Prohibition Variance may be granted by the permittee where the project proponent can demonstrate that the proposed BMP measures can be reasonably expected to:
        - (1) Not cause or contribute to the degradation of water quality
        - (2) Ensure that Total Suspended Solids discharged is 100mg/L or less
        - (3) Ensure that Turbidity of the discharge is 50 NTU or less
        - (4) Not impair beneficial uses
        - (5) Includes a monitoring program to ensure effectiveness

2. Construction Sites Less than an Acre

- (a) Each permittee shall require the implementation of an effective combination of the following BMPs at all construction sites (see Table 6- BMPs at Construction sites less than 1 acre) to prevent erosion and sediment loss, and the discharge of construction wastes.<sup>1</sup> Where the Erosivity Factor (R) for the construction project is 50 or greater, erosion controls (erosion avoidance) are the preferred BMPs.<sup>2</sup>

Table 6 - BMPs at Construction sites less than 1 acre

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

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

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

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

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

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

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



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## 4. Construction Sites 5 acres and Greater

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

Table 8 - BMPs at Construction sites 5 acres or greater

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

## 5. Local Agency Requirements

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

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or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

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

(2) Certification Statement

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

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

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

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

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

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

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

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

6. Roadway Paving or Repaving Operations (For Private or Public Projects)
  - (a) Each permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.
    - (1) Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall unless required by emergency conditions
    - (2) Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat
    - (3) Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or watercourses
    - (4) Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt
    - (5) Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose properly
    - (6) Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed off properly
    - (7) Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly
    - (8) Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm
    - (9) Cover loads with tarp before haul-off to a storage site, and do not overload trucks
    - (10) Minimize airborne dust by using water spray during grinding
    - (11) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or watercourses
    - (12) Protect stockpiles with a cover or sediment barriers during a rain
7. Electronic Site Tracking System
  - (a) Each permittee shall use an electronic system to track grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by each permittee. To satisfy this requirement, the use of a database or GIS system is encouraged, but not required.
8. Inspections
  - (a) Each permittee shall inspect all construction sites for the implementation of storm water quality controls a minimum of once during the wet season. Concurrently, each permittee shall ensure that:
    - (1) The Local SWPPP is reviewed for compliance with local codes, ordinances, and permits.

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

9. State Conformity Requirements

- (a) Each permittee shall ensure that no grading permit, encroachment permit, demolition permit, building permit, electrical permit, or construction permit (or any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) is issued for any project requiring coverage under the CASGP or Small LUP General Permit<sup>1</sup> unless:
  - (1) Proof of coverage under a State NPDES permit is demonstrated (a copy of a letter from the State Water Board showing a valid Waste Discharger Identification Number (WDID) for that site).

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

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- (2) Demonstration or Certification that a SWPPP has been prepared by the project developer. A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP.
- (3) Proof of an updated NOI(s) and a copy of the modified SWPPP(s) at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

## 10. Interagency Coordination

(a) **Referral of Violations:**

A permittee may refer a violator of the municipal storm water ordinance and CWC § 13260 to the Regional Water Board provided that the permittee has made a good faith effort at progressive enforcement consistent with the preceding subpart F.8(c). At a minimum, the permittee's good faith effort shall be documented with:

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

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

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

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

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

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

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

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

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

**G. Public Agency Activities Program**

I. Each permittee shall implement a Public Agency Activities Program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:

- i. Public Construction Activities Management.
- ii. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ Municipal Operations.
- iii. Vehicle and Equipment Wash Areas
- iv. Landscape and Recreational Facilities Management
- v. Storm Drain Operation and Management
- vi. Streets and Roads Maintenance
- vii. Infrastructure Maintenance - Long-term
- viii. Public Industrial Activities Management
- ix. Emergency Procedures
- x. Employee Training

1. Public Construction Activities Management

- (a) Each permittee shall implement and comply with the Planning and Land Development Program requirements in part 5.E. of this Order at permittee owned or operated public construction projects for project types identified in part 5.E of this Order.
- (b) Each permittee shall implement and comply with the Planning and Land Development Program requirements in part 5.E. for streets, roads, and highways construction of 5,000 square feet or more of surface area
- (c) Each permittee shall implement and comply with the appropriate Development Construction Program requirements in part 5.F. of this Order at permittee owned or operated construction projects.
- (d) For public projects that disturb less than one acre of soil the permittees shall require the development and implementation of a Storm Water Pollution Control Plan. The SWPCP shall include BMPs as identified in Table 5.

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2. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ Long Term Maintenance Programs
- (a) Each permittee shall implement the following BMPs<sup>1</sup> at all permittee owned, leased facilities and job sites including but not limited to vehicle/ equipment maintenance facilities, material storage facilities, and corporation yards, and at any area that includes the activities as described in the following Tables. Additionally, for any activity or area described in the footnote below,<sup>2</sup> each permittee shall also implement the BMPs in the Caltrans Storm Water Quality Handbook Maintenance Staff Guide described as B-4 in Table 9 (BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards).

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

From the Caltrans Storm Water Quality Handbook Maintenance Staff Guide	Appendix B
Activity Specific BMPs	Page
<b>General BMPs</b>	B-4
<b>Flexible Pavement</b>	B-9
Asphalt Cement Crack and Joint Grinding/ Sealing	B-9
Asphalt Paving	B-10
Structural Pavement Failure (Digouts) Pavement Grinding and Paving	B-11
Emergency Pothole Repairs	B-13
Sealing Operations	B-14
<b>Rigid Pavement</b>	B-15
Portland Cement Crack and Joint Sealing	B-15
Mudjacking and Drilling	B-16
Concrete Slab and Spall Repair	B-17
<b>Slope/ Drains/ Vegetation</b>	B-19
Shoulder Grading	B-19
Nonlandscaped Chemical Vegetation Control	B-21
Nonlandscaped Mechanical Vegetation Control/ Mowing	B-23
Nonlandscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-24
Fence Repair	B-25
Drainage Ditch and Channel Maintenance	B-26
Drain and Culvert Maintenance	B-28
Curb and Sidewalk Repair	B-30
<b>Litter/ Debris/ Graffiti</b>	B-32
Sweeping Operations	B-32
Litter and Debris Removal	B-33
Emergency Response and Cleanup Practices	B-34

<sup>1</sup> These BMPs are identified in Appendix B of the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide, May 2003*, and its addenda.

<sup>2</sup> Scheduling and Planning; Spill Prevention and Control; Sanitary/ Septic Waste Management; Material Use; Safer Alternative Products; Vehicle/ Equipment Cleaning, Fueling, and Maintenance; Illicit Connections Detection, Reporting and Removal; Illegal Spill / Discharge Control and Maintenance Facility Housekeeping Practices.

<b>Activity Specific BMPs</b>	<b>Page</b>
Graffiti Removal	B-36
<b>Landscaping</b>	B-37
Chemical Vegetation Control	B-37
Manual Vegetation Control	B-39
Landscaped Mechanical Vegetation Control/ Mowing	B-40
Landscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-41
Irrigation Line Repairs	B-42
Irrigation (Watering), Potable and Nonpotable	B-43
<b>Environmental</b>	B-44
Storm Drain Stenciling	B-44
Roadside Slope Inspection	B-45
Roadside Stabilization	B-46
Storm Water Treatment Devices	B-48
Traction Sand Trap Devices	B-49
<b>Public Facilities</b>	B-50
Public Facilities	B-50
<b>Bridges</b>	B-52
Welding and Grinding	B-52
Sandblasting, Wet Blast with Sand Injection and Hydroblasting	B-54
Painting	B-56
Bridge Repairs	B-57
Draw Bridge Maintenance	B-58
<b>Other Structures</b>	B-59
Pump Station Cleaning	B-59
Tube and Tunnel Maintenance and Repair	B-61
Ferryboat Operations	B-62
Tow Truck Operations	B-63
Toll Booth Lane Scrubbing Operations	B-64
<b>Electrical</b>	B-65
Sawcutting for Loop Installation	B-65
<b>Traffic Guidance</b>	B-67
Thermoplastic Striping and Marking	B-67
Paint Striping and Marking	B-68
Raised/ Recessed Pavement Marker Application and Removal	B-70
Sign Repair and Maintenance	B-71
Median Barrier and Guard Rail Repair	B-73
Emergency Vehicle Energy Attenuation Repair	B-75
<b>Snow and Ice Control</b>	B-76
Snow Removal	B-76
Ice Control	B-77
<b>Storm Maintenance</b>	B-78
Minor Slides and Slipouts Cleanup/ Repair	B-78
<b>Management and Support</b>	B-80
Building and Grounds Maintenance	B-80
Storage of Hazardous Materials (Working Stock)	B-82



Activity Specific BMPs	Page
Material Storage Control (Hazardous Waste)	B-84
Outdoor Storage of Raw Materials	B-85
Vehicle and Equipment Fueling	B-86
Vehicle and Equipment Cleaning	B-87
Vehicle and Equipment Maintenance and Repair	B-88
Aboveground and Underground Tank Leak and Spill Control	B-90

3. Vehicle and Equipment Wash Areas

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

4. Landscape, Park, and Recreational Facilities Management

(a) Integrated Pest Management (IPM)

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

- (1) Pesticides are used only if, after monitoring indicates they are needed according to established guidelines.
- (2) Treatments are made with the goal of removing only the target organism.
- (3) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial, non-target organisms, and the environment.
- (4) Its use of pesticides, including Organo-phosphates and Pyrethroids do not threaten water quality.
- (5) Partner with other agencies and organizations to ensure that pesticide use within their jurisdiction does not threaten water quality.
- (6) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) in the permittees' overall operations and on municipal property.

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- (7) Policies, procedures, and ordinances shall include commitments and timelines to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:
    - (A) Quantify pesticide use by its staff and hired contractors.
    - (B) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.
    - (C) Demonstrate reductions in pesticide use.
  - (b) Each permittee shall implement the following requirements no later than (180 days after Order adoption date):
    - (1) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.
    - (2) Comply with the provisions and the monitoring requirements for application of aquatic pesticides to surface waters (WQ Order No. 2004-0008-DWQ).
    - (3) Ensure no application of pesticides or fertilizers are applied to an area immediately prior to, during, or immediately after a rain event, or when water is flowing off the area.
    - (4) Ensure that no banned or unregistered pesticides are stored or applied.
    - (5) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.
    - (6) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and
    - (7) Store pesticides and fertilizers indoors or under cover on paved surfaces or use secondary containment.
      - (A) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.
      - (B) Regularly inspect storage areas.
5. Storm Drain Operation and Management
- (a) Catch Basin Cleaning
    - (1) Each permittee shall designate catch basin inlets within its jurisdiction as one of the following:
      - Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/ or debris.
      - Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/ or debris.
      - Priority C: Catch basins that are designated as generating low volumes of trash and/ or debris.
    - (2) Each permittee shall clean catch basins according to the following schedule:
      - Priority A: A minimum of 3 times during the wet season and once during the dry season every year.

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Priority B: A minimum of once during the wet season and once during the dry season every year.

Priority C: A minimum of once per year.

- (3) In addition to the preceding schedule, permittees shall ensure that any catch basin that is at least 25% full of trash and/ or debris shall be cleaned out.
- (b) **Trash Management at Public Events**
  - (1) Each permittee shall require for any event in the public right of way or wherever it is foreseeable that substantial quantities of trash and litter may be generated, that the following measures are implemented:
    - (A) That conditions be placed on any special use permit issued for such event; and
    - (B) Require the proper management of trash and litter generated; and
    - (C) Arrange for temporary screens to be placed on catch basins; or
    - (D) Clean out catch basins, trash receptacles, and grounds in the event area within 24 hours subsequent to the event.
- (c) **Trash Receptacles**
  - (1) Each permittee shall install trash receptacles, or equivalent trash capturing devices at transit stops in commercial areas, near educational institutions, and in areas subject to high trash generation within its jurisdiction no later than (6 months after Order adoption date).
  - (2) Each permittee shall ensure that all trash receptacles are cleaned out and maintained as necessary to prevent trash overflow.
- (d) **Catch Basin Labels**
  - (1) Each permittee shall inspect the legibility of the catch basin stencil or label nearest each catch basin and inlet before the rainy season begins.
  - (2) Each permittee shall record and re-stencil or re-label within 15 days of inspection, catch basins with illegible stencils.
- (e) **Trash Excluders**
  - (1) Each permittee shall install trash excluders, or equivalent devices on or in catch basins to prevent the discharge of trash to the storm drain system no later than (365 days after Order adoption date) in commercial areas, industrial areas, and near educational institutions (i.e. areas subject to high trash generation) except in sites where the application of such BMP(s) alone will cause flooding. Lack of maintenance that causes flooding is not an acceptable exception to the requirement to install.
- (f) **Storm Drain Maintenance**
  - (1) Each permittee shall implement a program for Storm Drain Maintenance no later than (180 days after Order adoption date) that includes the following:
    - (A) Visual monitoring of permittee-owned open channels and other drainage structures for debris at least annually.
    - (B) Remove trash and debris from open channel storm drains a minimum of once per year before the storm season.

- (C) Eliminate the discharge of contaminants during MS4 maintenance and clean outs.
- (D) Quantify the amount of materials removed using standard measures and ensure the materials are properly disposed of.
- (g) Spill Response Plan
  - (1) Each permittee shall implement a response plan for spills to the MS4 within their respective jurisdiction. The response Plan shall clearly identify agencies responsible and telephone numbers and e-mail address for contact and shall contain at a minimum the following:
    - (A) Investigation of all complaints received within 24 hours of the incident report.
    - (B) Response within 2 hours to spills for containment upon notification.
    - (C) Notification to appropriate public health agencies and the Office of Emergency Services (OES).
- (h) Permittee Owned Treatment Control BMPs
  - (1) Each permittee shall implement an inspection and maintenance program for all permittee owned treatment control BMPs, including post-construction treatment control BMPs.
  - (2) Each permittee shall ensure proper operation of all treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.
  - (3) Any residual water within a treatment control BMP when being maintained shall be:
    - (A) Hauled away and legally disposed of;
    - (B) Discharged to the sanitary sewer system (with permits or authorization); or
    - (C) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 10 (Discharge Limitations for Dewatering Treatment BMPs) prior to discharge to the MS4.

Table 10 - Discharge Limitations for Dewatering Treatment BMPs<sup>1</sup>

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

<sup>1</sup> Technology based effluent limits.

6. Streets and Roads
  - (a) Maintenance
    - (1) Each permittee shall perform street sweeping of curbed streets in commercial areas and areas subject to high trash generation to control trash and debris at least two times per month.
  - (b) Road Construction and Reconstruction
    - (1) Each permittee shall implement the following BMPs for road reconstruction:
      - (A) Drain Inlet protection from sediments.
      - (B) Dewatering of below grade construction areas.
      - (C) Secondary containment for cold mix.
      - (D) Sheeting underneath cold mix (during storage) to prevent discharge of spray release, and
      - (E) Sheeting to cover cold mix (during storage).
      - (F) If street material is to be concrete, then provide a vehicle wash off area that is isolated from the MS4.
  - (c) Post Construction Controls
    - (1) Municipal activities involving pothole repairs and square cut patching will not trigger post construction controls.
7. Emergency Procedures
  - (a) Each permittee may conduct repairs of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order.
    - (1) Where the self-waiver has been invoked, the permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implement to reduce the threat to water quality, no later than 7 business days after the situation of emergency has passed.
8. Municipal Employee and Municipal Contractor Training
  - (a) Each permittee shall, no later than (6 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to:
    - (1) Promote a clear understanding of the potential for activities to pollute storm water.
    - (2) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.
  - (b) Each permittee shall, no later than (6 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:
    - (1) The potential for pesticide-related surface water toxicity.

- (2) Proper use, handling, and disposal of pesticides.
- (3) Least toxic methods of pest prevention and control, including IPM.
- (4) Reduction of pesticide use.
- (c) Each permittee shall, no later than (6 months after Order adoption date) and annually thereafter before June 30, train all of their employees and contractors who are responsible for illicit connections and illicit/ illegal discharges. Training programs shall address:
  - (1) Identification
  - (2) Investigation
  - (3) Termination
  - (4) Cleanup
  - (5) Reporting of Incidents
  - (6) Documentation of Incidents

#### **H. Illicit Connections and Illicit Discharges Elimination Program**

- I. Each permittee shall eliminate all Illicit Connections and Illicit Discharges (IC/ ID) to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.
  1. General
    - (a) Implementation - Each permittee shall implement an IC/ ID Program. The IC/ ID procedures shall be documented and made available for public review.
    - (b) Tracking - All permittees shall, no later than (2 years after Order adoption date), map at a scale and in a format specified by the Principal Permittee all permitted connections to their storm drain system. All permittees shall map at a scale and in a format specified by the Principal Permittee incidents of illicit connections and discharges on their baseline maps, and shall transmit this information to the Principal Permittee no later than (2 years after Order adoption date). Permittees shall use this information to identify priority areas for further investigation and elimination of IC/ ID.
  2. Public Reporting
    - (a) Permittees shall establish and maintain a phone hotline and internet site to receive all reports of IC/ ID complaints.
    - (b) Permittees shall document the location of the reported IC/ ID and the actions undertaken in response to all IC/ ID complaints.
  3. Illicit Connections
    - (a) Screening for Illicit Connections
      - (1) Each permittee shall submit to the Principal Permittee:

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- (A) A GIS layer showing the location and length of underground pipes 18 inches and greater in diameter, and channels within their jurisdiction in accordance with the following schedule:
- (i) All channeled portions of the storm drain system no later than (365 days after Order adoption date).
  - (ii) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, (no later than 3 years after Order adoption date).
  - (iii) All portions of the storm drain system consisting of storm drain pipes 18 inches in diameter or greater, (no later than 5 years after Order adoption date).
- (B) The status of suspected, confirmed, and terminated illicit connections.
- (2) Permittees shall conduct field screening of their storm drain systems in accordance with screening procedures described in the Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development and Technical Assessments (2004)<sup>1</sup>. Permittees shall conduct field screening for illicit connections in accordance with the following schedule:
- (A) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
  - (B) High priority areas identified during the mapping of illicit connections and discharges, and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
  - (C) All portions of storm drain systems 50 years or older in age and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
- (3) Each permittee shall maintain a list containing all connections under investigation for possible illicit connection and their status.
- (b) Response to Illicit Connections
- (1) Investigation -  
Each permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall complete an investigation within 21 days, to determine the following:
    - (A) Source of the connection.
    - (B) Nature and volume of discharge through the connection.
    - (C) Responsible party for the connection.
  - (2) Termination -  
Each permittee, upon confirmation of an illicit storm drain connection, shall ensure the following:

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

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- (A) Termination of the connection within 180 days of completion of the investigation, using formal enforcement authority to eliminate the illicit connection.
  - (3) Documentation -  
Each permittee shall keep records of all illicit connection investigations and the formal enforcement taken to eliminate all illicit connections.
4. Illicit Discharges
- (a) Investigation -  
Each permittee shall investigate an illicit/ illegal discharge during or immediately following containment and cleanup activities, and shall take formal enforcement action to eliminate the illegal discharge.
  - (b) Abatement and Cleanup -  
Each permittee shall respond, within 1 business day of discovery or a report of a suspected illicit/ illegal discharge, with actions to abate, contain, and clean up all illegal discharges, including hazardous substances.
  - (c) Documentation -  
Each permittee shall maintain records of all illicit/ illegal discharge discoveries, reports of suspected illicit/ illegal discharges, their response to the illicit/ illegal discharges and suspected illicit/ illegal discharges, and the formal enforcement taken to eliminate all illicit/ illegal discharges.

**I. REPORTING PROGRAM**

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



- (b) The requirements described under Part 2- Program Report.
5. Plans shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
  6. Study Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
  7. Progress Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).

#### **PART 6 - TOTAL MAXIMUM DAILY LOAD PROVISIONS**

- I Part 6 of this Order incorporates provisions to assure that Ventura County MS4 permittees comply with WLAs and other requirements of TMDLs covering impaired waters impacted by the permittees' discharges.
- II. Each permittee shall attain the storm water WLAs incorporated into this Order by implementing BMPs in accordance with the MS4 effluent quality workplan and source identification approved by the Executive Officer.
- III. TMDLs in effect and covered in this Order are the following:
  1. TMDL for Nitrogen Compounds for the Santa Clara River - (Effective date: March 23, 2004).
  2. TMDL for Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
  3. TMDL for Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
  4. TMDL for Bacteria in Malibu Creek and Lagoon - (Effective date: January 26, 2006).
  5. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon (Effective date: March 26, 2007)
  6. TMDL for Trash in Revolon Slough and Beardsley Wash
  7. TMDL for Trash in the Ventura River Estuary
- IV. TMDL Interim WLAs incorporated into this Order due to compliance dates which exceed the term of this Order are the following:
  1. Final Wet Weather Bacteria WLAs for Malibu Creek and Lagoon - (Compliance date: January 24, 2016).

2. Final Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation WLAs for Calleguas Creek, its Tributaries and Mugu Lagoon – (Compliance date: March 24, 2026).
3. Final Metals and Selenium WLAs for Calleguas Creek, its Tributaries and Mugu Lagoon (Compliance date: March 26, 2022)

V. TMDL WLAs and Other TMDL Provisions Incorporated into this Order are as follows:

1. TMDL for Nitrogen Compounds in the Santa Clara River

(a) Waste Load Allocations:

- (1) The Ventura County MS4 permittees discharging to the Santa Clara River (the cities of Fillmore and Santa Paula) (“Santa Clara MS4 permittees”) shall implement BMPs to achieve the following MS4 wasteload allocations applicable to River Reach 3:

Ammonia nitrogen 30-day average	2.0 mg/L
Ammonia nitrogen 1-hour average	4.2 mg/L
Nitrate + Nitrite nitrogen 30-day average	8.1 mg/L

(b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through receiving water monitoring conducted in accordance with the Santa Clara River Nitrogen TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

(c) Actions and Special Studies required of Santa Clara MS4 permittees:

- (1) Annual Progress Reports. Santa Clara River MS4 permittees, either independently or in conjunction with other stakeholders, shall submit an annual progress report with respect to achievement of the WLAs.

2. TMDL for Toxicity, Chlorpyrifos, and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon.

(a) Waste Load Allocations:

- (1) MS4 permittees discharging to Calleguas Creek, its tributaries and Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) (“Calleguas MS4 permittees”) shall implement BMPs to achieve the following MS4 WLAs:

Toxicity WLA	1.0 TUc
Chlorpyrifos WLA	0.014 ug/L
Diazinon WLA	0.10 ug/L

- (2) Pursuant to the TMDL, the final storm water WLAs for Toxicity, Chlorpyrifos and Diazinon, listed above, are receiving water concentrations

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measured in-stream at the base of each subwatershed within the Calleguas Creek watershed.

(b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality at the base of each of the Calleguas Creek subwatersheds, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (3) If as a result of compliance monitoring and subsequent investigations it is determined that a Calleguas MS4 permittee is responsible for exceedance of the in-stream Toxicity WLA, that permittee shall initiate the TRE/TIE process as outlined in U.S. EPA's "Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program" (2000) or the approved Toxicity TMDL monitoring plan, and take appropriate action to eliminate the identified source of the toxicity.

(c) Actions and Special Studies required of Calleguas MS4 permittees:

- (1) Special Study #1. Together with Calleguas POTW permittees, investigate the pesticides that will replace diazinon and chlorpyrifos in the urban environment, their potential impact on receiving waters and potential control measures. Special Study #1 is to be completed by March 24, 2008.
- (2) Special Study #2. Together with Calleguas Agricultural Dischargers, consider results of monitoring of sediment concentrations by source/land use type through the special study required in the Calleguas OC Pesticide, PCB and Siltation TMDL Implementation Plan. Complete within 6 months of completion of the OCs TMDL special study #1.
- (3) Pesticide Collection Program. Together with Calleguas POTW permittees, develop and implement a collection program for diazinon and chlorpyrifos and an educational program. Collection and education could occur through existing programs such as household hazardous waste collection events. The Pesticide Collection Program is to be implemented by March 24, 2009.
- (4) Special Study #3. Together with Calleguas Agricultural Dischargers, consider the findings of transport rates developed through the OC Pesticide, PCB and Siltation TMDL Implementation Plan. Complete within 6 months of completion of the OCs TMDL special study #1.

3. TMDL for Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs) and Siltation in the Calleguas Creek, its Tributaries and Mugu Lagoon.

(a) Waste Load Allocations:

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- (1) MS4 permittees discharging to Calleguas Creek, its tributaries or Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) (“Calleguas MS4 permittees”) shall implement BMPs to achieve the interim WLAs listed in Table 11.

Table 11. Interim Sediment Concentration WLAs (ng/g)

Constituent	Subwatershed		Calleguas Creek		Revolon Slough	Arroyo Las Posas
	Mugu Lagoon	Arroyo Simi	Conejo Creek			
Chlrodane	25	17	48	3.3	3.3	3.4
4,4-DDD	69	66	400	290	140	5.3
4,4-DDE	300	470	1600	950	170	20
4,4-DDT	39	110	690	670	25	2
Dieldrin	19	3	5.7	1.1	1.1	3
PCBs	180	3800	7600	25700	25700	3800
Toxaphene	22900	260	790	230	230	260

- (2) Pursuant to the TMDL, the interim storm water WLAs for OC Pesticides, PCBs and Siltation, listed above, are annual average, sediment-based concentrations measured in surface waters at the base of each subwatershed within the Calleguas Creek watershed.
- (b) Compliance Monitoring:
  - (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality at the base of each of the Calleguas Creek subwatersheds, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
  - (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (c) Actions and Special Studies required of Calleguas MS4 permittees:
  - (1) Pesticide Collection Program. Together with Calleguas POTW permittees, implement a collection program and source control measures pursuant to a work plan approved by the Executive Officer. The Pesticide Collection Program is to be implemented by March 24, 2011.
  - (2) Special Study #1. Together with Calleguas POTW permittees, Calleguas Agricultural Dischargers, and the Point Mugu Naval Base, submit a work plan to quantify sedimentation in the Calleguas Creek Watershed, evaluate management methods to control siltation and contaminated sediment transport to Calleguas Creek, identify appropriate BMPs to reduce sediment loadings and evaluate the effect of sediment on habitat preservation in Mugu Lagoon for approval by the Executive Officer. This special study is also to

evaluate the concentration of OC pesticides and PCBs in sediments from various sources/land use types. Special Study #1 is to be completed by March 24, 2014.

- (3) Special Study #2. Together with Calleguas Agricultural Dischargers, identify areas of high OC concentrations and evaluate the effects of watershed protection and land use practices on water quality. Such practices include but are not limited to management of sediment reduction practices and structures, streambank stabilization, and other projects related to stormwater conveyance and flood control improvements in the Calleguas Creek watershed. Special Study #2 is to be completed based on the schedule provided in the workplan, submitted in March, 2007
  - (4) Special Study #3 – Together with Calleguas POTW permittees, Calleguas Agricultural Dischargers, and the Point Mugu Naval Base, evaluate natural attenuation rates and evaluate methods to accelerate organochlorine pesticide and polychlorinated biphenyl attenuation and examine the attainability of wasteload and load allocations in the Calleguas Creek Watershed. Special Study #3 is to be completed by March 24, 2016.
4. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon.
- (a) Waste Load Allocations:
    - (1) MS4 permittees discharging to Calleguas Creek, its tributaries or Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) (“Calleguas MS4 permittees”) shall implement BMPs to achieve the interim WLAs listed in Table 12 and Table 13.

Table 12. Interim WLAs for Copper, Nickel and Selenium (ug/L)

Constituent	Calleguas and Conejo Creek (a)			Revolon Slough		
	Dry Daily Maximum (ug/L)	Dry Monthly Average (ug/L)	Wet Daily Maximum (ug/L)	Dry Daily Maximum (ug/L)	Dry Monthly Average (ug/L)	Wet Daily Maximum (ug/L)
Copper	23	19	204	23	19	204
Nickel	15	13	(a)	15	13	(a)
Selenium(b)	(b)	(b)	(b)	14 (c)	13(c)	(a)

- (A) The current loads do not exceed the TMDL under wet conditions, interim limits are not required
- (B) Selenium allocations have not been developed for this reach as it is not on the 303(d) list
- (C) Attainment of interim limits will be evaluated in consideration of background loading data, if available

- (2) Pursuant to the TMDL, the interim storm water WLAs for copper, nickel, and selenium are receiving water concentrations measured in-stream at the base of Calleguas Creek and Revolon Slough and in Mugu Lagoon.

Table 13. Interim WLAs for Mercury in Sediment (lbs/yr)

Annual Cumulative Flow (million gallons per year)	Calleguas Creek (lbs/yr)	Revolon Slough (lbs/yr)
0-15,000	3.3	1.7
15,000-25,000	10.5	4
Above 25,000	64.6	10.2

- (3) Pursuant to the TMDL, the interim storm water WLAs for mercury are suspended sediment loads measured in-stream at the base of Calleguas Creek and Revolon Slough and in Mugu Lagoon.
- (4) Determination of the applicable interim WLA will be determined by calculating the total annual flow (October 1-September 30) in the Calleguas Creek watershed as measured by the flow gage at CSUCI.
- (b) Compliance Monitoring:
- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality and total suspended solids (TSS) at the base of Calleguas Creek, Revolon Slough and in Mugu Lagoon, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (c) Actions and Special Studies required of Calleguas MS4 permittees:
- (1) Conduct a source control study, develop and submit an Urban Water Quality Management Program (UWQMP) for copper, mercury, nickel, and selenium. Complete by March 26, 2009.
- (2) Implement the UWQMP within one year of approval by Executive Officer.
- (3) In cooperation with agricultural dischargers, evaluate the results of the OCs TMDL special study on sediment transport rates for applicability to the metals and selenium TMDL. Complete within 6 months of completion of the OCs TMDL special study #1.
- (4) In cooperation with agricultural dischargers, include monitoring for copper, mercury, nickel and selenium in the OC pesticides TMDL special study – Monitoring of Sediment by Source and Land Use Type. The special study is to be completed by March 26, 2014.
- (5) Evaluate the results of the OC Pesticides TMDL Special Study – Effects of BMPs on Sediment and Siltation, to determine the impacts on metals and

selenium. Complete within 6 months of completion of the OC Pesticides special study #1.

- (6) Evaluate the effectiveness of BMPs implemented under the UWQMP in controlling metals and selenium discharges. This is to be completed by March 26, 2013.
- (7) Re-evaluate urban waste load allocations for copper, mercury, nickel and selenium based on the evaluation of BMP effectiveness. By March 26, 2012, urban dischargers will have a required 25% reduction in the difference between the loadings at the time of the TMDL preparation and the final WLAs effective in 2022.
- (8) In cooperation with POTW permittees and agricultural dischargers, conduct a study to identify selenium contaminated groundwater sources. Special Study is to be completed within one year of the approval of the workplan.
- (9) In cooperation with agricultural dischargers, conduct a study to investigate metals "hot spots" and natural soils concentrations. This special study is to be completed within 2 years of the approval of the workplan.

5. TMDL for Bacteria in Malibu Creek and Lagoon

(a) Waste Load Allocations:

- (1) The Ventura County MS4 permittees discharging to Malibu Creek or its tributaries (Ventura County Watershed Protection District, County of Ventura and the cities of Thousand Oaks and Simi Valley) ("Malibu MS4 permittees") shall achieve the WLAs identified in Table 5. These WLAs are expressed as the number of daily or weekly sample days that may exceed the single sample limits or 30-day geometric mean bacteria targets identified in Table 6.

Table 14 – Wasteload Allocations expressed as the Number of Exceedence Days for Geometric Mean \ Single Sample - Dry Weather

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

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Table 15 - Bacteria Targets

Parameters Unit

Fresh Water Targets

Geometric Mean Single Sample

E. coli mg 126/ 100 235/ 100

Fecal coliform mg 200/ 100 400/ 100

(2) The wasteload allocations are to be achieved no later than January 26, 2012.

## (b) Compliance Monitoring:

(1) Achievement of the WLAs is to be determined through receiving water monitoring conducted in accordance with the Santa Monica Bacteria TMDL Compliance Monitoring Program approved by the Executive Officer.

(2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

## (c) Actions and Special Studies required of Malibu MS4 permittees:

(1) If TMDL compliance monitoring indicates that the Malibu MS4 permittees are causing or contributing to an exceedance of the WLAs in the receiving waters, the permittees shall conduct a source identification study and implement additional controls sufficient to achieve the WLAs in the receiving waters.

## 6. TMDL for Trash in Revolon Slough and Beardsley Wash

## (a) Wasteload Allocations

(1) WLAs are zero trash.

## (b) Compliance Monitoring

(1) Responsible jurisdictions will develop a TMRP for Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in Revolon Slough and Beardsley Wash and/or within responsible jurisdiction land areas. The TMRP shall include a plan to establish the trash Baseline WLAs.

(2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

## (c) Actions and Special Studies required of Revolon Slough and Beardsley Wash MS4 permittees

(1) Submit results of Trash Monitoring and Reporting Plan, recommend trash baseline WLA, and propose Full Capture System prioritization.



7. TMDL for Trash in the Ventura River Estuary
- (a) Wasteload Allocations
    - (1) WLAs are zero trash.
  - (b) Compliance Monitoring
    - (1) Responsible jurisdictions will develop a TMRP for Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in the Ventura River Estuary and/or within responsible jurisdiction land areas. The TMRP shall include a plan to establish the trash Baseline WLAs.
    - (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
  - (c) Actions and Special Studies required of Revolon Slough and Beardsley Wash MS4 permittees
    - (1) Submit results of Trash Monitoring and Reporting Plan, recommend trash baseline WLA, and propose Full Capture System prioritization.

## PART 7 - DEFINITIONS

The following are definitions for terms in this Order:

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

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

**Antidegradation Policies** - means policies which protect surface and ground waters from degradation, and federal policies, which protect high quality surface waters. In particular, this policy protects waterbodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water (*Statement of Policy with Respect to Maintaining High Quality Water in California*, State Board Resolution No. 68-16; 40 CRF 131.12).

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

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

**Areas Subject to Storm Water Mitigation Requirements** - means areas designated as an Area of Special Biological Significance (ASBS) by the State Board, an area designated as a significant natural resource by the California Resources Agency, or an area identified by the discharger as environmentally sensitive for water quality purposes, based on the Regional Water Board Basin Plan and CWA § 303(d) Impaired Water-bodies List for the County of Ventura.

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

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

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

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

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

**Bacteria Total Maximum Daily Load (TMDL) Wet Weather** - defined in the Bacteria TMDLs as a day with 0.1 inch or more of rain and 3 days following the rain event.

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

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

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

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

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

**Chronic Toxicity** - means a measurement of a sublethal effect (e.g., reduced growth, reproduction) to experimental test organisms exposed to an effluent or ambient waters compared to that of the control organisms.

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

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

**Construction** - means any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in a land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility. As used above "Routine Maintenance" only applies to road shoulder work, dirt or gravel road regarding, or ditch clean-outs. A CWA § 401 certification may be required for ditch cleanouts. For municipal operators, repaving of asphalt roads is routine maintenance except where the underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation. Where clearing, grading, or excavating of underlying soil takes place, permit coverage is required if more than one acre is disturbed or part of a larger plan or if the activity is part of more activities part of a municipality's Capital Improvement Project Plan.

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

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

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

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

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

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

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

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

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

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

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

**Effect Concentration (EC)** is a point estimate of the toxicant concentration that would cause an observable adverse effect (e.g., death, immobilization, or serious incapacitation) in a given percent of the test organisms, calculated from a continuous model (e.g., Probit Model). EC<sub>25</sub> is a point estimate of the toxicant concentration that would cause an observable adverse effect in 25 percent of the test organisms.

**Effective Impervious Surface** - means that portion of the surface area that is hydrologically connected via sheet flow over a hardened conveyance or impervious surface without any intervening medium to mitigate flow volume.

**Effluent limitation** - means any restriction imposed by the Permitting Authority (PA) on quantities, discharge rates, concentrations, and/ or mass loadings of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

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

**End-of-Pipe** - means the end of the major outfall as defined as defined in 40 CFR122.26 (b)(5) and 40 CFR122.26 (b)(6).

**Endpoint** - means a biological measurement used to quantify the results obtained from analytical methods such as whole effluent toxicity testing [e.g., lethal concentration (LC<sub>50</sub>); inhibition concentration (IC<sub>25</sub>); and no observed effect concentration (NOEC)]. Such endpoints are quantitative measurements of the responses of test organisms (e.g., survival, growth, mobility, reproduction, and weight gain or loss) in response to exposure to a serial dilution of effluent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Inhibition Concentration (IC)** - means a point estimate of the toxicant concentration that would cause a given percent reduction in a non-lethal biological measurement (e.g., reproduction or growth), calculated from a continuous model (i.e., Interpolation Method). IC25 is a point estimate of the toxic concentration that would cause a 25-percent reduction in a non-lethal biological measurement.

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

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

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

**Large Municipal Separate Storm Sewer System (MS4)** - means all MS4s that serve a population greater than 250,000 (1990 Census) as defined in 40 CFR122.26 (b)(4). The Regional Water Board designated Ventura County as a large MS4 in 1990, based on: (i) the U.S. Census Bureau 1990 population count of 669,016 thousand, and (ii) the interconnectivity of the MS4s in the incorporated and unincorporated areas within the County.

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



**Low Impact Development (LID)** – means a design strategy with the goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques to create a functionally equivalent hydrologic site design. Hydrologic functions of storage, infiltration and ground water recharge, as well as the volume and frequency of discharges are maintained through the use of integrated and distributed micro-scale storm water retention and detention areas, reduction of impervious surfaces, and the lengthening of runoff flow paths and flow time. Other strategies include the preservation/protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable (mature) trees, flood plains, woodlands, and highly permeable soils.

**Major Municipal Separate Storm Sewer Outfall (“or major outfall”)** - means a major municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more), as defined in 40 CFR122.26 (b)(5).

**Major Outfall** - means a major municipal separate storm sewer outfall, as defined in 40 CFR122.26 (b)(6).

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

**Method Detection Limit (MDL)** - means the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR136, Appendix "G" of this Order.

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

**Minimum Significant Difference (MSD)** - means a measure of test sensitivity that establishes the minimum difference required between a control and a test treatment in order for that difference to be considered statistically significant.

**Municipal Separate Storm Sewer System (MS4)** - means a conveyance or system of conveyances (including roads w/ drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains), as defined in 40 CFR122.26(b)(8):

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Federal Clean Water Act (CWA) that discharges into waters of the United States
2. Designed or used for collecting or conveying storm water
3. Which is not a combined sewer
4. Which is not part of a Publicly Owned Treatment Works (POTW), as defined in 40 CFR122.2

**NAICS** - means North American Industry Classification System.

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

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

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

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

**No Observed Effect Concentration (NOEC)** - means the highest tested concentration of an effluent or toxicant that causes no observable adverse effect on the test organisms (i.e., the highest concentration of toxicant at which the values for the observed responses are not statistically different from the controls).

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

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

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

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

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

(B) **Nursery (Commercial Facilities - Merchant Wholesalers, Nondurable Goods, and Retail Trade)** - means industries Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers under NAICS Code 424930; and Nursery, Garden Center, and Farm Supply Stores under NAICS Code 444220. This Order covers these types of operations. The industry in NAICS Code 424930 comprises establishments primarily engaged in the merchant wholesale distribution of flowers, florists' supplies, and/ or nursery stock (except plant seeds and plant bulbs). The industry in NAICS Code 444220 comprises establishments primarily engaged in retailing nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, floriculture products and sod, which are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves.

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

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

**Percent Minimum Significant Difference (PMSD)** - means the minimum significant difference divided by the control mean, expressed as a percent (see minimum significant difference).

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

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

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

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

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

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

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

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

**Priority Pollutants** - means those constituents referred to in 40 CFR401.15 and listed in the U.S. EPA NPDES Application Form 2C, pp. V-3 through V-9.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Storm Water** - means storm water runoff, snow melt runoff, and surface runoff and drainage, as defined in 40 CFR122.26(b)(13).

**Storm Water Discharge Associated with Industrial Activity** - means industrial discharge, as defined in 40 CFR122.26(b)(14).

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

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

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

**t-Test** (formally Student's t-test) - means a statistical analysis comparing two sets of replicate observations, in the case of WET, only two test concentrations (e.g., a control and 100% effluent). The purpose of this test is to determine if the means of the two sets of observations are different [e.g., if the 100% effluent concentration differs from the control (i.e., the test pass or fails)].

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

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

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

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

**Toxicity Test** - means a procedure using living organisms to determine whether a chemical or an effluent is toxic. A toxicity test measures the degree of the effect of a specific chemical or effluent on exposed test organisms.

**Toxic Unit (TU)** - means a measure of toxicity in an effluent as determined by the acute toxicity units (TU<sub>a</sub>) or chronic toxicity units (TU<sub>c</sub>) measured. The larger the TU, the greater the toxicity.

**Toxic Unit - Chronic (TU<sub>c</sub>)** - means 100 times the reciprocal of the effluent concentration that causes no observable effect on the test organisms in a chronic toxicity test (TU<sub>c</sub> = 100/NOEC or 100/EC25) (see NOEC).

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

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



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

**U.S. EPA Phase I Facilities** - means facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR122.26(c).

These categories include:

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

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

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

**Waste Load Allocations (WLAs)** - means a portion of a receiving water's Total Maximum Daily Pollutant Load (TMDL) that is allocated to one of its existing or future point sources of pollution (Reference: 40 CFR130.2(h)).

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

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

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

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

- a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b. All interstate waters, including interstate "wetlands";
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  1. Which are or could be used by interstate or foreign travelers for recreational or other purposes
  2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  3. Which are used or could be used for industrial purposes by industries in interstate commerce
- d. All impoundment's of waters otherwise defined as waters of the United States under this definition;
- e. Tributaries of waters identified in the preceding paragraph (a) through (d) of this definition;
- f. The territorial sea; and
- g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in the preceding paragraph (a) through (f) of this definition.  
(Reference: 33 CFR328)

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

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

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

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

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

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

## **PART 8 - STANDARD PROVISIONS**

### **A. General Requirements**

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

### **B. Regional Water Board Review**

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

### **C. Public Review**

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

**D. Duty to Comply [40 CFR122.41(a)]**

1. Each permittee must comply with all of the terms, requirements, and conditions of this Order. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance, or a combination thereof [40 CFR122.41(a), CAL. WATER CODE § 13261, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350].
2. A copy of these waste discharge specifications shall be maintained by each permittee so as to be available during normal business hours to permittee employees and members of the public.
3. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

**E. Duty to Mitigate [40 CFR122.41 (d)]**

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

**F. Inspection and Entry; Investigations; Responsibilities [40 CFR122.41(i), Cal. Water Code § 13225 and § 13267]**

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

**G. Proper Operation and Maintenance [40 CFR122.41 (e), Cal. Water Code § 13263(f)]**

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

**H. Signatory Requirements [40 CFR122.41(k) & 122.22]**

1. Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Water Board shall be signed by the Director of Public Works, City Engineer, or authorized designee and certified as set forth in 40 CFR122.22.

**I. Reopener and Modification [40 CFR122.41(f) & 122.62]**

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Water Board, in accordance with the procedural requirements of the CAL. WATER CODE and CCR Title 23 for the issuance of waste discharge requirements, 40 CFR122.62, and upon prior notice and hearing, to:
  - (a) Address changed conditions identified in the required reports or other sources deemed significant by the Regional Water Board;
  - (b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan, including TMDLs;
  - (c) Comply with any applicable requirements, guidelines, and/ or regulations issued or approved pursuant to CWA § 402(p); and/ or,
  - (d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.
2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
  - (a) Violation of any term or condition contained in this Order;
  - (b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts;  
or,
  - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

3. The filing of a request by the Principal Permittee or permittees for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
4. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR122.63, if processed as a minor modification. Minor modifications may only:
  - (a) Correct typographical errors; or
  - (b) Require more frequent monitoring or reporting by the permittee.

**J. Severability**

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

**K. Duty to Provide Information [40 CFR122.41(h)]**

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

**L. Twenty-Four Hour Reporting [40 CFR122.41(i)(6)]<sup>1</sup>**

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

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

**M. Bypass [40 CFR122.41(m)]<sup>1</sup>**

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

**N. Upset [40 CFR122.41(n)]<sup>2</sup>**

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

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

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

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3. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.
4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

**O. Property Rights [40 CFR122.41(g)]**

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

**P. Enforcement**

1. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The CWA provides the following:
  - (a) **Criminal Penalties for:**
    - (1) **Negligent Violations [CWA 309 (c)(1)(B)]:**  
The CWA provides that any person who negligently violates permit conditions implementing CWA § 301, 302, 306, 307, 308, 318, or 405 is subject to a fine of not less than \$2,500 nor more than \$25,000 per day for each violation, or by imprisonment for not more than 1 year, or both.
    - (2) **Knowing Violations [CWA 309 (c)(2)(B)]:**  
The CWA provides that any person who knowingly violates permit conditions implementing CWA § 301, 302, 306, 307, 308, 318, or 405 is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.
    - (3) **Knowing Endangerment [CWA 309 (c)(3)(A)]:**  
The CWA provides that any person who knowingly violates permit conditions implementing CWA § 301, 302, 307, 308, 318, or 405 and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.
    - (4) **False Statement [CWA 309 (c)(4)]:**  
The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by



imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both.

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

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

2. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The Cal Water Code § 13885 provides the following:

(a) Any person who violates any of the following shall be liable civilly in accordance with this section:

- (1) Section 13375 or 13376.
- (2) Any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.
- (3) Any requirements established pursuant to Section 13383.
- (4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.
- (5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.
- (6) Any requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

**Q. Need to Halt or Reduce Activity not a Defense [40 CFR122.41(c)]**

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

**R. Rescission of Board Order**

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

**S. Board Order Expiration Date**

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

**T. MS4 Annual Reporting Program [40 CFR122.42(c)]**

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

The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under 40 CFR122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

    - (1) The status of implementing the components of the storm water management program that are established as permit conditions;
    - (2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with 40 CFR122.26(d)(2)(iii) of this part;
    - (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR122.26(d)(2)(iv) and (d)(2)(v) of this part;
    - (4) A summary of data, including monitoring data that is accumulated throughout the reporting year;
    - (5) Annual expenditures and budget for year following each annual report;
    - (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
    - (7) Identification of water quality improvements or degradation.

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

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Tracy J. Egoscue  
Executive Officer

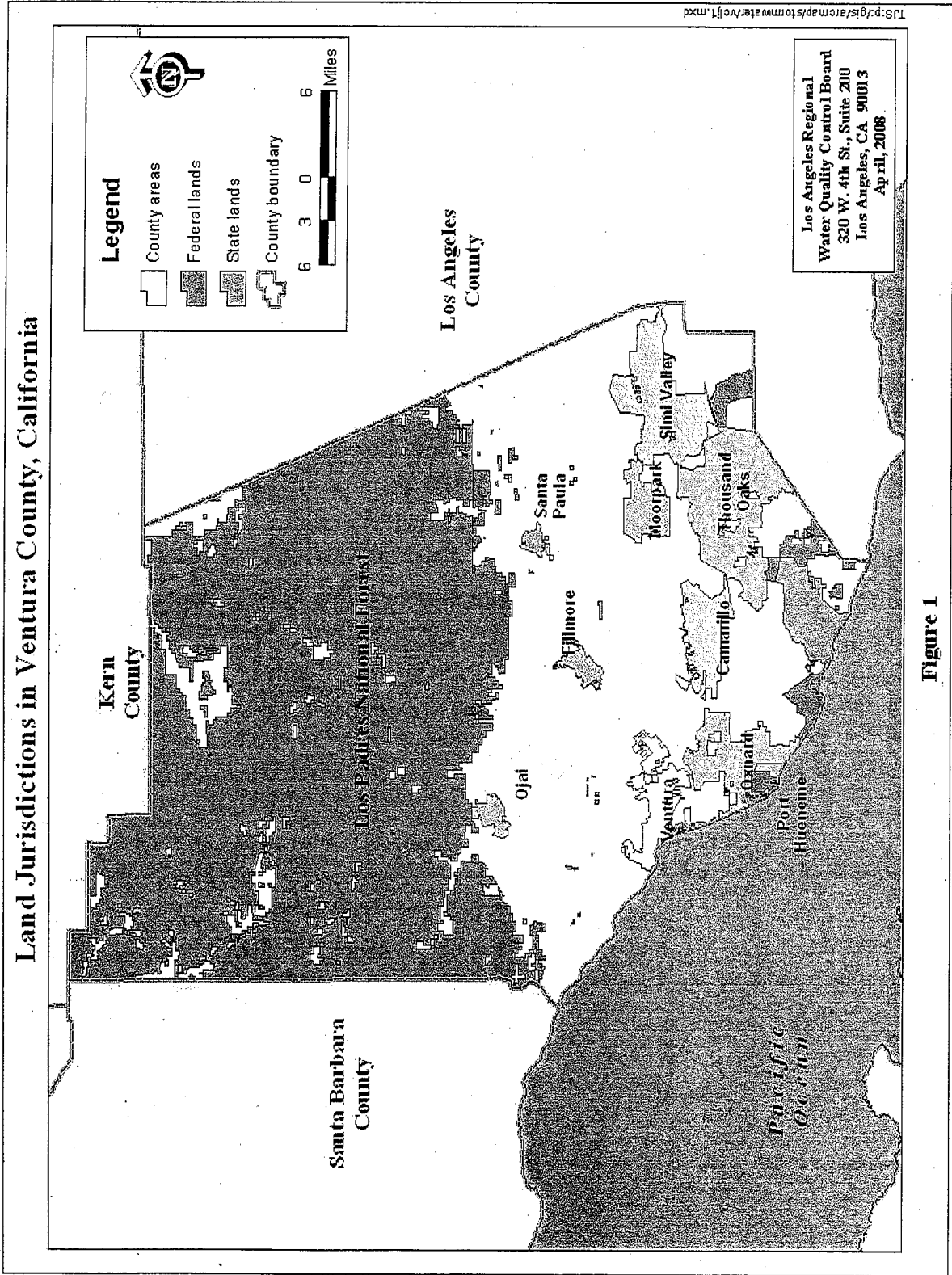


Figure 1

**ATTACHMENT A**

Watershed Management Areas

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

**ATTACHMENT A**

Watershed Management Areas

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

draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

**ATTACHMENT A**

Watershed Management Areas

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

draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

**ATTACHMENT A**

Watershed Management Areas

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

**ATTACHMENT B**Calleguas Creek Watershed Pollutants of Concern (2003 through 2007)<sup>1</sup>

Mass Emission (ME-CC), Receiving Water (W-3 &amp; W-4), and Land Use (A-1) Sites

<b>Wet Weather</b>
<b>Bacteriological</b>
E. Coli
Fecal Coliform
<b>Conventional</b>
Residual Chlorine
TDS
<b>Metal</b>
Aluminum - Total                      Chromium - Total
Barium - Total                          Cooper - Dissolved
Beryllium - Total                      Mercury - Total
Cadmium - Total                        Nickel - Total
<b>Nutrient</b>
Nitrate as Nitrogen
<b>Organic</b>
Benzo(a)anthracene
Benzo(a)pyrene
Benzo(b)fluoranthene
Benzo(k)fluoranthene
Bis(2-ethylhexyl)phthalate
Chrysene
Dibenz(a,h)anthracene
Hexachlorobenzene
Indeno(1,2,3-cd)pyrene
Pentachlorophenol
<b>Pesticide</b>
4,4'-DDD
4,4'-DDE

<sup>1</sup> Mass Emission, Receiving Water, and Land Use wet weather monitoring data was compared to Basin Plan Objectives and CTR-Acute Objectives, to obtain exceedences (Pollutants of Concern). Monitoring data is from the Ventura Countywide NPDES Stormwater Monitoring Program Water Quality Monitoring Reports (2003/04 through 2006/07), data for 2000/01 through 2002/03 was either presented with exceedences not analyzed or by percent exceedence, so data could not be compared to 2003/04 through 2006/07 exceedence data. See definitions for Pollutants of Concern



**ATTACHMENT B**Santa Clara River Watershed Pollutants of Concern (2003 through 2007)<sup>1</sup>

## Mass Emission (ME-SCR) and Land Use (I-2 &amp; R-1) Sites

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

<sup>1</sup> Mass Emission, and Land Use wet weather monitoring data was compared to Basin Plan Objectives and CTR-Acute Objectives, to obtain exceedences (Pollutants of Concern). Monitoring data is from the Ventura Countywide NPDES Stormwater Monitoring Program Water Quality Monitoring Reports (2003/04 through 2006/07), data for 2000/01 through 2002/03 was either presented with exceedences not analyzed or by percent exceedence, so data could not be compared to 2003/04 through 2006/07 exceedence data. See definitions for Pollutants of Concern.

**ATTACHMENT B**Ventura River Watershed Pollutants of Concern (2003 through 2007)<sup>1</sup>

## Mass Emission (ME- VR &amp; ME- VR2) Sites

<b>Wet Weather</b>
<b>Anion</b>
Chloride
<b>Bacteriological</b>
E. Coli
Fecal Coliform
<b>Conventional</b>
TDS
<b>Metal</b>
Aluminum - Total
Cadmium - Total
Chromium - Total
Mercury - Total
Nickel - Total
Zinc - Dissolved
<b>Organic</b>
Benzo(a)pyrene
Benzo(b)fluoranthene
Bis(2-ethylhexyl)phthalate
Chrysene
Hexachlorobenzene
<b>Pesticide</b>
4,4'-DDD
4,4'-DDE

<sup>1</sup> Mass Emission wet weather monitoring data was compared to Basin Plan Objectives and CTR-Acute Objectives, to obtain exceedences (Pollutants of Concern). Monitoring data is from the Ventura Countywide NPDES Stormwater Monitoring Program Water Quality Monitoring Reports (2003/04 through 2006/07). Monitoring data for 2000/01 through 2002/03 was either presented with exceedences not analyzed or by percent exceedence, so data could not be compared to 2003/04 through 2006/07 exceedence data. See definitions for Pollutants of Concern.

**ATTACHMENT C**  
Municipal Action Levels

**Table 1 - Conventional Pollutants**

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

**Table 2 - Metals**

Pollutants	Cd- total $\mu\text{g/L}$	Cr-total $\mu\text{g/L}$	Cu- total $\mu\text{g/L}$	Pb- total $\mu\text{g/L}$	Ni- total $\mu\text{g/L}$	Zn- total $\mu\text{g/L}$	Hg- total $\mu\text{g/L}$
Municipal Action Level	7.34	20.4	70.7	62.2	19.2	756	1.01

**ATTACHMENT C**  
Treatment BMP Performance Standards

**Table 3 - Conventional Pollutants**

Pollutant	Suspended Solids mg/L	Total P mg/L	Total N mg/L	Total Nitrate-Nitrogen mg/L	TKN mg/L	COD mg/L
Concentration Effluent	10.85-25.81	0.11-0.21	0.74-1.62	0.20-1.26	1.05-1.55	35.01

**Table 4 - Metals**

Pollutant	Total Cd $\mu\text{g/L}$	Total Cu $\mu\text{g/L}$	Total Cr $\mu\text{g/L}$	Total Pb $\mu\text{g/L}$	Total Zn $\mu\text{g/L}$
Concentration Effluent	0.24-0.61	3.35-7.49	1.48-4.84	2.62-6.28	21.58-37.76

The treatment control BMP performance standards were developed from the median effluent water quality values of the 3 highest performing BMPs, per pollutant, in the storm water BMP database (<http://www.bmpdatabase.org/>, last visited August 15, 2007.)

See subpart 4.A.3 (Storm Water Quality Management Program Implementation- General Requirements).

**ATTACHMENT D**  
Critical Sources Categories<sup>1</sup>

Municipal Landfills (SIC 4953)

Hazardous Waste Treatment, Disposal and Recovery Facilities<sup>1</sup>

Facilities Subject to SARA Title III (also known as EPCRA)<sup>2</sup>

Restaurants<sup>3</sup>

Wholesale trade (scrap, auto dismantling) (SIC 50)

Automotive service facilities<sup>2</sup>

Fabricated metal products (SIC 34)

Motor freight (SIC 42)

Chemical/allied products (SIC 28)

Automotive Dealers/Gas Stations (SIC 55)

Primary Metals Products (SIC 33)

Nursery<sup>3</sup> (NAICS 424930 and 444220)

Electric/Gas/Sanitary (SIC 49)

Air Transportation (SIC 45)

Water Transportation (SIC 44)

Rubbers/Miscellaneous Plastics (SIC 30)

Local/Suburban Transit (SIC 41)

Railroad Transportation (SIC 40)

Oil & Gas Extraction (SIC 13)

Lumber/Wood Products (SIC 24)

Machinery Manufacturing (SIC 35)

Transportation Equipment (SIC 37)

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<sup>1</sup> Non-underlined categories belong to Industrial Facilities.

<sup>2</sup> Various categories subject to these requirements.

<sup>3</sup> See Definition in Part 7. of the Order.

**ATTACHMENT D**  
Critical Sources Categories<sup>1</sup>

Stone, Clay, Glass, Concrete (SIC 32)

Leather/Leather Products (SIC 31)

Miscellaneous Manufacturing (SIC 39)

Food and kindred Products (SIC 20)

Mining of Nonmetallic Minerals (SIC 14)

Printing and Publishing (SIC 27)

Electric/Electronic (SIC 36)

Paper and Allied Products (SIC 26)

Furniture and Fixtures (SIC 25)

Laundries (SIC 72)

Instruments (SIC 38)

Textile Mills Products (SIC 22)

Apparel (SIC 23)

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<sup>1</sup> Non-underlined categories belong to Industrial Facilities.

**ATTACHMENT E**

## Determination of Erosion Potential

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

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

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

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

where:

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

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

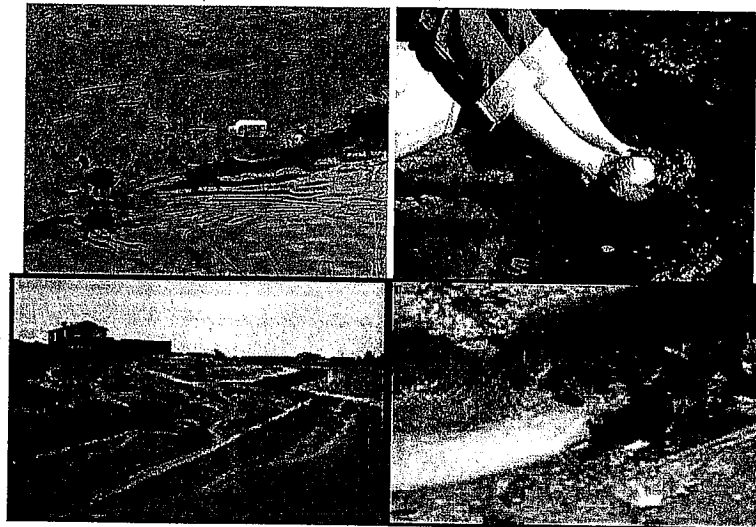
<sup>1</sup> MacRae, C.R. 1992. The Role of Moderate Flow Events and Bank Structure in the Determination of Channel Response to Urbanization. Resolving conflicts and uncertainty in water management: Proceedings of the 45th Annual Conference of the Canadian Water Resources Association. Shrubsole, D, ed.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

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

MONITORING PROGRAM - No. CI 7388  
FOR  
ORDER 08-xxxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS

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

XXXXXXXX xx, 200x



April 29, 2008 - draft Tentative

D000138



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**MONITORING PROGRAM**

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

**CORE MONITORING****A. Mass Emissions**

- I. The Principal Permittee shall monitor mass emissions to accomplish the following objectives:
  - i. Estimate the mass emissions from the MS4.
  - ii. Assess trends in the mass emissions over time.
  - iii. Determine if the MS4 is contributing to exceedences of water quality objectives by comparing results to applicable water quality objectives in the Water Quality Control Plan Los Angeles Region (Basin Plan), and the California Toxics Rule (CTR) for both acute and chronic criteria.
1. The Principal Permittee shall monitor mass emissions from the following 3 mass emission stations:
  - (a) ME-VR for Ventura River
  - (b) ME-SCR for Santa Clara River
  - (c) ME-CC for Calleguas Creek

2. The Principal Permittee shall monitor the 3 mass emission stations on an alternate, every other year schedule as follows:
  - (a) ME-VR starting year 1 of Order adoption
  - (b) ME-SCR starting year 2 of Order adoption
  - (c) ME-CC starting year 2 of Order adoption
3. The Principal Permittee shall monitor at each mass emission station per scheduled year:
  - (a) The first storm event of the wet season that produces at least 0.25 inches of rain, and 3 additional storm events, all storm events shall be separated by 7 days of dry weather from the previously measurable storm event.
  - (b) A total of 4 monitoring events (storm events - wet weather) per mass emission station.
4. Samples for mass emission monitoring may be taken with the same type of automatic sampler used under Order 00-108.
5. Samplers shall be set to monitor storms that produce 0.25 inches or greater of rainfall.
6. Samples shall be flow-weighted composites, collected during the first 3 hours or for the duration of the storm if it is less than 3 hours.
7. The flow-weighted composite sample for a storm water discharge shall be taken with a continuous sampler, or it shall be taken as a combination of a minimum of 3 sample aliquots, taken in each hour of discharge for the first 3 hours of the discharge or for the entire discharge if the storm event is less than 3 hours, with each aliquot being separated by a minimum of 15 minutes, within each hour of discharge, unless the Regional Water Board Executive Officer approves an alternate protocol.
8. Flow may be estimated using EPA methods at sites where flow measurement devices are not in place.
9. Grab samples shall be taken only for pathogen indicators, hardness (as mg/L CaCO<sub>3</sub>) and conventional pollutants such as: pH, temperature, and DO.
10. Each mass emission shall analyze for all of the Pollutants of Concern (POC) in its specific watershed listed in Attachment "B" (Calleguas Creek Watershed, Santa Clara River Watershed, and Ventura River Watershed Pollutants of Concern).
11. Each mass emission station shall screen for all constituents listed in Attachment "G" (Storm Water Monitoring Program's Constituents with Associated

Minimum Levels), during the first storm event of the wet season for each year sampled. If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method it need not be further analyzed unless the observed occurrence shows concentrations greater than the state water quality objective, and/ or the California Toxics Rule (CTR) for both acute and chronic criteria. If a constituent is detected exceeding a Basin Plan objective, and/ or CTR criteria then the constituent shall be sampled for the remainder of the Order, at the mass emission station where it was detected.

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

**B. Major Outfalls**

- I. The Principal Permittee shall monitor major outfalls to accomplish the following objectives:
  - i. Estimate the annual pollutant load of the cumulative discharges to waters of the State.
  - ii. Estimate the event mean concentration of the cumulative discharges to waters of the State.
  - iii. Assess trends in the major outfalls over time.
  - iv. Estimate the annual pollutant load of discharges to Waters of the State.
  - v. Estimate the event mean concentration of discharges to Waters of the State.
  - vi. Assess trends in the major outfalls over time.
  - vii. Determine if the MS4 is contributing to exceedences of MALs, and water quality objectives in the Water Quality Control Plan Los Angeles Region (Basin Plan), and the California Toxics Rule (CTR) for both acute and chronic criteria.
1. The Principal Permittee shall monitor
  - (a) End-of-pipe of major outfalls transporting representative landuse discharges from each permittee's Municipal drainage area to:
    - (1) subwatersheds within each permittee's jurisdiction
  - (b) The first storm event of the wet season that produces at least 0.25 inches of rain, and 3 additional storm events, all storm events shall be separated by 7 days of dry weather from the previously measurable storm event.
  - (c) A total of 4 monitoring events (storm events - wet weather) shall be sampled per identified major outfall.
2. Samples shall be collected from the discharge resulting from a storm event that is 0.25 inches or greater.
3. Samples shall be collected during the first 3 hours of storm water discharge or for the entire storm water discharge if it is less than 3 hours.
4. Samples shall be flow-weighted composites and can be collected automatically or manually (see subparts A.7 and A.8).
5. Grab samples shall be taken only for pathogen indicators, hardness (as mg/L CaCO<sub>3</sub>) and conventional pollutants such as: pH, temperature, and DO.
6. Major outfall samples taken within a subwatershed shall be analyzed for the biological and chemical parameters listed in the preceding subpart B.5, and for all of the constituents in Attachment "C" (Municipal Action Levels), Tables 1 & 2, as listed below:

- (a) pH
- (b) TSS
- (c) COD
- (d) Kjeldahl Nitrogen (TKN)
- (e) Nitrate & Nitrite- Total
- (f) P- Total
- (g) Cd- Total
- (h) Cr- Total
- (i) Cu- Total
- (j) Pb- Total
- (k) Ni- Total
- (l) Zn- Total
- (m)Hg- Total

7. Each major outfall station shall screen for all constituents listed in Attachment "G" (Storm Water Monitoring Program's Constituents with Associated Minimum Levels) twice per wet season, per year, (1<sup>st</sup> storm event of the wet season and 4<sup>th</sup> storm event sampled of the wet season). If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method it need not be further analyzed unless the observed occurrence shows concentrations greater than the state water quality objective, and/ or the California Toxics Rule (CTR) for both acute and chronic criteria. If a constituent is detected exceeding a Basin Plan objective, and/ or CTR criteria then the constituent shall be sampled for the remainder of the Order, at the major outfall station were it was detected.
8. At a minimum a sufficient sample volume must be collected to perform all of the required biological and chemical tests.
9. When monitoring can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted to the Regional Water Board Executive Officer:
  - (a) Statement of situation
  - (b) Explanation of circumstance(s) with documentation
  - (c) Statement of corrective action for the future
10. Monitoring results submitted to the Regional Water Board shall include:
  - (a) Rain totals and hydrographs for monitoring events in both narrative and graphic formats.
  - (b) A narrative description of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable storm event.

(c) All applicable Standard Monitoring Provisions listed in part "J".

11. Monitoring results from each major outfall station shall be sent electronically to the Regional Water Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date, for all test results, highlighting exceedences to the MALs, the Basin Plan objectives, and the CTR for both acute and chronic criteria with corresponding sampling dates per major outfall station. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).
12. A summary of the years' major outfall monitoring results, highlighting exceedences (pollutants of concern POC) to the MALs, the Basin Plan objectives, and the CTR for both acute and chronic criteria with corresponding sampling dates per major outfall station, shall be included with the Annual Storm Water Report.

**C. Aquatic Toxicity Monitoring (Wet Weather)**

- I. The objective of aquatic toxicity monitoring is to evaluate if storm water (wet weather) discharges are causing or contributing to chronic toxic impacts on aquatic life by the following:
  - i. Toxicity testing at mass emission and major outfall stations to assess impacts on the marine and freshwater environments.
1. The Principal Permittee shall analyze, mass emission and major outfall samples for chronic toxicity to evaluate the extent and causes of toxicity in receiving waters. Permittees shall utilize documents such as: Ventura County's Technical Guidance Manual for Storm Water Quality Control Measures and U.S. EPA's National Management Measures to Control Nonpoint Source Pollution from Urban Areas to implement measures to eliminate or reduce sources of toxicity in storm water.
2. All chronic toxicity samples are to be flow-weighted composites and may be collected manually or automatically (see subparts A.7 and A.8).
3. Volume of sample determined by specific test methods to be used. At a minimum it is suggested to collect 5 gallons for baseline testing, and an additional 5 gallons for TIE studies. Sufficient sample volume shall be collected to perform the required toxicity tests.

4. All toxicity tests shall be conducted as soon as possible following sample collection. The 36-hour sample holding time for test initiation shall be targeted. However, no more than 72 hours shall elapse before initial use of a sample.
5. When toxicity tests can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted to the Regional Water Board Executive Officer:
  - (a) Statement of situation
  - (b) Explanation of circumstance(s) with documentation
  - (c) Statement of corrective action for the future
6. The Principal Permittee shall conduct critical life stage chronic toxicity tests on 100% effluent samples in accordance with:
  - (a) U.S. EPA's Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, (EPA/600/R-95/136, 1995) for all mass emission stations, and for major outfalls discharging to marine and estuarine environments, or
  - (b) U.S. EPA's Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, October 2002 (EPA/821/R-02/013) or current version for major outfalls discharging to freshwater environments.
7. The Principal Permittee shall analyze samples for chronic toxicity according to the schedule below:
  - (a) During the first year of the Order, 4 storm events shall be monitored for each mass emission and major outfall station. The first storm event of the wet season that produces at least 0.25 inches of rain, and 3 additional storm events, all storm events shall be separated by 7 days of dry weather from the previously measurable storm event.
    - (1) During the first year of the Order, all 3 test species shall be used for their respective chronic toxicity test method for the 4 storm events monitored, to determine the most sensitive test species for each mass emission and major outfall station (see subparts C.8 and C.9 below).
  - (b) During the next 4 years of the Order, 1 storm event shall be monitored for each mass emission and major outfall station. The first storm event of the wet season that produces at least 0.25 inches of rain.
    - (1) During the next 4 years of the Order, the most sensitive test species determined from the first year of testing at each mass emission and major outfall station shall be used for its respective chronic toxicity test method (see subpart C.6).



## 8. Marine and Estuarine Species and Test Methods.

(a) Marine and estuarine species and short-term test methods for estimating the chronic toxicity of NPDES effluents shall be used and are found in the first edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995) and applicable water quality standards; also see 40 CFR Parts 122.41(j)(4) and 122.44(d)(1)(iv).

(1) The permittee shall conduct:

- (A) A static renewal toxicity test with the topsmelt, *Atherinops affinis* (Larval Survival and Growth Test Method 1006.01)
- (B) A static non-renewal toxicity test with the giant kelp *Macrocystis pyrifera* (Germination and Growth Test Method 1009.0); and
- (C) A static non-renewal toxicity test with the purple sea urchin, *Strongylocentrotus purpuratus*, (Fertilization Test Method 1008.0)

(b) In no case shall the preceding toxicity test species be substituted with another organism unless written authorization from the Regional Water Board Executive Officer is received.

## 9. Freshwater Species and Test Methods.

(a) Species and short-term test methods for estimating the chronic toxicity of NPDES effluents are found in the fourth edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002; Table IA, 40 CFR Part 136).

(1) The permittee shall conduct

- (A) A static renewal toxicity test with the fathead minnow, *Pimephales promelas* (Larval Survival and Growth Test Method 1000.0<sup>1</sup>)
- (B) A static renewal toxicity test with the daphnid, *Ceriodaphnia dubia* (Survival and Reproduction Test Method 1002.0<sup>1</sup>); and
- (C) A static renewal toxicity test with the green alga, *Selenastrum capricornutum* (also named *Raphidocelis subcapitata*) (Growth Test Method 1003.0)

(b) In no case shall the preceding toxicity test species be substituted with another organism unless written authorization from the Regional Water Board Executive Officer is received.

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<sup>1</sup> Daily observations for mortality make it possible to calculate acute toxicity for desired exposure periods (i.e., 7-day LC50, 96-hour LC50, etc.).

10. The test endpoint data is analyzed using a standard t-test approach. Statistical analysis methods shall be consistent with U.S. EPA test method manuals.
11. If toxicity is found then the following paragraph 10.2.6.2 of the U.S. EPA freshwater test methods manual, all chronic toxicity test results from the multi-concentration tests required by this Order must be reviewed and reported according to U.S. EPA guidance on the evaluation of concentration-response relationships found in *Method Guidance and Recommendations for Whole Effluent Toxicity (WET) Testing (40 CFR 136) (EPA/821/B-00-004, 2000)*.
12. Toxic samples shall be immediately subjected to Toxicity Identification Evaluation (TIE) procedures to identify the toxic chemical(s) if seen by the standard t-test.
13. A TIE is to be performed to identify the causes of toxicity using the same species and test method and, as guidance, U.S. EPA test method manuals: *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I (EPA/600/6-91/005F, 1992)*; *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity (EPA/600/R-92/080, 1993)*; *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity (EPA/600/R-92/081, 1993)*; and *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document (EPA/600/R-96-054, 1996)*.
14. The Principal Permittee shall complete chronic Phase I (Toxicity Characterization Procedures) TIEs for all sites showing 90 percent or greater toxicity to any 1-test organism.
  - (a) The TIE shall be conducted on test species, demonstrating the most sensitive toxicity response at a sampling station. However, a TIE(s) may be conducted on an additional test species with the caveat that once the toxicant(s) has been identified then the most sensitive test species triggering the TIE event needs to be tested additionally to verify that the toxicant has been identified and addressed.
15. A TIE Prioritization Metric may be utilized to rank sites for TIEs.<sup>2</sup>
16. Toxicity Reduction Evaluation (TRE) when toxicity is identified
  - (a) When the same pollutant or class of pollutants is identified through the TIE process, a TRE shall be performed for that identified toxic pollutant.
  - (b) The TRE development shall be performed by a neutral third party (retained by the Permittees), in consultation with the Regional Water Board staff.

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<sup>2</sup> Appendix 5. SMC Model Monitoring Program.

- (c) The TRE shall include all reasonable steps to identify the source(s) of toxicity and discuss appropriate BMPs to eliminate the causes of toxicity. No later than 30 days after the source of toxicity and appropriate BMPs are identified, the Permittees shall submit the TRE Corrective Action Plan to the Regional Water Board Executive Officer for approval. At a minimum, the Plan shall include a discussion of the following items:
    - (1) The potential sources of pollutant(s) causing toxicity.
    - (2) A list of municipalities that may have jurisdiction over sources of pollutant(s) causing toxicity.
    - (3) Recommended BMPs to reduce the pollutant(s) causing toxicity.
    - (4) Proposed post construction control measures to reduce the pollutant(s) causing toxicity.
    - (5) Follow-up monitoring to demonstrate that toxicity has been removed.
  - (d) The TRE process shall be coordinated with TMDL development and implementation (i.e., If a TMDL for 4,4'-DDD is being implemented when a TRE for 4,4'-DDD is required, the efforts shall be coordinated to avoid overlap).
17. Toxicity monitoring results shall be sent to the Regional Board's Storm Water Site at [MS4stormwaterrb4@waterboards.ca.gov](mailto:MS4stormwaterrb4@waterboards.ca.gov), no later than 45 days from sample collection date for the initial toxicity test and no more than 30 days from completion of each aspect of the analysis for TIEs/TREs. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).
18. The Annual Storm Water Report shall include:
- (a) A full laboratory report for all toxicity testing.
  - (b) A summary of the years' mass emission and major outfall monitoring station's toxicity test results reported according to the test methods manual chapter on report preparation and test review.
  - (c) The dates of sample collection and initiation of each toxicity test.
  - (d) All results for effluent parameters monitored concurrently with the toxicity test(s).
  - (e) TIE Phase testing (Phase I, Phase II, and Phase III) that has been or is in the process of being conducted per monitoring station.
  - (f) The development, implementation, and results for each TRE Corrective Action Plan in the Annual Storm Water Report, beginning the year following the identification of each pollutant or pollutant class causing toxicity.
19. When the SMC Standardized Toxicity Testing Guidance is completed, the Regional Water Board Executive Officer may direct permittees to replace the current toxicity program with the standardized guidance procedure.

**SPECIAL STUDIES****D. Pyrethroid Insecticides Study**

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

- (5) esfenvalerate
    - (6) lambda-cyhalothrin
    - (7) permethrin
    - (8) tralomethrin (if laboratory is capable of analyzing for it)
  - (e) Detection limits for all Pyrethroids shall be as close to 1ng/g (dry weight) as reasonably achievable.
  - (f) Each sediment sample is to measure the following:
    - (1) total organic carbon (OC).
3. All samples shall be tested for toxicity to 7 to 10 day old *Hyalella azteca* according to standard U.S. EPA testing methods.<sup>3</sup>
    - (a) Use of the approach described in *Aquatic Toxicity Due to Residential Use of Pyrethroid Insecticides*<sup>4</sup> for toxicity testing shall be used.
  4. Analyses to be conducted at a laboratory that has performed sediment toxicity testing for Pyrethroid Insecticides, is preferred.
  5. Monitoring results from each station shall be sent electronically to the Regional Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).
  6. If toxicity is attributed to Pyrethroids then consultation with staff at U.S. EPA, the California Department of Pesticide Regulations and the California Stormwater Quality Association's (CASQA) pesticides committee (UP3 Project web site), shall be required to obtain relevant information to use in developing the recommendations to mitigate Pyrethroids in the Final Report.
  7. A Quality Assurance Project Plan (QAPP) shall be developed and shall include site-specific information, and field and laboratory quality assurance requirements. This document identifies the major elements of the quality assurance and quality control components that need to be described in the QAPP. The QAPP shall be submitted to the Regional Board Executive Officer for staff review and approval by the Los Angeles Regional Water Board Quality Assurance Officer.

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<sup>3</sup> U.S. EPA. *Methods for Measuring the Toxicity and Bioaccumulation of Sediment-Associated Contaminants with Freshwater Invertebrates*; EPA Publication 600/R-99/064; U.S. Environmental Protection Agency: Washington, DC, 2000; 192 pp.

<sup>4</sup> *Aquatic Toxicity Due to Residential Use of Pyrethroid Insecticides*; Weston, D.P.; Holmes, R.W.; You, J.; Lydy, M.J. *Environ. Sci. Technol.*; (Article); 2005; 39(24); 9780 pp.

8. Final Report for the Pyrethroid Insecticides study shall contain the following:
  - (a) Executive summary
  - (b) Methods
  - (c) Results (including map depicting monitoring stations)
  - (d) Discussion
  - (e) Recommendations to mitigate Pyrethroids
9. The Final Report shall be completed and submitted to the Executive Officer of the Regional Water Board no later than 8 months after completion of the study.
10. The Pyrethroid Insecticides Study requirement may be satisfied by another tributary monitoring program within the Calleguas Creek Watershed performing a sediment Pyrethroid Insecticides Study that is monitoring according to the preceding subparts E.1 through E.4, so as to complement and not duplicate efforts.

#### **E. Hydromodification Control Study**

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

**F. Low Impact Development**

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

**G. Southern California Bight Project**

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

**H. Volunteer Monitoring Programs**

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

**I. Standard Monitoring Provisions**

- I. All monitoring activities shall meet the following requirements.
  1. Monitoring and Records [40 CFR 122.41(j)(1)]
    - (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
  2. Monitoring and Records [40 CFR 122.41(j)(2)] [CWC §13383(a)]
    - (a) The Principal Permittee and Permittees shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge (ROWD) and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Water Board or U.S. EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.
  3. Monitoring and Records [40 CFR 122.21(j)(3)]
    - (a) Records of monitoring information shall include:
      - (1) The date, time of sampling or measurements; exact place, weather conditions, and rain fall amount.
      - (2) The individual(s) who performed the sampling or measurements.
      - (3) The date(s) analyses were performed.
      - (4) The individual(s) who performed the analyses.
      - (5) The analytical techniques or methods used.
      - (6) The results of such analyses.
      - (7) The data sheets showing toxicity test results.
  4. Monitoring and Records [40 CFR 122.21(j)(4)]
    - (a) All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order. If a particular Minimum Level (ML) is not attainable in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure may be used instead.
  5. Monitoring and Records [40 CFR 122.21(j)(5)]
    - (a) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first



conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

6. All chemical, bacteriological, and toxicity analyses shall be conducted at a laboratory:
  - (a) Certified for such analyses by an appropriate governmental regulatory agency.
  - (b) Participated in 'Intercalibration Studies' for storm water pollutant analysis conducted by the SMC.<sup>5</sup>
  - (c) Which performs laboratory analyses consistent with the storm water monitoring guidelines as specified in, the *Stormwater Monitoring Coalition Laboratory Guidance Document*, 2nd Edition R. Gossett and K. Schiff (2007), and its revisions.
7. For priority toxic pollutants that are identified in the CTR (65 Fed. Reg. 31682), the MLs published in Appendix 4 of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (SIP) shall be used for all analyses, unless otherwise specified. The MLs from the SIP are incorporated into Attachment "G".
8. The Monitoring Report shall specify the analytical method used, the Method Detection Level (MDL) and the ML for each pollutant. For the purpose of reporting compliance with numerical limitations, performance goals, and receiving water limitations, analytical data shall be reported with 1 of the following methods, as appropriate:
  - (a) An actual numerical value for sample results greater than or equal to the ML.
  - (b) "Not-detected (ND)" for sample results less than the laboratory's MDL with the MDL indicated for the analytical method used.
  - (c) "Detected, but Not Quantified (DNQ)" if results are greater than or equal to the laboratory's MDL but less than the ML. The estimated chemical concentration of the sample shall also be reported. This is the concentration that results from the confirmed detection of the substance by the analytical method below the ML value.
9. For priority toxic pollutants, if the Permittee can demonstrate that a particular ML is not attainable, in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample

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<sup>5</sup> The 'Intercalibration Studies' are conducted periodically by the SMC to establish a consensus based approach for achieving minimal levels of comparability among different testing laboratories for storm water samples to minimize analytical procedure bias. Stormwater Monitoring Coalition Laboratory Document, Technical Report 420 (2004) and subsequent revisions and augmentations.

weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Principal Permittee must submit documentation from the laboratory to the Regional Water Board Executive Officer for approval prior to raising the ML for any constituent.

10. Monitoring Reports [40 CFR 122.41(I)(4)(ii)]
  - (a) If the Principal Permittee monitors any pollutant more frequently than required by the Order using test procedures approved under 40 CFR part 136, unless otherwise specified in the Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Annual Monitoring Reports.
11. Monitoring Reports [40 CFR 122.41(I)(4)(iii)]
  - (a) Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order.
12. If no flow occurred during the reporting period, then the Monitoring Report shall, so state.
13. The Regional Water Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring Program, after providing the opportunity for public comment, either:
  - (a) By petition of the Principal Permittee or by petition of interested parties after submittal of the Monitoring Report. Such petition shall be filed not later than 60 days after the Monitoring Report submittal date, or
  - (b) As deemed necessary by the Regional Water Board Executive Officer following notice to the Principal Permittee.
14. The Principal Permittee must provide a copy of the Standard Operation Procedures (SOPs) for the Monitoring Program No. CI 7388 to the Regional Water Board upon request. The SOP will consist of five elements: Title page, Table of Contents, Procedures, Quality Assurance/ Quality Control (QA/ QC), and References. Briefly describe the purpose of the work or process, including any regulatory information or standards that are appropriate to the SOP process, and the scope to indicate what is covered. Denote what sequential procedures should be followed, divided into significant sections; e.g., possible interferences, equipment needed personnel qualifications, and safety considerations. Describe QA/ QC activities, and list any cited or significant references.

**J. Total Maximum Daily Load (TMDL) Monitoring**

1. TMDL monitoring is to determine compliance with the TMDL Waste Load Allocations (WLAs) and numeric targets for the MS4 permittees that have been adopted by the Regional Water Board and have been approved by the Office of Administrative Law and the U.S. EPA.
2. TMDL monitoring is in accordance with approved TMDLs as discussed in part 6 of the permit. TMDL monitoring for specific watersheds is in accordance with the agreed upon monitoring plans submitted by stakeholders, including MS4 permittees.

Ordered by:

Tracy J. Egoscue  
Executive Officer

Date: XXXXXXXX xx, 200x

**ATTACHMENT G**Storm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)<sup>1</sup>

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

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

**ATTACHMENT G**Storm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)<sup>1</sup>

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

**ATTACHMENT G**Storm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)<sup>1</sup>

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

**ATTACHMENT G**Storm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)<sup>1</sup>

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

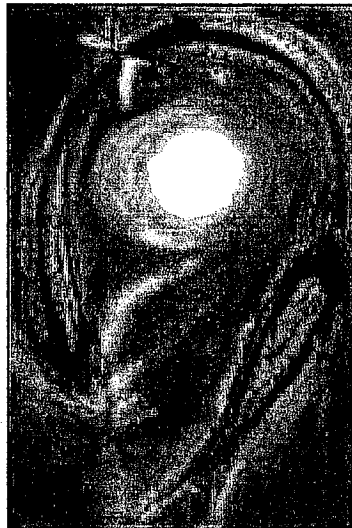
STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION

REPORTING PROGRAM - No. CI 7388  
FOR  
ORDER 08-xxxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS

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

Xxxxx xx, 200x

This draft Attachment "H" does not incorporate all of the current requirements.  
Attachment "H" will be completed upon adoption of the Order.





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**Reporting Program Requirements**

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

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

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

1. Mass Emissions
  - (a) Assess the variability of storm water constituents from the results of all monitored storms events.
  - (b) Rain totals and hydrographs for monitoring events in both narrative and graphic formats.
  - (c) A summary of the years' mass emission station's monitoring results highlighting exceedences (POC) with corresponding sampling.
2. Major Outfalls
  - (a) Assess the variability of storm water constituents from the results of all monitored storms events.
  - (b) Rain totals and hydrographs for monitoring events in both narrative and graphic formats.
  - (c) A summary of the years' major outfalls station's monitoring results highlighting exceedences (POC) with corresponding sampling dates.
  - (d) Outfall(s) name and ID number (if applicable).

3. Aquatic Toxicity Monitoring
  - (a) An analysis of the mass emission and major outfall station's samples for aquatic toxicity.
  - (b) A report on the development, implementation, and results for each TRE Corrective Action Plan in the Annual Report, beginning the year following the identification of each pollutant or pollutant class causing toxicity.
  - (c) Report on the development, implementation, and results for each TRE Corrective Action Plan, beginning the year following the identification of each pollutant or pollutant class causing toxicity.
  - (d) All constituents (POCs) that caused toxicity or exceeded any applicable water quality objectives at the associated mass emission and/ or major outfall station the previous year shall be listed.
  - (e) A summary of the years' mass emission and major outfall station's monitoring results with corresponding sampling dates and Tox output.
4. TMDL Compliance Monitoring
  - (a) A summary of the years' monitoring results for each TMDL.
    - (i) Corresponding sampling dates and Tox output (if applicable).

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

1. Aquatic Toxicity Monitoring
  - (a) A TRE Corrective Action Plan within 30 days after the source of toxicity and appropriate BMPs are identified.
2. Pyrethroid Insecticides Study
  - (a) Pyrethroid insecticides study final report, no later than 8 months after completion of the study.
3. Hydromodification Control Study
  - (a) Letter stating how the Principal Permittee is satisfying this requirement, no later than 2 months after deciding to either conduct or participate in special studies.
4. Non-Compliance
  - (a) When monitoring can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted:
    - (1) Statement of situation.
    - (2) Explanation of circumstance(s) with documentation.
    - (3) Statement of corrective action for the future.

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

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

**PART 2 - PROGRAM REPORT**

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

**DISCHARGE PROHIBITIONS**

- (a) Have you effectively prohibited all non-storm discharges into the MS4 and watercourses?
- (b) If there are any exceptions in the municipal code, list the exceptions to the municipal code. In other words, which non-storm water discharges does your municipality allow? Under what conditions are they allowed (with BMPs)? List which BMPs are required prior to discharge.

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

- (c) Do you have a procedure to assure that any project within your jurisdiction which may undertake ground water dewatering obtain a permit from the Regional Water Board?
- (d) How many projects are permitted to dewater in your jurisdiction?
- (e) How many are permanent dewatering to continue after construction is completed?
- (f) Do you have a permitting/ permission system for the discharge of dechlorinated/ debrominated swimming pool discharges? Explain it.
- (g) If yes, how many swimming pools are drained with the agency's permit/ permission?
- (h) How do you ensure that discharge limits for chlorine, bromine, etc are not exceeded?
- (i) Do you allow the discharge of "salt water" swimming pool discharges? If yes
- (j) Do you have a permitting/ permission system for the discharge of "salt water" swimming pool discharges? Explain it.

### RECEIVING WATER LIMITATIONS

- 1. At any time, has the discharge from the MS4 caused or contributed to the violation of water quality objectives or water quality standards?
- 2. At any time, has the discharge from the MS4 for which a Permittee is at least partially responsible, caused or contributed to a condition of nuisance?
- 3. At any time, has the discharge of pollutant(s) from the MS4 exceeded the MS4 Waste Load Allocation(s) for Wet Weather Discharges?
- 4. For pollutant(s) which continue to cause or contribute to water quality impairments, but for which TMDLs have not yet been developed or approved, what has the Permittee implemented to eliminate future water quality impairments?

### PART 3 - STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION

#### A. General Requirements

#### B. Legal Authority

- 1. Does your municipal agency possess all the necessary legal authority to implement and enforce each requirement of this Order?
- 2. If the answer is no, explain why not.
- 3. By what date certain will the municipal agency have all the necessary legal authority?
- 4. Attach a copy of the new or updated statement by its legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/ or municipal code modifications.

5. After submitting the Statement from your legal counsel, was your city's municipal code (or other legal authority) changed (Any section that applies to or affects storm water permitting or requirements)? On what date(s) was it changed? Provide the changes.

### **C. Fiscal Resources**

1. Provide a detailed Annual Budget Summary of the Permittee's allocation of funds expended to implement the activities required to comply with the conditions of this Order.
2. Indicate the source(s) of funding (whether general funds; and/ or Benefit Assessment Program funds; plan review fees; permit fees; industrial/ commercial user fee; revenue bonds; grants; or other funding mechanism. Each Permittee's Annual Budget Summary shall separately include:
3. Annual Budget Summary of expenditures applied to the storm water management program and also identify the storm water budget for the following year, using estimated percentages and written explanations where necessary, for the specific categories noted below:
  - (a) Program Overall Management Activities;
    - (1) Administrative costs
  - (b) Program Required Activities Implementation;  
Provide an estimated percent breakdown of expenditures for the categories below:
    - (1) Illicit connection/ illicit discharge
    - (2) Development planning
    - (3) Development construction
    - (4) Construction inspection activities
    - (5) Industrial/ Commercial inspection activities
    - (6) Public Agency Activities
    - (7) Maintenance of Structural BMPs and Treatment Control BMPs
      - (A) Municipal Street Sweeping for Commercial/ Industrial landuse only;
      - (B) Catch basin clean-outs (including dumping fees);
      - (C) Storm drain clean-outs (including dumping fees); and
      - (D) Other costs (describe).
    - (8) Public Information and Participation;
    - (9) Monitoring Program; and
    - (10) Miscellaneous Expenditures (describe).

### **D. Designation and Responsibilities of the Principal Permittee**

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

1. Coordination and facilitation of activities to comply with the requirements of this Order;

2. Evaluation, assessment, and summary of the results of the monitoring program and the effectiveness of the implementation of BMPs and any recommended change.

#### **E. Responsibilities of the Permittees**

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

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

### **PART 4 - SPECIAL PROVISIONS**

#### **A. General Requirements**

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

#### **B. Watershed Initiative Participation**

1. Describe your participation (Principal Permittee) and present data results in the following:
  - (a) Southern California Stormwater Monitoring Coalitions' (SMC) Regional Monitoring program for the Southern California Regional Bioassessment.

#### **C. Public Information and Participation Program (PIPP)**

1. Describe the Permittee successes in:
  - Measurably increasing the knowledge of the target audiences regarding the MS4, the impacts of storm water pollution on receiving waters and potential solutions to mitigate the problems caused;

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

#### Public Reporting

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

#### Outreach and Education

- (1) Provide documentation to show that the Permittees implemented the following activities:
  - Storm Water pollution prevention advertising campaign.
  - Storm Water pollution prevention public service announcements.
  - Distribution of storm water pollution prevention public education materials to auto parts stores, home improvement centers and pet shops/ feed stores in regards to information on the proper storage and disposal of household waste materials, construction waste materials and vehicle waste fluids, the proper use of fertilizers and pesticides and the proper disposal of animal wastes.
  - Organization of watershed Citizen Advisory Groups/ Committees to develop/ implement effective methods to educate the public about storm water pollution.
  - Organization of events for residents and population subgroups.
  - Maintenance of the Countywide storm water website ([www.vcstormwater.org](http://www.vcstormwater.org)), including educational materials.
- (2) Provide documentation to show that the Principal Permittee implemented the strategy to educate ethnic communities through culturally acceptable and effective methods.



- (3) Did each Permittee implement outreach efforts to residents and school children related to the proper disposal of litter, green waste, pet waste, proper vehicle maintenance, lawn care and water conservation practices?
- (4) Did the Permittees make demonstrable positive effects on the general public related to storm water quality?
- (5) On 4 above, explain how so.
- (6) Did the Principal Permittee, in cooperation with the Permittees, provide schools within each School District in the County with materials, including, but not limited to, videos, live presentations, and other information necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution?
- (8) Provide the contact information for their appropriate staff responsible for storm water public education activities to the Principal Permittee and changes to contact information no later than 30 days after a change occurs.
- (9) Provide the assessment of the strategy to measure the effectiveness of in-school educational programs.

#### Businesses Program

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

#### **D. Industrial/ Commercial Facilities Program**

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

1. Inventory of Critical Sources
  - (a) Describe how the critical sources are inventoried. (whether via a watershed-based inventory or database or GIS. Provide a sample.
  - (b) Each Permittee shall include the following minimum fields of information for each critical sources industrial and commercial facility.
    - (1) Name of facility and owner/ operator.
    - (2) Address of facility.
    - (3) Coverage under the ISWGP or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Board pertaining to runoff discharges.

- (4) A narrative description including SIC (NAICS) codes that best describe the industrial activities performed and principal products used at each facility and status of exposure to storm water.
- (c) Did each Permittee update its inventory of critical sources annually?
- (d) Critical Source Inventory Database

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

2. Inspection Program

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

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Provide the reporting data as suggested in the following table.

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

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

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BMPs Implementation

Provide the reporting data as suggested in the following table.

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

Comments/ Explanation/ Conclusion:

**Enforcement Activities**

Provide the reporting data as suggested in the following tables.

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

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

Nurseries and nursery centers

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

Ensuring Compliance of Critical Sources

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

Investigation of Complaints Regarding Facilities – Transmitted by the RB Staff

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

**E. Planning and Land Development Program**

## 1. Low Impact Development

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

**Numeric Hydromodification Mitigation Criteria**

## 1. Hydrologic (Flow/ Volume/ Duration) Control

- (a) Did the Permittees require all new developments and redevelopment projects to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems?
- (b) How many did?
- (c) How many did not?
- (d) Why not?

## 2. Post Construction Storm Water BMP Program

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

**Projects disturbing land areas less than 50 acres**

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

**Projects disturbing land area of 50 acres or greater**

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

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

4. Applicability of Numerical Criteria

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

- (a) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more of surface area].
- (b) Retail gasoline outlets [5,000 square feet or more of impervious surface area and with projected Average Daily Traffic (ADT) of 100 or more vehicles].  
Subsurface Treatment Control BMPs which may endanger public safety (i.e., create an explosive environment) are considered not appropriate.
- (c) Restaurants (SIC 5812) [5,000 square feet or more of surface area].
- (d) Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces.
- (e) Projects located in, adjacent to or discharging directly to an ESA that meet threshold conditions identified above in 2(d).
- (f) Redevelopment projects in subject categories that meet Redevelopment thresholds.
- (g) How many projects did this apply to?
- (h) Were there any sites that were exempted from the requirement?
- (i) How many sites were exempted?
- (j) Why were they exempted?

5. Site Specific Mitigation

- (a) List how many sites did each Permittee require the implementation of a site-specific plan to mitigate post-development storm water for new development and redevelopment not identified in Section XX but which may potentially have



adverse impacts on post-development storm water quality, with one or more of the following project characteristics:

- (1) Vehicle or equipment fueling areas. How many?
  - (2) Vehicle or equipment maintenance areas, including washing
  - (3) and repair. How many?
  - (4) Commercial or industrial waste handling or storage. How many?
  - (5) Outdoor handling or storage of hazardous materials. How many?
  - (6) Outdoor manufacturing areas. How many?
  - (7) Outdoor food handling or processing. How many?
  - (8) Outdoor animal care, confinement, or slaughter. How many?
  - (9) Outdoor horticulture activities. How many?
- (b) Were there any sites that were exempted from the requirement?
  - (c) How many sites were exempted?
  - (d) Why were they exempted?
6. Redevelopment Projects
- (a) Did the Permittees apply the post construction BMP requirements, or site specific requirements including post-construction storm water mitigation to all projects that undergo significant Redevelopment in their respective categories?
  - (b) How many?
  - (c) Were there any sites that were exempted from the requirement?
  - (d) How many sites were exempted?
  - (e) Why were they exempted?
7. Maintenance Agreement and Transfer
- (a) How many developments subject to post construction BMP requirements and site specific plan requirements actually provided verification of maintenance provisions for Structural and Treatment Control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and or conditional use permits?
  - (b) How many of each verification were received?
  - (c) The developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred?
  - (d) A signed statement from the public entity assuming responsibility for Structural or Treatment Control BMP maintenance and that it meets all local agency design standards?
  - (e) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year?
  - (f) Written text in project conditions, covenants and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the Structural and Treatment Control BMPs?

- (g) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year?
  - (h) Another type of legally enforceable agreement that assigns responsibility for the maintenance of post-construction Structural or Treatment Control BMPs?
8. Development Planning Coordination and Enforcement
- (a) Did you inspect each new development and redevelopment project for post construction controls prior to approving and signing off for occupancy?
  - (b) How many?
  - (c) Were there any sites that were exempted from the requirement?
  - (d) How many sites were exempted?
  - (e) Why were they exempted?
9. Regional Storm Water Mitigation Program
- (a) Have you applied to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements?
10. Inspection and Tracking System for Post Construction Treatment BMPs
- (a) Did you implement the required Geographic Information System (GIS) or other electronic system for tracking projects conditioned for post construction treatment control BMPs?
  - (b) Does include the following information? (Answer each separately)
    - (1) Municipal Project ID?
    - (2) State WDID No.?
    - (3) Project Acreage?
    - (4) BMP Type and Description?
    - (5) BMP Location (GPS coordinates)?
    - (6) Date of Acceptance?
    - (7) Date of O&M Certification?
    - (8) Maintenance Records
    - (9) Inspection Date and Summary?
    - (10) Corrective Action?
    - (11) Replacement or Repair Dates?
  - (c) Did you inspect all facilities to verify proper maintenance and operation of Treatment BMPs previously approved?
  - (d) Did you accomplish the following?
  - (e) BMP acceptance inspection to ensure proper installation?
    - (1) Inspection once every two years of high priority post-construction BMPs to ensure treatment effectiveness, hydraulic function, and vector risk minimization?

## 11. Developer Technical Guidance and Information

- (a) List dates as to when the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures was last updated to include the following:
- (1) Hydrologic (Peak Flow) Control criteria for volume control described herein and the interim criteria based on hydrograph matching?
  - (2) Expected BMP pollutant removal performance including consistent effluent quality and removal efficiency ranges (International BMP Database, technical reports and the scientific literature?)
  - (3) Improved Correlation of BMPs with storm water POC?
  - (4) Data on Observed Local Effectiveness and performance of implemented BMPs?
  - (5) BMP Maintenance and Cost considerations?
  - (6) Criteria to facilitate integrated water resources planning and management in the selection of BMPs, including water conservation, groundwater recharge, public recreation, multipurpose parks, open space preservation, and redevelopment retrofits?

## 12. Project Review and Inter Department Coordination

- (a) Did you ensure that a detailed BMP review was performed including BMP sizing calculations, BMP pollutant removal appropriateness, for each plan submitted with a signed certification?
- (b) How many?
- (c) Were there any sites that were exempted from the requirement?
- (d) How many sites were exempted?
- (e) Why were they exempted?
- (f) Did you ensure that a clear structure for communication and delineated authority are established between and among municipal departments which have jurisdiction over project review, plan approval, project construction, and site maintenance?
- (g) Explain how?

## 13. California Environmental Quality Act (CEQA) Document Update

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

- (a) Potential impact of project construction on storm water runoff?
- (b) Potential impact of project post-construction activity on Storm Water runoff?
- (c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas?
- (d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit?

- (e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies?
- (f) Potential for significant changes in the flow velocity or volume of Storm Water runoff that can cause environmental harm?
- (g) Potential for significant increases in erosion of the project site or surrounding areas?

## 15. General Plan Update

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

(Answer each separately)

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

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

**F. Development Construction Program**

- 1. Did you implement a program to control runoff from construction activity at all construction sites within your jurisdiction to ensure that the following requirements are effectively implemented? (Answer each separately)
  - (a) For construction projects within or adjacent to an environmentally sensitive area (ESAs), did you prohibit grading between October 1 and April 15?
  - (b) For construction projects, which include grading on slopes greater than 5:1, that no grading shall occur between October 1 and April 15?
  - (c) All construction projects, which directly discharge into a sedimentation/ siltation impaired water body and is listed on the CWA §303 (d) list. No grading shall be occurring between October 1 and April 15?
  - (d) If grading operations were not completed before the rainy season began, was grading halted and erosion control measures put in place to minimize erosion until grading resumes after April 15?
- 2. Did you require construction site operators to seek separate coverage from the Regional Water Board wherever ground water dewatering may be necessary, is anticipated, or likely?
  - (a) Small Construction Sites

- (1) For each construction site did you require and inspect to ensure that at each construction site, the minimum set of BMPs were implemented to minimize erosion and sediment loss, and prevent pollution from construction waste?
3. For each construction site 1 acre and greater:
    - (a) Did you review and approve a Local Storm Water Pollution Prevention Plan (Local SWPPP), for approval prior to issuance of a grading permit for construction projects?
    - (b) Did you inspect all construction sites for storm water quality requirements during routine inspections a minimum of once during the wet season?
    - (c) Was the Local SWPPP reviewed for compliance with local codes, ordinances, and permits?
    - (d) For inspected sites that have not adequately implemented their Local SWPPP, a follow-up inspection to ensure compliance shall take place within 2 weeks?
    - (e) If compliance had not been attained, did the Permittee take additional actions to achieve compliance (as specified in municipal codes)?
    - (f) How many?
    - (g) For small construction sites one acre and greater (or part of a larger plan of development or sale), did you require, prior to issuing any grading permit, demolition permit, building permit, or construction permit [or any other municipal authorization to move soil and/ or construct or destruct that involves soil disturbance], for all projects requiring coverage under the state general permit, proof of a Waste Discharger Identification (WDID) Number for filing a Notice of Intent (NOI) for coverage under the CASGP and a certification that a SWPPP has been prepared by the project developer?
    - (h) Does your agency accept a Local SWPPP as a substitute for the State SWPPP?
    - (i) Is the Local SWPPP at least as inclusive in controls and BMPs as the State SWPPP?
    - (j) Do you require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going?
    - (k) What system do you use to track grading permits issued by your agency?
  4. Linear Construction
    - (a) Do you require for any linear construction project or projects (cumulatively) that will cause one acre or more of soil disturbance but not more than 5 acres that coverage be obtained under the Small Linear Underground/ Overhead Construction Projects General Permit?
    - (b) Do you require proof of a Waste Discharger Identification Number (WDID) for filing a Notice of Intent (NOI) for coverage under the and a certification that a SWPPP has been prepared by the project developer, prior to issuing a grading permit, demolition permit building permit, or construction permit (or other authorization to move soil and/ or construct or destruct that involves soil disturbance)?

5. CASGP Violation Referrals
  - (a) Did you make any referral of violations of the new development and redevelopment post construction requirements and municipal storm water ordinances to the Regional Water Board?
  - (b) Did you make any referral for suspected violations of the CASGP or Linear Permit coverage requirements

#### **G. Public Agency Activities Program**

1. Sewage System Maintenance, Overflow, and Spill Prevention
  - (a) Did you implement a response plan for overflows of the sanitary sewer system within their respective jurisdiction that clearly identifies agencies responsible and telephone numbers and email for any contact?
  - (b) How many overflows did you have?
  - (c) How many did you respond to?
  - (d) Do you own and/ or operate a sanitary sewer system?
  - (e) If so, did you also Identify, repair, and remediate sanitary sewer blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4?
  - (f) Did you implement procedures and maintenance schedules to prevent sewage spills or leaks from sewage facilities from entering the MS4?
  - (g) If you are a Permittee with septic systems in your jurisdiction, how many do you have?
  - (h) Did you implement the following for flows of septic leachate to surface waters within their respective jurisdiction, which shall consist at a minimum of the following:
    - (1) Investigation of any complaints received?
    - (2) Immediately respond to overflows for containment, upon notification?
    - (3) Notification to appropriate agencies and public health agencies when a septic system fails and flows to the MS4?
2. Public Construction Activities Management
  - (a) Did you comply with all the Development Planning Program requirements in at public construction projects?
  - (b) Did you comply with all the Development Construction Program requirements at Permittee owned or operated construction sites?
  - (c) Did you obtain coverage under the CSWGP for all construction activities for (non linear) capital improvement project(s), or contracts, that individually or cumulatively equals or surpass the 1 acre land disturbance threshold?
  - (d) Did you obtain coverage under the Statewide General Permit for Storm water Discharges Associated with Construction Activity from Small Linear Underground/ Overhead Projects (Small LUP General Permit) for Small Linear

Underground/ Overhead Projects disturbing at least 1 acre, but less than 5 acres  
(including trenching and staging areas)?

3. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management.

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

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Vehicle and Equipment Maintenance and Repair	B-88
Aboveground and Underground Tank Leak and Spill Control	B-90

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

#### 4. Landscape and Recreational Facilities Management

##### Control Program for Registered Pesticides

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

## 5. Storm Drain Operation and Management

Catch Basin Cleaning

- (a) How many catch basins did you designate as one of the following:
- Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/ or debris?
- Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/ or debris?
- Priority C: Catch basins that are designated as generating low volumes of trash and/ or debris?
- (b) Did you clean all catch basins according to the following schedule?:
- Priority A: A minimum of three times during the wet season and once during the dry season every year? How many?
- Priority B: A minimum of once during the wet season and once during the dry season every year? How many?
- Priority C: A minimum of once per year? How many?
- (c) Did you ensure that any catch basin that is at least 25% full of trash and/ or debris was cleaned out? How many?

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

- (1) Did you require for any special event that they arrange for temporary screens to be placed on catch basins or for catch basins in that area to be cleaned out subsequent to the event and prior to any rain event? How many events did this apply to?
- (2) How much trash and debris was collected? (wet tons, dry pounds, etc...)

Trash Controls

- (a) Did you install trash receptacles at transit stops as required?
- (b) How many?
- (c) How much trash and debris was collected? (wet tons, dry pounds, etc...)
- (d) Did you install trash excluders, or similar devices upon catch basins to prevent the discharge of trash to the storm drain system?
- (e) How many?
- (f) How much trash and debris was collected? (wet tons, dry pounds, etc...)

Catch Basin Labels

- (a) Did you inspect the legibility of the catch basin label by all inlets?
- (b) How many?
- (c) Were catch basins with illegible stencils shall be recorded and re-stenciled or re-labeled within 180 days of inspection?
- (d) How many were recorded?
- (e) How many were relabeled?

Storm Drain Maintenance

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

## 6. Streets and Roads Maintenance

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

## 7. Parking Facilities Management

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

8. Public Industrial Activities Management
  - (a) Did you obtain separate coverage under the IASGP for any municipal activity subject to it for the discharge of storm water associated with industrial activity?
  - (b) For how many facilities?
  - (c) Which facilities?
  
9. Municipal Drinking Water System Discharges
  - (a) From your municipal drinking system did you maintain the system by flushing hydrants or other fixtures?
  - (b) How many gallons total were discharged in the year?
  - (c) If the discharges in an annual period were less than 100,000 gallons for the entire city did you implement a BMP or suite of BMPs to ensure that the chlorine level of the discharge is 0.1mg/L or less?
  - (d) Did you sample or take a test every time to ensure dechlorination of the water to 0.1mg/L or less?
  - (e) Did you ensure that the BMP or suite of BMPs were implemented so that no erosion is caused by the discharge of the potable water?
  - (f) What BMPs were implemented?
  
10. Emergency Procedures
  - (a) Were there any emergencies that caused the Permittee to invoke this section? Explain the situation.
  
11. Municipal Employee (and municipal contractor) Training
  - (a) Did you train all of your employees in targeted positions regarding the requirements of the overall storm water management program?
  - (b) Did you promote a clear understanding of the potential for activities to pollute storm water?
  - (c) Did they learn to identify opportunities to require, implement, and maintain appropriate BMPs in their work?
  - (d) Did they learn the appropriate ways of identification, investigation, termination, cleanup, and reporting of illicit connections and discharges?
  - (e) Will they ensure that the requirements of this Order are met?
  - (f) For those employees or contractors who use or have the potential to use pesticides (whether or not they normally apply pesticides as part of their work), which includes pesticides available over the counter, did you address the potential for pesticide-related surface water toxicity?
  - (g) Proper use, handling, and disposal of pesticides?
  - (h) Least toxic methods of pest prevention and control?
  - (i) Encourage the use of IPM?
  - (j) Require the quantifiable reduction of pesticide use?
  - (k) Training - All Permittees shall train all targeted employees who are responsible for on an annual basis. In public agency?

**H. Illicit Connections/ Illegal Discharge Program**

## 1. IC/ ID Program

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

## 2. Public Reporting

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

## 3. Illicit Connections

Screening for Illicit Connections

- (a) Did you conduct field screening of your storm drain system for illicit connections?
- (b) For those portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, how many miles did you field screen this year?
- (c) Out of how many miles total?
- (d) Did you conduct field screening for high priority areas identified during the mapping of illicit connections and discharges?
- (e) How many miles were completed this year?
- (f) Out of how many miles total?
- (g) How much of the storm drain system that is 50 years or older in age did you field screen?
- (h) Out of how many miles total?
- (i) Did you submit to the Principal Permittee a GIS layer showing the location and length of underground pipes greater than 18" in diameter and channels within their jurisdiction?
- (j) Did you also include the status of suspected, confirmed, and terminated illicit connections?
- (k) Did you maintain a list containing all connections under investigation for possible illicit connection and their status?

- (l) Did you attach that list to this Annual Report?

Response to Illicit Connections

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

4. Illicit Discharges

(a) Abatement and Cleanup

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

(b) Investigation

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



# California Regional Water Quality Control Board Los Angeles Region



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

Dan Skopec  
Acting Agency Secretary

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

Arnold Schwarzenegger  
Governor

April 23, 2008

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

GOVERNMENT ACCOUNTS (FILE NO. 100.324)

Enclosed is a copy of a public notice we would like to publish in a daily newspaper of general circulation in the entire Ventura County area for one day on April 29, 2008.

We rely on your proofreading.

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

Thank you very much for your assistance.

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

  
Xavier Swamikannu  
Chief, Storm Water Program

Enclosure

*California Environmental Protection Agency*



Recycled Paper

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

**D000194**



<b>STATE OF CALIFORNIA</b> <b>LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD</b>  <b><u>PUBLIC NOTICE</u></b>	
<b>PUBLIC WORKSHOP ON PROPOSED CHANGES TO THE WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGES WITHIN THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN, (NPDES NO. CAS004002).</b>	
Public Notice No. 08-022	
<b>WHAT IS BEING PLANNED</b>	NOTICE IS HEREBY GIVEN that the Los Angeles Regional Water Quality Control Board, (Los Angeles Regional Water Board) will hold a public workshop to receive comments on the proposed Waste Discharge Requirements (WDR) for Municipal Storm Water Discharges within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein, (NPDES NO. CAS004002).
<b>WHEN AND WHERE</b>	July 10, 2008 at 9:00 AM Ventura City Hall 501 Poli Ventura, CA 93001
<b>AVAILABILITY OF DOCUMENTS</b>	The WDR and accompanying file are available for review and copying between the hours of 8:00 am - 4:30 pm by appointment at the following address:  Los Angeles Regional Water Quality Control Board 320 W. 4th Street, #200 Los Angeles, CA 90013-2343 213/576-6600  For an electronic copy of the WDR see the Regional Water Board's web site: <a href="http://www.waterboards.ca.gov/losangeles/html/programs/stormwater/venturaMs4.html">www.waterboards.ca.gov/losangeles/html/programs/stormwater/venturaMs4.html</a>
<b>PUBLIC COMMENT AND SUBMITTAL OF EVIDENCE</b>	Persons wishing to comment upon, or object to, changes to the WDR (NPDES NO. CAS004002), are invited to submit them in writing to Xavier Swamikannu at the above address, or send them electronically to: <a href="mailto:3rddraftVCMS4@waterboards.ca.gov">3rddraftVCMS4@waterboards.ca.gov</a> . In order to provide all parties the full benefit of the discussion at the workshop before submitting written comments and for the comments to be evaluated and considered by staff, the deadline to receive comments is 5 p.m. on <b>May 29, 2008</b> . Failure to comply with these requirements is grounds for the Regional Water Board to refuse to admit the proposed written comment or exhibit into evidence pursuant to section 649.4, title 23 of the California Code of Regulations.
<b>HEARING PROCEDURE</b>	Staff will present proposed changes on low impact development, hydromodification, control, TMDLs, grading restriction, monitoring and other matters under consideration, after which written and oral statements from Permittees or interested persons will be accepted and heard on the proposed action. Any person may present relevant statements or arguments at the public workshop. Parties or persons with similar concerns or opinions are encouraged to choose one representative to speak. If necessary, time limitations on presentations may be imposed. The Board will take no formal action on the WDR (NPDES NO. CAS004002) at the public workshop. Adoption of the proposed WDR (NPDES NO. CAS004002) will be considered, at a subsequent Regional Water Board hearing.
<b>FOR INFORMATION</b>	For additional information or for an appointment to review the file please contact Xavier Swamikannu at 213/620-2094 or Tracy Woods at 213/620-2095.

**From:** <vermyil\_thomas@dailyjournal.com>  
**To:** <twoods@waterboards.ca.gov>  
**Date:** 4/25/2008 8:40 AM  
**Subject:** Confirmation of Order 1329915 for PUBLIC WORKSHOP ON PROPOSED CHANGES TO THE WASTE DISCHARGE REQUIREMENTS

Dear Customer:

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

Customer Account Number: 120183  
Type of Notice : GPN - GOVT PUBLIC NOTICE  
Ad Description : PUBLIC WORKSHOP ON PROPOSED CHANGES TO THE WASTE DISCHARGE REQUIREMENTS  
Our Order Number : 1329915  
Newspaper : VENTURA COUNTY STAR  
Publication Date(s) : 04/29/2008

Thank you for using the Daily Journal Corporation.

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Fax: (800) 540 4089 / (213)229-5481

D000196

CALIFORNIA NEWSPAPER SERVICE BUREAU

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Visit us @ WWW.DAILYJOURNAL.COM.

TRACY WOODS
CALIFORNIA REGIONAL WATER
320 W 4TH ST #200
LOS ANGELES, CA 90013

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE
Ad Description PUBLIC NOTICE 08-029 - CHANGE OF VENUE

To the right is a copy of the notice you sent to us for publication in the VENTURA COUNTY STAR. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

06/27/2008

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CNS 1373608

STATE OF CALIFORNIA
LOS ANGELES
REGIONAL WATER
QUALITY
CONTROL BOARD

PUBLIC NOTICE -
CHANGE OF VENUE

Public Notice No. 08-029

PUBLIC WORKSHOP ON
PROPOSED CHANGES
TO THE WASTE
DISCHARGE
REQUIREMENTS FOR
MUNICIPAL SEPARATE
STORM SEWER SYSTEM
DISCHARGES WITHIN
THE VENTURA COUNTY
WATERSHED
PROTECTION DISTRICT,
COUNTY OF VENTURA
AND THE
INCORPORATED
CITIES THEREIN,
(NPDES NO. CAS004002).

WHAT IS BEING
PLANNED IS HEREBY
NOTICE IS HEREBY
GIVEN that the Los
Angeles Regional Water
Quality Control Board (Los
Angeles Regional Water
Board) will hold a public
workshop to receive
comments on the proposed
Waste Discharge
Requirements (WDR) for
Municipal Storm Water
Discharges within the
Ventura County Watershed
Protection District, County
of Ventura and the
Incorporated Cities Therein,
(NPDES NO. CAS004002).

WHEN AND WHERE
July 10, 2008 at 9:00 AM
County Government Center
Hall of Administration
Board of Supervisors
Hearing Room
800 South Victoria Avenue
Ventura, CA 93009

AVAILABILITY OF
DOCUMENTS
The WDR and
accompanying file are
available for review and
copying between the hours
of 8:00 am - 4:30 pm by
appointment at the following
address:

Los Angeles Regional
Water Quality Control
Board 320 W. 4th Street,
#200 Los Angeles, CA
90013-2343 213/576-6600

For an electronic copy of
the WDR see the Regional
Water Board's web site:
www.waterboards.ca.gov/lo

sangeles/html/programs/sto
rmwater/venturaMs4.html

PUBLIC COMMENT AND
SUBMITTAL
OF
EVIDENCE

Comment submittal
deadline was May 29, 2008
for persons wishing to
comment upon, or object to,
changes to the WDR
(NPDES NO. CAS004002).
Comments were submitted
in writing to Xavier
Swamikannu at the above
address, or sent
electronically to:
3rddraftVCMS4@waterbo
ards.ca.gov. In order to
provide all parties the full
benefit of the discussion at
the workshop before
submitting written
comments and for the
comments to be evaluated
and considered by staff, the
deadline to receive
comments was 5 p.m. on
May 29, 2008. Failure to
comply with these
requirements is grounds for
the Regional Water Board
to refuse to admit the
proposed written comment
or exhibit into evidence
pursuant to section 649.4,
title 23 of the California
Code of Regulations.

HEARING PROCEDURE

Staff will present proposed
changes on low impact
development,
hydromodification, control,
TMDLs, grading restriction,
monitoring and other
matters under
consideration, after which
written and oral statements
from Permittees or
interested persons will be
accepted and heard on the
proposed action. Any
person may present
relevant statements or
arguments at the public
workshop. Parties or
persons with similar
concerns or opinions are
encouraged to choose one
representative to speak. If
necessary, time limitations
on presentations may be
imposed. The Board will
take no formal action on the
WDR (NPDES NO.
CAS004002) at the public
workshop. Adoption of the
proposed WDR (NPDES
NO. CAS004002) will be
considered, at a
subsequent Regional Water
Board hearing.

FOR INFORMATION

For additional information or
for an appointment to
review the file please



D000197

contact Samuel Unger at  
213/576-6622 or Xavier  
Swamikannu at 213/620-  
2094.

6/27/08  
CNS-1373608#  
VENTURA COUNTY STAR



# California Regional Water Quality Control Board Los Angeles Region



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

Dan Skopec  
Agency Secretary

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

Arnold Schwarzenegger  
Governor

June 24, 2008

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

GOVERNMENT ACCOUNTS (FILE NO. 100.324)

Enclosed is a copy of a public notice change in venue we would like to publish in a daily newspaper of general circulation in the entire Ventura County area for one day during the week of June 22, 2008.

We rely on your proofreading.

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

Thank you very much for your assistance.

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

  
Xavier Swamikannu  
Chief, Storm Water Program

Enclosure

California Environmental Protection Agency



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

0000199

<p><b>STATE OF CALIFORNIA</b>  <b>LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD</b></p> <p><b><u>PUBLIC NOTICE - CHANGE OF VENUE</u></b></p> <p><b>PUBLIC WORKSHOP ON PROPOSED CHANGES TO THE WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGES WITHIN THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN, (NPDES NO. CAS004002).</b></p> <p>Public Notice No. 08-029</p>	
<b>WHAT IS BEING PLANNED</b>	NOTICE IS HEREBY GIVEN that the Los Angeles Regional Water Quality Control Board, (Los Angeles Regional Water Board) will hold a public workshop to receive comments on the proposed Waste Discharge Requirements (WDR) for Municipal Storm Water Discharges within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein, (NPDES NO. CAS004002).
<b>WHEN AND WHERE</b>	<p>July 10, 2008 at 9:00 AM                      County Government Center                      Hall of Administration                      Board of Supervisors Hearing Room                      800 South Victoria Avenue                      Ventura, CA 93009</p>
<b>AVAILABILITY OF DOCUMENTS</b>	<p>The WDR and accompanying file are available for review and copying between the hours of 8:00 am - 4:30 pm by appointment at the following address:</p> <p style="text-align: center;">                         Los Angeles Regional Water Quality Control Board                          320 W. 4th Street, #200                          Los Angeles, CA 90013-2343                          213/576-6600                     </p> <p>For an electronic copy of the WDR see the Regional Water Board's web site:  <a href="http://www.waterboards.ca.gov/losangeles/html/programs/stormwater/venturaMs4.html">www.waterboards.ca.gov/losangeles/html/programs/stormwater/venturaMs4.html</a></p>
<b>PUBLIC COMMENT AND SUBMITTAL OF EVIDENCE</b>	<p>Comment submittal deadline was May 29, 2008 for persons wishing to comment upon, or object to, changes to the WDR (NPDES NO. CAS004002). Comments were submitted in writing to Xavier Swamikannu at the above address, or sent electronically to: <a href="mailto:3rdddraftVCMS4@waterboards.ca.gov">3rdddraftVCMS4@waterboards.ca.gov</a>.</p> <p>In order to provide all parties the full benefit of the discussion at the workshop before submitting written comments and for the comments to be evaluated and considered by staff, the deadline to receive comments was 5 p.m. on May 29, 2008. Failure to comply with these requirements is grounds for the Regional Water Board to refuse to admit the proposed written comment or exhibit into evidence pursuant to section 649.4, title 23 of the California Code of Regulations.</p>
<b>HEARING PROCEDURE</b>	Staff will present proposed changes on low impact development, hydromodification, control, TMDLs, grading restriction, monitoring and other matters under consideration, after which written and oral statements from Permittees or interested persons will be accepted and heard on the proposed action. Any person may present relevant statements or arguments at the public workshop. Parties or persons with similar concerns or opinions are encouraged to choose one representative to speak. If necessary, time limitations on presentations may be imposed. The Board will take no formal action on the WDR (NPDES NO. CAS004002) at the public workshop. Adoption of the proposed WDR (NPDES NO. CAS004002) will be considered, at a subsequent Regional Water Board hearing.
<b>FOR INFORMATION</b>	For additional information or for an appointment to review the file please contact Samuel Unger at 213/576-6622 or Xavier Swamikannu at 213/620-2094.

**From:** <vermyil\_thomas@dailyjournal.com>  
**To:** <twoods@waterboards.ca.gov>  
**Date:** 6/23/2008 5:23 PM  
**Subject:** Confirmation of Order 1373608 for PUBLIC NOTICE 08-029 - CHANGE OF VENUE

Dear Customer:

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

Customer Account Number: 120183  
Type of Notice : GPN - GOVT PUBLIC NOTICE  
Ad Description : PUBLIC NOTICE 08-029 - CHANGE OF VENUE  
Our Order Number : 1373608  
Newspaper : VENTURA COUNTY STAR  
Publication Date(s) : 06/27/2008

Thank you for using the Daily Journal Corporation.

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Linda S. Adams  
Agency Secretary

# California Regional Water Quality Control Board

## Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013

Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>



Arnold Schwarzenegger  
Governor

### Notice of Public Meeting/Hearing

Thursday, July 10, 2008

9:00 a.m.

Meeting Location:

County Government Center  
Hall of Administration  
Board of Supervisors Hearing Room  
800 South Victoria Avenue  
Ventura, California

### Agenda

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

To ensure a fair hearing and that the Regional Board Members have an opportunity to fully study and consider written material, unless stated otherwise, written materials must be provided to the Executive Officer **not later than 5:00 p.m. on June 26, 2008. Please consult the agenda description for specific items, because certain items may have an earlier deadline for written submissions. If you are considering submitting written materials, please consult the notes at the end of the agenda. Failure to follow the required procedures may result in your materials being excluded from the hearing record; however, failure to timely submit written materials does not preclude a person from testifying before the Board.**

### INTRODUCTORY ITEMS

1. **Roll Call.**
2. **Order of Agenda.** The agenda items are numbered for identification purposes only and may not necessarily be considered in this order.
3. **Approval of June 5, 2008 draft Meeting Minutes.**  
[Ronji Harris, (213) 576-6612]
4. **Board Member Communications.**
  - 4.a. Ex Parte Disclosure. Board Members will identify any discussions they may have had requiring disclosure pursuant to Government Code section 11430.40.
  - 4.b. Board Member Reports. The Board Members may discuss communications, correspondence, or other items of general interest relating to matters within the Board's jurisdiction.
5. **Executive Officer's Report.**  
[Tracy Egoscue, (213) 576-6605]

D000202



- 5.b. **Board Checklist.**
- 5.c. **Update from State Board.**
- 6. **Public Forum.** Any person may address the Board regarding any matter within the Board's jurisdiction that does not appear elsewhere on this agenda. Remarks will be limited to five (5) minutes, unless otherwise directed by the Chair.

### **UNCONTESTED ITEMS**

*(Items marked with an asterisk are expected to be routine and noncontroversial. The Board will be asked to approve these items at one time without discussion. Any person may request that an item be removed from the uncontested calendar. The Chair will determine the appropriate time to consider an item removed from the consent calendar.)*

#### **Waste Discharge Requirements that Serve as Individual NPDES Permits-Renewal-**

- \*7. California Portland Cement Company, (Catalina Pacific Concrete Company – Former Greene's Ready Mix Company), Torrance; NPDES No. CA0002992 (Comment submittal deadline was June 26, 2008) [Rosario Aston, (213) 576-6653]
- \*8. Ultramar, Inc. (Olympic Tank Farm), Wilmington; NPDES No. CA0057568 (Comment submittal deadline was April 18, 2008) [Mazhar Ali, (213) 576-6652]
- \*9. Ojai Valley Sanitary District (Ojai Valley Wastewater Treatment Plant), Ojai; NPDES No. CA0053961 (Comment submittal deadline was June 19, 2008) [Dr. Cathy Chang, (213) 576-6694]

#### **Non-NPDES State Discharge Requirements Revision-**

- \*10. Santa Clarita Composting Facility; Newhall (File No. 02-135) (Comment submittal deadline was June 26, 2008) [Douglas Cross, (213) 620-2246]
- \*11. City of Los Angeles (Los Angeles-Glendale Water Reclamation Plant, Los Angeles; Order No. R4-2007-0006, (File No. 68-085). (Comment submittal deadline was June 16, 2008) [Raul Medina, (213) 620-2160]
- \*12. City of Los Angeles (Donald C. Tillman Water Reclamation Plant), Van Nuys; ORDER No. R4-2007-0008, (File No. 70-117). (Comment submittal deadline was June 16, 2008) [Raul Medina, (213) 620-2160]

### **WORKSHOP**

- 13. A Workshop will be held to solicit input and comments on the draft tentative Ventura County Municipal Separate Storm Sewer System (MS4) Permit; NPDES No. CAS004002. *This Third Public Workshop was added in order to provide local public officials the opportunity to comment on the current draft of the permit.* (Comment submittal deadline was May 29, 2008.) [Tracy Woods, (213) 620-2095]

### **CLOSED SESSION**

- 14. As authorized by the Government Code section 11126, the Regional Board will be meeting in closed session. Closed session items are not open to the public. Items the Board may discuss include the following: [Michael Levy (MJL), (916) 341-5193; Jennifer L. Fordyce (JLF) (916) 324-6682]
  - 14.1 *Cities of Los Angeles, City of Burbank v. Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court, Case Nos. BS 060957 and BS 060960. [Challenging the Burbank, Tillman, and Los Angeles-Glendale Water Reclamation Plants' NPDES permits]. (MJL)
  - 14.2 *Cities of Arcadia, et al., v. Los Angeles Regional Water Quality Control Board et al.*, San Diego Superior Court No. GIC 803631 [Challenging the Los Angeles River Trash TMDL]. (MJL)

- 14.3 *County of Los Angeles et al. v. Commission on State Mandates et al. and City of Artesia et al. v. State of California*, Los Angeles Superior Court Nos. BS 089769 & BS089785, Second District Court of Appeal No. B183981 [Alleging that the Los Angeles MS4 Permit created an unfunded state mandate]. (MJL)
- 14.4 *Boeing v. Los Angeles Regional Water Quality Control Board et al., Los Angeles County Superior Court No. BS106941* [Challenge to permit for the Santa Susana Field Laboratory]. (MJL)
- 14.5 *In re Halaco Engineering Company*, United States Bankruptcy Court, Central District of California, Northern Division, No. ND-02-12255 RR; [Regarding a CDO and CAO at the Oxnard Property]. (JLF)
- 14.6 *Cities of Arcadia et al., v. Los Angeles Regional Water Quality Control Board*, Orange County Superior Court No. 06CC02974 [Challenging the 2004 Triennial Review]. (MJL)
- 14.7 *Cities of Bellflower et al., v. Los Angeles Regional Water Quality Control Board et al.*, Los Angeles Superior Court No BS101732 [Challenging the Los Angeles River and Ballona Creek Metals TMDLs]. (MJL)
- 14.8 Consultation with counsel about:
- (a) A judicial or administrative adjudicatory proceeding that has been formally initiated to which the Regional Board is a party;
  - (b) A matter that, based on existing facts and circumstances, presents significant exposure to litigation against the Regional Board;
  - (c) A matter which, based on existing facts and circumstances, the Regional Board is deciding whether to initiate litigation. (JLF)
15. **Adjournment of Current Meeting.** The next regular meeting is scheduled for August 14, 2008, at City of Long Beach Council Chambers, 333 West Ocean Blvd., Long Beach, CA.

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#### NOTICE

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

**Hearing Procedures:** The Regional Board follows procedures established by the State Water Resources Control Board. These procedures are established in regulations commencing with section 647 of title 23 of the California Code of Regulations. The Chair may establish specific procedures for each item, and consistent with section 648, subdivision (d) of title 23 of the California Code of Regulations may waive nonstatutory provisions of the regulations. Generally, all witnesses testifying before the Regional Board must affirm the truth of their testimony and are subject to questioning by the Board Members. The Board does not, generally, require the designation of parties, the prior identification of witnesses, or the cross examination of witnesses. Any requests for an alternate hearing process should be made to the Executive Officer in advance of the meeting, and under no circumstances later than 5:00 p.m. on the Thursday preceding the Board meeting.

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

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

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

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

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

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

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

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

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

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

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Notice of Cancellation of Workshop

July 10, 2008

County of Ventura Municipal Separate Storm Sewer System (MS4) Permit  
NPDES No. CAS004002

Please take notice that the workshop to solicit input and comments on the draft tentative Ventura County MS4 Permit, NPDES No. CAS004002, scheduled to be heard at the board meeting on July 10, 2008, is hereby canceled. The cancellation of this workshop is required by a writ of mandate (court order) issued in the matter of Cities of Arcadia et al v. State Water Resources Control Board et al (Orange County Superior Court No. 06CC02974).

Questions regarding this notice should be directed to Senior Staff Counsel Michael J. Levy at (916) 341-5193 or [mlevy@waterboards.ca.gov](mailto:mlevy@waterboards.ca.gov).

1 RUTAN & TUCKER, LLP  
RICHARD MONTEVIDEO (State Bar No. 116051)  
2 611 Anton Boulevard, Fourteenth Floor  
Costa Mesa, California 92626-1950  
3 Telephone: 714-641-5100  
Facsimile: 714-546-9035

4 Attorneys for Petitioners  
5  
6  
7

8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
9 COUNTY OF ORANGE , CENTRAL JUSTICE CENTER  
10

11 THE CITIES OF ARCADIA,  
BELLFLOWER, CARSON,  
12 CERRITOS, CLAREMONT,  
COMMERCE, DOWNEY, DUARTE,  
13 GARDENA, GLENDORA, HAWAIIAN  
GARDENS, IRWINDALE,  
14 LAWDALE, MONTEREY PARK,  
PARAMOUNT, SANTA FE SPRINGS,  
15 SIGNAL HILL, VERNON, WALNUT,  
WEST COVINA, and WHITTIER,  
16 municipal corporations, and BUILDING  
INDUSTRY LEGAL DEFENSE  
17 FOUNDATION, a non-profit  
corporation,

18 Petitioners/Plaintiffs,  
19

20 vs.

21 THE STATE WATER RESOURCES  
CONTROL BOARD; and THE  
22 CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD, LOS  
ANGELES REGION,  
23 Respondents/Defendants.  
24  
25  
26  
27

Case No. 06CC02974  
Honorable Thierry Patrick Colaw  
Dept: CX-104

**PEREMPTORY WRIT OF  
MANDATE**

28 TO RESPONDENTS STATE WATER RESOURCES CONTROL BOARD

1 AND THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,  
2 LOS ANGELES REGION, AND TO THEIR BOARD MEMBERS, OFFICERS,  
3 AGENTS, ATTORNEYS, EMPLOYEES, AND TO ALL PERSONS ACTING ON  
4 THEIR BEHALF, OR THROUGH OR UNDER COLOR OF THEIR  
5 AUTHORITY:

6 Judgment having been entered in this action, ordering that a peremptory writ  
7 of mandate be issued from this Court,

8 YOU ARE HEREBY DIRECTED AND COMMANDED, UPON RECEIPT  
9 OF THIS WRIT, IN ACCORDANCE WITH YOUR RESPECTIVE  
10 OBLIGATIONS UNDER THE LAW:

11 (1) To void and set aside Los Angeles Regional Water Quality Control  
12 Board Resolution No. 2005-003, dated March 3, 2005, wherein the 2004 Triennial  
13 Review of the Water Quality Control Plan for the Los Angeles Region (“Basin  
14 Plan”) was concluded;

15 (2) During the course of reopened 2004 Triennial Review, or if  
16 Respondents determine not to reopen the 2004 Triennial Review, then during the  
17 course of the next scheduled triennial review of the Water Quality Standards  
18 (“Standards”)<sup>1</sup> in the Basin Plan:

19 (a) to review and, where appropriate, revise the Standards which  
20 apply or are to be applied to storm water and urban runoff (collectively  
21 “Stormwater”),<sup>2</sup> in light of the factors and requirements set forth under Water  
22 Code sections 13241 and 13000, including, but not limited to, the specific  
23 factors set forth under Water Code sections 13241(a) – (f), and the  
24 considerations provided under Water Code section 13000;

25  
26 <sup>1</sup> As referenced herein, the term “Water Quality Standards” or “Standards” shall  
27 mean the designated beneficial uses of the waters, as well as the water quality  
objectives established to achieve such designated beneficial uses.

28 <sup>2</sup> Federal law defines “storm water” to include urban runoff, *i.e.*, “surface runoff  
and drainage.” (*See* 40 C.F.R. § 122.26(b)(13).)

1 (b) to revise the Standards that apply or are to be applied to  
2 Stormwater, such that no "potential" use designations for such Standards  
3 remain in the Basin Plan; and

4 (c) to revise the Standards, as appropriate, during said triennial  
5 review process, consistent with subsections (a) and (b) above and State and  
6 federal law, after a full and fair public hearing or hearings, and before  
7 concluding the triennial review.

8 (3) to cease, desist, and suspend all activities relating to the  
9 implementation, application, and/or enforcement of all Standards in the Basin Plan  
10 established to achieve "potential" beneficial uses, as applied or to be applied to  
11 Stormwater, whether through Total Maximum Daily Loads ("TMDLs") or other  
12 Basin Plan amendments or regulations, or through National Pollutant Discharge  
13 Elimination System ("NPDES") permits, water quality policies or otherwise.

14 (4) To cease, desist and suspend all activities relating to the  
15 implementation, application and/or enforcement of the Standards in the Basin Plan,  
16 as applied or to be applied to Stormwater, whether through TMDLs or other Basin  
17 Plan amendments or regulations, or through NPDES permits, water quality policies  
18 or otherwise, until such time as Respondents have reviewed and, where appropriate,  
19 revised such Standards in light of the factors and requirements provided under Water  
20 Code sections 13241 and 13000, including, but not limited to, the specific factors set  
21 forth under Water Code subsections 13241(a)-(f) (e.g., requiring that the Standards  
22 be developed to achieve water quality conditions "that could reasonably be  
23 achieved," and after a consideration of the "economic" impacts on the dischargers,  
24 as well as after a consideration of the other factors referenced in Water Code section  
25 13241), and in light of the considerations required under Water Code section 13000  
26 (requiring the regulation of state waters "to attain the highest water quality which is  
27 reasonable, considering all demands being made and to be made on those waters and  
28 the total values involved, beneficial and detrimental, economic and social, tangible

1 and intangible"). Nothing contained in this Paragraph 4 shall prevent the  
2 enforcement of any term or provision in an NPDES Stormwater permit, except to the  
3 extent that any such term or provision is used or designed to implement or enforce  
4 (i) any element of a TMDL, or (ii) any numeric limit that may be included in any  
5 such NPDES permit as a means of enforcing a Standard outside of the TMDL  
6 process.

7 (5) To make and file a Return to this Writ within ninety (90) days from the  
8 date Respondents have taken all action necessary to comply with paragraphs (1)-(4),  
9 above.

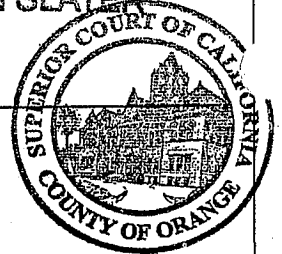
10 WITNESS the Honorable Thierry Patrick Colaw, Judge of the Superior Court.

11 ATTEST my hand and the seal of this Court, this 2 day of JULY,  
12 2008.

13 ORANGE COUNTY SUPERIOR COURT  
14 CLERK ~~XXXXXXXXXX~~ LAN SLATER

15 Dated: 7/2/08

16 By: [Signature]  
17 PEREMPTORY



18 LET THE FOREGOING WRIT ISSUE.

19 Dated: 2 July 2008

20 [Signature]  
21 The Honorable Thierry Patrick Colaw  
22 Judge of the Superior Court of California

23 RESPECTFULLY SUBMITTED BY:

24 RUTAN & TUCKER, LLP

25 By: \_\_\_\_\_  
26 Richard Montevideo  
27 Attorney for Petitioners/Plaintiffs  
28





# City of Port Hueneme

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May 29, 2008

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, Ca 90013

**REF: VENTURA COUNTYWIDE MUNICIPAL SEPARATE STORM SEWER  
DRAFT TENTATIVE ORDER NPDES PERMIT NO. CAS004002**

Dear Ms. Egoscue:

City of Port Hueneme staff wishes to submit comments on the Draft Tentative Order Waste Discharge Requirements for Storm Water Discharges from the Municipal Separate Storm Sewer System within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities therein (NPDES Permit No. CAS004002) which was released for public comment by the Regional Water Board on April 29, 2008. These comments are in addition to the collective comments submitted on behalf of all the Ventura County Co-permittees, in a letter dated May 27, 2008.

As to the comments submitted on behalf of all the Co-permittees, the City of Port Hueneme fully supports the May 27, 2008 comment letter and associated attachments.

In addition to the Program's corporate concerns, some areas of specific concern to the City of Port Hueneme include: 1) the requirement to GIS the storm drain system, 2) the trash excluder/collection requirements and, 3) the short time frames for implementation.

## **GIS REQUIREMENT**

The GIS requirement provides no benefit to receiving water quality improvement. The City of Port Hueneme does not have a revenue source to fund activities such as GIS. Currently its utility maps are in AutoCAD, which meets the City's needs. The City understands the importance of having a well-mapped system, but to require it to use GIS, a mapping system that is labor intensive and expensive to set up and maintain, is overly prescriptive and does not allow the City to make the best use of severely limited resources available to improve receiving water quality.

Please remove the requirement to GIS the storm drain system from the permit.

### TRASH EXCLUDERS AND TRASH RECEPTACLES

The requirement to install both trash excluders and additional trash receptacles in areas of high trash generation is excessive. This requirement creates a lack of flexibility that does not give the City the ability to determine which option (if either) would work best for individual situations. It also does not allow alternatives such as trash management plans or trash collection at the end of a drainage area rather than at individual points. The City has historically worked hard to prevent trash from entering the receiving water and has been successful in its efforts.

It is especially disappointing, despite testimony to the Board, written requests, and much verbal dialogue on this subject Regional Board staff has not included the use of alternative trash management plans in the permit, at least for the use of the small communities in Ventura County. Meeting the goal of reducing trash entering receiving waters should be the focus. To prescribe how this must be done, especially when the receiving water is not impaired for trash, is unreasonable.

Staff is estimating it will cost \$300,000 (including labor and capital expenses) to fund this requirement over the next five years. The City of Port Hueneme is already faced with a serious budget deficit over this same time period – there are currently insufficient revenues coming into the City to maintain existing critical services and programs. It is not logical or reasonable to focus significant resources on a prescriptive requirement that could be met, we believe, just as effectively through a less costly alternative.

Trash management plans should be added as an alternative to installing trash excluders and trash receptacles (if this requirement stays in the permit).

### IMPLEMENTATION TIME FRAMES

Many of the implementation time frames throughout the draft tentative permit simply do not take into account municipal approval processing logistics. These logistics (e.g. Council authorization, bidding procedures, contract award, delivery of merchandise) combined with the need to secure a funding source, most likely through the reduction or elimination of existing critical programs and services, makes many of the permit timelines infeasible.

The Program has submitted, in writing, reasonable time frames for your consideration for each of the areas of significant concern. The recommended time frames are not an attempt to stall implementation of permit requirements. The time frames proposed by the Co-permittees will still push the City hard to complete all that is required in the permit.

In our small city it takes combined efforts from several City departments to meet the requirements of the stormwater program. A single department does not have the

**NPDES DRAFT TENTATIVE ORDER  
MAY 29, 2008  
PAGE 3**

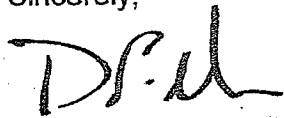
resources to do all that is required. Coordinating these efforts and getting through the public process, as you are well aware, is a time-consuming endeavor.

Please review the prior comments on time frame adjustments once again and incorporate these adjusted time frames into the permit.

The City looks forward to working collaboratively with the Regional Board and all the Co-permittees in developing a revised Draft Tentative Order that promotes the continued enhancement of the Program in a cooperative, progressive, and cost-effective manner.

We look forward to your response and again wish to thank you for the opportunity to express concerns with regard to the Draft Tentative Order.

Sincerely,



**DAVID J. NORMAN  
CITY MANAGER**

c: City Council  
City Attorney  
Public Works Director  
Utility Services Director  
Wastewater Superintendent  
Ventura Countywide Program Permittees  
Gerhardt Hubner, Ventura County Watershed Protection District

# VENTURA COUNTY



PUBLIC WORKS AGENCY

## WATERSHED PROTECTION DISTRICT

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May 28, 2008

Ms. Tracy Egoscue  
California Regional Water Quality Control Board  
Los Angeles Region  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**Jeff Pratt**

District Director

**Gerhardt Hubner**

Water/Environmental Resources

**Peter Sheydayi**

Design/Construction

**Sergio Vargas**

Planning/Regulatory

**Tom Lagier**

Operations/Maintenance

**Subject: COMMENT LETTER – THIRD DRAFT VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES PERMIT No. CAS004002) DATED APRIL 29, 2008**

Dear Ms. Egoscue:

We have received the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) Draft Order dated April 28, 2007 and appreciate the opportunity to provide comments on behalf of the Watershed Protection District (District). Comments from the District on the first draft were submitted on March 6, 2007, and the second draft on October 15, 2007. We understand this is a draft tentative Order and our concerns and comments will be considered before a tentative Order is released.

In addition to the comments from the District, the District supports comments made by the Ventura Countywide Stormwater Quality Management Program May 27, 2008 letter and attachments.

Increases in permit requirements were expected as part of the iterative process, as reflected in the Draft Tentative Order. The comments presented here are made to maximize the effectiveness of the program to improve stormwater quality discharging from MS4s. Wherever possible each comment suggests a viable alternative; however in some cases the draft language was not readily understood or the requirements did not appear technically or scientifically justified, so clarification was requested.

The District has developed the following studies and tools for use in evaluating hydromodification and they represent our experience and expertise in this area:

1. Development of continuous HSPF model on Calleguas Creek with sediment yield/transport capabilities;
2. Use of said model to evaluate TMDLs and channel stability;

3. HSPF "Hydrologic Modeling of the Arroyo Simi Watershed with Hydraulic Simulation Program" report by Aqua Terra and subsequent report "Understanding and Managing Urbanization Induced Erosion in Southern California";
4. Development of continuous HSPF model for Santa Clara River with sediment yield/transport capabilities;
5. Recent evaluation of debris basins utilizing HEC-6T model in Ventura County for possible removal to restore sediment equilibrium;
6. Historic sediment transport modeling by WEST and Chang Consultants to evaluate Calleguas Creek system;
7. Current study to update sediment yield methodology;
8. Planned development of continuous HSPF model of Ventura River watershed with sediment yield and transport capabilities; and
9. Study to evaluate sediment transport for Sespe Creek in response to 2006 Day Fire;

With this understanding, the District is compelled to comment on the hydromodification requirements in the draft order.

**Issue: Need to include methodology to generate two-year storm hydrograph in Hydrology Manual Part 4 E. III 3 (a) (2) (A) (i) page 56**

The definition of a two-year 24-hr storm needs to be clarified. Please clarify if this is related to a flow frequency analysis, or to rainfall based on a rain gauge analysis or other source.

To meet these requirements of the draft tentative order, the District would have to revise its methodology for developing design hydrographs. The current approach of using a modified rational method hydrograph with yield adjustment may not be suitable for sediment transport and hydromodification studies. The design hydrographs should be developed in conjunction with NPDES design volume requirements so the methodologies are consistent with each other, and the NPDES design volume requirements are unambiguous.

Additionally, in many places of the County adhering to the specified 1% interim volume restriction will be impossible due to restrictions on infiltration from soil types and high ground water. Another problem is that significant areas of the county are underlain by perched aquifers containing water that is of poor quality (not suitable for drinking or agriculture), so increases in the groundwater table may encourage base flow into the streams and adversely affect water quality.

**Issue: Projects disturbing land areas of 50 acres or greater will need to use SWMM or HSPF to evaluate treatment BMPs.** Part 4 E. III 3(a) (2) (A) (ii) page 54.

The requirement for developers with projects over 50 acres to use HSPF or SWMM to evaluate their water quality impacts is not available for that resolution at this time. HSPF is a continuous model that cannot be used to evaluate design storm runoff due to development without extensive work to develop a methodology. The use of these models requires complex modeling and data gathering efforts; however, only a few consultants in the County currently claim to have this modeling capability. The District would have to develop enough expertise to do a thorough review of its models to accept them.

**Issue: Grading prohibition during the wet season is overly restrictive and goes beyond needed controls to protect water quality.** Part 4 F.I.1 (a) (1) page 63.

In particular, to grant a variance from the prohibition, the Draft Order requires the Permittees to ensure total suspended solids discharged are 100 mg/L or less; ensure that turbidity of the discharge is 50 NTU or less; not impair beneficial uses; and, includes a monitoring program to ensure effectiveness. Most likely the turbidity and total suspended solids requirements would require the installation of advanced treatment units as it would be impossible to meet such requirements otherwise. This grading prohibition would apply to District work, including critical work related to public health and safety in Calleguas Creek. Requiring this for the entire time between October 1 and April 15 is unwarranted as additional enhanced BMPs could be implemented to address any water quality concerns.

**Issue: Draft Order should focus on infrastructure under Permittees control.** Part 4 H. 3. (a) (1) (A) page 80.

The District can only be responsible for infrastructure under its control. Please change to: A GIS layer showing the location and length of Permittee owned underground storm drain pipes.

**Issue: The Draft Order erroneously identifies the Watershed Protection District as having been given waste load allocations when incorporating provisions from adopted TMDLs.** Part 6 V. 2(A)(1); 3(a)(1); 4(a)(1); 5(a)(1)

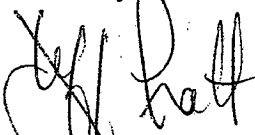
The TMDLs for Bacteria in Malibu Creek and Lagoon; Nitrogen Compounds in the Santa Clara River; and Toxicity, Chlorpyrifos, and Diazinon, Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs) and Siltation, Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon do not list the District as a responsible party. However, the draft order erroneously lists the District for all of these

TMDLs, and requires it to comply with waste load allocations. The draft order should reference only the responsible parties identified in the adopted TMDLs.

All of the issues mentioned here are of particular concern to the District; however, it is necessary to emphasize again that the May 27, 2008 letter and attachments from the Ventura Countywide Stormwater Quality Management Program also expresses the District's opinion and comments on the Draft Order.

Our hope is to have the best stormwater quality program possible. This permit process will help us in that goal, but we need to take care that our resources are being used wisely and efficiently in order to meet that goal. We look forward to your response to all of the comments you have received. If you have any questions, please contact Arne Anselm at (805) 654-3942.

Sincerely,



Jeff Pratt, P.E.  
Director

JP\AA\cs\K:WQ\Water Quality Section\NPDES Program\Management\Permit Renewal\Draft Permit\3rd draft permit 04-29-08\3rd draft district comments

May 29, 2008

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Transportation Department  
Wm. Butch Britt, Director  
Central Services Department  
Lane B. Holt, Director  
Water & Sanitation Department  
R. Reddy Pakala, Director  
Watershed Protection District  
Jeff Pratt, Director  
Engineering Services Department  
Alec T. Pringle, Director

**SUBJECT: COMMENTS ON DRAFT TENTATIVE ORDER - VENTURA  
COUNTYWIDE MUNICIPAL SEPARATE STORM SEWER  
SYSTEM (MS4) STORMWATER PERMIT**

Dear Ms. Egoscue:

On behalf of the County of Ventura Incorporated Area Stormwater Program (County), we appreciate this opportunity to provide written comments concerning the Regional Water Quality Control Board's (Regional Board) Draft Tentative Ventura County Municipal Separate Storm Sewer System MS4 NPDES Permit (Draft Tentative Order). We wish to acknowledge Regional Board staff for responding to a few of our previous comments, specifically the Jurisdictional Areas issue. Nevertheless, we continue to have serious concerns with the lack of response to many of the Ventura Countywide Stormwater Quality Management Program's collective concerns, and comments submitted by the County in three previous letters dated March 6, October 12 and October 15, 2007 (Attachments Nos. 1, 2 and 3). It was our hope to see more substantial changes made in this Draft Tentative Order.

The County along with the other Ventura County Permittees have worked together to review the Draft Tentative Order, and the County is in agreement with the detailed comment letter dated May 27, 2008 submitted by the Ventura Countywide Stormwater Program.

Although we understand the Regional Board staff's desire to uphold the requirements of the Draft Tentative Order, we must continue to emphasize the importance of duly addressing our comments. We believe it is imperative that our future permit be mutually protective of water quality *and* economically reasonable, while not creating *an undue burden* to the County for potential non-compliance with its provisions. As currently written, the Draft Tentative Order falls exceedingly short in meeting these fundamental criteria.

Since our first comment letter in March of 2007, it was our hope that we could work together to forge a protective yet feasible approach. However, we are troubled that our





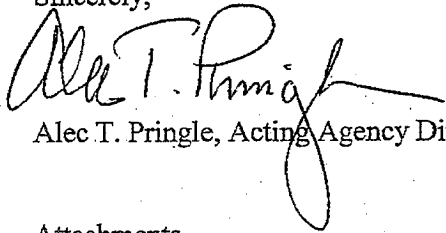
May 29, 2008

countless efforts have apparently been either overlooked or possibly ignored, and we ask for your help in addressing our continued concerns.

In conclusion, we acknowledge the efforts of Regional Board staff for the work done thus far. However, as with the First and Second Draft Orders, we remain concerned with the approach being taken with the most recent Draft Tentative Order. We strongly urge Regional Board staff to consider and respond to *all* concerns voiced in our March and October 2007 comment letters, and as submitted by the Ventura Countywide Stormwater Quality Management Program. Furthermore, we encourage you to continue working with County staff to more effectively draft a Countywide Municipal Stormwater Permit that is both mutually protective of water quality, economically reasonable, while not creating an undue burden to the County.

Again, thank you for this opportunity to comment.

Sincerely,



Alec T. Pringle, Acting Agency Director

Attachments

1. County of Ventura, Public Works Comment Letter dated March 6, 2007
2. County of Ventura, Public Works Comment Letter dated October 12, 2007
3. County of Ventura, Public Works Supplemental Comment Letter dated October 15, 2007

cc: Chris Stephens, Director of RMA  
Wm. Butch Britt, Director of Transportation  
R. Reddy Pakala, Director of Water & Sanitation  
Jeff Pratt, Director of Watershed Protection District  
Gerhardt Hubner, Deputy Director, Watershed Protection District  
Paul Tantet, Engineering Manager, Watershed Protection District

Attachment 1 – County of Ventura Public Works Agency

March 6, 2007

Mr. Jonathan Bishop  
California Regional Water Quality Control Board  
Los Angeles Region  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Transportation Department  
Wm. Butch Britt, Director  
Central Services Department  
Janice E. Turner, Director  
Water & Sanitation Department  
R. Reddy Pakala, Director  
Watershed Protection District  
Jeff Pratt, Director  
Engineering Services Department  
Alec T. Pringle, Director

Subject: **DRAFT VENTURA COUNTYWIDE MUNICIPAL SEPARATE  
STORM SEWER SYSTEM PERMIT (NPDES PERMIT No.  
CAS004002)**

Dear Mr. Bishop:

We have received the draft National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) permit and appreciate the opportunity to provide comments on behalf of the Unincorporated Ventura County Stormwater Program. We have reviewed the document with the understanding that this is a draft and that our concerns will be taken into account before it is released as a tentative permit.

As currently crafted, the proposed Draft Order (Permit) will place undue financial and technical requirements on our program that may ultimately not result in efficiently improving water quality, which we and your agency are seeking to obtain. We concur with the comments as generated by the Ventura Countywide Stormwater Quality Management Program's letter and attachments dated March 6, 2007, and hereby incorporate our support for the record. In addition to the countywide comments, we have received a letter of concern from the Ventura County Resource Conservation District (VCRCD) addressed to the Ventura County Director of Public Works. In this letter, VCRCD voices their objection to several of the Permit's proposed requirements (Please see a copy of this letter as Attachment A.)

Additionally, we understand increased permit requirements are to be expected as part of the iterative process, and we agree with many of this draft permit's new provisions. As such, the comments presented here are not intended to argue against the increase in program requirements, but rather to maximize the overall effectiveness of the program to improve stormwater quality discharging from the MS4. Whenever possible, each comment suggests a viable alternative, however



in many cases the comment simply requests a re-evaluation what is being requested.

Please accept these following concerns, comments and suggestions:

1. The proposed Draft Order (Permit) utilizes and relies upon BMPs in a manner inconsistent with their development and intent. The Stormwater BMP Handbook clearly states the following:

*"However, due to the diversity in climate, receiving waters, construction site conditions, and local implementation across California, this handbook does not dictate the use of specific BMPs and therefore cannot guarantee compliance with NPDES permit requirements or local requirements specific to a user's site."*

Yet, the Permit requires implementation of the BMPs for all new development and redevelopment. Importantly, this is not only a misapplication of the BMPs themselves; it is a clear and direct infringement upon the County's authority to regulate land uses within its jurisdiction. The County of Ventura has been utilizing BMPs for several years and evaluating and applying them on a project-by-project basis as intended by CASQA when they prepared the Handbook. We are committed not only to continuing this practice in the future, but also continuing our efforts to further refine and improve our application of BMPs to specific projects. Broad and indiscriminate application of the BMPs will effectively end this long-standing and effective process.

2. The Permit defines the permit coverage area as the entire county, with the exception of "agricultural lands" and "forest lands." This definition is problematic and should be revised. Rather than defining the permit coverage area by describing what is not included, it should state clearly what is included. As such, we believe the definition used in the current permit (i.e. urban areas as defined in the latest U.S. Census) should continue to be used. This identifies a clear, distinct and, importantly, already mapped area. If the current definition is simply unacceptable, we strongly recommend that the proposed definition be clarified and revised to read "except forest lands in public ownership, and agricultural and open space lands identified in the applicable local general plan."
3. We are concerned about the fundamental disconnect between the required BMPs and the purpose of the Permit. This disconnect is created because the BMPs in the Permit have not been analyzed to determine the efficacy in general, let alone their measurable benefits. There appears only to be an "assumption" of their effectiveness. When the BMPs are applied as anticipated by CASQA and the Clean Water Act (i.e. flexibly and site specific),

using such a "qualitative" assessment is acceptable. However, where BMPs are required, as proposed in the Permit, this is unsound rule-making at best.

This issue is further contorted by the requirement in the Permit that alternative BMPs can be substituted only if there is documentation that it is more effective than the BMP it is replacing. Without any documentation for the required BMP, this is simply impossible. We strongly recommend that the BMPs be used as they were originally intended and as they are used in the current permit. Not a requirement that they must be used, but a requirement that they be applied as supported by local analysis on a project-by-project basis.

4. The Permit does not appear to take local costs into consideration. Based on our preliminary analysis, the costs to the County of Ventura to comply with the Permit will be substantial. These costs are not only associated with the initial efforts to prepare the implementing ordinances and procedures (which will require far more time to prepare than provided in the Permit), they are associated with on-going monitoring, enforcement and outreach. In addition, while these public agency costs will be substantial, they will be dwarfed by the costs to local residents and businesses. Ventura County and its ten cities have been grappling for the past decade with the difficult issue of providing affordable housing. Implementation of the Permit as written will set those efforts back more than any single regulatory or fiscal action in the past 30 years.
5. We believe Ventura County, through its use of BMPs under the current permit and its long-established land use policies, has done a good job protecting our water resources, especially compared to other areas in the southern California region. As such, we do not see a need to fundamentally alter the current permit. In fact, simply re-adopting the current permit would further the goals of the CWA by allowing the County to put its resources toward evaluating and implementing additional BMPs and associated programs, rather than toward a review and analysis of the new permit and the development of the required implementing ordinances and procedures.
6. The Permit is written in language and in a format that makes it extremely difficult to understand. It is recommended that the permit should be rewritten in clear and unambiguous language for ease of understanding, compliance and enforcement. Not doing so may prove to be an undesirable source of argument for several years.
7. The Permit encourages "smart growth" principles, and page 9 of the draft response states, "The Permittees agree that principles related to smart growth such as the avoidance of extensive roads, driveways, and other

impervious features will benefit water quality ....". However, the Public Works Agency considers "smart growth" a policy decision that goes well beyond NPDES implementation. "Smart growth", is open to a myriad of interpretations, and as interpreted by some special interest groups, may imply "traffic calming" or other neo-traditional transportation features. In this capacity, "smart growth" can mask implementation of physical road features that are not consistent with the California Vehicle Code, the Manual for Uniform Traffic Control Devices (MUTCD), or similar legislatively mandated practices. To install traffic control devices or any physical improvements on county roadways that are not in compliance with generally accepted design guidelines or regulations, would seriously reduce the County's ability to rely on statutory immunities in the numerous tort liability cases that we are exposed to on a regular basis. As such, the Public Works Agency does not want to give the impression that we support or endorse "smart growth" unless such a policy and the specifics associated with its implementation are identified and adopted by our Board of Supervisors.

8. The concept of an uninterrupted Municipal Separate Storm System (MS4) in the unincorporated parts of Ventura County is a myth. It is important that the Regional Board understand that such systems simply do not exist in the unincorporated areas, with few exceptions such as the Oak Park community. In almost all other instances, every drainage system involves one or more jurisdictions, including private property. As such, there is no feasible way to administer such a mixture of systems.
9. The Public Works Agency opposes the requirement of street sweeping of curbed streets in commercial areas at least 2 times per month as inconsistent with current Board policy as contained in the General Plan, the "Guidelines for Orderly Development".

Additionally, under current funding limitations, there is no practical way to fund this requirement, except at the expense of other ongoing critical pavement rehabilitation or public safety efforts. The implementation of an assessment district to fund providing such an extraordinary service in the relatively few commercial areas in the unincorporated area would be highly problematic considering the limitations of California Constitution Articles XIII C and D.

10. The Permit does not appear to reference or take into account the considerable technical and scientific data, information, and recommendations contained in the National Cooperative Highway Research Program, Evaluation of Best Management Practices for Highway Runoff Control (NCHRP Report 565). This report provides a comprehensive review of the effectiveness of many BMP's and Low-impact Development (LID) facilities in

the highway environment, as well as a well written discussion of the difficulties (technical, jurisdictional, practical and political) encountered. The contents of this report should be considered and incorporated into the permit.

11. Hydrology and hydraulic analysis for land development projects within the unincorporated County of Ventura shall be as follows:

All hydrology shall be determined using the Watershed Protection District Hydrology Manual. We further recommend that the difference between a Q10 developed storm flows and Q10 undeveloped flows be retained on site using an appropriate BMP that provides for percolation, evaporation, or storm storage so that the runoff from the property being developed does not create an adverse impact with sedimentation or siltation on the receiving property. This will revise the hydrology methods required by the NPDES permit on pp 53-54 / Part 3 II .1.(e), (f), (g) and 55-56 / Part 3 II .2. (a) to a common sense and traditional approach that is specific to the County's hydrology. There are very few subdivisions of land that are 50 or more acres. The method described above will work for all new subdivisions of land in the County unincorporated areas.

12. Post Construction BMPs could only be required on a private project through a discretionary permit process and that the Post Construction BMP clearly alleviates an adverse impact. These requirements could not be attached to ministerial permits such as a building permit. For the County of Ventura, Post Construction BMPs could be conditioned as part of the development, but its future maintenance and inspection could not be performed by the local agency due to access and privacy limitations by the subsequent owners. There would be no public easements and no monies for inspecting Post Construction BMPs on private property. We would only recommend Post Construction BMPs on subdivisions involving 5 or more parcels and when there is a homeowner's association being formed for the maintenance of improvements of such BMPs on private property. This pertains to pp 54-55 / Part 3 III .2. (a) & (b) and 58 / Part 3 III. 6.

13. The ban of "no grading" on slopes steeper than 20% in the rainy season is unreasonable in the County unincorporated areas. The County of Ventura issues approximately 100 grading permits per year and most of those grading permits are single lot developments that range in size from ¼ acre to 5 acres of disturbed area. Historically sediment runoff is efficiently minimized when a County grading permit has been issued, ongoing inspection is being performed by the County Public Works Agency, and there is either a SWPCP or SWPPP in place during the rainy season. Very few violations have ever occurred with this approach. Additionally the rainy season should be

**Ventura County Comments**

**March 6, 2007**

**Page 6 of 7**

November 1 through April 15 for the entire County of Ventura. October is not a rainy season by any definition in any ordinance that the County has on file with regard to the rainy season definition. Ventura County rainfalls do not justify making October part of the rainy season. The County of Ventura also disagrees with the statement in Part 4 F that "sediment is a primary pollutant impacting beneficial uses of a watercourse." Sediment can have a beneficial value and it is part of the natural erosion process, which is taking place all the time. For this reason the sentence should be deleted.

The recommended grading restriction wording for Part 4 F1. (a) (1) (A) found on page 63 is:

*(A) In the unincorporated areas of the County of Ventura, no grading greater than 50 CY shall occur between November 1 and April 15 (rainy season) for development projects on slopes greater than 20% without the implementation of a local or state SWPPP and a grading permit issued by the local agency.*

*(B) no change to wording.*

*(C) Within or adjacent to an environmentally sensitive area (ESA) as designated by the local agency.*

14. The Permit has wording on page 67 could be removed and will not have a bearing on fulfilling the permit obligations by the local agency. The County of Ventura recommends that Part 4, F5. (a) (1) (A) (i), (ii), and (iii) be deleted and revise the wording in (iv) to read *"The project engineer or architect shall prepare the Local and State SWPPP and include a statement that they have selected the appropriate BMPs to minimize any adverse impacts by sedimentation and siltation to the downstream watercourse. This statement shall be sealed with the professional engineer or architect's stamp."*

15. The Permit wording on page 68 can be simplified in Part 4 F5. (a) (2) (B): *"The Local SWPPP shall be signed by the property owner or owner's representative/designee. If the Local SWPPP is for a local agency, then the appropriate authority for the local agency shall sign the document."*

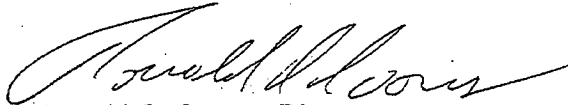
The County of Ventura appreciates this opportunity to provide comments to the Permit and we want to reiterate our commitment to the collaborative effort in maintaining and enhancing water quality in our watershed. However, we have significant concerns about the Permit as currently proposed, including the TMDL provisions in the Permit. Additionally, we believe that a Permit can be developed that provides a practicable means for Ventura County to support its ongoing water quality and pollution prevention efforts. We look forward to working with the



Ventura County Comments  
March 6, 2007  
Page 7 of 7

Regional Board to incorporate these changes into the Order. If you have any questions regarding this letter, please contact me at (805) 654-2073.

Respectfully submitted,



Ronald C. Coons, Director

Attachment A: VCRCD Letter – March 2, 2007

C: Chris Stephens, Director of RMA  
Wm. Butch Britt, Director of Transportation  
R. Reddy Pakala, Director of Water & Sanitation  
Jeff Pratt, Director of Watershed Protection  
Alec T. Pringle, Director of Engineering Services Department  
Janice E. Turner, Director of Central Services Department

RC/PT/cs/K:WQWater Quality Section\NPDES Program\Unincorp County\New Permit\County Comments 3-06-07.doc

Attachment 2 – County of Ventura Public Works Agency

2007 OCT 15 AM 9 25

October 12, 2007

CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD  
LOS ANGELES REGION

Transportation Department  
Wm. Butch Britt, Director

Central Services Department  
Lane B. Holt, Director

Water & Sanitation Department  
R. Reddy Pakala, Director

Watershed Protection District  
Jeff Pratt, Director

Engineering Services Department  
Alec T. Pringle, Director

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**SUBJECT: COMMENTS ON SECOND ADMINISTRATIVE DRAFT OF THE  
VENTURA COUNTYWIDE MUNICIPAL SEPARATE STORM  
SEWER SYSTEM (MS4) STORMWATER PERMIT**

Dear Ms. Egoscue:

On behalf of the County of Ventura Stormwater Program (County), we appreciate this opportunity to provide written comments concerning the Regional Water Quality Control Board's (Regional Board) second administrative draft of the Ventura County Municipal Separate Storm Sewer System MS4 NPDES Permit (Second Draft Permit). While we acknowledge and thank the Regional Board for responding to a few of the comments submitted by the County in its letter dated March 6, 2007, we have *grave concerns with the apparent lack of response to several of our key comments*. We had hoped to see more substantial changes made in the Second Draft Permit. As such, we find it necessary to enclose our March 6, 2007 comment letter (included as Attachment A).

Although we understand the Regional Board staff's desire to uphold the requirements of the Second Draft Permit, we must emphasize the importance of duly addressing our comments. We believe it is imperative that our future permit be mutually protective of water quality *and* economically reasonable, while not creating *an undue burden* to the County for potential non-compliance with its provisions. As currently written, the Second Draft Permit does not meet any of these criteria. It is our desire that we work together to ensure this will be the end result.

For instance, we had hoped the Regional Board staff would understand the illogicality of requiring an urban stormwater permit for areas of open space in unincorporated Ventura County. There is no MS4 in the open space areas of the County; to impose MS4 regulations there is folly. However, on page 8, the Second Draft Permit sustains this requirement, even though the County has clearly pointed out this fact in its previous comments. We are optimistic that this oversight will be remedied prior to issuance of the tentative permit.



In addition, the Second Draft Permit maintains the requirement for installing trash excluders on catch basins in certain areas (industrial, commercial and school areas). As commented by the County, as well as the other Co-permittees, the cost to retrofit hundreds of individual catch basins would be considerable. But, above and beyond the exorbitant cost, the *basic wisdom of implementing this provision must also be considered*. Catch basins must be designed to have large, unobstructed openings to function efficiently during major storm events, such as are common in Ventura County, or storm waters will bypass the inlet and cause local flooding. As such, installation of flow-restrictive trash excluders is often impractical, and in many cases will significantly increase the probability (and liability) of damage to local properties. Will the RWQCB take liability for this potential flooding hazard? If not, the County may be obliged to compensate private property owners for damage incurred by improperly managed flood waters. It is our anticipation that this comment, as well as a handful others, will be addressed with modified permit language prior to issuance of the tentative draft permit.

In addition, we would like to augment our existing concerns with the following two new written comments:

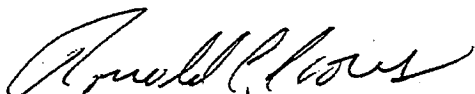
- Page 40, Part 5, Section D, Industrial/Commercial Facilities Program, item 1 (3) (B), utilizes the term "hazardous waste treatment, disposal and recovery facilities." This term now is considered outdated by the CA Health and Safety Code, Chapter 6.5, Section 25117.1. Please replace this language with the term "hazardous waste facilities for the treatment, storage and disposal of hazardous waste."
- The County of Ventura is not like a city, nor are many of the County roads like city roads. The County is predominantly the open space between cities, with winding rural roads and sparse housing. There are a few exceptions, such as Oak Park, but this is true for about 90% of the County jurisdiction. These roadways are drained by sheet flow runoff that enters ditches, usually on private property, which then lead to other ditches on private property, which empty into barrancas, also on private property. These ditches go from one city jurisdiction to another. We do not have jurisdiction or authority over these ditches. Therefore, the definition of an MS4 is not appropriate for the County roads jurisdiction, except in small areas as noted above. Please remove all references to requirements for street sweeping, debris removal, channel and catch basin cleaning for all areas where the County does not own the drainage facilities.

In conclusion, we acknowledged the efforts of Regional Board staff for the work done thus far. However, we remain concerned with the approach being taken with the Second Draft Permit. We strongly urge Regional Board staff to consider the October 12, 2007 comment letter as submitted by the Ventura Countywide Stormwater Quality Management Program, as well as our comments and concerns as voiced herein. Furthermore, we encourage you to continue working with County staff to draft a tentative

Ms. Tracy Escogue  
October 10, 2007  
Page 3 of 3

draft permit that is both mutually protective of water quality, economically reasonable, while not creating an undue burden to the County. Thank you for the opportunity to comment.

Sincerely,



Ronald C. Coons, Director

Attachment A: County of Ventura Letter – March 6, 2007

C: Chris Stephens, Director of RMA  
Wm. Butch Britt, Director of Transportation  
R. Reddy Pakala, Director of Water & Sanitation  
Alec T. Pringle, Director of Engineering Services Department  
Jeff Pratt, Director of Watershed Protection District  
Gerhardt Hubner, Deputy Director, Watershed Protection District  
Paul Tantet, Watershed Protection District

GH/PT/cs/K:\WQ\Water Quality Section\County NPDES&TMDL Program\3rd Term Permit Negotiations\Comments to 2nd Draft Permit.doc

Attachment 3 – County of Ventura Public Works Agency

October 15, 2007

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Transportation Department  
Wm. Butch Britt, Director  
Central Services Department  
Janice E. Turner, Director  
Water & Sanitation Department  
R. Reddy Pakala, Director  
Watershed Protection District  
Jeff Pratt, Director  
Engineering Services Department  
Alec T. Pringle, Director

**SUBJECT: SUPPLEMENTAL COMMENTS ON SECOND ADMINISTRATIVE DRAFT OF THE VENTURA COUNTYWIDE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) STORMWATER PERMIT**

Dear Ms. Egoscue:

On behalf of the County of Ventura Stormwater Program (County), we appreciate this opportunity to provide these supplemental written comments to our October 12, 2007 letter, concerning the Regional Water Quality Control Board's (Regional Board) second administrative draft of the Ventura County Municipal Separate Storm Sewer System MS4 NPDES Permit (Second Draft Permit). While we acknowledge and thank the Regional Board for responding to a few of the comments submitted by the County in its March 6, 2007, letter, we have *grave concerns with the apparent lack of response to several of our key comments*, and we had hoped to see more substantial changes made in the Second Draft Permit.

Although we understand the Regional Board staff's desire to uphold the requirements of the Second Draft Permit, we must emphasize the importance of duly addressing our comments. We believe it is imperative that our future permit be mutually protective of water quality *and* economically reasonable, while not creating *an undue burden* to the County for potential non-compliance with its provisions. As currently written, the Second Draft Permit does not meet any of these criteria. It is our desire that we work together to ensure this will be the end result.

For instance, we had hoped the Regional Board staff would understand the illogicality of requiring an urban stormwater permit for areas of open space in unincorporated Ventura County. However, on page 8, the Second Draft Permit sustains this requirement, even though the County has clearly pointed out this fact in its previous comments. We are optimistic that this oversight will be remedied prior to issuance of the tentative permit.



In addition, the Second Draft Permit maintains the requirement for installing trash excluders on catch basins in certain areas (industrial, commercial and school areas). As commented by the County, as well as the other Co-permittees, the cost to retrofit hundreds of individual catch basins would be considerable. But, above and beyond the exorbitant cost, *the basic wisdom of implementing this provision must also be considered.* Catch basins must be designed to have large, unobstructed openings to function efficiently during major storm events, such as are common in Ventura County, or storm waters will bypass the inlet and cause local flooding. As such, installation of flow-restrictive trash excluders is often impractical, and in many cases will significantly increase the probability of damage to local properties. Will the RWQCB take liability for this potential flooding hazard? If not, the County may be obliged to compensate private property owners for damage incurred by improperly managed flood waters. It is our anticipation that this comment, as well as a handful others, will be addressed with modified permit language prior to issuance of the tentative draft permit.

In addition, we would like to augment our existing concerns with the following written comments:

- Page 40, Part 5, Section D, Industrial/Commercial Facilities Program, item 1 (3) (B), utilizes the term "hazardous waste treatment, disposal and recovery facilities." This term now is considered outdated by the CA Health and Safety Code, Chapter 6.5, Section 25117.1. Please replace this language with the term *"hazardous waste facilities for the treatment, storage and disposal of hazardous waste."*
- Page 49, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, revise (a) to read: "(a) Development projects subject to Permittee conditioning *through the discretionary permit process shall include approval* for the design and implementation of post-construction treatment controls to mitigate storm water pollution prior to completion of project(s) are:" (Comment: Many permits are ministerial and requiring a condition that may not have a nexus to the permit or adding conditions after construction can only be done on discretionary permit action. This clarification needs to be added to the proposed NPDES permit.)
- Page 50, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, (a), revise (10) and (10) (B) to read: "(10) Projects located in or directly adjacent to or discharge directly to an Environmental Sensitive Area (ESA) *as officially recognized by the Permittee*, where the development will:
  - (A) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat
  - (B) Create 2,500 square feet or more of impervious surface area *where the Permittee determines that impervious surface area will drain to and impact a sensitive biological species or habitat.*"



(Comment: Each Permittee has its own requirements and level of emphasis on which areas are environmentally sensitive within their own jurisdictions. To maintain a balance in this effort, please revise the permit to allow for this oversight by the Permittee.)

- Page 50, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, (a), revise (11) (A) (iv) and (v) to read:  
“(iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability *creating an unstable soil condition as determined by as soils engineer or engineering geologist.*  
(v) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability *creating an unstable soil condition as determined by as soils engineer or engineering geologist.*”  
(Comment: Rather than writing in only one exception on slope stability, the Permittee will defer to a soils engineer or engineering geologist on a project to make that determination.)
- Page 51, Part 5, E. Planning & Land Development Program, III. New Development/Redevelopment, 1. (b), revise to read: “(b) *Effective* Impervious surfaces *Areas* may be rendered “ineffective” *increased on the proposed project site being developed* if the storm water runoff is:”
- Page 53, Part 5, E. Planning & Land Development Program, III. New Development/Redevelopment, 3. (a) (1) (E), revise to read: “(E) The Permittees shall *may* participate in the SMC HCS to develop.”  
(Comments: requiring all Permittees to participate in a regional study should be optional, not mandated.)
- Page 57, Part 5, E. Planning & Land Development Program, IV. Implementation (2) Post Construction BMPs Tracking, Inspection, and Enforcement, revise this entire section to only read: “(2) *The Permittee shall require through the discretionary permit process that the developer of a project site greater than one acre, provide an annual report prepared by an independent consultant that demonstrates that the Post BMPs have been maintained and are functioning properly. The Permittee shall keep records of such inspections and provide those to the RWOCB upon a written request.*”  
(Comment: This is doable to put the requirement on the property owner to have a consultant do this work annually and submit a report to the Permittee for review/approval. It is not doable to require the Permittee to enter the property and perform inspections and make evaluations after a construction project is finalized by the Permittee. There are legal implications and property rights considerations that would prohibit the Permittee from doing this as the proposed permit is written.)

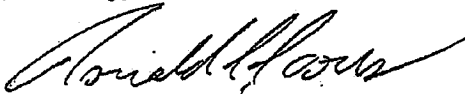
- Page 62, Part 5, F. Development Construction Program, I. 1. Grading Restrictions, add (d) to read: "*(d) The Permittee may allow grading during the rainy season in times of emergency to protect the public, property, life, or limb, and any grading restrictions of this section shall not apply.*"

(Comments: The proposed permit needs exception clauses for emergency work. What if a land mass needs to be stabilized in the winter to protect life and property? This action would be prohibited by the current permit if the slope was steeper than 20% or the work was adjacent to a listed water body or EAS.)

- The County of Ventura is not like a city, nor are many of the County roads like city roads. The County is predominantly the open space between cities, with winding rural roads and sparse housing. There are a few exceptions, such as Oak Park, but this is true for about 90% of the County jurisdiction. These roadways are drained by sheet flow runoff that enters ditches, usually on private property, which then lead to other ditches on private property, which empty into barrancas, also on private property. These ditches go from one city jurisdiction to another. We do not have jurisdiction or authority over these ditches. Therefore, the definition of an MS4 is often-time not appropriate for the County roads jurisdiction. Please remove all references to requirements for street sweeping, debris removal, channel and catch basin cleaning for all areas where the County does not own the drainage facilities.

In conclusion, we acknowledged the efforts of Regional Board staff for the work done thus far. However, we remain concerned with the approach being taken with the Second Draft Permit. We strongly urge Regional Board staff to consider our comments and concerns as voiced herein. Furthermore, we encourage you to continue working with County staff to draft a tentative draft permit that is both mutually protective of water quality, economically reasonable, while not creating an undue burden to the County. Thank you for the opportunity to comment.

Sincerely,



Ronald C. Coons, Director

RCC:rg

cc:

LARWQCB Board Members  
Xavier Swamikannu, Storm Water Permitting, Los Angeles Regional Water Quality  
Control Board  
Ventura Countywide Program Permittees  
Alec Pringle, Engineering Services Department Director

D000236



# City of Moorpark

CITY ENGINEER/PUBLIC WORKS DEPARTMENT

799 Moorpark Avenue, Moorpark, California 93021 (805) 517-6256 fax (805) 532-2555

May 29, 2008

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

Subject: Comments to 4/29/2008 Draft Tentative Order – Ventura County Municipal Separate Storm Sewer System (MS4) Permit (NPDES No. CAS004002)

Dear Ms. Egoscue:

In reference to the above subject, the City of Moorpark (City) wishes to inform you that it has completed its review and offers the following comments. The City supports the May 27, 2008 Ventura Countywide Stormwater Program (Ventura Program) Chair, Gerhardt Hubner, letter addressed to Ms. Tracy Egoscue, Executive Officer of the Los Angeles Regional Water Quality Control Board (Regional Board) and the attachments thereof. The City further emphasizes that:

- Although improvements were made in the Draft Tentative Order regarding the TMDL requirements, the City is dismayed that the Draft Tentative Order continues to be extremely prescriptive and ignores or requires duplication of much of the work that has been done to date by both the Ventura County Co-permittees and the Calleguas Creek Watershed Management Plan's stakeholders.
- The City is concerned with the Draft Tentative Order's use of Municipal Action Levels (MALs) which is inconsistent with state and federal policies, is technically flawed, results in requirements more stringent than federal law, and creates limits that are more restrictive than adopted water quality objectives contained in the Basin Plan.
- The Draft Tentative Order includes a requirement for the installation of trash excluders on or in catch basins in commercial areas, industrial areas, and near educational institutions. This is a great expense for a problem that does not exist at all of these locations. Rather, it would be better for the Co-permittees to be given discretion to identify and prioritize the high trash areas in their jurisdictions that would benefit from structural BMP implementation.

PATRICK HUNTER  
Mayor

JANICE PARVIN  
Mayor Pro Tem

ROSEANN MIKOS  
Councilmember

KEITH F. MILLHOUSE  
Councilmember

MARK VAN DAM  
Councilmember

D000237

May 29, 2008

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The City looks forward to your response to these comments and the comments in the Hubner letter and attachments thereof. The City would again like to emphasize its commitment to the collaborative effort in maintaining and enhancing water quality in its watersheds. Please feel free to contact me at (805) 517-6255 if you have any questions regarding these comments. Thank you.

Sincerely,

  
Yugal K. Lall  
City Engineer/Public Works Director

C: City Council  
City Manager  
Shaun Kroes, Management Analyst  
Gerhardt Hubner, VCWPD  
Xavier Swamikannu, LARWQCB

D000238



# City of Thousand Oaks

MAYOR JACQUI V. IRWIN

May 29, 2008

Xavier Swamikannu  
Chief, Stormwater Permitting  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013-2343

**Re: Draft Tentative Ventura County Municipal Separate Storm Sewer System Permit (NPDES No. CAS004002) for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein**

Dear Mr. Swamikannu:

The City of Thousand Oaks appreciates the opportunity to provide comments on the April 29, 2008 Draft Tentative Ventura County Municipal Separate Storm Sewer System Permit for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities (the Co-Permittees).

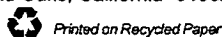
Thousand Oaks has been an active and supportive member of the Ventura Countywide Stormwater Quality Management Program since its inception in 1992. In addition, for many years, and at significant cost, the City has worked cooperatively with the Regional Board and other stakeholders to develop the Calleguas Creek Watershed Management Plan, and to address water quality impairments through the development of Total Maximum Daily Loads (TMDLs). The City believes that the cooperative effort in the Calleguas Creek Watershed is unprecedented and will result in significant water quality improvements.

Given the above, the City remains greatly dismayed that the third version of this permit continues to be extremely prescriptive and ignores or requires duplication of much of the work that has been done to date. Many significant elements in the proposed permit are unfocused, counterproductive, and contrary to the progress and sincere efforts established in the watershed management and TMDL processes. Additionally, during the lengthy permit development process, Regional Board staff has failed to exhibit a responsive attitude towards constructive comments made in good faith by the co-permittees.

Some of the City's fundamental issues with the Draft Tentative Order are as follows:

- The Draft Permit is overly prescriptive and lacks flexibility
- The Permit lacks of a fully integrated and technically sound approach for water quality protection for new development
- Inappropriate calculation, development and application of Municipal Action Levels (MALs) for Ventura County Stormwater
- Misuse of MALs to determine compliance with "Maximum Extent Practicable" (MEP)

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D000239

- Unintended consequences of applying performance criteria for Treatment Control BMPs.
- Misapplication of monitoring to support program implementation.

The City submitted comments to the Regional Water Quality Control Board regarding prior administrative draft permits on March 5, 2007 (Attachment A) and October 15, 2007 (Attachment B). Whereas the City understands that RWQCB staff will not be responding to comments on this iteration of the Ventura County MS4 permit, the City reserves the right to provide additional comment when the Final Tentative Order, Fact Sheet, and other related documents are released for public review and comment.

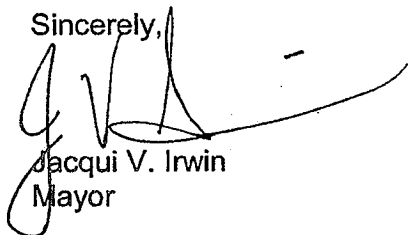
The City participated with other Ventura County co-permittees in developing the comments regarding the Draft Tentative Permit submitted to the Regional Board on May 27, 2008 by the Ventura County Watershed Protection District on behalf of the Permittees. The City supports and agrees with these comments.

As stewards of scarce and limited public funds, we must ensure that the actions and expenditures driven by regulatory requirements are consistent with each other, are cost-effective, and are capable of achieving the goals for which those expenditures are intended. The Draft Tentative stormwater quality permit is inconsistent with those goals. Although we fundamentally disagree with much of the proposed approach being used by the Regional Board, we are in agreement with the need to continue and enhance our award-winning stormwater management program, which will lead to water quality protection and improvement and provide for adequate accountability.

To that end, the City of Thousand Oaks requests that Regional Water Board staff meet with the Permittees prior to the Regional Board's July 10, 2008 workshop in order to understand the rationale and lack of responsiveness to our previous comments, especially in regards to MALs.

If you have any questions or need additional information, please feel free to contact Mark Watkins, Public Works Director, at (805) 449-2399, at your convenience.

Sincerely,



Jacqui V. Irwin  
Mayor

c: Tracy J. Egoscue, Executive Officer, RWQCB  
Scott Mitnick, City Manager  
Amy Albano, City Attorney  
Mark D. Watkins, Public Works Director  
JoAnne Kelly, Resource Division Manager  
Ventura County Stormwater Permittees

Attachment 1 – City of Thousand Oaks



# City of Thousand Oaks

**PUBLIC WORKS DEPARTMENT  
MARK D. WATKINS, DIRECTOR**

March 5, 2007

Jonathan Bishop  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**Re: Draft Ventura County Municipal Separate Storm Sewer System Permit  
(NPDES No. CAS004002) for the Ventura County Watershed Protection  
District, County of Ventura and the Incorporated Cities Therein**

Dear Mr. Bishop:

The City of Thousand Oaks appreciates the opportunity to provide comments on the draft Ventura County Municipal Separate Storm Sewer System Permit for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities.

As background information, Thousand Oaks is a community of approximately 127,000 residents in eastern Ventura County. Incorporated in 1964, Thousand Oaks is a well-planned community that includes 15,000 acres of publicly owned open space within its incorporated boundaries. The City is committed to environmental excellence, an integral part of which includes an effective stormwater quality management program.

Thousand Oaks has been an active and supportive member of the Ventura Countywide Stormwater Quality Management Program since its inception in 1992. The Countywide program has an exemplary record as an effective stormwater quality management plan. In 2003, the U.S. Environmental Protection Agency awarded the Ventura Countywide Program with its National Clean Water Act Recognition Awards Program, Storm Water Management Excellence Award. The intent of the awards is to "recognize municipalities and industries that are demonstrating their commitment to protect and improve the quality of the nation's waters by implementing outstanding, innovative and cost-effective Storm Water control programs and projects". The award reflects the Program's, and the City's, commitment to improve and protect water quality in Ventura County through a comprehensive and constructive best management practice (BMP) based program using an iterative process to guide our efforts.

In addition, for many years, and at significant cost, the City has worked cooperatively with the Regional Board and other stakeholders to develop the Calleguas Creek Watershed Management Plan and also to address water quality impairments through

**D000242**



Jonathan Bishop  
March 5, 2007  
Page 2

the development of Total Maximum Daily Loads (TMDLs). The City believes that the cooperative effort in the Calleguas Creek Watershed is unprecedented and will result in significant water quality improvements.

Given the above, the City is dismayed that the draft permit is extremely prescriptive and ignores or requires duplication of much of the work that has been done to date. For example, the draft permit dictates "tributary monitoring" in the Calleguas Creek Watershed and seemingly disregards the fact that extensive monitoring has already been completed and will continue in the future as a result of TMDL requirements. Many significant elements in the proposed permit are unfocused, counter-productive and contrary to the progress and good-faith efforts established in the watershed management and TMDL processes.

The City participated with the other agencies in the county in developing the comments regarding the draft permit submitted to the Regional Board by the Ventura County Watershed Protection District on behalf of the Permittees. The City supports and agrees with these comments. In addition to those comments, the City of Thousand Oaks is also submitting comments for the Regional Board's review and consideration (Attachment A).

As stewards of scarce and limited public funds, we must insist that the actions and expenditures driven by regulatory requirements are consistent with each other, are cost-effective and capable of achieving the goals for which those expenditures are intended. The draft stormwater quality permit is inconsistent with those goals. Although we fundamentally disagree with the proposed approach being used by the Regional Board, we are in agreement with the need to continue and enhance our award-winning stormwater management program, which will lead to water quality protection and improvement and provide for adequate accountability. We look forward to working with the Board to craft a revised draft permit that supports this need.

If you have any comments or need additional information, please feel free to contact me at (805) 449-2399 at your convenience.

Sincerely,



Mark D. Watkins  
Public Works Director

c: Scott Mitnick, City Manager  
Amy Albano, City Attorney  
Ventura County Stormwater Permittees

DPW:530-25(2)/jk

**Attachment A**  
**City of Thousand Oaks Comments**  
on the

**Draft Ventura County Municipal Separate Storm Sewer System Permit (NPDES No. CAS004002) for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein**

1. **General Comment:** Numerous Findings cite outside source documents for support, however, it appears that at least some of these outside source documents are draft documents, have not undergone public review, or have not been formally adopted. To the extent that these outside source documents have not been finalized, publicly reviewed, and formally adopted, they should not form the basis to support a Finding. Please review all source documents to ensure that they have undergone public review and are available for review by the permittees.
2. **Page 7, B. 16. (Nature of Discharge)** The statement relies on research from Los Angeles County to find that "similar patterns of aerial deposition **likely** occur in Ventura County." (emphasis added.) Please provide supporting documentation for this assumption.
3. **Page 20, F. 1 (Implementation)** CEQA establishes statutory exemptions which are exempt from CEQA regardless of environmental impact. This appears to conflict with those provisions. Moreover, there are state statutes which define certain actions as ministerial. City ordinances are preempted by those statutes. This appears to conflict with those statutes. Please explain how municipal governments can enforce this permit requirement under these conditions.
4. **Page 20, F. 2 (Implementation)** The Order requires implementation of BMPs to reduce discharge of pollutants "to the maximum extent practicable (MEP)", but Finding F.4 requires "all necessary control measures". This is not defined and may be different than MEP. Please clarify.
5. **Page 21, F.4 (Implementation)** The proposed requirement to "implement all necessary control measures to reduce pollutant(s)..." is inconsistent with the concept of Maximum Extent Practicable (MEP). Please explain.
6. **Page 21, F.5 (Implementation)** States that this Order promotes "smart growth", but does not define it nor explain how it meets it. Please explain.
7. **Page 22, F.7 (Implementation)** What is the legal or technical support for the statement that the Order is "no more stringent than that required by federal law," and the conclusion that economic factors need not be considered.
8. **Page 22, F.9 (Implementation)** This order appears to go well beyond consideration of storm water quality objectives and MEP. Instead, the proposed regulations require numerous actions, studies and plans by Co-Permittees and would significantly restrict local land use decision-making authority. Please explain how the requirements of this permit do not "restrict or control local land use decision-making authority".
9. **Page 23, F. 11 (Implementation)** The "Municipal Action Levels" (MALs) established in the draft permit were computed based on an approach *recommended* by the by the California Water Board's Storm Water Panel in its

**City of Thousand Oaks**

Comments on the Ventura County Draft MS4 Permit  
March 5, 2007

- report, *"The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Commercial Activities"* (June 2006). The State Water Board has yet to take any action upon this report or give direction as to how the recommendations are to be utilized in preparing NPDES permits. The MALs are enforceable limits ("...two or more exceedences of a MAL will be ...considered a violation..."), yet these limits have never undergone public review or been formally adopted by the State Water Board. Based on the foregoing, and since no formal administrative process was utilized, the MALs should be removed from the permit.
10. **Page 24, F. 15. (Implementation)** States that the Order balances implementation of Smart Growth and Low Impact Development techniques, but does not define them. Furthermore, these regulations, if implemented, will conflict with state imposed housing requirements through city Housing Elements. The document referenced in this section is unavailable for review by the Permittees and the public. In an email from Regional Board staff dated February 1, 2006, we were informed that "The document *Considering Housing Needs in Actions Taken by the Regional Water Board: Moving from Costs to Value, 2006*, is a technical document that Regional Board staff ..... is currently working on, but it is still in draft form. The document is currently being finalized and it will be available before adoption of the Order." Referencing a document that is unavailable does not give the Permittees an opportunity to review the Regional Board's rationale for certain permit requirements and to prepare a response based on the Board's reference material. Please remove the reference or make the document available. If reference to the document is removed, please explain the basis for this finding.
  11. **Page 24, F.16 (Implementation)** This order would not have an incremental effect on costs required for compliance, but rather would greatly increase compliance costs, require additional staffing, and result in much longer permit processing time frames for applicants. Admits the regulations in the Order may have an "incremental" effect on costs and that it was taken into consideration. Where is the support for this statement? Moreover, if implemented, costs associated with this Order will be more than incremental and likely economically infeasible.
  12. **Page 25, G.3 (Public Notification)** Although the Board conducted four scoping meetings, none of them involved this level of detail or discussion relating to the possible imposition of these new requirements.
  13. **Page 26, Part 1, B (Prohibitions)** Requires Permittees to "effectively" prohibit non-storm discharges but does not define nor explain what is meant by "effectively" prohibit. Please clarify.
  14. **Page 26, Part 1, B.2 (6) Potable drinking water supply and distribution system releases (Footnote 2)** "Releases may only occur with the implementation of appropriate BMPs..." This sentence should be revised to read "Planned releases shall only occur with the implementation of appropriate BMPs....".
  15. **Page 26, Part 1, B.2 (6) Potable drinking water supply and distribution system releases (Footnote 2)** "Any agency or Municipal (i.e., water dept., fire

**City of Thousand Oaks**

Comments on the Ventura County Draft MS4 Permit

March 5, 2007

- dept., etc.) that either individually or collectively discharges or reasonable expects to discharge 100,000 gallons of potable water per year, shall submit an ROWD to obtain a separate NPDES permit under this order [see section G.10].” Please define “Any agency or Municipal...” in order that we may understand to whom this requirement applies. The permittees have no control over other “agencies” that may discharge potable water. Furthermore, why should municipal permittees that operate a potable water system be burdened with a requirement (NPDES permit) that does not apply to private water purveyors and water districts? How was the 100,000 gallon per year figure derived and what justification exists for regulating discharges of potable water that are greater than 100,000 gallons per year? Section G.10 (actually Part 3, G.10) Footnote 1 requires Municipal Potable Water Supply Systems to obtain coverage under the Regional Water Board NPDES Permit No. CAG674001 if the discharge is greater than 100,000 gallons per year. This general permit specifically regulates the discharge of Hydrostatic Test Water. How does this general permit apply to nonspecific discharges from a municipally owned potable water system? A more appropriate method for regulating discharges from potable water systems, should the Board wish to do so, would be to develop a General Permit that would apply to all water purveyors, not just “municipal”. Please comment on this option.
16. **Page 26, Part 1, B.2 (14) (Footnote 3)** “...BMPs shall be designed to drain within 72 hours” should be amended to read “...within 72 hours of the end of the rain event.”
  17. **Page 27, Part 1, B, Table 1** “Water that is hyper-chlorinated shall not be discharged...even after dechlorination.” Hyper-chlorinated is not defined in the permit. If the dechlorinated water meets Basin Plan objectives, discharge to the storm drain system should be allowed. Please supply justification for this prohibition.
  18. **Page 29, Part 1, A, 3** Requires the Permittee to prohibit discharges or require implementation of appropriate or additional BMPs, however, it does not address situations where the Permittee has no jurisdiction or permit authority over the entity conducting the discharge. What is the procedure to enable Permittees to monitor and impose conditions?
  19. **Page 29 and 30, Part 2, Receiving Water Limitations** Requirements to meet “Municipal Action Levels” should be removed from the permit. See Comment No. 9 for further discussion.
  20. **Page 29, Part 2, 3** Requires “timely implementation” of control measures, but does not define “timely implementation”. Please define.
  21. **Page 31, Part 3, A.3. (1)** “...effective prohibition of dry weather discharges.” should be revised to read “..the effective control of dry weather discharges.” Not all dry weather discharges are prohibited by the draft permit.
  22. **Page 31, Part 3, B, 1** States that Permittees shall possess the necessary legal authority, but does not provide any support for this statement. Where does this legal authority come from?
  23. **Page 32, Part 3, B.1 (b) 5.** Prohibition of swimming pool discharges: This section lists specific discharge limits for specific constituents in swimming pool discharges. What justification exists for regulating swimming pool discharges (de

## City of Thousand Oaks

Comments on the Ventura County Draft MS4 Permit  
March 5, 2007

- minimus volumes) to this extent? This is not an efficient use of resources to improve water quality. Furthermore, this requirement contradicts the conditions under which swimming pool discharges are allowed in Table 1 (page 28) of the draft permit.
24. **Page 32, Part 3, B. 2:** States that Permittees shall possess adequate legal authority to do various things, but does not provide any support for this statement. Where does this legal authority come from?
  25. **Page 33, Part 3, B. 2 (c), Footnote 1:** "Where the Permittee has no direct authority, the Permittee is required to enter into an agreement with the agency or department that has the enforcement authority." Municipalities have no control over the state or federal government. Which agency does? How do we (legally) enter into an agreement with the appropriate agency to enforce a municipal code or permit requirement? Also, this requirement conflicts with Findings, D. 3 (Page 11). There is no legal support for the statement that the Permittee must retain enforcement authority over private responsible parties. Please explain.
  26. **Page 33, Part 3, B. 3 and 4:** Six months is insufficient time to complete major revisions to the Municipal Code. We suggest that the permittees be allowed two years to complete this requirement. Requiring its legal counsel to declare that the Permittee has "obtained and possesses all necessary legal authority to comply with this Order" is infeasible, especially given the fact that it is unclear how Permittees will have legal jurisdiction to enforce some of the provisions of this Order (see above responses).
  27. **Page 33, Part 3, C. 1:** "The Permittees shall allocate all necessary funds to implement the activities required to comply with the provisions of this order." This sentence should be removed from the draft permit. Permittees can only allocate funds during the annual budget process. Compliance with the permit is a multi-year endeavor. Also, given the onerous financial burdens being imposed by this Order, it may be impossible to allocate sufficient funds to comply.
  28. **Page 34, Part 3, D. 1:** Ninety days is insufficient time to complete revisions to "programs, protocols, practices and municipal code". We suggest that the permittees be allowed two years to complete this requirement. Also, this requirement conflicts with Part 3, B. 4 which provides for six months to complete revisions.
  29. **Page 36, Part 4, B. 1.** "The Principal Permittee consents to participate in appropriate water quality meetings for watershed management planning, including but not limited to the following:" This requirement should be revised to read "The Principal Permittees consents to participate....." There is no reason that the Principal Permittee must participate in every watershed activity when co-permittees are already participating in the same activities.
  30. **Page 38, Part 4, C. 1. (c) (1) (E)** There are already watershed based groups in the major watersheds of Ventura County such as Friends of the Santa Clara River, Calleguas Creek Watershed Management Plan and Malibu Creek Watershed Advisory Council. Working within the existing group structures will be more effective than starting a new group or committee. The sentence should be revised to read: "Work with existing local watershed groups or organize Citizen Advisory Groups/Committees . . ."

**City of Thousand Oaks**

Comments on the Ventura County Draft MS4 Permit

March 5, 2007

31. **Page 38, Part 4, C. 1. (c) (5)** The existing permit requirement is 2.1 million impressions based on three times the population of Ventura County. The latest US Census data (2005) shows Ventura County with a population of 796,000. The requirement in the draft for 10 million impressions is 12.5 times the population. This is an inappropriately large increase.
- During the last reporting period an extra effort was made by all permittees to ensure the success a new outreach campaign, and through that effort 10 million impressions were achieved. However, that was a unique year and would have not been possible without the in-kind donations given by the media organizations. To make 10 million impressions year-after-year is an excessive increase in the permit requirements. 5 million impressions, still over twice the previous requirement, would be realistically achievable and leave resources available for more in-depth educational opportunities.
32. **Page 39, Part 4, C. 1. (c) (6)** We are in agreement that educational outreach to children is an important way to affect a change in behavior. However, requiring that this be accomplished through the public school system presents difficulties. None of the Permittees has the authority to dictate school curriculum, including educational material developed through AB 1721. Prior experience suggests that schools are extremely resistant to any effort to include material in lesson plans that come from outside organizations, no matter how well intended. The Environmental Education Account is an option. However, there is no guarantee that money given to the account will be spent in Ventura County or on stormwater pollution, or that it will even be used in the classroom. We suggest a requirement to provide educational outreach to school-aged children and allow the Permittees the flexibility to develop a program that will maximize the benefit of their resources.
33. **Page 39, Part 4, C. 1. (c) (8)** Any measurement in classrooms will require cooperation from schools to administer a survey and share the data. The Permittees have no authority to require the school system to gather data for our use. This requirement should be removed from the permit. Moreover, there is no explanation as to how to measure effectiveness. Also, 180 days to formulate and implement (does implement mean adopt a strategy, begin implementation, or conduct the educational program and measure its effectiveness?) a measurement strategy is insufficient time.
34. **Page 39, Part 4, C. 1. (c)(9)** What is meant by "develop and implement a behavioral change assessment strategy? This requirement is vague. Also, 180 days to formulate and implement (what does "implement" mean?) this program is insufficient time.
35. **Page 39, Part 4, C.1(C)(9) (Footnote 1)** "Matching funds shall be equivalent to \$10 per targeted student per year." How was the \$10 per student figure derived? AB 1721 does not legislate a "dollar per student" equivalent figure. \$10 per student seems extremely high. We suggest that the equivalent dollar amount be reduced to \$1 per student, if donation to the Environmental Education Account remains an option.

**City of Thousand Oaks**

Comments on the Ventura County Draft MS4 Permit

March 5, 2007

36. **Page 40, Part 4, C. 2. (a) (2)** The previous section, Part 1, C. 2. (a) (1) defined the minimum number of corporate franchisees to target. Clarification is needed in this section to refer to the targeted franchisees. Please change to "Corporate Outreach for all targeted RGOs . . ."
37. **Page 40, Part 4, C. 2. (b) (1)** On-site technical assistance or consultation presents a serious liability problem for the Permittees. The section should be revised to read: "On-site technical assistance, or consultation via telephone or e-mail to provide recommendations or guidelines to identify and implement storm water pollution prevention methods and best management practices."
38. **Page 42, Part 4, D. 2.** This section requires the permittees to inspect "critical sources" as defined in the draft permit. We object to any requirement that obligates the Permittees to inspect facilities covered under the State Industrial Activities Stormwater General Permit (Phase I and Phase II facilities) or the Regional Board's Conditional Waiver for Irrigated Lands (including plant nurseries). These facilities require permits from the State, pay a fee to the State and are the State's responsibility to inspect. This requirement should be removed from the permit.
39. **Page 42, Part 4, D. 2. (a)** The requirement for the installation of treatment controls BMPs at all critical sources that discharge to a storm drain system which discharges to an ESA or a 303(d) listed waterbody is much too inclusive of facilities and pollutants. Source control BMPs can usually control the discharge of pollutants from these facilities, which makes the addition of treatment control BMPs superfluous in most cases. What type of treatment control BMPs should be installed to treat clean runoff? Furthermore, the suspected pollutants of concern that would come from a critical source must be matched to the impairment in the 303(d) list for the required treatment controls to be effective.

In Thousand Oaks, every critical source would be required to install treatment control BMPs, since the City's storm drain system drains to 303(d) listed waterbodies. The City has worked cooperatively with the Regional Board to develop TMDLs to address the 303(d) listed pollutants in these waterbodies. The requirement for treatment control BMPs at every critical source is unwarranted and we strongly suggest that the requirement be removed from the permit.

40. **Page 42, Part 4, D. 2. (a) (1), (2), (3) and (4)** Tables 2 through 4 list the mandatory BMPs that shall be implemented by the critical sources. These BMPs came from the 2003 California Stormwater BMP Handbook which expressly states that "it is not the intent of this handbook to dictate the actual selection of BMPs, . . . but rather to provide a framework for an informed selection of BMPs". Furthermore, each BMP section listed has multiple and redundant BMPs which no single location could feasibly implement. Please change sections to read: "BMPs ~~in~~ from the following Table (X) shall be implemented to effectively control polluted runoff, unless the pollutant generating activity does not occur."
41. **Page 47, Part 4, D. 2. (b)** We object to any requirement that obligates the Permittees to inspect facilities covered under the State Industrial Activities Stormwater General Permit (Phase I and Phase II facilities) or the Regional Board's Conditional Waiver for Irrigated Lands (including plant nurseries). These

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- facilities require permits from the State, pay a fee to the State and are the State's responsibility to inspect. This requirement should be removed from the permit.
42. **Page 48, Part 4, D. 3. (a) and (b)** The requirement for the installation of additional BMPs at critical sources that discharge to a storm drain system which discharges to an ESA or a 303(d) listed waterbody is much too inclusive of facilities and pollutants. Additionally, determining if a facility is "causing or contributing to exceedences of MALs and/or water quality objectives" requires the Permittees to sample each critical source. This requirement is unwarranted and we suggest that the requirement be removed from the permit.

Also, proving that a BMP "will achieve the equivalent reduction of pollutants" would require a database of baseline data on all the BMPs. Please provide this information or change language to read "will achieve the equivalent similar reduction of pollutants".

In addition, for the record, we object to the use of MALs and request that they be removed from the permit (see Comment No. 9).

43. **Page 49, Part 4, D. 3. (d) (2)** We object to any requirement that obligates the Permittees to enforce the State Industrial Activities Stormwater General Permit (Phase I and Phase II facilities) or the Regional Board's Conditional Waiver for Irrigated Lands (including plant nurseries). These facilities require permits from the State, pay a fee to the State and it is the State's responsibility to take enforcement actions in the event that a facility is out of compliance with State General Permit or Conditional Waiver requirements. This requirement should be removed from the permit.
44. **Page 50, E. 1.** Development projects are defined in the draft permit to include any construction or reconstruction of residential projects (even if no land disturbing activities are conducted). Requiring these conditions on small home improvement projects is unwarranted and does not provide relief for the hardship of rebuilding a home after a fire or other catastrophe. Please provide a single family residence exclusion or redefine development project to exclude single family residences. This section is also redundant and vague. Subsections d and f, for example, reference Low Impact Development strategies, however, this already appears to be a proposed requirement under the following section E.1.1 labeled "Low Impact Development". Subsection f also requires the selection of an "integrated approach" to mitigate stormwater pollution, but does not define or reference 3 of the 4 available options, including "Integrated Water Resource Management Strategies", "Multi-benefit Natural Feature BMPs", or "Prefabricated/Proprietary Treatment Control BMPs. These options should be defined and referenced. Subsections c, and d also require Permittees to "minimize" impervious surface and pollutants. What criteria are used to evaluate if these factors have been minimized?
45. **Page 50, E. 1. (b)** Requiring a numeric standard of less than 5% Effective Impervious Area of total project area is competing with the concept of Maximum Extent Practicable as well as the concepts of Smart Growth, which envisions higher densities. Site relief, available area for vegetated swales and soil



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characteristics may make achieving this standard infeasible. Sound engineering practices may discourage the percolation of water near improvements to prevent the integrity of the structures from being undermined. This requirement should be eliminated from the permit.

46. **Page 50, Part 4, E.1 (c)** Percolation and Infiltration: The City of Thousand Oaks exists atop rock and clayey soil types. The Ventura County Hydrology Manual specifies these type soils and numbers 1, 2 and 3. Percolation BMPs are not feasible using the native ground, and if storm drain systems are unavailable, some BMPs must by necessity be surface-drainage styles. Also, saturation of a created landscaped area (i.e., stratified soils beneath, but trapped vertically and laterally within the landscaped perimeter) may undermine adjacent buildings or pavements to the point of failure. Filter strips and shallow swales are considered the most-effective non-proprietary treatment BMPs under such circumstances. Additionally, high groundwater already exists in many communities and it can't easily be discharged anywhere (sewer nor storm drain). So, insisting the permittees employ percolation will worsen an existing known problem. This requirement should be revised to recognize that soil types and high groundwater levels might make this requirement impossible or impracticable.
47. **Page 51, Part 4, E. I. 1.** "All new development and redevelopment projects shall integrate Low Impact Development (LID) principals into project design." These LID principles must be explicitly defined, with references to related research, source documents, and successful case studies, in order to understand proposed requirements.

Development projects that have received their entitlements or have been deemed complete for processing (but have yet to begin construction) may no longer be subjected to new requirements (per State law).

Section E. I. 2. requires the permittees to develop a LID Technical Guidance Document within 18 months from the Order's adoption date. These materials need to be developed for local and regional conditions before developers can be expected to meet the criteria. Local pilot studies and case studies have not been performed. Thus 18 months is an insufficient period of time. Part 4, E I. 1. must specify an effective compliance date for "All new development and redevelopment..." and must exempt projects that have received their entitlements and/or have been deemed complete for processing. A phased approach of research, guidance development, pilot studies, training and implementation would be preferred and would be more effective. Eighteen months is an insufficient time period for development of an LID Technical Guidance Document. A greater period of time is needed to adequately prepare an effective LID Technical Guidance Document.

48. **Page 51, Part 4, E. I. 1** The "predevelopment hydrologic functions" statement is inappropriate for redevelopment projects. Redevelopment sites do not have what is termed in the "Definitions" section (Part 7, pg. 104) as "native vegetation and soils", thus such conservation measures cannot be summarily prescribed for all new development and redevelopment.

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49. **Page 51, Part 4, E. I. 2. (e) (f) & (h)** Please provide information, examples and clarification on Integrated Management Practices, Flow Modeling Guidance and LID Translators.
50. **Page 52, Part 4, E. II. 1(a)** "This shall be achieved by maintaining the project's pre-development storm water runoff flow rates and durations." The preferred means to maintain runoff at a pre-development rate has been through metered-flow out of a detention facility (tank, open basin, buried pipes, etc). The pre-developed flow rate can be simulated by design, but the *duration* of that flow must necessarily be longer due to a larger yield-volume being produced by the impervious surfaces of the developed site. If this requirement is included in the final permit language, development must necessarily stop in all watersheds tributary to natural drainage systems, including the Ventura River, Santa Clara River, Calleguas Creek and miscellaneous Ventura coastal watersheds.
51. **Page 52, Part 4, E.1.II.1(c)** Upon review of the equations involving Erosion Potential,  $E_p$  (in Attachment E), the prolonged flow-duration time resulting from the proposed detention solution discussed above will cause an increase in the delta-time. Similarly, it can be expected that applied shear stress ( $\tau_i$ ) will increase since the flow will be without sediment. Thus, the post-development value of Work ( $W_{post}$ ) will be higher than the pre-developed ( $W_{pre}$ ). The ratio value of  $E_p$  would therefore always be higher (i.e., exceed the value of 1.0) in the post-development era. If this requirement is included in the final permit language, development must necessarily stop in any watershed tributary to natural drainage systems.
52. **Page 52, Part 4, E.1.II.1. (d) and (f)** Pursuant to a January 24, 2007 conversation with Dr. Eric Stein of the SMC, their study is just getting underway with site-selection in the Spring 2007, with anticipated completion in March 2010. Given the timeframe of the SMC study, 18 months from the adoption of the proposed permit is insufficient time and should be extended.
53. **Page 53, Part 4, E. II. 1. (e)** Interim hydromodification criteria: As described in the comments above, the proposed requirement to maintain pre-development peak flow, volume and duration is infeasible, particularly on tight soils (i.e., soil types 1, 2 and 3).
54. **Page 54, Part 4, E. III.1 (a)** Please change to "...shall require that during the construction *design* of a single-family hillside home... ". "Hillside home" should be defined as homes requiring grading on natural slopes that are 25% or greater, not 20% or greater. The current definition for a hillside in NPDES permit CAS004002 is a slope of 25% or greater. Please justify the change from 25% to 20%.
55. **Page 55, Part 4, E. III.1(c)** Reduction from 100,000 sq. ft. (current permit) to 5,000 sq. ft. (draft permit) is extreme and overly burdensome in that it will result in the conditioning of essentially every industrial and commercial development project for the design and implementation of treatment control BMPs. Please change the requirement to 100,000 sq. ft. for commercial and industrial developments. In addition, these conditions should apply to stand alone projects where the developer has control over the site to implement the treatment control

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- BMPs. Please identify the types of facilities by SIC and NAICS Codes as proposed, including SIC Code 5511, which is the only difference in SIC category between "automotive repair shops" as regulated under the current permit, and the proposed "automotive service facilities" in this draft permit. Please cross-reference definitions of automotive service facilities and automotive repair shop.
56. **Page 56, Part 4, E. III. 2 (a) (2) (B)** Ventura County has a high variety of rainfall intensities, please change to "...85<sup>th</sup> percentile hourly rainfall intensity for Ventura County local region;"
57. **Page 56, Part 4, III. 2 (b) (1)** Hydrodynamic models can be continuously developed and improved and the selection should not be limited to public domain models.
58. **Page 57, Part 4, III. 4 (c)** Impervious surface replacement of less than 5,000 square feet should not be defined as significant redevelopment. Also, please confirm that any parking lot overlay and restriping **is** considered to be a routine maintenance activity.
59. **Page 58, Part 4, III.5. (a)** Water quality control BMPs must be adequately maintained if they are to provide long-term water quality protection. Projects need to develop and implement a long-term operation and maintenance plan for water quality protection BMPs. Please change to: "...provide an operation and maintenance plan and verification of ongoing maintenance provisions for Structural an Treatment Control BMPs..."
60. **Page 59-60, Part 4, E.1.III.7(b)(1).** The cities define their own redevelopment districts. Why must the Regional Board define them? At a minimum, the list of "includes" should have City Redevelopment Areas.
61. **Page 60, Part 4, III.8** Please provide additional information regarding this entire section, particularly the discussion of funding and waivers. The "waiver for impracticability" must be defined and guidelines must be developed for its implementation.
62. **Page 61, Part 4, E.1.III.10(a)(1) Interim Hydrograph Matching.** This requirement has already been declared infeasible in the comments under §4.E.1.II.1. Additionally, the nature of the County's hydrology method is to assume saturation and consequent runoff varies over the course of a significant rain event. The first-day runoff is 10% of the 4<sup>th</sup> day runoff. This begs the question, under which day of the storm are we to consider the hydromodification effects?
63. **Page 62, Part 4, E. III.11(a)(2)** An MOU is an unnecessary and inappropriate mechanism to delineate authority within a municipal organization. This requirement should be deleted.
64. **Page 62, Part 4, E. III.12 (a)** Please define "with immediate effect".
65. **Page 62, Part 4, E. III. 12 (a)** Imposition of these thresholds as environmental issues results in inconsistencies between CEQA and this Order. The result will be the elimination of Categorical Exemptions under CEQA. Furthermore, these thresholds do not distinguish between ministerial versus discretionary projects. Please rectify these inconsistencies.
66. **Page 62, Part 4, E.III.12 (a)** This requirement is in direct conflict with many classes of categorical exemptions as provided for in the California Environmental

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- Quality Act (CEQA), as it would require consideration and mitigation of "potential" storm water quality impacts for small projects that do not currently require such mitigation because they are not considered to have a significant effect on the environment. As proposed, this requirement would significantly extend the time necessary for permit processing, add to the applicant's costs to obtain a permit and inspection, and increase all such project's exposure to CEQA legal challenges. This section should therefore be revised to reflect existing CEQA legislation.
67. **Page 63, Part 4, E.III.13** State law governs General Plan amendments and the obligations imposed on cities. If this is to be imposed, it should be done through legislative adoption.
68. **Page 63, Part 4, E. III.13 (a)** State Planning Law already requires that Conservation Elements address the conservation of natural resources, including "water and its hydraulic force", and that Open Space Elements identify strategies to preserve open space land, with corresponding benefits to water quality and quantity. Each general plan element must also carry equal weight and be internally consistent. It is therefore redundant to require storm water quality and quantity management considerations in Housing and Land Use Elements. Please make this section consistent with State Planning Law.
69. **Page 63, Part 4, E. III 13(b)** General Plan updates are already provided to the State Clearinghouse for distribution to related agencies such as the Los Angeles Regional Water Quality Control Board, therefore it appears redundant to send additional copies directly to the Water Quality Control Board. Please delete this requirement.
70. **Page 63, Part 4, F. 1. (a)** Active sites with properly designed and constructed detention basins will effectively have no discharge and should be exempted from this requirement.
71. **Page 63, Part 4, F. 1. (a)(1)(A)** Grading prohibitions: "On hillsides with slopes 20% or steeper prior to land disturbance." Define how large an area must be in the 20% or steeper terrain for grading to be prohibited. Grading of these areas during the wet season will not present pollutant runoff problems when effective BMPs are in place. More flexibility is warranted rather than a flat prohibition, since a complete prohibition could have more significant environmental impacts than allowing completion of grading. "Hillside" is defined in the current NPDES stormwater permit as a slope of 25% or greater. Please justify the change from 25% to 20%.
72. **Page 64, Part 4, F. 1. (b) (1)** A project proponent should be able to apply directly to the Regional Board for a Grading Prohibition Variance. Additionally, any variances granted by the Regional Board should become the Regional Board's responsibility for inspection, enforcement, and liability if BMPs are determined inadequate. Alternatively, if the Permittees hold all the responsibility for proposed BMP effectiveness, inspection, enforcement and liability, then they should be given the authority to grant the Grading Prohibition Variance.
73. **Page 64-66, Part 4, F. 2. (a), (b), and (c)** These sections require the implementation of the BMPs in Tables 6 through 8, however those table list duplicative BMPs designed to solve the same problems (e.g. six erosion control

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- measures in Table 7). It is not intended that all these BMPs be used concurrently. Please change each section to read: "Each Permittee shall require the implementation of an effective combination of the following BMPs . . ."
74. **Page 68, Part 4, F. 6. (a) (8)** Please revise as follows: "Cover the stockpiled "cold-mix" asphalt..."
75. **Page 69, Part 4, F. 8. (b)** During the building process, post construction BMPs may be exposed to some of the worst runoff they will encounter. No post construction BMP will be accepted as constructed in compliance with specifications unless it is cleaned and operational. This initial inspection must include an operation and maintenance inspection. Please strike the last sentence from this section.
76. **Page 70, Part 4, F. 9. (a) (1)** To avoid delays in the construction process while waiting for the State to respond to an NOI, permittees would prefer if proof of application for the Construction Activities Stormwater General Permit (CASGP) for construction activities was required instead of coverage. Any projects that have not filed for under the CASGP would be subject to Part 4 F. 10. (b) and therefore be referred to the Regional Board. Please change to: "Proof of application for coverage under a State NPDES permit . . ."
77. **Page 72, Part 4, G. 1.** Sewage system Maintenance, Overflow, and Spill Prevention, Response Plans: There is no reason to duplicate or add additional requirements for sewer systems when all collection systems are regulated the SWRCB's General Waste Discharge Requirements for Sanitary Sewer Systems. We request that these requirements be removed.
78. **Page 73, Part 4, G. 2 (c) (1)** Requirement for coverage under CASGP for construction activities "does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility." Street repaving and channel clearing are not required by the SWRCB to get coverage under the CASGP for construction activities and that should not be required under this permit.
79. **Page 74, Part 4, G. 3** Permittees would prefer to maintain flexibility in BMP selection from other sources than the Caltrans Stormwater Quality Handbook. Please allow for other sources of BMPs. Please title the BMP Tables.
80. **Page 76, Part 4, G. 3. (b)** Requirement for coverage under CASGP for construction activities "does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility." Long-term maintenance activities are not required by the SWRCB to get coverage under the CASGP for construction activities and that should not be required under this permit. Furthermore, Permits are issued for specific projects at specific locations, and can't be issued if "...1 or more acres of land are disturbed.... cumulatively as part of several projects involving a soil disturbance". "Several projects" could include many locations over an extended period of time. This requirement should be removed from the permit.
81. **Page 76, Part 4, G. 5 (a) (5)** It is beyond the scope of the Permittees authority to require any public agencies not named in this permit to comply with any section of this permit. This requirement should be removed from the permit.

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82. **Page 76, Part 4, G. 5 (a) (7)** Entirely eliminating the use of pesticides is a noble goal, but public health and safety must come first. Additionally, the authority to determine if a pesticide is legal to use lies with the California Department of Pesticide Regulation. Please change to: "...and timelines with the goal of reducing and ultimately eliminating the use of pesticides . . ."
83. **Page 78, Part 4, G, 6 (a)(3)** Please revise as follows: "...Permittees shall ensure that any catch basin that is found to be 25% full of trash and debris shall be cleaned out."
84. **Page 78, Part 4, G, 6 (c)** Trash receptacles at all transit stops and schools: Six months is insufficient time to accomplish this requirement. Locations must be determined, specifications must be developed, the project must be bid, etc. We request one year to implement this requirement.
85. **Page 78, Part 4, G, 6 (e)** Trash excluders on all catch basins: There is no justification provided for this requirement. There are only three reaches of stream/river in Ventura County that are 303(d) listed for trash. A TMDL is being developed to properly remove the pollutant. In addition, the draft permit requires the Permittees to perform a trash and debris study. Thousand Oaks has over 3,400 catch basins, the vast majority of which are located in residential neighborhoods. At a conservative cost of \$1000 per trash excluder, that's \$3.4 million dollars (plus installation and maintenance costs) to fix a problem that doesn't exist in the City or it's downstream waterbodies. Furthermore, it would be impossible to complete this multimillion-dollar project in 180 days. The requirement should be deleted from the permit.
86. **Page 81, Part 4, G, 8 (a)** Coverage under the CASGP for construction activities should not be required for projects that are performed to maintain or restore original line, grade or capacity. How would roadside maintenance "vegetation removal" be covered under the CASGP for construction activities? This requirement needs to be removed or revised.
87. **Page 81, Part 4, G, 10** Why should municipal permittees that operate a potable water system be burdened with a requirement (NPDES permit) that does not apply to private water purveyors and water districts? How was the 100,000 gallon per year figure derived and what justification exists for regulating the discharges of potable water that is greater than 100,000 gallons per year? Section G.10 Footnote 1 requires Municipal Potable Water Supply Systems to obtain coverage under the Regional Water Board NPDES Permit No. CAG674001 if the discharge is greater than 100,000 gallons per year. This general permit specifically regulates the discharge of Hydrostatic Test Water. How does this general permit apply to nonspecific discharges from a municipally owned potable water system? A more appropriate method for regulating discharges from potable water systems, should the Board wish to do so, would be to develop a General Permit that would apply to all water purveyors, not just "municipal". Please comment on this option.
88. **Page 84, Part 4, H. 3. (a) (1) (A)** Permittees can only be responsible for infrastructure under their control. Please change to: "A GIS layer showing the location and length of publicly owned underground pipes...."

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89. **Page 84, Part 4, H. 3. (a) (2)** Field screening was performed by Permittees during the term of the first permit and was determined to be an inefficient use of resources considering the time spent and the limited number of illicit connection discovered. What is the justification for requiring an even more rigorous field screening program during the third permit cycle? This requirement should be removed from the permit.
90. **Page 85, Part 4, H. 4 (a)** Illicit discharge investigation: "...shall take formal enforcement action to eliminate the illegal discharge." Enforcement actions may only be taken when we know, without a doubt, who the responsible party is. This isn't known in many cases. Furthermore, formal enforcement actions aren't necessary to resolve most illicit discharge incidents. Permittees should be allowed some discretion in code enforcement situations. This requirement should be deleted.
91. **Page 85, Part 4, H. 4. (b)** In many cases of illicit discharges, even with immediate response, the action and discharge have ceased by the time inspectors arrive on scene. Often the discharge has entered into the MS4 making containment and cleanup an extraordinary effort only necessary in the cases of hazardous materials. Please change to: "...with action to abate, contain, and or clean up all illegal discharges, including hazardous waste."
92. **Page 86, Part 5, 1.** Watershed Ecological Restoration Planning: There are many potential causes for aquatic ecosystem degradation. What is the justification for requiring municipal stormwater permittees to assume the entire responsibility for restoration? This requirement should be deleted.
93. **Page 89, Part 6, 2. (a)(1)** Malibu Creek Bacteria TMDL, WLA Implementation (field screening for illicit discharges): This requirement, which will require substantial time, effort and funds, is not part of the Implementation Plan for the Malibu Creek bacteria TMDL. The Implementation Plan was submitted to the Regional Board on January 24, 2007. What is the justification for placing a higher implementation burden on only a few of the TMDL's Responsible Parties? Please remove this requirement.
94. **Page 90, Part 6, 2. (a)(2)** The WLA discussion should include the effective date of the numeric receiving water limits.
95. **Page 91, Table 11** The single sample marine limits presented in Table 11 are incorrect and are currently set equal to the geometric mean limits. The correct values should be included. Additionally, the limits table should be clarified to state that the WLAs are the number of exceedence days and the targets are the values used to determine if an exceedence day results from the monitoring results.
96. **Pages 91 & 92, Part 6, 3.** The WLAs included in the Toxicity TMDL should include the effective dates for the interim and final limits. The WLAs included in the Toxicity TMDL apply during both dry and wet weather. The dry label should be removed from the tables. The Toxicity WLA is implemented as a trigger for conducting TIEs. "The toxicity WLAs will be implemented in accordance with US EPA, State Board and Regional Board resolutions, guidance and policy at the time of permit issuance or renewal. Currently, these WLAs would be implemented as a trigger for initiation of the TIE/TRE process as outlined in

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- USEPA's "Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program" (2000) and current NPDES permits held by discharged in the CCW." (Calleguas Creek Toxicity TMDL BPA). The trigger language should be included in the Numeric Limits discussion.
97. **Pages 92 & 93, Part 6, 4.** The WLAs included in the OC Pesticides TMDL should include the effective dates for the interim limits. The final limits should not be included in the Order because the effective date of the final WLA is not within the permit term covered by the Order. The WLAs included in the OC Pesticides TMDL are annual averages. The table showing the limits should state that they are annual average limits, not dry weather allocations.
- The Siltation TMDL allocation is a **reduction** in sediment discharges of 2496 tons/yr, not a limitation on the amount of sediment that can be discharged. The limits should be changed to reflect that the allocation is a reduction in the amount discharged.
98. **Page 96, Definitions Construction:** "Construction also includes...routine maintenance to maintain original line and grade if greater than 5 acres total but not necessarily at once, hydraulic capacity, or original purpose of facility;..." Definition needs to be revised to exclude projects that are performed to maintain or restore original line, grade or capacity. Also, please explain "greater than 5 acres but not necessarily at once" and include justification for this requirement. "...not necessarily at once" could potentially cover a lengthy period of time (years). "...or any other activity that results in land disturbance" encompasses far too many activities to be reasonable or practical. For example, the definition, as currently stated, would make putting in a small vegetable garden or flowerbed at a home a "construction" project subject to permit requirements. "...or any other activity that results in land disturbance" should be removed from the definition.
99. **Page 97, Definitions Dechlorinated/Debrominated Swimming Pool Discharge:** "The term does not include .....swimming pool water containing bacteria." Does this mean any type of bacteria, at any concentration? This definition needs substantial revision.
100. **Page 97, Definitions Discharge of a Pollutant.** Please define the meaning of "conveyance" in the context of this permit.
101. **Page 97, Definitions Disturbed Area:** "...ect...." does not belong in a definition. Please remove it.
102. **Page 98, Definitions Environmentally Sensitive Areas:** Need to limit the RARE areas to "unimproved drainage systems" or "Natural Drainage Systems" (as defined in the permit) so that we don't have concrete channels designated as an ESA.
103. **Page 98, Definitions Hillside:** Should address grading on natural slopes that are 25% or greater, not 20% or greater. The current definition for a hillside in NPDES permit CAS004002 is a slope of 25% or greater. Please justify the change from 25% to 20%.



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104. **Page 102, Definitions** "Open Channel means a storm drain channel that is not a natural water course." Does "open channel" include box (enclosed) channels? This definition needs to be revised.
105. **Page 103, Definitions** Point Zero: Please explain "...the point at which water from the storm drain or creek initially mixes with water." "Point Zero" is not included in the Malibu Creek TMDL and should be removed from the permit.
106. **Page 103, Definitions** "Potable Drinking Water Supply" and the following definition of "Potable Drinking Water Supply Releases" are defined with exactly the same language. The definition is incorrect for "Potable Drinking Water Supply".
107. **Attachment C** MALs: The "Municipal Action Levels" (MALs) established in the draft permit were computed based on an approach *recommended* by the by the California Water Board's Storm Water Panel in its report, "*The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Commercial Activities*" (June 2006). The State Water Board has yet to take any action upon this report or give direction as to how the recommendations are to be utilized in preparing NPDES permits. The MALs are enforceable limits (...two or more exceedences of a MAL will be ...considered a violation...), yet these limits have never undergone public review or been formally adopted by the State Water Board. The MALs should be removed from the permit.
108. **Page F-7, C. Monitoring** Tributary monitoring program: Within the Calleguas Creek watershed, tributary monitoring will be conducted as a part of the TMDL compliance monitoring process. Further monitoring in the watershed is duplicative and a waste of funds. This requirement should be deleted.
109. **Page F-9, C. 4. Monitoring** Tributary monitoring, corrective action plans: The Regional Board assumes that any violation of water quality objectives is attributable to urban runoff, that the source of the exceedence can be identified and that a "corrective action plan" can be developed and implemented. This is an entirely inappropriate requirement because urban runoff is only one component of the flow in a waterway (POTW discharges, agricultural runoff, groundwater discharges or aquifer spillage also exist in many tributaries). As Municipal stormwater permittees, we can't control other sources that discharge to a watercourse. This requirement should be removed from the permit.
110. **Page F-11, D. 2. Monitoring** Malibu Creek Bacteria TMDL: The discharge prohibition, monitoring and implementation requirements are extremely burdensome. The TMDL compliance monitoring plan was submitted to the Regional Board on May 24, 2006. The Implementation Plan was submitted to the Regional Board on January 24, 2007. What is the justification for including onerous monitoring and implementation requirements in the draft Municipal Stormwater permit for TMDL Responsible Parties located in Ventura County? These requirements should be removed, or revised to reflect the monitoring plan and implementation plan submitted to the Regional Board.
111. **Reporting Program (Attachment H)** The reporting program is formatted as questions asked by the Regional Board that must be answered by the permittees. This is unnecessary and confusing. The reporting program

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- ✓ requirements should be very straightforward list of items or activities regarding which Regional Board requires information to determine compliance with the permit.

Attachment 2 – City of Thousand Oaks



# City of Thousand Oaks

PUBLIC WORKS DEPARTMENT  
MARK D. WATKINS, DIRECTOR

October 15, 2007

*Via electronic mail*

Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**Re: Second Draft Order of the Ventura County Municipal Separate Storm Sewer System Permit (NPDES No. CAS004002) for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein**

Dear Ms. Egoscue:

The City of Thousand Oaks appreciates the opportunity to provide comments on the second draft Ventura County Municipal Separate Storm Sewer System Permit for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities.

As background information, Thousand Oaks is a community of approximately 127,000 residents in eastern Ventura County. Incorporated in 1964, Thousand Oaks is a well-planned community that includes 15,000 acres of publicly owned open space within its incorporated boundaries. The City is committed to environmental excellence, an integral part of which includes an effective stormwater quality management program.

Thousand Oaks has been an active and supportive member of the Ventura Countywide Stormwater Quality Management Program since its inception in 1992. The Countywide program has an exemplary record as an effective stormwater quality management plan. In 2003, the U.S. Environmental Protection Agency awarded the Ventura Countywide Program with its National Clean Water Act Recognition Awards Program, Storm Water Management Excellence Award. The intent of the awards is to "recognize municipalities and industries that are demonstrating their commitment to protect and improve the quality of the nation's waters by implementing outstanding, innovative and cost-effective Storm Water control programs and projects". The award reflects the Program's, and the City's, commitment to improve and protect water quality in Ventura County through a comprehensive and constructive best management practice (BMP) based program using an iterative process to guide our efforts.

In addition, for many years, and at significant cost, the City has worked cooperatively with the Regional Board and other stakeholders to develop the Calleguas Creek

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Tracy Egoscue  
October 15, 2007  
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Watershed Management Plan and also to address water quality impairments through the development of Total Maximum Daily Loads (TMDLs). The City believes that the cooperative effort in the Calleguas Creek Watershed is unprecedented and will result in significant water quality improvements.

Given the above, the City is dismayed that the second draft permit continues to be extremely prescriptive and ignores or requires duplication of much of the work that has been done to date. Many significant elements in the proposed permit are unfocused, counter-productive and contrary to the progress and good-faith efforts established in the watershed management and TMDL processes.

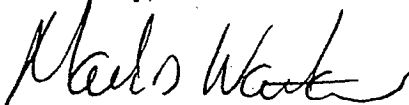
The City participated with the other agencies in the county in developing the comments regarding the second draft permit submitted to the Regional Board on October 12, 2007 by the Ventura County Watershed Protection District on behalf of the Permittees. The City supports and agrees with these comments.

As stewards of scarce and limited public funds, we must ensure that the actions and expenditures driven by regulatory requirements are consistent with each other, are cost-effective and capable of achieving the goals for which those expenditures are intended. The second draft stormwater quality permit is inconsistent with those goals. Although we disagree with much of the proposed approach being used by the Regional Board, we are in agreement with the need to continue and enhance our award-winning stormwater management program, which will lead to water quality protection and improvement and provide for adequate accountability.

To that end, we request and look forward to working with Board staff through a series of facilitated meetings in order to craft a revised permit that supports this need.

If you have any questions or need additional information, please feel free to contact me at (805) 449-2399 at your convenience.

Sincerely,



Mark D. Watkins  
Public Works Director

c: Scott Mitnick, City Manager  
Amy Albano, City Attorney  
Ventura County Stormwater Permittees

DPW:530-25(2)/jk



# CITY OF SIMI VALLEY

*Home of The Ronald Reagan Presidential Library*

May 29, 2008

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**SUBJECT: DRAFT TENTATIVE ORDER OF THE VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES PERMIT NO. CAS004002)**

Dear Ms. Egoscue:

The City of Simi Valley respectfully submits the following comments regarding the above referenced Draft Tentative Order. The City concurs with the Ventura Countywide Stormwater Program comment letter dated May 27, 2008, and states our support. Some issues raised in that letter are highlighted below to emphasize the City's key concerns:

- **Cost** – The City is committed to protect the environment but cannot sacrifice essential public services, including public health and safety. The fiscal impact on Simi Valley citizens by the Draft Tentative Order would be devastating. The Ventura Countywide letter cites an annual cost to comply of \$600 per household, a seventeen-fold cost increase. This astronomical cost increase cannot be afforded nor justified. The Ventura Countywide letter further describes that the costs will not effectively improve water quality directly. So not only is this an astronomical cost increase, it may not effectively relate to improved water quality. For both reasons, this is not fiscally responsible, and it is not responsible public policy.
- **Inflexibility** – The Draft Tentative Order mandates that the City implement specific actions rather than allowing the flexibility to develop cost effective and efficient solutions. This prescriptive approach may provide your agency's staff with easier measurement criteria; however, it may not cost effectively improve water quality. We live in a time where communication, consensus-building, and idea development are commonly used to improve our environment. The reversion to a more prescribed method for achieving regional goals is outdated, and less effective. Allow all our Cities, County and your staff the open opportunity to continue to develop better ideas through a flexible framework for the good of water quality and the environment.

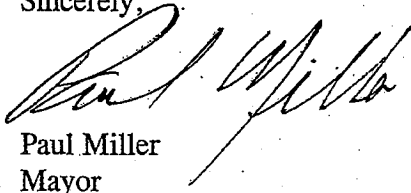
Ms. Tracy Egoscue  
Page Two

- Municipal Action Levels (MALs) – This Draft Tentative Order is the first in the nation to require storm drain runoff to meet effluent limits. These draft MALs defy even your own designated expert Blue-Ribbon Panel determination that they are not feasible. Furthermore, the methods and logic for the draft MALs do not measure up to expert opinions on the matter. The City concurs with the Ventura Countywide letter that MALs are a major flaw in the Draft Tentative Order, both in concept and in the specific methods the numerical limits were derived. We cannot accept this flawed requirement nor justify our citizens paying for it.
- Timeframes – This Draft Tentative Order has unrealistic deadlines. As emphasized above, increased stormwater program investment requires that the City Council balance fiscal priorities, essentially reducing investment in other public programs. The City's annual public budget process plans revenues and expenses for the fiscal year, and certain commitments are made based upon the budget. The permit deadlines, many less than one-year, assume required actions can be funded and carried-out without such planning. Such compressed, unplanned activities will necessarily be rushed, adding to inefficiency. Individually, the Draft Tentative Order deadlines may seem reasonable, but the sum total is impossible for our City to implement.

The City has a long and effective history of improving local water quality. To accomplish this important need, the City Council consistently reviews the public's fiscal responsibility and manages scarce public funds to invest in our community's water resources cost effectively. The City has significant concerns with the Draft Tentative Order – it is too costly, too inflexible, too stringent, and the actions required too rushed. We look forward to working with the Board to create a revised draft Permit that is reasonable, flexible, and provides a cost effective relationship between investment and water quality improvement.

If you have any questions, please call me at (805)-583-6703 or have your staff contact Joe Deakin, Assistant Director of Public Works, at (805)-583-6401.

Sincerely,



Paul Miller  
Mayor

cc: City Council  
City Manager  
Assistant City Manager, Dan Paranick  
Director of Public Works  
Assistant Director of Public Works

ADMIN/A851.JH

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KEN ORTEGA  
Public Works Director

Public Works Department - Public Works Administration  
305 West Third Street • Oxnard, CA 93030 • (805) 385-8281 • Fax (805) 385-7907

May 27, 2008

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

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

Dear Ms. Egoscue:

We have received and reviewed the third draft tentative *Waste Discharge Requirements for Storm Water (Wet Weather) and Non-storm Water (Dry Weather) Discharges from the Municipal Separate Storm Sewer Systems Within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein* (Permit). The City of Oxnard is pleased to provide comments on the Permit, below. As the Permit has not changed significantly from the previous draft tentatives, many of the comments may be duplicative on previously-submitted comments. The City of Oxnard is a copermitee on the Permit, and staff have worked with other agencies on the development of county-wide comments on the draft permit, and concur with the majority of those comments transmitted to you under separate cover.

The first municipal stormwater permit, issued in 1994, was based on the Part 1 and Part 2 NPDES permit applications developed by the City of Oxnard, as required under the EPA's Phase I stormwater regulations. The remaining agencies in Ventura County did not fall under Phase 1, but voluntarily participated in the development of the stormwater program elements on a county-wide basis to better protect surface and groundwater resources (see Figure-1). The logical, proactive approach taken in implementing the stormwater program was recognized by the Regional Board by winning the prestigious H. David Nahai Water Quality Award for Water Quality Conservation in 2001, and by winning the EPA's Clean Water Act Recognition Award for Stormwater Management Excellence in 2003.

In the five years since, there has been a shift toward a less flexible and effective program that has resulted in a dependence on other programs, such as wastewater treatment plant NPDES permits, Conditional Waiver of Waste Discharge Requirements for Irrigated Agriculture, and TMDLs for improving water quality. More troubling than the less

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effective draft stormwater permit is the lack of process in its development. The development of municipal stormwater permits should follow regulation and guidelines from, among others, federal stormwater regulation, State Water Resources Control Board plans and policies, Regional Board plans and policies, and Southern California Coastal Water Research Project (SCCWRP) programs:

### **FEDERAL REGULATION**

122.26 requires that municipal stormwater programs develop programs *“to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate.”* The Ventura County-wide program developed a stormwater management plan that documents these programs, and submitted the plan as part of the Report of Waste Discharge for renewal of the permit. The “Draft Permit (07-27-2005) submitted by Ventura County (Not a Regional Board Document)” was provided at that time to reflect a program that met maximum extent practicable, and has been available for review and comment on the Regional Board’s website.

Our comment letters on the Permit requested a Staff Report that lays out the process of determining that the Ventura County Program was inadequate in meeting Federal requirements and meeting State water quality objectives. Instead, the Permit has been modified to strengthen language regarding unfunded mandates. We would find it more useful if the Staff Report were included, as is done in recent permits from other regional boards.

### **STATE BOARD**

#### Stormwater Policy

The development and implementation of statewide urban storm water management guidance and strategies has been proposed by the State Water Resources Control Board (SWRCB). SWRCB started the process by holding “listening sessions” to receive input on what should be included in a stormwater policy. It would be premature to suggest numeric effluent limitations for stormwater discharges without the stormwater policy in place. Some key points brought out at the listening sessions were:

#### ➤ **Effluent limits/Numeric standards**

Many are concerned that end-of-pipe numeric standards for storm water are difficult to achieve given local jurisdictions’ budget constraints, and would result in third party lawsuits. There are also concerns that numeric standards could force the municipalities to focus their resources on specific constituents and as a result, efforts to improve water quality on a watershed basis will be neglected. In other words, while a discharger may be in compliance with a benchmark or numeric limit, the receiving waters could still be stressed due to other

pollutants or synergistic effects, etc. They suggest that the Policy maintain the current iterative, adaptive management approach to regulating discharge of storm water, and that quantitative measures should only be used as a tool to measure the effectiveness of a BMP. Comments received from the environmental groups suggest that numeric standards are necessary to provide consistency, certainty, transparency, accountability and enforceability to the storm water program.

➤ **Relationship with other water quality programs**

There are concerns about the confusion caused by different requirements between the storm water permits and other program requirements such as total maximum daily load (TMDL) and Clean Water Act section 401 water quality certification, the California Toxic Rule (CTR) and the California Ocean Plan.

➤ **Wet weather discharge**

Many suggest that the Policy should recognize the unique, variable nature of storm water. Storm water discharges are not like waste water discharges where the flows and pollutant loadings are somewhat predictable. The quantity of a storm water discharge is linked to the storm size. Pollutant loading is linked to factors including the antecedent dry period and the time and intensity of a storm event. The issue of the variability of pollutant concentrations during a storm event was also raised.

The Permit development should be delayed until the Stormwater Policy is fully developed and disseminated for use by Regional Board staff and permittees.

Expert Panel

SWRCB convened a Blue Ribbon Panel of stormwater experts to address the first of the concerns from above. Specifically, this panel of experts was asked to consider the following:

“Is it technically feasible to establish numeric effluent limitations, or some other quantifiable limit, for inclusion in storm water permits?”

How would such limitations or criteria be established, and what information and data would be required?”

“The answers should address industrial general permits, construction general permits, and area-wide municipal permits. The answers should also address both technology-based limitations or criteria and water

quality-based limitations or criteria. In evaluating establishment of any objective criteria, the panel should address all of the following:

- (1) The ability of the State Water Board to establish appropriate objective limitations or criteria;
- (2) how compliance determinations would be made;
- (3) the ability of dischargers and inspectors to monitor for compliance;
- and (4) the technical and financial ability of dischargers to comply with the limitations or criteria.”

The Blue Ribbon Panel Report (BRPR) contained the following observations regarding numeric criteria for municipal stormwater permits:

1. The current practice for permitting, designing, and maintaining municipal stormwater treatment facilities (called BMPs herein) on the urban landscape does not lend itself to reliable and efficient performance of the BMPs because:
  - Permitting agencies, including EPA, States, and local governments, have rarely developed BMP design requirements that consider the pollutants and/or parameters of concern, the form(s) that the pollutants or parameters are in, the hydrologic and hydraulic nature of how the pollutants and flow arrive, and then the resulting unit processes (treatment and/or flow management processes) that would be required to address these pollutants or parameters...
3. Improvements in the design of municipal BMPs, including residential and commercial as well as municipally owned facilities are necessary to ensure better performance (i.e. sizing, geometry, inlet and outlet design, etc.) and to specifically target receiving water quality issues.

These comments spell out the continued need to address pollutants of concern specific to the receiving water body. This continues to be an issue with the MALs as contained in the permit. Their function is not to address water quality impairments, but serve only a compliance and enforcement role. The BRPR found that to be a problem with existing effluent limit approaches: “Effluent limit approaches usually focus only on conventional water quality constituents that may not be solely or at all responsible for the receiving water beneficial use impairments in urban receiving waters.

The BRPR’s finding states: “It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges. However, it is possible to select and design them much more rigorously with respect to the physical, chemical and/or biological processes that take place within them, providing more confidence that the estimated mean concentrations of constituents in the effluents will be close to the design target. Moreover, with this more rigorous design and an enforceable maintenance program, it can be presumed that these facilities will continue to deliver

effluent qualities that are reasonably close to the design effluent concentrations over the life of the facility. And if proper maintenance is performed (enforced), the facilities can be expected to perform throughout their design life at the same or better efficiency as when newly constructed. Depending on the pollutants and parameters of concern and BMP choices, it is very likely that treatment trains of structural BMPs will be required in many cases.”

And:

“For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible. However, the approach of setting an “upset” value, which is clearly above the normal observed variability, may be an interim approach that would allow “bad actor” catchments to receive additional attention. For the purposes of this document, we are calling this “upset” value an *Action Level* because the water quality discharged from such locations are enough of a concern that most all could agree that some action should be taken.

Action Levels could be developed using at least three different approaches. These approaches include: 1) consensus based approach; 2) ranked percentile distributions; 3) statistically-based population parameters.”

We agree with the BRPR<sup>1</sup> in the need for action levels as a tool to identify areas that need additional attention. These action levels need to be developed for the reasons stated in the BRPR, in the manner specified in the BRPR.

#### Ocean Plan

Although the Findings attempts to address the California Ocean Plan as it applies to the permit:

“12. The State Water Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) in 2005. The California Ocean Plan establishes water quality objectives for California’s ocean waters and provides the basis for regulation of wastes discharged into the State’s coastal waters. It applies to point and nonpoint source discharges. The Ocean Plan identifies the applicable beneficial uses of marine waters that include preservation and enhancement of designated Areas of Special Biological Significance (ASBS) (now called “State Water Quality Protection Areas”) and establishes a set of narrative and numerical water quality objectives designed to protect beneficial uses. The SWRCB adopts the California Ocean Plan, and both the SWRCB and the six coastal Regional Water Quality Control Boards (RWQCBs) implement and interpret the California Ocean Plan.”

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<sup>1</sup> September 9, 2005, *Comments on the Use of Numeric Standards for Stormwater Permits* letter

it is not entirely correct. Part C.1. of the Ocean Plan, Applicability, states that:

“This plan is applicable, in its entirety, to point source discharges to the ocean\*. Nonpoint sources of waste\* discharges to the ocean\* are subject to Chapter I Beneficial Uses, Chapter II - WATER QUALITY OBJECTIVES (wherein compliance with water quality objectives shall, in all cases, be determined by direct measurements in the receiving waters) and Chapter III - PROGRAM OF IMPLEMENTATION Parts A.2, D, E, and H.”

The Ventura County municipal stormwater permit uses Ocean Plan Water Quality Objectives to guide the Program in identifying possible pollutants of concern to ocean waters (see above discussion of the BRPR); however, the finding implies that the Ocean Plan applies to stormwater discharges from an MS4. Part C.2. further clarifies that:

“This plan is not applicable to discharges to enclosed\* bays and estuaries\* or inland waters, nor is it applicable to vessel wastes, or the control of dredged\* material.”

#### State Implementation Policy

Finding 11. of the permit references the State Water Board's amended *Policy for the Implementation of Toxics Standards In Inland Surface Waters, Enclosed Bays and Estuaries of California* (State Implementation Policy – SIP) on February 24, 2005.

Footnote number 1 of the SIP states that the “Policy does not apply to regulation of storm water discharges”. But Finding 11. goes on to state that:

This Order includes a Monitoring Program that incorporates Minimum Levels (MLs) established under the State Implementation Policy. The MLs represent the lowest quantifiable concentration for priority toxic pollutants that is measurable with the use of proper method-based analytical procedures and factoring out matrix interference. The SIP's MLs therefore represent the best available science for determining MLs and are appropriate for a storm water monitoring program. The use of MLs allows the detection of toxic priority pollutants at concentrations of concern using recent advances in chemical analytical methods.

which is regulating a stormwater permit using SIP.

#### Continuing Planning Process

The federal Clean Water Act (CWA) requires each state to have in place a “continuing planning process” (CPP) approved by the U. S. Environmental Protection Agency (EPA) [CWA 303(e)]. The SWRCB developed nine specific elements required by 40 CFR

130.5(b), elements of a "Continuing Planning Process", which are specifically required by the CWA and federal regulations. Included, and related to the development of the draft Permit, are:

***1. The process for developing effluent limitations and schedules of compliance that are required by Sections 301(b)(1), 301(b)(2), 306, and 307.***

*The State issues NPDES permits in accordance with a Memorandum of Agreement (MOA) between EPA and the State Board. Regional Board staff, in issuing NPDES permits, follow time lines indicated in the MOA for submission of applications, pre-notice draft permits, and other materials relevant to permit development. EPA may comment upon or object to the issuance of a permit or the terms or conditions therein. Neither the State Board nor the Regional Boards adopt or issue an NPDES permit until all objections made by EPA have been resolved pursuant to 40 CFR Part 123.44 and the MOA.*

*The Regional Boards send EPA and the State Board copies of applications, pre-notice draft permits, draft permits, adopted permits, and associated Fact Sheets and/or Statements of Basis for all NPDES individual permits proposed and/or adopted by the Regional Board and for all enrollees under general NPDES permits.*

*The State Board is responsible for supporting and overseeing the Regional Boards' management of the NPDES Program in California. In performing this function, the State Board has the responsibility to (1) evaluate Regional Board performance in the area of permit content and procedure, compliance, monitoring and surveillance, quality assurance of sample analysis, and program enforcement; (2) provide technical assistance to the Regional Boards such as information about regulations, policies, plans, changes, and decisions regarding the NPDES program; (3) develop and implement regulations, policy, and guidelines to maintain consistency between State and federal programs; (4) review decisions of the Regional Boards upon petition from aggrieved persons; and (5) assist the Regional Boards in implementing the federal program.*

*Regional Boards have the following responsibilities: (1) regulate all discharges subject to the NPDES program, except those reserved to EPA; (2) adopt or take other decisive action on NPDES permit applications within 180 days of the date of application; (3) maintain management control over the permit program to ensure that it conforms to State laws, regulations, and policies; (4) implement federal program provisions; (5)*

*provide technical assistance to the regulated community; (6) assure that no one realizes an economic advantage from noncompliance; and, (7) maintain an adequate public file for each permittee. Permit effluent limitations contained in NPDES permits comply with those adopted under Sections 301, 302, 306, 307, and 405 of the federal Clean Water Act. More stringent effluent limitations may be used in permits where necessary to protect the beneficial uses of waters by meeting water quality standards or prohibitions. All permit requirements must also comply with the Basin Plan and any state-wide water quality control plans, and any plan approved pursuant to Section 208(b) of the CWA. Where effluent limitations are not specified in water quality control plans or other regulations, they may be calculated from existing receiving water quality objectives by use of dilution factors specific to the discharge and/or location. Effluent limitations are adopted by Regional Boards following public notice and hearing.*

***4. The process for updating and maintaining water quality management plans including schedules for revision.***

*Triennial reviews of state-wide and regional (basin) plans are conducted by the State Board for state-wide plans and by regional boards for basin plans. The public is given notice of the triennial review, and a public hearing is held by the State or Regional Board where the Board proposes a list of priority water quality issues to be addressed during the next three years. After considering input by members of the public and others, the Board adopts a priority list of issues and a workplan detailing the resources that will be allocated and the expected time schedule for completing the actions specified on the priority list. Triennial review results are transmitted by the State Board to US EPA.*

*Consistent with its triennial review, each Regional Board develops Basin Plan amendments for approval by the State Board, the Office of Administrative Law (OAL), and US EPA. The Basin Plans may also be amended to resolve issues other than those specified in the triennial review, as considered appropriate by the Regional Board. State-wide plans are reviewed and amended as necessary by the State Board.*

*A complete administrative record of each Plan amendment is maintained, and is eventually archived. The record allows the reviewing agencies and the public to understand the Board's proceedings and decision. It contains the total evidentiary material relied on by the Board in reaching its decision, including all public comments and responses to these, and all publications or other material relied on. The Chief Counsel of the State Board certifies that the amendment is adopted and approved in compliance with all relevant laws and regulations.*

*In adopting amendments to state-wide plans or basin plans, the state and regional boards comply with Cal/EPA's "Policy and Guiding Principles for External Scientific Peer Review" of March 13, 1998, and with the State Board's internal peer review guidelines (see margin). These guidance documents set out procedures to ensure compliance with Cal. Health and Safety Code Section 57004. Peer review of scientifically-based regulatory measures, such as TMDLs, and staff response to any significant peer review comments, must take place before their adoption as Plan amendments by the State or Regional Board. In the case where a Board is adopting federally promulgated or mandated standards or regulatory measures, peer review is not required since the scientific basis for these has been previously peer reviewed. The statewide coordinator of the boards' external scientific peer review process is located in the Division of Water Quality at the State Board. All requests for external scientific peer review are routed through the peer review coordinator.*

**6. The process for assuring implementation (including schedules of compliance) for revised or new water quality standards.**

*Water quality standards are contained in several documents developed by the State and Regional Boards. The State Board has developed several statewide plans, legislatively mandated, that include enforceable water quality standards that apply to specific water bodies. Current statewide plans include the Ocean Plan, the Bay-Delta Plan, and the Thermal Plan. Regional Boards, in partnership with the State Board, develop their Water Quality Control Plans (Basin Plans) that contain water quality standards for each specific region.*

*The process for developing the statewide plans involves input from both the public and the Regional Boards. First, a series of workshops are held throughout the State to gather public and Regional Board input regarding important issues that need to be addressed. Based on the results of these workshops, a list of issues is developed and ranked according to priority. State Board staff then write a report discussing these priorities and ways to address them. This report is then submitted to the State Board for approval. The issues approved by the board are then further examined, and water quality standards developed.*

*The process for developing water quality standards that appear in Basin Plans is similar, but is initiated by the need to protect beneficial uses of water as described in the California Water Code. In the case of water quality standards contained in Basin Plans, Regional Board staff will first determine if a EPA standard for a constituent of concern currently exists or if a new standard needs to be developed. If no federal standard exists, staff will develop one. Any new standard is then made available for public*



*review at a Regional Board workshop or other special workshop arranged by the staff. New standards are then subject to the Basin Plan review process (described elsewhere) to become incorporated into the Basin Plan.*

*Schedules of compliance for both statewide plans and Basin Plans are incorporated into each specific document, and are subject to the review process noted above. Schedules of compliance will vary depending on the document, but all will include monitoring and reporting requirements.*

*Enforcement of water quality standards is effected through a variety of authorities granted to the State and Regional Water Boards in the Portor-Cologne Water Quality Act. These authorities include issuance of Cease and Desist Orders, Cleanup and Abatement Orders, and through Administrative Civil Liability (Chapter 5). Other regulatory provisions are found in NPDES permits, Waste Discharge Requirements, and regulations for contained discharges.*

Related to the Permit's draft monitoring program, the Continuing Planning Processes anticipates that permittees will be working with local monitoring groups (see SCCWRP below):

***A. Monitoring and Assessment Program***

*The State Board's Monitoring and Assessment Program provides information to the State and Regional Boards, the public, and EPA on the state of the State's waters. Activities of the program include compiling water quality monitoring and assessment data for fresh, estuarine, ocean, and ground waters, as well as a yearly beach closures report to the legislature. The Program provides technical assistance to Regional Boards, other agencies, local groups and other Division Programs for watershed monitoring and assessment. Assistance includes study design, coordination among participants, field monitoring, reporting, and project evaluation. The program is the lead in the State Board's investigation of sources, loads, and impacts of stormwater pollutants discharged to the ocean coastline, as required by CWC Section 13181. Program staff are working with the Southern California Coastal Water Research Project, San Francisco Estuary Institute, and Moss Landing Marine Laboratory to gather information statewide.*

Regional Board staff are circumventing this process by developing new water quality-based effluent limits and technology-based limits outside of the State Board and public processes. Additionally, the monitoring program in the Permit was developed outside of the SWRCB and SCCWRP process, and does not investigate sources or impacts of stormwater discharges.

## REGIONAL BOARD

### Basin Plan

The first stormwater permit for Ventura County followed the June 30, 1994, Basin Plan **Urban Runoff** component and its *Strategic Planning and Implementation* section which states that the "Regional Board's urban runoff management program (through both the Storm Water and Nonpoint source programs) continues to assess specific urban runoff problems and control strategies to remediate those problems." This was done by developing a Monitoring Program that included four types of land use monitoring and implementing a Storm Water Quality Management Plan to address any pollutants of concern. In part, the Ventura Countywide Stormwater Management Program's pollutants of concern were developed in comparing land-use monitoring results to Basin Plan water quality standards. Realistically, these standards were developed to address point source discharges, and probably do not reflect actual urban runoff impairments.

The 1994 Basin Plan further defines the stormwater program elements under *Comprehensive Control Program*:

"All cities and counties in the Region are required to develop and implement comprehensive urban runoff control programs which focus on the prevention of future water quality problems and remediation of existing problems. The requirements of the municipal control program are intended to be consistent with NPDES regulations for municipal storm water discharges".

Other than specific limitations for certain industries<sup>2</sup> (e.g., Subchapter N industries), the NPDES stormwater program is designed to be a tiered approach to mitigating urban runoff impacts that relies on best management practices implemented to the Maximum Extent Practicable (MEP)<sup>3</sup>. The EPA determined that additional water quality-based controls may be deemed appropriate, where necessary. To date, these additional controls were found appropriate by the Regional Board only at 303(d)-listed waterbodies under a TMDL structure. Co-permittees under the Ventura Countywide Program have been working with other stakeholders in the TMDL development and implementation processes for the various TMDLs where a urban runoff component has been identified. It is apparent from our discussions with the Regional Board's TMDL staff that there has been no discussion of the incorporation of adopted TMDLs into the permit, nor has there been consideration of the existing and proposed TMDL monitoring programs in the development of the draft permit's monitoring program.

Co-permittees under the Ventura Countywide Program have, however, identified needed additional controls using the results of the Stormwater Monitoring Program's data,

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<sup>2</sup> May 10, 2006, *Boeing Company - Petition for Review of Waste Discharge Requirements* letter

<sup>3</sup> Federal Register / Vol. 55, No. 222 / Friday, November 16, 1990

TMDL monitoring data, and the City of Oxnard's POTW permit monitoring. For the City of Oxnard, these controls include targeting businesses for sources of lead and nitrogen, a very rigorous construction oversight program to address sediment-bound pollutants of concern (e.g., metals and historic pesticides), and additional source control and treatment controls for trash<sup>4</sup>.

#### Triennial Review

The 2004 Regional Board Triennial Review necessarily prioritized issues that needed to be addressed under the basin planning process. Related to stormwater, the staff report made the following observations:

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

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

*A third theme was to develop a policy to address waters that are sometimes referred to (primarily by the regulated community) as Effluent Dominated Waters (EDWs). There has been much discussion about how to balance protection of EDWs and the beneficial uses they can and do support with the possibility of permitting flexibility for certain pollutants in these types of waters.*

*A fourth theme dealt with evaluating and taking into consideration natural sources of pollutants. Specifically, a number of commenters supported a potential amendment to broaden the application of the "natural sources exclusion" included in the implementation provisions for the bacteria objectives to other naturally occurring constituents such as minerals and some metals such as selenium. Related to this, several commenters also supported a potential amendment to clearly identify how natural*

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<sup>4</sup> January 26, 2006, *Permit Renewal – Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges* letter

*conditions would be determined for objectives such as temperature and pH.*

*At the Board workshop, Board members provided initial feedback on some of the priorities. One general comment dealt with the need to provide the regulated community with certainty and guidance on Basin Plan requirements and how those requirements are incorporated into permits. Another stressed the regional goal of promoting reuse of our water resources and prioritizing any Basin Planning issues that would address that goal. Some Board members reiterated several of the specific priorities identified by stakeholders. These included (1) developing a policy on interpreting narrative toxicity objectives, (2) clarifying the applicability of the CTR and SIP to stormwater, and (3) providing guidance on the incorporation of TMDL requirements into permits. Board members also identified several high priorities that should be retained as such including TMDL adoption, updating the "Preservation of Biological Habitats" beneficial use, and developing a narrative objective for emerging chemicals. Finally, there were several items that Board members felt were adequately addressed and did not need to be included including clarification of the tributary rule and the definitions for enclosed bays and estuaries.*

Related to these issues, the Board adopted the following 2005-2007 priority basin plan needs:

O-5	Water Quality Objectives	Regionwide	Evaluate groundwater MUN de-designation requests. Consider as an alternative maintaining the MUN use, but suspending objectives for natural constituents where it can be demonstrated the source is natural in origin.
O-8	Plans and Policies	Regionwide	Develop a regional policy on hydromodification of watercourses in the Los Angeles Region. Consider including criteria and evaluation requirements to be used by Board staff when evaluating projects for certification or WDRs.
R-1	Beneficial Uses	Regionwide	Update maps in Basin Plan. Consider doing the following: a. Display watershed management areas. b. Align existing Hydrologic Units with most recent Cal Water 2.2 system. c. Update reaches as appropriate. d. Define and delineate estuaries and enclosed bays. e. Match reach maps with beneficial use tables. f. Update groundwater maps based on Department of Water Resources (DWR) Bulletin 118 (2003 update). g. Delineate wetlands based on available information.
R-21	Plans and Policies	Regionwide	Conduct an inventory and beneficial use surveys of coastal streams not listed in Table 2-1 of the Basin Plan. Incorporate waterbodies into Table 2-1 and identify applicable beneficial uses.

R-39	Plans and Policies	Regionwide	Convene a wet-weather task force, initially led by the Regional Board and comprised of representative stakeholders in the Region, to identify a menu of project concepts addressing wet-weather concerns as they relate to water-quality standards. Bring the menu of project concepts before the Regional Board for its consideration and prioritization.
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Until these priority items are completed, the permit will be driving policy instead of the policy driving the permit. We recommend waiting until these priority tasks are completed before finalizing the draft Permit and Fact Sheet.

### SCCWRP

In taking the Ventura County-wide monitoring approach, the Program is following the philosophy of the Stormwater Monitoring Coalition (SMC) in their Model Monitoring Program:

*"Monitoring should be focused on decision making; data not helpful in making a decision about clearly defined regulatory, management, or technical issues should not be collected."*

The Model Monitoring Program, developed by representatives of three regional boards, municipal permittees representing six counties, Heal the Bay, and SCCWRP presented the Core Management Questions:

Are conditions in receiving waters protective, or likely to be protective, of beneficial uses?

What is the extent and magnitude of the current or potential receiving water problems?

What is the relative urban runoff contribution to the receiving water problem(s)?

What are the sources to urban runoff that contribute to receiving water problems?

Are conditions in receiving waters getting better or worse?

These questions were incorporated as the means for measurability and accountability of stormwater programs suggested by the California Stormwater Quality Association (CASQA) in their white paper *"An Introduction to Stormwater Program Effectiveness Assessment"*.

The above processes were not followed in developing the third draft tentative Permit. We have provided alternate approaches and language to address our major concerns, but the Permit has not been modified in any substantial way to incorporate alternatives. While we have numerous detailed comments on the Permit, we would like to provide

examples of how the above processes have not been considered for our major concerns, below:

- ❖ **MALs**  
Municipal Action Levels are numeric criteria included in the Permit. While we generally support the use of action levels as a tool for identifying under-performing catchments, the Permit MALs were not based on Federal regulation, SWRCB guidance, guidance from the BRPR, or Regional Board Basin Plan, including water quality objectives. Additionally, they did not address local pollutants of concern (POC) and were not based on local or regional monitoring data. They are, therefore, not a useful tool for the Program.
- ❖ **BMP performance**  
Performance standards for treatment control BMPs were included in the Permit for the first time. These standards were also not based on POCs developed under the Program to address potential impacts of urban runoff on local receiving waters.
- ❖ **Program effectiveness evaluation**  
The draft Permit continues to include a questionnaire type of reporting program to attempt to evaluate the effectiveness of the stormwater Program. We have provided the CASQA program effectiveness (again attached as Figure 1) that incorporates a more logical hierarchical approach. Reference is also made to their white paper "*An Introduction to Stormwater Program Effectiveness Assessment*".
- ❖ **Monitoring Proposal**  
The monitoring program in the draft Permit is unfocused, and appears to have compliance and enforcement as its only endpoint. We have provided a detailed monitoring proposal that addresses local monitoring program conditions, while providing data useful in answering the Management Questions of the SCCWRP model monitoring program (attached as Figure 2)

In our discussions with staff, we have laid out a logical progression of the stormwater program that has been implemented by the City:

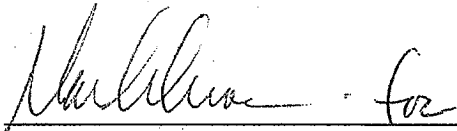
- ❖ Basic program elements are implemented according to the Stormwater Quality Management Plan (SWQMP) developed by the Program
- ❖ Effectiveness of the Program outreach to residents is surveyed and changes made if necessary
- ❖ Receiving waters are evaluated against water quality standards at mass emission and in-stream stations
  - Pollutants of Concern (POCs) are developed on monitoring data
- ❖ Program elements are enhanced to address the POCs
  - General and specific outreach targets POCs
  - Inspections of business / industry target potential contributors of POCs

- Public agency activities target POCs
- New development evaluates receiving water, targets POCs, propose BMPs to address general pollutants and POCs, BMPs are evaluated for effectiveness
- ❖ Trends are tracked for POCs
- ❖ The process is re-evaluated as necessary

In summary, the draft Permit did not follow a known process in its development, was not designed to implement an effective stormwater program, did not consider local monitoring data, and did not evaluate stakeholder input. As always, we are interested in correcting these deficiencies by working with Regional Board staff on building a program that will be successful in maintaining or improving water quality in Ventura County.

If you have any questions regarding our comments on the draft stormwater permit, please feel free to call me at (805) 271-2205, or contact Mark Pumford, Technical Services Manager, at (805) 271-2220.

Sincerely,



Ken Ortega  
Public Works Director

<sup>MP</sup>  
KO:MSN:MP:js  
G:\AdminSvcs\Letters\2007-2008\05-27-08 Draft Ventura County MS4 Permit.doc

c: Deb Smith, Regional Water Quality Control Board – Los Angeles  
Xavier Swamikannu, Regional Water Quality Control Board – Los Angeles

Attachments

Figure 1

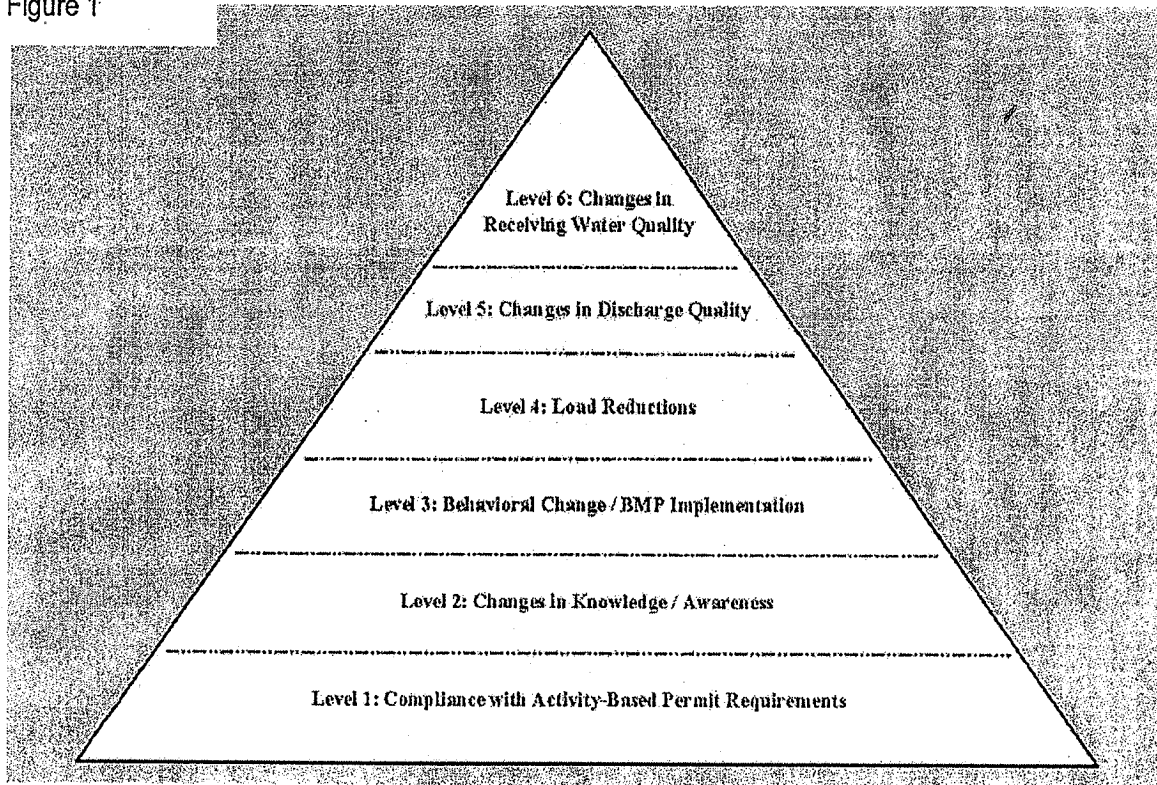
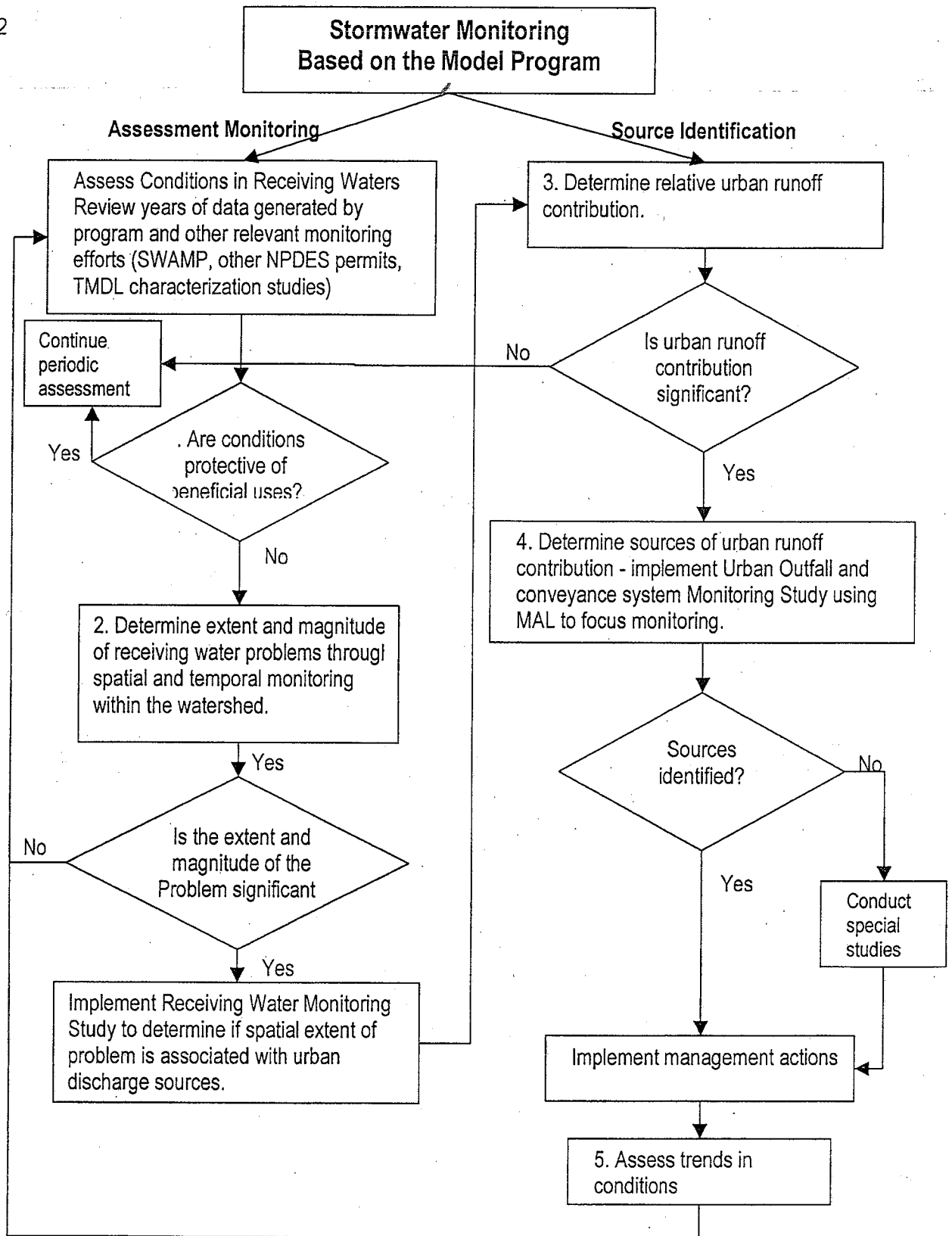
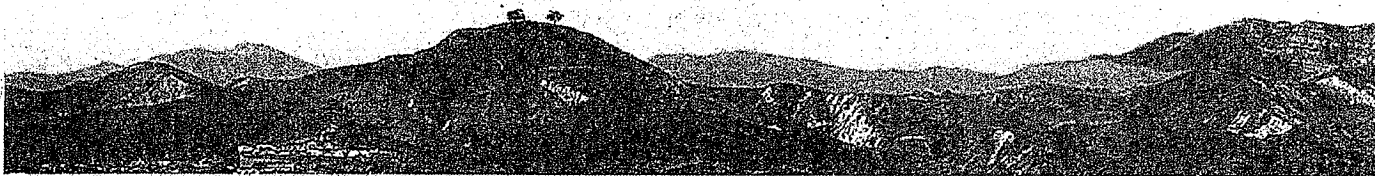




Figure 2





May 29, 2008

Tracy Egoscue, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**SUBJECT: Comments on NPDES No. CAS004002 – Draft Tentative Order of April 29<sup>th</sup>, 2008 (Permit)**

Dear Ms. Egoscue:

The City of Ventura continues to be committed to working with the Regional Board to collaboratively create a successful new permit that will achieve our mutual water quality goals. Along with all the other jurisdictions operating under the joint permit, we have looked forward to working with your staff to finalize a plan for ensuring continued progress toward clean rivers and beaches.

However, at this time we feel that we have invested an extraordinary amount of time and resources into this effort with minimal results. We have repeatedly drawn attention to elements in the proposed permit that are contradictory, duplicative, unworkable, counter-productive and/or fiscally irresponsible. Yet the current revised draft permit reflects very few of our recommendations for practical and reasonable approaches to achieving our shared water quality goals. Unfortunately, the continued insistence on untested and unwarranted regulatory schemes over collaborative partnerships squanders an extraordinary opportunity for an environmental “win-win.” Local governments will not be able to afford the mandates, nor will they achieve the desired goals. We again appeal to you to reconsider our recommended approaches, particularly in the areas of Redevelopment Requirements and Municipal Action Levels.

The Ventura County Co-Permittees have worked together to review the Permit in a spirit of making it work, and the City of Ventura is pleased to say that we are substantially in agreement with the comments submitted on May 28, 2008 by Gerhardt Hubner, Chair of the Countywide Program, on behalf of all Co-Permittees. The City of Ventura hopes that these comments will serve as a catalyst for additional stakeholder discussions and will enable us to again produce an effective and achievable permit. In addition to the countywide comments, the City would like to take this opportunity to focus on several key issues regarding the Permit. Rather than repeat the same comments we provided in our October, 12, 2007 letter here, I have also attached this letter for your reference.

### Issue: Redevelopment Requirements

The Permit discourages redevelopment and infill/smart growth projects. The following example illustrates the unintended consequences of the Permit's provisions.

If a developer proposes to make improvements to the old K-mart building on the site pictured below, they must meet the following requirements under the Draft Tentative MS4 stormwater permit:

1. Reduce the effective impervious to 5% of the site or less; and
2. Treat runoff from a 0.75" or greater storm event; and
3. Design treatment control BMPs to meet performance standards that are described as effluent limitations; and
4. Match post-development hydrologic conditions with pre-development conditions, where "pre-developed" is defined in the Permit as "native vegetation and soils that existed at the site prior to first development"; and
5. Install hydromodification controls such that the 2-year, 24-hour storm event post development peak flow matches pre-development peak flow, within 1%.



*Vacant K-Mart building located in the City of Ventura*

While these requirements would be quite difficult on a development on the outskirts of the City that had not been previously developed, they would be next to impossible on this, and other, urban redevelopment sites. A developer of this project would likely choose **not to** redevelop the site for an intensification and mix of uses, and instead be confined to a few cosmetic improvements and lease the building "as-is." New housing and new jobs would go elsewhere – in all likelihood to "greenfield" sites that currently are not sources of any run-off pollution issues. The result is a double environmental travesty: no improvement to existing serious sources of polluted run-off and promotion of suburban sprawl.

Like the Regional Board, the City of Ventura desires to encourage redevelopment and Smart Growth infill projects using Low Impact Development techniques. In fact, we welcome the opportunity to lead in this area. Redevelopment and infill projects, should be encouraged in the Permit for improvement of quality of life and protection of the overall watershed, especially water quality improvement.

Frankly, we continue to be astonished at the lack of interest in this issue by the staff, when many of the provisions proposed directly contradict the permit's supposed embrace of "smart growth." There is incontrovertible evidence and expert consensus that "brownfield" or "greyfield" redevelopment is environmentally superior to even the most sensitive development in currently undeveloped areas. Low-impact development is the right goal. But rules designed to minimize stormwater pollution from previously undeveloped sites should not be arbitrarily imposed on previously developed sites. That simply promotes suburban sprawl. It doesn't make economic sense. It doesn't make environmental sense. And it is a clear case of unintended environmental injustice to disadvantaged urban communities.

### **Recommendation:**

Modify Section 4 in the Implementation portion of the Planning & Land Development Program; Page 60 in the April 29, 2008 – draft Tentative Permit. Insert the following before (c) in Alternative Post Construction Storm Water Mitigation Programs. :

The Ventura Co-Permittees will assist the Local Government Commission in the development of RPAMP evaluation criteria within 24 months of permit adoption, and submit the criteria to the Regional Board Executive Officer for approval. These criteria will recognize and encourage the water quality benefits of high-density infill and redevelopment projects. Until the evaluation criteria are approved, the Co-permittees will use the following minimum BMPs for low impact development of all redevelopment and infill projects:

- i. *Master Planned Community Scale LID:*
  - (a) *Cluster development to preserve open space.*
  - (b) *Provide riparian buffers.*
  - (c) *Locate development on least infiltrative soils.*
  - (d) *Utilize infiltration properties of sandy soils for groundwater recharge.*
- ii. *Tract Map Scale LID:*
  - (a) *Minimize impervious areas by incorporating open space and/or parks.*
  - (b) *Use vegetated or infiltration-based treatment control and/or hydromodification control BMPs.*
  - (c) *In areas not subject to mass grading, delineate and flag the smallest site disturbance area possible and restrict temporary storage of construction equipment in these areas to minimize soil compaction.*
  - (d) *Provide riparian buffers by clustering development upland and away from Natural Drainage Systems.*
  - (e) *Preserve and/or restore and enhance natural slopes and native vegetation on slopes adjacent to Natural Drainage Systems.*
- iii. *Planning Area Scale LID:*
  - (a) *Construct streets, sidewalks, and parking lot aisles to the minimum widths specified in the land use code and in compliance with regulations for the Americans with Disabilities Act and safety requirements for fire and emergency vehicle access.*
  - (b) *Use vegetated or infiltration-based treatment control and/or hydromodification control BMPs.*
  - (c) *Construct trails with open-jointed paving materials, granular materials, or other pervious materials, in compliance with regulations for the Americans with Disabilities Act and safety requirements for fire and emergency vehicle access..*

- (d) *Use native and/or non-native/non-invasive, climate-appropriate landscaping vegetation that requires less watering and chemical application.*
- (e) *Minimize impervious surfaces in landscape design.*
- (f) *Use efficient irrigation technologies and centralized irrigation controls for landscape watering in common areas, commercial areas, multiple family residential areas, and parks.*

iv. *Lot Scale LID:*

- (a) *Direct runoff from sidewalks, walkways, trails, and patios into adjacent landscaping or to vegetated or infiltration-based treatment control and/or hydromodification control BMPs.*
- (b) *Use vegetated or infiltration-based treatment control and/or hydromodification control BMPs.*
- (c) *Do not use copper or zinc building materials for roof gutters and downspouts.*
- (d) *Direct roof runoff through landscaped areas where site conditions allow.*
- (e) *Use efficient irrigation technologies for landscape watering.*

### **Issue: Municipal Action Levels (MALs)**

The City of Ventura cannot support the MALs, as written, for the following reasons:

- The Permit uses MALs as a numeric compliance metric for the technology-based standard of maximum extent practicable (MEP) rather than guidance for identifying problem areas and redirecting program efforts for maximum effectiveness.
- We agree with the State Board's Blue Ribbon Panel that stated that "*It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges...*"
- The numeric limits set are not consistent with local or State data;
- The City does not have jurisdiction or control of all discharges to the City's storm drain system, e.g., agriculture, State Agencies, and other municipalities, and can therefore not be held responsible for their inputs to our storm drain system; and
- The City needs flexibility to be able to improve water quality in the most cost-effective and efficient manner possible, without being tied to the MALs plus the multitude of prescriptive and administrative actions that are not effective in improving water quality.
- Implementation of the Permit, with MALs as written, is expected to raise the annual cost of the municipal stormwater program immediately to a level of \$600/household. During current economic times, the ability for agencies to comply and public support for this level of program is unlikely.

### **Recommendation:**

Rewrite the Permit provisions to ensure that the numeric limits are set using appropriate scientific, locally applicable data and that they are used as guidance for identifying problem areas and redirecting program efforts for maximum effectiveness, not as enforcement. Combine this with performance based criteria in other program areas, as recommended by the California Association of Stormwater Agencies and in the Ventura Countywide Program materials provided to Regional Board staff, to offer reasonable flexibility with accountability.

If you have any questions, please contact Vicki Musgrove at 805-677-4133, or e-mail [vmusgrove@ci.ventura.ca.us](mailto:vmusgrove@ci.ventura.ca.us).

Sincerely,



Christy Weir  
Mayor



Rick Cole  
City Manager

**C: Jeff Pratt, Director, Ventura County Watershed Protection District  
City Attorney; City of Ventura**

**Attachment:**

October 12, 2007 Correspondence; Calkins to Swamikannu - comment letter on second draft of the NPDES permit.

Attachment 1 – City of Ventura



October 12, 2007

Xavier Swamikannu  
Los Angeles Regional Water Quality Control Board  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**Subject: NPDES Permit No. CAS004002 – Second Draft: August 29, 2007 (Second Draft Permit)**

Dear Dr. Swamikannu:

The City of Ventura respectfully submits the following comments on the subject permit. We are committed to working with you to collaboratively create a new permit that will serve as a model MS4 permit and effectively reach our mutual water quality goals.

The Ventura County Co-Permittees have worked together to review the Second Draft Permit, and the City of Ventura is substantially in agreement with the detailed comments submitted by Gerhardt Hubner, Chair of the Countywide Program, on behalf of all Co-Permittees (dated October 12, 2007). In addition to the countywide comments, the City would like to take this opportunity to focus on several key issues regarding the Second Draft Permit.

**The City of Ventura supports a permit that:**

- 1) **Contains reasonable, outcome based performance measures and gives the City the flexibility to comply with these measures in the most effective way possible.** These performance measures should serve as calls to action. They should include technically sound, locally developed, Municipal Action Levels, which are used to identify bad actors and drive program modifications accordingly. They should not include end of pipe effluent limitations, as currently proposed in the Second Draft Permit, which will force the City to spend public resources on fines and penalties rather than on improving water quality. The California Association of Stormwater Quality Agencies' performance measures model is an example that can be used to reach these goals.
- 2) **Facilitates Smart Growth/LID projects rather than treating them as the exception to the rule.** Smart Growth projects reduce the amount of impervious area utilized to much less than is created by suburban development. These projects create walkable communities and facilitate public transportation. The addition of the "RPAMP" in the Second Draft Permit only adds another layer of unnecessary bureaucracy to Smart Growth projects. This extra layer will take an extraordinary amount of administrative



Dr. Xavier Swamikannu  
October 12, 2007  
Page 2 of 2

time and resources that will push developers toward suburban projects where requirements are more fully defined and can be much easier implemented. Smart Growth projects should be credited for their sustainability benefits and clearly provided for in the permit. We are participating with the Local Government Commission on development of a system that would encourage sustainable development and the environmental benefits of Smart Growth projects. This system should be included in the new MS4 permit.

- 3) **Includes incremental requirements and reasonable time frames that make the program achievable and as cost-effective as possible.** The City of Ventura embraces a permit that would be the finest in the nation and recognizes that water quality improvement comes with a cost. However, the Second Draft Permit contains many requirements that are confusing and counterproductive. Details and recommendations on these issues are included in the countywide letter.

The City of Ventura hopes that these comments will serve as a catalyst for facilitated stakeholder discussions that include an open exchange of ideas and approaches leading to an efficient and effective stormwater quality permit. We ask that these meetings take place before Regional Board staff redrafts the permit.

Again, the City of Ventura views this permit process as an opportunity to develop a permit that we can all be proud of and embrace as it leads us toward protecting our environment for future generations. Please call Vicki Musgrove, Public Works Division Manager, at (805) 652-4518, if you would like to discuss this or any other issues.

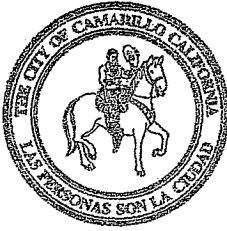
Sincerely,



Ronald J. Calkins, Director of Public Works

Cc: Vicki Musgrove, City of Ventura Public Works Division Manager  
Gerhardt Hubner, Chair, Ventura Countywide Stormwater Quality Program

D000291



# City Of Camarillo

601 Carmen Drive • P.O. Box 248 • Camarillo, CA 93011-0248

Office of the City Manager  
(805) 388-5307  
Fax (805) 388-5318

May 29, 2008

*Via Electronic Mail*

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

**Subject: Comments to 4/29/2008 Draft Tentative Order – Ventura County Municipal Separate Storm Sewer System (MS4) Permit (NPDES No. CAS004002)**

Dear Ms. Egoscue:

The City of Camarillo respectfully submits the following comments regarding the above referenced Draft Tentative Order for your consideration. As stated in our October 12, 2007 letter, the City of Camarillo has been a co-permittee under the Ventura Countywide Municipal Permit since its adoption in 1994. Although our population of fewer than 66,000 classifies us as a Phase II municipality, Camarillo chose to join the countywide effort toward improving water quality in a proactive manner. We feel the collaborative countywide program has been very successful toward meeting that goal.

As currently crafted, the Draft Tentative Order will place undue financial and technical requirements on our stormwater program that may ultimately not result in efficiently improving water quality which we and your agency are seeking to obtain. The City has worked cooperatively with the Regional Board and other stakeholders to develop the Calleguas Creek Watershed Management Plan and also to address water quality impairments through the development of Total Maximum Daily Loads (TMDLs). The City believes that the cooperative effort in the Calleguas Creek Watershed is unprecedented and will result in significant water quality improvements.

The City along with the other Ventura County Co-Permittees have worked together to review the Tentative Draft Order and the City is in agreement with the detailed comments submitted by Gerhardt Hubner, Chair of the Countywide Program, on behalf of all Co-Permittees (dated May 27, 2008).

Although improvements were made in the Draft Tentative Order regarding the TMDL requirements, the City is dismayed that the Draft Tentative Order continues to be extremely prescriptive and ignores or requires duplication of much of the work that has been done to date by both the Ventura County Co-permittees and the Calleguas Creek

0000292

Ms. Tracy Egoscue, LARWQCB  
May 29, 2008  
Page 2

Watershed Management Plan's stakeholders. We are also extremely concerned that many of our countywide comments submitted previously have not been addressed in this latest version of the Order. Of particular concern to our City is the Draft Tentative Order's use of Municipal Action Levels (MALs) which is inconsistent with state and federal policies, is technically flawed, results in requirements more stringent than federal law, and creates limits that are more restrictive than adopted water quality objectives contained in the Basin Plan. The MALs as currently prescribed would affect our City financially without a significant improvement to water quality.

The City of Camarillo appreciates this opportunity to provide comments to the Draft Tentative Order and we want to reiterate our commitment to the collaborative effort in maintaining and enhancing water quality in our watershed. However, we have significant concerns about this draft Tentative Order as currently proposed.

Camarillo believes that an NPDES Permit can be developed that provides for accountability, conducts public outreach and education, supports ongoing water quality efforts, including the TMDL effort Camarillo has been very involved with, and receives broad public support. We look forward to working with the Regional Board to incorporate these changes into the draft Order. If you have any questions regarding our comments, please contact Anita Kuhlman, Stormwater Coordinator, at 805-388-5338.

Sincerely,



Jerry Bankston  
City Manager

cc: Xavier Swamikannu, LARWQCB  
Camarillo City Council  
Public Works Director, City of Camarillo  
City Attorney, City of Camarillo  
City of Camarillo Stormwater Coordinator

D000293



**Ventura Countywide  
Stormwater Quality  
Management Program**

Participating Agencies

May 27, 2008

- Camarillo
- County of Ventura
- Fillmore
- Moorpark
- Ojai
- Oxnard
- Port Hueneme
- San Buenaventura
- Santa Paula
- Simi Valley
- Thousand Oaks
- Ventura County Watershed Protection District

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**SUBJECT: DRAFT TENTATIVE ORDER OF THE VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES No. CAS004002) FOR THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES**

Dear Ms. Egoscue:

The Ventura Countywide Stormwater Program ("Ventura Program") would like to take this opportunity to provide comments on the Regional Water Quality Control Board's ("Regional Water Board") draft tentative of Waste Discharge Requirements for Storm Water Discharges from the Municipal Separate Storm Sewer System ("MS4") within the Ventura County Watershed Protection District, County of Ventura, and the Incorporated Cities therein (collectively referred to as the "Permittees") ("Draft Tentative Order") (NPDES Permit No. CAS004002), which was released for public comment by the Regional Water Board on April 29, 2008.

Many of our comments submitted here are similar, and in some cases identical, to comments previously submitted on earlier versions of the Draft Tentative Order. We find it necessary to repeat, or incorporate by reference, many of our comments previously submitted because several essential elements of the Draft Tentative Order remain the same despite repeated attempts to convey our major concerns. **In particular, we continue to have major concerns with the inclusion of Municipal Action Levels ("MALs") in the form as currently constituted in the Draft Tentative Order.** Since the first draft was issued in 2006, we have submitted comprehensive comments on both March 6, 2007 and October 12, 2007. To the extent that such comments apply to the remaining issues of concern, we hereby incorporate by reference our earlier submittals.



Furthermore, we continue to find ourselves at a disadvantage with regard to the Regional Water Board's thought process and consideration of previous comments because the Draft Tentative Order does not include the requisite fact sheet required by the Code of Federal Regulations, Title 40, section 124.56. We recognize that the Regional Water Board intends to release a final tentative order for public review and comment that will include the fact sheet prior to Regional Water Board consideration and adoption. However, in the meantime, the Permittees and other interested parties are unable to fully comment on the Draft Tentative Order until all required elements are provided for review and comment. Thus, while we have made significant effort to convey our comments and concerns on the Draft Tentative Order through these comments and all of the comments previously submitted, the Ventura Program reserves the right to provide new and different comments when the final tentative order, fact sheet and other related documents are released for public review and comment.

Our primary purpose with this letter is to highlight our more fundamental issues associated with the Draft Tentative Order. In addition, as we have done in the past, we have included a marked-up version of the Draft Tentative Order as an attachment. (See Attachment A.) The marked-up version provides our suggested permit language for provisions within the Draft Tentative Order which we feel will improve and/or provide better water quality protection.

Our fundamental issues with the Draft Tentative Order included here are as follows:

- I. Overly Prescriptive and Lacks Flexibility
- II. Inappropriate Calculation, Development and Application of Municipal Action Levels (MALs) for Ventura County Stormwater
- III. Misuse of MALs to Determine Compliance with Maximum Extent Practicable (MEP)
- IV. Unintended Consequences of Performance Criteria for Treatment Control BMPs
- V. Lack of Fully Integrated and Technically Sound Approach to Water Quality Protection for New Development
- VI. Misapplication of Monitoring to Support Program Implementation
- VII. Miscellaneous Permit Provisions (TMDLs, Trash Excluders)

Before proceeding directly with our comments, we must first convey to you our ultimate goal. We, the Permittees, collectively and individually wish to work cooperatively with the Regional Water Board and the Regional Water Board staff to obtain a reasonable MS4 permit that reflects the issues of concern for Ventura County and allows Ventura County and the incorporated cities therein to prioritize and direct resources appropriately within jurisdictional boundaries. Unfortunately, the Draft Tentative Order is replete with prescriptive requirements that remove local flexibility in the implementation and regulation of an effective stormwater program. More importantly, the financial impact to our communities based on implementation of the Draft Tentative Order as proposed may be devastating and may make compliance with all provisions of the Draft Tentative Order impossible. We estimate the annual cost to comply with this Draft Tentative Order to be approximately \$600 per household, which is a seventeen-fold increase from the current average cost of \$35/household. The Draft Tentative Order summarily dismisses local financial concerns by finding that local agency Permittees have the authority to levy service charges, fees, or assessments to pay for activities necessary to ensure compliance. (Draft Tentative Order at p. 12.) This finding fails to balance the realities associated with municipal

financing, limitations on local taxes due to Proposition 218, and the ability of local residents to pay increased fees for stormwater, especially in the current economic climate. In its adoption of an MS4 permit, the Regional Water Board should carefully balance the need to protect water quality, the activities associated with water quality protection and the financial cost of permit requirements. In many cases, the proposed permit requirements may not result in significant water quality improvement as compared to the cost of implementation.

Our specific comments on the fundamental issues included here are provided below and in the attachments.

#### **I. Overly Prescriptive and Lacks Flexibility**

As currently configured, the Draft Tentative Order is overly prescriptive. Instead of requiring the Permittees to maintain and implement the various program elements associated with a successful stormwater program in a manner that allows for individual determinations with regard to specifics, the Draft Tentative Order specifically identifies the actions, activities and best management practices ("BMPs") that the Permittees must implement. In fact, the Draft Tentative Order is so prescriptive that to substitute a different BMP for any that have been specifically identified in the Draft Tentative Order, the Permittees must petition the Regional Water Board's Executive Officer to obtain approval. (Draft Tentative Order at p. 38.) This provision requires substantial fiscal and technical justification for a different BMP but provides limited guidance to direct the justification. Thus, the structure and nature of the Draft Tentative Order places new burdens on the Permittees as well as Regional Water Board staff. Furthermore, some of the requirements are illogical and beyond the legal authority of the municipalities.

For example, the Public Information and Participation Program ("PIPP") requires the Permittees to develop and implement an outreach program for school age students. The education program may take the form of working within each school district and gaining access to the class rooms, paying funds to a Statewide Environmental Education Account, or conducting an outreach program directed at school age students. (Draft Tentative Order at pp. 40-41.) However, and regardless of the option chosen, the Draft Tentative Order requires the Permittees to develop and implement a strategy to measure the effectiveness of in-school educational programs. (Draft Tentative Order at p. 41.) Such a requirement is beyond the ability of the municipalities. It is not the role of municipalities to assess the efficacy of education curriculum at a local or statewide level. At most, the Permittees can ask for cooperation from the various in-county school districts to develop feasible education goals that include some measure of effectiveness, because the School Districts are under no obligation to work with the Permittees.

Another prime example of an inflexible permit provision is the one associated with the Annual Report. (Draft Tentative Order at Attachment H.) This provision provides a line-by-line listing of questions that must be replied to by the MS4s with no opportunity for the Ventura Program to offer an alternative reporting format. The Ventura Program has over the years developed a comprehensive and relevant annual reporting format. This format will need to be completely revised for no apparent benefit as the new format will not help to answer the fundamental question of whether our stormwater program is effective in reducing pollutants to the MEP.

Instead, the Annual Report will become an extensive bean counting exercise focused solely on tallying-up the number of BMPs that have been implemented without considering the effectiveness of implementation. In this specific instance, we strongly recommend that the Draft Tentative Order be modified to allow the Permittees to develop an Annual Report format that is subject to Regional Water Board Executive Officer approval. Furthermore, we suggest that the permit allow the use of an Annual Report format that reflects the Program Effectiveness Assessment Guidance Manual developed by the California Association of Stormwater Quality Agencies (CASQA). Other Regional Water Boards have begun to use this document as a basis for assessing the effectiveness of stormwater programs.

In another example, the Permittees must provide an electronic tracking system for grading permits. (Draft Tentative Order at p. 68.) While we believe a tracking system is important and should be maintained, we take exception to the Draft Tentative Order dictating the platform for tracking. Similar to a wastewater treatment plant, a NPDES permit should dictate the performance standard, not the method of treatment to meet the performance.

In summary, the overall structure and nature of the Draft Tentative Order should be revised to direct Permittees to achieve specified goals related to the various program elements versus requiring Permittee implementation of the individual actions, activities and BMPs identified in the Draft Tentative Order. Otherwise the Draft Tentative Order remains overly prescriptive, lacks flexibility and fails to allow for adaptive management to ensure that BMPs are effective in improving water quality.

## II. Inappropriate Calculation, Development and Application of Municipal Action Levels (MALs) for Ventura County Stormwater

The Ventura Program continues to have considerable and serious concerns regarding the calculation, development and application of MALs. Overall, we contend that the MALs as calculated are not technically sound, and more importantly, are not legal in the manner as proposed in the Draft Tentative Order. Furthermore, exceedances of the MALs after Year 3 may subject the Permittees to mandatory minimum penalties because the current configuration of MALs in the Draft Tentative Order may be considered effluent limitations under state law. (See Wat. Code, § 13385.1 where effluent limitation means "a numerically expressed narrative restriction.") Our comments here highlight and summarize the relevant points to MALs that have been provided in previous submittals. For a more comprehensive discussion on both the technical and legal issues associated with the MALs as proposed in the Draft Tentative Order, we direct you in particular to Attachment A (Legal and Policy Comments) of the Ventura Program comments submitted on October 12, 2007 in response to the Second Draft Order dated August 28, 2007.

### A. Draft Tentative Order use of MALs is Inconsistent with the Blue Ribbon Panel

Consistent with our previous comments on the earlier Draft Orders, we submit that the specific MALs contained in the Draft Tentative Order are not technically supportable or valid. The technical validity of establishing numeric limits for outfalls was posed to a State Water

Resources Control Board ("State Water Board") convened group of experts referred to as the Blue Ribbon Panel ("BRP"). The results and conclusions of the BRP are highlighted in a June 2006 Blue Ribbon Panel Report ("BRP Report")<sup>1</sup>. The BRP Report unequivocally states the position that numeric limits for municipal stormwater discharges are not possible at this time. However, the BRP did agree that "action levels" may be used to identify "bad actor" catchments. Specifically, the BRP Report states:

*It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges ....*

*For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible. However, the approach of setting an 'upset' value, which is clearly above the normal observed variability, may be an interim approach which would allow "bad actor" catchments to receive additional attention. For the purposes of this document, we are calling this "upset" value an **Action Level** because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken ... . (BRP Report at p. 8, emphasis added.)*

The Draft Tentative Order attempts to portray MALs as levels consistent with the BRP Report. (Draft Tentative Order at pp. 23-24.) However, comprehensive reading of the Draft Tentative Order provides evidence to the contrary. In fact, after Year 3, MALs in the Draft Tentative Order become enforceable numeric limits, not action levels as envisioned by the BRP. Furthermore, the proposed MALs were not developed in a manner that is consistent with the concept of MALs as put forward by the BRP. To develop an appropriate action level, the BRP suggested various options, which included: (1) consensus based approach; (2) ranked percentile distribution; and, (3) statistically based population parameters.

The Draft Tentative Order claims to use a statistical approach that uses the central tendency of the dataset and accounts for data variability. (Draft Tentative Order at p. 23.) In its actual calculation, the Draft Tentative Order took the median value of a national dataset and multiplied it by the coefficient of variation times two. There is no basis for this approach in establishing action levels. In fact, this calculation reflects the variability of the data (measured as the standard deviation) and does not account for the central tendency of the dataset.<sup>2</sup> This statistical approach is not consistent with the BRP suggestion for a statistically relevant calculation.

In addition, the Draft Tentative Order uses a national database to generate the MALs. (Draft Tentative Order at p. 23.) It is not appropriate to use a national database in this case because it penalizes the dry or semiarid (low rainfall) regions of the country. (See discussion below.) Moreover, the BRP noted that there is greater opportunity to use various datasets for establishing the MALs. Three options proposed in the BRP Report, in order of preference, are:

<sup>1</sup> The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial, and Construction Activities (June 19, 2006).

<sup>2</sup> See CASQA March 7, 2007 letter regarding the Ventura Draft permit at page 4.



- Local urban stormwater monitoring data (the BRP even notes the existence of such datasets from Los Angeles County, Orange County and other California MS4 programs)
- Combine municipal permit monitoring datasets if there is a lack of data for specific constituents in any one location
- National database

The Draft Tentative Order selects the least preferred option to generate the MALs even though there are significant local stormwater datasets available. In fact, California MS4s have more comprehensive datasets than other MS4s throughout the country. Thus, there is ample opportunity to use local, regional and statewide datasets to establish action levels and it is not necessary to rely on a national dataset.

The MALs in the Draft Tentative Order are inconsistent with the intent and purpose of MALs as originally introduced by the BRP, and are calculated in a manner that is inconsistent with the BRP's suggested approach.

**B. MALs in Draft Tentative Order may Establish New Water Quality Objectives for a Waterbody**

Instead of identifying "bad actors," the MALs as calculated in the Draft Tentative Order may actually establish new water quality objectives for a waterbody. Or, at the very least, they may establish action levels that are below applicable water quality objectives for the waterbodies in question. For example, the Draft Tentative Order proposes a MAL for total nickel of 19.2 ug/L that must be compiled with 80% of the time based on a running average. (Draft Tentative Order at p. 32; Attachment C at p. 1.) Currently, the waterbodies in Ventura County and representative outfalls cannot comply with this MAL because they exceed the nickel MAL more than 20% of the time, as summarized below in Table 1:

Table 1. Comparison of Ventura County Waterbodies with Nickel MAL

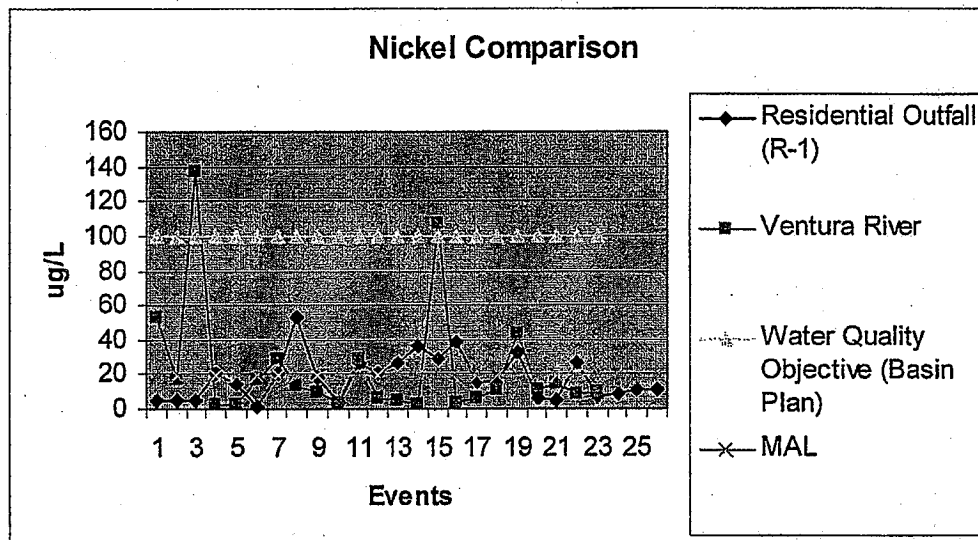
Waterbody/discharge	Percentage of time <sup>1</sup> > MAL
Calleguas Creek	59
Santa Clara River	70
Ventura River	26
Residential outfall	41
Industrial outfall	58

On the other hand, the Water Quality Control Plan for the Los Angeles Region ("Basin Plan") contains a surface water quality objective for nickel in Ventura County that is set at 100 ug/L<sup>3</sup>. By comparison, the MAL is five times more restrictive than the adopted water quality objective, which has been adopted to protect beneficial uses. The net result is that all waterbodies in

<sup>3</sup> Alternatively, the CTR establishes acute and chronic water quality objectives based on hardness. Using a hardness of 100 mg/L as CaCO<sub>3</sub>, the dissolved nickel objective ranges from 52 to 469 ug/L.

Ventura County are out of compliance with the nickel MAL (see above Table 1), but not necessarily with the applicable water quality objective. In sum, the waterbodies exceed the MALs even though they comply with the applicable water quality objective that supports beneficial uses. Consequently, the Permittees will be found to be out of compliance with the MEP standard even though they are not causing or contributing to an exceedance of an applicable water quality standard. A plot of monitoring data for the Ventura River (of which the watershed is only 3% developed) and a residential outfall as compared to the MAL, and the water quality objective is shown in Table 2 below.

Table 2.



A closer review of Table 2 shows the Ventura River is substantially in compliance with the water quality objective in the Basin Plan but not the MAL. Furthermore, because the waterbody is primarily in compliance with the applicable water quality objective, discharges from residential storm drain outfalls are clearly not causing or contributing to an exceedance of a water quality standard. Thus, the MS4 discharges and the waterbody do not exceed or impact the Basin Plan water quality standards, but due to the application of the MAL, the Permittees would be out of compliance with the Draft Tentative Order and would potentially be subject to mandatory minimum penalties for failing to comply with an effluent limitation.

**C. Compliance with MALs will Prove to be Problematic**

It is also worth noting that at the September 20, 2007 workshop, Regional Water Board staff and Heal-the-Bay presented BMP performance data for treatment control BMPs and not for source control BMPs implemented through a stormwater management program. Thus, presumably compliance is only achievable through the implementation of treatment control BMPs. As a result, **the Draft Tentative Order is structured to effectively require Permittees to retrofit all outfalls with treatment control BMPs.** However, the language in the Draft Tentative Order creates an illusion that the Permittees can comply with the MALs through a traditional stormwater management program. (Draft Tentative Order at p. 32.) If it is the Regional Water

Board's intent to structure compliance around the implementation of treatment control BMPs (and abandon source control), then the Draft Tentative Order must clearly state that all outfalls are to be retrofitted with treatment control BMPs. Obviously, the costs and ramifications on Permittees for such a requirement are huge and in some cases may not be possible without displacing existing development. Preliminary cost estimates for retrofitting all outfalls with treatment control BMPs are presented later in this comment letter.

The Draft Tentative Order states that the American Society of Civil Engineers—Best Management Practices' (ASCE BMP) database was used to demonstrate the practicality and ability of the municipalities to achieve the MALs. (Draft Tentative Order at p. 24.) Regional Water Board staff articulated this same point at the September 20, 2007 workshop. However, in reviewing options for lowering the nickel concentrations to the MAL level, the Permittees were unable to verify that the BMPs purported to be practicable in the database could in fact reduce nickel to levels required for compliance. This is further supported in Attachment C of the Draft Tentative Order, which does not include a performance standard for nickel. In other words, the ASCE BMP database has no supporting documentation demonstrating the effectiveness of treatment control BMPs to reduce nickel.

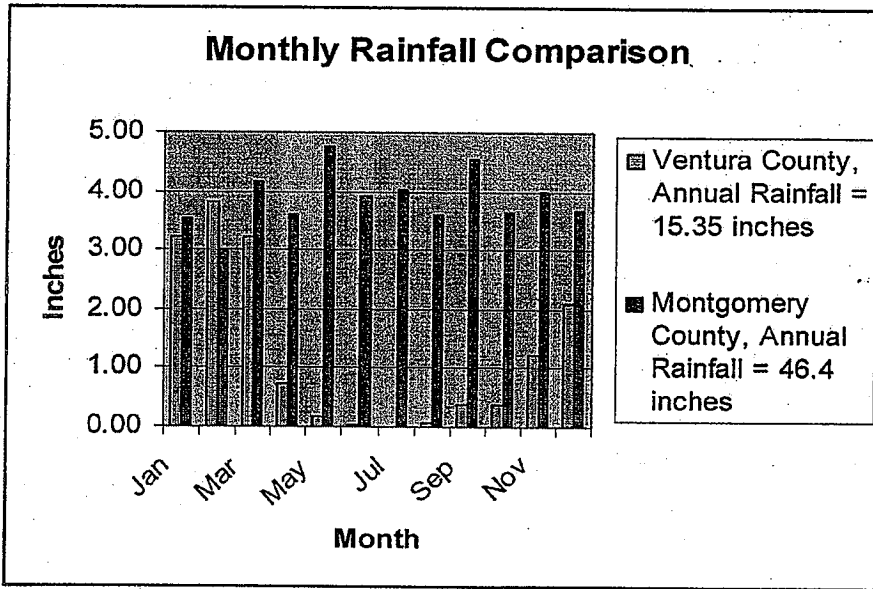
**D. MALs Penalize West Coast Stormwater Programs**

As noted previously, the MALs as currently configured will penalize municipal programs in dry or semiarid climates. By way of example, we examined two comprehensive stormwater management programs, one on the east coast and one on the west coast to consider the impact of arid conditions. The east coast program was for Montgomery County, Maryland, and the west coast program was for Ventura County. The general demographics of the two programs are summarized in Table 3 below.

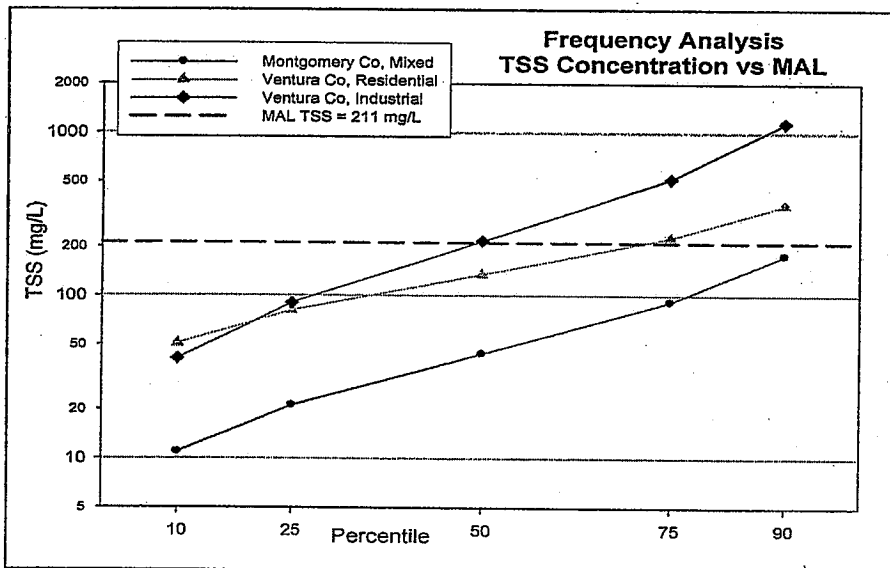
Table 3. Comparison of Ventura County and Montgomery County Characteristics

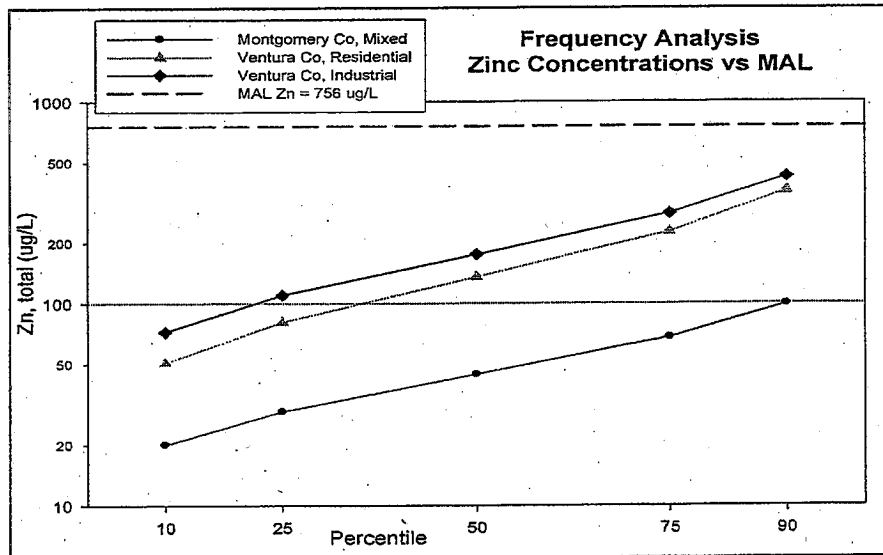
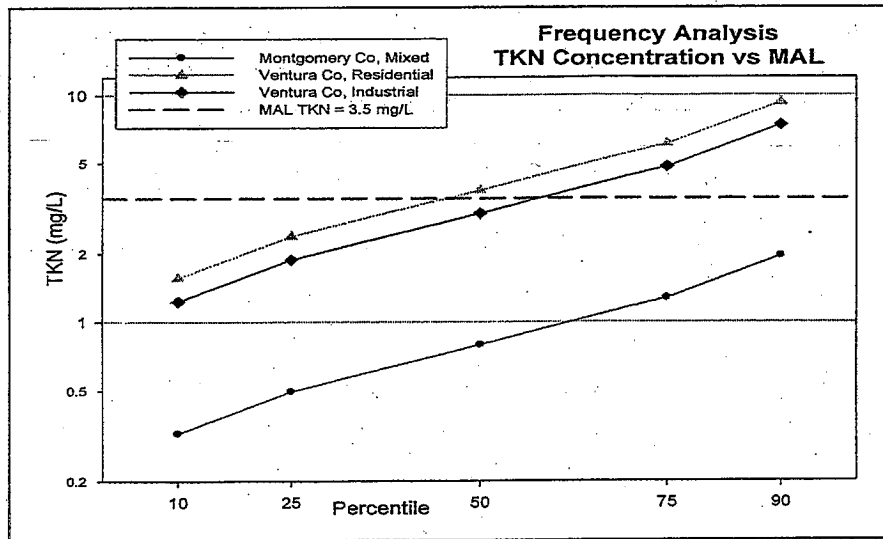
Montgomery County, MD	Ventura County, CA
County population in 2005: 927,583	County population in 2006: 817,346
Population distribution: 97% urban, 3% rural	Population distribution: 97% urban, 3% rural
Population density: 1872 people per square mile	Population density: 431 people per square mile
Land area: 496 sq. mi.	Land area: 1845 sq. mi.
Water area: 11.6 sq. mi.	Water area: 362.9 sq. mi.
Forested area: 19%	Forested Area: 46%

The two counties have similar stormwater management programs (see Attachment B), and as shown by Table 3 above similar demographics. The significant difference between the two programs is the annual rainfall amount and precipitation pattern. This is shown in the graph that follows.



Both programs have long-term monitoring programs including characterization of discharges. A side-by-side comparison of the monitoring results of selected constituents common to both programs is shown in the following frequency distribution graphs. The proposed MALs are also included in the graphs.





A review of the graphs clearly shows that the runoff from the Montgomery area is of better quality than the runoff from Ventura County. The reason for this difference is not due to a difference in stormwater management program implementation but rather to the difference in annual precipitation. Both programs have similar implementation efforts and the outfalls examined in each program are similar in characteristics. The year-round distribution of rainfall on the east coast mitigates the build-up and wash-off of pollutants. This may be shown another way by calculating the differences in the runoff means and comparing that difference with the inverse difference in rainfall; in other words, the pollutant concentration is inversely related to the amount of rainfall.

This is shown in Table 4 below.

Table 4.

Constituent	Units	Runoff means		Ratio (Mont/Ven)
		Montgomery	Ventura (R-1)	
TSS	mg/L	44	135	.33
KN	mg/L	0.8	3.8	.21
Total P	mg/L	0.13	0.40	.33
Cadmium	ug/L	0.22	.81	.27
Copper	ug/L	28.5	23.2	1.23
Lead	ug/L	7.5	15.1	.50
Zinc	ug/L	44	135	.33
Annual Rainfall	inches	46.4	15.35	.33 (Ven/Mont)

Another way to consider the impact of rainfall is to calculate the annual loading for the noted constituents using the local runoff data and climatic data. Assuming similar runoff coefficients (RO = 0.60) the annual loading for a typical development in each county is summarized in Table 5 below.

Table 5.

Constituent	Montgomery Annual Load (#/acre)	Ventura Annual Load (#/acre)
TSS	0.28	0.28
KN	0.01	0.01
Total P	0.0008	0.0008
Cadmium	0.0017	0.0014
Copper	0.05	0.18
Lead	0.03	0.05
Zinc	0.28	0.28

Again a review of Table 5 demonstrates that on an annual basis the two programs have very similar annual runoff loads.

Such a conclusion is consistent with the results of the national dataset (used by the Regional Water Board staff to establish the MALs). The following finding is taken from the most recent Progress Report regarding the National Stormwater Quality Database:

*5. Residential area data were also analyzed across the different EPA rain zones for the country. The wettest areas of the country (Southeast and Northwest) may have the lowest EMCs for some stormwater pollutants. This may be due to the reduced inter-event times for pollutant buildup and greater runoff for dilution. (Page 6.)<sup>4</sup>*

<sup>4</sup> [http://www.cwp.org/NPDES\\_research\\_report.pdf](http://www.cwp.org/NPDES_research_report.pdf)

The point to be made here is that the use of any dataset to establish Technology Based Effluent Limits (i.e., to establish MEP) must be done in the context of U.S. EPA guidance for developing such limits. A full range of issues must be considered and not the least being local climatic data. (See Attachment A (Legal and Policy Comments) of the Ventura Program comments submitted on October 12, 2007, in response to the Second Draft Order dated August 28, 2007, for a full discussion on the need to consider required factors when developing technology based limits.) As presented in the previous paragraphs, the Ventura Program would be out of compliance with the MALs while Montgomery County would be in compliance even though the Ventura Program is as comprehensive of a stormwater management program as the one in Montgomery County. This is because compliance is directly related to the amount of rainfall versus the different levels of BMP implementation between the two stormwater programs. This is fundamentally inconsistent with the definition of MEP and inherently unfair to dry and semi-arid climate stormwater programs.

**E. Cost for Compliance with MALs is Not Commensurate with the Environmental Benefits to Be Gained**

In addition to our concerns regarding the substantive, prescriptive provisions contained within the Draft Tentative Order, we are also concerned that the Draft Tentative Order establishes a countywide program that has little connection with the pollutants of concern ("POC") as identified by the Permittees. Over the course of the last five years, the Ventura Program has spent considerable resources on identifying the pollutants that warrant special attention. In some cases the POC focus complements what the Draft Tentative Order specifies and in other cases there is no relationship (e.g., installation of treatment control BMPs for nickel, chromium, mercury, and COD which are not listed as a POC).

To better understand the Permittees' liability in meeting the Draft Tentative Order, we compiled our monitoring data for both the land discharge sites and mass emission sites. These data were compared to the MALs from Attachment C of the Draft Tentative Order. Our review showed that the Permittees would be in substantial non-compliance with the MALs for constituents not typically found in urban runoff. Using our entire data set for the residential monitoring site, our assessment shows that our discharges will exceed the 20% running average for nickel, COD, TKN, and nitrate. If we use only the data from a specific year to calculate the running average then list of non-compliance expands to include chromium and TSS. As a result, we would be required to construct treatment control BMPs to meet the MALs.

To further assess the Permittees' exposure, we have estimated the costs for complying with the Draft Tentative Order. Our costs reflect a program required to meet the new baseline program element provisions, an enhanced program which includes the baseline program plus the installation and maintenance of trash excluders, and a compliance program which consists of baseline, enhanced, and the cost for constructing BMPs to comply with MALs<sup>5</sup>.

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<sup>5</sup> It should be noted that although we have developed cost estimates for implementing treatment control BMPs to meet MALs, it is uncertain whether such an approach is valid (see our discussion regarding BMP performance). To support this comment one should consider the nickel MAL. We are uncertain which BMP can meet the nickel MALs as there are no BMP performance data for nickel removal.

The costs estimated below are for compliance with the Draft Tentative Order only and do not include costs of compliance associated with implementation of adopted Total Maximum Daily Loads ("TMDL"). We initially developed the cost for the City of Camarillo and expanded it to the Ventura Program. This comparison is shown in the following Table.

Table 6. Summary of Ventura Program Costs Impacts

Program	Annual Cost \$/Household			
	Current Effort	Draft Order Baseline <sup>3</sup>	Enhanced <sup>4</sup>	Compliance <sup>5</sup>
Statewide Study <sup>1</sup>				
Range	18-46	--	--	--
Mean	29	--	--	--
Ventura County				
Range	18-44 <sup>2</sup>	--	--	--
Mean	35	60	68	598

<sup>1</sup>NPDES Stormwater Cost Survey, Prepared by Office of Water Programs for State Water Board, Jan '05. Reflects Annual Budgets for 02/03.

<sup>2</sup>Based on 03/04 budget submitted in Ventura Countywide 2004/05 Annual Report.

<sup>3</sup>Reflects an increase in Permittee staff to meet Draft Tentative Order baseline requirements.

<sup>4</sup>Reflects baseline requirements (see note 3) and installation and maintenance of trash excluders in high trash generating areas.

<sup>5</sup>Reflects countywide program estimated costs for baseline, enhanced and retrofit (infiltration, bioretention) of outfalls and drainage areas to meet MALs. Treatment BMP costs were based on City of Fillmore 10/07/07 comment letter.

A review of Table 6 demonstrates that the typical household costs will increase approximately seventeen-fold for full compliance, excluding costs for TMDL implementation. In addition, new requirements under the Planning and Land Development program will result in increases in housing costs. Although these costs are not directly related to the general public per se, these additional costs impact local affordability and the economic viability of the communities.

### III. Misuse of MALs to Determine Compliance with MEP

The Draft Tentative Order contains slightly revised provisions related to MALs as compared to the Second Draft Order. (Draft Tentative Order at p. 32.) However, overall the use and implication of MALs remains the same. The Draft Tentative Order continues to use MALs as a numeric metric to interpret the technology based MEP. Furthermore, the MALs are applied "end-of-pipe" and are functionally numeric effluent limits, which may subject the Permittees to mandatory minimum penalties. In turn, the Permittees continue to oppose the use of MALs in this fashion for many reasons, both legal and technical. As indicated above, we have previously submitted extensive comments on the legal and policy implications associated with the use of



MALs in the manner proposed by the Draft Tentative Order. We encourage Regional Water Board staff to review our previous comments and objections because they continue to apply. However, for the sake of efficiency, we have not repeated those comments here. In summary, we believe that the MALs as proposed in the Draft Tentative Order are major obstacles to compliance and the fiscal viability of implementing the provisions contained in the Draft Tentative Order.

In the alternative, the Permittees recommend that MALs be re-fashioned from a nationally based numeric value that determines permit compliance to a locally relevant upset value that triggers the need for further evaluation and, if appropriate, modification of management practices. Our alternative proposal for the use of MALs is summarized here. We have also provided specific recommended language for this approach in Attachment A.

**A. Permittees' Alternative Approach for Use of MALs**

The Permittees continue to disagree with the use of MALs to define MEP as a numeric value to determine compliance. However, we are supportive of an alternative method that is consistent with the approach proposed by the BRP in its Report. We believe that our alternative meets the Regional Water Board's desire, as we understand it, to elevate the municipal stormwater program in Ventura County.

The alternative approach would establish "an 'upset' value, which is clearly above the normal observed variability ... which would allow bad actor catchments to receive additional attention." (BRP Report at p. 8, emphasis added.) The BRP Report termed upset value as "... an Action Level because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken ...." (*Id.*) The strikeout/underline language in Attachment A presents the Permittees' proposal for how MALs should be developed and used to achieve the purpose set forth in the BRP Report. In summary, the Permittees' proposal is to use locally relevant MALs as a tool which, together with additional investigation and attention, will ensure that the MEP standard is achieved in each sub-watershed.

To develop MALs for this purpose, the Permittees propose to use the 80<sup>th</sup> percentile of local, countywide data to develop MALs. Any sub-watershed that exceeds the 80<sup>th</sup> percentile would be above the normal observed variability and in need of additional attention. Also, the Permittees propose to develop MALs only for those pollutants where there is water quality impairment (based on the section 303(d) list), or have been identified as POCs by the Permittees and that are present in significant quantities in MS4 discharges. Such an approach avoids using public resources unwisely and inefficiently by giving attention to pollutants that are achieving norms and not resulting in water quality concerns.

Where a sub-watershed exceeds an MAL due to the MS4 discharge, the Permittees propose that the responsible Permittee be required to submit an "MAL Action Plan" to the Regional Water Board's Executive Officer. The plan would need to include an assessment of the sources responsible for the abnormal pollutant levels, the existing BMPs that address those sources, an assessment of additional BMPs and actions that could be implemented, and, based on such analyses, the additional BMPs and/or actions the responsible Permittee proposes to implement to

achieve the MEP standard. The Executive Officer, in approving the plan, would have the opportunity to identify additional BMPs or actions that the Regional Water Board believes necessary to address the constituent of concern.

In other words, the Permittees propose that MALs be used to identify poor performing catchments or sub-watersheds for pollutants of concern to implement further practical controls. Where MALs are exceeded, the Permittees, in conjunction and with approval by the Regional Water Board's Executive Officer, would be required to implement additional actions deemed necessary to address the high concentration. MALs would not be used to interpret MEP numerically and would not function as effluent limitations. Overall, we propose that MALs be used to elevate municipal responsibility in a manner that is reasonable and practical while improving water quality – not in a manner that is designed for failure.

#### IV. Unintended Consequences of Performance Criteria for Treatment Control BMPs

The Draft Tentative Order includes a major new permit requirement that was not in previous draft versions of the permit. For the first time, the Draft Tentative Order proposes to require performance standards for treatment control BMPs. Although the Permittees support the idea of establishing performance standards for these BMPs, we believe the approach taken in the Draft Tentative Order is seriously flawed. As part of our assessment of this new requirement, we retained the services of Dr. Michael Barrett of the University of Texas at Austin. Dr. Barrett is a well-known expert in the area of stormwater BMPs and currently serves on the project oversight committee for the ASCE/BMP database used by the Regional Board staff. His review and recommendations are provided in Attachment C.

In summary, his review finds that in general, the adoption of performance standards for stormwater treatment systems is an improvement over requirements that specify little more than the water quality volume. However, there are several issues related to the proposed numerical performance standards in the Draft Tentative Order, which include:

1. The analysis used by Regional Water Board staff to establish numerical standards based on performance by pollutant results in a situation where a BMP that does not meet every single criterion is eliminated from consideration. In fact, the performance standards established in Attachment C of the Draft Tentative Order will exclude the use of media filters, extended detention basins, biofilters, and hydrodynamic separators in Ventura County.
2. The BMP categories used in the analysis grouped together many devices that are not that similar. For example, the BMP category for biofilters includes both swales and vegetated buffers. Performance of the two BMPs is substantially different. Furthermore, there is a more robust dataset for the buffer strips, which exhibit better performance than swales.
3. The use of effluent concentrations ignores the benefit of ancillary infiltration that occurs in a variety of low impact development techniques. This is especially true when one considers the infiltration capability of a BMP.

4. The use of effluent discharge concentrations overcomes some of the problems associated with characterizing pollutant reduction as a percent removal; however, there are a number of other significant problems with this approach.
5. There will be difficulty in administering an effluent standard for BMP performance. Given the uncertainty about the precise BMP design criteria (e.g., drawdown time) that are needed to support the BMP performance, the Permittees will need to rely on common design guidelines (e.g., California BMP Handbooks) and expect some uncertainty in the performance.

To properly and appropriately use BMP performance standards in the Draft Tentative Order, we recommend the following:

1. Redefine the standards as goals to acknowledge the uncertainty of the technology and the variability of the design criteria in the BMP database. In lieu of a performance goal, establish design criteria (even if by reference) to provide assurance to the Permittees and development community that if they implement a BMP per the design criteria then they will be presumed to be in compliance.
2. Establish a BMP performance standard based on BMP categories and not use the pollutant-by-pollutant category now in the Draft Tentative Order.
3. Create a standard that will allow more than one BMP to qualify.

Unless BMP performance standards are substantially revised in a manner as we have suggested immediately above, such standards should be removed from the Draft Tentative Order. Otherwise, as currently proposed, the BMP performance standards (much like the MALs) are akin to technology based limits that have not been adopted in accordance with applicable federal regulations.

V. **Lack of Fully Integrated and Technically Sound Approach to Water Quality Protection for New Development**

It is fair to say that the requirements for new development may have some of the most far reaching ramifications on development and redevelopment in California. While the Regional Water Board staff should be acknowledged for their initial efforts to define metrics for water quality protection, the Permittees have major concerns that when the requirements are taken as a whole they fall well short of the goal and may actually work against the goal. The Permittees make the following suggestions because the current approach (e.g., EIA, hydrograph matching, treatment BMP performance) does not adequately address the following issues:

- Sediment balance
- Magnitude of flow in the receiving waters
- Supportable exemptions
- Interdependence of hydrologic controls

Furthermore, the current approach will likely have unintended consequences for erosion downstream.

**A. Sediment Balance**

The Draft Tentative Order addresses the issue of hydromodification of natural stream channels by considering only flow rates and duration. The complimentary and necessary issue of sediment balance is ignored. Regulating the combination of flows and sediment to preserve downstream habitat and channels should be the goal of the final hydromodification criteria. A graphical representation of the relationship between sediment and flow in degrading (cutting) or aggrading (building) downstream channels is provided in Attachment D.

The Draft Tentative Order refers to "sediment" as a "primary pollutant impacting beneficial uses." (Draft Tentative Order at p. 63.) This blanket referral attempts to generically characterize sediment as a pollutant that always impairs beneficial uses. Thus, the Draft Tentative Order attempts to remove any sediment from the construction and land development process. Such a characterization of sediment is inappropriate because it fails to recognize that there are many areas in our watersheds where there is high natural sediment yield, and the sediment yield is beneficial for a variety of uses. To avoid such a blanket characterization, the Draft Tentative Order should be revised to state "*sediment may at times contain pollutants or be a pollutant that impairs beneficial uses of watercourses.*"

**B. Magnitude of Flow in the Receiving Waters**

The flood studies in Ventura County by FEMA show that there are some large streams that will not be geomorphologically affected by slight changes in side drainage caused by new development projects. When the 100-year flow of the receiving water is very dominant compared to side drainages, the geomorphology of the receiving water is not significantly affected by side drainage. However, in some smaller Ventura County streams, like Arroyo Simi, even low but clear (effluent) flows have caused hydromodification effects of erosion downstream. While smaller streams like Arroyo Simi need hydromodification analysis, larger streams should be exempted. From a review of flow records in Ventura County, streams with larger than 100-year flow of 25,000 cfs are recommended to be exempt from hydromodification analysis. This threshold would exempt drainage to the County's major waterways:

- Ventura River downstream of North Fork Matilija Creek
- Santa Clara River downstream of the County line
- Piru Creek, Sespe Creek, and Santa Paula Creek, downstream of the foothills
- Calleguas Creek downstream of Conejo Creek

**C. Supportable Exemptions**

The Draft Tentative Order requires all qualified projects to comply with hydromodification requirements, i.e. there are no exemptions for projects that have little to no effect on the streambed. To streamline and support the Permittees processing of project applicants, a list of exemptions to the hydrologic controls is suggested and shown below. This list may need to be

revised after the Stormwater Monitoring Coalition of Southern California ("SMC") study is completed for final hydromodification criteria.

Exceptions to hydromodification requirements should include:

- A. All projects that disturb less than one acre;
- B. Projects that are replacement, maintenance or repair of a Permittee's existing flood control facilities, storm drain, or transportation network;
- C. Redevelopment projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions;
- D. Projects that have any increase in discharge that go directly to, or via a storm drain, a sump, lake, area under tidal influence, waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to hydromodification impacts; and
- E. Projects that discharge directly, or via a storm drain, into concrete or improved (not natural) channels (e.g., rip rap, sackcrete, etc.), which, in turn, discharge into a receiving water that is not susceptible to hydromodification impacts (as in D above).

**D. Interdependence of Hydrologic Controls**

The Draft Tentative Order should recognize the interdependence of hydrologic controls and the need to sequence analysis. We recommend that first municipalities be directed to utilize low impact development ("LID") strategies, followed by water quality mitigation through treatment control BMPs and finally hydromodification controls for any remaining runoff. (See recommended flow chart in Attachment E.)

When LID and/or treatment BMP's are used, a sediment balance study should be included to evaluate erosion potential - not the hydromodification criteria in the Draft Tentative Order. In the interim, and because of the complexity of this analysis, we recommend only developments greater than 50 acres be required to include the sediment balance analysis until the SMC studies are completed and design tools are developed. This is similar to the recent San Diego MS4 Permit.

Finally, we request the opportunity to update the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures, and revising Provision 5.E.III.1 to include new sections on how to analyze combinations of hydrologic control measures and to address the sediment balance.

**E. Unintended Consequences**

We are concerned that the interim hydromodification criteria contained in the Draft Tentative Order will increase downstream erosion of habitat and stream channels because of it ignores the cumulative influence of LID and treatment BMP's on sediment transport. (Draft Tentative Order at p. 55.) The Draft Tentative Order only addresses water shear forces and does not consider the sediment balance issue. (See Attachment D for a detailed explanation.)

LID and treatment control BMPs in the Draft Tentative Order require post-project peak outflow from a project area be equal to or less than existing peak outflow, by allowing some storage, infiltration, consumption, or treatment. (Draft Tentative Order at p. 53.) This has the effect of settling sediments so that sediment outflow from a project that utilizes LID and/or treatment BMPs is less than the pre-project sediment outflow. This clearer "sediment hungry" discharge created by the LID or BMPs erodes downstream habitat, stream channels, and "starves" beaches of sand. Taking this to the extreme shows the potential extent of unintended consequences: to obtain the natural sediment load downstream of a LID site or treatment BMP, sediment needs to be collected at the project site, transported downstream, and then re-injected to the stream. To avoid such unintended consequences, we recommend that the interim criteria reflect only the implementation of LID strategies until such time that the SMC completes its Hydromodification Control Study.

**F. The Permit Creates A Disincentive for Redevelopment and Smart Growth Projects and the Redevelopment Project Area Master Plan (RPAMP) Alternative is not presently viable due to its lack of definition**

The Draft Tentative Order's requirements for redevelopment projects are equivalent to that of new Greenfield development:

- 5% EIA
- Treat runoff from a .75" rainfall
- Match the post-development hydrologic conditions with predevelopment conditions where "predevelopment" is defined as "native vegetation and soils that existed at the site prior to first development"
- Hydromodification controls such that the 2-year, 24 hour storm event post development peak flow matches pre-development peak flow, within 1%.

The Draft Tentative Order does not consider the unintended consequences on re-development. Only by considering redevelopment's benefit to the larger watershed and resource protection will water quality be improved. The Draft Tentative Order also misapplies the 5% EIA at a project level rather than a watershed or subwatershed level. Therefore, we propose that the Permittees be allowed to work with the Local Government Commission in the development of evaluation criteria for redevelopment and smart growth projects that recognizes and encourages the water quality and other environmental benefits of higher density infill and redevelopment projects. At this time, the concept of RPAMP is not fully developed and the proposed language in the Draft Tentative Order does not provide an adequate interim alternative. Until such time that all stakeholders can work cooperatively and collectively to further develop a viable RPAMP or

similar program, the Draft Tentative Order should instead allow a set of minimum LID BMPs that must be utilized on all redevelopment projects.

**G. Development Construction Program**

The Draft Tentative Order contains a prescriptive approach for addressing runoff from construction sites regardless of the nature of the construction site or activities on a site. The Draft Tentative Order would require all construction sites less than 1 acre in size to calculate the erosivity factor to determine if specific BMPs are required. Such a requirement would be overly prescriptive for many smaller construction site operators. In this case, the Draft Tentative Order should provide the Permittees with sufficient flexibility to require minimum BMPs as necessary and defer regulation of stormwater from the construction sites to the State Construction General Permit to address the erosivity issue.

The Permittees remain concerned with the overly restrictive nature of the grading prohibition as it currently stands. In particular, the Permittees are concerned with efforts necessary to administer a variance from the prohibition. To grant a variance from the prohibition, the Draft Tentative Order requires the Permittees to ensure total suspended solids are discharged at a concentration of 100 mg/L or less; turbidity of the discharge is 50 NTU or less; that the discharge will not impair beneficial uses; and, that there is a monitoring program to ensure effectiveness. These requirements for a variance would apply even to projects that are anticipated to have little or no discharge to the waterbody because the sites include properly designed, erosion and sediment control BMPs. Furthermore, in our estimation, the turbidity and total suspended solids limitations would require the installation of advanced treatment units.

Fundamentally, we have concerns that the requirements proposed for issuance of a variance are in fact technology based effluent limits for high-risk construction sites. (Draft Tentative Order at p. 63.) The Permittees do not support using the Ventura MS4 Stormwater permit to create such technology-based limits. We would submit that it would be more appropriate for technology based effluent limits to be developed through the State Construction General Permit process where all stakeholders are involved versus the Ventura permit, which is of interest to only a few. Please note that our comments relative to the development of technology based effluent limits noted previously in this letter and in our October 12, 2007 comments are relevant here as well.

In lieu of the approach proposed in the Draft Tentative Order, we support the alternative approach forwarded by the Building Industry Association ("BIA"). Under the BIA approach, the order should specify the additional BMPs that would be required for high-risk projects such as those conducted on slopes that exceed 20%.

**VI. Misapplication of Monitoring to Support Program Implementation**

The Draft Tentative Order requires a monitoring program that is disconnected to the needs of our Countywide Stormwater Management Program. While we agree that the current monitoring program under Order No. 00-108 can be improved to provide better information that leads improvements in the stormwater quality program, the Draft Monitoring Plan is resource intensive and misdirected. The Draft Monitoring Plan should be revised to appropriately identify water

quality problems and provide the Permittees with useful information to improve program effectiveness.

Throughout this process, the Permittees have worked with Regional Water Board staff to draft a Monitoring Plan that is designed to assess stormwater program effectiveness and aid in directing program activities to improve stormwater runoff. In fact, the outfall monitoring in the Draft Monitoring Plan is a direct result of the Permittees' commitments to conduct end-of-pipe monitoring to support program effectiveness assessment even though moving directly to end-of-pipe monitoring skips several steps outlined in the SMC's Model Monitoring Program for MS4s in Southern California. Nevertheless, the Permittees have agreed to outfall monitoring because it can provide useful programmatic information. Unfortunately, the current focus of the Draft Monitoring Plan is not to assess program effectiveness, but rather to determine compliance with numeric effluent limits characterized as MALs. (Draft Monitoring Plan at p. F-1.)

Furthermore, the Draft Monitoring Plan does not follow the same protocol used in characterizing urban runoff data from which the numeric MALs were derived. The standard to date has been to collect a flow weighted sample for the entire event (thus the name Event Mean Concentration)<sup>6</sup>. In California, these events typically last longer than 3 hours but are usually limited to 24 hours. However, the Draft Monitoring Plan requires runoff to be characterized by the first three hours of a storm (i.e., the 3 hour mean concentration). (Draft Monitoring Plan at p. F-2.) Given the fact that runoff quality is typically poorer in the first part of the storm,<sup>7</sup> the Ventura Program will be penalized by this different method for determining compliance with MALs. In other words the MALs are based on EMCs but the compliance will be based on 3 hour mean concentrations.<sup>8</sup>

Besides being inconsistent with the derivation of MALs, the requirement to characterize runoff based on the first 3 hours of a storm event is a monumental shift in the Ventura Program and its collection of data. Over the last 15 years of the Ventura Program, we have followed standard procedures for collecting EMCs for over 94 storm events. By switching to the 3 hour mean concentration, the Regional Water Board is in effect rendering all of our historical data useless. The Ventura Program's historical data is critical as it allows us to establish baselines and measure trends. Because of the importance associated with historical data, and more importantly, because it is not a true characterization of stormwater in California, we do not support the recommended Draft Monitoring Plan language that requires characterization of stormwater based on a 3 hour mean concentration.

**A. Requirement to Report Monitoring Results within 45-days is Unrealistic**

The Draft Monitoring Plan requires the Permittees to report monitoring results within 45-days of sample collection. (Draft Monitoring Plan at pp. F-3, F-6, F-10, F-12.) Such a requirement is unrealistic considering the turn-around time associated with most laboratory analyses. In fact,

<sup>6</sup> Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Storm Sewer Systems, USEPA, EPA 833-B-92-002, November 1992.

<sup>7</sup> First Flush Phenomenon Characterization, Caltrans, CTSW-RT-05-73-02.6, August 2005.

<sup>8</sup> Our comments here are intended to point the inconsistencies between the Regional Water Board's calculation of MALs and the determination of compliance with MALs. Our comments here should not be viewed as conceding to our opposition to the current calculation process used to derive MALs.



Regional Water Board staff should be well aware of this fact considering that it took longer than 45 days for a laboratory to report data that was requested by the Regional Water Board to be reported as soon as it was available. This is not unusual. In reality, there are few laboratories available that can perform the required analytical tests to the low levels as currently required for many constituents. Because there are only a handful of such laboratories available, they become seriously backlogged when it rains because every stormwater program in California is sending samples to same laboratories. To require data to be reviewed and converted into an electronic format in less time than it generally takes to get the preliminary results back from a contract laboratory is unrealistic. Undoubtedly, such a process would create constant confusion, an atmosphere where errors would occur frequently, and would put the Permittees in the position of constantly violating terms and conditions of the Draft Monitoring Plan. Instead of requiring that monitoring data be reported within 45 days, we recommend 90-days, which is consistent with other MS4 permits in California.

**B. Sampling Locations for Major Outfalls is Unclear**

The Draft Tentative Order includes two definitions for major outfalls. (Draft Tentative Order at p. 98.) These definitions do not provide the Permittees with direction for selecting representative major outfalls for monitoring. The Draft Monitoring Plan requires the representative outfalls to transport flows from representative land uses from each drainage area to sub-watersheds. (Draft Monitoring Plan p. F-4.) However, one definition of major outfall in the Draft Tentative Order conflicts with this requirement and defines major outfalls as industrial zoned areas. (Draft Tentative Order at p. 98.) Moreover, the language of "drainage areas" and "sub-watersheds" in the Draft Tentative Order to describe major outfall monitoring locations is also confusing and could be interpreted to mean one site per sub-watershed in each jurisdiction. (Draft Monitoring Plan at p. F-4.) If that interpretation is correct, we estimate that requirement would encompass over 200 sites. In contrast, the Permittees have proposed to monitor one site per Permittee's MS4 (a total of 11 sites) to assess program assessment. We recommend that the Draft Monitoring Plan be revised accordingly.

**C. Extensive Aquatic Toxicity Monitoring Requirements for Major Outfalls are Unnecessary**

The Draft Monitoring Plan requires that the major outfalls be monitored for toxicity. (Draft Monitoring Plan at p. F-7.) However, such monitoring is inappropriate because it fails to provide useful information regarding toxicity in the receiving water. Toxicity monitoring on the outfalls should only be required if toxicity has been identified in the receiving water. Otherwise, the information is unnecessary and an unnecessary expenditure.

**D. Requirement for Toxicity Reduction Evaluation (TRE) does not Reflect Variable Nature of Urban Runoff**

The Draft Monitoring Plan requires that a Toxicity Reduction Evaluation ("TRE") be performed when toxicity is identified through the Toxicity Identification Evaluation ("TIE"). (Draft Monitoring Plan at p. F-9.) This requirement is unclear as to its application to any one sample or to repeated events because the language in question requires a TRE when the "same pollutant or

class of pollutants is identified.” (Draft Monitoring Plan at p. F-9.) A TRE is a costly and detailed study that should only be undertaken if there is high probability of resolving a continuing problem. A single sample displaying toxicity likely could be due to an isolated incident that cannot be resolved through the TRE process. Requiring a TRE when successive samples display toxicity for the same pollutant or class of pollutants is appropriate; however, requiring a TRI when there is only one sample is not. We recommend that the language be revised to clearly indicate that the requirement for a TRE is triggered when there are successive samples that display toxicity.

**E. Pyrethroid Monitoring is Duplicative of Costly Efforts Required under the Calleguas Creek Toxicity TMDL**

The Draft Monitoring Plan would require extensive monitoring for pyrethroids. (Draft Monitoring Plan at p. F-11.) Such a requirement is duplicative because there already exists a comprehensive plan for a pyrethroid study in Calleguas Creek. The approved study is part of the Calleguas Creek Toxicity TMDL and it will determine if urban sources of pyrethroids are impacting receiving waters. Although the Draft Tentative Order acknowledges the existence of other efforts, it fails to not recognize scope, extent and value of efforts already underway in other programs. Thus, the Draft Tentative Order assumes that additional monitoring is necessary. In this case, additional pyrethroid monitoring will provide little added value as compared to the additional cost. Furthermore, the Draft Tentative Order’s reference to using other monitoring programs to satisfy this requirement provides no real relief because any other study must be done exactly as spelled out in the Draft Tentative Order, which includes poorly defined methods (e.g., “monitoring shall occur after sediment has settled within the waterbody”). (Draft Monitoring Plan at p. F-11.) In summary, the objective of determining impacts to receiving waters caused by pyrethroids will be satisfied by the Calleguas Creek TMDL study, and it is therefore unnecessary to require additional monitoring at this time in the Draft Tentative Permit and Draft Monitoring Plan.

**F. Misuse of California Toxics Rule Chronic Exposure Limits**

The Draft Monitoring Plan would require monitoring results to be compared to the California Toxics Rule (“CTR”) chronic exposure limits, which are based on a four-day exposure time frame. (Draft Monitoring Plan at pp. F-1, F-3, F-5, F-6.) Such a comparison is inappropriate for stormwater because rain events create short-term exposure that usually exists for less than 12 hours, which is not equivalent to the more continual long-term exposure for which the chronic CTR limits were created.

VII. Miscellaneous Permit Provisions (TMDLs, Trash Excluders)

As you will see in our redline/strikeout of the Draft Tentative Order (see Attachment A), there are many fundamental issues of concern still outstanding. We have in our previous comments to the Regional Water Board provided background information and recommendations on a number of these issues. The following items, although not inclusive of all our comments, are highlighted to identify critical issues that are in addition to those discussed above:

Definitions

Maximum Extent Practicable: The Draft Tentative Order attempts to redefine MEP as a "minimum" standard. Such an attempt is incorrect and inconsistent with the Clean Water Act and EPA's efforts to define MEP. We have provided language that is consistent with the EPA efforts to define MEP.

Construction: The proposed definition for construction includes a definition for maintenance. The two terms in reality are different and therefore should as a practical matter be defined separately. We have provided suggestions to remedy this confusion.

Water line and hydrant flushing. Section A of Part 1 "Discharge prohibitions" of the Draft Tentative Order needs clarification for water line and fire hydrant flushing discharges. These types of releases should be allowed with BMPs until such time as a new General Permit for these activities is adopted. We have provided appropriate language for footnote #2 on p. 29 of the Draft Tentative Order in Attachment A.

TMDLs. The Draft Tentative Order addresses a number of our previous concerns and comments we expressed on the earlier draft orders. However, it still includes requirements that are inconsistent with approved TMDLs and Basin Plan amendments. We have provided language in Attachment A to address this inconsistency.

Time schedules for program implementation. Throughout the Draft Tentative Order we have suggested more time for implementation to reflect public agency funding processes.

Trash management alternatives. Trash Management alternatives should be provided, such as a trash management program or allowing trash collection at the end of the drainage system but prior to the receiving water.

Again, we thank you for your time and effort in attempting to address some of our concerns, especially in the February 27 and 28 meetings here in Ventura. However, as we expressed previously, the Draft Tentative Order contains many new requirements that will excessively burden the Ventura Program and the Permittees. Unless there are fundamental revisions of the Draft Tentative Order, we find ourselves in the unenviable position of needing to oppose the proposed action as a whole. We sincerely hope that we can avoid such opposition at the public hearing before the Regional Water Board later this fall by continuing to work with you and your staff to address our concerns with the impact and implementation of the Draft Tentative Order in its current form.

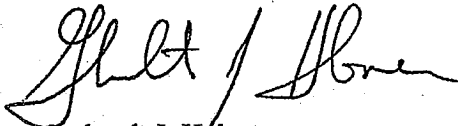
Ms. Tracy Egoscue  
RWQCB-LA

-25-

May 27, 2008

To that end, we request a meeting with you prior to the July 10, 2008 Public Workshop to discuss and understand the rationale and lack of responsiveness to our previous comments, especially in regards to Municipal Action Levels. If you have any questions, please contact me at (805) 654-5051, or via email at [Gerhardt.Hubner@ventura.org](mailto:Gerhardt.Hubner@ventura.org)

Sincerely,



Gerhardt J. Hubner  
*On Behalf of the Entire  
Ventura Countywide  
Stormwater Management Program*

cc: LARWQCB Board Members  
Xavier Swamikannu, Senior - Storm Water Permitting, Los Angeles Regional Water  
Quality Control Board  
Ventura Countywide Program Permittees  
Jeff Pratt, Director, Ventura County Watershed Protection District

Attachments

- A MS4 Redline Draft Tentative Order  
MS4 Redline Monitoring Program
- B M. Walker 10/11/07 Memorandum regarding Comparison between Montgomery  
County (MD) and Ventura County (CA) Stormwater Management Programs
- C M. Barrett report "Treatment BMP Performance Standards", May 19, 2008
- D Hydromodification White Paper, April 19, 2008, Relationship of Sediment and  
Flow and Figure 1 - Ventura County New Development Flow Chart

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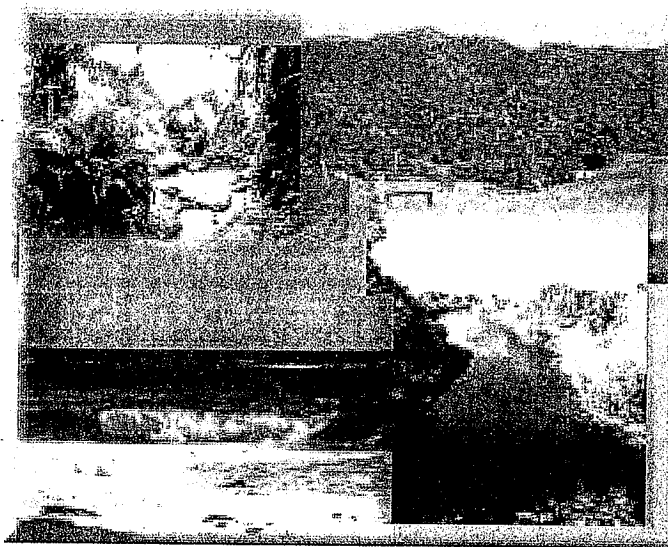
Attachment A1 - Ventura Countywide StormWater Program

MS4 Redline Draft Tentative Order

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

ORDER 08-xxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS  
FOR  
STORM WATER (WET WEATHER) AND NON-STORM WATER (DRY WEATHER)  
DISCHARGES FROM  
THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS WITHIN THE VENTURA  
COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND  
THE INCORPORATED CITIES THEREIN.

Xxxxx xx, 200x



April 29, 2008 - draft Tentative

D000320

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

ORDER 08-xxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS  
FOR

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

**FINDINGS**

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

**A. Permit Parties and History**

1. Ventura County Watershed Protection District (Principal Permittee), County of Ventura, cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura (Ventura), Santa Paula, Simi Valley and Thousand Oaks (hereinafter referred to separately as permittees) have joined together to form the Ventura Countywide Storm Water Quality Management Program to discharge wastes. The permittees discharge or contribute to discharges of storm water and non-storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems, into the Watershed Management Areas of Ventura River, Santa Clara River, Calleguas Creek, Malibu Creek and Miscellaneous Ventura Coastal all within Ventura County and Los Angeles County (see Attachment "A").
2. Prior to the issuance of this permit storm water discharges from the Ventura County MS4 are covered under countywide waste discharge requirements contained in Order No. 00-108, adopted by the Regional Water Board on July 27, 2000, which replaced Order No. 94-082, adopted by the Regional Water Board on August 22, 1994. Order No. 00-108 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.
3. The Ventura County Board of Supervisors approved the concept of a countywide NPDES permit program and the use of the Flood Management District (presently the Watershed Protection District) benefit assessment authority to finance it on April 14, 1992. On June 30, 1992, the Ventura County Board of Supervisors adopted a benefit assessment levy for storm water and flood management in the unincorporated areas of Ventura County and the cities within the County, to be used in part to finance the implementation of a countywide NPDES municipal storm water

permit program. The Ventura County MS4 Permittees have entered into an agreement with the Watershed Protection District to finance the activities related to the Ventura County MS4 Permit for shared and district wide expenses. The Permittees are also given the option to use the Benefit Assessment Program to finance their respective activities related to reducing the discharge of storm water pollutants under the MS4 Permit.

4. The Regional Water Board may require a separate NPDES permit for any entity that discharges storm water into the watersheds of Ventura County. Such an entity can be any State or Federal facility, special district or other public or private party.

#### B. Nature of Discharge

1. Storm water discharges consist of surface water runoff generated from various land uses in all the hydrologic drainage basins, which discharge into Waters of the State. The quality of these discharges varies and is affected by geology, land use, season, hydrology, and sequence and duration of hydrologic events. Based on the Ventura Countywide Storm Water Monitoring Program's Water Quality Monitoring Reports which were required under Order No. 00-108, the dry weather and wet weather Pollutants of Concern (POC) in urban stormwater include an anion, bacteria, conventional pollutants, metals, a nutrient, organic compounds, and pesticides. The POC are identified in Attachment "B" of this Order. Many of the POC listed are causing impairments identified on the federal Clean Water Act (CWA) § 303(d) list of impaired waterbodies.

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The State Water Board submits a report (a list of water quality limited segments (§ 303[d] list)) on the State's water quality to the U.S. EPA pursuant to § 305(b) of the 1972 CWA, and Title 40, CFR 130.7, every 2 years. The Report provides water quality information to the general public and serves as the basis for U.S. EPA's National Water Quality Inventory Report to Congress. Section 303(d) requires that all waters that are not attaining standards after the implementation of those controls required by 1977, shall be included on the list. Title 40 CFR 130.7(b)(3) defines "water quality standard applicable to such waters" as "those water quality standards established under § 303 of the [Clean Water] Act, including numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements."

2. Common pollutants in urban storm water and their respective sources are: bacteria from animal droppings and illegal discharges; Polycyclic Aromatic Hydrocarbons (PAHs) from the products of internal combustion engine operation and parking lot sealants wash off; nitrates from fertilizer application; pesticides from pest mitigating applications and from plant mitigating applications; bis (2-ethylhexyl) phthalate from the break down of plastic products; mercury from atmospheric fallout and improper disposal of mercury switches; lead from fuels, paints, automotive parts; copper from

brake pad wear and roofing materials, zinc from tire wear and galvanized sheeting and fencing; sediment from land disturbance and erosion; and dioxins as products of combustion.

3. In general, the pollutants that are found in municipal storm water runoff can harm human health and aquatic ecosystems. In addition, the high volumes and high velocities of storm water discharged from MS4s into natural watercourses can adversely impact aquatic ecosystems and stream habitat and cause stream bank erosion and physical modifications. These changes are collectively termed hydromodification. Municipal point source discharges of runoff from urbanized areas remain a leading cause of impairment of surface waters in California.
4. Ammonia as Nitrogen, and Nitrate plus Nitrite as Nitrogen are biostimulatory substances that can cause or contribute to eutrophic effects such as low dissolved oxygen and algae growth impairing warm freshwater and wildlife habitats. Ammonia is highly toxic to fish and other aquatic life. Excessive ammonia can cause aquatic life toxicity.
5. Elevated bacterial indicator densities impair the water contact recreation (REC-1) beneficial use at beaches, creeks, estuaries, lagoons, and marinas. Swimming in waters with elevated bacterial indicator densities has been associated with adverse health effects. Specifically, local and national epidemiological studies indicate that there is a causal relationship between adverse health effects and recreational water quality, as measured by bacterial indicator densities. Sources of elevated bacteria to marine and fresh waters may also include illegal discharges from improperly maintained standard septic systems, onsite wastewater treatment systems (OWTS) and illicit discharges from private drains.
6. Pesticides are substances used to prevent, destroy, repel or mitigate pests such as insects, weeds, and microorganisms. Their effects can be direct (e.g. fish die from exposure to a pesticide entering waterways, or birds do not reproduce after ingesting contaminated fish), or indirect (a hawk becomes sick from eating a mouse dying from pesticide poisoning). Pesticide categories include: Organochlorine, Organophosphorus, Organophosphate, and Pyrethroid.
7. Polychlorinated Byphenyls (PCBs) are a subset of the synthetic organic chemicals known as chlorinated hydrocarbons. Concern over PCBs toxicity, persistence (chemical stability) in the environment and that they have been shown to bioconcentrate significantly in aquatic organisms has led to prohibitions on PCBs.
8. Rising groundwater and swimming pool water have been found to be sources of pollutants such as salts (Chloride). Salts increase the salinity of otherwise freshwater systems and disrupt physiological processes. The Regional Water Board has

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waterbodies listed on the CWA § 303(d) list for impairment due to salts and has adopted Basin Plan amendments to include Total Maximum Daily Loads (TMDLs) for salts, and this Order includes provisions to control the discharges from these activities in order to directly or indirectly reduce or eliminate the discharge of salts to fresh water systems where salts may impair water quality and beneficial uses.

9. Trash and debris are pervasive pollutants which accumulate in streams, rivers, bays, and ocean beaches throughout Southern California. They poses a serious threat to our oceans and coasts, navigation, biological resources, recreation, human health and safety, aesthetics, and economies.
10. Municipal storm water (wet weather) and non-storm water (dry weather) discharges may contain pollutants that cause or threaten to cause an exceedance of the water quality standards, as outlined in the Los Angeles Region's Basin Plan, wet weather and dry weather discharges are subject to the conditions and requirements established in the Basin Plan for point source discharges. The water quality standards must be complied with at all times, irrespective of the source and manner of discharge.
11. Biological communities act to integrate the effects of water quality conditions in a stream by responding with changes in their population abundances and species composition over time. These populations are sensitive to multiple aspects of water and habitat quality, and provide expressions of ecological health easier to understand than the results of chemical and toxicity tests. Biological assessments and criteria address the cumulative impacts of all stressors, especially habitat degradation, and chemical contamination, which result in a loss of biological diversity. Biological information can help provide an ecologically based assessment of the status of a waterbody. Bioassessment is a cost-effective tool and protocol for assessing the biological and physical/ habitat conditions of streams and rivers for evaluation of the overall health a watershed. The Principal Permittee consents to participate in the Southern California Storm Water Monitoring Coalition (SMC) Southern California Regional Bioassessment Monitoring Program.
12. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat in natural drainages. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 3-10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development.



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

- (b) California Coastal Commission's Environmentally Sensitive Habitat Areas as delineated on maps in Local Coastal Plans (LCPs).
17. The implementation of Low Impact Development techniques across the United States and Canada has demonstrated that the proper implementation of LID techniques not only results in water quality protection benefits and in a reduction of the cost of land development and construction but also bears other positive attributes that go beyond economic benefits such as enhanced property values, improved habitat, aesthetic amenities, and improved quality of life. *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices, USEPA Doc No. EPA 841-F-07-006, December 2007.* Further, properly implemented LID techniques reduce the volume of runoff leaving a newly developed or re-developed area thereby lowering the peak rate of runoff, and thus minimize the adverse affects of hydromodification on stream habitat. *A Review of Low Impact Development Policies: Removing Institutional Barriers to Adoption, Low Impact Development Center and State of California, State Water Resources Control Board, December 2007.* The requirements of this Order facilitate the implementation of LID strategies to protect water quality, reduce runoff volume, and to benefit from these additional enhancements.
18. The Regional Water Board adopted a Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R4-2005-0080) on November 3, 2005. The objective of the program is to monitor runoff from irrigated agriculture facilities in the coastal watersheds of Ventura and Los Angeles Counties. The Basin Plan, which designates beneficial uses and establishes water quality objectives for the Region, recognizes that agricultural activities can generate pollutants such as sediment, pesticides, and nutrients that upon discharge to receiving water, can degrade water quality and impair beneficial uses. A category identified by the Conditional Waiver as a source of pollutants is nursery operations. This Order includes requirements for the municipal operator to confirm that nursery operators implement pollutant reduction and control measures with the objective of reducing pollutants in storm water runoff discharges.
19. Research conducted on the contribution of aerial deposition of trace heavy metals in Los Angeles County watersheds indicates that dry indirect deposition may account for a significant load of pollutants into surface waters. Similar patterns of aerial deposition likely occur in Ventura County. Of the atmospherically deposited pollutants on the watersheds, ten to twenty percent may account for the total load for copper, zinc, nickel, lead, and chromium to the waterbodies. Land reservoirs and sequestration may account for the remaining ninety to eighty percent of the atmospherically deposited pollutants on the watersheds. Emissions of semi-volatile organics such as polycyclic aromatic hydrocarbons (PAHs) and pesticides and their subsequent deposition may contribute to the contamination of receiving waters but

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appear to be less significant. The remaining percentage is stored in land reservoirs and eventually shows up in receiving waters.

**C. Permit Background**

1. The essential components of the Storm Water Management Program, as required by the Code of Federal Regulations (CFR) [40 CFR122.26(d)] are:
  - (a) Adequate Legal Authority.
  - (b) Fiscal Resources.
  - (c) Storm Water Quality Management Program (SMP)
    - (1) Public Information and Participation Program
    - (2) Industrial/ Commercial Facilities Program
    - (3) Planning and Land Development Program
    - (4) Development Construction Program
    - (5) Public Agency Activities Program
    - (6) Illicit Connection and Illicit Discharges Elimination Program
  - (d) Reporting Program (Monitoring Report and Program Report)
2. The Ventura County SMP, dated November 2001 (revision 2) identifies seven program areas, which are listed below and were previously approved under Board Order No. 00-108. For purposes of consistence are titled as follows:
  - (a) Ventura County SMP.
    - (1) Program Management
    - (2) Programs for Residents
    - (3) Programs for Industrial/ Commercial Businesses
    - (4) Programs for Planning and Land Development
    - (5) Programs for Construction Sites
    - (6) Programs for Public Agency Activities
    - (7) Programs for Illicit Connections/ Illegal Discharges
  - (b) For purposes of region-wide consistency, the program titles are revised and consolidated into the six areas listed in the preceding C.1(c). All permittee storm water documents submitted to the Regional Water Board are to follow the organization enumerated in C.1(c).
3. The permittees filed a Report of Waste Discharge (ROWD), dated January 26, 2005. The permittees applied for renewal of their waste discharge requirements for a 5-year period, which serves as an NPDES permit to discharge wastes to surface waters.
4. The Regional Water Board reviewed the ROWD and determined it to be partially complete under the reapplication policy for MS4s issued by the United States Environmental Protection Agency (U.S. EPA) (61 Fed. Reg. 41697). The Regional Water Board has prepared this Order so that implementation of provisions contained

in this Order by permittees will meet the requirements of the federal NPDES regulations at 40 CFR122.26.

5. The permittees ROWD contained a proposed Storm Water Management Program and a Monitoring Program to be considered by the Regional Water Board for incorporation into an MS4 NPDES Permit as permit conditions and to demonstrate compliance with federal law.
6. To-date, the monitoring program has consisted of mass emission, receiving water (tributaries), and land-use monitoring stations, toxicity testing, special studies for bioassessment of the Ventura River and hydrology, identification of ESAs, implementation of the Storm Water Quality Urban Impact Mitigation Plan (SQUIMP), and provides support for volunteer monitoring programs. This Order requires a monitoring program consisting of mass emission, toxicity, TMDL storm water (wet weather) MS4 water quality-based effluent limits, TMDL non-storm water (dry weather) MS4 water quality-based effluent limits, trash and debris study, continuation of the hydromodification study, low impact development study, participation in the Southern California Regional Bioassessment Program and Southern California Bight Project (SCBP).
7. The Principal Permittee is a member of the Southern California Coastal Water Research Project (SCCWRP) Commission. The Principal Permittee also participates in the Regional Monitoring Programs and research partnerships, such as the Southern California Storm Water Monitoring Coalition (SMC) and the Bioassessment Working Group.

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Deleted: The permittees are entitled, but did not elect to pursue a permit with numeric end-of-pipe limits for storm water discharges, which would have required them to satisfy specific effluent limitations rather than implement storm water management programs. Where a MS4 permittee voluntarily chooses a Best Management Practice (BMP) based storm water management program as permit effluent limitations rather than end-of-pipe numeric effluent limits, there exists no compulsion of a specific regulatory scheme that would violate the 10th Amendment to the United States Constitution. (City of Abilene V. EPA, 325 F.3d 657 (5th Cir., 2003)).

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**D. Permit Coverage**

1. The area covered by this Order includes all areas within Ventura County boundaries and all areas within each co-permittee's boundaries (see Figure 1) that drain into the MS4.
2. The permittees covered under this Order were designated on a system-wide basis under Phase I of the CWA § 402(p)(3)(B)(i). The action of covering all Ventura County municipalities under a single MS4 permit on a system-wide basis was consistent with the provisions of 40 CFR122.26(a)(3)(iv), which states that one permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems; and the Regional Water Board may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

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

#### **E. Federal, State and Regional Regulations**

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

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

2. The U.S. EPA published an Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits on August 9, 1996 (61 Fed. Reg. 41697). This policy requires that MS4 reapplication for reissuance for a subsequent five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.
3. The U.S. EPA has entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service for enhancing coordination regarding the protection of endangered and threatened species under section 7 of the Endangered Species Act, and the CWA's water quality standards and NPDES programs. Among other actions, the MOA establishes a framework for coordination of actions by the U.S. EPA, the Services, and CWA delegated States on CWA permit issuance under § 402 of the CWA [66 Fed. Reg. 11202-11217].
4. The CWA allows the U.S. EPA to authorize states with an approved environmental regulatory program to administer the NPDES program in lieu of the U.S. EPA. The State of California is a delegated State. The Porter-Cologne Water Quality Control Act (California Water Code) authorizes the State Water Resources Control Board (State Water Board), through the Regional Water Boards, to regulate and control the discharge of pollutants into all waters of the State, including waters of the United States, and tributaries thereto.
5. Under CWA § 303(d) of the CWA, States are required to identify a list of impaired water-bodies and develop and implement TMDLs for these waterbodies (33 USC § 1313(d)(1)). The most recent 303(d) list's U.S. EPA approval date was June 28, 2007. The U.S. EPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Water Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This Order incorporates provisions incorporating approved WLAs for municipal storm water discharges and requires amending the SMP after subsequent pollutant loads have been allocated and approved.
6. Collectively, the restrictions contained in the TMDL Provisions for Storm Water (Wet Weather) Discharges and Non-Storm Water (Dry Weather) Discharges of this Order on individual pollutants are no more stringent than required to implement the

provisions of the TMDL, which have been adopted and approved in a manner that is consistent with the CWA. Where a TMDL has been approved, NPDES permits must contain effluent limits and conditions consistent with the assumptions and requirements of the available WLAs in TMDLs (40 CFR122.44(d)(1)(vii)(B)).

7. Under § 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Coastal States with approved coastal zone management programs are required to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: 1) agriculture; 2) silviculture; 3) urban; 4) marinas; and 5) hydromodification. This Waste Discharge Requirement addresses the management measures required for the urban category and the hydromodification category, with the exception of septic systems.

8. The Regional Water Board addresses septic systems through the administration of non-Chapter 15 regulatory programs and the implementation of Regional Water Board Order No.R4-2004-0146. Septic systems are also addressed under State Assembly Bill (AB) 885 (2000). The Regional Water Board will implement and enforce regulations issued by the State Board pursuant to AB 885. Taken together, these State and Local agency requirements when imposed on septic system operators are expected to reduce the bacterial contamination of storm water from improperly maintained septic systems.

9. The State Water Board has issued waste discharge requirements for discharges from utility vaults (CAG990002). The Regional Water Board has issued waste discharge requirements for discharges from well heads and hydrostatic pipe testing (CAG674001). These discharges to the MS4 shall be conducted under coverage of a separate NPDES permit specific to that activity.

10. On May 18, 2000, the U.S. EPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule (CTR) 65 Fed. Reg. 31682 (40 CFR131.38) for the protection of human health and aquatic life. These apply as ambient water quality criteria for inland surface waters, enclosed bays and estuaries.

11. The State Water Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) in 2005. The California Ocean Plan establishes water quality objectives for California's ocean waters and provides the basis for regulation of wastes discharged into the State's coastal waters. It applies to point and

**Deleted:** <#>This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. This Order implements federally mandated requirements under CWA § 402, subdivision (p)(3)(B). (33 U.S.C. § 1342(p)(3)(B).) This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (Natural Resources Defense Council, Inc. v. U.S. E.P.A. (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. Burbank v. State Water Resources Control Bd. (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead, is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer... [1]

**Deleted:** Second, the local agency permittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicab... [2]

**Deleted:** Third, the local agency permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. The fact sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal... [3]

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nonpoint source discharges. The Ocean Plan identifies the applicable beneficial uses of marine waters that include preservation and enhancement of designated Areas of Special Biological Significance (ASBS) (now called "State Water Quality Protection Areas") and establishes a set of narrative and numerical water quality objectives designed to protect beneficial uses. The SWRCB adopts the California Ocean Plan, and both the SWRCB and the six coastal Regional Water Quality Control Boards (RWQCBs) implement and interpret the California Ocean Plan.

12. This Regional Water Board adopted a revised Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994. The Basin Plan, specifies the beneficial uses of Ventura County waterbodies and their tributary streams, and contains both narrative and numerical water quality objectives for these receiving waters. The following beneficial uses identified in the Basin Plan apply to all or portions of each watershed covered by this Order:

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- (a) Municipal and domestic supply
- (b) Agricultural supply
- (c) Industrial service supply
- (d) Industrial process supply
- (e) Ground water recharge
- (f) Freshwater replenishment
- (g) Navigation
- (h) Hydropower generation
- (i) Water contact recreation
- (j) Non-contact water recreation
- (k) Ocean commercial and sport fishing
- (l) Warm freshwater habitat
- (m) Cold freshwater habitat
- (n) Preservation of Areas of Special Biological Significance
- (o) Saline water habitat
- (p) Wildlife habitat
- (q) Preservation of rare and endangered species
- (r) Marine habitat
- (s) Fish migration
- (t) Fish spawning
- (u) Shellfish harvesting

13. On March 22, 1999 the Consent Decree in Heal the Bay, Inc.; Santa Monica BayKeeper, Inc. v. Browner, Case No. 98-4825 SBA was approved. Under Establishment of TMDLs- The parties understand that California has the initial opportunity pursuant to § 303(d) of the CWA to adopt and submit to U.S. EPA for approval TMDLs to be established under this Consent Decree. TMDLs developed by Regional Water Boards are generally adopted through Basin Plan amendments. Basin plan amendments the State Board pursuant to Water Code section 13246, and the

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regulatory portions must be approved by the Office of Administrative Law pursuant to Government Code section 11353(b). TMDLs established pursuant to CWA section 303(d)(1) must be submitted to U.S. EPA for approval pursuant to section 303(d)(2), and incorporated into the state's water quality management plan

14. The Regional Water Board has adopted amendments to the Basin Plan, to incorporate TMDLs for the following:

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(a) The following TMDLs have been or will be incorporated into the Basin Plan within the term of the Order.

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

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- (4) Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs), and Siltation in Calleguas Creek, Its Tributaries and Mugu Lagoon.
  - (A) Regional Water Board Resolution No. 2005-010
  - (B) State Water Board Resolution No. 2005-0068
  - (C) OAL file No. 05-1206-03 S
  - (D) U.S. EPA approval date March 14, 2006
  - (E) Final fee exemption date March 24, 2006 (effective date)
  - (F) Compliance for Interim WLA is effective date (March 24, 2006)
  - (G) Compliance for Final WLA is 20 years after effective date (March 24, 2026), which is beyond the term of this Order
  
- (5) Calleguas Creek Watershed Metals
  - (A) Regional Water Board Resolution No. 2006-012
  - (B) State Water Board Resolution No. 2006-0078
  - (C) OAL file No. 06-1222-015 S
  - (D) U.S. EPA approval date March 26, 2007
  - (E) Final fee exemption date March 27, 2007 (effective date)
  - (F) Compliance for Interim WLA is effective date (March 27, 2007)
  - (G) Compliance for Final WLA is Within 15 years after the effective date (March 27, 2022), which is beyond the term of this Order
  
- (6) Revolon Slough & Beardsley Wash Trash TMDL
  - (A) Regional Water Board Resolution No. 2007-007
  - (B) State Water Board Resolution No 2007-0076
  - (C) OAL file No 2007-1227-05 S
  - (D) U.S. EPA approval date February 27, 2008
  - (E) Final fee exemption date March 6, 2008 (effective date)
  - (F) Compliance for Trash Monitoring & Reporting Plan Submittal is 6 months from effective date (September 6, 2008)
  - (G) Compliance for Final WLA is 8 years from effective date (March 6, 2016)
  
- (7) Ventura River Estuary Trash TMDL
  - (A) Regional Water Board Resolution No. 2007-008
  - (B) State Water Board Resolution No 2007-0072
  - (C) OAL file No 2007-1227-01 S
  - (D) U.S. EPA approval date February 27, 2008
  - (E) Final fee exemption date March 6, 2008 (effective date)
  - (F) Compliance for Trash Monitoring & Reporting Plan Submittal is 6 months from effective date (September 6, 2008)
  - (G) Compliance for Final WLA is 8 years from effective date (March 6, 2016)

15. The Regional Water Board adopted and approved requirements for new development and significant redevelopment projects in Ventura County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Water Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000 for Los Angeles County and the Cities in Los Angeles County. Since 2000, new development and redevelopment water quality criteria have been implemented by the permittees to be consistent with SUSMP. The State Board affirmed the Regional Water Board action and SUSMPs in State Board Order No. WQ 2000-11, issued on October 5, 2000.

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(a) A statewide policy memorandum (dated December 26, 2000), which interprets the Order to provide broad discretion to Regional Water Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary.

(b)

Deleted: Such areas include ministerial projects, projects in environmentally sensitive areas, and water quality design criteria for Retail Gasoline Outlets (RGOs, see part 7 for definition). The Regional Water Board properly justified the extensions of SUSMPs and water quality criteria to ministerial projects, projects in environmentally sensitive areas, and RGOs, during the adoption of Regional Water Board Order 01-182. The Regional Water Board's action was upheld by the County of Los Angeles Superior Court (In Re: County of Los Angeles v. State Water Resources Control Board (2006) 143 Cal.App.4th 985).

16. The Regional Water Board supports Watershed Management planning to address water quality protection in the region. The objective of the Watershed Management planning is to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources.

Deleted: The State Water Board's Chief Counsel interpreted the Order to encourage regional solutions and endorsed a mitigation fund or "bank" as alternatives for new development and significant redevelopment. The Regional Water Board has included provisions for regional solutions and the establishment of a mitigation bank in this Order.

17. To facilitate compliance with federal regulations, the State Water Board has issued the following 4 Statewide General NPDES Permits associated with storm water:

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- (a) Industrial General Permit (IASGP- Industrial Activities Storm Water General Permit), NPDES No. CAS000001, issued on November 19, 1991, reissued on September 17, 1992 and April 17, 1997, currently under review for reissuance.
- (b) Construction General Permit (CASGP- Construction Activities Storm Water General Permit), NPDES No. CAS000002, issued on August 20, 1992, reissued August 19, 1999, currently under review for reissuance.
- (c) Small Linear Underground/ Overhead Construction Projects General Permit (small LUPs), NPDES No. CAS000005, issued on June 18, 2003.
- (d) Small MS4 Permit WQ Order No. 2003-0005-DWQ, NPDES No. CAXXXXX, adopted on April 30, 2003.

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19. Facilities discharging storm water associated with industrial activities, construction projects that disturb one or more acres of soil, or construction projects that disturb less than one acre but are part of a larger common plan of development or sale that in

total disturbs 1 or more acres, and construction activities associated with small linear underground/ overhead projects that result in land disturbances greater than one acre, but less than five acres (small LUPs), are all required to obtain individual NPDES permits for storm water discharges, or be covered by the statewide General Permits by completing and filing a Notice of Intent (NOI) with the State Board. The U.S. EPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.

20. State Water Board Resolution No. 68-16 contains the state Antidegradation Policy, titled "Statement of Policy with Respect to Maintaining High Quality Waters in California" (Resolution 68-16), which applies to all waters of the state, including ground waters of the state, whose quality meets or exceeds (is better than) water quality objectives. Resolution No. 68-16 is considered to incorporate the federal Antidegradation Policy (40 CFR131.12) where the federal policy applies, (State Water Board Order WQO 86-17). Administrative policies that implement both, federal and state antidegradation policies acknowledge that an activity that results in a minor water quality lowering, even if incrementally small, can result in violation of Antidegradation Policies through cumulative effects, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.

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- (a) Federal Antidegradation Policy (40 CFR131.12) states that the State shall develop and adopt a statewide antidegradation policy and identify the methods for implementing such policy pursuant to this subpart. The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following:

- (1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.
- (2) Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.
- (3) Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

- (4) In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with section 316 of the Act.
- (b) State Water Board Resolution No. 68-16 establishes essentially a 2-step process for compliance with the policy.
  - (1) Step 1- if a discharge will degrade high quality water, the discharge may be allowed if any change in water quality:
    - (A) Will be consistent with maximum benefit to the people of the State.
    - (B) Will not unreasonably affect present and anticipated beneficial use of such water.
    - (C) Will not result in water quality less than that prescribed in state policies (e.g., water quality objectives in Water Quality Control Plans).
  - (2) Step 2- any activities that result in discharges to high quality waters are required to:
    - (A) Meet waste discharge requirements that will result in the best practicable treatment or control of the discharge necessary to avoid a pollution or nuisance.
    - (B) Maintain the highest water quality consistent with the maximum benefit to the people of the State.

- 21. The State Water Board on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitation language to be included in all municipal storm water permits issued by the State and Regional Water Boards.
- 22. Cal. Water Code § 13263(a) requires that waste discharge requirements issued by Water Boards shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; and the need to prevent nuisance, and the provisions of Section 13241 where such waste discharge requirements exceed those required by federal law. (See City of Burbank v. State Water Resources Control Board (2005) 35 Cal.4<sup>th</sup> 613, 627.)
- 23. Cal. Water Code § 13370 et. seq. requires waste discharge requirements issued by the Water Boards to implement the provisions of the CWA (33 U.S.C. Sec. 1251 et seq.) comply with the CWA and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto.
- 24. The California State Assembly passed AB 1721 (Pavley Environmental Education) on September 8, 2005, to add § 13383.6 to the Water Code, relating to environmental education. On and after January 1, 2007, if a Regional Water Board or the State Board issues a municipal storm water permit pursuant to § 402(p) of the CWA (33 U.S.C. Sec. 1342(p)) that includes a requirement to provide elementary and secondary public schools with educational materials on storm water pollution, the

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 <#>Likewise, the discharge could not be allowed under state Antidegradation Policy if: ¶  
 <#>The discharge, even after treatment, would unreasonably affect beneficial uses; or ¶  
 <#>The discharge, would not comply with applicable provisions of Water Quality Control Plans.¶

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permittee may satisfy the requirement, upon approval by the Regional Water Board or State Board, by contributing an equivalent amount of funds to the Environmental Education Account established pursuant to subdivision (a) of § 71305 of the Public Resources Code.

## F. Implementation

1. The California Environmental Quality Act (CEQA) (Cal. Pub. Resources Code § 2100 et seq.) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary (a governmental agency can use its judgment in deciding whether and how to carry out or approve a project, § 15357) and does not apply to ministerial projects (the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, § 15369). A ministerial project may be made discretionary by adopting local ordinance provisions or imposing conditions to create decision-making discretion in approving the project. In the alternative, permittees may establish standards and objective criteria administratively for storm water mitigation for ministerial projects. For water quality purposes, the Regional Water Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements in a manner that is consistent with and complies with the provisions of CEQA.
2. The objective of this Order is to ensure that discharges from the MS4 in Ventura County comply with water quality standards, including protecting the beneficial uses of receiving waters. To meet this objective, the Order requires that Best Management Practices (BMPs) will be implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable (MEP), and achieve water quality objectives and standards. The U.S. EPA envisioned that municipal storm water program would be implemented in an iterative manner and improved with each iteration by using information and experience gained during the previous permit term (*Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits* - 61 Fed. Reg. 41697). Municipalities are required to evaluate what is effective and make improvements in order to protect beneficial uses of receiving waters. This Order requires implementation of an effective combination of pollution control and pollution prevention measures, education, public outreach, planning, and implementation of source control BMPs and Structural and Treatment Control BMPs. The better-tailored BMPs combined with the performance objectives outlined in this Order have the purpose of attaining water quality objectives and standards (*Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits*- 61 Fed. Reg. 43761). Where WLAs have been adopted for storm water (wet weather) and non-storm water (dry weather) discharges from MS4s, this Order requires permittees to implement controls to achieve the WLAs within the compliance schedule provided in the TMDLs.

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- 3. The implementation of measures set forth in this Order are reasonably expected to reduce the discharge of pollutants conveyed in storm water discharges into receiving waters, and to meet the TMDL WLAs for discharges from MS4s that have been adopted by the Regional Water Board.
- 4. The U.S. EPA has recommended that all future TMDLs and TMDL amendments be expressed as daily increments consistent with a federal court ruling (*Friends of the Earth, Inc. v. EPA, et al.* No. 05-5015 (D.C. Cir. 2006)). However, this interpretation does not affect the discretionary authority of the Regional Water Board to express NPDES permit limits and conditions in non daily terms because there is no express or implied statutory limitation (CWA §502(11)) (*Establishing TMDL "Daily Loads" in Light of the Decision by the U.S. Court of Appeals for the D.C. Circuit in Friends of the Earth, Inc. v. EPA, et al. (April 2006) and Implications for NPDES Permits*, U.S. EPA Office of Water, memorandum, Nov 15, 2006). This Order translates MS4 TMDL WLAs adopted by the Regional Water Board into forms "consistent with the assumptions and requirements of the TMDL".
- 5. During the term of the Order, the permittees shall implement all necessary control measures to reduce pollutant(s) which cause or continue to cause or contribute to water quality impairments, but for which TMDLs have not yet been developed or approved, to eliminate the water quality impairment(s). Successful efforts to reverse the wet weather impairments during the permit term for such pollutants, may avoid the need for a WLA for wet weather or the need to develop a TMDL in the future.
- 6. This Order promotes ~~land development and redevelopment strategies that consider water quality and water management benefits associated with smart growth techniques.~~ Such measures may include hydromodification mitigation requirements, minimization of impervious surfaces, integrated water resources planning, and low impact development guidelines. (Reference: *Protecting Water Resources with Smart Growth*, EPA 231-R-04-002, U.S. EPA 2004; *Using Smart Growth Techniques as Storm Water Best Management Practices*, EPA 231-B-05-002, U.S. EPA 2005; *Parking Spaces/Community Places: Finding the Balance through Smart Growth Solutions*, EPA 231-K-06-001, U.S. EPA 2006; *Protecting Water Resources with Higher-Density Development*, EPA 231-R-06-001, U.S. EPA 2006.)
- 7. The implementation of an effective Public Information and Participation Program is a critical component of a storm water management program. While commercial and industrial facilities are traditionally subject to multiple environmental regulations and receive environmental protection guidance from multiple sources, the general public, in comparison, receives significantly less education in environmental protection. An effective Public Information and Participation Program is required because:

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- (a) Activities conducted by the public such as vehicle maintenance, improper household waste materials disposal, improper pet waste disposal and the improper application of fertilizers and pesticides have the potential to generate a significant amount of pollutants that could be discharged in storm water.
- (b) An increase in public knowledge of storm water regulations, proper storage and disposal of household wastes, proper disposal of pet wastes and appropriate home vehicle maintenance practices can lead to a significant reduction of pollutants discharged in storm water.

8. The requirements in this Order may be explicit or more specific than those enumerated in federal regulations under 40 CFR122.26 or in U.S. EPA guidance. However, the requirements have been prescribed to be consistent with the federal statutory mandates described in CWA § 402(p)(3)(B)(ii) and (iii) and the related federal regulations. Consistent with federal law, all of the conditions in this permit could have been included in a permit adopted by U.S. EPA in the absence of the in lieu authority of California to issue NPDES permits. These requirements are necessary to reduce the discharges of pollutants to the maximum extent practicable, and to attain water quality standards.

**Deleted:** The California Supreme Court ruled that although Water Code section 13263 requires the Water Boards to consider the factors set forth in Water Code section 13241 when establishing waste discharge requirements, when issuing an NPDES permit, the Water Boards may not consider the factors to justify imposing pollutant restrictions that are less stringent than the applicable federal regulations require (*City of Burbank v. State Water Resources Control Bd.*, 35 Cal.4d, 618 (2005)). However, when the pollutant restrictions in an NPDES are more stringent than federal law, Water Code section 13263 requires that the Water Boards consider the factors described in section 13241.

9. This Order also provides flexibility for permittees to petition the Regional Water Board Executive Officer to substitute a BMP under this Order with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

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10. This Order contemplates that the permittees are responsible for considering potential storm water impacts when making planning decisions in order to fulfill the permittees' CWA requirement to reduce the discharge of pollutants in municipal storm water to the MEP and attain water quality objectives from new development and redevelopment activities. However, the permittees retain authority to make the final land-use decisions and retain full statutory authority for deciding what land uses are appropriate at specific locations within each permittee's jurisdiction. This Order and its requirements are not intended to restrict or control local land use decision-making authority.

11. The State Water Board amended the Policy for the Implementation of Toxics Standards In Inland Surface Waters, Enclosed Bays and Estuaries of California (State Implementation Policy – SIP) on February 24, 2005. The SIP does not apply directly to the stormwater discharges. However, this Order includes a Monitoring Program that incorporates Minimum Levels (MLs) established under the State Implementation Policy. The MLs represent the lowest quantifiable concentration for priority toxic pollutants that is measurable with the use of proper method-based analytical procedures and factoring out matrix interference. The SIP's MLs therefore represent

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the best available science for determining MLs and are appropriate for a storm water monitoring program. The use of MLs allows the detection of toxic priority pollutants at concentrations of concern using recent advances in chemical analytical methods.

- 12. This Order establishes Municipal Action Levels (MALs) for selected pollutants based on local Phase I MS4 monitoring data for pollutants in storm water. The MALs were computed using one of three approaches recommended by the California Water Board's Storm Water Panel in its report, 'The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 2006). MALs are identified in Attachment "C". Permittees shall utilize the MALs to identify subwatersheds discharging pollutants at levels in excess of the normal range to take additional action necessary to reduce the discharge of pollutants to the MEP.

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Deleted: The MALs were obtained by multiplying the Median (central tendency measure) with 2 x the Coefficient of Variance (estimate of variance measure).

Deleted: implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the MALs. MALs express an integration of the adequacy/ inadequacy of programmatic measures and BMPs required in this Order. The exceedance of an MAL will create a presumption that MEP is not being met.

- 13. The International Storm Water Best Management Practices (BMP) Database was established in 1996 as a cooperative initiative between the U.S. EPA and the American Society of Civil Engineers (ASCE) to provide scientifically sound information to improve the design, selection and performance of storm water BMPs. The BMP database includes standardized BMP monitoring and reporting protocols, a storm water BMP database, BMP performance evaluation protocols, and BMP monitoring guidance. The storm water BMP database is updated approximately semi-annually to add new BMP studies and performance data. The International Storm Water Database is now maintained by the Water Environment Research Foundation (WERF).

Deleted: BMP performance data from the database was used to establish that it is practicable for municipalities to achieve the MALs in this Order. (<http://www.bmpdatabase.org/>, last visited August 15, 2007.)

- 14. This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Public Health or local vector agencies in accordance with CA Health and Safety Code, § 116110 et seq. Certain Treatment Control BMPs if not properly designed, operated or maintained may create habitats for vectors (e.g. mosquitoes and rodents). This Order contemplates that the permittees will closely cooperate and collaborate with local vector control agencies and the State Department of Public Health for the implementation, operation, and maintenance of Treatment Control BMPs in order to minimize the risk to public health from vector borne diseases.

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- 15. This Order contemplates that permittees will ensure that implemented Treatment Control BMPs will not pose a safety or health hazard to the public. This Order contemplates that permittees will ensure that the maintenance of implemented Treatment Control BMPs will comply with all applicable health and safety regulations, such as, but not limited to requirements for worker entry into confined spaces under OSHA Safety and Training education, § 1926.21(b)(6)(i).

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16. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from construction sites to the MEP. The BMPs are identified in Table 6 (BMPs at Construction sites less than 1 acre), Table 7 (BMPs at Construction Sites 1 acre or greater but less than 5 acres), and Table 8 (BMPs at Construction sites 5 acres or greater). These BMPs include erosion control, sediment control, and construction site waste management practices. The BMPs listed in part 5.F of the Order were selected based on the Water Boards' experience of regulating such sites since 1992, and are referenced in the *California Stormwater Quality Association (CASQA) Storm Water Best Management Practice Handbook Construction (January 2003)* and from the *Stormwater Quality Handbooks, Project Planning and Design Guide, Stormwater Pollution Prevention Plan (SWPPP) and Water Pollution Control Plan (WPCP) Preparation Manual, Construction Site Best Management Practices (BMPs) Reference Manual, March 2007* (Caltrans Document Number CTSW-RT-06-171.11-1) which serve as an industry standard for California. The BMPs identified in the Tables are technically feasible, practicable, and cost-effective. Where an identified BMP may be impracticable on a particular site, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.
17. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from commercial and industrial sites to the MEP. The BMPs are identified in Table 2 (BMPs at Restaurants), Table 3 (BMPs at Automotive Service Facilities), Table 4 (BMPs at Retail Gasoline Outlets), and Table 5 (BMPs at Nurseries). These BMPs include the implementation of good housekeeping practices designed to control pollutants at the source, promote the use of proper waste management practices, and implement control practices to keep pollutants away from any entrance to the storm drainage system. The BMPs listed in part 5.D of the Order were selected based on the Water Boards' experience of regulating such sites since 1992 and referenced in the *California Stormwater Quality Association (CASQA) Storm Water Best Management Practice Handbook Commercial/Industrial Activity (January 2003)* and from the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide May 2003* (Caltrans Document Number CTSW-RT-02-057), which serve as an industry standard for California. The BMPs identified in the Tables are technically feasible, practicable, and cost-effective. Where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.
18. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from Public Agency Activities to the MEP. The BMPs are identified in Table 9 (BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards). These BMPs include the implementation of good housekeeping practices designed to control pollutants at the source, promote the use proper waste management practices, implement control practices to keep pollutants away from any

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entrance to the storm drainage system and from being deposited or discharged directly into waters of the U.S. The BMPs listed in part 5.G of the Order were selected based on the Water Boards' experience of regulating such sites since 1990, and are referenced in the Caltrans Storm Water Quality Handbook Maintenance Staff Guide May 2003 (Caltrans Document Number CTSW-RT-02-057), which serve as a statewide standard for the California Department of Transportation (Caltrans). The BMPs identified in the Table are technically feasible, practicable, and cost-effective, and are the standard of practice for Caltrans sites statewide. ~~Where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.~~

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19. This Order incorporates BMPs to ensure that authorized Non-Storm Water Discharges are not a source of pollutants to the MS4, Table 1 (Required Conditions for Non-Storm Water Discharges). The BMPs included are for the purpose of dechlorination and/or for prevention of erosion and sediment loss, or to reduce other harmful pollutants during the discharge of authorized non storm water discharges to the MS4. The BMPs listed in part 1.B of the Order were selected from the *American Water Works Association AWWA Guidelines For The Development Of Your Best Management Practices (BMP) Manual For Drinking Water System Releases Developed by the CA-NV AWWA Environmental Compliance Committee (2005)* which serve as an industry standard for California, from the results of studies directed by the Los Angeles Water Board, - *Evaluation of Non-Storm Water Discharges to California Storm Drains and Potential Policies for Effective Prohibition Methods, Final Report*, University of California, Los Angeles, Contract No. 5-104-140-0 (1997), and *Water Quality Concerns and Regulatory Controls for Non Storm Water Discharges to Storm Drains*, Duke L.D. and M. Kihara, Journal of the American Water Resources Association, Vol. 34: 661-676, (1998), and from the Water Boards' experience of controlling authorized non-storm discharges to the MS4 since 1990. The BMPs identified in the Table are technically feasible, practicable, and cost-effective. ~~Where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.~~
20. In accordance with Federal regulations at 40 CFR 124.8, a Fact Sheet has been prepared to explain the principal facts and the significant factual, legal, methodological, policy, and economic matters considered in preparing the Tentative Order. Also included are the analyses of factors required under Cal. Water Code 13241. This Fact Sheet has been made a part of the Administrative Record.
21. The State Water Board adopted statewide General Waste Discharge Requirements for Sanitary Sewer Systems, (WQ Order No. 2006-0003) on May 2, 2006, to provide a consistent, statewide regulatory framework to address sanitary sewer overflows ("SSO Order's"). The SSO Order establishes requirements for public agencies that

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own or operate sanitary sewer systems to develop and implement sewer system management plans and to report SSOs. SSOs that enter MS4s have the potential to impair the recreational use of receiving waters, and to harm public health. This Order establishes coordination, response, and notification requirements for MS4 permittees when SSOs result in a discharge to the MS4 system.

22. This Order takes into consideration the housing needs in the area under the permittees' jurisdiction by balancing the implementation of Smart Growth and Low Impact Development techniques with the protection of the water resources of the region. Although not required, the Regional Water Board considered the need for housing and the appropriate techniques to allow for reasonable development while protecting the receiving waters from degradation.

23. This Order may have an effect on costs required for compliance with the provisions contained herein. Although not required, the Regional Water Board has considered costs in preparing this Order. Though also not required, the Regional Water Board has also considered the factors set forth in Water Code section 13241.

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G. Public Notification

1. The issuance of waste discharge requirements pursuant to California Water Code section 13370 et seq. is exempt from the California Environmental Quality Act in accordance with California Water Code section 13389. *County of Los Angeles et al., v. California Water Boards et al.*, (2006), 143 Cal.App.4<sup>th</sup> 985.
2. The Regional Water Board has notified the permittees, and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to make statements and submit their comments.
3. The Regional Water Board staff has conducted 24 meetings from February 9, 2007 through October 3, 2008, with permittees, their representatives (Larry Walker and Associates, and Somach, Simmons & Dunn), and various stakeholders (Building Industry Association of Southern California/ Greater Los Angeles Ventura Chapter (BIAGLA/ VC), California State Dept. of Health Services, Calleguas Water District, California Stormwater Quality Association (CASQA), City of Downey, City of Los Angeles-EMD, Collation for Practical Regulation (CPR), Construction Industry Coalition on Water Quality (CICWQ), County of Orange, Geosyntec Consultants, Golden State, Heal The Bay; Local Government commission, Los Angeles City; Los Angeles County Department of Public Works, Los Angeles County-SD, Los Angeles Department of Water & Power, Metropolitan Water District, Natural Resources Defense Council (NRDC), Richard Watson Association, San Bernardino Flood Control District, Santa Monica Bay Restoration Commission, Southern California Coastal Water Research Project, University of California Sea Grant, Ventura

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CoastKeeper). On April 5, 2007 and September 20, 2007 the Regional Water Board conducted workshops to discuss drafts of the NPDES Order and received input from the permittees and the public regarding proposed changes.

- 4. This Order shall serve as a NPDES permit, pursuant to CWA § 402, and shall take effect 90 days from Order adoption date provided the Regional Administrator of the U.S. EPA has no objections.
- 5. Pursuant to Cal. Water Code § 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board within 30 days of the date of adoption the Order by the Regional Water Board. A petition must be sent to:

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

- 6. This Order may be modified or alternatively revoked or reissued prior to its expiration date or any administrative extension thereto, in accordance with 40 CFR122.41(f) and 122.62.

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

**PART 1 - DISCHARGE PROHIBITIONS**

**A. Prohibitions - Non-Storm Water Discharges**

The permittees shall, within their respective jurisdictions, effectively prohibit non-storm discharges into the MS4 and watercourses, except where such discharges;

- 1. Originate from a State, federal, or other source which they are pre-empted by State or Federal law from regulating; or
- 2. Are covered by a separate individual or general NPDES permit, or conditional waiver for irrigated lands; or
- 3. Fall within one of the categories below, are not a significant source of pollutants, and meet all conditions where specified by the Regional Water Board Executive Officer:
  - (a) Category A – Natural flows
    - (1) Stream diversions authorized by the State Water Board
    - (2) Natural springs and rising ground water

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¶ 1. Discharges into and from the MS4 in a manner causing or contributing to a condition of pollution, contamination or nuisance (as defined in Cal. Water Code § 13050), in waters of the State are prohibited.¶

¶ Discharges from the MS4, which cause or contribute to exceedances of receiving water quality standards are prohibited.¶ Discharges to the MS4 that are not authorized by an NPDES individual or general permit are prohibited except as set forth in part B., Prohibitions – Non-Storm Water Discharges, below.

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- (3) Uncontaminated ground water infiltration  
[as defined by 40 CFR35.2005(20)]<sup>1</sup>
- (4) Flows from riparian habitats or wetlands
- (b) Category B – Flows from emergency fire fighting activities.
- (c) Category C – Flows incidental to urban activities, providing BMPs listed below are implemented
  - (1) Flows from non-emergency fire fighting activities
  - (2) Discharges from potable water sources<sup>2</sup>
  - (3) Gravity flow from foundation, footing and crawl space drains.
  - (4) Air conditioning condensate
  - (5) Reclaimed and potable landscape irrigation runoff
  - (6) Dechlorinated/ debrominated swimming pool discharges [see def. part 7]
  - (7) Non-commercial car washing by residents or non-profit organizations
  - (8) Sidewalk rinsing
  - (9) Pooled storm water from treatment BMPs<sup>3</sup>

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

- 5. The following BMPs for non-stormwater discharges are required pursuant to this Order:
  - (a) Flows from non-emergency fire fighting activity: Implement a program to reduce pollutants from non-emergency activities such as controlled or practice blazes and maintenance activities identified to be significant sources of pollutants.
  - (b) Discharges from potable water system releases: Water shall be dechlorinated using aeration and/or sodium thiosulfate and/or other appropriate means and/or be allowed to infiltrate to the ground. BMPs such as sand bags or gravel bags

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

<sup>2</sup> The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. Those releases for dewatering or hydro-testing or flushing of water supply and distribution mains and incidental and infrequent releases from well heads shall be allowed with the implementation of appropriate BMPs until such time as a new General Permit is adopted that addresses those types of releases. Discharges from hydrostatic pipe testing shall be subject to separate NPDES general permit coverage (CAG674001) and discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity.

<sup>3</sup> All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer, and designed to drain within 72 hours of the end of a rain. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.

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**Deleted:** It does not cover scheduled discharges by potable water conveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge [see section G for specific BMPs].

shall be utilized to prevent sediment transport. All sediments shall be collected and disposed of in a legal and appropriate manner.

(c) Swimming pool discharges: Swimming pool discharges are to be dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments.

(d) Sidewalk rinsing: Sidewalk rinsing in commercial areas may be undertaken only if high pressure low volume is used as described in the glossary under "sidewalk rinsing."

**PART 2 – MUNICIPAL ACTION LEVELS**

1. Each Permittee is affirmatively required to implement controls to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP).
2. Under this Order, the locally relevant Municipal Action Levels (MALs) listed in Attachment "C"<sup>1</sup> shall be utilized by Permittees to identify subwatersheds discharging pollutants at levels in excess of the normal range, and to ensure that, within those subwatersheds, Permittees take additional action necessary to reduce the discharge of pollutants to the MEP. (NEED TO DEVELOP MALs).
3. In order to determine if MS4 discharges are in excess of the normal range, Permittees shall conduct outfall monitoring as required in the Monitoring and Reporting Program (MRP). An MAL Assessment Report shall be submitted to the Executive Officer within one year of Permit adoption. The Report shall present the monitoring data in comparison to the applicable MALs, and identify those subwatersheds with discharges in excess of the MALs.
4. Each Permittee shall submit to the Executive Officer within two years of Permit Adoption, an MAL Action Plan for those subwatersheds with discharges in excess of the MALs. The plan is to include an assessment of the sources responsible for the abnormal pollutant levels, the existing BMPs that address those sources, an assessment of potential alternative BMPs and actions that could be implemented, the additional practicable BMPs and/or actions the Permittee proposes to ensure compliance with the MEP standard, and an implementation schedule for such actions.
5. Within 90 days of the plan approval, the Permittee shall initiate the BMPs and actions proposed in the MAL Action Plan, together with any other practicable BMPs or actions that the Executive Officer determines to be necessary to comply with the MEP standard. The Permittee shall complete the proposed actions in accordance with the approved implementation schedule.

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<sup>1</sup> It is proposed that MALs be developed for storm water pollutants of greatest concern and be set at the 80<sup>th</sup> percentile of countywide data for each land use classification (e.g., residential, industrial, commercial).

- 6. Upon completion of the actions specified in the approved MAL Action Plan, the Permittee shall re-monitor the subject subwatershed in accordance with the MRP, and submit a Post-Project MAL Assessment Report to the Executive Officer.
- 7. The Executive Officer will either accept the report as evidence that the Permittee has complied with the MEP standard or, alternatively, identify additional actions which the Executive Officer determines necessary to comply with the standard.

**PART 3 – RECEIVING WATER LIMITATIONS**

- 1. Discharges from the MS4 that cause or contribute to a violation of water quality standards are prohibited.
- 2. Discharges from the MS4 of storm water, or non-storm water, for which a permittee is responsible, shall not cause or contribute to a condition of nuisance.
- 3. The permittee shall comply with Receiving Water Limitations 1 and 2 through timely implementation of control measures and other actions to reduce pollutants in the storm water discharges in accordance with the requirements of this Order including any modifications. The Permittees' Program shall be designed to achieve compliance with Receiving Water Limitations 1 and 2. If exceedance(s) of water quality objectives or water quality standards (collectively WQS) persist, notwithstanding implementation of this permit, the permittees shall ensure compliance with Receiving Water Limitations 1 and 2 by complying with the following procedure:
  - (a) Upon determination by either the Permittees or the Regional Water Board that discharges are causing or contributing to an exceedance of an applicable WQS, the permittee(s) upstream of the point of discharge shall promptly notify and thereafter submit a report to the Regional Water Board Executive Officer that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of WQSS. The report may be included with the Annual Report, unless the Regional Water Board Executive Officer directs an earlier submittal. The Regional Water Board Executive Officer may require modifications to the report.
  - (b) Submit any modifications to the report required by the Regional Water Board Executive Officer within 30 days of notification.
  - (c) Within 30 days following approval of the Report described above by the Regional Water Board Executive Officer, the permittees shall revise their Program and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required.
  - (d) Implement the revised Program and monitoring program according to the approved schedule.

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- 4. So long as the permittees have complied with the procedures set forth above and are implementing the revised Program, the permittees do not have to repeat the same procedure for continuing or recurring exceedences of the same receiving water limitations unless directed by the Regional Water Board Executive Officer to develop additional BMPs.

**Deleted:** The permittee will have to repeat the procedure set forth above to comply with the receiving water limitations for continuing or recurring exceedences of the same water quality standard(s) unless directed to otherwise by the Regional Water Board Executive Officer.

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**PART 4 - STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION**

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**A. General Requirements**

- 1. Each permittee shall, at a minimum, adopt and implement applicable terms of this Order within its jurisdictional boundary. The Principal Permittee shall be responsible for program coordination as described in this Order as well as compliance with applicable portions of the permit within its jurisdiction. This Order shall be implemented no later than (90 days after Order adoption date), unless a later date has been specified for a particular provision in this Order and provided the Regional Administrator of the U.S. EPA has no objections.
- 2. Each permittee shall, comply with the requirements of 40 CFR122.26(d)(2) and implement programs and control measures so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality standards.
- 3. Each permittee shall require that treatment control BMPs being implemented under the provisions of this Order shall be designed, at a minimum, to achieve the BMP performance criteria for BMP categories as identified in Attachment "C", Table 3 and Table 4. Expected effluent quality for BMP category was developed from the WERF-ASCE/ U.S. EPA International BMP Database.
- 4. Each permittee shall implement programs and measures to comply with the TMDLs' WLAs for the MS4 as specified in Part 6.

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**B. Legal Authority**

- 1. Permittees shall possess the necessary legal authority to prohibit, including, but not limited to:
  - (a) Illicit connections and illicit discharges, and to remove illicit connections.
  - (b) The discharge of non-storm water to the MS4 from:
    - (1) Washing or cleaning of gas stations, auto repair garages, or other types of automotive service facilities

- (2) Mobile auto washing, carpet cleaning, steam cleaning, sandblasting and other such mobile commercial and industrial operations
  - (3) Areas where repair of machinery and equipment which are visibly leaking oil, fluid or antifreeze, is undertaken
  - (4) Storage areas for materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials
  - (5) Swimming pools<sup>1</sup> that have a concentration greater than:
    - (A) Chlorine/ bromine- 0.1mg/L
    - (B) Chloride- 250mg/L
  - (6) Swimming pool filter backwash
  - (7) Decorative fountains and ponds
  - (8) Industrial/ Commercial areas, including restaurant mats
  - (9) Concrete truck cement, pumps, tools, and equipment washout
  - (10) Spills, dumping, or disposal of materials other, such as:
    - (A) Litter, landscape and construction debris, garbage, food, animal waste, fuel or chemical wastes, batteries, and any other materials which have the potential to adversely impact water quality; and
    - (B) Any pesticide, fungicide or herbicide
  - (11) Stationary and mobile pet grooming facilities
  - (12) Trash container leachate
2. The permittees shall possess adequate legal authority to:
- (a) Control through interagency agreement, the contribution of pollutants from one portion of the MS4 to another portion of the MS4.
  - (b) Require persons within their jurisdiction to comply with conditions in the permittees' ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows).
  - (c) Utilize enforcement measures (e.g., stop work orders, notice of violations, fines, referral to City, County, and/ or District Attorneys, referral to strikeforces, etc.) by ordinances, permits, contracts, orders, administrative authority, and civil and criminal prosecution.<sup>2</sup>
  - (d) Control pollutants, including potential contribution<sup>3</sup> in discharges of storm water runoff associated with industrial activities, including construction activities to its MS4, and control the quality of storm water runoff from industrial sites, including construction sites.
  - (e) Carry out all inspections, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the MS4.

<sup>1</sup> MS4s discharging to the ocean are not subject to this prohibition.

<sup>2</sup> In the case of private responsible parties such as, HOAs, the Permittee must retain enforcement authority.

<sup>3</sup> "Potential contributions" and "potential to discharge," means adequate legal authority to prevent an actual discharge of pollutants to the municipal separate storm sewer system.

- (f) Require the use of control measures to prevent or reduce the discharge of pollutants to achieve water quality objectives.
  - (g) Require that Treatment Control BMPs be properly operated and maintained.
3. Each permittee has adopted a Storm Water Quality Ordinance based upon a countywide model. Each permittee shall ensure, no later than (two years after Order adoption date), that its Storm Water Quality Ordinance authorized the permittee to enforce all requirements of this Order.
  4. Each permittee shall submit no later than (two years after Order adoption date), a statement by its legal counsel that the permittee has obtained and possesses all necessary legal authority to comply with this Order through adoption of ordinances and/ or municipal code modifications.

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C. Fiscal Resources

1. The permittees shall implement the activities required to comply with the provisions of this Order.<sup>1</sup> Each permittee shall:
  - (a) Submit an Annual Budget Summary that shall include:
    - (1) Budgets for the upcoming report year (estimated expenditure) for the following specific categories (estimated percentages and written explanations where necessary):
      - (A) Program Management Activities.
        - (i) Overall Administrative costs
      - (B) Program Implementation Activities (storm water related activities only). Provide figures breakdown of expenditures for the categories below:
        - (i) Illicit connection/ illicit discharge program.
        - (ii) Development planning and approval
        - (iii) Construction program including inspection activities
        - (iv) Industrial/ Commercial program including inspection activities
        - (v) Public Agency Activities
          - (I) Maintenance and inspection of Treatment Control BMPs
          - (II) Municipal Street Sweeping
          - (III) Municipal Drainage Maintenance including catch basin clean-outs

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<#>The storm water budget for the upcoming report year, using estimated expenditures with written explanation where necessary for the implementation of the storm water program.¶

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

(IV) Other costs associated with storm water management  
(describe)

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(include dumping fees separately)¶

- (vi) Public Information and Participation.
- (vii) Monitoring Program
- (viii) Miscellaneous Expenditures (describe)

**D. Modifications/ Revisions**

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

**E. Designation and Responsibilities of the Principal Permittee**

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

**F. Responsibilities of the Permittees**

1. Each permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries (see Findings- Permit Coverage D.1 and D.2).

permittees are not responsible for the implementation of the provisions applicable to the Principal Permittee or other permittees. Each permittee shall:

- (a) Comply with the requirements of this Order and any modifications thereto
- (b) Coordinate among its internal departments and agencies, as necessary, to facilitate the implementation of the requirements of this Order applicable to such permittees in an efficient and cost-effective manner
- (c) Participate in intra-agency coordination (e.g., Planning Department, Fire Department, Building and Safety, Code Enforcement, Public Health, Parks and Recreation, and others) necessary to successfully implement the provisions of this Order
- (d) Report, in addition to the Budget Summary, any supplemental dedicated budgets for the same categories
- (e) Participate in Committee Meetings, as necessary

**PART 5 - SPECIAL PROVISIONS (BASELINE)**

**A. General Requirements**

- 1. This Order and the provisions herein, are intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water to the MEP and protect beneficial uses for the permitted areas in the County of Ventura.

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2. Best Management Practice Substitution

- (a) The Regional Water Board Executive Officer may approve any site-specific BMP substitution upon petition by a permittee(s) and after public notice, if the permittee can document that:

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

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**B. Watershed Initiative Participation**

- 1. The Principal Permittee shall participate in water quality meetings for watershed management and planning, including but not limited to the following:

- (a) Southern California Stormwater Monitoring Coalition (SMC)
- (b) Other Watershed planning groups as appropriate

Comment [MSOffice1]: This provision should go under the MRP.

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2. The Principal Permittee shall participate in the following regional water quality programs, and projects for watershed management and planning:

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(a) SMC Regional Monitoring Programs

(1) Southern California Regional Bioassessment

(A) Level of effort per watershed

Comment [MSOffice2]: Need to verify this level of effort with Arne.

(i) Probabilistic sites per watershed

(I) Ventura River - Six

(II) Santa Clara River - Three

(III) Calleguas Creek - Six

(ii) Integrator sites per watershed

(I) Ventura River - One

(II) Santa Clara River - One

(III) Calleguas Creek - One

(b) Southern California Bight Projects

(1) Regional Monitoring Survey – 2008, and successive years.

C. Public Information and Participation Program (PIPP)

I. The Principal Permittee shall implement a Public Information and Participation Program (PIPP) that includes, but is not limited to, the requirements listed in this part. The Principal Permittee shall coordinate with permittees to implement specific PIPP requirements. The objectives of the PIPP are as follows:

i. To increase the knowledge of the target audience about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts

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ii. To change the waste disposal and storm water pollution generation behavior of target audiences by encouraging implementation of appropriate solutions

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iii. To involve and engage communities in Ventura County to participate in mitigating the impacts of storm water pollution

2. Residential Program

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(a) "No Dumping" Message

Each permittee shall label all storm drain inlets that they own with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping shall be posted at designated public access points to creeks, other relevant waterbodies, and channels. Signage and storm drain messages shall be legible and maintained.

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(b) Public Reporting

Each permittee shall identify staff who will serve as the contact(s) person for reporting clogged catch basin inlets and illicit discharges/ dumping, faded or missing catch basin labels, and general storm water management information. Permittees shall include this information, updated by July 1 of each year, in public

information media such as the government pages of the telephone book, and internet web sites. The Principal Permittee shall compile a list of the general public reporting contacts submitted by all permittees and make this information available on the web site (<http://www.vcstormwater.org/contact.htm>) and upon request. Each permittee is responsible for providing current, updated information to the Principal Permittee.

(c) Outreach and Education

- (1) Collaboratively, the Permittees shall implement the following activities:
  - (A) Conduct a Storm Water pollution prevention advertising campaign.
  - (B) Conduct Storm Water pollution prevention public service announcements.
  - (C) Distribute storm water pollution prevention public education materials to:
    - (i) Automotive parts stores
    - (ii) Home improvement centers/ lumber yards/ hardware stores
    - (iii) Pet shops/ feed stores
  - (D) Public education materials shall include, but are not limited to information on the proper disposal, storage, and use of:
    - (i) Vehicle waste fluids
    - (ii) Household waste materials
    - (iii) Construction waste materials
    - (iv) Pesticides and fertilizers (including integrated pest management practices-IPM)
    - (v) Green waste (including lawn clippings and leaves)
    - (vi) Animal wastes
  - (E) Work with existing local watershed groups or organize watershed Citizen Advisory Groups/ Committees to develop effective methods to educate the public about storm water pollution no later than (365 days after Order adoption date).
  - (F) Organize events targeted to residents and population subgroups; and
  - (G) Maintain the Countywide storm water website ([www.vcstormwater.org](http://www.vcstormwater.org)), which shall include educational material listed in the preceding subpart C.1(c)(1)(C).
- (2) The Principal Permittee shall develop a strategy to educate ethnic communities through culturally effective methods. Details of this strategy should be incorporated into the PIPP, and implemented, no later than (365 days after Order adoption date).
- (3) Each permittee shall continue the existing outreach program to residents on the proper disposal of litter, green waste, pet waste, proper vehicle maintenance, lawn care and water conservation practices.
- (4) Each permittee shall conduct educational activities within its jurisdiction and participate in countywide events.

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- (5) The permittees shall make a minimum of 5 million impressions per year to the general public related to storm water quality, with a minimum of 2.5 million impressions via newspaper, local TV access, local radio and/ or internet access.
- (6) The Principal Permittee, in cooperation with the permittees, shall provide schools within each School District in the County with materials, including, but not limited to, videos, live presentations, and other information necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution. Alternatively, a permittee may submit a plan to the Regional Water Board Executive Officer for consideration no later than (90 days of adoption of the Order), to provide outreach in lieu of the school curriculum. Pursuant to Water Code section 13383.6, the permittees, in lieu of providing educational materials/ funding to School Districts in the County, may opt to provide an equivalent amount of funds or fraction thereof to the Environmental Education Account established within the State Treasury.
- (7) Each permittee shall provide the contact information for their appropriate staff responsible for storm water public education activities to the Principal Permittee and contact information changes no later than 30 days after a change occurs.

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- (8) The permittees shall develop and implement a behavioral change assessment strategy no later than (365 days after Order adoption date), in order to determine whether the PIPP is demonstrably effective in changing the behavior of the public. The strategy shall be developed based on current sociological data and studies.

Deleted: (8). The permittees shall develop and implement a strategy to measure the effectiveness of in-school educational programs. The protocol shall include assessment of students' knowledge of the adverse impacts of storm water pollution and solutions before and after educational programs are conducted. The strategy shall be implemented no later than (365 days after Order adoption date).

(d) Pollutant-Specific Outreach

The Principal Permittee, in cooperation with permittees, shall coordinate to develop outreach programs that focus on the watershed-specific pollutants identified in Attachment "B" (Pollutants of Concern) no later than (365 days after Order adoption date). Metals may be appropriately addressed through the Industrial/ Commercial Facilities Program (e.g. the distribution of educational materials on appropriate BMPs for metal fabrication and recycling facilities that have been identified as a potential source). Region-wide pollutants may be included in the Principal Permittee's mass media outreach program.

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2. Businesses Program

(a) Corporate Outreach

- (1) The permittees shall work with other regional or statewide agencies and, associations such as the California Storm Water Quality Association



(CASQA), to develop and implement a Corporate Outreach program to educate and inform corporate franchise operators and/or local facility managers about storm water regulations and BMPs. Once developed, the program shall target a minimum of four Retail Gasoline Outlets (RGO) franchisers and cover a minimum of 80% of RGO franchisees in the county, four retail automotive parts franchisers, two home improvement center franchisers and six restaurant franchisers. At a minimum, this program shall include:

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Comment [MSOffice3]: The 4/29/08 draft does not specify the frequency of the outreach effort only the scope. The earlier draft provided a frequency requirement.

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- (A) Confer with franchise operators and/or local facility managers to explain storm water regulations.
- (B) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide managers with recommendations to facilitate employee and facility compliance with storm water regulations.

(b) Business Assistance Program

(1) The permittees shall implement a Business Assistance Program to provide technical information to small businesses to facilitate their efforts to reduce the discharge of pollutants in storm water. The Program shall include:

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(A) On-site, telephone or e-mail consultation regarding the responsibilities of businesses to reduce the discharge of pollutants, procedural requirements, and available guidance documents,

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(B) Distribution of storm water pollution prevention education materials to operators of auto repair shops, car wash facilities (including mobile car detailing), mobile carpet cleaning services, commercial pesticide applicator services and restaurants.

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D. Industrial/ Commercial Facilities Program

I. Each permittee shall require implementation of pollutant reduction and control measures as allowed by local ordinances at industrial and commercial facilities, with the objective of reducing pollutants in storm water. Except where specified otherwise in this Order, pollutant reduction and control measures may be used alone or in combination, and may include Treatment Control, Source Control BMPs, and operation and maintenance procedures, which may be applied before, during, and/ or after pollutant generating activities. At a minimum, the Industrial/ Commercial Facilities Control Program shall include requirements to:

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- i. Track
  - ii. Inspect
  - iii. Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water
1. Inventory of Critical Sources

draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

- (a) Each permittee shall maintain a watershed-based inventory or database of all facilities within its jurisdiction that are critical sources of storm water pollution. Critical Sources to be tracked are summarized below, and specified in Attachment "D":
  - (1) Commercial Facilities
    - (A) Restaurants
    - (B) Automotive service facilities
    - (C) RGOs and automotive dealerships
    - (D) Nurseries and nursery centers
  - (2) U.S. EPA Phase I, II Facilities
  - (3) Other Federally-mandated Facilities [as specified in 40 CFR122.26(d)(2)(iv)(C)]
    - (A) Municipal landfills
    - (B) Hazardous waste treatment, disposal, and recovery facilities
    - (C) Facilities subject to SARA Title III (also known as the Emergency Planning and Community Right-to-Know Act (EPCRA))
- (b) Each permittee shall include the following minimum fields of information for each critical sources industrial and commercial facility
  - (1) Name of facility and name of owner/ operator.
  - (2) Address of facility
  - (3) Coverage under the IASGP or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Board pertaining to runoff discharges.
  - (4) A narrative description including Standard Industrial Classification (SIC) System/ North American Industry Classification System (NAICS) Codes that best describe the industrial activities performed and principal products used at each facility and status of exposure to storm water.
- (c) The Regional Water Board encourages permittees to include additional fields of information, such as material usage and/ or industrial output, and discrepancies between SIC System/ NAICS Code designations (as reported by facility operators) and identify the actual type of industrial activity that has the potential to pollute storm water. In addition, the Regional Water Board encourages the Permittees to use of an automated database system, such as a Geographical Information System (GIS) or Internet-based system.
- (d) Each permittee shall update its inventory of critical sources at least annually. The update may be accomplished through collection of new information obtained through field activities or through other readily available inter and intra-agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits, and similar information).

Comment [MSOffice4]: Strange language for a permit.  
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2. Inspect Critical Sources

(a) Commercial Facilities

Permittee shall inspect all facilities identified in subpart 5.D.2. which have the potential to discharge runoff into the MS4 twice during the 5-year term of the Order, provided that the first inspection occurs no later than (2 years after Order adoption date). A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. In addition, each permittee shall implement the activities outlined in the following subparts. At each facility, inspectors shall verify that the operator is implementing the source control BMPs. The permittees may require implementation of additional BMPs where storm water flows from the MS4 discharge to an environmentally sensitive area (ESA, see part 7 for definition) or a CWA § 303(d) listed waterbody (see subpart 3(b) below).

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(1) Restaurants-

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

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Table 1 - BMPs at Restaurants

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

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Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Storm Water Conveyance System Maintenance	Implementation of proper conveyance system operation and maintenance protocols.	SC-44

Deleted: Waste/Hazardous Materials Storage, Handling and Disposal ... [19]

(2) Automotive Service Facilities-

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

Table 2 - BMPs at Automotive Service Facilities

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

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Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices	SC-43
Storm Water Conveyance System Maintenance Practices	Implementation of proper conveyance system operation and maintenance protocols.	SC-44

(3) Retail Gasoline Outlets and Automotive Dealerships-

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

Table 3 - BMPs at Retail Gasoline Outlets

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

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices	SC-43

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

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

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Table 4 - BMPs at Nurseries

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

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Building and Grounds Maintenance	Implementation of effective facility maintenance practices.	SC-41

(b) Industrial Facilities

Each Permittee shall conduct compliance inspections as specified below.

(1) Frequency of Inspection

- (A) Each permittee shall perform an initial inspection at all industrial facilities identified by the U.S. EPA in 40 CFR122.26(c) no later than 2 years after Order adoption date. After the initial inspection, all facilities determined as having exposure of industrial activities to storm water are subject to a second mandatory compliance inspection. A minimum interval of 6 months between the first and the second compliance inspection is required.
- (B) Following the first mandatory compliance inspection, a permittee shall perform a second mandatory compliance inspection yearly at a minimum of 20% of the facilities determined not to have exposure of industrial activities to storm water. The purpose of this inspection is to verify the continuity of the no exposure status. Facilities determined as having exposure will be notified that they must obtain coverage under the IASGP. A facility need not be inspected more than twice during the term of the Order unless subject to an enforcement action. A minimum interval of 6 months in between the first and the second compliance inspection is required.
- (C) Applicable to all facilities: A permittee need not inspect facilities that have been inspected by the Regional Water Board within the previous 24 month interval. However, if the Regional Water Board performed only one inspection, the permittee shall conduct the second required mandatory compliance inspection.

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

- (A) Has a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a Storm Water Pollution Prevention Plan (SWPPP) is available on-site.
- (B) Is effectively implementing BMPs in compliance with County and municipal ordinances. Facilities must implement the source control BMPs identified in subpart 5.D.3. and Appendix D, *California Stormwater Industrial and Commercial BMP Handbook (2003)*. The permittees shall require implementation of additional BMPs where the storm water from the MS4 discharges to a CWA § 303(d) listed waterbody; or

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- (C) Has applied and has a current No Exposure Certification (and WDID number) for facilities subject to this requirement.

3. Ensure Compliance of Critical Sources

(a) **BMP Implementation:** Facilities must implement the source control BMPs identified in Part 5. D. 3. and, as applicable, Appendix D. California Stormwater Industrial and Commercial BMP Handbook (2003). In the event that a permittee determines that a BMP is infeasible at any site, the permittee shall require implementation of similar BMPs that will achieve the equivalent reduction of pollutants in the storm water discharges. Likewise, for those BMPs that are not protective of water quality standards, permittees may require additional site-specific controls.

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(b) **Environmentally Sensitive Areas (ESAs) and Impaired Waters:** For critical sources that discharge to ESAs or that are tributary to CWA § 303(d) listed impaired waterbodies, the permittees shall require operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality objectives.

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(c) **Progressive Enforcement:** Each permittee shall implement a progressive enforcement policy to ensure that facilities are brought into compliance with all storm water requirements within a reasonable time period as specified below.

- (1) In the event that a permittee determines, based on an inspection conducted, that an operator has failed to adequately implement all necessary BMPs, that permittee shall take progressive enforcement actions which, at a minimum, shall include a follow-up inspection within 4 weeks from the date of the initial inspection.
- (2) In the event that a permittee determines that an operator has failed to adequately implement BMPs after a follow-up inspection, that permittee shall take further enforcement action as established through authority in its municipal code and ordinances or through the judicial system.
- (3) Each permittee shall maintain records and make them available on request to the Regional Water Board, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.

4. Interagency Coordination

(a) **Referral of Violations of the Municipal Storm Water Ordinances and California Water Code § 13260:** A permittee may refer a violation(s) of § 13260 by Industrial and Commercial facilities to the Regional Water Board provided that under its municipal storm water ordinance the permittee has made a good faith effort of progressive enforcement. At a minimum, a permittee's good faith effort must be documented with:



## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

- (1) Two follow-up inspections
  - (2) Two warning letters or notices of violation
- (b) **Referral of Violations of the Industrial Activities Storm Water General Permit (IASGP), including Requirements to File a Notice of Intent or No Exposure Certification:** For those facilities in violation of the municipal storm water ordinance and subject to the IASGP, permittees may escalate referral of such violations to the Regional Water Board (electronically on a quarterly basis to the Regional Water Board's Storm Water Site at MS4stormwaterb4@waterboards.ca.gov) after one inspection and one written notice (copied to the Regional Water Board) to the operator regarding the violation. In making such referrals, permittees shall include, at a minimum, the following documentation:
- (1) Name of the facility
  - (2) Operator of the facility
  - (3) Owner of the facility
  - (4) WDID Number (if applicable)
  - (5) Industrial activity being conducted at the facility that is subject to the IASGP
  - (6) Records of communication with the facility operator regarding the violation, which shall include at least an inspection report
  - (7) The written notice of the violation copied to the Regional Water Board
- (c) **Investigation of Complaints Regarding Facilities – Transmitted by the Regional Water Board Staff:** Each permittee shall initiate, within one business day,<sup>1</sup> investigation of complaints of non-storm water discharges to the MS4 from facilities within its jurisdiction (other than non-storm water discharges). The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm the complaint to determine if the facility is effectively complying with the municipal storm water urban runoff ordinances, and, if necessary, to oversee corrective action.
- (d) **Assistance of Regional Water Board Enforcement Actions:** As directed by the Regional Water Board Executive Officer, permittees shall assist Regional Water Board enforcement actions by: helping in identification of current owners, operators, and lessees of facilities; providing staff, when available, for joint inspections with Regional Water Board inspectors; appearing as witnesses in Regional Water Board enforcement hearings; and providing copies of inspection reports and other progressive enforcement documentation.
- (e) **Participation in a Task Force:** The permittees shall participate with the Regional Water Board, and other public agencies on an enforcement task force such as the Storm Water Task Force, to communicate concerns regarding special

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

cases of storm water violations by industrial and commercial facilities and to develop a coordinated approach to enforcement action.

**E. Planning and Land Development Program**

**I. Purpose**

1. The permittees shall implement a Planning and Land Development Program pursuant to part 5.E. for all New Development and Redevelopment projects subject to this Order to:
  - (a) Minimize the adverse impacts from storm water runoff on the biological integrity of Natural Drainage Systems and the beneficial uses of waterbodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21100).
  - (b) Minimize the percentage of impervious surfaces on land developments to support the percolation and infiltration of storm water into the ground.
  - (c) Minimize pollutant loadings from impervious surfaces such as roof-tops, parking lots, and roadways through the use of properly designed, technically appropriate BMPs (including Source Control BMPs such as good housekeeping practices), Low Impact Development Strategies, and Treatment Control BMPs.
  - (d) Properly select, design and maintain Treatment Control BMPs and Hydromodification Control BMPs to address pollutants that are likely to be generated, assure long-term function, and to avoid the breeding of vectors.<sup>1</sup>
  - (e) Prioritize the selection of BMPs suites to remove storm water pollutants, reduce storm water runoff volume, and beneficially reuse storm water to support an integrated approach to protecting water quality and managing water resources in the following order of preference:
    - (1) Low Impact Development and Source Control Strategies (see subpart E.III.2 below)
    - (2) Multi-benefit Treatment Control BMPs
    - (3) Hydromodification Control BMPs

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**II. Applicability**

1. New Development Projects.
  - (a) Development projects subject to permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are:
    - (1) All development projects equal to 1 acre or greater of disturbed area and adding more than 10000 square feet of impervious surface area
    - (2) Industrial park 10,000 square feet or more of impervious surface area

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<sup>1</sup> Treatment BMPs when designed to drain within 48 hours of the end of rainfall minimize the potential for the breeding of vectors.

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- (3) Commercial strip mall 10,000 square feet or more of impervious surface area
- (4) Retail gasoline outlet 5,000 square feet or more of impervious surface area
- (5) Restaurant (SIC 5812) 5,000 square feet or more of impervious surface area
- (6) Parking lot 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces
- (7) Street and road construction of 10,000 square feet or more of impervious surface area
- (8) Automotive service facilities (SIC 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more of impervious surface area]
- (9) Redevelopment projects in subject categories that meet Redevelopment thresholds (identified in subpart E.II.2 below)
- (10) Projects located in or directly adjacent to, or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
  - (A) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat; and,
  - (B) Create 2,500 square feet or more of impervious surface area
- (11) Single-family hillside homes. To the extent that a Permittee may lawfully impose conditions, mitigation measures or other requirements on the development or construction of a single-family home in a hillside area as defined in the applicable Permittee's Code and Ordinances, each Permittee shall require that during the construction of a single-family hillside home, the following measures to be implemented:
  - (A) Conserve natural areas
  - (B) Protect slopes and channels
  - (C) Provide storm drain system stenciling and signage
  - (D) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability
  - (E) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability

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Measures to be implemented:

2. Redevelopment Projects

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

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- (3) Where Redevelopment results in an alteration to less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the alteration must be mitigated, and not the entire development.
- (b) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade and alignment, is considered a routine maintenance activity.
- (c) Redevelopment does not include the repaving of existing roads to maintain original line and grade.
- (d) Existing single-family dwelling and accessory structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.

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3. Effective Date -~~The New Development and Redevelopment requirements contained in Section E of the Order shall begin 90 calendar days after Regional Board Executive Officer approval of the changes to the Technical Guidance Manual needed to comply with this permit. After that date all discretionary permit projects or project phases that have not been deemed complete for processing, or discretionary permit projects without vesting tentative maps that have not requested and received an extension of previously granted approvals must comply with the requirements in Section E. For ministerial permits, the permit application date will be used to determine if the project must comply with requirements of Section E.~~For Permittee's projects the effective date shall be the date the governing body approves authorization to advertize to bid the project.

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**III. New Development/ Redevelopment Performance Criteria**

- 1. Integrated Water Quality/ Flow Reduction/ Resources Management Criterion
  - (a) Permittees shall establish standards for all New Development and Redevelopment projects identified in subpart 5.E.II to control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces through percolation, infiltration, storage, or evapo-transpiration, by reducing the percentage of Effective Impervious Area (EIA). The standards shall be based on the type of development, site conditions (including soils and groundwater), community constraints, and shall consider USEPA's "Managing Wet Weather with Green Infrastructure, Action Strategy, 2008".
  - (b) Impervious surfaces may be rendered "ineffective" if the storm water runoff is:

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- (1) Drained into a vegetated cell, over a vegetated surface, or through a vegetated swale, having soil characteristics either as native material or amended medium using approved soil engineering techniques; or
- (2) Collected and stored for beneficial use such as irrigation, or other reuse purpose; or
- (3) Discharged into an infiltration trench
- (c) Any excess surface discharge of the storm water runoff shall be mitigated in accordance with subpart 5.E.III.4
- (d) Alternatively, where a permittee or a coalition of permittees have a Redevelopment Project Area Master Plan (RPAMP) approved in accordance with subpart 5.E.IV that balances multiple considerations, the provisions of the RPAMP will substitute for the EIA requirements identified above.

Section 5.E.III.2 was moved to the Technical Guidance section (5E.IV.5)

3. Hydromodification (Flow/ Volume/ Duration) Control Criteria

(a) Each permittee shall require all New Development and Redevelopment projects identified in subpart 5.E.II to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems. The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration. This shall be achieved by maintaining the project's pre-project storm water runoff flow rates and durations.

(1) Description

- (A) Hydromodification control in natural drainage systems shall be achieved by maintaining the Erosion Potential ( $E_p$ ) in streams at a value of 1, unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat (see Attachment "E" - Determination of Erosion Potential)
- (B) Hydromodification control may include one, or a combination of on-site, regional subregional hydromodification control BMPs, LID strategies, or stream restoration measures, with preference given to LID strategies and hydromodification control BMPs. Any in-stream restoration measure shall not adversely affect the beneficial uses of the natural drainage systems
- (C) Natural drainage systems, which include unlined or unimproved (not engineered) creeks, streams, rivers and their tributaries, are located in the following watersheds:
  - (i) Ventura River
  - (ii) Santa Clara River
  - (iii) Calleguas Creek
  - (iv) Miscellaneous Ventura Coastal

**Deleted:** Low Impact Development (LID) Measures¶  
 <#>All new development and redevelopment projects identified in subpart 5.E.II shall integrate Low Impact Development (LID) principles into project design. LID is a storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect predevelopment hydrologic functions.¶  
 <#>The permittees shall develop a LID Technical Guidance section to the Ventura County Water Guidance Manual for Storm Water Quality Control Measures no later than (365 days from the Order's adoption date) for use by land planners and developers. The LID Technical Guidance section shall include objectives and specifications for integration of LID strategies in the areas of:¶  
 <#>Site Assessment¶  
 <#>Site Planning and Layout¶  
 <#>Vegetative Protection, Revegetation, and Maintenance¶  
 <#>Techniques to Minimize Land Disturbance ¶  
 <#>Techniques to Implement LID Measures at Various Scales¶  
 <#>Integrated Water Resources Management Practices¶  
 <#>LID Design and Flow Modeling Guidance¶  
 <#>Hydrologic Analysis¶  
 <#>LID Credits¶  
 <#>Alternatively, the permittees may satisfy this requirement by jointly developing a Southern California Regional LID Technical Guidance Document in partnership with the SMC, no later than (365 days from the Order's adoption date) if the Southern California Regional LID Technical Guidance Document at a minimum addresses all the objectives and integration strategies identified in the preceding (1) through (9).¶  
 <#>The permittees shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications contained in the LID Technical Guidance Section through a training program. The LID training program will include the following:¶  
 <#>LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders¶

... [20]

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- (D) The Southern California Storm Water Monitoring Coalition (SMC) is developing a regional methodology to eliminate or mitigate the adverse impacts of hydromodification as a result of urbanization, including hydromodification assessment and management tools.
    - (i) The SMC has identified the following objectives for the Hydromodification Control Study (HCS):
      - (I) Establishment of a stream classification for Southern California streams
      - (II) Development of a deterministic or predictive relationship between changes in watershed impervious cover and stream-bed/ stream bank enlargement
      - (III) Development of a numeric model to predict stream-bed/ stream bank enlargement and evaluate the effectiveness of mitigation strategies
  - (E) The permittees shall participate in the SMC HCS to develop:
    - (i) A regional stream classification system
    - (ii) A numerical model to predict the hydrological changes resulting from new development
    - (iii) A numerical model to identify effective mitigation strategies
  - (F) Until the completion of the SMC HCS, permittees shall implement the Interim Hydromodification Control Criteria, described in subpart 5.E.III.3(a)(2) below, to control the potential adverse impacts of changes in hydrology that may result from new development and redevelopment projects identified in subpart 5.E.II
  - (G) Existing single-family structures are exempt from the Hydromodification control requirements unless such projects disturb one acre or more of land or create, add, or replace 10,000 square feet or more of impervious surface area.
- (2) Exemptions to Hydromodification Controls. Permittees may exempt the following New Development and Redevelopment projects from implementation of Hydromodification controls where assessments of downstream channel conditions and proposed discharge hydrology indicate that adverse Hydromodification effects to present and future beneficial uses of Natural Drainage Systems are unlikely:
- (A) All projects that disturb less than one acre.
  - (B) Projects that are replacement, maintenance or repair of a Permittee's existing flood control facility, storm drain, or transportation network.
  - (C) Redevelopment Projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions.

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(D) Projects that have any increased discharge go directly or via a storm drain to a sump, lake, area under tidal influence, into a waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to Hydromodification impacts:

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(E) Projects that discharge directly or via a storm drain into concrete or improved (not natural) channels (e.g., rip rap, sackcrete, etc.), which, in turn, discharge into receiving water that is not susceptible to Hydromodification impacts (as in D above).

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(2) Interim Hydromodification Control Criteria

(A) The Interim Hydromodification Control Criteria to protect natural drainage systems until permittees complete Hydromodification Control Plans (HCPs), described in subpart 5.E.III.3(a)(3) below, are as follows:

(i) Projects disturbing land area of less than fifty acres will be subject to LID and/or source or treatment BMPs as addressed in this permit. The combined effects of LID and the treatment BMPs are considered adequate for Hydromodification control for projects that disturb less than 50 acres.

(ii) Projects disturbing land areas of fifty acres or greater  
Projects in this category shall develop and implement a Hydromodification Analysis Study (HAS) that demonstrates that post development conditions are expected to approximate the pre-project erosive effect of sediment transporting flows in receiving waters. The HAS must lead to the incorporation into the project design features intended to approximate, to the extent feasible, an Erosion Potential value of 1 or any alternative value that can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage systems, or

Deleted: Projects in this category shall implement hydromodification controls such that the 2-year 24-hour storm event post development hydrograph peak flow and volume will match within one percent of the 2-year 24-hour storm event pre-development peak flow and volume hydrograph.

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(I) Alternatively, project proponents in this category may elect to develop, in partnership with permittees, an equivalent implementation method based on flow duration control in the form of nomographs relating planned impervious area and local soil type (infiltration rates) to determine hydromodification control BMP volume and land area requirements for the proposed project. The nomographs shall be derived from continuous simulation modeling using Ventura County specific rain gauge records and soil

types, and calibrated using data from a local undeveloped watershed with similar conditions; or

- (II) ~~Alternatively, the Co-Permittees may revise the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures to address projects that disturb more than 50 acres.~~

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(3) Final Criteria

(A) The permittees shall develop and implement watershed specific HCPs no later than 180 days after the completion of the SMC HCS.

- (i) The HCP shall identify:
  - (I) Stream classifications
  - (II) Flow rate and duration control methods
  - (III) Sub-watershed mitigation strategies
  - (IV) Stream restoration measures, which will maintain the stream and tributary Erosion Potential at 1 unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage system tributaries

(B) The HCP shall contain the following elements:

- (i) Hydromodification Management Standards
- (ii) Natural Drainage Areas and Hydromodification Management Control Areas
- (iii) New Development and Redevelopment Projects subject to the HCP
- (iv) Description of authorized Hydromodification Management Control BMPs
- (v) Hydromodification Management Control BMP Design Criteria.
- (vi) For flow duration control methods, the range of flows to control for, and goodness of fit criteria
- (vii) Allowable low critical flow,  $Q_c$ , which initiates sediment transport
- (viii) Description of the approved Hydromodification Model.
- (ix) Any alternate Hydromodification Management Model and Design
- (x) Stream Restoration Measures Design Criteria
- (xi) Monitoring and Effectiveness Assessment
- (xii) Record Keeping

4. Water Quality Mitigation Criteria



draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

- (a) Each permittee shall require all New Development and Redevelopment projects identified in subpart 5.E.II to implement post-construction storm water treatment BMPs and control measures to mitigate storm water pollution as follows:
  - (1) Projects disturbing land areas less than 50 acres
    - (A) Volumetric Treatment Control BMP
      - (i) The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area using a 48 to 72-hour draw down time, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998)*; or
      - (ii) The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions); or
      - (iii) The volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system;<sup>1</sup> and/ or
    - (B) Flow Based Treatment Control BMP
      - (i) The flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity; or
      - (ii) The flow of runoff produced from a rain event equal to at least 2 times the 85th percentile hourly rainfall intensity as determined from local rainfall records; or
      - (iii) Eight percent of the 50-year storm design flow rate as determined from the method recommended in the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions)
  - (2) Projects disturbing land area of 50 acres or greater
    - (A) Eighty percent of the average runoff volume using an appropriate public domain continuous flow model (such as Storm Water Management Model (SWMM) or Hydrologic Engineering Center – Hydrologic Simulation Program – Fortran (HEC-HSPF), using the local rainfall record and relevant BMP Performance data.

IV. Implementation

1. Maintenance Agreement and Transfer

- (a) ~~Prior to issuing approval for final occupancy each permittee shall require that all new development and redevelopment projects subject to post-construction BMP requirements provide an operation and maintenance plan and verification of ongoing maintenance provisions for LID practices, Treatment Control BMPs, and~~

Comment [MSOffice5]: I find section IV.1(a) confusing. Seems to be missing a verb or some transition.

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

Hydromodification Control BMPs including but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, CEQA mitigation requirements, conditional use permits, and/ or other legally binding maintenance agreements.

- (1) Verification at a minimum shall include the developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either
  - (A) A signed statement from the public entity assuming responsibility for BMP maintenance; or
  - (B) Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection at least once a year; or
  - (C) Written text in project covenants, conditions, and restrictions (CCRs) for residential properties assigning BMP maintenance responsibilities to the Home Owners Association (HOA); or
  - (D) Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of BMPs.

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- (b) Each Permittee shall require all development projects subject to post-construction BMP requirements to provide a plan for the operation and maintenance of all structural and treatment controls. The Operation and Maintenance plan shall follow the Technical Guidance Manual Appendix D "Maintenance Plan Guidance" (or subsequent guidance manual) for each BMP component. The plan shall be submitted for examination of relevance to keeping the BMPs in proper working order. Where BMPs are transferred to Permittee for ownership and maintenance, the plan shall also include all relevant costs for upkeep of BMPs in the transfer. Operation and Maintenance plans for private BMPs shall be kept on site for periodic review by Permittee inspectors.

2. Tracking, Inspection, and Enforcement of Post-Construction BMPs

- (a) Each permittee shall implement a tracking system, and an inspection and enforcement program for new development and redevelopment post-construction storm water BMPs as set fort in part 5.E no later than (365 days after Order adoption date).
  - (1) Implement a GIS or other electronic system for tracking projects that have been conditioned for post-construction BMPs. The electronic system, at a minimum, should contain the following information:
    - (A) Municipal Project ID
    - (B) State WDID No
    - (C) Project Acreage
    - (D) BMP Type and Description
    - (E) BMP Location (coordinates)
    - (F) Date of Acceptance

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- (G) Date of Maintenance Agreement
- (H) Maintenance Records
- (I) Inspection Date and Summary
- (J) Corrective Action
- (K) Date Certificate of Occupancy Issued
- (L) Replacement or Repair Date

- (b) Inspect all development sites upon completion of construction and prior to the issuance of occupancy certificates to ensure proper installation of LID measures, structural BMPs, treatment control BMPs and Hydromodification control BMPs. The inspection may be combined with other inspections provided it is conducted by trained personnel.
- (c) Verify proper maintenance and operation of post-construction BMPs previously approved for new development and redevelopment and operated by the Permittees. The post construction BMP maintenance inspection program shall incorporate the following elements:
  - (1) Post-construction BMP Maintenance Inspection checklist.
  - (2) Inspection at least once every 2 years, beginning (365 days after Order adoption date), of post-construction BMPs to assess operation conditions with particular attention to:
  - (3) Criteria and procedures for post construction Treatment Control and Hydromodification Control BMP repair, replacement, or re-vegetation.
- (d) For post construction BMPs operated and maintained by parties other than the Permittees the Permittees shall require annual reports by the other parties demonstrating proper maintenance and operations.
- (e) Undertake enforcement as appropriate based on the results of the inspection.

3. Alternative Post Construction Storm Water Mitigation Programs

- (a) A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements.
- (b) Upon review and a determination by the Regional Water Board Executive Officer that the proposal is technically valid and appropriate, the Regional Water Board may consider for approval such a program if its implementation will:
  - (1) Result in equivalent or improved storm water quality
  - (2) Protect stream habitat
  - (3) Be fiscally sustainable and has secure funding for long term maintenance.
  - (4) Promote cooperative problem solving by diverse interests
  - (5) Be completed in the most expeditious time frame possible.
- (c) A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) that takes into consideration the balancing of water quality protection with the needs for

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<#>For Proprietary BMPs – solids removal, pump-out, blockage and drawdown drainage.¶

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<#>The Regional Water Board, State Water Board, or U.S. EPA may include the following actions for coordination of the permittees’ program with the post-construction BMP provisions of the statewide construction activity storm water general permit or individual construction activity storm water permits.¶  
<#>Absence, Inadequate or Ineffective Post-Construction BMPs.¶  
<#>If the permitting authorities’ inspection does not readily identify the implementation of post-construction control BMPs at the site, progressive enforcement action will be initiated against the permittee and/ or project owner/ developer.¶  
<#>If the permitting authorities’ inspection identifies the implementation of post-construction BMPs, but they are determined to be inadequate or ineffective (e.g. undersized, or non-specific to pollutants of concern, or poorly maintained), progressive enforcement action will be initiated against the permittee and/ or project owner/ developer.¶  
<#>Failure to implement or the implementation of inadequate or ineffective BMPs may be grounds for the permitting authorities to deny the construction activity storm water permit Notice of Termination (NOT) for the project.¶

**Comment [MSOffice6]:** The Permittees are not exactly in agreement with this alternative mitigation program as it appears to be a considerable administrative effort and to date has not ever been used.

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adequate housing, population growth, public transportation and management, land recycling, and urban revitalization.

(d) For the RPAMP to be considered, a technical panel of the Local Government Commission or an equivalent state or regional planning agency must have reviewed and approved the proposed RPAMP, prior to its submittal to the Regional Water Board. The Regional Water Board Executive Officer may then consider the RPAMP for approval, or elect to submit it to the Regional Water Board for consideration.

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(e) The RPAMP, on approval, may substitute in part or wholly for post-construction requirements.

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(f) Redevelopment Project Areas include the following:

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- (1) City Center areas
- (2) Historic District areas
- (3) Brownfield areas
- (4) Infill Development areas
- (5) Urban Transit Villages
- (6) Any other redevelopment area so designated by the Regional Water Board

(g) Nothing in these provisions shall be construed as to delay the implementation of post-construction control requirements, as approved in this Order.

4. Mitigation Funding

(a) A permittee or a coalition of permittees may create a management framework to fund regional or subregional solutions to storm water pollution, where any of the following situations occur:

Comment [MSOffice7]: This section also seem unnecessary. As far as the Permittees can read there's nothing in this permit that would preclude regional/mitigation funding so we're not real sure why this section is included.

- (1) A waiver for impracticability is granted
- (2) Funds become available
- (3) Off-site mitigation is required because of loss of environmental habitat; or
- (4) An approved watershed management plan, or an integrated water resources management plan, or a regional storm water mitigation plan, or a wetlands recovery plan exists that incorporates an equivalent or improved strategy for storm water pollution mitigation

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Comment [MSOffice8]: Somewhat open ended term therefore a moving target.

5. Developer Technical Guidance and Information

(a) The permittees shall update the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures to include, at a minimum, the following:

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- (1) Hydromodification Control criteria described in this Order, including numerical criteria.
- (2) Expected BMP pollutant removal performance including effluent quality (ASCE/ U.S. EPA International BMP Database, CASQA New Development BMP Handbook, technical reports, local data on BMP performance, and the scientific literature appropriate for southern California geography and climate).
- (3) Selection of appropriate BMPs for storm water pollutants of concern.

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- (4) Data on Observed Local Effectiveness and performance of implemented BMPs.
- (5) BMP Maintenance and Cost Considerations.
- (6) Guiding principles to facilitate integrated water resources planning and management in the selection of BMPs, including water conservation, groundwater recharge, public recreation, multipurpose parks, open space preservation, and redevelopment retrofits.
- (7) LID principles and specifications, including the objectives and specifications for integration of LID strategies in the areas of:
  - (A) Site Assessment.
  - (B) Site Planning and Layout.
  - (C) Vegetative Protection, Revegetation, and Maintenance.
  - (D) Techniques to Minimize Land Disturbance.
  - (E) Techniques to Implement LID Measures at Various Scales
  - (F) Integrated Water Resources Management Practices.
  - (G) LID Design and Flow Modeling Guidance.
  - (H) Hydrologic Analysis.
  - (I) LID Credits.

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(b) Permittees shall update the Technical Guidance Manual within 365 days of the adoption of this Order.

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(c) The permittees shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications contained in the LID Technical Guidance Section through a training program. The LID training program will include the following:

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- (1) LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders
- (2) A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects
- (3) Materials and data from LID pilot projects and demonstration projects including case studies
- (4) Guidance on how to integrate LID requirements into the local regulatory program(s) and requirements
- (5) Availability of the LID Technical Guidance regarding integration of LID measures at various project scales
- (6) Guidance on the relationship among LID strategies, Source Control BMPs, Treatment Control BMPs, and Hydromodification Control requirements

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6. Project Coordination

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- (a) Each permittee shall facilitate a process for effective approval of post-construction storm water control measures. The process shall include:
  - (1) Detailed BMP review including BMP sizing calculations, BMP pollutant removal performance, and municipal approval; and

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- (2) An established structure for communication and delineated authority between and among municipal departments that have jurisdiction over project review, plan approval, and project construction through memoranda of understanding (MOU) or an equivalent agreement.

#### V. State Statute Conformity

1. California Environmental Quality Act (CEQA) Document Update
  - (a) Each permittee shall incorporate into its CEQA process no later than (6 months from Order adoption date), those additional procedures necessary for considering potential storm water quality impacts and providing for appropriate mitigation when preparing and reviewing CEQA documents.
    - (1) The procedures shall require consideration of the following:
      - (A) Potential impact of project construction on storm water runoff.
      - (B) Potential impact of project post-construction activity on storm water runoff.
      - (C) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.
      - (D) Potential for discharge of storm water to impair the beneficial uses of the receiving waters.
      - (E) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and waterbodies.
      - (F) Potential for significant changes in the flow velocity or volume of storm water runoff to cause harm to or impair the beneficial uses of natural drainage systems.
      - (G) Potential for significant increases in erosion at the project site or surrounding areas.
2. General Plan Update
  - (a) Each permittee shall amend, revise or update its General Plan to include watershed and storm water quality and quantity management considerations and policies when any of the following General Plan elements are updated or amended:
    - (1) Land Use
    - (2) Housing
    - (3) Conservation
    - (4) Open Space
  - (b) Each permittee shall provide the Regional Water Board with the draft amendment or revision when a listed General Plan element or General Plan is noticed for comment in accordance with Cal. Govt. Code § 65350 *et seq.*

**F. Development Construction Program**

I. Each Permittee shall implement a construction program that prevents illicit construction-related discharges of pollutants into the MS4, implements and maintains structural and non-structural BMPs to reduce pollutants in stormwater runoff from construction sites, reduces construction site discharges of pollutants from the MS4 to the MEP, and prevents construction site discharges from the MS4 from causing or contributing to a violation of water quality standards.

1. BMP Implementation - Construction Sites Less Than One Acre

(a) Each Permittee shall require the implementation of an effective combination of erosion and sediment control BMPs from Table 6 to prevent erosion and sediment loss, and the discharge of construction wastes.

Table 6 - BMPs at Construction sites less than 1 acre

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

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

<sup>4</sup> Ponded storm water may be discharged at a concentration of Total Suspended Solids (TSS) of 100mg/L or less.

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<#>No grading shall occur between October 1 – April 15 (wet season) for construction projects in the following areas of high erosivity:¶

<#>On hillsides with slopes 20% or steeper prior to land disturbance (If hillside development is not defined by a zoning ordinance, then the prohibition will apply to steep or long contin ... [22]

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<#>Each permittee shall require ... [23]

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3. BMP Implementation - Construction Sites One Acre but Less than 5 acres.

(a) Each Permittee shall require the implementation of an effective combination of appropriate erosion and sediment control BMPs from Table 7 in addition to the ones identified in Table 6 to prevent erosion and sediment loss, and the discharge of construction wastes:

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

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

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 <#>Each permittee shall require the implementation of an effective combination of the following BMPs in Table 7 (BMPs at Construction sites 1 acre or greater but less than 5 acres) in addition to the ones identified in Table 6 (BMPs at Construction sites less than 1 acre) at all construction sites 1 acre and greater but less than 5 acres to prevent erosion and sediment loss, and the discharge of construction wastes:¶  
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4. BMP Implementation - Construction Sites 5 acres and Greater

(a) Each permittee shall require the implementation of an effective combination of the following BMPs in Table 8 (BMPs at Construction sites 5 acres or greater) in addition to the ones identified in Table 6 (BMPs at Construction sites less than 1 acre) and Table 7 (BMPs at Construction sites 1 acre or greater but less than 5 acres) at all construction sites 5 acres and greater to prevent erosion and sediment loss, and the discharge of construction wastes. Erosion control BMPs shall be preferred to sediment control BMPs.

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Table 8 - BMPs at Construction sites 5 acres or greater



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

5. Enhanced Construction BMP Implementation.

(a) Each Permittee shall implement, or require implementation of, enhanced practices to address the exceptional threat to water quality posed by all construction sites on hillsides with slopes 20% or steeper prior to land disturbance that directly discharge to a waterbody listed on the CWA § 303 (d) list for siltation or sediment, or that occur within or adjacent to an environmentally sensitive area (ESAs).

(b) Enhanced practices for high risk sites shall include increased BMP inspection and maintenance requirements.

(1) High risk sites shall be inspected by the SWPPP preparer/engineer or other construction water quality compliance consultant at the time of BMP installation, at least biweekly during the rainy season, and monthly during the dry season.

(2) During the rainy season, the area of disturbance shall be limited to the area that can be controlled with an effective combination of erosion and sediment control BMPs. Enhanced sediment controls should be used in combination with erosion controls and should target portions of the site that cannot be effectively controlled by standard proactive erosion controls described above. Effective sediment and erosion control BMPs proposed by the proponent shall include one or a combination of the following:

- i. Trackwalking;
- ii. Soil binders, hydraulic mulch, or other tackifiers
- iii. Stormdrain inlet protection;
- iv. Silt fence, fiber rolls sediment basins, and baffles;
- v. Stabilized construction entrance and tire washes; and/or,
- vi. Advanced Treatment Systems if appropriate given natural background stormwater runoff and receiving water quality conditions.

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5. Local Agency Requirements

(a) Each permittee shall require for all construction sites 1 acre or greater, compliance with all conditions identified in the preceding subparts F.1 - F.5, and the following requirements:

(1) Local Storm Water Pollution Prevention Plan (Local SWPPP),

(A) Each permittee shall require the preparation and submittal of a Local SWPPP, for the permittee's review and written approval prior to issuance of a grading or construction permit for construction projects.

The permittees' approval signature shall be contained within the first pages of the Local SWPPP.

(i) The permittee shall not approve any Local SWPPP unless it contains appropriate site-specific construction site BMPs, specific locations, and maintenance schedules.

(ii) A State SWPPP may substitute for the Local SWPPP if the State SWPPP is at least as inclusive in controls and BMPs as the Local SWPPP.

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

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

(2) Certification Statement

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

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

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*of grading and/ or other permits or other sanctions provided by law."*

(ii) The Local SWPPP certification shall be signed by the property owner or owner's representative/designee. If the Local SWPPP or SWPPP is being prepared by the local agency then the appropriate authority of the local agency shall sign the document.

7. Electronic Site Tracking System

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

8. Inspections

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

**Deleted:** landowner as follows:¶  
 <#>Corporation - by a responsible corporate officer which means the following:¶  
 <#>President, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or¶  
 <#>Manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;¶  
 <#>Partnership or sole proprietorship - by a general partner or the proprietor; or¶  
 <#>Municipality or other public agency - by an elected official, a ranking management official (e.g., County/ City Administrative Officer, City Manager, Director of Public Works, or City Engineer).¶  
 6. Roadway Paving or Repaving Operations (For Private or Public Projects)¶  
 <#>Each permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.¶  
 <#>Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall unless required by emergency conditions¶  
 (2) . Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat¶  
 (3) . Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or watercourses¶  
 (4) . Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt¶  
 (5) . Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose properly¶  
 (6) . Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed off properly¶  
 (7) . Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly¶  
 (8) . Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm¶  
 (9) . Cover loads with tarp before haul-off to a storage site, and do not of ... [24]

control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and this Order. The initial/ acceptance BMP verification inspection does not constitute a maintenance and operation inspection, as required in the preceding subpart E.IV.2(c).

9. State Conformity Requirements

- (a) Each permittee shall ensure that no grading permit, encroachment permit, demolition permit, building permit, electrical permit, or construction permit (or any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) is issued for any project requiring coverage under the CASGP or Small LUP General Permit<sup>1</sup> unless:
  - (1) Proof of filing a Notice of Intent for coverage under a State NPDES permit is demonstrated).
  - (2) Demonstration or Certification that a SWPPP has been prepared by the project developer.
  - (3) Proof of Change of information form (COI) and a copy of the modified SWPPP(s) at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

**Deleted:** <#>Each permittee shall inspect all construction sites at least once within the 60 day period preceding the wet season to ensure wet weather readiness.¶

**Deleted:** (a copy of a letter from the State Water Board showing a valid Waste Discharger Identification Number (WDID) for that site

**Deleted:** A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP.

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10. Interagency Coordination

(a) Referral of Violations:

A permittee may refer a violator of the municipal storm water ordinance and CWC § 13260 to the Regional Water Board provided that the permittee has made a good faith effort at progressive enforcement consistent with the preceding subpart F.8(c). At a minimum, the permittee's good faith effort shall be documented with:

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

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

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

- (1) Project location address
- (2) Project description
- (3) Developer or owners name with complete mailing address

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

- (4) Project size
- (5) Records of communication with the developer or owner regarding filing requirements
- (c) **Investigation of Complaints Regarding Facilities – Transmitted by the Regional Water Board Staff:**
  - (1) Each permittee shall initiate, within one business day,<sup>1</sup> an initial investigation of complaint(s) (other than non-storm water discharges) on the construction site(s) within its jurisdiction.
    - (A) The initial investigation shall include, at a minimum, an inspection on the facility and its perimeter to confirm the complaint and to determine if the site operator is effectively complying with the municipal storm water/ urban runoff ordinances, and to oversee corrective action.
- (d) **Support of Regional Water Board Enforcement Actions – As directed by the Regional Water Board Executive Officer:**
  - (1) Each permittee shall support Regional Water Board enforcement actions by:
    - (A) Assisting in identification of current owners, operators, and lessees of properties and sites.
    - (B) Providing staff, when available, for joint inspections with Regional Water Board inspectors.
    - (C) Appearing to testify as witnesses in Regional Water Board enforcement hearings.
    - (D) Providing copies of inspection reports and other progressive enforcement documentation.

#### G. Public Agency Activities Program

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

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

1. Public Construction Activities Management
  - (a) Each permittee shall implement and comply with the Planning and Land Development Program requirements in part 5.E. of this Order at permittee owned or operated public construction projects for project types identified in part 5.E of this Order.
  - (b) Each permittee shall implement and comply with the appropriate Development Construction Program requirements in part 5.F. of this Order at permittee owned or operated construction projects as applicable.
  - (c) For public projects including those under a Capital Improvement Project Plan that disturb less than one acre of soil the permittees shall require the development and implementation of a Storm Water Pollution Control Plan. The SWPCP shall include BMPs as identified in Table 5.
2. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ Long Term Maintenance Programs
  - (a) Each permittee shall implement the activity specific BMPs<sup>1</sup> listed in Table 9 when such activities occur at permittee owned, leased facilities and job sites including but not limited to vehicle/ equipment maintenance facilities, material storage facilities, and corporation yards, and at any area that includes the activities as described in the following Tables. Additionally, for any activity or area described in the footnote below,<sup>2</sup> each permittee shall also implement the BMPs in the Caltrans Storm Water Quality Handbook Maintenance Staff Guide described as B-4 in Table 9 (BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards).

Comment [MSOffice9]: The highlighted section is redundant with 5.E.

Deleted: <#>Each permittee shall implement and comply with the Planning and Land Development Program requirements in part 5.E. for streets, roads, and highways construction of 5,000 square feet or more of surface area]

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Table 6 - BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards

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From the Caltrans Storm Water Quality Handbook Maintenance Staff Guide	Appendix B
<b>Activity Specific BMPs</b>	<b>Page</b>
<b>General BMPs</b>	B-4
<b>Flexible Pavement</b>	B-9
Asphalt Cement Crack and Joint Grinding/ Sealing	B-9
Asphalt Paving	B-10
Structural Pavement Failure (Digouts) Pavement Grinding and Paving	B-11
Emergency Pothole Repairs	B-13
Sealing Operations	B-14
<b>Rigid Pavement</b>	B-15
Portland Cement Crack and Joint Sealing	B-15
Mudjacking and Drilling	B-16
Concrete Slab and Spall Repair	B-17

<sup>1</sup> These BMPs are identified in Appendix B of the Caltrans Storm Water Quality Handbook Maintenance Staff Guide, May 2003, and its addenda. Other BMPs may be substituted upon approval by the Executive Officer.

<sup>2</sup> Scheduling and Planning; Spill Prevention and Control; Sanitary/ Septic Waste Management; Material Use; Safer Alternative Products; Vehicle/ Equipment Cleaning, Fueling, and Maintenance; Illicit Connections Detection, Reporting and Removal; Illegal Spill / Discharge Control and Maintenance Facility Housekeeping Practices.

Activity Specific BMPs	Page
<b>Slope/ Drains/ Vegetation</b>	B-19
Shoulder Grading	B-19
Nonlandscaped Chemical Vegetation Control	B-21
Nonlandscaped Mechanical Vegetation Control/ Mowing	B-23
Nonlandscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-24
Fence Repair	B-25
Drainage Ditch and Channel Maintenance	B-26
Drain and Culvert Maintenance	B-28
Curb and Sidewalk Repair	B-30
<b>Litter/ Debris/ Graffiti</b>	B-32
Sweeping Operations	B-32
Litter and Debris Removal	B-33
Emergency Response and Cleanup Practices	B-34
Graffiti Removal	B-36
<b>Landscaping</b>	B-37
Chemical Vegetation Control	B-37
Manual Vegetation Control	B-39
Landscaped Mechanical Vegetation Control/ Mowing	B-40
Landscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-41
Irrigation Line Repairs	B-42
Irrigation (Watering), Potable and Nonpotable	B-43
<b>Environmental</b>	B-44
Storm Drain Stenciling	B-44
Roadside Slope Inspection	B-45
Roadside Stabilization	B-46
Storm Water Treatment Devices	B-48
<b>Public Facilities</b>	B-50
Public Facilities	B-50
<b>Bridges</b>	B-52
Welding and Grinding	B-52
Sandblasting, Wet Blast with Sand Injection and Hydroblasting	B-54
Painting	B-56
Bridge Repairs	B-57
<b>Other Structures</b>	B-59
Pump Station Cleaning	B-59
Tube and Tunnel Maintenance and Repair	B-61
Tow Truck Operations	B-63
Toll Booth Lane Scrubbing Operations	B-64
<b>Electrical</b>	B-65
Sawcutting for Loop Installation	B-65
<b>Traffic Guidance</b>	B-67
Thermoplastic Striping and Marking	B-67
Paint Striping and Marking	B-68
Raised/ Recessed Pavement Marker Application and Removal	B-70
Sign Repair and Maintenance	B-71

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Activity Specific BMPs	Page
Median Barrier and Guard Rail Repair	B-73
Emergency Vehicle Energy Attenuation Repair	B-75
<b>Storm Maintenance</b>	B-78
Minor Slides and Slipouts Cleanup/ Repair	B-78
<b>Management and Support</b>	B-80
Building and Grounds Maintenance	B-80
Storage of Hazardous Materials (Working Stock)	B-82
Material Storage Control (Hazardous Waste)	B-84
Outdoor Storage of Raw Materials	B-85
Vehicle and Equipment Fueling	B-86
Vehicle and Equipment Cleaning	B-87
Vehicle and Equipment Maintenance and Repair	B-88
Aboveground and Underground Tank Leak and Spill Control	B-90

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3. Vehicle and Equipment Wash Areas

(a) Each permittee shall eliminate discharges of wash waters from vehicle and equipment washing no later than two years after Order adoption date by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:

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- (1) Self-contain, and haul off for disposal
- (2) Equip with a clarifier
- (3) Equip with an alternative pre-treatment device; or
- (4) Plumb to the sanitary sewer

(b) Each permittee shall ensure that any municipal facilities constructed, redeveloped, or replaced has all vehicle and equipment wash areas plumbed to the sanitary sewer or be self contained and all wastewater/ washwater hauled for legal disposal.

4. Landscape, Park, and Recreational Facilities Management

(a) Integrated Pest Management (IPM)

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

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- (1) Pesticides are used only if, after monitoring indicates they are needed according to established guidelines.
- (2) Treatments are made with the goal of removing only the target organism.
- (3) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial, non-target organisms, and the environment.
- (4) Its use of pesticides, including Organophosphates and Pyrethroids do not threaten water quality.
- (5) Partner with other agencies and organizations to encourage the use of IPM.

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- (6) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) in the permittees' overall operations and on municipal property.
- (7) Policies, procedures, and ordinances shall include commitments and timelines to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:
  - (A) Quantify pesticide use by its staff and hired contractors.
  - (B) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.
  - (C) Demonstrate reductions in pesticide use.
- (b) Each permittee shall implement the following requirements no later than (180 days after Order adoption date):
  - (1) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.
  - (2) [Redacted]
  - (3) Ensure no application of pesticides or fertilizers are applied to an area immediately prior to, during, or immediately after a rain event, or when water is flowing off the area.
  - (4) Ensure that no banned or unregistered pesticides are stored or applied.
  - (5) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.
  - (6) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and
  - (7) Store pesticides and fertilizers indoors or under cover on paved surfaces or use secondary containment.
    - (A) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.
    - (B) Regularly inspect storage areas.

**Comment [TD10]:** Compliance with this Order is no longer necessary and it is therefore inappropriate to require compliance through this Permit.

**Deleted:** Comply with the provisions and the monitoring requirements for application of aquatic pesticides to surface waters (WQ Order No. 2004-0008-DWQ).

5. Storm Drain Operation and Management

(a) Catch Basin Cleaning

- (1) Each permittee shall designate catch basin inlets within its jurisdiction as one of the following:
  - Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/ or debris.
  - Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/ or debris.
  - Priority C: Catch basins that are designated as generating low volumes of trash and/ or debris.

- (2) Each permittee shall inspect and clean as necessary catch basins according to the following schedule:
  - Priority A: A minimum of 3 times during the wet season and once during the dry season every year.
  - Priority B: A minimum of once during the wet season and once during the dry season every year.
  - Priority C: A minimum of once per year.
- (3) In addition to the preceding schedule, permittees shall ensure that any catch basin that is determined to be at least 25% full of trash and/ or debris shall be cleaned out.

(b) Trash Management at Public Events

- (1) Each permittee shall require for any event in the public right of way or wherever it is foreseeable that substantial quantities of trash and litter may be generated, the following measures:

- (A) Proper management of trash and litter generated; and
- (B) Arrangement for temporary screens to be placed on catch basins; or
- (C) Provide clean out of catch basins, trash receptacles, and grounds in the event area within 24 hours subsequent to the event.

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(c) Trash Receptacles

- (1) Each permittee shall install trash receptacles, or equivalent trash capturing devices at transit stops in commercial areas, near educational institutions, and in areas subject to high trash generation within its jurisdiction no later than (12 months after Order adoption date).
- (2) Each permittee shall ensure that all trash receptacles are cleaned out and maintained as necessary to prevent trash overflow.

(d) Catch Basin Labels

- (1) Each permittee shall inspect the legibility of the catch basin stencil or label nearest each catch basin and inlet before the rainy season begins.
- (2) Each permittee shall record and re-stencil or re-label within 15 days of inspection, catch basins with illegible stencils.

(e) Additional Trash Management Practices

- (1) Each permittee shall install trash excluders, or equivalent devices on or in catch basins or outfalls to prevent the discharge of trash to the storm drain system or receiving water or implement alternative BMPs (such as but not limited to increased street sweeping, adding trash cans near trash generation sites, prompt enforcement of trash accumulation, increased trash collection on public property, increased litter prevention messages) that provide substantially equivalent removal of trash no later than two years after Order adoption date, in areas subject to high trash generation (e.g., commercial areas, industrial areas, and near educational institutions) except in sites where the application of such BMP(s) alone will cause flooding. Lack of maintenance that causes flooding is not an acceptable exception to the requirement to install.

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## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

## (f) Storm Drain Maintenance

- (1) Each permittee shall implement a program for Storm Drain Maintenance no later than (180 days after Order adoption date) that includes the following:
- (A) Visual monitoring of permittee-owned open channels and other drainage structures for debris at least annually.
  - (B) Remove trash and debris from open channel storm drains a minimum of once per year before the storm season.
  - (C) Eliminate the discharge of contaminants during MS4 maintenance and clean outs.
  - (D) Quantify the amount of materials removed using techniques appropriate for quantifying solid waste and ensure the materials are properly disposed of.

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## (g) Spill Response Plan

- (1) Each permittee shall implement a response plan for spills to the MS4 within their respective jurisdiction. The response Plan shall clearly identify agencies responsible and telephone numbers and e-mail address for contact and shall contain at a minimum the following:
- (A) Investigation of all complaints received within 24 hours of the incident report.
  - (B) Response within 2 hours to spills for containment upon notification, except where such overflows occur on private property, in which case the response should be within 2 hours of gaining legal access to the property.
  - (C) Notification to appropriate public health agencies and the Office of Emergency Services (OES).

## (h) Permittee Owned Treatment Control BMPs

- (1) Each permittee shall implement an inspection and maintenance program for all permittee owned treatment control BMPs, including post-construction treatment control BMPs.
- (2) Each permittee shall ensure proper operation of all treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.
- (3) Any residual water produced by a treatment control BMP and not being internal to the BMP performance when being maintained shall be:
- (A) Hauled away and legally disposed of; or
  - (B) Apply to the land at agronomic rates; or
  - (C) Discharged to the sanitary sewer system (with permits or authorization); or
  - (D) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 10 (Discharge Limitations for Dewatering Treatment BMPs) prior to discharge to the MS4.

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Table 7 - Discharge Limitations for Dewatering Treatment BMPs<sup>1</sup>

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

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6. Streets and Roads Maintenance

(a) Maintenance

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

(b) Road Reconstruction

- (1) Each Permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.
  - (A) Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall<sup>2</sup> unless required by emergency conditions.
  - (B) Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat.
  - (C) Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or watercourses.
  - (D) Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt.
  - (E) Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose properly.
  - (F) Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed off properly.
  - (G) Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.
  - (H) Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.
  - (I) Cover loads with tarp before haul-off to a storage site, and do not overload trucks.

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<sup>1</sup> Technology based effluent limits.

<sup>2</sup> A probability of precipitation (POP) of 50% is required.

(J) Minimize airborne dust by using water spray during grinding.

(K) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or watercourses.

(L) Protect stockpiles with a cover or sediment barriers during a rain.

7. Emergency Procedures

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

- (1) Where the self-waiver has been invoked, the permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implement to reduce the threat to water quality, no later than 30 business days after the situation of emergency has passed.

8. Municipal Employee and Municipal Contractor Training

(a) Each permittee shall, no later than 12 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to:

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

(b) Each permittee shall, no later than 12 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:

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

(c) Each permittee shall, no later than 12 months after Order adoption date and annually thereafter before June 30, train all of their employees and contractors who are responsible for illicit connections and illicit/ illegal discharges. Training programs shall address:

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

**Deleted:** <#>Each permittee shall implement the following BMPs for road reconstruction:¶  
 <#>Drain Inlet protection from sediments.¶  
 <#>Dewatering of below grade construction areas.¶  
 <#>Secondary containment for cold mix.¶  
 <#>Sheeting underneath cold mix (during storage) to prevent discharge of spray release, and¶  
 <#>Sheeting to cover cold mix (during storage).¶  
 <#>If street material is to be concrete, then provide a vehicle wash off area that is isolated from the MS4.¶  
 <#>Post Construction Controls¶  
 (1) Municipal activities involving pothole repairs and square cut patching will not trigger post construction controls.¶

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**H. Illicit Connections and Illicit Discharges Elimination Program**

1. Each permittee shall implement an Illicit Connections and Illicit Discharges (IC/IDs) program to eliminate ID/ICs to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.

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1. General

(a) Implementation - Each permittee shall implement an IC/ID Program. The IC/ID procedures shall be documented and made available for public review.

(b) Tracking - All permittees shall map at a scale and in a format specified by the Principal Permittee incidents of illicit connections and discharges since January 2008 on their baseline maps, and shall transmit this information to the Principal Permittee no later than (2 years after Order adoption date). Permittees shall use this information to identify priority areas for further investigation and elimination of IC/ID.

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2. Public Reporting

(a) Permittees shall establish and maintain a phone hotline and internet site to receive all reports of IC/ID complaints.

(b) Permittees shall document the location of the reported IC/ID and the actions undertaken in response to all IC/ID complaints.

3. Illicit Connections

(a) Screening for Illicit Connections

(1) Each permittee shall submit to the Principal Permittee:

(A) A hard copy of th GIS layer showing the location and length of underground pipes 18 inches and greater in diameter, and channels within their permitted area and operated by the Permittee in accordance with the following schedule:

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(i) All channeled portions of the storm drain system no later than (365 days after Order adoption date).

(ii) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, (no later than 3 years after Order adoption date).

(iii) All portions of the storm drain system consisting of storm drain pipes 18 inches in diameter or greater, (no later than 5 years after Order adoption date).

(B) The status of suspected, confirmed, and terminated illicit connections.

(2) Permittees shall conduct field screening of their storm drain systems in accordance with screening procedures described in the Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development

and Technical Assessments (2004)<sup>1</sup>. Permittees shall conduct field screening of their storm drain system that has not been previously screened for illicit connections in accordance with the following schedule:

- (A) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, no later than (3 years after Order adoption date).
  - (B) High priority areas identified during the mapping of illicit connections and discharges, no later than (3 years after Order adoption date).
  - (C) All portions of storm drain systems 50 years or older in age, no later than (3 years after Order adoption date).
- (3) Each permittee shall maintain a list containing all connections under investigation for possible illicit connection and their status.

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(b) Response to Illicit Connections

(1) Investigation -

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

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

(2) Termination -

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

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

(3) Documentation -

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

4. Illicit Discharges

(a) Investigation -

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

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(b) Abatement and Cleanup -

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

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(c) Documentation -

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

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

**I. REPORTING PROGRAM**

1. The Principal Permittee in consultation with the permittees and Regional Water Board staff shall convene an adhoc working group to develop an Electronic Reporting Program, the basis of which shall be the requirements in this Order and the questions in the attached Monitoring Report and Program Report (Reporting Program- Attachment "H") or equivalent questions for approval by the Regional Water Board Executive Officer. The Committee shall no later than (12 months after Order adoption date) submit the electronic reporting form in each subsequent year.
2. Each permittee shall submit information required in the Reporting Program in a method as appropriate to the format approved by the Regional Water Board Executive Officer.
3. The Principal Permittee shall submit by December 15<sup>th</sup> of each year beginning the year of 2008, an Annual Report to the Regional Water Board Executive Officer in the form one hard copy and three compact disk (CD) copies (or an electronic equivalent).
4. The Annual Report shall document the status of the Municipal Storm Water Program, an integrated summary of the results of analyses from:
  - (a) The monitoring program described under Part 1- Monitoring Report.
  - (b) The requirements described under Part 2- Program Report.
5. Plans shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
6. Study Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
7. Progress Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).

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**PART 6 - TOTAL MAXIMUM DAILY LOAD PROVISIONS**



## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

- I. Part 6 of this Order incorporates provisions to assure that Ventura County MS4 permittees comply with WLAs and other requirements of TMDLs covering impaired waters impacted by the permittees' discharges.
- II. Each permittee shall attain the storm water WLAs incorporated into this Order by implementing BMPs in accordance with the MS4 effluent quality workplan and source identification approved by the Executive Officer.
- III. TMDLs in effect and covered in this Order are the following:
1. TMDL for Nitrogen Compounds for the Santa Clara River - (Effective date: March 23, 2004).
  2. TMDL for Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
  3. TMDL for Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
  4. TMDL for Bacteria in Malibu Creek and Lagoon - (Effective date: January 26, 2006).
  5. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon (Effective date: March 26, 2007)
  6. TMDL for Trash in Revolon Slough and Beardsley Wash
  7. TMDL for Trash in the Ventura River Estuary
- IV. TMDL Interim WLAs incorporated into this Order due to compliance dates which exceed the term of this Order are the following:
1. Final Wet Weather Bacteria WLAs for Malibu Creek and Lagoon - (Compliance date: January 24, 2016).
  2. Final Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation WLAs for Calleguas Creek, its Tributaries and Mugu Lagoon - (Compliance date: March 24, 2026).
  3. Final Metals and Selenium WLAs for Calleguas Creek, its Tributaries and Mugu Lagoon (Compliance date: March 26, 2022)
- V. TMDL WLAs and Other TMDL Provisions Incorporated into this Order are as follows:
1. TMDL for Nitrogen Compounds in the Santa Clara River
    - (a) Waste Load Allocations:
      - (1) The Ventura County MS4 permittees discharging to the Santa Clara River (the cities of Fillmore and Santa Paula) ("Santa Clara MS4 permittees") shall implement BMPs to achieve the following MS4 wasteload allocations applicable to River Reach 3:
 

Ammonia nitrogen 30-day average	2.0 mg/L
Ammonia nitrogen 1-hour average	4.2 mg/L

Nitrate + Nitrite nitrogen 30-day average 8.1 mg/L

## (b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through receiving water monitoring conducted in accordance with the Santa Clara River Nitrogen TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

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## (c) Actions and Special Studies required of Santa Clara MS4 permittees:

- (1) Annual Progress Reports. Santa Clara River MS4 permittees, either independently or in conjunction with other stakeholders, shall submit an annual progress report with respect to achievement of the WLAs.

## 2. TMDL for Toxicity, Chlorpyrifos, and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon.

## (a) Waste Load Allocations:

- (1) MS4 permittees discharging to Calleguas Creek, its tributaries and Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) ("Calleguas MS4 permittees") shall implement BMPs to achieve the following MS4 WLAs:

Toxicity WLA	1.0 TUc
Chlorpyrifos WLA	0.014 ug/L
Diazinon WLA	0.10 ug/L

- (2) Pursuant to the TMDL, the final storm water WLAs for Toxicity, Chlorpyrifos and Diazinon, listed above, are receiving water concentrations measured in-stream at the base of each subwatershed within the Calleguas Creek watershed.

## (b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality at the base of each of the Calleguas Creek subwatersheds, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (3) If as a result of compliance monitoring and subsequent investigations it is determined that a Calleguas MS4 permittee is responsible for exceedance of the in-stream Toxicity WLA, that permittee shall initiate the TRE/TIE process as outlined in U.S. EPA's "Understanding and Accounting for

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Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program” (2000) or the approved Toxicity TMDL monitoring plan, and take appropriate action to eliminate the identified source of the toxicity.

- (c) Actions and Special Studies required of Calleguas MS4 permittees:
  - (1) Special Study #1. Together with Calleguas POTW permittees, investigate the pesticides that will replace diazinon and chlorpyrifos in the urban environment, their potential impact on receiving waters and potential control measures. Special Study #1 is to be completed by March 24, 2008.
  - (2) Special Study #2. Together with Calleguas Agricultural Dischargers, consider results of monitoring of sediment concentrations by source/land use type through the special study required in the Calleguas OC Pesticide, PCB and Siltation TMDL Implementation Plan. Complete within 6 months of completion of the OCs TMDL special study #1.
  - (3) Pesticide Collection Program. Together with Calleguas POTW permittees, develop and implement a collection program for diazinon and chlorpyrifos and an educational program. Collection and education could occur through existing programs such as household hazardous waste collection events. The Pesticide Collection Program is to be implemented by March 24, 2009.
  - (4) Special Study #3. Together with Calleguas Agricultural Dischargers, consider the findings of transport rates developed through the OC Pesticide, PCB and Siltation TMDL Implementation Plan. Complete within 6 months of completion of the OCs TMDL special study #1.

3. TMDL for Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs) and Siltation in the Calleguas Creek, its Tributaries and Mugu Lagoon.

(a) Waste Load Allocations:

- (1) MS4 permittees discharging to Calleguas Creek, its tributaries or Mugu Lagoon (County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) (“Calleguas MS4 permittees”) shall implement BMPs to achieve the interim WLAs listed in Table 11.

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Table 11. Interim Sediment Concentration WLAs (ng/g)

Constituent	Mugu Lagoon		Calleguas Creek		Revolon Slough	Arroyo Las Posas
	Arroyo Simi	Conejo Creek				
Chlordane	25	17	48	3.3	3.3	3.4
4,4-DDD	69	66	400	290	140	5.3
4,4-DDE	300	470	1600	950	170	20
4,4-DDT	39	110	690	670	25	2
Dieldrin	19	3	5.7	1.1	1.1	3
PCBs	180	3800	7600	25700	25700	3800
Toxaphene	22900	260	790	230	230	260

- (2) Pursuant to the TMDL, the interim storm water WLAs for OC Pesticides, PCBs and Siltation, listed above, are annual average, sediment-based concentrations measured in surface waters at the base of each subwatershed within the Calleguas Creek watershed.
- (b) Compliance Monitoring:
- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality at the base of each of the Calleguas Creek subwatersheds, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
  - (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (c) Actions and Special Studies required of Calleguas MS4 permittees:
- (1) Pesticide Collection Program. Together with Calleguas POTW permittees, implement a collection program and source control measures pursuant to a work plan approved by the Executive Officer. The Pesticide Collection Program is to be implemented by March 24, 2011.
  - (2) Special Study #1. Together with Calleguas POTW permittees, Calleguas Agricultural Dischargers, and the Point Mugu Naval Base, submit a work plan to quantify sedimentation in the Calleguas Creek Watershed, evaluate management methods to control siltation and contaminated sediment transport to Calleguas Creek, identify appropriate BMPs to reduce sediment loadings and evaluate the effect of sediment on habitat preservation in Mugu Lagoon for approval by the Executive Officer. This special study is also to evaluate the concentration of OC pesticides and PCBs in sediments from various sources/land use types. Special Study #1 is to be completed by March 24, 2014.
  - (3) Special Study #2. Together with Calleguas Agricultural Dischargers, identify areas of high OC concentrations and evaluate the effects of watershed protection and land use practices on water quality. Such practices include but are not limited to management of sediment reduction practices and structures, streambank stabilization, and other projects related to stormwater conveyance and flood control improvements in the Calleguas Creek watershed. Special Study #2 is to be completed based on the schedule provided in the workplan, submitted in March, 2007
  - (4) Special Study #3 – Together with Calleguas POTW permittees, Calleguas Agricultural Dischargers, and the Point Mugu Naval Base, evaluate natural attenuation rates and evaluate methods to accelerate organochlorine pesticide and polychlorinated biphenyl attenuation and examine the

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attainability of wasteload and load allocations in the Calleguas Creek Watershed. Special Study #3 is to be completed by March 24, 2016.

- 4. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon.

(a) Waste Load Allocations:

- (1) MS4 permittees discharging to Calleguas Creek, its tributaries or Mugu Lagoon (County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) ("Calleguas MS4 permittees") shall implement BMPs to achieve the interim WLAs listed in Table 12 and Table 13.

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Table 12. Interim WLAs for Copper, Nickel and Selenium (ug/L)

Constituent	Calleguas and Conejo Creek (a)			Revolon Slough		
	Dry Daily Maximum (ug/L)			Dry Monthly Average (ug/L)		
	Wet Daily Maximum (ug/L)			Wet Daily Maximum (ug/L)		
Copper	23	19	204	23	19	204
Nickel	15	13	(a)	15	13	(a)
Selenium(b)	(b)	(b)	(b)	14 (c)	13(c)	(a)

- (A) The current loads do not exceed the TMDL under wet conditions, interim limits are not required
- (B) Selenium allocations have not been developed for this reach as it is not on the 303(d) list
- (C) Attainment of interim limits will be evaluated in consideration of background loading data, if available
- (2) Pursuant to the TMDL, the interim storm water WLAs for copper, nickel, and selenium are receiving water concentrations measured in-stream at the base of Calleguas Creek and Revolon Slough and in Mugu Lagoon.

Table 13. Interim WLAs for Mercury in Sediment (lbs/yr)

Annual Cumulative Flow (million gallons per year)	Calleguas Creek (lbs/yr)		Revolon Slough (lbs/yr)	
0-15,000	3.3	1.7		
15,000-25,000	10.5	4		
Above 25,000	64.6	10.2		

- (3) Pursuant to the TMDL, the interim storm water WLAs for mercury are suspended sediment loads measured in-stream at the base of Calleguas Creek and Revolon Slough and in Mugu Lagoon.
- (4) Determination of the applicable interim WLA will be determined by calculating the total annual flow (October 1-September 30) in the Calleguas Creek watershed as measured by the flow gage at CSUCI.

## (b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality and total suspended solids (TSS) at the base of Calleguas Creek, Revolon Slough and in Mugu Lagoon, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

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## (c) Actions and Special Studies required of Calleguas MS4 permittees:

- (1) Conduct a source control study, develop and submit an Urban Water Quality Management Program (UWQMP) for copper, mercury, nickel, and selenium. Complete by March 26, 2009.
- (2) Implement the UWQMP within one year of approval by Executive Officer.
- (3) In cooperation with agricultural dischargers, evaluate the results of the OCs TMDL special study on sediment transport rates for applicability to the metals and selenium TMDL. Complete within 6 months of completion of the OCs TMDL special study #1.
- (4) In cooperation with agricultural dischargers, include monitoring for copper, mercury, nickel and selenium in the OC pesticides TMDL special study – Monitoring of Sediment by Source and Land Use Type. The special study is to be completed by March 26, 2014.
- (5) Evaluate the results of the OC Pesticides TMDL Special Study – Effects of BMPs on Sediment and Siltation, to determine the impacts on metals and selenium. Complete within 6 months of completion of the OC Pesticides special study #1.
- (6) Evaluate the effectiveness of BMPs implemented under the UWQMP in controlling metals and selenium discharges. This is to be completed by March 26, 2013.
- (7) Re-evaluate urban waste load allocations for copper, mercury, nickel and selenium based on the evaluation of BMP effectiveness. By March 26, 2012, urban dischargers will have a required 25% reduction in the difference between the loadings at the time of the TMDL preparation and the final WLAs effective in 2022.
- (8) In cooperation with POTW permittees and agricultural dischargers, conduct a study to identify selenium contaminated groundwater sources. Special Study is to be completed within one year of the approval of the workplan.
- (9) In cooperation with agricultural dischargers, conduct a study to investigate metals “hot spots” and natural soils concentrations. This special study is to be completed within 2 years of the approval of the workplan.

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5. TMDL for Bacteria in Malibu Creek and Lagoon

(a) Waste Load Allocations:

- (1) The Ventura County MS4 permittees discharging to Malibu Creek or its tributaries (County of Ventura and the cities of Thousand Oaks and Simi Valley) ("Malibu MS4 permittees") shall achieve the WLAs identified in Table 5. These WLAs are expressed as the number of daily or weekly sample days that may exceed the single sample limits or 30-day geometric mean bacteria targets identified in Table 6.

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Table 14 – Wasteload Allocations expressed as the Number of Exceedence Days for Geometric Mean \ Single Sample - Dry Weather

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

Table 15 - Bacteria Targets

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

- (2) The wasteload allocations are to be achieved no later than January 26, 2012.

(b) Compliance Monitoring:

- (1) Achievement of the WLAs is to be determined through receiving water monitoring conducted in accordance with the Santa Monica Bacteria TMDL Compliance Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

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(c) Actions and Special Studies required of Malibu MS4 permittees:

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- (1) If TMDL compliance monitoring indicates that the Malibu MS4 permittees are causing or contributing to an exceedance of the WLAs in the receiving waters, the permittees shall conduct a source identification study and implement additional controls sufficient to achieve the WLAs in the receiving waters.

6. TMDL for Trash in Revolon Slough and Beardsley Wash

(a) Wasteload Allocations

- (1) WLAs are zero trash.

(b) Compliance Monitoring

- (1) Responsible jurisdictions will develop a TMRP for Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in Revolon Slough and Beardsley Wash and/or within responsible jurisdiction land areas. The TMRP shall include a plan to establish the trash Baseline WLAs.

- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

(c) Actions and Special Studies required of Revolon Slough and Beardsley Wash MS4 permittees

- (1) Per the adopted Basin Plan Amendment, compliance with the TMDL may be either through a progressive implementation schedule of full capture devices or other measures or by implementing a program for minimum frequency of assessment and collection in conjunction with best management practices (MFAC/BMP).

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Deleted: submit progressive implementation schedule of full capture devices or other measures or by implementing a program for minimum frequency of assessment and collection in conjunction with BMPs

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7. TMDL for Trash in the Ventura River Estuary

(a) Wasteload Allocations

- (1) WLAs are zero trash.

(b) Compliance Monitoring

- (1) Responsible jurisdictions will develop a TMRP for Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in the Ventura River Estuary and/or within responsible jurisdiction land areas. The TMRP shall include a plan to establish the trash Baseline WLAs.

- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.



(c) Actions and Special Studies required of Revolon Slough and Beardsley Wash MS4 permittees

(1) Per the adopted Basin Plan Amendment, compliance with the TMDL may be either through a progressive implementation schedule of full capture devices or other measures or by implementing a program for minimum frequency of assessment and collection in conjunction with best management practices (MFAC/BMP)

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(1) PART 7 - DEFINITIONS

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The following are definitions for terms in this Order:

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

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

**Antidegradation Policies** - means policies which protect surface and ground waters from degradation, and federal policies, which protect high quality surface waters. In particular, this policy protects waterbodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water (*Statement of Policy with Respect to Maintaining High Quality Water in California*, State Board Resolution No. 68-16; 40 CRF 131.12).

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

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

**Areas Subject to Storm Water Mitigation Requirements** - means areas designated as an Area of Special Biological Significance (ASBS) by the State Board, an area designated as a significant natural resource by the California Resources Agency, or an area identified by the discharger as environmentally sensitive for water quality purposes, based on the Regional Water Board Basin Plan and CWA § 303(d) Impaired Water-bodies List for the County of Ventura.

**Authorized Discharge** - means any discharge that is authorized pursuant to an NPDES permit, waste discharge requirement, conditional waiver from waste discharge requirements, or meets the conditions set forth in this Order.

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

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

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

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

**Bacteria Total Maximum Daily Load (TMDL) Wet Weather** - defined in the Bacteria TMDLs as a day with 0.1 inch or more of rain and 3 days following the rain event.

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

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

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

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

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

**Chronic Toxicity** - means a measurement of a sublethal effect (e.g., reduced growth, reproduction) to experimental test organisms exposed to an effluent or ambient waters compared to that of the control organisms.

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

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

**Construction** - means any construction activity including demolition, clearing, grading, grubbing, or excavation or any other activity that results in a land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility. As used above "Routine Maintenance" only applies to road shoulder work, dirt or gravel road grading, or ditch clean-outs. A CWA § 401 certification may be required for ditch cleanouts. For municipal operators, repaving of asphalt roads is routine maintenance except where the underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation. Where clearing, grading, or excavating of underlying

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Comment [MSOffice11]: The highlighted statements should be stand alone definitions for routine maintenance.  
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soil takes place, permit coverage is required if more than one acre is disturbed or the activities are part of a larger plan

**Comment [MSOffice12]:** See the reword of Provision G.1.c

**Deleted:** or if the activity is part of more activities part of a municipality's Capital Improvement Project Plan

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

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

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

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

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

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

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

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

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

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

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

**Effect Concentration (EC)** is a point estimate of the toxicant concentration that would cause an observable adverse effect (e.g., death, immobilization, or serious incapacitation) in a given percent of the test organisms, calculated from a continuous model (e.g., Probit Model).  $EC_{25}$  is a point estimate of the toxicant concentration that would cause an observable adverse effect in 25 percent of the test organisms.

**Effective Impervious Surface** - means that portion of the surface area that is hydrologically connected via sheet flow over a hardened conveyance or impervious surface without any intervening medium to mitigate flow volume.

**Effluent limitation** - means any restriction imposed by the Permitting Authority (PA) on quantities, discharge rates, concentrations, and/ or mass loadings of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

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

**End-of-Pipe** - means the end of the major outfall as defined as defined in 40 CFR122.26 (b)(5) and 40 CFR122.26 (b)(6).

**Endpoint** - means a biological measurement used to quantify the results obtained from analytical methods such as whole effluent toxicity testing [e.g., lethal concentration ( $LC_{50}$ ); inhibition concentration ( $IC_{25}$ ); and no observed effect concentration (NOEC)]. Such endpoints are quantitative measurements of the responses of test organisms (e.g., survival, growth, mobility, reproduction, and weight gain or loss) in response to exposure to a serial dilution of effluent.

**Environment** - means the physical conditions, which exist within the area which, will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which

significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions.

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

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

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

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

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

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

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

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

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

**Illegal Discharge** - means any discharge to the municipal separate storm sewer (storm drain system) that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illegal discharge includes all non-storm water discharges not composed entirely of storm water except discharges pursuant to an NPDES permit, discharges that are identified in

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part 1, "Discharge Prohibitions" of this order, or discharges authorized by the Regional Water Board Executive Officer.

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

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

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

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

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

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

**Inhibition Concentration (IC)** - means a point estimate of the toxicant concentration that would cause a given percent reduction in a non-lethal biological measurement (e.g., reproduction or growth), calculated from a continuous model (i.e., Interpolation Method). IC25 is a point

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estimate of the toxic concentration that would cause a 25-percent reduction in a non-lethal biological measurement.

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

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

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

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

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

**Low Impact Development (LID)** - means a design strategy with the goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques to create a functionally equivalent hydrologic site design. Hydrologic functions of storage, infiltration and ground water recharge, as well as the volume and frequency of discharges are maintained through the use of integrated and distributed micro-scale storm water retention and detention areas, reduction of impervious surfaces, and the lengthening of runoff flow paths and flow time. Other strategies include the preservation/protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable (mature) trees, flood plains, woodlands, and highly permeable soils.



**Major Municipal Separate Storm Sewer Outfall ("or major outfall")** - means a major municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more), as defined in 40 CFR122.26 (b)(5).

**Major Outfall** - means a major municipal separate storm sewer outfall, as defined in 40 CFR122.26 (b)(6).

**Maximum Extent Practicable (MEP)** - is the compliance standard established by the Clean Water Act for municipal stormwater dischargers. CWA § 402(p)(3)(B)(iii) requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

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**Deleted:** means the minimum required activities for implementation of storm water management programs to reduce pollutants in storm water.  
**Deleted:** Also, see State Board Order WQ 2000-11, page 20 and Browner decision (Defenders of Wildlife v. Browner (1999), 191 F.3d 1159).

Furthermore, "EPA has intentionally not provided a precise definition of MEP to allow maximum flexibility in MS4 permitting. MS4s need the flexibility to optimize reductions in storm water pollutants on a location-by-location basis. EPA envisions that this evaluative process will consider such factors as conditions of receiving waters, specific local concerns, and other aspects included in a comprehensive watershed plan. Other factors may include MS4 size, climate, implementation schedules, current ability to finance the program, beneficial uses of receiving water, hydrology, geology, and capacity to perform operation and maintenance."

EPA envisions application of the MEP standard in an iterative process. MEP should continually adapt to current conditions and BMP effectiveness and should strive to attain water quality standards. Successive iterations of the mix of BMPs and measurable goals will be driven by the objective of assuring maintenance of water quality standards." (Federal Register, 1999, Volume 64, Number 235, Page 68754, December 8, 1999.)

**Method Detection Limit (MDL)** - means the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR136, Appendix "G" of this Order.

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

**Minimum Significant Difference (MSD)** - means a measure of test sensitivity that establishes the minimum difference required between a control and a test treatment in order for that difference to be considered statistically significant.

**Municipal Separate Storm Sewer System (MS4)** - means a conveyance or system of conveyances (including roads w/ drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains), as defined in 40 CFR122.26(b)(8):

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Federal Clean Water Act (CWA) that discharges into waters of the United States
2. Designed or used for collecting or conveying storm water
3. Which is not a combined sewer
4. Which is not part of a Publicly Owned Treatment Works (POTW), as defined in 40 CFR122.2

**NAICS** - means North American Industry Classification System.

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

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

**New Development** - means land disturbing activities; structural development, including

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construction or installation of a building or structure, creation and replacement of impervious surfaces; and land subdivision.

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

**No Observed Effect Concentration (NOEC)** - means the highest tested concentration of an effluent or toxicant that causes no observable adverse effect on the test organisms (i.e., the highest concentration of toxicant at which the values for the observed responses are not statistically different from the controls).

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

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

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

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

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

(B) **Nursery (Commercial Facilities - Merchant Wholesalers, Nondurable Goods, and Retail Trade)** - means industries Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers under NAICS Code 424930; and Nursery, Garden Center, and Farm Supply Stores under NAICS Code 444220. This Order covers these types of operations. The industry in NAICS Code 424930 comprises establishments primarily engaged in the merchant wholesale distribution of flowers, florists' supplies, and/ or nursery stock (except plant seeds and plant bulbs). The industry in NAICS Code 444220 comprises establishments primarily engaged in retailing nursery and garden products, such as trees, shrubs, plants,

seeds, bulbs, floriculture products and sod, which are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves.

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

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

**Percent Minimum Significant Difference (PMSD)** - means the minimum significant difference divided by the control mean, expressed as a percent (see minimum significant difference).

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

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

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

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

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

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

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

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

**Priority Pollutants** - means those constituents referred to in 40 CFR401.15 and listed in the U.S. EPA NPDES Application Form 2C, pp. V-3 through V-9.

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

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

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

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

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

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

**Restoration** - means the reestablishment of predisturbance aquatic functions and related physical, chemical and biological characteristics (Reference: National Research Council. 1992).

Restoration of Aquatic Ecosystems: Science, Technology and Public Policy. National Academy Press, Washington, D.C.).

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

- **RGOs: 447190 Other Gasoline Stations:**

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

- **RGOs: 447110 Gasoline Stations with Convenience Stores:**

Retailing automotive fuels in combination with a convenience store or food mart.

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

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

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

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

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

**Southern California Stormwater Monitoring Coalition (SMC)** - means the Stormwater Monitoring Coalition, which is a collaborative research/ monitoring partnership of the Southern California Water Boards, Municipal Storm Water Agencies, and municipalities to develop the methodologies and assessment tools to more effectively understand urban storm water and non-storm water (anthropogenic) impacts to receiving waters and to conduct research/

## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

monitoring through Subsequent Research Implementation Agreements. The first original cooperative agreement was entered into on February 8, 2001.

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

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

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

**Storm Water** - means storm water runoff, snow melt runoff, and surface runoff and drainage, as defined in 40 CFR122.26(b)(13).

**Storm Water Discharge Associated with Industrial Activity** - means industrial discharge, as defined in 40 CFR122.26(b)(14).

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

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

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

**t-Test** (formally Student's t-test) - means a statistical analysis comparing two sets of replicate observations, in the case of WET, only two test concentrations (e.g., a control and 100% effluent). The purpose of this test is to determine if the means of the two sets of observations are different [e.g., if the 100% effluent concentration differs from the control (i.e., the test pass or fails)].

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

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

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

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

**Toxicity Test** - means a procedure using living organisms to determine whether a chemical or an effluent is toxic. A toxicity test measures the degree of the effect of a specific chemical or effluent on exposed test organisms.

**Toxic Unit (TU)** - means a measure of toxicity in an effluent as determined by the acute toxicity units (TUa) or chronic toxicity units (TUc) measured. The larger the TU, the greater the toxicity.

**Toxic Unit - Chronic (TUc)** - means 100 times the reciprocal of the effluent concentration that causes no observable effect on the test organisms in a chronic toxicity test ( $TUc = 100/NOEC$  or  $100/EC25$ ) (see NOEC).

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

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



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

**U.S. EPA Phase I Facilities** - means facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR122.26(c).

These categories include:

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

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

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

**Waste Load Allocations (WLAs)** - means a portion of a receiving water's Total Maximum Daily Pollutant Load (TMDL) that is allocated to one of its existing or future point sources of pollution (Reference: 40 CFR130.2(h)).

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

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

**Waters of the State**<sup>2</sup> - means any surface water or groundwater, including saline waters, within boundaries of the state (Reference: California Water Code § 13050).

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

- a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b. All interstate waters, including interstate "wetlands";
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  1. Which are or could be used by interstate or foreign travelers for recreational or other purposes
  2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  3. Which are used or could be used for industrial purposes by industries in interstate commerce
- d. All impoundment's of waters otherwise defined as waters of the United States under this definition;
- e. Tributaries of waters identified in the preceding paragraph (a) through (d) of this definition;
- f. The territorial sea; and
- g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in the preceding paragraph (a) through (f) of this definition.  
(Reference: 33 CFR328)

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

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

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

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

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

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

## **PART 8 - STANDARD PROVISIONS**

### **A. General Requirements**

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

### **B. Regional Water Board Review**

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

### **C. Public Review**

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

**D. Duty to Comply [40 CFR122.41(a)]**

1. Each permittee must comply with all of the terms, requirements, and conditions of this Order. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance, or a combination thereof [40 CFR122.41(a), CAL. WATER CODE § 13261, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350].
2. A copy of these waste discharge specifications shall be maintained by each permittee so as to be available during normal business hours to permittee employees and members of the public.
3. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

**E. Duty to Mitigate [40 CFR122.41 (d)]**

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

**F. Inspection and Entry; Investigations; Responsibilities [40 CFR122.41(i), Cal. Water Code § 13225 and § 13267]**

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

- (f) To require as necessary any state or local agency to investigate and report on any technical factors involved in water quality control or to obtain and submit analyses of water.

**G. Proper Operation and Maintenance [40 CFR122.41 (e), Cal. Water Code § 13263(f)]**

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

**H. Signatory Requirements [40 CFR122.41(k) & 122.22]**

1. Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Water Board shall be signed by the Director of Public Works, City Engineer, or authorized designee and certified as set forth in 40 CFR122.22.

**I. Reopener and Modification [40 CFR122.41(f) & 122.62]**

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Water Board, in accordance with the procedural requirements of the CAL. WATER CODE and CCR Title 23 for the issuance of waste discharge requirements, 40 CFR122.62, and upon prior notice and hearing, to:
  - (a) Address changed conditions identified in the required reports or other sources deemed significant by the Regional Water Board;
  - (b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan, including TMDLs;
  - (c) Comply with any applicable requirements, guidelines, and/ or regulations issued or approved pursuant to CWA § 402(p); and/ or,
  - (d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.
2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
  - (a) Violation of any term or condition contained in this Order;
  - (b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts;

or,

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

3. The filing of a request by the Principal Permittee or permittees for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
4. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR122.63, if processed as a minor modification. Minor modifications may only:
  - (a) Correct typographical errors; or
  - (b) Require more frequent monitoring or reporting by the permittee.

**J. Severability**

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

**K. Duty to Provide Information [40 CFR122.41(h)]**

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

**L. Twenty-Four Hour Reporting [40 CFR122.41(i)(6)]<sup>1</sup>**

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

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

2. The Regional Water Board may waive the required written report on a case-by-case basis.

**M. Bypass [40 CFR122.41(m)]<sup>1</sup>**

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

**N. Upset [40 CFR122.41(n)]<sup>2</sup>**

1. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. A permittee that wishes to establish the affirmative defense of an upset in an action brought for non compliance shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

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

- (a) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (b) The permitted facility was being properly operated by the time of the upset;
  - (c) The permittee submitted notice of the upset as required; and,
  - (d) The permittee complied with any remedial measures required.
3. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.
  4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

**O. Property Rights [40 CFR122.41(g)]**

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

**P. Enforcement**

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



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

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

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

2. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The Cal Water Code § 13885 provides the following:

(a) Any person who violates any of the following shall be liable civilly in accordance with this section:

- (1) Section 13375 or 13376.
- (2) Any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.
- (3) Any requirements established pursuant to Section 13383.
- (4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.
- (5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.
- (6) Any requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

**Q. Need to Halt or Reduce Activity not a Defense [40 CFR122.41(c)]**

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

**R. Rescission of Board Order**

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

**S. Board Order Expiration Date**

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

**T. MS4 Annual Reporting Program [40 CFR122.42(c)]**

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

The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under 40 CFR122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

    - (1) The status of implementing the components of the storm water management program that are established as permit conditions;
    - (2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with 40 CFR122.26(d)(2)(iii) of this part;
    - (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR122.26(d)(2)(iv) and (d)(2)(v) of this part;
    - (4) A summary of data, including monitoring data that is accumulated throughout the reporting year;
    - (5) Annual expenditures and budget for year following each annual report;
    - (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
    - (7) Identification of water quality improvements or degradation.

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

NPDES No. CAS004002

Order No. 08-xxx

draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

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Tracy J. Egoscue  
Executive Officer

This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. This Order implements federally mandated requirements under CWA § 402, subdivision (p)(3)(B). (33 U.S.C. § 1342(p)(3)(B).) This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (Natural Resources Defense Council, Inc. v. U.S. E.P.A. (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. *Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead, is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, *City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389; *Building Industry Ass'n of San Diego County v. State Water Resources Control Bd.* (2004) 124 Cal.App.4th 866, 882-883.)

Likewise, the provisions of this Order to implement TMDLs are federal mandates. The CWA requires TMDLs to be developed for waterbodies that do not meet federal water quality standards. (33 U.S.C. § 1313(d).) Once the U.S. EPA or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation. (40 CFR 122.44(d)(1)(vii)(B).)\*\*\*]

Second, the local agency permittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicable exceptions, the Clean Water Act regulates the discharge of pollutants from point sources (33 U.S.C. § 1342) and the Porter-Cologne regulates the discharge of waste (Wat. Code, § 13263), both without regard to the source of the pollutant or waste. As a result, the "costs incurred by local agencies" to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and nongovernmental dischargers. (See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

The Clean Water Act and the Porter-Cologne Water Quality Control Act largely regulate storm water with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Except for municipal separate storm sewer systems, the Clean Water Act requires point source dischargers, including discharges of storm water associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. § 1311(b)(1)(C), *Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1164-1165 [noting that industrial storm water discharges must strictly comply with water quality standards].) As discussed in prior State Water Resources Control Board decisions, in many respects this Order does not require strict compliance with water quality standards. (SWRCB Order No. WQ 2001-15, p. 7.) The Order, therefore, regulates the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.

Third, the local agency permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. The fact sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments 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 ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487-488.)

Fourth, the permittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their discharges. (See finding 5., supra.) To the extent, 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.) Likewise, the permittees have voluntarily sought a program-based municipal storm water permit in lieu of a numeric limits approach. (See *City of Abilene v. U.S. E.P.A.* (5th Cir. 2003) 325 F.3d 657, 662-663 [noting that municipalities can choose between a management permit or a permit with numeric limits].) The local agencies' voluntary decision to file a report of waste discharge proposing a program-based permit is a voluntary decision not subject to subvention. (See *Environmental Defense Center v. USEPA* (9th Cir. 2003) 344 F.3d 832, 845-848.)

Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are

within their ownership or control under state law predates the enactment of Article XIII B, Section (6) of the California Constitution.

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The State Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (SIP) - 2000, on March 2, 2000, for implementation of the CTR (State Board Resolution No. 2000-15, as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL derived waste load allocations as soon as possible, but no later than 2020.

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Type of Discharges:	Conditions under which allowed:	Required conditions for discharge to occur:
Stream diversions permitted by the State Water Board;	Authorization by the State Water Board	Permittees shall comply with all conditions in the authorization.
Natural springs and rising ground water	1. Ground water dewatering requires a separate NPDES permit. 2. Segregate flow to prevent introduction of pollutants.	Permittees shall comply with all conditions in the authorization.
Uncontaminated ground water infiltration [as defined by 40 CFR35.2005(20)] (Utility vault dewatering requires a separate NPDES permit.)	NPDES permit for ground water dewatering is required within the Los Angeles Region including Ventura County	Permittees shall comply with all conditions in the authorization.
Flows from riparian habitats or wetlands	Provided that all necessary permits or authorizations are received prior to diverting the stream flow.	Permittees shall comply with all conditions in the authorization.
Flows from emergency fire fighting activity	Pooled water after fire must be controlled.	
Discharges from potable water sources	See Footnote #2 on page 29.  Provided discharges from water lines and potable water sources shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments.	See Footnote #2 on page 26. To be discharged, this type of water shall be dechlorinated using aeration and/ or sodium thiosulfate and/ or other appropriate means and/or be allowed to infiltrate to the ground. BMPs such as sand bags or gravel bags, or other appropriate means shall be utilized to prevent sediment transport. All sediments shall be collected and disposed of in a legal and appropriate

Type of Discharges:	Conditions under which allowed:	Required conditions for discharge to occur:
		manner.
Drains for foundation, footing and crawl drains	Dewatering requires a separate NPDES permit.	Permittees shall comply with all conditions in the authorization.
Air conditioning condensate	Segregation of flow to prevent introduction of pollutants. Percolation whenever possible.	Permittees shall comply with all conditions in the authorization.
Water from crawl space pumps	Dewatering requires a separate NPDES permit within the Los Angeles Region including Ventura County	Permittees shall comply with all conditions in the authorization.
Reclaimed and potable landscape irrigation runoff	Segregation of flow to prevent introduction of pollutants.	Implement conservation programs to minimize this type of discharge by using less water.
Dechlorinated/debrominated swimming pool discharges [see definition part 8]	<p>Where the discharge is not accepted by the sanitary sewer operator. Swimming pool discharges are to be dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments.</p> <p>Waste water and filter back wash shall not be discharged to municipal separate storm sewers.</p> <p>Water that has been hyperchlorinated shall not be discharged to municipal separate storm sewers, even after de-chlorination.</p> <p>No discharges are allowed containing salts in excess of Water Quality Standards.</p> <p>Chlorine residual in discharge shall not exceed 0.1mg/L.</p>	Pool water may be dechlorinated using time, aeration, and/ or sodium thiosulfate, or other alternative effective means.
Non-commercial car washing by residents or non-profit organizations	Preferably at a commercial car wash or designated area where wash water can infiltrate. Pumps or vacuums may be used to direct water to pervious areas.	Permittees shall comply with all conditions in the authorization.
Sidewalk rinsing	This may be undertaken only if high pressure low volume is used as described in the glossary under "Sidewalk Rinsing".	
Pooled storm water from	All storm water BMPs shall at a minimum be maintained at a frequency as specified	

Type of Discharges:	Conditions under which allowed:	Required conditions for discharge to occur:
treatment BMPs	<p>by the manufacturer. All storm water BMPs shall be designed to drain within 72 hours of the end of the rain event to avoid the breeding of vectors. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. The discharge shall cease before the discharge has become a source of a pollutant(s), (bottom sediment included). Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.</p>	

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Beginning Year 3 after Order adoption date, a running average of twenty percent or greater of exceedances of any discharge of storm water from the MS4 to waters of the U.S. that exceed the Municipal Action Levels (MALs) for the pollutants listed in Attachment "C" (Municipal Action Levels) will require each permittee to affirmatively augment and implement all necessary storm water controls and measures to reduce the discharge of the associated class of pollutant(s) in accordance with the Maximum Extent Practicable (MEP) provision in subpart 4.A.2. Continued exceedances after Year 3 of the operative MAL(s) shall create a presumption that the permittee(s) have not complied with the MEP provision in subpart 4.A.2, and have failed to implement adequate storm water control measures and BMPs to comply with the MEP criteria.

The end-of-pipe assessment points for the determination of MAL exceedances are the major outfalls, as defined in 40 CFR122.26(b)(5) and (b)(6).

The absence of MAL exceedances does not give rise to a presumption that the permittee is complying with the MEP criteria.

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This Order shall be implemented to achieve compliance with receiving water limitations.

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and its components and other requirements of this Order,

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an exceedance(s) of water quality standards or water quality objectives, which may be inferred from the results of the receiving water monitoring program described in Attachment "F",

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the Regional Water Board, within 30 days of any such inference of exceedance, and thereafter submit a Receiving Water Limitations (RWL) Compliance Report to the Regional Water Board Executive Officer for approval.

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The RWL Compliance Report shall describe BMPs currently being implemented and the additional BMPs that will be implemented, to prevent or reduce the discharge of any pollutants that are causing or contributing to the exceedances of water quality standards.  
The RWL Compliance Report shall include a BMP implementation schedule.

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the approved or modified suite of BMPs,

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Modifications to the RWL Compliance Report, required by the Regional Water Board shall be submitted to the Regional Water Board Executive Officer within 30 days of notification.

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Waste/ Hazardous Materials Storage, Handling and Disposal	Distribution of educational materials on storm water pollution prevention practices to the public.	By Municipality
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Waste/ Hazardous Materials Storage, Handling and Disposal	Distribution of educational materials on storm water pollution prevention practices to the public.	By Municipality
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Low Impact Development (LID) Measures

All new development and redevelopment projects identified in subpart 5.E.II shall integrate Low Impact Development (LID) principles into project design. LID is a storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect predevelopment hydrologic functions.

The permittees shall develop a LID Technical Guidance section to the Ventura County Water Guidance Manual for Storm Water Quality Control Measures no later than (365 days from the Order's adoption date) for use by land planners and developers. The LID Technical Guidance section shall include objectives and specifications for integration of LID strategies in the areas of:

- Site Assessment
- Site Planning and Layout
- Vegetative Protection, Revegetation, and Maintenance
- Techniques to Minimize Land Disturbance
- Techniques to Implement LID Measures at Various Scales
- Integrated Water Resources Management Practices
- LID Design and Flow Modeling Guidance
- Hydrologic Analysis
- LID Credits

Alternatively, the permittees may satisfy this requirement by jointly developing a Southern California Regional LID Technical Guidance Document in partnership with the SMC, no later than (365 days from the Order's adoption date) if the Southern California Regional LID Technical Guidance Document at a minimum addresses all the objectives and integration strategies identified in the preceding (1) through (9).

The permittees shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications contained in the LID Technical Guidance Section through a training program. The LID training program will include the following:

- LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders
- A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects
- Materials and data from LID pilot projects and demonstration projects including case studies
- Guidance on how to integrate LID requirements into the local regulatory program(s) and requirements
- Availability of the LID Technical Guidance regarding integration of LID measures at various project scales
- Guidance on the relationship among LID strategies, Source Control BMPs, Treatment Control BMPs, and Hydromodification Control requirements

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Each permittee shall implement a program to control storm water discharges from construction activity at all construction sites within its jurisdiction.

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During the wet season, the program shall ensure that the following requirements are effectively implemented at all the construction sites in the categories listed below:

No grading shall occur between October 1 – April 15 (wet season) for construction projects in the following areas of high erosivity:

On hillsides with slopes 20% or steeper prior to land disturbance (If hillside development is not defined by a zoning ordinance, then the prohibition will apply to steep or long continuous slopes, or areas with silty soils, fine sands, or soils lacking vegetative cover.).

Directly discharging to a waterbody listed on the CWA § 303 (d) list for siltation or sediment; or

Within or adjacent to an environmentally sensitive area (ESAs)

If grading operations in these areas are not completed before the onset of the wet season beginning October 1st, grading shall be halted and effective erosion control measures shall be put in place to minimize erosion. Grading shall not resume until after April 15<sup>th</sup>. Depending on the project area, the developer shall implement the Erosion and Sediment control BMPs listed in the following Tables 6, 7, and 8.

(c) A Grading Prohibition Variance may be granted by the permittee where the project proponent can demonstrate that the proposed BMP measures can be reasonably expected to:

- (1) Not cause or contribute to the degradation of water quality
- (2) Ensure that Total Suspended Solids discharged is 100mg/L or less
- (3) Ensure that Turbidity of the discharge is 50 NTU or less
- (4) Not impair beneficial uses
- (5)

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#### Construction Sites Less than an Acre

Each permittee shall require the implementation of an effective combination of the following BMPs at all construction sites (see Table 6- BMPs at Construction sites less than 1 acre) to prevent erosion and sediment loss, and the discharge of construction wastes.<sup>1</sup> Where the Erosivity Factor (R) for the construction project is 50 or greater, erosion controls (erosion avoidance) are the preferred BMPs.<sup>2</sup>

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landowner as follows:

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

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

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

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

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

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

Municipality or other public agency - by an elected official, a ranking management official (e.g., County/ City

Administrative Officer, City Manager, Director of Public Works, or City Engineer).

6. Roadway Paving or Repaving Operations (For Private or Public Projects)

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

Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall unless required by emergency conditions

(2) Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat

(3) Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or watercourses

(4) Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt

(5) Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose properly

(6) Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed off properly

(7) Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly

(8) Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm

(9) Cover loads with tarp before haul-off to a storage site, and do not overload trucks

(10) Minimize airborne dust by using water spray during grinding

(11) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or watercourses

(12) Protect stockpiles with a cover or sediment barriers during a rain

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Traction Sand Trap Devices		B-49
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Snow and Ice Control		B-76
Snow Removal		B-76
Ice Control		B-77

Attachment A2 - Ventura Countywide StormWater Program

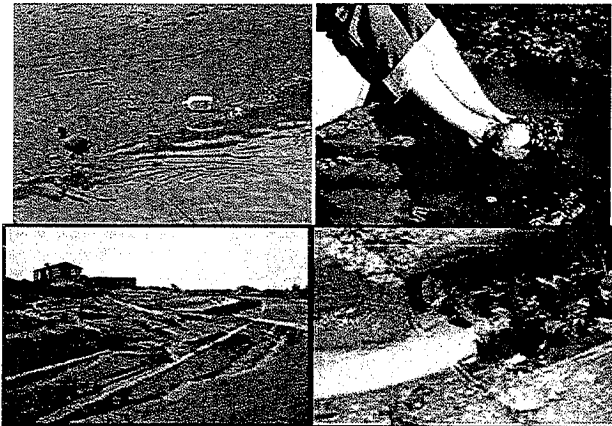
MS4 Redline Monitoring Program

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

MONITORING PROGRAM - No. CI 7388  
FOR  
ORDER 08-xxxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS

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

Xxxxxxxx xx, 200x



April 29, 2008 - draft Tentative

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**MONITORING PROGRAM**

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

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**CORE MONITORING**

**A. Mass Emissions**

- I. The Principal Permittee shall monitor mass emissions to accomplish the following objectives:
  - i. Estimate the mass emissions from the MS4.
  - ii. Assess trends in the mass emissions over time.
  - iii. Determine if the MS4 is contributing to exceedences of water quality objectives by comparing results to applicable water quality objectives in the Water Quality Control Plan Los Angeles Region (Basin Plan), and the California Toxics Rule (CTR) for acute criteria.
  
1. The Principal Permittee shall monitor mass emissions from the following 3 mass emission stations:
  - (a) ME-VR for Ventura River
  - (b) ME-SCR for Santa Clara River
  - (c) ME-CC for Calleguas Creek

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2. The Principal Permittee shall monitor the 3 mass emission stations on an alternate, every other year schedule as follows:
  - (a) ME-VR starting year 1 of Order adoption
  - (b) ME-SCR starting year 2 of Order adoption
  - (c) ME-CC starting year 2 of Order adoption
  
3. The Principal Permittee shall monitor at each mass emission station per scheduled year:
  - (a) The first storm event of the wet season that produces at least 0.25 inches of rain, and 3 additional storm events, all storm events shall be separated by 7 days of dry weather from the previously measurable storm event.
  - (b) A total of 4 monitoring events (storm events - wet weather) per mass emission station.
  
4. Samples for mass emission monitoring may be taken with the same type of automatic sampler used under Order 00-108.
  
5. Samplers shall be set to monitor storms that produce 0.25 inches or greater of rainfall.
  
6. Samples shall be flow-weighted composites, collected during the first 24 hours or for the duration of the storm if it is less than 24 hours.
  
7. The flow-weighted composite sample for a storm water discharge shall be taken with a continuous sampler, or it shall be taken as a combination of a minimum of 3 sample aliquots, taken in each hour of discharge for the first 24 hours of the discharge or for the entire discharge if the storm event is less than 24 hours, with each aliquot being separated by a minimum of 15 minutes, within each hour of discharge, unless the Regional Water Board Executive Officer approves an alternate protocol.
  
8. Flow may be estimated using EPA methods at sites where flow measurement devices are not in place.
  
9. Grab samples shall be taken only for pathogen indicators, hardness (as mg/L CaCO<sub>3</sub>) and pH, temperature, and DO.
  
10. Each mass emission shall analyze for all of the Pollutants of Concern (POC) in its specific watershed listed in Attachment "B" (Calleguas Creek Watershed, Santa Clara River Watershed, and Ventura River Watershed Pollutants of Concern).
  
11. Each mass emission station shall screen for all constituents listed in Attachment "G" (Storm Water Monitoring Program's Constituents with Associated

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Minimum Levels), during the first storm event of the wet season for each year sampled. If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method it need not be further analyzed unless the observed occurrence shows concentrations greater than the state water quality objective, and/ or the California Toxics Rule (CTR) for acute criteria. If a constituent is detected exceeding a Basin Plan objective, and/ or CTR criteria then the constituent shall be sampled for the remainder of the Order, at the mass emission station were it was detected.

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- 12. At a minimum a sufficient sample volume must be collected to perform all of the required biological and chemical tests.
- 13. When monitoring can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted to the Regional Water Board Executive Officer:
  - (a) Statement of situation.
  - (b) Explanation of circumstance(s) with documentation.
  - (c) Statement of corrective action for the future.
- 14. Monitoring results submitted to the Regional Water Board shall include:
  - (a) Rain totals and hydrographs for monitoring events in both narrative and graphic formats.
  - (b) A narrative description of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable storm event.
  - (c) All applicable Standard Monitoring Provisions listed in part "J".
- 15. Monitoring results from each mass emission station shall be sent electronically to the Regional Water Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov, no later than 90 days from sample collection date, for all test results, highlighting exceedences (Pollutants of Concern, POC) to the Basin Plan objectives, and the CTR for acute criteria with corresponding sampling dates per mass emission station. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).
- 16. A summary of the years' mass emission monitoring results highlighting exceedences (POC) to the Basin Plan objectives, and the CTR for acute criteria with corresponding sampling dates per mass emission station shall be included with the Annual Storm Water Report.

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**B. Major Outfalls**

- I. The Principal Permittee shall monitor major outfalls to accomplish the following objectives:
  - i. Estimate the annual pollutant load of the cumulative discharges to waters of the State.
  - ii. Estimate the event mean concentration of the cumulative discharges to waters of the State.
  - iii. Assess trends in the major outfalls over time.
  - iv. ~~Estimate the annual pollutant load of discharges to Waters of the State.~~
  - v. ~~Estimate the event mean concentration of discharges to Waters of the State.~~
  - vi. ~~Assess trends in the major outfalls over time.~~
  - vii. Determine if the MS4 is contributing to exceedences of MALs, and water quality objectives in the Water Quality Control Plan Los Angeles Region (Basin Plan), and the California Toxics Rule (CTR) for acute criteria.
  
- 1. The Principal Permittee shall monitor
  - (1) ~~One end-of-pipe of major outfall transporting discharges representative of multiple landuses in each permittee's Municipal drainage area.~~
  - (b) The first storm event of the wet season that produces at least 0.25 inches of rain, and 3 additional storm events, all storm events shall be separated by 7 days of dry weather from the previously measurable storm event.
  - (c) A total of 4 monitoring events (storm events - wet weather) shall be sampled per identified major outfall.
  
- 2. Samples shall be collected from the discharge resulting from a storm event that is 0.25 inches or greater.
  
- 3. Samples shall be collected during the first 24 hours of storm water discharge or for the entire storm water discharge if it is less than 24 hours.
  
- 4. Samples shall be flow-weighted composites and can be collected automatically or manually (see subparts A.7 and A.8).
  
- 5. Grab samples shall be taken only for pathogen indicators, hardness (as mg/L CaCO<sub>3</sub>) and pH, temperature, and DO.
  
- 6. Major outfall samples taken within a subwatershed shall be analyzed for the biological and chemical parameters listed in the preceding subpart B.5, and for all of the constituents in Attachment "C" (Municipal Action Levels), Tables 1 & 2, as listed below:
  - (a) pH
  - (b) TSS
  - (c) COD

**Deleted:** Estimate the annual pollutant load of discharges to Waters of the State.

**Deleted:** Estimate the event mean concentration of discharges to Waters of the State

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- (d) Kjedadahl Nitrogen (TKN)
- (e) Nitrate & Nitrite- Total
- (f) P- Total
- (g) Cd- Total
- (h) Cr- Total
- (i) Cu- Total
- (j) Pb- Total
- (k) Ni- Total
- (l) Zn- Total
- (m)Hg- Total

7. Each major outfall station shall screen for all constituents listed in Attachment "G" (Storm Water Monitoring Program's Constituents with Associated Minimum Levels) twice per wet season, per year, (1<sup>st</sup> storm event of the wet season and 4<sup>th</sup> storm event sampled of the wet season). If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method it need not be further analyzed unless the observed occurrence shows concentrations greater than the state water quality objective, and/ or the California Toxics Rule (CTR) for acute criteria. If a constituent is detected exceeding a Basin Plan objective, and/ or acute CTR criteria then the constituent shall be sampled for the remainder of the Order, at the major outfall station were it was detected.
8. At a minimum a sufficient sample volume must be collected to perform all of the required biological and chemical tests.
9. When monitoring can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted to the Regional Water Board Executive Officer:
  - (a) Statement of situation
  - (b) Explanation of circumstance(s) with documentation
  - (c) Statement of corrective action for the future
10. Monitoring results submitted to the Regional Water Board shall include:
  - (a) Rain totals and hydrographs for monitoring events in both narrative and graphic formats.
  - (b) A narrative description of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable storm event.
  - (c) All applicable Standard Monitoring Provisions listed in part "J".

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11. Monitoring results from each major outfall station shall be sent electronically to the Regional Water Board's Storm Water Site at MS4stormwaterb4@waterboards.ca.gov, no later than 90 days from sample collection date, for all test results, highlighting exceedences to the MALs, the Basin Plan objectives, and the CTR for acute criteria with corresponding sampling dates per major outfall station. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).

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12. A summary of the years' major outfall monitoring results, highlighting exceedences (pollutants of concern POC) to the MALs, the Basin Plan objectives, and the CTR for acute criteria with corresponding sampling dates per major outfall station, shall be included with the Annual Storm Water Report.

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**C. Aquatic Toxicity Monitoring (Wet Weather)**

I. The objective of aquatic toxicity monitoring is to evaluate if storm water (wet weather) discharges are causing or contributing to chronic toxic impacts on aquatic life by the following:

i. Toxicity testing at mass emission and follow-up testing at upstream major outfall stations to assess impacts on the marine and freshwater environments.

1. The Principal Permittee shall analyze mass emission sites for chronic toxicity, when significant toxicity is observed, upstream major outfalls will be monitored during the next event to evaluate the extent and causes of toxicity in receiving waters. Permittees shall utilize documents such as: Ventura County's Technical Guidance Manual for Storm Water Quality Control Measures and U.S. EPA's National Management Measures to Control Nonpoint Source Pollution from Urban Areas to implement measures to eliminate or reduce sources of toxicity in storm water.

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2. All chronic toxicity samples are to be flow-weighted composites and may be collected manually or automatically (see subparts A.7 and A.8).

3. Volume of sample shall be determined by specific test methods to be used. At a minimum it is suggested to collect 5 gallons for baseline testing, and an additional 5 gallons for TIE studies. Sufficient sample volume shall be collected to perform the required toxicity tests.

4. All toxicity tests shall be conducted as soon as possible following sample collection. The 36-hour sample holding time for test initiation shall be targeted. However, no more than 72 hours shall elapse before initial use of a sample.

5. When toxicity tests can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted to the Regional Water Board Executive Officer:
  - (a) Statement of situation
  - (b) Explanation of circumstance(s) with documentation
  - (c) Statement of corrective action for the future
  
6. The Principal Permittee shall conduct critical life stage chronic toxicity tests on 100% effluent samples in accordance with:
  - (a) U.S. EPA's Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, (EPA/600/R-95/136, 1995) for all mass emission stations, and for major outfalls discharging to marine and estuarine environments, or
  - (b) U.S. EPA's Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, October 2002 (EPA/821/R-02/013) or current version for major outfalls discharging to freshwater environments.
  
7. The Principal Permittee shall analyze samples for chronic toxicity according to the schedule below:
  - (a) During the first year of the Order, 4 storm events shall be monitored for each mass emission station. The first storm event of the wet season that produces at least 0.25 inches of rain, and 3 additional storm events, all storm events shall be separated by 7 days of dry weather (less than 0.1 inch of rain) from the previously measurable storm event.
    - (1) During the first year of the Order, all 3 test species shall be used for their respective chronic toxicity test method for the 4 storm events monitored, to determine the most sensitive test species for each mass emission station (see subparts C.8 and C.9 below).
  - (b) During the next 4 years of the Order, 1 storm event shall be monitored for each mass emission. The first storm event of the wet season that produces at least 0.25 inches of rain.
    - (1) During the next 4 years of the Order, the most sensitive test species determined from the first year of testing at each mass emission shall be used for its respective chronic toxicity test method (see subpart C.6).
    - (2) If significant toxicity is present then upstream major outfalls shall be monitored for toxicity during the next event using the same test species.

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8. Marine and Estuarine Species and Test Methods.

- (a) Marine and estuarine species and short-term test methods for estimating the chronic toxicity of NPDES effluents shall be used and are found in the first edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995) and applicable water quality standards; also see 40 CFR Parts 122.41(j)(4) and 122.44(d)(1)(iv).
- (1) The permittee shall conduct:
- (A) A static renewal toxicity test with the topsmelt, *Atherinops affinis* (Larval Survival and Growth Test Method 1006.01)
- (B) A static non-renewal toxicity test with the giant kelp *Macrocystis pyrifera* (Germination and Growth Test Method 1009.0); and
- (C) A static non-renewal toxicity test with the purple sea urchin, *Strongylocentrotus purpuratus*, (Fertilization Test Method 1008.0)
- (b) In no case shall the preceding toxicity test species be substituted with another organism unless written authorization from the Regional Water Board Executive Officer is received.
9. Freshwater Species and Test Methods.
- (a) Species and short-term test methods for estimating the chronic toxicity of NPDES effluents are found in the fourth edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002; Table IA, 40 CFR Part 136).
- (1) The permittee shall conduct
- (A) A static renewal toxicity test with the fathead minnow, *Pimephales promelas* (Larval Survival and Growth Test Method 1000.0<sup>1</sup>)
- (B) A static renewal toxicity test with the daphnid, *Ceriodaphnia dubia* (Survival and Reproduction Test Method 1002.0<sup>1</sup>); and
- (C) A static renewal toxicity test with the green alga, *Selenastrum capricornutum* (also named *Raphidocelis subcapitata*) (Growth Test Method 1003.0)
- (b) In no case shall the preceding toxicity test species be substituted with another organism unless written authorization from the Regional Water Board Executive Officer is received.
10. The test endpoint data is analyzed using a standard t-test approach. Statistical analysis methods shall be consistent with U.S. EPA test method manuals.

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<sup>1</sup> Daily observations for mortality make it possible to calculate acute toxicity for desired exposure periods (i.e., 7-day LC50, 96-hour LC50, etc.).



11. If significant toxicity is found then the following paragraph 10.2.6.2 of the U.S. EPA freshwater test methods manual, all chronic toxicity test results from the multi-concentration tests required by this Order must be reviewed and reported according to U.S. EPA guidance on the evaluation of concentration-response relationships found in *Method Guidance and Recommendations for Whole Effluent Toxicity (WET) Testing (40 CFR 136)* (EPA/821/B-00-004, 2000).
12. Toxic samples shall be immediately subjected to Toxicity Identification Evaluation (TIE) procedures to identify the toxic chemical(s) if seen by the standard t-test.
13. A TIE is to be performed to identify the causes of toxicity using the same species and test method and, as guidance, U.S. EPA test method manuals: *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I* (EPA/600/6-91/005F, 1992); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080, 1993); *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/081, 1993); and *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document* (EPA/600/R-96-054, 1996).
14. The Principal Permittee shall complete chronic Phase I (Toxicity Characterization Procedures) TIEs for all sites showing toxicity at 90 percent or greater dilution to any 1-test organism.
  - (a) The TIE shall be conducted on test species, demonstrating the most sensitive toxicity response at a sampling station. However, a TIE(s) may be conducted on an additional test species with the caveat that once the toxicant(s) has been identified then the most sensitive test species triggering the TIE event needs to be tested additionally to verify that the toxicant has been identified and addressed.
15. A TIE Prioritization Metric may be utilized to rank sites for TIEs.<sup>2</sup>
16. Toxicity Reduction Evaluation (TRE) when toxicity is identified
  - (a) When the same pollutant or class of pollutants is identified through two consecutive TIE evaluations, a TRE shall be performed for that identified toxic pollutant.
  - (b) The TRE development shall be performed by a neutral third party (retained by the Permittees), in consultation with the Regional Water Board staff.

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<sup>2</sup> Appendix 5. SMC Model Monitoring Program.

- (c) The TRE shall include all reasonable steps to identify the source(s) of toxicity and discuss appropriate BMPs to eliminate the causes of toxicity. No later than 30 days after the source of toxicity and appropriate BMPs are identified, the Permittees shall submit the TRE Corrective Action Plan to the Regional Water Board Executive Officer for approval. At a minimum, the Plan shall include a discussion of the following items:
- (1) The potential sources of pollutant(s) causing toxicity.
  - (2) A list of municipalities that may have jurisdiction over sources of pollutant(s) causing toxicity.
  - (3) Recommended BMPs to reduce the pollutant(s) causing toxicity.
  - (4) Proposed post construction control measures to reduce the pollutant(s) causing toxicity.
  - (5) Follow-up monitoring to demonstrate that toxicity has been removed.
- (d) The TRE process shall be coordinated with TMDL development and implementation (i.e., If a TMDL for 4,4'-DDD is being implemented when a TRE for 4,4'-DDD is required, the efforts shall be coordinated to avoid overlap).
17. Toxicity monitoring results shall be sent to the Regional Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov, no later than 90 days from sample collection date for the initial toxicity test and no more than 30 days from completion of each aspect of the analysis for TIEs/TREs. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs). Deleted: 45
18. The Annual Storm Water Report shall include:
- (a) A full laboratory report for all toxicity testing.
  - (b) A summary of the years' mass emission and major outfall monitoring station's toxicity test results reported according to the test methods manual chapter on report preparation and test review.
  - (c) The dates of sample collection and initiation of each toxicity test.
  - (d) All results for effluent parameters monitored concurrently with the toxicity test(s).
  - (e) TIE Phase testing (Phase I, Phase II, and Phase III) that has been or is in the process of being conducted per monitoring station.
  - (f) The development, implementation, and results for each TRE Corrective Action Plan in the Annual Storm Water Report, beginning the year following the identification of each pollutant or pollutant class causing toxicity.
19. When the SMC Standardized Toxicity Testing Guidance is completed, the Regional Water Board Executive Officer may direct permittees to replace the current toxicity program with the standardized guidance procedure.

**SPECIAL STUDIES**

**E. Hydromodification Control Study**

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

**F. Low Impact Development**

1. The Principal Permittee shall conduct or participate in a special study to assess the effectiveness of low impact development techniques in semi-arid climate regimes such as in Southern California.

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

... [1]

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

#### G. Southern California Bight Project

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

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#### H. Volunteer Monitoring Programs

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

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#### I. Standard Monitoring Provisions

- I. All monitoring activities shall meet the following requirements.
  1. Monitoring and Records [40 CFR 122.41(j)(1)]

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. Monitoring and Records [40 CFR 122.41(j)(2)] [CWC §13383(a)]
- (a) The Principal Permittee and Permittees shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge (ROWD) and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Water Board or U.S. EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.
3. Monitoring and Records [40 CFR 122.21(j)(3)]
- (a) Records of monitoring information shall include:
- (1) The date, time of sampling or measurements; exact place, weather conditions, and rain fall amount.
  - (2) The individual(s) who performed the sampling or measurements.
  - (3) The date(s) analyses were performed.
  - (4) The individual(s) who performed the analyses.
  - (5) The analytical techniques or methods used.
  - (6) The results of such analyses.
  - (7) The data sheets showing toxicity test results.
4. Monitoring and Records [40 CFR 122.21(j)(4)]
- (a) All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order. If a particular Minimum Level (ML) is not attainable in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure may be used instead.
5. Monitoring and Records [40 CFR 122.21(j)(5)]
- (a) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

6. All chemical, bacteriological, and toxicity analyses shall be conducted at a laboratory:
  - (a) Certified for such analyses by an appropriate governmental regulatory agency.
  - (b) Participated in 'Intercalibration Studies' for storm water pollutant analysis conducted by the SMC.<sup>5</sup>
  - (c) Which performs laboratory analyses consistent with the storm water monitoring guidelines as specified in, the *Stormwater Monitoring Coalition Laboratory Guidance Document*, 2nd Edition R. Gossett and K. Schiff (2007), and its revisions.
7. For priority toxic pollutants that are identified in the CTR (65 *Fed. Reg.* 31682), the MLs published in Appendix 4 of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (SIP) shall be used for all analyses, unless otherwise specified. The MLs from the SIP are incorporated into Attachment "G".
8. The Monitoring Report shall specify the analytical method used, the Method Detection Level (MDL) and the ML for each pollutant. For the purpose of reporting compliance with numerical limitations, performance goals, and receiving water limitations, analytical data shall be reported with 1 of the following methods, as appropriate:
  - (a) An actual numerical value for sample results greater than or equal to the ML.
  - (b) "Not-detected (ND)" for sample results less than the laboratory's MDL with the MDL indicated for the analytical method used.
  - (c) "Detected, but Not Quantified (DNQ)" if results are greater than or equal to the laboratory's MDL but less than the ML. The estimated chemical concentration of the sample shall also be reported. This is the concentration that results from the confirmed detection of the substance by the analytical method below the ML value.
9. For priority toxic pollutants, if the Permittee can demonstrate that a particular ML is not attainable, in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Principal Permittee must submit documentation from the laboratory to the Regional Water Board Executive Officer for approval prior to raising the ML for any constituent.

<sup>5</sup> The 'Intercalibration Studies' are conducted periodically by the SMC to establish a consensus based approach for achieving minimal levels of comparability among different testing laboratories for storm water samples to minimize analytical procedure bias. Stormwater Monitoring Coalition Laboratory Document, Technical Report 420 (2004) and subsequent revisions and augmentations.

10. Monitoring Reports [40 CFR 122.41(I)(4)(ii)]
  - (a) If the Principal Permittee monitors any pollutant more frequently than required by the Order using test procedures approved under 40 CFR part 136, unless otherwise specified in the Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Annual Monitoring Reports.
11. Monitoring Reports [40 CFR 122.41(I)(4)(iii)]
  - (a) Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order.
12. If no flow occurred during the reporting period, then the Monitoring Report shall, so state.
13. The Regional Water Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring Program, after providing the opportunity for public comment, either:
  - (a) By petition of the Principal Permittee or by petition of interested parties after submittal of the Monitoring Report. Such petition shall be filed not later than 60 days after the Monitoring Report submittal date, or
  - (b) As deemed necessary by the Regional Water Board Executive Officer following notice to the Principal Permittee.
14. The Principal Permittee must provide a copy of the Standard Operation Procedures (SOPs) for the Monitoring Program No. CI 7388 to the Regional Water Board upon request. The SOP will consist of five elements: Title page, Table of Contents, Procedures, Quality Assurance/ Quality Control (QA/ QC), and References. Briefly describe the purpose of the work or process, including any regulatory information or standards that are appropriate to the SOP process, and the scope to indicate what is covered. Denote what sequential procedures should be followed, divided into significant sections; e.g., possible interferences, equipment needed personnel qualifications, and safety considerations. Describe QA/ QC activities, and list any cited or significant references.

**J. Total Maximum Daily Load (TMDL) Monitoring**

1. TMDL monitoring is to determine compliance with the TMDL Waste Load Allocations (WLAs) and numeric targets for the MS4 permittees that have been

adopted by the Regional Water Board and have been approved by the Office of Administrative Law and the U.S. EPA.

2. TMDL monitoring is in accordance with approved TMDLs as discussed in part 6 of the permit. TMDL monitoring for specific watersheds is in accordance with the agreed upon monitoring plans submitted by stakeholders, including MS4 permittees.

Ordered by:

Tracy J. Egoscue  
Executive Officer

Date: XXXXXXXX xx, 200x



### Pyrethroid Insecticides Study

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

cypermethrin  
deltamethrin  
esfenvalerate  
lambda-cyhalothrin  
permethrin  
tralomethrin (if laboratory is capable of analyzing for it)

Detection limits for all Pyrethroids shall be as close to 1ng/g (dry weight) as reasonably achievable.

Each sediment sample is to measure the following:  
total organic carbon (OC).

All samples shall be tested for toxicity to 7 to 10 day old *Hyaella azteca* according to standard U.S. EPA testing methods.<sup>1</sup>  
Use of the approach described in *Aquatic Toxicity Due to Residential Use of Pyrethroid Insecticides*<sup>2</sup> for toxicity testing shall be used.

Analyses to be conducted at a laboratory that has performed sediment toxicity testing for Pyrethroid Insecticides, is preferred.

Monitoring results from each station shall be sent electronically to the Regional Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).

If toxicity is attributed to Pyrethroids then consultation with staff at U.S. EPA, the California Department of Pesticide Regulations and the California Stormwater Quality Association's (CASQA) pesticides committee (UP3 Project web site), shall be required to obtain relevant information to use in developing the recommendations to mitigate Pyrethroids in the Final Report.

A Quality Assurance Project Plan (QAPP) shall be developed and shall include site-specific information, and field and laboratory quality assurance requirements. This document identifies the major elements of the quality assurance and quality control components that need to be described in the QAPP. The QAPP shall be submitted to the Regional Board Executive Officer for staff review and approval by the Los Angeles Regional Water Board Quality Assurance Officer.

<sup>1</sup> U.S. EPA. *Methods for Measuring the Toxicity and Bioaccumulation of Sediment-Associated Contaminants with Freshwater Invertebrates*; EPA Publication 600/R-99/064; U.S. Environmental Protection Agency: Washington, DC, 2000; 192 pp.

<sup>2</sup> *Aquatic Toxicity Due to Residential Use of Pyrethroid Insecticides*; Weston, D.P.; Holmes, R.W.; You, J.; Lydy, M.J. *Environ. Sci. Technol.*; (Article); 2005; 39(24); 9780 pp.

Final Report for the Pyrethroid Insecticides study shall contain the following:

Executive summary

Methods

Results (including map depicting monitoring stations)

Discussion

Recommendations to mitigate Pyrethroids

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

The Pyrethroid Insecticides Study requirement may be satisfied by another tributary monitoring program within the Calleguas Creek Watershed performing a sediment Pyrethroid Insecticides Study that is monitoring according to the preceding subparts E.1 through E.4, so as to complement and not duplicate efforts.

Attachment B

M. Walker 10/11/07 Memorandum regarding Comparison between Montgomery County (MD) and Ventura County (CA) Stormwater Management Programs

# Memorandum

LARRY  
WALKER



ASSOCIATES

DATE: October 11, 2007

TO: Gerhardt Hubner

SUBJECT: Comparison between Montgomery  
County (MD) and Ventura County (CA)  
Stormwater Management Programs

MALCOLM WALKER, P.E.

707 4h Street  
Davis, CA 95616  
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The purpose of this memorandum is to summarize and compare the Stormwater Management Programs currently being implemented in Montgomery County (MD) and Ventura County (CA). Each program is in response to Federal regulations and subject to NPDES permits. This memorandum includes two sections: one is the side by side comparison between the two management programs and the other is a comparison between the runoff quality for comparable outfalls within each county.

## Stormwater Management Program Comparison

The structure of both programs follows the format of the stormwater regulations (40 CFR 122.26). As such the programs are organized around the following program elements:

- Public Outreach
- Industrial/Commercial Businesses
- Illicit Discharge and Illegal Connection
- New Development and Land Use Planning
- Construction
- Municipal Operations

The 2005/06 Annual Report for each county was reviewed and summarized in the following table.

Table 1. Comparison of Stormwater Management Programs

Stormwater Management Program Elements	Ventura County FY05-06 Reported Activities	Montgomery County 2005 Reported Activities
<b>a. Public outreach</b> Presentations at community groups; participation in county-wide events	<ul style="list-style-type: none"> <li>• Participation in Coastal Clean-up Day (2000 volunteers, 47 mi of shoreline)</li> <li>• Participation at Mobile Satellite City Hall Events (direct residents / program staff interactions)</li> </ul>	<ul style="list-style-type: none"> <li>• Mentoring partnership with local schools (assistance with environmental projects, distribution of outreach materials)</li> <li>• Participation in two Volunteers in Planting events (approx. 600 native trees and shrubs planted in riparian forested buffers for stream restoration)</li> </ul>
<b>Outreach materials</b>	<ul style="list-style-type: none"> <li>• Multimedia, bi-lingual materials (print, video, web) on water conservation, pet waste, illegal dumping, incident reporting; utility bill inserts; newsletters</li> </ul>	<ul style="list-style-type: none"> <li>• Multimedia materials (print, video, web) on water conservation, pet waste, illegal dumping, incident reporting; utility bill inserts.</li> </ul>
<b>Media advertisements</b>	<ul style="list-style-type: none"> <li>• Print, Radio, TV, Outdoor</li> </ul>	<ul style="list-style-type: none"> <li>• not reported</li> </ul>
<b>Other / Special programs</b>	<ul style="list-style-type: none"> <li>• Pet Waste Program (educate pet owners on proper disposal of pet waste; installation and stocking of 75 dispensers for pet waste bags in public areas)</li> </ul>	<ul style="list-style-type: none"> <li>• Rainscapes Program (community workshops on using native plants and creation of backyard wildlife habitat; distribution of 75 rain barrels)</li> </ul>
<b>b. Industrial / commercial businesses</b> Site Education / Inspection	<ul style="list-style-type: none"> <li>• Inspections at approx. 775 automotive facilities and 1100 food service establishments.</li> </ul>	<ul style="list-style-type: none"> <li>• 1,145 total inspections of sites with stormwater management equipment (oil/grit separators, ponds, etc.); 959 privately owned and 186 publicly-owned</li> </ul>
<b>Targeted Businesses / POCs</b>	<ul style="list-style-type: none"> <li>• Focus of food service establishments, automotive, car washes, equestrian stable facilities, agricultural-related facilities, and mobile businesses (e.g. concrete pumping).</li> </ul>	<ul style="list-style-type: none"> <li>• not reported</li> </ul>
<b>General Industrial Permit Facility Visits</b>	<ul style="list-style-type: none"> <li>• Approx. 275 outreach contacts at facilities identified as potentially subject to General Industrial Permitting</li> <li>• Conducted several joint inspections with RWQCB inspection staff to promote consistency in inspection procedures</li> <li>• 58 inspection staff trained</li> </ul>	<ul style="list-style-type: none"> <li>• not reported</li> </ul>
<b>Stormwater Quality Staff Training Enforcement</b>	<ul style="list-style-type: none"> <li>• not reported</li> </ul>	<ul style="list-style-type: none"> <li>• 196 water quality complaints</li> <li>• 55 hazardous materials incidents</li> <li>• 22 NOVs, \$1,750 fines</li> </ul>

Table 1. continue

	VENTURA COUNTY, CA FY05-06 Reported Activities	MONTGOMERY COUNTY, MD 2005 Reported Activities
Stormwater Management Program Elements		
<b>c. Illicit discharge and illegal connection</b>		
Incident Response	<ul style="list-style-type: none"> <li>• Approx. 900 reported incidents, 15% determined to be illicit discharges</li> <li>• 548 warnings, 226 NOVs</li> <li>• 15 illegal connections identified and eliminated</li> </ul>	<ul style="list-style-type: none"> <li>• 387 complaints of illegal dumping</li> <li>• 18 NOVs, \$4,500 fines</li> <li>• no illegal connections reported</li> </ul>
Education	Part of outreach for elements a. and e.	Part of element a not reported
Illicit Discharges / Illegal Connections Staff Training	<ul style="list-style-type: none"> <li>• 58 drainage, roadway, landscape and facilities, industrial inspection, and code enforcement staff trained</li> </ul>	<ul style="list-style-type: none"> <li>• 100 outfalls selected from targeted watersheds (based on history of water quality complaints &amp; results of biological monitoring)</li> <li>• 37 with dry weather flow, out of which 9 identified with dry-weather flow from other than pipe streams</li> <li>• 5 had one or more of the five indicator parameters (Cu, Pb, Detergents, Total Phenols, Chlorine) above MDLs - source tracking unsuccessful</li> </ul>
Outfall Screening	not reported.	
Inspect outfalls for evidence of illicit discharges or illegal connections.		
<b>d. New development and land use planning</b>		
Land Use Planning and Environmental Review	<ul style="list-style-type: none"> <li>• Approx. 650 projects reviewed for stormwater requirements</li> </ul>	<p>Sediment and Erosion Control Program</p> <p>Program purpose is "to prevent excessive erosion and stormwater flow from land disturbing activities from causing siltation and degradation of streams and waterways."</p> <ul style="list-style-type: none"> <li>• 779 Sediment Control Permits issued (for activities disturbing 5000 sq. ft. of land or more)</li> <li>• 167 projects with area of disturbance greater than one-acre (reported on a quarterly basis to the MD Dept of Env't)</li> <li>• 84 'responsible personnel' (construction site operators) trained</li> </ul>
Development Standards - Technical Manual	<ul style="list-style-type: none"> <li>• Approx. 175 projects with Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) technical requirements</li> </ul>	
Development Community Outreach	<ul style="list-style-type: none"> <li>• Approx. 3500 contacts made through meetings, public communication efforts, and educational materials</li> <li>• 34 development / planning staff trained</li> </ul>	
Stormwater Quality Staff Training		
<b>e. Construction</b>		
SWPCP Preparation, Certification, and Implementation (with incorporated BMPs)	<ul style="list-style-type: none"> <li>• 110 projects w/ SWPCP requirements; all inspected at least once</li> <li>• 100% projects satisfied NOI requirement</li> <li>• All sites inspected at least once during the wet season; 807 enforcement actions taken (job memoranda, NOVs, CDOs)</li> </ul>	
Notice of Intent Requirement		
Construction Site Inspection Program		
Stormwater Quality Staff Training	<ul style="list-style-type: none"> <li>• 200 construction inspection staff trained</li> </ul>	

Table 1. continue

Stormwater Management Program Elements	MONTGOMERY COUNTY, MD	
	VENTURA COUNTY, CA	2005 Reported Activities
f. Municipal operations Corporation Yards	<ul style="list-style-type: none"> <li>• SWPCP developed and implemented at all 20 corporation yards; 100% compliance w/ SWPCP requirements</li> </ul>	<ul style="list-style-type: none"> <li>• SWPCP developed and implemented at all 9 corporation yards; 4 Plans need revisions</li> <li>• no indoor vehicle washing facility at 3 yards</li> </ul>
Other Facilities		
Drainage System Operation and Maintenance	<ul style="list-style-type: none"> <li>• Inspected catch basins and other drainage facilities at least once before the wet season</li> <li>• Approx. 28,500 tons of debris removed from catch basins, channels / ditches, and detention / retention basins</li> </ul>	<ul style="list-style-type: none"> <li>• Program is complaint-driven to remove clogged inlets or drainage problems</li> <li>• 5.72M ft total storm drains; 11,460ft cleaned</li> <li>• Pilot program to estimate effectiveness of storm drain inlet cleaning in source control</li> </ul>
Roadway Operation and Maintenance	<ul style="list-style-type: none"> <li>• Approx. 112,000 curb miles swept; over 100% of roadways (most streets swept more than once)</li> </ul>	<ul style="list-style-type: none"> <li>• All streets swept at least once between March and June (soon after wet season when sand and salt are applied).</li> <li>• Contractor required to keep track of amount of debris swept by route, so that areas with high amount of debris can be targeted for priority street sweeping.</li> </ul>
Pesticide, Herbicide, and Fertilizer Application and Use	<ul style="list-style-type: none"> <li>• No application during rain events, or within one day of an event forecasted to be greater than 0.25 in., or at anytime when water is leaching or running from the application area</li> <li>• Implement effective BMPs and focus on Integrated Pest Management approach</li> </ul>	<ul style="list-style-type: none"> <li>• Integrated Pest Management (IPM) plan</li> <li>• No fertilizer used at County facilities in 2005</li> <li>• Limited pesticides usage, only when all other control measures failed</li> </ul>
Stormwater Quality Staff Training	<ul style="list-style-type: none"> <li>• 834 stormwater maintenance, drainage and flood control systems, street and roads, parks and public landscaping, and corporation yards staff trained</li> </ul>	<ul style="list-style-type: none"> <li>• Conducted for yard personnel</li> </ul>
Other / Special programs	not reported	<p>Montgomery County Environmental Policy -</p> <ul style="list-style-type: none"> <li>• "to increase environmental awareness of all County agencies, departments, and employees"</li> <li>• Develop and implement Env'tl Action Plans for all departments (focus on energy conservation, pollution prevention, green purchasing, and green buildings).</li> <li>• Best Env'tl Practices part of County budget</li> <li>• "Going Green at Home" initiative to encourage green building techniques in employees' home renovations / purchases.</li> </ul>



A review of Table 1 shows basically similar programs and commitments. The following observations are provided based on the review of Table 1

- Ventura County outreach focused on beach clean up and control of pest waste, while Montgomery County Outreach focused on rainscapes (including rain barrels)
- Similar effort with the industrial and commercial businesses with Ventura County providing significant inspections and Montgomery providing comprehensive enforcement.
- Enforcement of ID/IC program appears more aggressive in Ventura County although Montgomery County has an extensive outfall screening program.
- Both programs appear well situated to deal with construction sites.
- Ventura County has a well defined post construction program (probably due to its NPDES permit requirements). Unclear from the Annual Report the extent of the post construction program in Montgomery County.
- Similar efforts for municipal operations.

Although this comparison was limited to a review of the Annual Report the two programs appear very similar and comprehensive. A through audit of the two programs would likely distinguish significant differences (if any) but from our review the two programs are equivalent. This is not surprising since both programs are considered exemplary for their respective regions of the country.

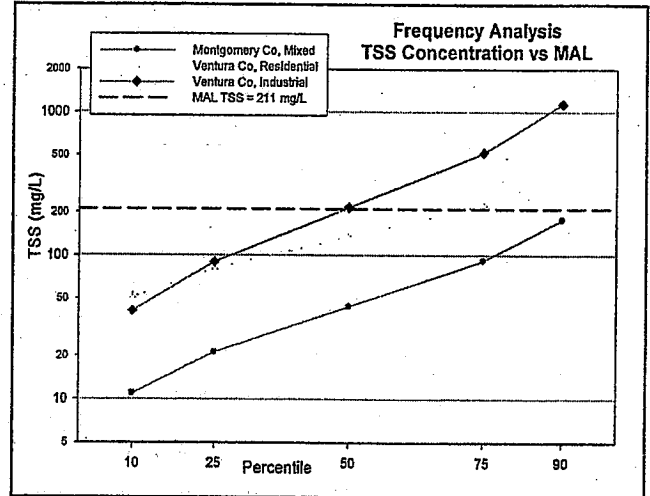
#### Runoff Characteristics

Each Program has an ongoing monitoring program that includes among other effort the characterization of runoff as determined through outfall monitoring. Each program has at least one land use outfall where sample are collected as flow weighted event mean concentrations. The side by side comparison between the outfall characteristics are shown below:

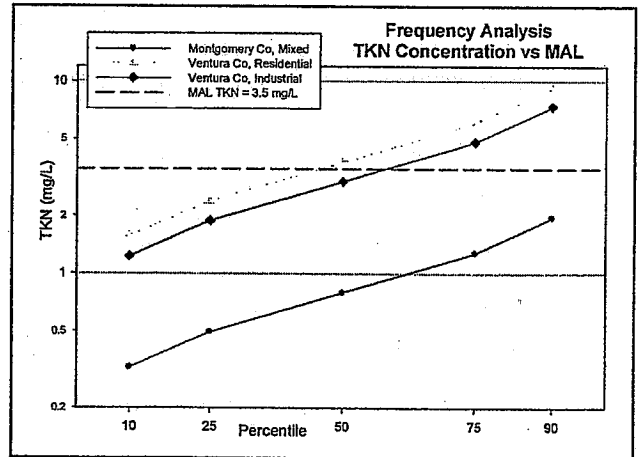
Characteristics	Montgomery County: Stewart-April Lane	Ventura County: Ortega Street (I-2)	Ventura County: Swan Street (R-1)
Dominant Land Use	Mixed	Industrial	Residential
Drainage Area, ac.	223	189	65
Monitoring record	2002-2006	1993-1998, 2000, 2004	1993-1998, 2000, 2004
Number of sample events	~45	~25	~25
Annual Precipitation, inches	46.4	15.35	15.35

The frequency distribution of the monitoring results for selected constituents are summarized and graphically shown in the following pages:

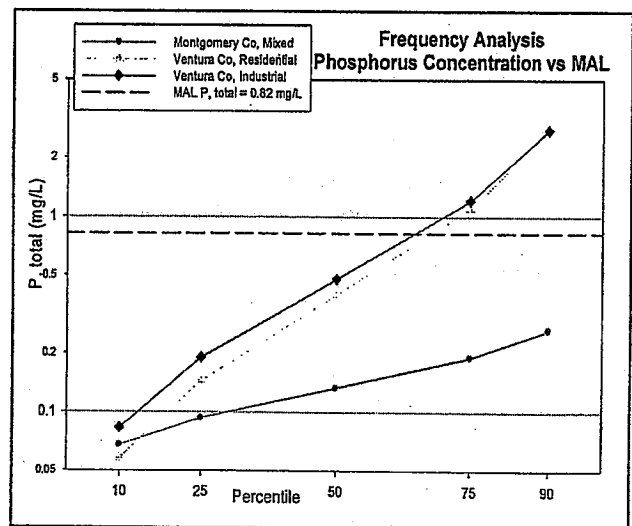
	TSS (mg/L)		
	Montgomery	Ventura R-1	Ventura I-2
min	5	26	5
10	11	51	41
25	21	81	90
50	44	135	217
75	92	227	520
90	177	361	1144
max	450	444	2796



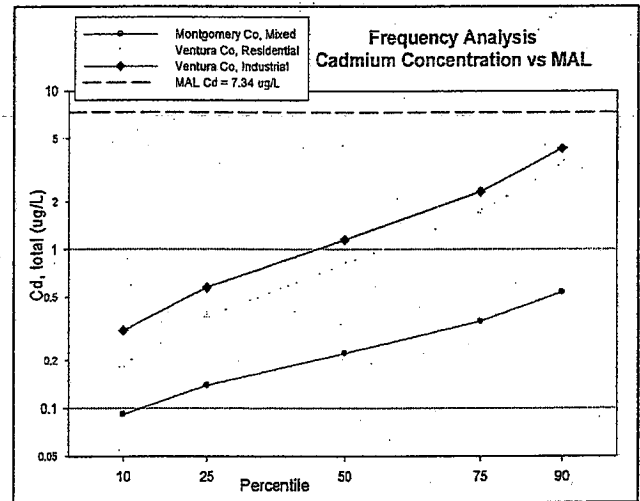
	TKN (mg/L)		
	Montgomery	Ventura R-1	Ventura I-2
min	0.1	1.2	1.1
10	0.3	1.6	1.2
25	0.5	2.4	1.9
50	0.8	3.8	3.0
75	1.3	6.1	4.8
90	1.9	9.3	7.4
max	4.3	23.4	8.1



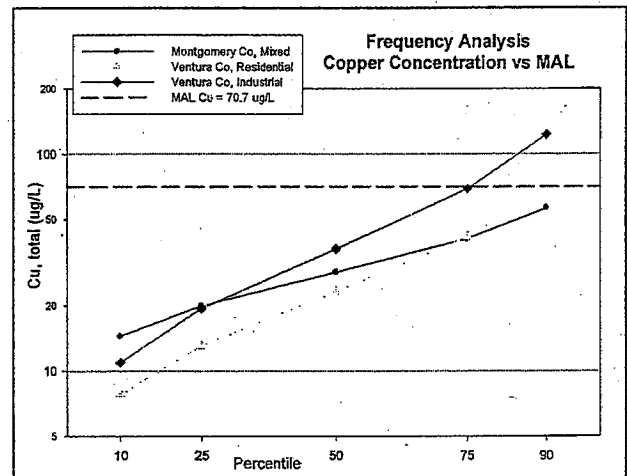
	Phosphorus, total (mg/L)		
	Montgomery	Ventura R-1	Ventura I-2
min	0.05	0.001	0.001
10	0.07	0.06	0.08
25	0.09	0.14	0.19
50	0.13	0.40	0.48
75	0.19	1.10	1.20
90	0.26	2.74	2.77
max	1.09	2.85	11.40



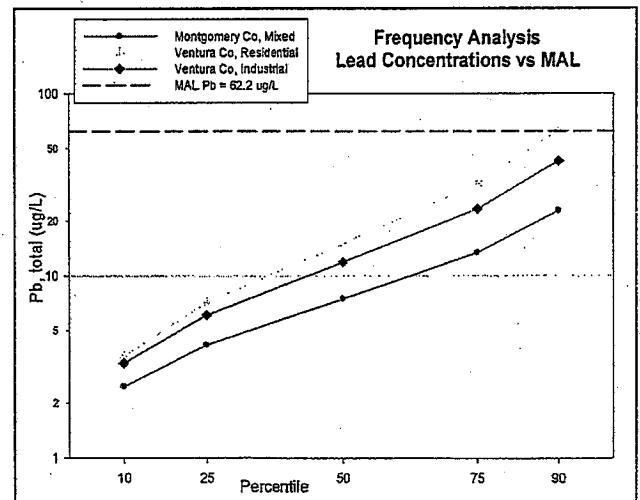
Cadmium, total (ug/L)			
	Montgomery	Ventura R-1	Ventura I-2
min	0.05	0.20	0.30
10	0.09	0.19	0.31
25	0.14	0.38	0.58
50	0.22	0.81	1.15
75	0.35	1.74	2.31
90	0.54	3.47	4.33
max	2.20	5.70	7.00



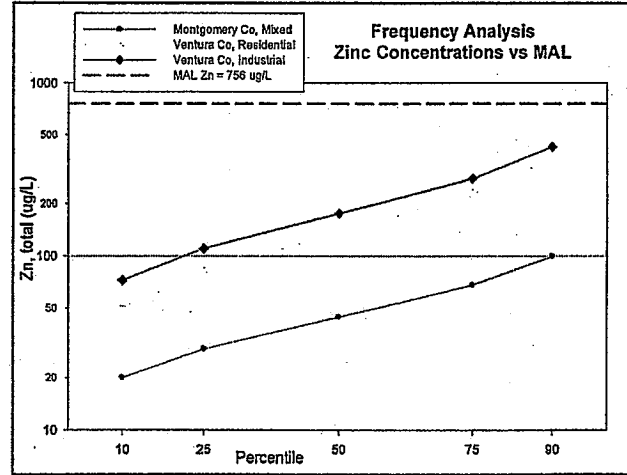
Copper, total (ug/L)			
	Montgomery	Ventura R-1	Ventura I-2
min	10.8	5.0	6.0
10	14.4	7.7	10.9
25	19.9	13.0	19.3
50	28.5	23.2	36.6
75	40.8	41.4	69.1
90	56.3	69.7	122.6
max	169.2	84.1	254.5



Lead, total (ug/L)			
	Montgomery	Ventura R-1	Ventura I-2
min	1.6	2.0	3.0
10	2.5	3.6	3.3
25	4.2	7.1	6.1
50	7.5	15.1	11.9
75	13.4	32.0	23.3
90	22.8	63.1	42.8
max	60.7	61.0	72.0



	Zinc, total (ug/L)		
	Montgomery	Ventura R-1	Ventura I-1
min	15	26	67
10	20	51	72
25	29	81	110
50	44	135	175
75	68	227	279
90	99	361	425
max	275	444	660



A closer review of the distribution plots shows that the runoff from the Stewart Apple Lane site is consistently cleaner than the runoff from either the Ortega Street or Swan Street sites. There are various reasons why this may be the case including

- Difference in annual rainfall amounts
- Difference in impervious area
- Difference in stormwater management programs

To assess the relationship in rainfall and runoff concentrations the arithmetic means of the constituents shown above were compared between Montgomery and R-1. The hypothesis is that the runoff concentrations are inversely related to the amount of annual rainfall. This hypothesis is consistent with the theory that pollutants build up between rain events and wash off during the event. On an annual basis if all things being equal the load from the two counties would be similar. The comparison is shown below:

Constituent	Units	Runoff means		Ratio (Mont/Ven)
		Montgomery	Ventura (R-1)	
TSS	mg/L	44	135	.33
TKN	mg/L	0.8	3.8	.21
Total P	mg/L	0.13	0.40	.33
Cadmium	ug/L	0.22	.81	.27
Copper	ug/L	28.5	23.2	1.23
Lead	ug/L	7.5	15.1	.50
Zinc	ug/L	44	135	.33
Annual Rainfall	inches	46.4	15.35	.33 (Ven/Mont)

Although this comparison is relatively elementary a review of the ratio would suggest that the rainfall concentrations are related to the annual rainfall amount. A more sophisticated analysis is necessary to conclusively validate this hypothesis but for the purposes of this level of comparison the hypothesis appears valid.

Attachment C

M. Barrett report "Treatment BMP Performance Standards", May 19, 2008

# Treatment BMP Performance Standards

Prepared for the Ventura Countywide Stormwater Quality Management Program

by

Michael E. Barrett, Ph.D., P.E., D.WRE

May 19, 2008

D000480

I have been asked to comment on the proposed treatment BMP performance standards incorporated in Provision 4.A.3 and Attachment C of the April 29, 2008 draft Ventura County MS4 permit. These standards were developed by the Regional Board based on an analysis of the information contained in the International BMP Database. I recently completed an extensive analysis BMP performance using this same dataset for the Water Environment Research Foundation (WERF). This analysis is contained in the publication, *Performance and Whole Life Costs of Best Management Practices and Sustainable Urban Drainage Systems* (Lampe et al., 2005). The findings have also been approved for publication in a special stormwater issue of the ASCE Journal of Irrigation and Drainage (Barrett, in press). WERF is now the primary funding organization for the database and I currently serve on their project oversight committee, so I continue to remain abreast of database updates. I am also very familiar with stormwater issues in California, having assisted with the Caltrans stormwater program for over 10 years and, in addition, worked on projects for San Diego and Orange Counties. Finally, I am the author of the design guidelines for structural BMPs contained in the California BMP Handbooks. Consequently, I am uniquely qualified to comment on the proposed performance standards.

In general, the adoption of performance standards for stormwater treatment systems is an improvement over requirements that specify little more than the water quality volume. However, there are several issues related to the proposed numerical standards in the draft Ventura permit, which include:

1. The analysis used by the Board to establish numerical objectives based on performance by pollutant results in a situation where a BMP that doesn't meet every single criterion is eliminated from consideration.
2. The BMP categories used in the analysis grouped together many devices that are not that similar.
3. The use of effluent concentrations ignores the benefit of ancillary infiltration that occurs in a variety of low impact development techniques.
4. The use of effluent discharge concentrations overcomes some of the problems associated with characterizing pollutant reduction as a percent removal; however, there are a number of other significant problems with this approach.
5. It will likely be very difficult to administer an effluent standard for BMP performance.

The Board developed their performance criteria based on the top performing BMPs for each pollutant category. Unfortunately, this results in a situation where some of the better performing BMPs and those appropriate for the climate in the Ventura area are excluded from consideration. Excluded BMPs include media filters (total copper), extended detention basins (total nitrogen, total copper, total lead), biofilters (total phosphorus, total copper), and hydrodynamic separators

(total copper). A better approach would be to identify a list of appropriate BMPs and require that they be designed to meet the median discharge quality for that type of BMP.

It is important that the BMP toolbox for Ventura County include a variety of BMPs, because site specific conditions can make implementation of many BMPs infeasible. For instance, infiltration is a useful tool for helping to maintain the predevelopment hydrology, but its appropriateness can be severely restricted in areas with low permeability soils, high groundwater levels (Simi Valley), or slope stability issues. In addition, high failure rates have been experienced in areas where conditions were not optimal for their installation. Sand filters require a substantial amount of hydraulic head and are subject to rapid failure if there are any disturbed areas within the watershed. In addition, wet ponds are likely not widely applicable because of the extended dry season, vector concerns, and the need for supplemental water for systems serving small, highly impervious watersheds.

Another consideration associated with the data used to generate Table 3 in Attachment C, is that a variety of BMPs have been grouped together under a common name. For instance, biofilters include both swales and vegetated buffers. The performance of these two BMPs is substantially different, with buffer strips being far more robust and exhibiting much better performance. Media filters include both Austin style sand filters and proprietary devices such as Contech's StormFilter, which uses a much coarser media and has substantially less pollutant removal ability at the flow rates advertised. In addition, some increasingly popular low impact development strategies, such as bioretention, are not included at all, so it is not clear whether they would meet all the treatment goals or be considered for inclusion.

The focus on achieving numerical discharge concentrations also tends to ignore other benefits that can be achieved using BMPs, such as swales that may only have modest concentration reduction, but also infiltrate a substantial amount of runoff. A Caltrans study of BMP performance in southern California (Caltrans, 2004) found that the load reduction achieved by swales was often better than that of sand filters, because so much of the runoff volume was lost to infiltration. This is particularly true for dissolved constituents.

Another problem associated with a ranking of BMPs by effluent discharge quality achieved is that for many constituents the effluent quality is correlated with influent quality. A common misconception among those that examine the performance data in the BMP database is that BMPs that have better than average discharge quality have been designed or maintained better than those with higher discharge concentrations. This is not necessarily the case, since BMPs located in relatively clean watersheds may have low discharge concentrations without substantially improving the water quality. For instance, wetland basins are apparently among the three best performing BMPs for many constituents, but the difference between influent and effluent concentrations is not significantly different for total suspended solids, total phosphorus, nitrate, TKN, and lead. This indicates that the influent concentrations at the monitored locations



were already at very low levels. The effect of influent concentrations on discharge quality have been analyzed in several published studies (Barrett 2003, 2004, 2005). Consequently, one cannot assume that a well designed BMP will achieve the numerical target without some knowledge of the influent concentrations.

An additional issue with the proposed numerical standards is administration of the requirement. One would not want to monitor every single BMP that is constructed to determine whether it met discharge standards since over time that could amount to thousands of facilities. Given that as many as one half of the types of facilities in the database did not achieve the required discharge quality, specific design guidelines need to be adopted, so that all facilities would be presumed to comply with the requirements.

Regulatory agencies in many parts of the US have effectively adopted performance standards and this has been done in two principle ways. One method is a simple performance threshold, such as an 80% reduction in total suspended solids (TSS). This has the effect of eliminating most of the poorer performing BMPs from consideration; however, it also eliminates extended detention as an option. Extended detention has proven especially popular in areas with low rainfall such as the Denver, Colorado area. In addition, percent reduction is also fraught with difficulties because it is strongly influenced by the quality of the untreated runoff, with high removal efficiencies calculated when the influent has higher solids concentrations.

The second approach used by regulatory agencies in some areas is to identify a list of approved BMPs and providing design guidelines to ensure that each type of BMP achieves its maximum potential pollutant removal performance. In general, these lists do not include many, if any, proprietary products such as, swirl concentrators or drain inlet inserts. A list of appropriate BMPs for the Ventura area might include:

- |                                                             |                         |
|-------------------------------------------------------------|-------------------------|
| Sand Filters                                                | Wet Ponds/Wetlands      |
| Extended Detention                                          | Vegetated Buffer Strips |
| Swales                                                      | Bioretention            |
| Infiltration facilities (basins, trenches, porous pavement) |                         |

Another common misconception about the database is that the facilities that are included are "well designed." Actually, the basis for inclusion is that each site has sufficient documentation of the design and monitoring program. At this time there are not enough BMPs in the International BMP Database with varied designs to evaluate all of the criteria that might affect the pollutant removal. For instance, the time to drain from basin full conditions is considered an important factor in extended detention basin performance. However, until very recently the database only

contained sites with greater than 70 hour draw downs (all Caltrans sites) and a few sites with less than 10 hour drain times, so there was not a single site in the database designed to drain in the 24 to 48 hour period commonly recommended in guidance manuals. Therefore, it is not currently possible to make a detailed evaluation of the exact influence of drain time on pollutant removal. Nevertheless, if one designs a BMP using criteria similar to those of a site that was previously monitored, one can expect to achieve roughly the same pollutant removal performance.

There are many sources of design guidelines for stormwater controls, including the California BMP Handbooks (<http://www.cabmphandbooks.org>). Even though there may be uncertainty about the precise design standards needed to ensure optimum performance, the state of current knowledge is sufficient to provide a reasonable certainty that performance goals can be met, with some uncertainty since each potential location may receive runoff with somewhat different particle size distributions, particle densities, and dissolved/particulate partitioning. As our knowledge increases based on the availability of new information, these guidelines could be modified as necessary so that improvements in performance could be achieved.

Some of the stakeholders have discussed an approach similar to that used by the Board's staff, but using water quality requirements associated with the median of each BMP type rather than pollutant category. It is likely that BMPs designed using information from the California Handbooks or other sources would achieve the median discharge quality if one recognizes the uncertainty in that value and that different BMP types have been lumped together in the database analysis.

One goal, of whatever approach is adopted by the Board, should include ensuring that there are a sufficient number of approved devices to provide developers with the flexibility to select a system appropriate for site specific constraints. In addition, the regulated community needs some degree of confidence that the stormwater management plan developed and approved for a particular project will meet the water quality requirements of the Board and the County, without an open ended liability associated with invalidating their entire stormwater management plan based on data collected post-development. The Board should also consider how any adopted standard would be administered by the County without undue monitoring requirements.

I applaud the move by the Board staff to ensure a higher level of stormwater treatment than is required under the current permit. However, I urge the Board to reconsider the approach contained in the Ventura draft permit and adopt an approach that provides a larger BMP toolbox to address site specific constraints, that can be administered by the County in an efficient and cost-effective manner, and that provides the development community some degree of certainty that their project stormwater management plans will meet all regulatory requirements.

## References

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Attachement D

Hydromodification White Paper, April 19, 2008,  
Relationship of Sediment and Flow and Figure 1 – Ventura County New Development  
Flow Chart

# Hydromodification and Hydrologic Controls

Ventura County Co-Permittee Comments

April 18, 2008

## Executive Summary

This set of comments focuses on Hydromodification aspects of the 2<sup>nd</sup> Draft NPDES Permit (No. CAS004002) for Ventura County. The unrecognized issues and unintended consequences of the permit language lead us to recommend new language for the permit.

1. **Unrecognized Issues:**
  - a. Sediment Balance
  - b. Magnitude of Flows in Receiving Waterway
  - c. Exemptions to help streamline permitting process
  - d. Interdependence of Hydrologic Controls
2. **Unintended Consequences -Erosion Downstream**

Our recommendations include revising the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures to include new sections on how to analyze combinations of hydrologic control measures, and to how to design hydrologic controls for Hydromodification.

Specific language changes to the permit are proposed in Attachment C.

## 1. Unrecognized Issues

### 1a. Sediment Balance

The 2<sup>nd</sup> draft permit addresses the issue of Hydromodification of natural stream channels by considering only flow rates and duration. The complimentary and necessary issue of sediment balance is ignored. Regulating the combination of flows and sediment to preserve downstream habitat and channels should be the goal of the Final Hydromodification criteria. **Attachment A** shows how both sediment and flow are related in degrading (cutting) or aggrading (building) downstream channels.

The Draft Permit has defined "sediment" as a pollutant (Part 5 F. I.) and based on this blanket definition tries to ensure its removal from the construction and land development process. The Permit should rephrase the definition with the words that "*sediment may at times contain pollutants*" and recognize that there are many areas in our watersheds where there is high natural sediment yield and the sediment yield is beneficial for a variety of uses.

It is recommended that **Finding 12** be edited to be comprehensive and recognize the current limitations of the supporting science by the changes suggested (in red) below:

*The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to increase ~~greatly~~ accelerate downstream erosion and impair stream habitat in natural drainages. Likewise, reductions in*

*sediment transport in the outflow can create "sediment hungry" water that erodes downstream habitat and channels, and can "starve" beaches of sand. It is also recognized that there is natural Hydromodification regardless of development, when channels erode or adjust to changes in climate, vegetation, fire, or land use changes that do not increase impervious surface.*

*Preliminary studies on 11 watersheds from Southern California (catchments from 1 to 18 square miles) have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 3-10 percent conversion from natural to impervious surfaces. Percentage impervious cover is one reliable indicator and predictor of potential water quality degradation expected from new development for watersheds less than 2.5 square miles (1,600 acres). Until further local research is completed, these conclusions are assumed to be appropriate for smaller areas. (Source: Derrick Coleman, et. al. April 2005. Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams. Technical Report 450. Southern California Coastal Water Research Projects (SCCWRP)).*

### **1b. Magnitude of Flows in Receiving Waterway**

The flood studies in Ventura County by FEMA show that there are some large streams that will not have their geomorphology affected by slight changes in side drainage caused by new development projects. When the 100-year flow of the receiving water is very dominant compared to side drainages, the geomorphology of the receiving water is not significantly affected by side drainage. However, in some smaller Ventura County streams, like Arroyo Simi, even low but clear (effluent) flows have caused Hydromodification effects of erosion downstream. While smaller streams like Arroyo Simi need Hydromodification analysis, larger streams could be exempted. From a review of flow records in Ventura County, streams with larger than 100-year flow of 25,000 cfs are recommended to be exempt from Hydromodification analysis. This threshold would exempt drainage to the County's major waterways:

- Ventura River downstream of North Fork Matilija Creek
- Santa Clara River downstream of the County line,
- Piru Creek, Sespe Creek, and Santa Paula Creek, downstream of the foothills.
- Calleguas Creek downstream of Conejo Creek.

### **1c. Exemptions to Help Streamline Permitting Process**

The Draft permit shows no exemptions for Hydromodification. To streamline Permittees processing of cases, a list of exemptions to the hydrologic controls is proposed in **Attachment C**. This list may need to be revised after the SMC study is completed for the Final Hydromodification Criteria.

### **1.d. Interdependence of Hydrologic Controls**

The permit should recognize the interdependence of hydrologic controls and a sequencing of analysis to take this into account - beginning with what can be done with LID measures, then check for water quality mitigation and finally Hydromodification for any remaining runoff. See

recommended flow chart in **Figure 1**. The Ventura County Technical Guidance Manual and Section 5.E.III.1 should be modified to add this recognition and flow chart for hydrologic controls to the permit. Suggested language is in Attachment C.

## **2. Unintended Consequence: Increased Erosion Downstream**

An unintended consequence of the Interim Hydromodification criteria in the 2<sup>nd</sup> Draft Permit can be an increase in downstream erosion of habitat and stream channels because of ignoring the cumulative influence of LID and Treatment BMP's on sediment transport. The permit only addresses water shear forces and does not consider the sediment balance issue.

LID and Treatment BMPs in the 2<sup>nd</sup> Draft Permit dictate that post-project peak outflow from a project area be equal to or less than existing peak outflow, by allowing some storage, infiltration, consumption, or treatment. This has the effect of settling sediments so that sediment outflow with a project that has LID and/or Treatment BMPs is less than the pre-project sediment outflow. This clearer "sediment hungry" discharge created by the LID or BMPs erodes downstream habitat, stream channels, and "starves" beaches of sand. Taking this to the extreme shows the extent of the unintended consequence: to obtain the natural sediment load downstream of a LID site or Treatment BMP, sediment would have to be collected at the project site, transported downstream, and then re-injected to the stream.

For correcting past urbanization effects, watershed based studies should be encouraged to study and design channel and habitat stabilization features. This can be a recommendation to the Ventura Watershed Councils and appears to be outside the scope of the NPDES Permit.

### **Recommendation:**

The sediment balance issue needs to be addressed in the MS4 permit in a way that compliments the LID and the Treatment BMPs. LID and Treatment BMPs are part of the permit on their own merits and are recommended for multiple reasons.

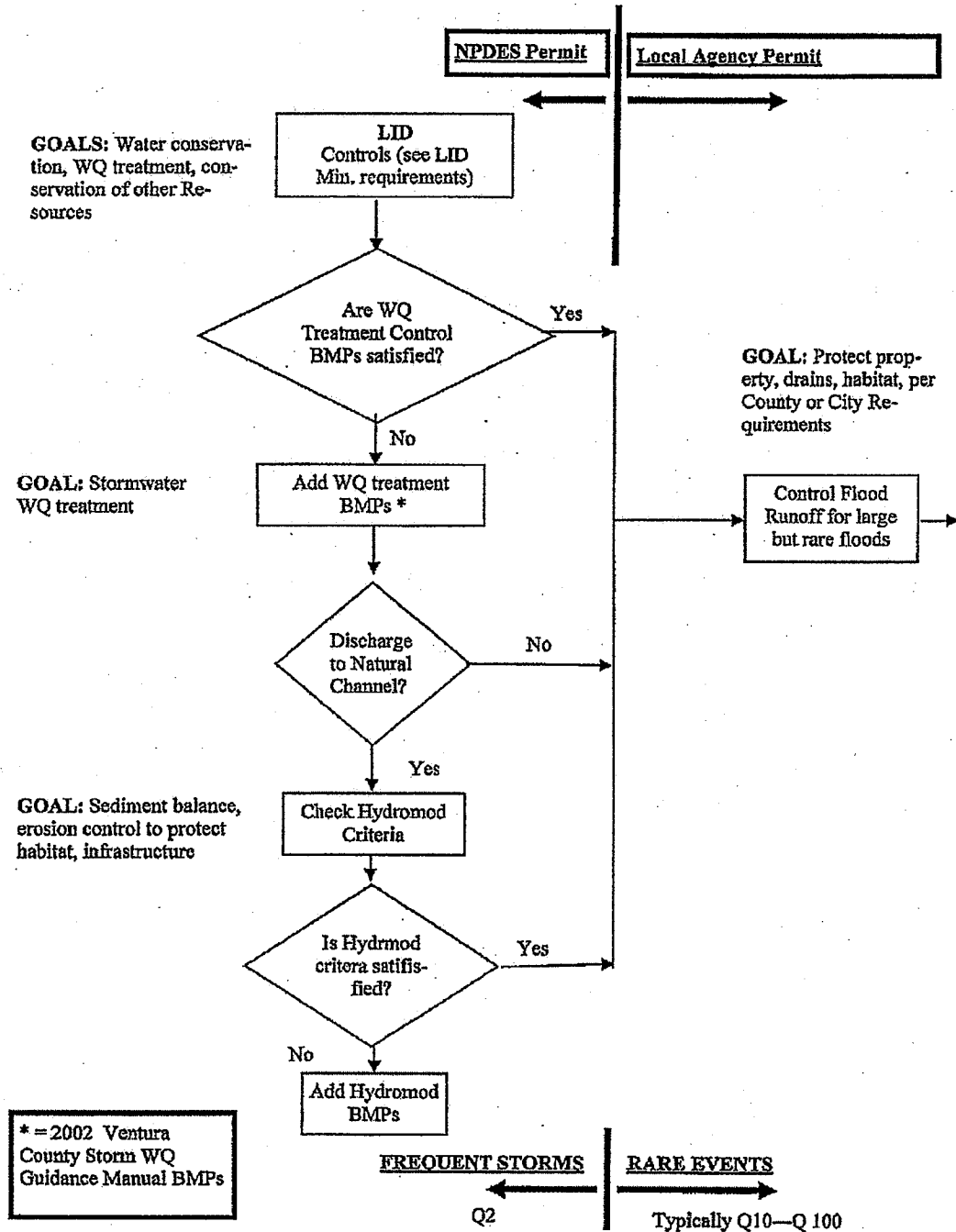
When LID and/or Treatment BMP's are used, then a sediment balance study must be included when evaluating erosion potential, not the Hydromodification criteria in the 2<sup>nd</sup> Draft Permit. For the Interim, and because of the complexity of this analysis, we recommend only developments greater than 50 acres would require the sediment balance analysis until the SCCWRP studies are completed and design tools are developed. This is similar to the recent San Diego MS4 Permit (**See Attachment B**).

We request updating the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures, and revising Section 5.E.III.1 to include new sections on how to analyze combinations of hydrologic control measures and to address the sediment balance.

*Submitted by City of Ojai, California*

Figure 1:

## Ventura County HYDROLOGIC CONTROLS





## Attachment A:

### Relationship of Sediment and Flow

Increasing Flow or Decreasing Sediment Load Cause Degradation of Channel

Four Variables that affect the channel erosion or aggradation:

Water Flow =  $Q_w$

Bed material sediment load =  $Q_s$

Sediment size =  $D_{50}$

Slope =  $S$

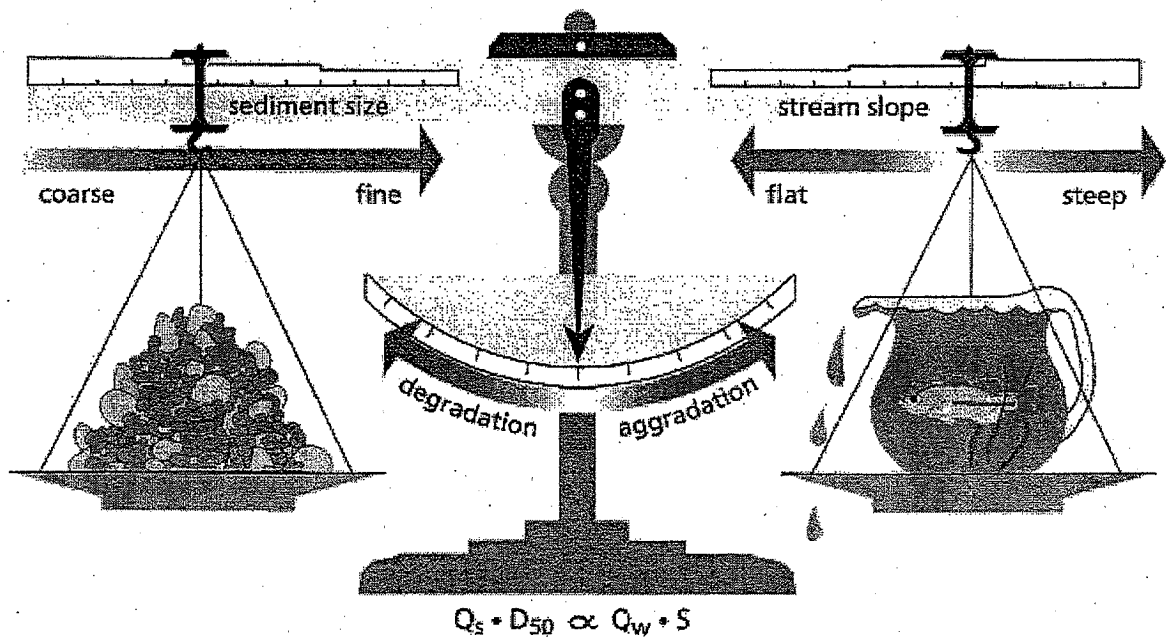


Figure 1.13: Factors affecting channel degradation and aggradation. The "size" of the channel is determined by the stream's energy, the slope, and the flow of water in balance with the size and quantity of the sediment particles the stream moves.

Source: Rosgen (1996), from Lane, *Proceedings*, 1955. Published with the permission of American Society of Civil Engineers.

Source: Stream Corridor Restoration, USDA, Part 653 of the National Engineering Handbook 1998

## Attachment B:

### Interim Hydromodification Criteria from San Diego Permit

Order No. R9-2007-0001

28

January 24, 2007

(6) Interim Hydromodification Criteria for Projects Disturbing 50 Acres or More

Within 365 days of adoption of this Order, the Copermittees shall collectively identify an interim range of runoff flow rates for which Priority Development Project post-project runoff flow rates and durations shall not exceed pre-project runoff flow rates and durations (Interim Hydromodification Criteria), where the increased discharge flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses, attributable to changes in flow rates and durations. Development of the Interim Hydromodification Criteria shall include identification of methods to be used by Priority Development Projects to exhibit compliance with the criteria, including continuous simulation of the entire rainfall record. Starting 365 days after adoption of this Order and until the final Hydromodification Management Plan standard and criteria are implemented, each Copermittee shall require Priority Development Projects disturbing 50 acres or more to implement hydrologic controls to manage post-project runoff flow rates and durations as required by the Interim Hydromodification Criteria. Development Projects disturbing 50 acres or more are exempt from this requirement when:

- (a) The project would discharge into channels that are concrete-lined or significantly hardened (e.g., with rip-rap, sackcrete, etc.) downstream to their outfall in bays or the ocean;
- (b) The project would discharge into underground storm drains discharging directly to bays or the ocean; or
- (c) The project would discharge to a channel where the watershed areas below the project's discharge points are highly impervious (e.g. >70%).

## Attachment C:

### Recommended Changes to 2nd Draft Permit Hydromodification Criteria

#### Proposed Preamble to Hydromodification Criteria

Suggested language to insert under Section 5.E.III.3 on page 52 of 115.

**Coordination with LID and Water Quality Mitigation:** All requirements for LID (Section 5.E.III.2) and Water Quality Mitigation BMPs (Section 5.E.III.4) need to be designed prior to analysis for Hydromodification, and their impacts accounted for in the design of any Hydromodification controls required.

**Hydromodification Control Exemptions.** Permittees may exempt the following New Development and Redevelopment projects from implementation of Hydromodification controls where assessments of downstream channel conditions and proposed discharge hydrology indicate that adverse Hydromodification effects to present and future beneficial uses of Natural Drainage Systems are unlikely:

- A. All projects that disturb less than one acre.
- B. Projects that are replacement, maintenance or repair of a Permittee's existing flood control facility, storm drain, or transportation network.
- C. Redevelopment Projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions.
- D. Projects that have any increased discharge go directly or via a storm drain to a sump, lake, area under tidal influence, into a waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to Hydromodification impacts;
- E. Projects that discharge directly or via a storm drain into concrete or improved (not natural) channels (e.g., rip rap, sackcrete, etc.), which, in turn, discharge into receiving water that is not susceptible to Hydromodification impacts (as in D above).

#### Proposed Changes to Section 5.E.III.3.(a).(2). on Pg 54 of 115

(A) The Interim Hydromodification Control Criteria to protect natural drainage systems until Permittees complete Hydromodification Control Plans (HCPs) are as follows:

**(i) Projects disturbing land areas of less than 50 acres** will be subject to LID and/or source or treatment BMPs as addressed in this permit. The combined effects of LID and the treatment BMPs are

considered adequate for Hydromodification control for projects that disturb less than 50 acres.

**(ii) Projects disturbing land areas of fifty acres or greater** shall develop and implement a Hydromodification Analysis Study (HAS) that demonstrates that post development conditions are expected to approximate the pre-development erosive effect of sediment transporting flows in receiving waters. The HAS must lead to the incorporation into the project design features intended to approximate, to the extent feasible, an Erosion Potential value of 1 or any alternative value that can be shown to be reasonably protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage systems, or

(I) Alternatively, project proponents in this category may elect to develop, in partnership with Permittees, an equivalent implementation method based on flow duration control and sediment balance in the form of nomographs relating planned impervious area and local soil type (infiltration rates) to determine Hydromodification control BMP volume and land area requirements for the proposed project. The nomographs shall be derived from continuous simulation modeling<sup>1</sup> using Ventura County specific rain gauge records and soil types, and calibrated using data from a local undeveloped watershed with similar conditions or

(II) Alternatively, the Co-Permittees may revise the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures to address projects that disturb more than 50 acres.

---

<sup>1</sup> The Permittees may use an alternative method to the continuous simulation modeling pending prior approval by the Executive Officer.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

May 29, 2008

via U.S. Mail and email  
([3rddraftVCMS4@waterboards.ca.gov](mailto:3rddraftVCMS4@waterboards.ca.gov))

Dr. Xavier Swamikannu  
Manager, Stormwater Permitting  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street  
Los Angeles, CA 90013-2343

re: Ventura County MS4 Permit

Dear Dr. Swamikannu:

These comments pertain primarily to the provisions in Part 6 of the April 29, 2008 tentative draft permit for the Ventura County Municipal Separate Storm Sewer System (MS4) for incorporating Waste Load Allocations (WLAs) established in Total Maximum Daily Loads (TMDLs).

EPA supports the approach used for incorporating TMDL WLAs in the August 28, 2007 second draft of this permit, in which the WLAs were incorporated as numeric water quality-based effluent limits (WQBELs). The second draft permit required compliance with these WQBELs to be determined by monitoring end-of-pipe discharges. Under this approach, clear compliance determinations may be made, and the effectiveness of stormwater controls on water quality may be assessed. As a general matter, MS4 permits, many of which represent the fourth generation of permits to control municipal stormwater, should enable permitting authorities to more effectively determine compliance and evaluate impacts on water quality.

The April 29, 2008 tentative draft permit incorporates WLAs as in-stream water quality concentrations, rather than end-of-pipe monitoring. We understand that this revised approach is being taken to mirror language in TMDL implementation plans. For example, the Calleguas Creek TMDL implementation plan states that "stormwater WLAs will be incorporated into the NPDES permit as receiving water limits." While we are supportive of this change to the permit, we believe it needs to be accompanied by clear language on how compliance determinations will be made. We have outlined three options below for making these compliance determinations. Although all three would be acceptable, we have listed them in order of our preference in terms of making clear compliance determinations linked to water quality improvements.

Option 1: exceedances of receiving water limits would represent non-compliance with the permit, as the Calleguas Creek TMDL language suggests. As currently drafted, the tentative draft permit is not clear that compliance conclusions will be based solely on a comparison of receiving water data to receiving water limits based on WLAs. Based on our discussions with Regional Board staff, there is some uncertainty as to what role the BMP implementation referred to in the tentative draft permit (e.g. in Part 6, section V.1.b.2 in the case of the Santa Clara River nitrogen WLAs) would have on compliance determinations. We recommend the permit add explicit statements to the compliance monitoring text in Part 6 to make clear that receiving water limit exceedances represent non-compliance.

Option 2: exceedances of receiving water limits would result in compliance determinations based on representative end-of-pipe monitoring. This would require that the permit include numeric WQBELs consistent with the WLAs. When the receiving water limits are exceeded, the permittees would evaluate end-of-pipe monitoring results, and compliance would be determined by comparing these results to the numeric WQBELs. We understand the end-of-pipe monitoring will occur concurrently with the in-stream monitoring. The concurrent timing of the monitoring is essential as part of this option. (see discussion below regarding the adequacy of end-of-pipe monitoring)

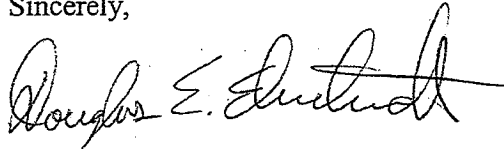
Option 3: establish WQBELs as non-numeric limits expressed as specific Best Management Practices (BMPs). As noted in EPA's November 22, 2002 memo entitled, "Establishing TMDL WLAs for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs," "when a non-numeric WQBEL is imposed, the permit's administrative record, including the fact sheet when one is required, need to support that the BMPs are expected to be sufficient to implement the WLA in the TMDL." If it is not feasible to document, in a timely manner, that a specific suite of BMPs would be sufficient to implement the WLA, we expect numeric WQBELs to be incorporated into the permit. Similarly for non-stormwater discharges, during dry weather periods, it would not be appropriate to use a non-numeric BMP approach for the establishment of WQBELs. For these discharges, numeric WQBELs should be established.

In a related matter, we are concerned whether the end-of-pipe monitoring to be performed under the draft tentative permit will be adequate to determine if WLAs are being achieved. We suggest that the permit include more details on which discharges from the MS4 will be considered "Major Outfalls," and therefore be monitored under this permit. We understand from our consultation with Regional Board staff that it is possible that end-of-pipe monitoring may be limited to as few as one "Major Outfall" per municipality. While this may be appropriate for some of the smaller municipalities in Ventura County, such minimal monitoring may not be appropriate for a compliance monitoring strategy which substitutes end-of-pipe monitoring for the receiving water limits specified in TMDLs. The permit's requirements for monitoring of major outfalls should ensure that there is representative monitoring to enable the Regional Board to make determinations of whether discharges are causing exceedances of receiving water limits. In order for

major outfalls to provide information that is representative of stormwater discharges from this MS4, it appears likely that the number of major outfalls to be monitored should be increased.

Should you have any questions regarding this matter, please call me at (415) 972-3420, or Eugene Bromley of the NPDES Permits Office at (415) 972-3510.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas E. Eberhardt". The signature is written in a cursive style with a large, sweeping initial "D".

Douglas E. Eberhardt, Chief  
NPDES Permits Office

**DEPARTMENT OF TRANSPORTATION**  
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Be energy efficient!*

May 29, 2008

Dr. Xavier Swamikannu  
Stormwater Permitting  
Los Angeles Regional Water Quality Control Board  
320 4th Street, Suite 200  
Los Angeles, CA 90013  
by email: [XSwamikannu@waterboards.ca.gov](mailto:XSwamikannu@waterboards.ca.gov) and [3rdddraftVCMS4@waterboards.ca.gov](mailto:3rdddraftVCMS4@waterboards.ca.gov)

Subject: Draft MS4 NPDES Permit for the Ventura Countywide Stormwater Quality Management Program

Dear Mr. Swamikannu:

*Xavier*

Thank you for the opportunity to again provide comments on the Draft NPDES Permit (Permit) for the Ventura Countywide Stormwater Quality Management Program. We originally submitted comments on the first draft Permit with our letter of March 7, 2007. As we noted previously, this Permit does not directly pertain to State Highways; however, we have an interest because portions of the Permit may be referenced in our statewide Stormwater Management Plan (SWMP) and the upcoming renewed Caltrans Statewide Stormwater NPDES Permit.

As we noted in our previous letter, the Department has experience implementing stormwater controls throughout the state. In addition, our research program for stormwater has resulted in a comprehensive database on best management practice (BMP) performance and runoff water quality, which provides a basis for assessing the proposed Permit requirements. Using this data, we have developed the following comments. We have focused on the municipal action levels (MALs), which are used to determine if maximum extent practicable (MEP) pollutant controls according to the proposed permit are being implemented. Many of our comments on this draft are similar to our comments from March of last year.

1. *Natural variability in stormwater runoff precludes the use of fixed action levels (MALs) based on median runoff concentrations and an arbitrary multiplier for the coefficient of variation.*

Pollutant concentrations in stormwater runoff from state highways vary by orders of magnitude. Much of this variation is independent of standard BMPs for existing roadways but rather is affected by such factors as proximity to open land (dust), traffic volume, traffic controls (e.g., stops, access ramps), traffic congestion, age of roadway, period between storms, strength and duration of storms, etc. This extreme variation persists even though the Department implements a consistent statewide program. As a result, we do not understand the technical basis for linking the definition of MEP to any specific concentration of pollutants in the runoff.

The MALs in the Permit were obtained by multiplying median values (based on nationwide Phase I MS4 monitoring data) with 2X the coefficient of variance. While 2X the CV allows a better



range for assessing compliance than the *IX* used in the 2006 draft, this approach is still inappropriate, because the resulting MALs

- Do not recognize variability due to natural factors
- Are not related to protection of beneficial uses
- Have not been linked to demonstrated performance, i.e., the Permit has not shown that exceedance of a MAL is related to inadequate management of stormwater

As an alternative, we propose that Permit compliance be based on measures of program performance, such as the performance measures developed by CASQA, as well as implementation of controls to address total maximum daily load (TMDL) allocations.

2. *The proposed numeric levels have never been applied to MEP.*

When Congress amended the Clean Water Act in 1987 to regulate stormwater, it made a clear distinction between industrial stormwater discharges and discharges from MS4s. Congress applied a technology-based effluent limitation of MEP to municipal stormwater discharges. The State Water Resources Control Board, Office of Chief Counsel, defined MEP in a February 11, 1993 legal opinion, as an iterative process. This process involves choosing effective BMPs that are technically feasible and where the costs has a reasonable relationship to the pollution control benefits to be achieved. MEP as presently interpreted allows the discharger flexibility in determining, which technically feasible and cost-effective BMP to utilize. This is particularly important to the Department due to limited right-of-way and other constraints in operating within transportation facilities. Setting strict numeric limitations will restrict the Department's options in its selection of BMPs. This could limit options including source control and Low Impact Development BMPs.

3. *Treatment BMP performance may not be achievable.*

The Permit identifies BMP performance criteria based on nationwide data:

The treatment control BMP performance standards were developed from the median effluent water quality values of the 3 highest performing BMPs, per pollutant, in the stormwater BMP database (<http://www.bmpdatabase.org>, last visited August 15, 2007.)

A few of these values are shown in the table below:

Pollutant	Suspended Solids (mg/L)	Total Cu (µg/L)	Total N (mg/L)
Concentration Effluent	10.85 – 25.81	3.35 – 7.49	0.74 – 1.62

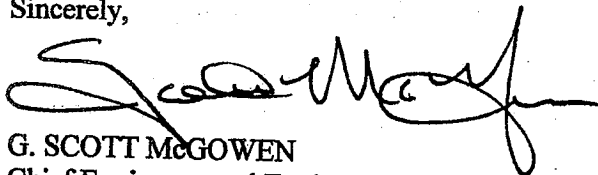
We believe that the nationwide data on BMP performance does not necessarily represent the BMP performance attainable in California because of our state's relatively unique rainfall seasons. In addition, in many situations, not all BMPs can be implemented. Thus, selecting the three highest performing BMPs may not be appropriate, since they may not be usable in the particular location

Mr. Swamikannu  
May 29, 2008  
Page 3

with runoff. We suggest that these proposed numbers be specifically assessed against BMP results achieved in California (the Department has BMP data posted). In addition, it might be better to tie performance requirements to specific BMPs, rather than to apply them to all BMPs.

Again, we thank you for this opportunity to submit our comments. If you have any questions, please contact Joyce Brenner at (916) 653-2512.

Sincerely,



G. SCOTT MCGOWEN  
Chief Environmental Engineer

cc: Bruce Fujimoto, SWRCB, [bfujimoto@waterboards.ca.gov](mailto:bfujimoto@waterboards.ca.gov)



# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

DEAN D. EFSTATHIOU, Acting Director

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ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

May 29, 2008

IN REPLY PLEASE  
REFER TO FILE:

WM-9

Ms. Tracy Egoscue  
Executive Officer  
California Regional Water Quality  
Control Board - Los Angeles Region  
320 West 4th Street, Suite 200  
Los Angeles, CA 90013-2343

Attention Dr. Xavier Swamikannu

Dear Ms. Egoscue:

**COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS  
COMMENTS IN RESPONSE TO THE DRAFT TENTATIVE ORDER VENTURA  
COUNTY MUNICIPAL STORMWATER NATIONAL POLLUTANT  
DISCHARGE ELIMINATION SYSTEM PERMIT DATED APRIL 29, 2008**

On behalf of the Los Angeles County Flood Control District and the County of Los Angeles, Public Works has reviewed the proposed draft Tentative Order Ventura County Municipal Stormwater National Pollutant Discharge Elimination System Permit made available for public comment by the Regional Board. Our comments are enclosed.

If you have any questions, please contact Mr. Scott Schales at (626) 458-4325 or [sschales@dpw.lacounty.gov](mailto:sschales@dpw.lacounty.gov).

Very truly yours,

DEAN D. EFSTATHIOU  
Acting Director of Public Works

MARK PESTRELLA  
Assistant Deputy Director  
Watershed Management Division

RW:sv

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**County of Los Angeles Department of Public Works  
Comments in Response to the  
Draft Tentative Order Ventura County Municipal Stormwater National Pollutant  
Discharge Elimination System Permit  
Dated April 29, 2008**

The County of Los Angeles and Los Angeles County Flood Control District, herein jointly referred to as County, submit the following comments in response to the draft Tentative Order Ventura County Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (draft Tentative Permit). The County shares the Regional Board's goal of improving receiving water quality in the County of Los Angeles and appreciates staff's efforts in preparing the draft Tentative Permit. Although the Ventura permit is generally believed to be a precursor to the next Los Angeles County Municipal Stormwater NPDES Permit, the County fully expects that the Regional Board will approach the Los Angeles permit in a manner specific to the circumstances and challenges unique to the Los Angeles area, which includes 84 copermittees and nearly 10 million residents. Nonetheless, as an interested stakeholder in the draft Tentative Permit, the County has serious concerns over both the legality and the technical feasibility of some of the requirements as currently drafted. Our over-arching concerns are organized into five areas:

I. Defining Maximum Extent Practicable through Municipal Action Levels

Despite strong and convincing arguments from the regulated community (particularly by the Ventura Countywide Stormwater Management Program in its letter to the Regional Board dated October 12, 2007, which we hereby incorporate by reference), the draft Tentative Permit continues to misuse Municipal Action Levels (MALs) as a quantitative expression of the technology-based Maximum Extent Practicable principal on which the Municipal Stormwater NPDES permits are based. The Regional Board's desire to institute a more quantitative method for assessing permit compliance is understandable. However, the MALs concept in its current form remains seriously flawed.

The County encourages the Regional Board to incorporate the California Stormwater Quality Association's (CASQA) groundbreaking concepts in increasing accountability in municipal stormwater programs into the draft Tentative Permit. These concepts are described in CASQA's draft White Paper submitted to the Regional Board on August 15, 2007, and in its Municipal Stormwater Program Effectiveness Assessment guidance document dated May 2007. These documents provide a road map toward better water quality protection, one that the County has embraced as a basis for watershed monitoring.

## II. Draft Tentative Permit is Overly Prescriptive

The County believes that an overly prescriptive programmatic permit will not result in water quality standards attainment and can have many unintended consequences such as increased bureaucracy and wasted resources. The Regional Board should rely more on the TMDL regulatory framework to improve water quality.

## III. Low-Impact Development and Hydromodification

The County supports the concepts and policies related to Low-Impact Development (LID) and hydromodification. However, as previously stated in the February 2008 workshops, we believe it is improper for the Regional Board to act as the certifying agency for LID standards. The most logical way to implement LID and the related Redevelopment Project Area Master Plan requirement is through a third-party certification process.

## IV. Best Management Practices (BMPs) Performance Design Criteria

While the County generally supports the development of criteria for designing treatment control BMPs, using BMP effluent quality data to establish such design criteria raises a series of technical questions and implementation issues that have not been studied by or vetted among the stormwater quality management community. The County recommends that any provision related to BMP performance design criteria be written as a goal rather than an absolute requirement, and to encourage permittees to work with other permittees, CASQA, and the American Society of Civil Engineers to research and develop design criteria for treatment control BMP performance.

## V. Monitoring

As an agency with over 15 years of stormwater monitoring experience, we have serious reservations regarding the draft Tentative Permit's proposed monitoring program. Generally, the proposed program is extremely resource intensive and impracticable. The proposed major outfalls assessment would require monitoring and sampling at potentially hundreds or thousands of sites in three years. Installing monitoring stations at all of the major outfalls within three years is physically impossible and will not produce useful information.

Finally, as a CASQA member agency, the County has reviewed and is in full support of CASQA's comment letter in response to the draft Tentative Permit.

FW:sv

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# Executive Advisory Committee

## Stormwater Program – County of Los Angeles

May 29, 2008

Dr. Xavier Swamikannu ([3rddraftVCMS4@waterboards.ca.gov](mailto:3rddraftVCMS4@waterboards.ca.gov))  
Regional Water Quality Control Board, Los Angeles Region  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013-2343

**Subject: Comments on the Third Draft Ventura MS4 Permit (NPDES No. CAS004002)**

Dr. Swamikannu:

The Executive Advisory Committee (EAC) once again appreciates having the opportunity to reiterate our prior comments and provide new comments on the Draft Ventura County Municipal Separate Storm Sewer System (MS4) Permit. The EAC is composed of representatives from the Los Angeles County Municipal Stormwater Permittees and our monthly meetings are typically attended by representatives from over half of the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permittees. You are receiving the agenda for our monthly meetings and we encourage your participation, so that they could be a productive forum for discussion and clarification of Regional Water Quality Control Board initiatives, intentions, and objectives.

Although EAC member cities do not generally extend into Ventura County, we are concerned stakeholders to the process of developing a workable model regional MS4 permit. We further acknowledge the substantial effort of all the involved parties in preparing and reviewing multiple drafts and attending workshops and staff meetings. It was a rational, and greatly appreciated, decision to remove any reference to bacteria from Attachment C. However, like the Ventura County Permittees, we are disappointed to see the same overriding issues carried forward into the third draft. With this in mind, we support the extensive comments and supporting attachments supplied by the Ventura County Permittees and the sincerity with which they are attempting to achieve shared water quality objectives, within the confines of local fiscal resources and evolving, but still wildly conflicting, legislative and legal mandates.

Our first comment relates to a lack of clarity regarding Attachment C, Tables 3 and 4. For each pollutant, we recommend identifying the three "highest performing" BMPs used in developing the table. This will assist permittees and developers in selecting among the BMPs favored by the Regional Board and whether one type of BMP might perform "double duty" by controlling two or more pollutants of concern to the watershed or proposed project. Furthermore, some BMPs are more appropriate under one geomorphology and soil condition than another and listing them would facilitate that decision. The footnote should clarify that the range of values for each pollutant are the median effluent water quality values of the first and third "highest performing" BMPs, since the second highest value does not come in to developing the range of values. If the values on these tables are actually based on the 95<sup>th</sup> percentile, the footnote should reflect this.

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The permit is long, complex and proscriptive, but will become even more so as TMDLs are inserted into it. TMDLs often result in separate implementation plans, monitoring and other requirements. We encourage you to find some other mechanism, such as attachments, for connecting them to the Permit. Their inclusion leads to arduous conversation with our regulated community (residents, business owners, development agents) about issues beyond the focal point of the permit, such as differing requirements between watersheds and beneficial use objectives.

The Municipal Action Limits (MALs) do not appear to appear to be action limits, which imply an advisory or at least not immediately enforceable regulatory status, but instead appear to be phased numeric effluent limits that may be enforceable through Mandatory Minimum Penalties. This enforcement mechanism inadequately considers the temporal and spatial variability inherent in runoff monitoring. The Board itself may be required to hear many appeals associated with typical runoff variability. We are concerned about the magnitude of this enforcement effort, for both the regulated and regulatory community, which could be better directed at locating and controlling a few major sources of pollution. Many of those involved with recent NOV's issued to 20 cities in the Santa Monica Bay area have made similar assertions. Furthermore, based on our developing understanding of how the MALs were developed, much of the source data comes from very different hydrologic regimes that include more annual rain, more even storm spacing, and less intensely developed communities. We encourage the Board to reconsider and focus the permit on developing a monitoring program and working with cities to identify the most flagrant sources of contamination. As your staff observed in using median rather than mean data, a very few significant samples or sources can taint the results from an entire population of data.

The MS4 Permittees remain concerned about overlapping monitoring programs. Local MS4 Permittees are already subject to point source discharge, receiving water, mass emission, regional, ambient and TMDL compliance monitoring programs. The draft permit would append a new Municipal Action Limits (MALs) program based on numeric criteria that are at odds with these other programs. As has been asserted by the Permittees and other experts for years, stormwater quality is extraordinarily variable and difficult to monitor. As was asserted at the February 24, 2007 Regional Board Retreat, there exist ample enforcement opportunities for the regulatory community, but insufficient resources with which to implement the Board's intent. Similarly, the MS4 Permittees are greatly concerned that this additional monitoring requirement will simply divert our attention from productive priority pollutant source control efforts to generalized catchment wide efforts that municipalities will be poorly equipped to implement or utilize the results from. A greater effort should be focused by the Board and MS4 Permittees on the General Industrial and Construction Activities Stormwater Permit discharges, as was suggested by State Panel of Stormwater Experts.

The findings should note the increasing cost of the our regional runoff water program, as identified in the Design Storm Task Force report, prepared under Board Staff direction and presented to the Board in December 2007. Staff level municipal support is greatly under projected during the budgeting process based on prior EPA and Regional Board reports that reference annual costs in the tens of dollars per household, while they now approach or exceed the thousands of dollars per household year range. It does little good to undervalue proactive municipal programs, while overstating the level of non-compliance, despite a lack of regulatory concern based on our continuing annual report submittals.

In doing a word search, we found the phrase "pre-developed" only in the definition section of the permit. All definitions should be word searched in the permit and, if not used in the permit body, eliminated to avoid future confusion and miscommunication.

The EAC again encourages the Board to consider our prior comments letter, which appear to have been significantly dismissed without consideration, along with those of the Los Angeles County MS4 Permit Watershed Management Committees, regarding the permit and its findings. In particular, we disagree with finding E 7 and E.24 which could limit the ability of local agencies to apply for Federal grant funding, and comment that this findings should be deleted.

The EAC would like to reiterate our interest in the draft Ventura County MS4 Permit, so as to avoid conflicting requirements in adjacent jurisdictional areas, and reserves the right to provide additional oral or written comments at the planned public workshop. We further encourage the Board staff to thoughtfully consider the many constructive suggestions of the Ventura County Permittees, which will have to implement the final permit. If you wish to further discuss these issues, or seek greater input from the EAC, please feel free to contact me at 562-904-7112.

Sincerely,

**Original signed by**

Gerald E. Greene, DEnv, PE, QEP  
Chair, Executive Advisory Committee

cc: Ventura County MS4 Permittees  
EAC MS4 Permittee mailing list



(signed copy)

# Executive Advisory Committee Stormwater Program – County of Los Angeles

May 29, 2008

Dr. Xavier Swamikannu ([3rddraftVCMS4@waterboards.ca.gov](mailto:3rddraftVCMS4@waterboards.ca.gov))  
Regional Water Quality Control Board, Los Angeles Region  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013-2343

**Subject: Comments on the Third Draft Ventura MS4 Permit (NPDES No. CAS004002)**

Dr. Swamikannu:

The Executive Advisory Committee (EAC) once again appreciates having the opportunity to reiterate our prior comments and provide new comments on the Draft Ventura County Municipal Separate Storm Sewer System (MS4) Permit. The EAC is composed of representatives from the Los Angeles County Municipal Stormwater Permittees and our monthly meetings are typically attended by representatives from over half of the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permittees. You are receiving the agenda for our monthly meetings and we encourage your participation so that they could be a productive forum for discussion and clarification of Regional Water Quality Control Board initiatives, intentions, and objectives.

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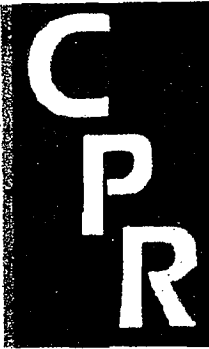
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Sincerely,



Gerald E. Greene, DEnv, PE, QEP  
Chair, Executive Advisory Committee

cc: Ventura County MS4 Permittees  
EAC MS4 Permittee mailing list



# COALITION FOR PRACTICAL REGULATION

"Cities Working on Practical Solutions"

May 29, 2008

Xavier Swamikannu  
Los Angeles Regional Water Control Board  
320 W. 4<sup>th</sup> Street, #200  
Los Angeles, CA 90013-2343

**Subject: Comments on Proposed Changes to the Waste Discharge Requirements for Municipal Separate Storm Sewer System Discharges Within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein (NPDES No. CAS004002)**

Dear Mr. Swamikannu:

I am writing on behalf of the Coalition for Practical Regulation, an *ad hoc* group of more than 40 cities in Los Angeles County that have come together to address water quality issues. We thank Los Angeles Regional Water Quality Control Board for the opportunity to provide these comments regarding the Third Draft Ventura County MS4 Permit. Although our member cities are not in Ventura County, we are extremely interested in the process of creating a workable draft MS4 permit for Ventura County. We understand that representatives of USEPA Region IX met with the Executive Officers of the four Southern California Water Boards and that the Ventura Permit is likely to be used as a model for future MS4 permits in the region; in that sense, we are all stakeholders.

CPR appreciates the Regional Board's holding a two day Ventura County MS4 Program Permit Reissuance Coordination Meeting earlier this year in order to hear the views and concerns of Permittees and other interested parties. Following the February 27-28 coordination meeting, Ventura County Permittees and others in attendance had the impression that the Regional Water Board staff acknowledged and understood Permittee concerns and anticipated that staff would take steps to address them in the Third Draft Ventura Permit. A review of the Third Draft Permit, however, indicates that few substantial changes were made between the second and third drafts. In fact, despite all the efforts the Regional Board and staff have made to involve Permittees and interested parties throughout this process, staff has not made many significant changes since issuance of the First Draft Permit in early 2007. CPR supports the extensive comments provided by Ventura County Permittees, BIA, and others and would recommend that Regional Board members review comments on earlier drafts in relation to the Third Draft they have before them. Because there have been so few substantial changes to the Draft Permit, we incorporate our earlier comments on the First Draft and Second Draft by reference. At this time, CPR would like to provide comments and suggestions regarding

- ARCADIA
- ARTESIA
- BALDWIN PARK
- BELL
- BELL GARDENS
- BELLFLOWER
- CARSON
- CERRITOS
- COMMERCE
- COVINA
- DIAMOND BAR
- DOWNEY
- GARDENA
- HAWAIIAN GARDENS
- INDUSTRY
- IRVINDALE
- LA CAÑADA FLINTRIDGE
- LA MIRADA
- LAKEWOOD
- LAWDALE
- MONROVIA
- MONTEREY PARK
- NORWALK
- PALOS VERDES ESTATES
- PARAMOUNT
- PICO RIVERA
- POMONA
- RANCHO PALOS VERDES
- ROSEMEAD
- SANTA FE SPRINGS
- SAN GABRIEL
- SIERRA MADRE
- SIGNAL HILL
- SOUTH EL MONTE
- SOUTH GATE
- SOUTH PASADENA
- VERNON
- WALNUT
- WEST COVINA
- WHITTIER

only a few of the key areas in the Third Draft Ventura County MS4 Permit that are still of significant concern:

- The prescriptive and overly restrictive nature of the Draft Permit;
- The inappropriate use of Municipal Action Levels (MALs) as numeric effluent limits rather than true action levels;
- The inappropriate use of Municipal Action Levels (MALs) to create an operational definition of maximum extent practicable (MEP);
- The inappropriate application of a watershed percentage of effective impervious area to individual projects;
- The definition of pre-developed condition (pre-development);
- The inclusion of a development construction program that unnecessarily duplicates many elements of the new Draft General Construction Permit under development by the State Water Board;
- The lack of emphasis on true source control, especially the sources of atmospheric pollutants; and
- The attempts in the Findings to deny that the Draft Permit contains unfunded mandates.

### **The Draft Permit Is Prescriptive and Overly Restrictive**

A general concern of CPR is that the Third Draft Ventura County Permit is too complex, extremely prescriptive and overly restrictive. For instance, Parts IV.F and IV.G contain several tables telling local agencies which BMPs they should require of others and which BMPs they should use on public projects. To use alternative BMPs, the Permittees would have to petition the Executive Officer. In addition, the proposed restriction on construction grading for 197 days (198 during leap years) is excessive in a region with an average of less than 30 days of rainfall per year, with most of the rain concentrated during a two-month period. Further components of the Development Construction section, including specific requirements regarding turbidity control, monitoring, and determination of erosion potential, are also overly prescriptive and, in some cases, quite complex. Other examples of prescriptive and overly restrictive components of the Draft Permit are described below in discussions of specific elements of the Draft Permit. It would have been easier to evaluate the potential impacts of the prescriptive and restrictive elements of the Draft Permit and the reasoning behind some of the components of the Permit if the Fact Sheet referenced in Finding F.20 had actually been included with the Third Draft Permit that was made available for review and comment.

The prescriptive nature of the Permit would limit the flexibility of the Permittees to creatively respond to water quality problems as they arise. We understand that the Ventura County Permittees have determined that, as written, the Third Draft Permit would cost approximately \$600.00 per household per year to implement. Such a cost would be extremely difficult for local municipalities to afford without cutting other services, especially if there is not a further Constitutional Amendment to modify the

limitations imposed by Proposition 218. In light of widespread knowledge of the difficulties in raising fees for stormwater services after 218 and the Salinas Decision, it is difficult to believe that staff really thinks that “the local agency permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order.”

### **Municipal Action Levels (MALs)**

The continued misapplication of Municipal Action Levels (MALs) is the single most disturbing element of the Third Draft Permit. While staff did rewrite the description of Municipal Action Levels in Part 2 with the intent of clarifying the language, in actuality, the only significant change is in the definition of major outfalls. The basic misuse of the action level concept remains.

As proposed in the Third Draft Ventura Permit, the MALs are not action levels as intended by the State Water Board’s Blue Ribbon Panel, but are inappropriate precursors to numeric effluent limits, which then become actual numeric effluent limits after three years. These limits will trigger the installation of BMPs that would be required to meet very strict performance standards based on a national database rather than on local conditions. As noted in Attachment C, “the treatment control BMP performance standards were developed from the median effluent water quality values of the 3 highest performing BMPs, per pollutant, in the stormwater BMP database.” (See Attachment C, Tables 3 and 4.) The nationwide BMPs are based on very different regimes than those for Southern California, both in terms of hydrology and pollutant sources. Many other parts of the country have dramatically higher and more frequent levels of precipitation. Much of Southern California is semi-arid, with little rain and longer build-up periods before pollutants are washed off. Furthermore, many other parts of the country are rural and have fewer pollutant sources. Use of the national database as a basis for MALs would penalize Ventura County and potentially all of Southern California if the Ventura Permit were used as a model for the other pending permits.

The proposed application of MALs in the Third Draft Permit is inconsistent with the iterative process in State Water Board Order 99-05. As proposed, the MALs will trigger permit violations and enforcement actions, instead of triggering enhanced management measures as called for in the iterative process. CPR continues to support the use of quantifiable measures to assist Permittees with evaluating and enhancing their water quality programs, and we strongly encourage the Regional Board to use Municipal Action Levels as measures of achievement and triggers for more aggressive actions. This approach was suggested by the California Stormwater Quality Association (CASQA) in its draft White Paper, *Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination*, and in their comment letter of October 15, 2007. As CPR stated in its letter commenting on the Second Draft Ventura Permit, application of this approach would be consistent with the Findings of the Blue

Mr. Xavier Swamikannu  
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Ribbon Panel and could initiate the implementation of a consistent approach across California.

The Blue Ribbon Panel defined the concept of an Action Level as follows:

“...the approach of setting an ‘upset’ value, which is clearly above the normal observed variability, may be an interim approach which would allow ‘bad actor’ catchments to receive additional attention. For the purposes of this document, we are calling this ‘upset’ value an Action Level because the water quality discharge from such locations are enough of a concern that most all could agree that some actions could be taken...”

The Regional Water Board staff has attempted to reinterpret the Blue Ribbon Panel’s conclusions and has stated in Finding F12, in part:

“The MALs were computed using the statistical based [sic] population approach, one of three approaches recommended by the California Water Board’s Storm Water Panel in its report, ‘The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities.’ (June 2006)”

This reference to the Storm Water Panel (the Blue Ribbon Panel) diverges significantly from the actual Findings of the Panel, whose report stated (emphasis added):

“For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is **basically not possible.**”

The misapplication of the action level concept would put municipalities and other agencies in a precarious position. They would be forced to install expensive BMPs to achieve performance standards that may not even be achievable in Southern California. Furthermore, they would be inappropriately exposed to mandatory minimum penalties. It is a mistake to include in the Permit requirements for BMPs based on nationwide monitoring data.

Despite requests by numerous Permittees and other interested parties, Regional Water Board staff has not made any substantial changes to the Part 2 Municipal Action Levels section of the Draft Permit, with the exception of adding language that states:

“The absence of MAL exceedances does not give rise to a presumption that the permittee is complying with the MEP criteria.”

Therefore, in this Draft Permit, the exceedance of an MAL will create a presumption that MEP is not being met, yet the absence of MAL exceedances does not give rise to a presumption of MEP compliance.

### **The Use of Municipal Action Levels (MALs) to Create an Operational Definition of Maximum Extent Practicable (MEP) Is Inappropriate**

During the February 2008 Ventura County MS4 Program Permit Reissuance Coordination Meeting, staff stated that, although in the Second Draft Permit MAL defined MEP, it would not do so in the Third Draft Permit. In fact, the Draft Permit contains a series of disconnected but cross-referenced definitions and statements that result in MEP being defined by Municipal Action Levels. Part 7 of the Permit defines MEP as:

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

Subpart 4.A.2 states, “Each permittee shall, comply with the requirements of 40 CFR122.26(d)(2) and implement programs and control measures so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality standards.” However, the convoluted functional definition is pulled together in Part 2, which states, “Continued exceedances after Year 3 of the operative MAL(s) shall create a presumption that the permittee(s) have not complied with the MEP provision in subpart 4.A.2, and have failed to implement adequate storm water control measures and BMPs to comply with the MEP criteria.” Thus, staff has created a definition of **Maximum Extent Practicable** that is based on minimum required activities and has proposed a municipal action level approach that would create the presumption of non-compliance with MEP based on exceedances of the MALs.

Far more workable definitions for MEP, based on the 1993 State Water Board Attorney Elizabeth Jennings memo, have been identified and included in multiple MS4 permits.

The Elizabeth Jennings memo was also the basis of a definition of MEP contained in proposed California SB 1342 (2002), which defined MEP as follows:



“The ‘maximum extent practicable’ standard means the maximum degree of pollutant reduction achievable through the application of practical, technologically-feasible, and economically achievable best management practices, including but not limited to, pollution control techniques and system design and engineering methods.”

Five of the six points in the proposed SB 1342 definition of technologically feasible and economically achievable were derived from the Elizabeth Jennings memo.

“Technologically feasible and economically achievable best management practices are those practices that satisfy all of the following criteria:

- (1) Demonstrate effectiveness in removing pollutants of concern.
- (2) Demonstrate compliance with subsection (p) of Section 1342 of Title 33 of the United States Code.
- (3) Demonstrate the support and acceptance of the public served by those best management practices.
- (4) Demonstrate a reasonable relationship between the cost of the best management practice and the pollution control result to be achieved.
- (5) Demonstrate technological feasibility to effect the intended pollutant removals, considering soils, geography, topography, water resources, and such other limiting physical conditions as may exist.”

Rather than attempting to define MEP in this permit, the Los Angeles Regional Water Board should request the State Water Board to develop and adopt a statewide definition of MEP or recommend legislation that would do so. Such a definition should be based on the concepts contained in the 1993 Elizabeth Jennings memo.

### **The Application of Effective Impervious Area to Individual Projects Is Inappropriate**

The New Development/Redevelopment Criteria section of the Planning and Land Development Program in the Third Draft Permit correctly outlines Low Impact Development (LID) measures that would reduce runoff volume through percolation, infiltration, storage, and/or evapo-transpiration. However, the section also inappropriately attempts to apply an Effective Impervious Area ratio developed through watershed research to individual project areas. This proposed requirement is not only highly prescriptive; it is wrongly applied and should be deleted from the Draft Permit.

### **The Definition of Pre-Developed Condition (Pre-Development)**

The definition of pre-developed condition in the Third Draft Ventura Permit is excessive and unworkable. Part 7 of the Draft Permit defines pre-developed condition as:

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

It appears that staff is attempting to define a pre-development condition as the condition of an area prior to European settlement in California. Clearly, this standard is unrealistic and unattainable. The definition of pre-development should be rewritten to be consistent with the definition used in the State’s new Draft General Construction Permit, in which pre-development refers to the condition of a site prior to the development of the specific permitted project on the site.

#### **The Development Construction Program Unnecessarily Duplicates the New Draft General Construction Permit**

The Development Construction Program in the Third Draft Permit includes detailed instructions that duplicate requirements in the new General Construction Permit currently under development by the State Water Board. Furthermore, the requirement for inclusion of local stormwater pollution prevention plans (SWPPPs) could be interpreted as an attempt by the Regional Water Board to transfer some of the responsibility for enforcing the General Construction Permit to local government.

#### **The Draft Permit Fails to Address True Source Control, Especially the Sources of Atmospheric Deposition Water Pollutants**

We would like to thank Regional Board staff for continuing to recognize the adverse impacts of aerial deposition on water quality by keeping Finding B.19 in the Third Draft Permit. Atmospheric deposition and other multi-media problems demand multi-agency planning and policy coordination, and this indicates that staff is aware of that fact. Inclusion of this Finding is a good start; however, we were surprised and disappointed that staff removed the sentence, “The Los Angeles Regional Water Board will coordinate with the South Coast Air Quality Management District, the California Air Resources Board, and other governmental agencies to address multimedia sources of pollution that may contribute to pollution of surface waters.”

Stormwater permittees are caught in a regulatory/authority bind. The combination of directly connected impervious areas and atmospheric deposition of pollutants, in effect, produces a “perfect storm” that dramatically impacts water quality control. The reality is that water boards can regulate permittees, but do not have regulatory control over some of the major pollutant sources, such as the sources of atmospheric deposition. Removing all pollutants at the end of storm drains would be extremely costly – on the order of many billions of dollars for the Region. Together, we must go after the true sources of the pollutants discharged from the atmosphere onto to our watersheds.

The Water Boards and the regulated community need assistance from the Air Boards to tackle this problem. The Air Boards need to acknowledge that water pollution is one of the public welfare effects that need to be addressed in regulating sources of atmospheric pollution. Municipalities would like to work with the Regional Board to develop a strategy to stimulate more action by the Air Boards. We will not be able to achieve clean water until atmospheric deposition is controlled.

Permittees in the Los Angeles River Watershed are developing an atmospheric deposition project related to the Los Angeles River Metals TMDL. It is a two-year project that involves paired measurements of atmospheric deposition and storm flow. Local governments will be contributing an estimated \$1.5 million to fund this research project. Meanwhile, during the process of research and enlisting the Air Boards to engage with the Water Boards to address the problem of the impacts of atmospheric deposition, we once again request that the Board include in the Ventura Permit language similar to that used by the Santa Ana Regional Board in its Order No. R8-2002-0010:

“16. The permittees may lack legal jurisdiction over storm water discharges into their systems from some State and Federal facilities, utilities, and special districts, Native American tribal lands, waste water management agencies and other point and non-point source discharges otherwise permitted by the Regional Board. The Regional Board recognizes that the permittees should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate pollutants present in storm water runoff may be beyond the ability of the permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear and leaching of naturally occurring minerals from local geography.”

(Source: Santa Ana Board Order No. R8-2002-0010 – Waste Discharge Requirements for the County of Orange, Orange County Flood Control District and the Incorporated Cities of Orange County Within the Santa Ana Region Areawide Urban Storm Water Runoff Orange County.)

**The Finding That the Draft Permit Does Not Contain Unfunded Mandates Is Inaccurate**

Findings E.7 and F.24 of the Draft Permit are inaccurate assertions that the Draft Permit does not contain unfunded mandates. Finding E.7 of the Third Draft Permit is an expansion of Finding E.10 in the Second Draft Permit that asserts that the Order “does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section(6) of the California Constitution” because the Order implements “federally mandated requirements” under Section 402 of the Clean Water Act. Finding E.7 should not be adopted as a matter of good public policy and is otherwise objectionable on several grounds.

First, as CPR stated in its October 15, 2007 comment letter, the Board has no regulatory jurisdiction to make this Finding. The issue of whether a mandate is an unfunded state mandate is within the exclusive jurisdiction of the Commission on State Mandates (Government Code § 17551 and §17552. See also *Lucia Mar Unified School District v. Honig* [1988] 830, 837, [the question must be decided by the Commission on State Mandates “in the first instance.”]) Since the Finding would carry no weight, it is not clear why the Regional Board would include such a Finding, particularly when it has never done so in the past.

Second, it is not clear why, as a matter of policy, the Regional Board would want to make such a Finding. Contrary to the stance this proposed Finding reflects, the Regional Board should be assisting the permittees in obtaining funds to implement the Permit’s programs - not limiting the funds. More funds make implementing more programs possible. It is not clear why the Regional Board would adopt a Finding that makes less funding available to permittees to implement the programs called for by the Permit.

Third, the proposed Finding raises the same issue raised unsuccessfully by counsel for the Regional Board in the recent *County of Los Angeles v. Commission on State Mandates* (2007) 150 Cal.App.4<sup>th</sup> 898. In that case, the Regional Board argued to the Court of Appeals that an MS4 Permit (there, the 2001 Los Angeles County MS4 Permit) “is federally required . . . to implement the Clean Water Act’s mandates” (150 Cal.App.4<sup>th</sup> at 916 [citing Attorney General’s letter to the court]). The Court of Appeals did not accept this argument, noting that “[w]e are not convinced that the obligations imposed by a permit issued by a Regional Water Board necessarily constitutes federal mandates under all circumstances” and that “the existence of a federal, as contrasted with a state, mandate is not easily ascertainable” (150 Cal.App.4<sup>th</sup> at 914).

Fourth, even if the Regional Board were qualified to determine that the Order represented an exclusively federal mandate and thus not subject to article XIII B, Section 6, the reasoning set forth in Finding E.7 is faulty. None of the cited cases supports the Finding: that the provisions of an MS4 permit are an exclusive federal, and not state, mandate. In

the only case to attempt to grapple with that question, *County of Los Angeles, supra*, the Court of Appeals declared itself to be "skeptical" with respect to the issue.

Fifth, even if a program were required in response to a federal mandate, a subvention of state funds may be in order. For example, Government Code § 17556(c) provides that if a requirement is mandated by federal law or regulation, but the [state] "statute or executive order mandates costs that exceed the mandate in that federal law or regulation," a subvention of funds is authorized. Also, as held in *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4<sup>th</sup> 1564, 1577-78, even if the costs were mandated to implement a federal program, if the "state freely chose to impose the costs upon the local agency as a means of implementing" that federal program, "the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the federal government."

Finally, Finding E.7 asserts that provisions in the Order that implement TMDLs are also federal mandates. While it is true that the effluent limitations in the TMDL must be reflected in the Order, the manner in which the TMDL is implemented is not a federal mandate, but is left up to the State. For example, the Regional Board could determine that a series of BMPs are sufficient to reach the waste load allocations in the TMDL, or it could impose the waste load allocations as numerical limits that were required to be met. Thus, as with the other aspects of the Order, implementation of TMDLs is not necessarily a federal mandate, immune from a required subvention of state funds.

As a matter of policy, Finding E.7 should not be included in the permit. In any event, such a Finding would be gratuitous. The Regional Water Board is not the agency that is authorized to address this issue. Furthermore, The California Department of Finance is not the agency that is charged with or has the jurisdiction to determine whether a permit provision is an unfunded mandate or whether such a permit provision is mandated by Federal law. Any finding by the Department of Finance carries no weight. Accordingly, Finding F. 24 also should be deleted.

## RECOMMENDATIONS

CPR recommends that the Regional Water Board direct staff to make the following changes to the draft permit before it is re-circulated and brought back to the Board for approval:

- Modify the Municipal Action Levels to be true action levels designed to set "upset" values, which are clearly above the normal observed variability and would allow "bad actor" catchments to receive additional attention.
- Refrain from attempting to define MEP in this permit and request the State Water Board to develop and adopt a statewide definition of MEP or recommend legislation that would do so.

Mr. Xavier Swamikannu  
DRAFT CPR Comments – Third Draft Ventura County MS4 Permit  
May 29, 2007  
Page 11 of 11

- Eliminate the prescriptive elements of the Development Construction Program, the requirement for Local Storm Water Pollution Prevention Plans, and any duplication of requirements that are in the State's Draft General Construction Permit due to be adopted this Fall.
- Eliminate the October 1 – April 15 prohibition on grading and instead, require enhanced erosion and sediment control during January and February when most of the heavy rains occur.
- Within the Planning and Land Development Program, eliminate the requirement to reduce the percentage of Effective Impervious Area to less than 5 (or any) percent of total project area, and focus on implementation of Low Impact Development and the development of sound hydromodification control criteria during this permit cycle, while planning to implement permanent hydromodification controls during the next permit cycle.
- Eliminate Findings E.7 and F.24.

Thank you again for the opportunity to submit these comments on the Third Draft Ventura Permit. CPR will submit additional comments after Regional Board staff provides us with a list of the specific BMPs from the nationwide database used in computing the MALs and developing the performance standards in Attachment C.

Sincerely,



Larry Forester  
Council Member  
Signal Hill

# LOS ANGELES RIVER

## WATERSHED MANAGEMENT COMMITTEE

ALHAMBRA

ARCADIA

BELL

BELL GARDENS

BURBANK

CARSON

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SAN GABRIEL

SAN MARINO

SIERRA MADRE

SIGNAL HILL

SOUTH EL MONTE

SOUTH GATE

SOUTH PASADENA

TEMPLE CITY

UNION

May 28, 2008

Ms. Tracy Egoscue, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles California, 90013

**Subject: Comments regarding the proposed Municipal Separate Storm Sewer System (MS4) Permit for Ventura County.**

Dear Ms. Egoscue:

It is our understanding that the Ventura Permit is likely to serve as the model for the next MS4 permit for the incorporated and unincorporated areas of Los Angeles County. Thus, the Los Angeles River Watershed does have more than a passing interest in the structure and content of the Ventura Permit. We anticipate you will be receiving numerous letters and comments from agencies and local governments and that many of these will be highly technical in nature. For the sake of brevity, this letter will not repeat the technical details, but we request you seriously consider all of these suggestions.

This letter will limit its comments to three important concerns.

1. Municipal Action Limits: As proposed, if 20 percent of samples exceed these numerical limits anytime after 3 years from the permit's effective date, permittees will not be in conformance with the MEP (maximum extent practicable) criteria. This has two important issues: First, as was pointed out by the State Board's own Blue Ribbon Panel numerical limits are not appropriate for stormwater effluent and secondly, three years is not sufficient time to conduct testing, analyze data and install BMPs that may be needed.
2. Trash: The Los Angeles River Watershed has been operating under a Trash TMDL (albeit on an on and off basis) for the past several years. Some agencies have already invested a considerable effort in complying with this TMDL through installation of full capture devices and Daily Generation Rate studies. It is requested that the blanket requirement of anti-trash inserts in all industrial and commercial catch basins not be automatically included.

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3. Overly Prescriptive: The overall permit as proposed is overly prescriptive and does not allow permittees the flexibility to deal with stormwater runoff based on the unique characteristics of their individual jurisdictions.

We request that the Regional Board address these issues as well as the other important issues brought up by other agencies prior to adoption of the Ventura Permit. Thank you for the opportunity to comment and for your thoughtful consideration.

Please feel free to contact me to discuss any of the above.

Sincerely,



John Hunter, Chair  
Los Angeles River Watershed Management Committee.  
562-802-7880 ext 25

cc: LARWMC permittees  
Regional Board at [3rddraftVCMS4@waterboards.ca.gov](mailto:3rddraftVCMS4@waterboards.ca.gov).



May 29, 2008

Tracy Egoscue, Executive Officer  
California Regional Water Quality Control Board, Los Angeles Region  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013

**Subject: Tentative Order - MS4 NPDES Permit for the Ventura Countywide Stormwater Program**

Dear Ms. Egoscue:

Thank you for this opportunity to comment on the April 29, 2008 draft Tentative Order - MS4 NPDES Permit for the Ventura Countywide Stormwater Program (Draft Tentative Order). The Draft Tentative Order has the potential to be precedent setting in the absence of a statewide stormwater policy and, consequently, the County of Orange has been closely following its development. Los Angeles Regional Water Board staff is proposing to establish requirements (i.e., Municipal Action Levels (MALs), Effective Impervious Area (EIA), Best management practice (BMP) performance design criteria) that present significant technical issues and which run counter to expert opinion, such as the State Board's Blue Ribbon Panel, in key areas.

County of Orange staff have participated in the development of CASQA's comment letter and we strongly encourage the Los Angeles Regional Water Board to accept its recommendations and to direct staff to work collaboratively with stakeholders to develop revisions to the stormwater quality management permit in the key areas.

Please direct any questions regarding this letter to Richard Boon at (714)973-3168.

Very truly yours,

  
Chris Crompton, Manager  
Environmental Resources

cc: Orange County Permittees  
CASQA Board of Directors



# SAN BERNARDINO COUNTY STORMWATER PROGRAM

A Consortium of Local Agencies

825 East Third Street  
San Bernardino, CA 92415-0835  
(909) 387-8112 / FAX 387-8130

Member Agencies

City of Big Bear Lake

City of Chino

City of Chino Hills

City of Colton

City of Fontana

City of Grand Terrace

City of Highland

City of Loma Linda

City of Montclair

City of Ontario

City of  
Rancho Cucamonga

City of Redlands

City of Rialto

City of San Bernardino

City of Upland

City of Yucaipa

County of  
San Bernardino

San Bernardino County  
Flood Control District

May 29, 2008

10(NPD)-2.05

Ms. Tracy Egoscue, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

## RE: Ventura MS4 Draft Tentative Permit Comments

Thank you for the opportunity to provide comments on the draft tentative MS4 NPDES Permit for the Ventura Countywide Stormwater Program (draft Permit). The San Bernardino County Municipal Stormwater Program is providing these comments based on the strong presumption that various elements of the draft Ventura Permit may be incorporated into other MS4 Permits in Southern California, including those in the Santa Ana River Watershed area. Under these circumstances, what happens in the Ventura Permit is likely to very directly affect our Stormwater Program and others statewide. In addition, we strongly support the comments on the draft Permit provided by the California Stormwater Quality Association (CASQA).

Although the draft Ventura Permit contains numerous new and specific requirements, our comments focus on the proposed use of Municipal Action Levels (MALs), and requirements from the Planning and Land Development Program.

### 1. MALs

We agree with CASQA's comments on the MALs, and wish to further emphasize the following points:

- a. The MALs, as proposed in the draft Ventura Permit, are not consistent with the recommendations from the "Blue Ribbon Panel" (BRP) Report. The BRP report recommends "action levels" as a tool to identify so-called "bad actor" watershed areas to be targeted for further actions. However, the MALs, which are proposed in the draft Ventura Permit, are used in part to determine whether a permittee has met the "maximum extent practicable" compliance standard, rather than as a bad actor indicator, and in practice will function as numeric effluent limits for stormwater discharges.
- b. The BRP Report also suggested that robust local data sets would be most appropriate for developing the action levels for constituents of concern. However, the MALs proposed in the draft Permit were developed using a so-called "national" dataset, which includes substantial data from non-California regions of the country, with greatly varying rainfall regimes.



Recycled Paper

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Therefore, we conclude that the proposed MALs are being used for an inappropriate purpose, and were developed using an inappropriate dataset. The draft Ventura Permit should be revised accordingly.

## 2. Planning and Land Development Program Requirements

The draft Ventura Permit has extensive and specific requirements for development projects. The requirements that are most problematic to implement are the 5% EIA (effective impervious area) limitation, and the overly specific approach to implementation of hydromodification mitigation measures.

- a. The draft Ventura Permit has not documented a scientific basis to support the use of a 5% EIA limit on a project-by-project approach. Scientific literature provides watershed- or subwatershed-scale evaluations that show a correlation between watershed imperviousness (whether expressed as EIA or total impervious area) and adverse impacts to stream ecology (most notably: Booth & Jackson 1997. Urbanization of aquatic systems: degradation thresholds, stormwater detention, and the limits of mitigation. *Journal of the American Water Resources Association*. 33(5):1077-1090). However, it does not necessarily follow that a site-by-site implementation will have the expected benefits, particularly in fully or partially urbanized watershed areas. It is probable that a substantial implementation burden will be placed on individual projects with little resultant ecological benefit. We recommend that additional "off ramps" from the EIA limit be included in the draft Ventura Permit. For example, project sites with limited infiltration capacity, or where infiltration poses structural safety concerns, should have compliance alternatives in addition to the Redevelopment Project Area Master Plan option. Sites should also be allowed to trade EIA "credits" or provide alternative mitigation to achieve equivalent environmental benefits. The draft Ventura Permit also includes broadly applicable requirements for implementation of low impact development (LID) techniques for development projects. Implementation of LID techniques will achieve the same objectives as the 5% EIA requirement, while providing enough flexibility for successful implementation in most project situations.

We suggest that the 5% EIA requirement is superfluous if LID techniques are already required, and should be removed from the draft Ventura Permit.

- b. The draft Ventura Permit does incorporate recent and anticipated findings from research on hydromodification mitigation in California. However, the requirements are overly prescriptive and do not fully link proposed hydromodification criteria to implementation actions. The draft Ventura Permit requires the application of protective approaches developed from studies of stream reaches and watersheds or subwatersheds. These approaches (such as the application of the erosion potential metric) have yet to be validated in field settings. The draft Ventura Permit does not provide justification for applying these stream reach- or watershed-derived metrics at the individual project scale. The conditions of the entire drainage area that contributes runoff to a stream reach should be evaluated when considering the impacts of an individual project, along with immediate and expected future impacts to the reach. Implementation of hydromodification BMPs on a site-by-site basis alone will not result in cessation of stream impacts.

The draft Ventura Permit should acknowledge these uncertainties and limitations by allowing more options for addressing stream impacts from hydromodification.

There are also considerable differences between our inland San Bernardino County and coastal Ventura County that affect the appropriateness of MS4 Permit requirements. For example, Ventura County has MS4 systems that drain directly to ocean, harbors and beach areas, and has different geology and precipitation patterns. These factors influence the development and management of watersheds, which in turn influence the management of urban stormwater programs, and must be considered when developing MS4 Permit requirements and implementation objectives.

If you have questions regarding these comments please contact Matt Yeager at (909) 387-8112.

Sincerely,



Naresh P. Varma, P.E., Chief  
Environmental Management Division  
San Bernardino County Flood Control District

cc: Dr. Xavier Swamikannu, Chief-Stormwater Permitting, CRWQCB, Los Angeles Region  
Gerard J. Thibeault, Executive Officer, CRWQCB, Santa Ana Region  
San Bernardino County Stormwater NPDES Coordinators

**Ventura County Watershed Planning Project**  
***Watershed-based Planning Solutions for Ventura County***

**MEMO: Alternative Compliance - Developing Redevelopment Project Area Master Plans**

The Local Government Commission (LGC) is working with local and regional agencies and other stakeholders to align local land use planning and stormwater management Ventura County. This project, which is funded by the California Water Boards with Prop 40 funds is developing watershed-based planning strategies and policy recommendations to minimize the water quality impacts of development.

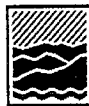
The draft NPDES stormwater permit for Ventura County, which was released shortly before the project began, has become a focal point of the project. LGC has provided comment on past drafts of the permit to shed light on challenges and opportunities within land development program of the permit. Particular emphasis has been placed on recognizing the importance of the form and location of development to water quality and watershed health. These brief comments call for taking additional steps needed to develop the Redevelopment Project Area Master Plan component of the permit's Alternative Compliance program.

Many questions remain regarding the impact of the permit's site level requirements on the form and location of development, which are also critical to water quality. The RPAMP program is a response to concerns that the draft permit's emphasis on site level requirements may be at odds with other environmental planning goals such as redevelopment, infill and compact community design. The Regional Board should be commended for providing a program that recognizes importance of development patterns and community design in managing stormwater. The program offers a cutting edge approach that has the potential to connect planning and design strategies across multiple scales and development contexts, but it needs further development.

The RPAMP program introduced in the draft permit is quite innovative but poses challenges and questions. At a basic level, there is uncertainty regarding what an RPAMP is and how the program would work. *How will an RPAMP be developed? What are the performance criteria? What are the conditions of approval? How much will it cost? How long will it take to develop and what happens in the interim? How are areas designated? What rules still apply within the RPAMP?* These are among the key questions that have surfaced through the meetings during the course of the project and must be met to reduce complexity and ensure that an RPAMP-type program is workable and effective.

LGC has led initial discussions with staff from local agencies, the LA Regional Board, and other stakeholders to begin answering these questions. However, to advance the program a broader dialogue and further vetting are needed. LGC has initiated discussions with other relevant constituencies and is developing concepts for one or more workshops to outline the details of the program and how it can be developed and implemented. The content of the workshop(s) will attend to the ultimate objectives of the program, methods for determining RPAMP areas, conditions of approval, performance criteria for projects within an RPAMP, and finally the development of a pilot RPAMP. LGC staff are compiling input from interested parties and exploring options for carrying out these next steps. We will provide additional comments and a proposed plan of action in coming weeks.

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B A S M A A

Alameda Countywide  
Clean Water Program

Contra Costa  
Clean Water Program

Fairfield-Suisun  
Urban Runoff  
Management Program

Marin County  
Stormwater Pollution  
Prevention Program

San Mateo Countywide  
Stormwater Pollution  
Prevention Program

Santa Clara Valley  
Urban Runoff Pollution  
Prevention Program

Vallejo  
Sanitation and Flood  
Control District

May 29, 2008

Ms. Tracy Egoscue, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**Subject: Draft Tentative Order - MS4 NPDES Permit for the Ventura  
Countywide Stormwater Program**

Dear Ms. Egoscue:

Thank you for this opportunity to comment on the April 29, 2008 draft Tentative Order - MS4 NPDES Permit for the Ventura Countywide Stormwater Program (Draft Tentative Order). Please accept these comments regarding the Draft Tentative Order submitted by the Bay Area Stormwater Management Agencies Association (BASMAA) on behalf of its members.

BASMAA is a consortium of the eight areawide urban runoff programs in the San Francisco Bay Area, representing over 90 agencies, including 79 cities and 6 counties. BASMAA was started in 1989 by local municipalities to facilitate information sharing and cooperation and to develop products and programs that would assist them in meeting NPDES permit and Clean Water Act requirements.

BASMAA and its member agencies concur with the reasoning for and comments of the California Stormwater Quality Association (CASQA) regarding the Draft Tentative Order. Los Angeles Regional Water Board staff is proposing in the Ventura Draft Tentative Order for the first time in any Phase I MS4 permit in California permit design features (i.e., Municipal Action Levels (MALs), Effective Impervious Area (EIA), Best management practice (BMP) performance design criteria) that raise significant technical issues, questions, or concerns, and that if adopted could be interpreted to be precedent setting.

Accordingly, we strongly encourage the Los Angeles Regional Water Board to accept CASQA's recommendations and to work with the Ventura permittees, CASQA, and stakeholders to develop a technically solid stormwater quality management permit that will, in turn, be more effective at helping to meet water quality goals.

If you have any questions, please feel free to contact me at (925) 313-2373.

Sincerely,

Donald P. Freitas, Chair

Bay Area

Stormwater Management

Agencies Association

1515 Clay Street

Suite 1400

Oakland, CA 94612

510.622.2326

www.basmaa.org

cc: Bruce Wolfe, Executive Officer, San Francisco Bay Regional Water Board  
CASQA Board of Directors

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## California Stormwater Quality Association™

*Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation*

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May 29, 2008

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**Subject: Draft Tentative Order - MS4 NPDES Permit for the Ventura Countywide Stormwater Program**

Dear Ms. Egoscue:

Thank you for this opportunity to comment on the April 29, 2008 draft Tentative Order - MS4 NPDES Permit for the Ventura Countywide Stormwater Program (Draft Tentative Order). Please accept these comments regarding the Draft Tentative Order submitted by the California Stormwater Quality Association (CASQA) on behalf of its members.

CASQA is composed of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout California. Our membership provides stormwater quality management services to over 26 million people in California and includes most every Phase I and many Phase II municipal programs in the State. CASQA was formed in 1989 to recommend approaches for stormwater quality management to the State Water Resources Control Board (State Water Board).

Although CASQA typically refrains from commenting on individual municipal permits, Los Angeles Regional Water Board staff is proposing in the Ventura Draft Tentative Order the following potentially precedent setting requirements that raise significant technical issues, questions, or concerns:

- Municipal Action Levels (MALs)
- Effective Impervious Area (EIA)
- Best management practice (BMP) performance design criteria

### **Municipal Action Levels (MALs)**

We concur with the concept of Action Levels as recommended by the State's Blue-Ribbon Panel and strongly disagree with the MAL approach as contained in the Draft Tentative Order, which is entirely contrary to these recommendations as discussed below.



### Developing and Implementing MALs

The MALs in the Draft Tentative Order are in conflict with the Blue-Ribbon Panel Report Findings on two major principles regarding the purpose and use of Action Levels: the current infeasibility of numeric effluent limitations for municipal stormwater, and the definition of maximum extent practicable (MEP).

**Numeric effluent limitations are infeasible** – Below is a side-by-side comparison of language from the Water Boards' Blue-Ribbon Panel Report and the Draft Tentative Order [underline added].

#### Water Boards' Blue-Ribbon Panel Report

*"It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges..."*

#### Draft Tentative Order

*"a running average of twenty percent or greater of exceedances of any discharge of storm water from the MS4 to waters of the U.S. that exceed the Municipal Action Levels (MALs)...will require each permittee to... reduce the discharge..."*

To determine whether numeric effluent limitations were appropriate for stormwater discharges the State Water Board convened a panel of experts in September 2005 (Blue-Ribbon Panel) to address the following question: "Is it technically feasible to establish numeric effluent limitations or some other quantifiable limit for inclusion in storm water permits?" The Blue-Ribbon Panel's Report, issued in June 2006, unequivocally states the position that numeric limits for municipal stormwater discharges are not feasible at this time (Blue-Ribbon Panel Report, pg. 8). And yet, the MALs proposed in the Draft Tentative Order are defined as not-to-exceed limits on the discharge of pollutants in stormwater discharges (i.e., numeric effluent limits) – in direct conflict with the Water Board's expert Blue-Ribbon Panel Report.

**Municipal Action Levels (MALs) ≠ Maximum Extent Practicable (MEP)** – Below is a side-by-side comparison of language from the Blue-Ribbon Panel Report and the Draft Tentative Order [underline added].

#### Water Boards' Blue-Ribbon Panel Report

*"For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible. However, the approach of setting an "upset" value, which is clearly above the normal observed variability, may be an interim approach which would allow "bad actor" catchments to receive additional attention. For the purposes of this document, we are calling this "upset" value an Action Level because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken ..."*

#### Draft Tentative Order

*"...exceedances...of the operative MAL(s) shall create a presumption that the permittee(s) have not complied with the MEP provision in subpart 4.A.2, and have failed to implement adequate storm water control measures and BMPs to comply with the MEP criteria."*

Maximum extent practicable is one of the two standards of performance for municipal stormwater quality programs (the other being effective prohibition of non-stormwater discharges). As such, MEP defines conforming performance. When the Water Boards' Blue-Ribbon Panel proffered the concept of Action Levels, they did not do so to define MEP. In their report they define Action Level as an "upset value...clearly above the normal observed variability...enough of a concern that most all could agree that some action should be taken..." In other words, an Action Level defines an aberrant condition. And yet, the MALs proposed in the Draft Tentative Order are equated with MEP – counter to the Water Boards' expert Blue-Ribbon Panel Report Findings.

On the question of the degree to which a local Regional Water Board should follow statewide guidance and policy, the Water Boards have collectively established a clear policy statement<sup>1</sup>:

*At their October 2006 meeting the Water Boards' Water Quality Coordinating Committee (WQCC) adopted the following:*

- *On questions of law and overarching policy the State Board should provide guidance and build a basic policy framework from which the regions can appropriately tailor action.*
- *Water Boards are committed to developing procedures and policies to minimize inappropriate inconsistency.*

Clearly, the purpose and use of the MALs as proposed in the Draft Tentative Order are in direct conflict with this policy statement as the MALs are inappropriately inconsistent with the Findings of the Water Boards' expert Blue-Ribbon Panel.

This inappropriate inconsistency is in direct conflict with the Water Boards own Strategic Plan in which "Consistency" is a top priority "to improve our organizational performance." (*Strategic Plan Update: 2008-2012, California Water Boards: State Water Resources Control Board / Regional Water Quality Control Boards, Version 3 Draft January 25, 2008*). The Strategic Plan notes the reason for consistency being a high organizational priority is "...stakeholders and the Legislature have named consistency in enforcement of the State's water quality laws as one of the most important issues facing the Water Boards." The Strategic Plan goes on to state that "the Water Boards will target areas where consistency has been raised as a concern, initiate actions to achieve warranted consistency, and ensure these improvements are implemented. First actions are... addressing inappropriate inconsistencies in the areas of... storm water..."

***CASQA recommends that the Regional Water Board adopt an approach, consistent with the expert Blue-Ribbon Panel Report, where the Action Levels are:***

- 1) ***derived as defined by the Blue-Ribbon Panel, including using the most preferred and relevant datasets – local datasets;***
- 2) ***set at a level to define "bad actors" / atypical or significant nonconforming performance; and***

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<sup>1</sup> Water Boards Strategic Planning Stakeholder Summit workbook, March 12-13, 2007

- 3) *used to trigger aggressive efforts by the permittees to investigate the cause of atypical or significant nonconforming performance and implement appropriate corrective actions.*

### **Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination**

One of the primary reasons Regional Water Board staff has proposed MALs to determine whether the MEP standard has been achieved is because they would “clearly express[es] the standard for expected outcomes.”<sup>2</sup> CASQA understands this concern and has been working diligently with municipal stormwater program managers, the State, and environmental interests to address this issue. These efforts have resulted most recently in the publication of a CASQA White Paper, “Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination.” In the White Paper, CASQA has combined the Action Level concept as recommended by the Water Board’s Blue-Ribbon Panel, with CASQA’s Program Effectiveness Assessment method<sup>3</sup>, and existing regulatory options for NPDES permitting and TMDL implementation into a comprehensive strategy for managing stormwater quality. This paper is attached for your review.

We would welcome the opportunity to meet with you to discuss how such quantifiable measurements may be included in a municipal permit to:

- ease the determination of accountability,
- better ensure that water quality will be improved in a reasonable time frame, and
- avoid creating the kind of inappropriate inconsistency that would be in direct conflict with the Water Board’s own Strategic Plan.

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### **Effective Impervious Area (EIA)**

The possible creation of “Effective Impervious Area” threshold requirements as a “driver” for Low Impact Development (LID) approaches is currently the subject of considerable debate and concern within the stormwater quality management/science community as well as among planners and practicing landscape architects. Specific aspects of this concern include whether this effective impervious area criterion should be used and, if used, if it should be applied on a site-by-site basis and its implications with urban redevelopment, smart growth, and urban sprawl. For example, underground storage vaults for urban runoff may not be technically feasible on many project sites. Locations with shallow groundwater or underground contamination (i.e., brownfields) may not be able to install tanks to hold stormwater. This type requirement needs to be better thought out to ensure that societal goals, like redevelopment of brownfields and infill development are not interfered with, but rather encouraged, by the permit. While this debate has been taking place on several tracks (e.g., technical, policy) at the local, statewide, and national

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<sup>2</sup> Regional Water Board Workshop Item Number 5: Item Summary, Public Workshop to Receive Comments on the Second draft Ventura County Municipal Separate Storm Sewer System (MS4) Permit, August 28, 2007, NPDES Permit No. CAS004002, p. 2

<sup>3</sup> *Municipal Stormwater Program Effectiveness Assessment Guidance*, CASQA, May 2007

scales the recent deliberations of the California Ocean Protection Council (OPC) are particularly noteworthy.

The Ocean Protection Council has taken the recent lead on examining from a broader perspective the status of the development and use of LID as a BMP strategy in California. OPC commissioned a report<sup>4</sup>, held two OPC meetings and two public staff workshops, and adopted a resolution this month promoting the use of LID principles, including planned and recommended actions. *Appendix A: Options for Enhancing LID in California Policies* in the report on LID policies provides a list of about 50 recommended "Opportunities and Action Items" (Legislative, Aspirational, and Funding) through which LID can be promoted or enhanced. That report makes several observations, lists issues, and provides recommendations that relate to the development and use of LID as a BMP strategy in California, including:

#### Observations

In California, there has been an upsurge in district planning. New models of district planning have been launched and fine-tuned in California, including form-based codes, new urbanism, transit-oriented development, and a new Leadership in Energy and Environmental Design (LEED) pilot for neighborhood development (LEED-ND).

#### Issues

**H1. LID requirements are often written to apply to individual projects, which results in uneven application.**

**H3. LID often designates hydrology as the indicator of environmental impacts.** By their regulatory nature, stormwater rules have the farthest reach into zoning codes. These rules tend to emphasize stormwater peak flow attenuation and volume capture, causing hydrologic performance to outweigh other important environmental issues that are considered in non-regulatory planning documents, such as infill and redevelopment priorities and regional growth patterns that can affect watershed health.

**H4. Suburban-style LID requirements can run counter to the planning, transportation and climate emphasis on compact design.** Meeting strict stormwater performance standards in urban areas can be much more difficult than in open areas with room for swales, infiltration and detention. While LID techniques can decrease costs for greenfields applications, they can pose higher costs for urban developers, since underground vaults are often needed to augment urban green building, streetscape and landscape BMPs to meet performance standards.

#### Actions

**H12.** Sponsor an analysis of pilot neighborhoods in the LEED-ND program to see if they meet stringent stormwater requirements (for volume, treatment and flow control).

**H14.** Sponsor a pilot study to align major water planning documents (e.g., Basin Plan, Integrated Regional Watershed Management Plan) with regional and local requirements

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<sup>4</sup> *State and Local Policies Encouraging or Requiring Low Impact Development in California – Final Report*, Prepared by Tetra Tech, Inc. for Ocean Protection Council, January 2008

(e.g., stormwater permit requirements and local zoning codes) with respect to LID goals and requirements.

**H17.** Fund a project to better describe LID techniques based on development settings in California similar to the effort underway within the Congress for New Urbanism<sup>5</sup> based on the “transect.” The transect establishes seven transect zones based on intensity of development and urban form. This approach was used to develop new street standards and could serve as a model for stormwater management as well.

Based on the commissioned report and input received at the OPC meetings and workshops, the Ocean Protection Council adopted a resolution on May 15, 2008 that CASQA supported (including amendments provided by NRDC) that included the following actions related to stormwater and LID (and by extension EIA) [underline added]:

## **2. State Regulatory Actions**

a. *State Water Board LID Policy* – The State Water Board is encouraged to adopt a statewide policy for addressing all elements associated with changes in runoff due to hydromodification impacts, including those specifically related to urbanization. This policy would include direction on when and how to use LID to avoid, minimize and mitigate runoff so that downstream water bodies are protected.

## **3. Incentives, Technical Support, and Research**

c. *Research and Development of LID* – Promote and consider funding technical research for development of a LID design manual, including example designs and specifications for LID features, and post-construction evaluations of the effectiveness of constructed LID features in removing pollutants and controlling runoff flows.

Also, the approach being proposed by Los Angeles Regional Water Board staff seems to be in conflict to the State Water Board proposed approach in the draft Construction General Permit. While CASQA has some concerns with the draft Construction General Permit approach to new development (and will be providing our comments to the State Water Board), the proposed approach better reflects the state of knowledge. At a minimum, the difference in approaches again raises the question as to why the Water Boards are proposing such inconsistent approaches to basically the same ends and whether the inconsistency is necessary and appropriate.

Finally, it is not clear that there is a reasoned technical basis to require such a relatively restrictive site design rule. The concept of total impervious area on a watershed scale has been shown to have a deterministic relationship with channel enlargement in the receiving stream. The studies that have demonstrated this relationship have been in watersheds without contemporary hydromodification mitigation controls. A recent study on this issue (Coleman et.

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<sup>5</sup> At the national scale, NRDC, Congress for the New Urbanism, USEPA, and the U.S. Green Building Council have been developing the LEED-ND standard, which is a comprehensive attempt to integrate land use, financial, transportation, environmental, and urban design components into a single system for evaluating neighborhood design.

al., 2005)<sup>6</sup> notes that effective impervious area is one of the recommended management strategies to be considered, depending on the current conditions of the receiving stream and the future anticipated conditions. The strategies appropriate for application where the stream course alignment has been altered or there are drainage improvements in the watershed are different from those applicable to relatively undisturbed watersheds.

All of the above demonstrates that proposed new EIA provision (PART 5.E.III.1 Integrated Water Quality/ Flow Reduction/ Resources Management Criterion) is not permit-ready.

*CASQA recommends the Water Boards work with permittees, CASQA, researchers, and stakeholders to:*

- *Identify an initial list of LID strategies that must be considered for all development.*
- *Develop a performance standard for LID strategies that considers the lessons learned translating the concept of LID into projects and recommendations from other drivers such as urban design (e.g., LEED-ND standard).*
- *Produce findings that can form the basis of permit provisions, guidance, implementation plans, etc.*

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#### **BMP performance design criteria**

While CASQA generally supports the development of criteria for designing treatment control BMPs; as the developer and publisher of California's most widely referenced (including in Water Board permits and other documents) and used guidance on BMPs<sup>7</sup>, CASQA concurs with the issues and concerns raised by the Ventura Countywide Stormwater Program regarding this brand new proposed permit provision. CASQA was one of the first to publish BMP performance information using effluent quality data rather than the traditional percent reduction data that had been used for decades. However, using BMP effluent quality data to establish design criteria raises a series of technical questions and implementation issues that have not been studied by or vetted among the stormwater quality management or science community. In fact, on this topic, the Water Boards' Blue-Ribbon Panel noted: "It will take a substantial research effort, including data gathering on well-designed BMPs, to develop design criteria..." As a result, proposed new provision PART 4.A.3 is not permit-ready.

*CASQA recommends if the Tentative Order includes any provision related to BMP performance design criteria, that it be written:*

- *as a goal rather than as an absolute requirement, and*
- *to encourage permittees to work with other permittees in the state as well as with CASQA and others to research and develop design criteria for treatment control BMP performance.*

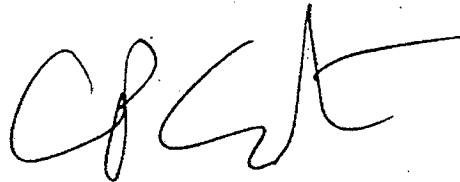
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<sup>6</sup> Coleman, D., MacRae, C., and Stein, E., "Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams", Technical Report 450, Southern California Coastal Water Research Project, April 2005

<sup>7</sup> *California Stormwater BMP Handbooks*, California Stormwater Quality Task Force, 1993; CASQA, 2003

We thank you again for the opportunity to submit these comments and to provide our thoughts in developing a more proactive and constructive stormwater quality management permit. If you have questions regarding our comments or recommendations please contact me.

Very truly yours,



Chris Crompton, Chair  
California Stormwater Quality Association

cc: Xavier Swamikannu, Chief-Stormwater Permitting, Los Angeles Regional Water Board  
Tam Doduc, Chair, State Water Board  
Gary Wolff, Vice-Chair, State Water Board  
Frances Spivy-Weber, Member, State Water Board/Liaison, Los Angeles Regional Water Board  
Dorothy Rice, Executive Director, State Water Board  
Jonathan Bishop, Chief Deputy Director, State Water Board  
Bruce Fujimoto, Section Chief-Stormwater, State Water Board  
Alexis Strauss, Director, USEPA Region IX  
Stuart Drown, Executive Director, Little Hoover Commission  
CASQA Executive Program Committee  
CASQA Board of Directors

Attachment – CASQA White Paper – Quantifiable Approach to Municipal Stormwater Program  
Implementation and Permit Compliance Determination

May 29, 2008

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Attachment 1 – California Stormwater Quality Association (CASQA)





## California Stormwater Quality Association™

*Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation*

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August 15, 2007

Xavier Swamikannu  
Chief – Stormwater Permitting  
Regional Water Quality Control Board, Los Angeles Region  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013

Re: Draft CASQA White Paper – Quantifiable Approach to Municipal Stormwater Program  
Implementation and Permit Compliance Determination

Dear Dr. Swamikannu:

On behalf of CASQA, I would like to formally thank you and your staff for meeting recently with Richard Boon (Chair – CASQA Policy and Permitting Subcommittee), Mack Walker (CASQA regulatory consultant), and myself to discuss CASQA's approach to providing a comprehensive strategy for managing stormwater quality and how it relates to the Ventura municipal stormwater permit. The enclosed draft White Paper presents a description of that comprehensive strategy.

This draft White Paper combines the concepts of effectiveness assessment (e.g., measurable goals), quantifiable measures (e.g., Action Levels), and CASQA's *Progressive Approach* with standard regulatory options for National Pollutant Discharge Elimination System (NPDES) permitting and total maximum daily load (TMDL) implementation. The draft White Paper also includes a frequently asked questions (FAQs) section that provides answers to specific questions raised about the *Progressive Approach*, Effectiveness Assessment, and quantifiable measures.

It is worth noting that the concept presented in the White Paper has been shared with the Ventura Countywide Stormwater Quality Management Program. Although the quantifiable measures shown in Table 1 were developed independently of the Ventura Program and only serve as examples for the purposes of this White Paper, the Ventura MS4s have indicated their support to develop quantifiable measurements for their program that are similar in nature to the ones presented in this White Paper.

Thank you for considering our approach and as always please contact me with any questions or comments. We look forward to continuing to work with you.

Sincerely,

Geoff Brosseau, Executive Director

enclosure: Draft White Paper

CASQA White Paper – Quantifiable Approach to Municipal Stormwater  
Program Implementation and Permit Compliance Determination

This paper was written to advance the science and regulation of stormwater quality management. It presents a quantitative approach to municipal stormwater program implementation and permit compliance determination developed by the California Stormwater Quality Association.

## Introduction

Section 402(p) (3) (B) of the federal Clean Water Act (CWA) provides that “permits for discharges from municipal storm sewers ... shall require controls to reduce the discharge of pollutants to the maximum extent practicable ....” While the CWA does not specifically define MEP, USEPA has described MEP as a flexible, site-specific standard. (National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, 64 Fed. Regs. 68722, 68732, 68754 (Dec. 8, 1999).) “The pollutant reductions that represent MEP may be different for each [municipal stormwater discharger] given the unique local hydrological and geological concerns that may exist and the differing possible pollutant control strategies.” (*Id.* At 68754.)

California also has not specifically defined MEP for its permitting purposes. However, the State has relied upon other federal programs to guide its understanding of MEP. In particular, the State relied upon the term as used in Superfund legislation and CERCLA. (SWRCB Order No. 2000-11 at p. 20.) Using these statutes, the State concluded “MEP requires Permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive.” (*Id.* at p. 20.) However, this approach has proven to be a contentious basis for permitting. For example, the first Phase I permits issued by the San Francisco and Los Angeles Regional Water Boards in 1990 were appealed to the State Water Board for their absence of numeric limits. Although the appeal was denied on the grounds of technical infeasibility, the action served notice of environmental non-governmental organizations’ (NGO) dissatisfaction with an approach that they perceived as providing inadequate permittee accountability.

In addition, stormwater permits in California include requirements that the discharges of stormwater pollutants will not cause or contribute to an exceedance of a water quality standard. Compliance with this requirement is based on an iterative planning process that provides for the implementation of best management practices (BMPs) and subsequent refinement if an exceedance is identified. This approach is consistent with USEPA guidance<sup>1</sup> to states regarding approaches to developing permit conditions. This guidance notes the use of BMPs in stormwater permits and expanded or better-tailored BMPs in subsequent permits as necessary to provide for the attainment of water quality standards.

Thus, for permitting purposes (including MS4 (municipal separate storm sewer system) permits) USEPA and the State have interpreted the term “maximum extent practicable (MEP)” to be flexible and relative to the local conditions, and supported the iterative approach for addressing exceedances of water quality standards. In spite of this approach, there has been increasing

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<sup>1</sup> R. Perciasepe, USEPA Assistant Administrator, 08/01/96 Memorandum regarding Interim Permitting Approach for Water Quality Based effluent limitations in Storm Water Permits.

## CASQA White Paper – Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination

pressure (from the permitting agencies) on municipalities to demonstrate the effectiveness of their stormwater management programs to protect water quality. Regulators have also been considering more obvious ways to assess whether a stormwater management program is meeting its NPDES permit requirements and achieving the MEP standard. Finally, environmental NGOs insist that stormwater programs have not made enough progress to improve and protect water quality, and fault the current permitting approach<sup>2</sup>. Indeed, the State Water Board's Blue-Ribbon Panel on Numeric Limits characterized the current state of permitting as commonly perceived to be "... overly complex, and that it is extremely difficult, if not impossible to objectively determine if a facility, operation or municipality is in compliance with its permit requirements."

CASQA believes there are several ways to show the effectiveness of a stormwater program, ranging from showing an improvement in the runoff quality, to showing an increase in public knowledge about stormwater pollution, to demonstrating that construction sites have implemented BMPs consistent with their stormwater pollution prevention plans. This paper presents a quantitative approach to municipal stormwater program implementation and permit compliance determination. The proposed quantitative approach will provide better regulatory accountability for stormwater programs, and facilitate water quality protection in an iterative, cost-effective manner.

### Background

Although there have been various efforts in the last few years to develop quantifiable measures for assessing stormwater program effectiveness and defining MEP, there are a number of recent efforts that have accelerated the need to address this issue. First, the State Water Board in September 2005 convened a panel of stormwater experts (Blue-Ribbon Panel) to address the following question:

"Is it technically feasible to establish numeric effluent limitations or some other quantifiable limit for inclusion in storm water permits?"

The logic in posing this question is that the effectiveness of a stormwater program and compliance with the permit might be evaluated by comparing runoff with a numeric value. However, the Blue-Ribbon Panel's report, issued in June 2006 (BRP Report), unequivocally states that numeric limits for municipal stormwater discharges can not be set at this time. Specifically, the BRP Report states, in the "Municipal Recommendations" Section:

*"It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges....."*

*For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible. However, the approach of setting an "upset" value, which is clearly above the normal observed variability, may be an interim approach which would allow "bad actor" catchments to receive additional attention. For the purposes of this*

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<sup>2</sup> Coastkeeper/NRDC's Presentation to State Water Board, 9/14/05.

CASQA White Paper – Quantifiable Approach to Municipal Stormwater  
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*document, we are calling this "upset" value an **Action Level** because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken ... .." Underline added. (Page 8)*

The BRP Report did not fully address "other quantifiable limits for inclusion in stormwater permits." Although the Blue-Ribbon Panel conceived of the concept of Action Levels, the BRP Report did not address the details of their implementation or enforcement.

Second, prior to and during the development of the BRP Report, CASQA undertook the development of an overall strategy for stormwater permitting in California. At that time CASQA suggested that the BRP Report recommendations were best considered within a comprehensive approach or context for stormwater management in California. Although the BRP was not specifically directed to address the overall stormwater context, the appropriateness of any recommendation depended in part on compatibility with the existing permitting system. Thus, in articulating the needed context, CASQA developed a *Progressive Approach for Regulating Stormwater* and permit strategies for the upcoming renewals of the general industrial and general construction stormwater permits as well as future municipal permits (herein collectively referred to as the *CASQA Progressive Approach*). The *CASQA Progressive Approach* is shown graphically in Figure 1. Essentially, CASQA proposed a logical sequence of standard options to regulate stormwater discharges. These options (see Figure 1) included:

- Option 1 – Iterative Process and Benchmark

Status – Currently used in USEPA multi-sector general permit (industrial) and in California stormwater permits.

Compliance Strategy – 1) Stormwater Management or Pollution Prevention Plan developed and implemented; 2) Effectiveness assessments conducted; 3) Analytical monitoring results compared to water quality standards and/or Benchmarks; 4) Iterative process used to focus BMPs on problematic pollutants. Compliance based on implementing iterative process (municipal) and annual compliance assessment (industrial/construction).

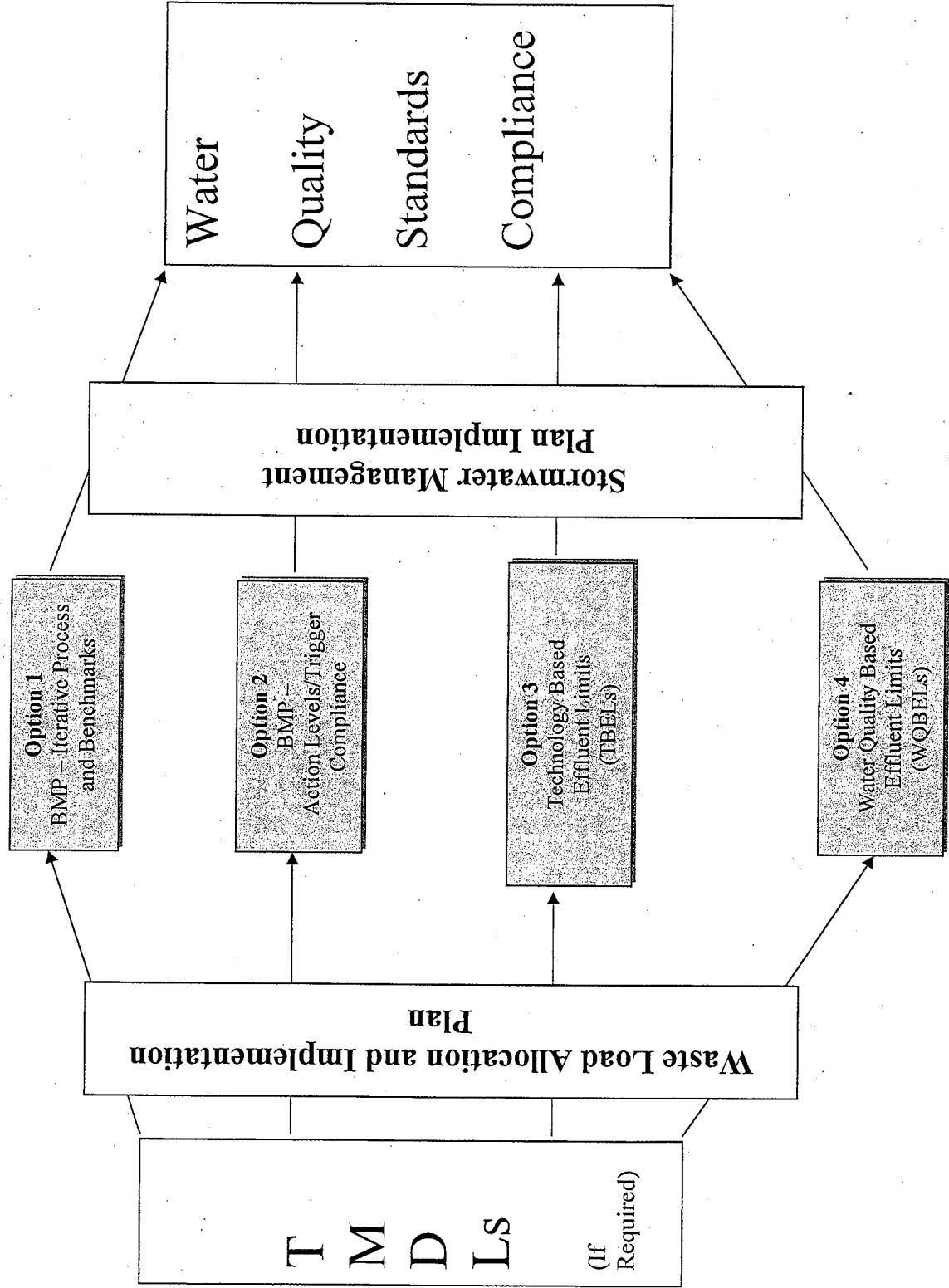
- Option 2 – Action Levels/Trigger Compliance

Status – Not currently used for municipal and construction stormwater permits; however, State of Washington model exists for industrial.

Compliance Strategy – 1) Stormwater Management or Pollution Prevention Plan developed and implemented; 2) Effectiveness assessments conducted (e.g., inspections, analytical) – comparison to adaptive management indicators (Action Levels) dictates compliance response; 3) Iterative process used to focus BMPs, potentially problematic permittees are required to establish and implement corrective action plans; 4) Compliance based on meeting Action Levels and for potentially problematic permittees, developing and implementing corrective action plans.

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Figure 1. CASQA Progressive Approach for Regulating Stormwater



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- Option 3 – Numeric Based Technology Based Effluent Limits (TBELs)

Status – Currently is being used by USEPA in limited cases (e.g., meat and poultry industry). USEPA has established procedures to develop TBELs (primarily for wastewater discharges). Development of effluent limitations based on treatment controls available to minimize the pollutants and considers site conditions, activities, return period, constituents, treatment effectiveness, and costs.

Compliance Strategy – Permittee required to implement treatment and source controls to meet numeric effluent limitations. Monitoring required to confirm performance and assess compliance.

- Option 4 – Water Quality Based Effluent Limits (WQBELs)

Status – WQBELs have not been used to date as a compliance tool except through the implementation of the TMDL program. Used in some situations inappropriately. WQBEL based on protection of beneficial uses of the receiving water. Currently USEPA does not have a procedure in place for developing WQBELs for stormwater.

Compliance Strategy – Discharge required to comply with numeric effluent limitations. Derivation of effluent limits based on compliance with water quality objectives. Monitoring is required to confirm compliance.

This paper presents an approach under Option 2 for municipal permittees.

Third, the draft Ventura Countywide stormwater NPDES permit, issued by the Los Angeles Regional Water Board in December 2006, proposed municipal Action Levels (MALs). These MALs were expressed as numeric values for selected constituents, applied to 36-inch or greater outfalls, and perhaps most significantly, were used to define the MEP standard. This approach is not consistent with the concept of “Action Levels” as envisioned by the Blue-Ribbon Panel and instead defines the technology based effluent limit (option 3 in CASQA *Progressive Approach*) with a statistically-derived effluent limit.

Fourth, the Model Monitoring Program for Municipal Separate Storm Sewers Systems in Southern California (Model Program) developed by the Stormwater Monitoring Coalition in 2004, addresses the development of a stormwater monitoring program that supports permit compliance and stormwater management program implementation. The Model Program presents five management questions that, when addressed, use adaptive triggers to expand a monitoring program in a logical and resource-protective way to move from assessment monitoring to source identification. The five management questions posed in the Model Program are:

1. “Are conditions in the receiving waters protective, or likely to be protective, of beneficial uses?”
2. “What is the extent and magnitude of the current or potential receiving water problems?”
3. “What is the relative urban runoff contribution to the receiving water problems?”

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4. “What are the sources to urban runoff that contribute to receiving water problems?”
5. “Are conditions in the receiving waters getting better or worse?”

Fifth, starting in 2004, CASQA started to develop its Effectiveness Assessment method – releasing the white paper *An Introduction to Stormwater Program Effectiveness Assessment* in August 2005. This white paper was followed-up by the recently issued *Municipal Stormwater Program Effectiveness Assessment Guidance* (CASQA, 2007). The guidance provides detailed direction to stormwater managers/regulators in designing and conducting an assessment to determine the effectiveness of a stormwater management program.

Critical to the use of the guidance is an understanding of how a stormwater program may be evaluated. There are six outcome levels that are used to assess the effectiveness of a stormwater program. These six levels are summarized as follows and shown in Figure 2:

Outcome levels	
1	Documenting activities
2	Raising awareness
3	Changing behavior
4	Reducing loads from sources
5	Improving runoff quality
6	Protecting receiving water quality

The concept behind the outcome levels is that while the ultimate goal of a stormwater program is to protect receiving waters, stormwater program managers will need, at times, to rely on programmatic or implementation evaluations as a surrogate measure of the effectiveness of their programs. This is due to the inherent difficulties in measuring statistically valid changes in stormwater environmental data. It is difficult to detect measurable changes in water quality on a short-term basis, and if detected, to link those changes to the implementation of the stormwater program. Thus managers must document activities consistent with their permits and raise awareness of the public and employees regarding the importance of stormwater quality so that they may change their behavior to protect water quality. These behavioral changes will lead to reducing loads at the sources and a corresponding improvement in runoff quality. And finally this will lead to the protection of the receiving water quality. To date most program and corresponding NPDES permit have relied almost exclusively on level 1 – documenting activities to evaluate the level of implementation of required stormwater program elements and permit compliance. Ultimate program effectiveness in protecting and improving receiving water quality may not be readily measurable and should be an ongoing cooperative effort between regulators and the regulated community.

Finally, under section 303(d) of the 1972 Clean Water Act, a state is required to develop lists of water bodies that do not meet water quality standards and therefore are impaired. The state must establish priority rankings for waters on the lists and develop total maximum daily loads (TMDLs) for these waters. Each TMDL specifies the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards. The allocation of the loads will depend upon the TMDL as some TMDLs have sufficient data to allocate the pollutant loadings

# Assessment Outcome Levels

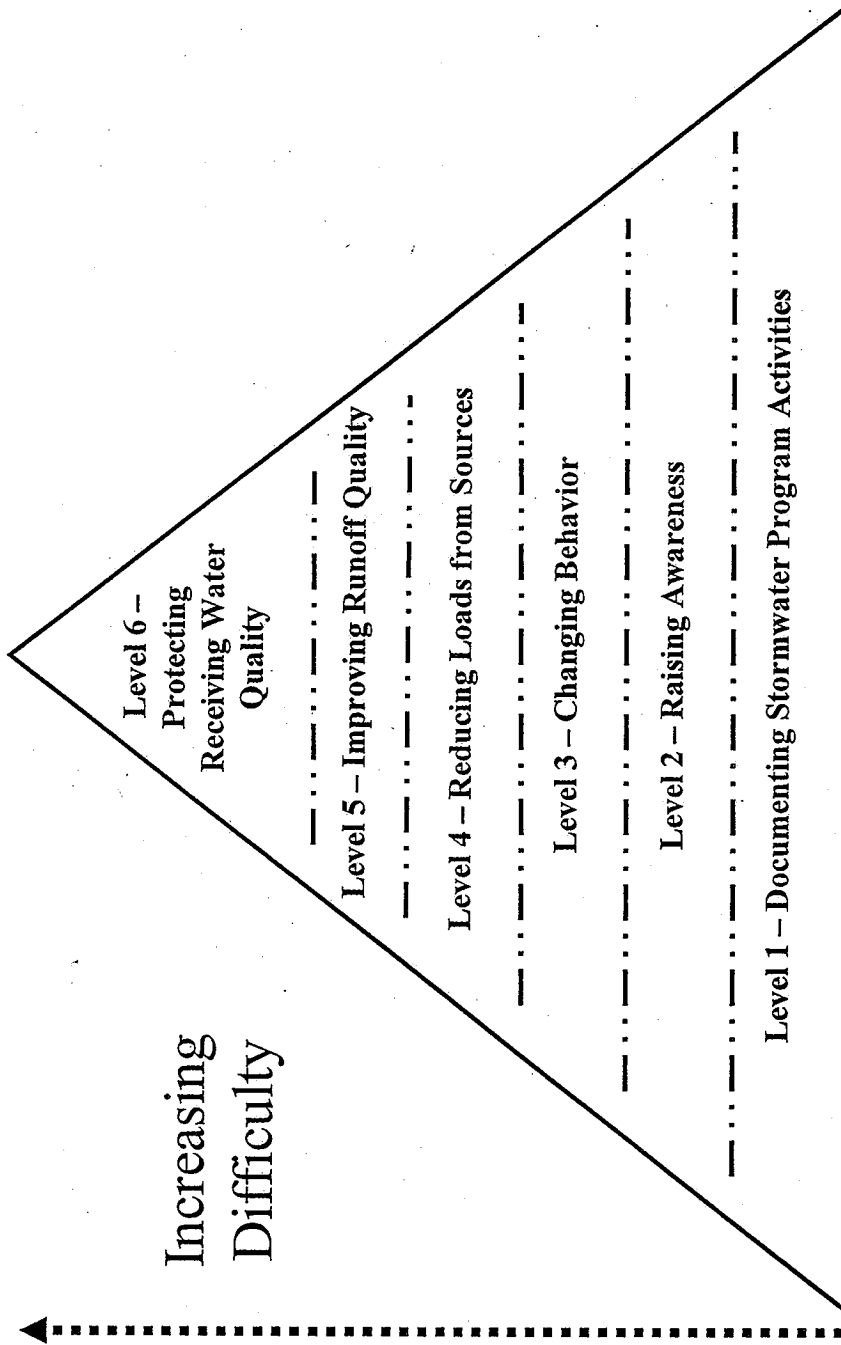


Figure 2. Classification of Outcome Levels



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among point and non-point pollutant sources while other TMDLs assign the loading to the receiving water with follow-up allocations being developed when sufficient data are available. The TMDLs must be approved by the State Water Board and USEPA.

Once approved the TMDLs are incorporated into NPDES permits according to the schedules and requirements identified in the approved TMDLs. The TMDL program essentially serves as the safety net for water quality protection should the implementation of the non-point and point source control program (i.e., NPDES permits with technology based effluent limits) be inadequate to protect receiving water quality. The TMDL load allocations are in essence water quality based effluent limits. The limit may be expressed as a numeric value or by a narrative description of BMPs, thus the TMDL program may be incorporated into the CASQA *Progressive Approach* at any one of the compliance options and is pollutant and waterbody specific.

### Approach

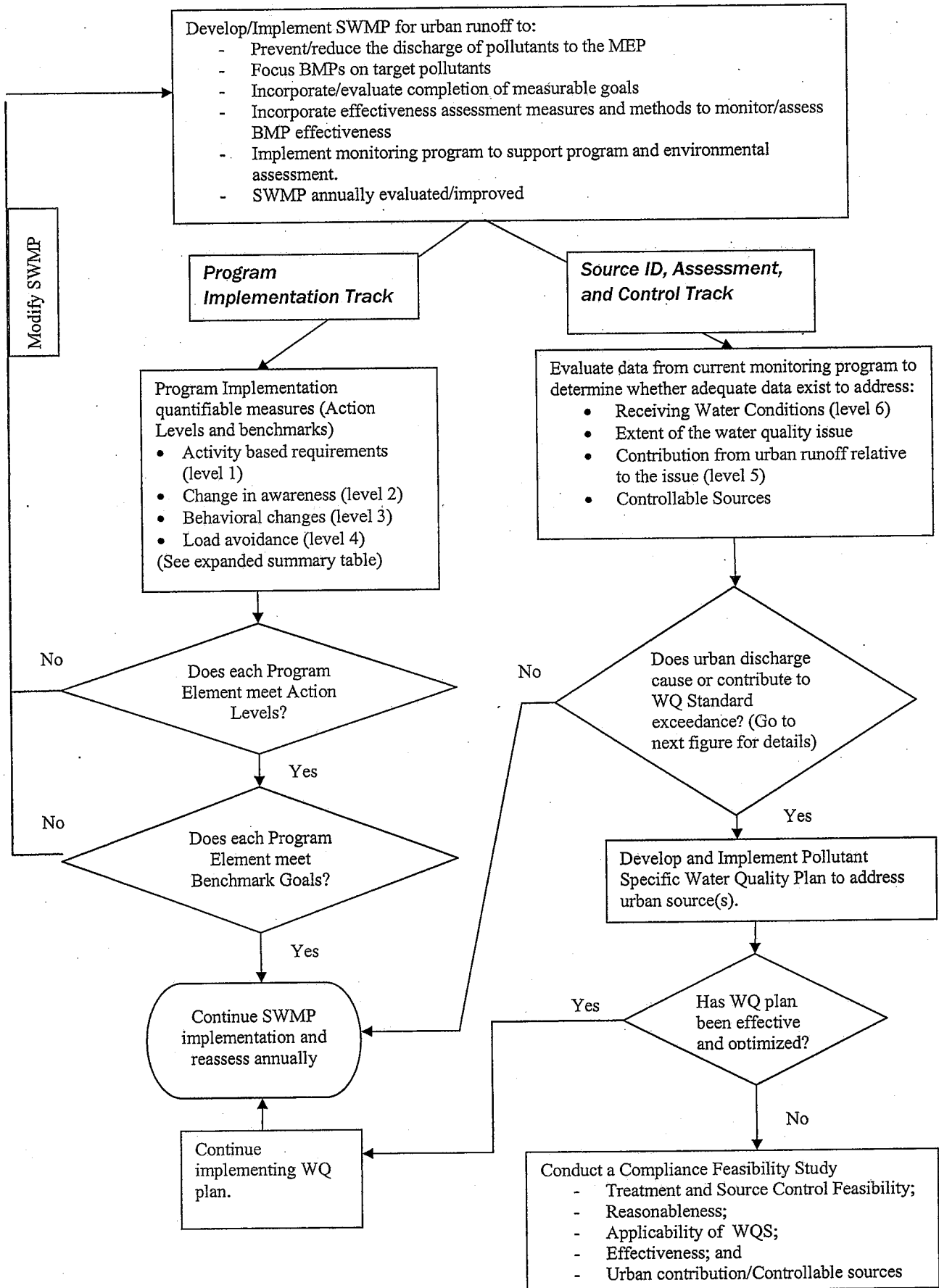
In the following paragraphs CASQA presents an approach that addresses and integrates the issues and efforts discussed above. The approach expands on earlier CASQA efforts to characterize Option 2 of the *Progressive Approach* and may be used as an approach to determine compliance for upcoming municipal stormwater NPDES permits. The objectives of the CASQA approach are to:

1. Develop quantifiable measures for assessing stormwater program implementation and integrating these quantifiable measures into a NPDES permit for compliance determination purposes.
2. Establish an assessment process (including the use of numeric Action Levels applied to outfalls) for identifying water quality issues relevant to stormwater discharges and prioritizing follow-up action for identifying the sources and implementing additional control measures.
3. Integrate at a conceptual level the TMDL program into the stormwater program and NPDES permit to ensure consistency and to avoid redundancy.

Ultimately this approach may be used to establish permit conditions and compliance requirements. Compliance would be determined by the permittee's efforts to meet the permit conditions and protect water quality.

The approach consists of two parallel tracks (see Figure 3): a Program Implementation track and a Source Identification, Assessment, and Control track. The Program Implementation track reflects the development and implementation of the stormwater management plan. The permittees, in consultation with the Regional Water Board, would develop quantifiable measures for establishing the level of program implementation. The quantifiable measures would focus on the first four outcomes levels identified in the CASQA effectiveness assessment guidance manual. As an example, CASQA members have developed various quantifiable measures for each of the stormwater program elements. These quantifiable measures are shown in Table 1. Further development is warranted and is expected to be conducted on a permit-by-permit basis to reflect local conditions and water quality concerns and program resources.

**Figure 3. Proposed Option 2 Permit Structure**



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**Table 1. Quantifiable Measures for Assessing Permit Compliance\***

Program Element	Effectiveness Assessment Outcome Level	Goal	Expressions for Defining Quantifiable Measure	Action Level <sup>3</sup>	Benchmark <sup>4</sup>
Construction	1- Documenting Activities	Provide frequent inspection of construction sites	% of all construction sites are inspected according to specified schedule during wet season	90	100
	3 – Changing Behavior	Increase the number of construction sites in compliance with BMP implementation and local stormwater requirements	Upon first inspection, % of construction sites in significant compliance with local construction stormwater requirements	for >1 ac., 75% <1ac. 50%	100
				% of state permitted sites have completed and available SWPPPs for each site (document during inspection)	80
Illegal Discharges / Illicit Connections	3 – Changing Behavior	Respond rapidly and efficiently to illicit discharges	% of illicit discharges impacting human health responded to within 24 hours of upon receiving notification	80	100
		Eliminate all illegal connections	% of illegal connections eliminated or permitted once detected	80	100
Industrial / Commercial	1- Documenting Activities	Provide frequent inspection of industrial sites	% of state permitted industrial sites are inspected according to specified schedule	90	100
	3 – Changing Behavior	Increase the number of industrial sites in compliance with BMP implementation and local stormwater requirements	Upon first inspection, % of industrial sites in significant compliance with local stormwater requirements	75	100
				% of state permitted sites have a completed and available SWPPP for each site (document during inspection)	75

\* The expressions and numeric values are necessarily generic since they are meant to be generally applicable statewide. Further development is warranted and is expected to be conducted on a permit-by-permit basis to reflect local conditions and water quality concerns and program resources.

<sup>3</sup> Action Level is an “upset” value that is clearly above the normal observed variability and identifies atypical results. If the level of implementation or performance exceeds the Action Level then immediate corrective action must be taken. This approach allows “bad actor” catchments or problem areas to receive additional attention. Action Levels are not effluent limitations and should not be interpreted as such (based on the *Storm Water Panel Recommendations to the California State Water Resources Control Board, June 2006*).

<sup>4</sup> Benchmarks are values that are set at levels that represent typical or average results and assist in determining whether a stormwater management plan is successfully implemented. Benchmarks are not effluent limitations and should not be interpreted as such.

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Program Element	Effectiveness Assessment Outcome Level	Goal	Expressions for Defining Quantifiable Measure	Action Level <sup>3</sup>	Benchmark <sup>4</sup>
Municipal Operations	2 - Raising Awareness	Raise a target audience's awareness and understanding of an issue	% of employees to which requirement is applicable have attended training and taken test	90	100
	3 - Changing Behavior	Implement BMPs at vehicle maintenance facilities	% of City owned vehicle maintenance facilities that have developed, implemented, and kept current SWPPP (General Permit) or SWPCP (non-General Permit)	80	100
		Decrease use of pesticides	% of permittee landscaping under IPM	% of permittee landscaping with site specific nutrient management plans	30
New Development	3 - Changing Behavior	Change a target audience's behavior which results in the implementation of recommended BMPs	Upon first review, % of projects that are incorporating LID concepts and adequate source controls as required by performance standards	80	100
			Upon first review, % of projects requiring treatment that are incorporating adequate treatment controls as required by performance standards	80	100
	4 - Load Reduction	Ensure adequate maintenance of post construction BMPs	% of post construction BMPs with adequate maintenance (based on inspection); quantify load reductions.	70	100
Public Education	2 - Raising Awareness	Raise public awareness and understanding of an issue	% of general public who know difference between sewer and storm drain	25	50
		Increase awareness of target audience	% of target audience who know not to dump in storm drain	50	75

Effectiveness Assessment Outcome Levels

- |                                                                                                                                                                                     |                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>1 – Documenting Activities</li> <li>2 – Raising Awareness</li> <li>3 – Changing Behavior</li> <li>4 – Reducing Loads from Sources</li> </ul> | <ul style="list-style-type: none"> <li>5 – Improving Runoff Quality</li> <li>6 – Protecting Receiving Water Quality</li> </ul> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|



## CASQA White Paper – Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination

Once the quantifiable measures are identified and incorporated in the NPDES permit, the municipality would be required to implement the program. Documentation would be required to support the determination of whether the quantifiable measures are being met. If the quantifiable measures are not met the municipality would be required to modify their stormwater program to support the implementation needed to meet the quantifiable measures.

There are two levels of quantifiable measures, one called an Action Level and one called a Benchmark. The Action Level quantifiable measure reflects the level of implementation or performance where, if below the Action Level, the municipality's effort is inadequate and immediate action must be taken to correct. Permit compliance would be determined by whether the municipality takes immediate corrective action and meets the Action Level. The Benchmark level is a level of implementation or performance that reflects an adequately managed and comprehensive stormwater program. Ultimately all municipalities should attain the Benchmarks.

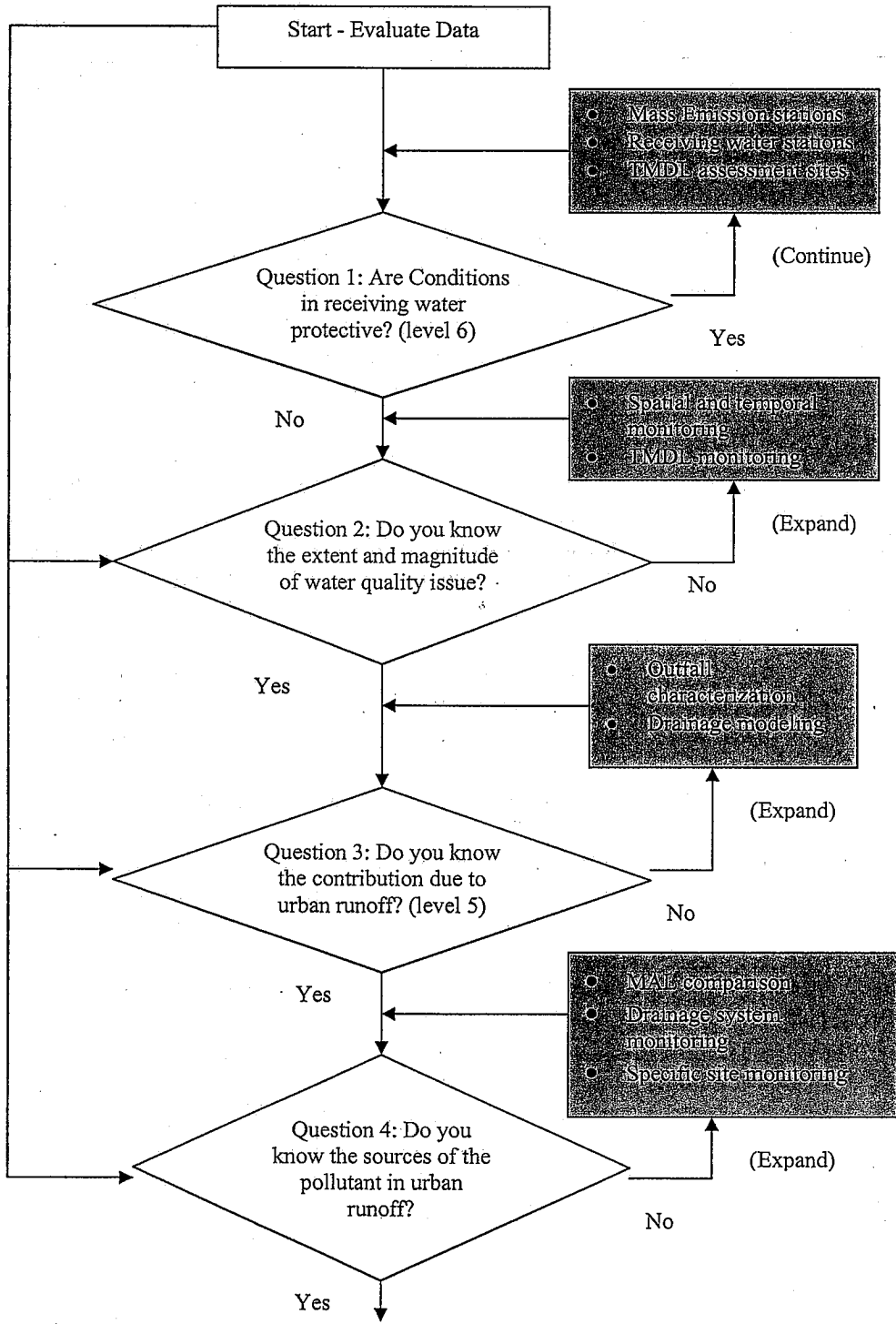
Ultimately the goal of all municipalities is the protection of water quality through the implementation of a comprehensive stormwater program. The critical difference between the approach described above and the current iterative process used in existing permits is that the quantifiable measures are actually tied to performance. They reflect a measurement of an effective program and not just “bean counting” quantifiable measures that dominate current permits. They also move the program to a higher outcome level from just documenting that an action took place (e.g., inspect construction sites twice during the wet season and once during the dry season) to one that shows a change in behavior or reduction in loads (e.g., construction contractors are in compliance with local erosion control requirements). It also establishes a systematic approach to move the program forward towards level 6 and water quality protection.

In parallel and in conjunction with the Program Implementation track is the Source Identification, Assessment, and Control track. This track is structured after the Model Program and supports the overall stormwater program by addressing the management questions noted previously. The monitoring program is a logical and resource-protective way to move from assessment monitoring to source identification and focused control measures.

Because of the various approaches and permit requirements used to-date in monitoring, different municipalities are at different stages of the Model (monitoring) Program. Thus, the first step (see Figure 4) is to evaluate the data collected to-date including all point and non-point source monitoring as well as other environmental programs that could be used to answer the management questions. These other environmental programs include wastewater point source, TMDLs, Surface Water Ambient Monitoring Program (SWAMP), Bight and others. Depending on the completeness of the data, the permittees may enter the flow diagram at different stages. But assuming a municipality is starting with the initial question of whether current conditions are protective of beneficial uses (Question 1, Figure 4) then every effort should be made to use ongoing environmental monitoring efforts and where appropriate augment the monitoring effort to provide the data to answer the question.

Once a water quality issue is identified then the municipality is required to determine the extent and magnitude of the problem (Question 2, Figure 4). This is accomplished through a broader

**Figure 4. Expanded Monitoring Flow chart – Does Urban Discharge Cause or Contribute to Water Quality Standard Exceedances? (1)**



(Return to previous figure box: Develop and Implement Pollutant Specific Water Quality Plan to address urban source(s))

(1) Highlighted boxes reflect current or proposed monitoring efforts (function of MS4 program)

## CASQA White Paper – Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination

temporal and spatial monitoring effort, including upstream and downstream monitoring of urban areas.

Next the permittees are required to determine the relative contribution from urban runoff to the receiving water problem (Question 3, Figure 4). This effort can reflect minimal resolution and in many cases an estimate based on typical outfall runoff characteristics for difference land uses applied to typical runoff quantities for corresponding land uses may suffice. This estimate serves as starting point and is refined as more data is collected.

The next question pertains to identifying the sources to urban runoff that contribute to the receiving water problem (Question 4, Figure 4). Using the outfall characterization data (both wet and dry weather data) the permittee may develop municipal Action Levels that are used to identify the catchments with the most likely sources of the pollutant in question. As suggested by the Blue-Ribbon Panel Action Levels would be established to identify the “bad actors” thus an appropriate outlier number would be established (e.g., mean plus two standard deviations). Outfalls would be monitored for the problematic pollutants and compared with the Action Levels. This would in turn allow the permittees to focus on catchments for subsequent drainage system monitoring and source identification work.

Assuming that the municipality has determined that its urban discharge is causing or contributing to a water quality standard exceedance (Figure 3, 1<sup>st</sup> decision diamond), the municipality must develop and implement a pollutant specific water quality control plan. Such a plan would include identification of the controllable sources of the pollutants and proposed control measures/BMPs to mitigate the sources. A time schedule with milestone dates would be established. In situations where there is TMDL, the plan could be equivalent to a TMDL Implementation Plan.

As noted previously, the TMDL program serves as the regulatory safety net for water bodies that have become impaired in spite of efforts to implement BMPs for point and non-point sources of pollutants. The TMDL may be incorporated into any of the four options identified in the *Progressive Approach* (see Figure 1). As such the load allocation developed in the TMDL is incorporated into a permit and may be applied at the point of discharge (level 5 outcome) or in the receiving water (level 6 outcome). In addition and if sufficient data exists the permits may require the implementation of BMPs and control measures to achieve the allocations. Alternatively the permit may establish requirements to demonstrate that the load reductions are being met (level 4 outcome). The permit may also require additional special studies to further support the TMDL.

In the case of a TMDL, to answer the question posed in the 2<sup>nd</sup> decision diamond in Figure 3: “Has WQ plan been effective and optimized?, municipalities will implement control measures and studies to both assess the allocation as well as to gauge progress toward the allocation. For example, in the case of progress measures, they might be expressed as:

- Outcome level 4 – Reducing loads from sources: annual average load reduction resulting from implementing pollution prevention activities, and source and treatment control measures

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- Outcome level 5 – Improving runoff quality: rolling multi-year annual average load relative to allocation, or concentration relative to receiving water target

Monitoring would be ongoing and if, after fully implementing the pollutant specific water quality control plan (Figure 3, 2<sup>nd</sup> decision diamond), there is improvement in the runoff or receiving water then the municipality would continue the implementation of the plan. If on the other hand, there is no change in water quality then the municipality would be required to prepare a compliance feasibility study. This study is critical critique of the water quality issue and a thorough evaluation of the options to address the issue. Included in this evaluation is a review of the applicability of the water quality standard to the water body in question, a technical and financial evaluation of the BMP options (including source control and treatment control BMPs), and identification of regulatory options for addressing the water quality issue. Ultimately the municipality would recommend an approach to address the water quality issue either through BMPs, regulatory opportunities, or some combination of the two. The compliance feasibility study would serve as the basis for the renewal of the permit.

### Conclusion

CASQA has incorporated the Action Level concept, recommended by the State Water Board's Blue-Ribbon Panel, with CASQA's Effectiveness Assessment method, and standard regulatory options for NPDES permitting and TMDL implementation into a comprehensive strategy for managing stormwater quality. CASQA has also introduced two significant enhancements to compliance determination: 1) triggers and 2) measures of achievement. And for the triggers, CASQA has fleshed out written expressions and numeric values suitable for refinement and pilot testing. These enhancements will take compliance determination from a subjective and difficult process to a more objective and transparent task, while also making compliance determination relevant and meaningful for water quality protection. CASQA believes the proposed quantitative approach advances the science of stormwater quality management. As a result, the approach will provide better regulatory accountability for stormwater programs and facilitate water quality protection in a cost-effective manner.

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## Frequently Asked Questions

### What is the CASQA draft White Paper?

The draft White Paper presents a comprehensive strategy for managing stormwater quality. It is derived from lessons learned in a critical review of the still-developing field of stormwater quality management. It uses those lessons learned to lay out a strategy for regulating, implementing, and evaluating stormwater quality programs. The strategy combines the concepts of effectiveness assessment, quantifiable measures, and CASQA's *Progressive Approach* with standard regulatory options for National Pollutant Discharge Elimination System (NPDES) permitting and total maximum daily load (TMDL) implementation. The draft White Paper presents a viable approach for regulating, implementing, and measuring the effectiveness of stormwater program implementation and demonstrating progress towards water quality protection.

### What is the basis for the CASQA draft White Paper?

The draft White Paper is based on several regulatory and non-regulatory references, including:

- USEPA Effluent Guidelines
- Section 402(p)(3)(B) Clean Water Act (CWA)
- NPDES stormwater regulations
- USEPA Memorandum regarding Interim Permitting Approach for Water Quality Based Effluent Limitations in Storm Water Permits
- California State Water Board Blue-Ribbon Panel report
- CASQA *Progressive Approach*
- CASQA Municipal Stormwater Program Effectiveness Assessment Guidance

### How does the CASQA *Progressive Approach* portion (Figures 1-3) work?

Essentially, the *Progressive Approach* is a logical sequence of the following options to regulate stormwater quality:

- Iterative Process and Benchmarks
- Action Levels/Trigger Compliance
- Technology Based Effluent Limits (TBELs)
- Water Quality Based Effluent Limits (WQBELs)

The *Progressive Approach* identifies when it is appropriate to shift from an iterative BMP-based approach to technology-based effluent limits and/or water quality-based effluent limits, as well as the process that should be followed in order to derive appropriate and scientifically sound numeric limitations.

Each of the four regulatory options is based on the system of adaptive management, where in general, decisions are made and actions taken, that are then evaluated for their effectiveness, and the results of the effectiveness assessment are used to make more informed decisions and to take more effective actions. The differences between the four regulatory options are based on:

- the level of scientific understanding of the water quality issues, their causes and effects;

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- the level of potential controllability of the causes, including the performance of best management practices;
- which types of quantifiable measures (e.g., Action Levels, Benchmarks, numeric effluent limitations) are appropriate for assessing effectiveness; and
- the basis of triggers (e.g., technology, water quality) for modifying decisions and actions.

**How does the CASQA *Progressive Approach* differ from the iterative approach that has been the basis for stormwater permits to-date?**

The current form of the iterative approach is recognized and incorporated into the *Progressive Approach* as one of the four options for regulating stormwater quality. By virtue of having three other options, the *Progressive Approach* takes the potential basis for stormwater permitting well beyond the current iterative approach.

**How does the CASQA *Progressive Approach* and TMDL program relate to each other?**

TMDLs have become one of the major regulatory drivers behind the scope of stormwater quality permits and programs. The *Progressive Approach* recognizes and incorporates this regulatory standing in several places. Figure 1 (Overview) shows that when a TMDL is in place, its resulting Implementation Plan and Waste Load Allocations (WLAs) drive the scope and focus of the Stormwater Management Plan (SWMP). Regardless of the regulatory option in place, the SWMP is based on the TMDL Implementation Plan and is designed to achieve Waste Load Allocations protective of water quality standards.

**In Option 2 (Action Levels/Trigger Compliance) of the *Progressive Approach*, how does one ensure a rigorous means to determine compliance with the permit?**

Although the concepts of effectiveness assessment and quantifiable measures have been used in Option 1 (Iterative Process and Benchmarks); their use has historically been relatively limited. In its Municipal Stormwater Program Effectiveness Assessment Guidance CASQA has fleshed out the concepts of effectiveness assessment and quantifiable measures into methods and details and these have been incorporated into Option 2. The key difference in Option 2 from the status quo of Option 1 is that the results of effectiveness assessments are compared to adaptive management indicators (e.g., Action Levels), which when triggered, dictate a compliance response.

**How is effectiveness assessment incorporated into Option 2?**

CASQA’s Effectiveness Assessment method includes the following 6 levels of outcomes for evaluating stormwater program effectiveness:

	Outcome Level	Outcome Type	Assessment Type
1	Documenting activities	Effort	Implementation
2	Raising awareness	Achievement	Implementation
3	Changing behavior	Achievement	Implementation
4	Reducing loads from sources	Achievement	Implementation
5	Improving runoff quality	Achievement	Water Quality
6	Protecting receiving water quality	Achievement	Water Quality

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Outcome levels 1-4 are incorporated into the Program Implementation track and outcome levels 5-6 are incorporated into the Source Identification, Assessment, and Control track. Effectiveness of a stormwater management program is measured at these levels using a variety of methods (as described in CASQA's Municipal Stormwater Program Effectiveness Assessment Guidance) and the resulting outcomes are used in the adaptive management loop represented in Option 2.

**How does one establish Action Levels, how are they measured, and how does one know that the Action Levels are meaningful?**

CASQA has incorporated the Action Level concept, recommended by the State Water Board's Blue-Ribbon Panel, into the draft White Paper by combining the Action Level concept with the Effectiveness Assessment method. The concept of an Action Level is that it is a level of implementation or performance where, if below the Action Level, a municipality's effort is inadequate and immediate action must be taken to correct. Implementation or performance below an Action level is defined as atypical.

A working list of Action Levels have been developed for standard stormwater program elements (e.g., Construction, Industrial / Commercial) for several implementation outcome levels (e.g., 2 – Raising awareness, 3 – Changing behavior) and quantifiable measures (e.g., % of illegal connections eliminated or permitted once detected). The Action Levels were developed through analysis of stormwater program evaluations and discussions with municipal stormwater program managers. Quantifiable measures were chosen and written to be as objective as possible. The actual numeric values of the Action Levels are set to identify atypical implementation or performance. In the best professional judgment of the managers, the working list of Action Levels represents meaningful indicators of municipal stormwater program performance.

Action Levels are used in Option 2 of the *Progressive Approach* in both the Program Implementation and the Source Identification, Assessment, and Control tracks. In the latter track, it is expected that Action Levels may be developed to assess water quality at outcome levels 5 – Improving runoff quality and 6 – Protecting receiving water quality. For example, a permittee may develop Action Levels that are used to identify catchments with the most likely sources of a pollutant.

**The expressions of the quantifiable measures and Action Levels are necessarily generic in the draft White Paper – how will more detail and definition be provided?**

The expressions and numeric values are necessarily generic since they are meant to be generally applicable statewide. The expressions may often need to be tailored to local stormwater program characteristics. To make further progress on this, CASQA suggests that the MS4s initiate development of specific quantifiable measures for their respective programs. The measures may be identified in their stormwater management plans or Reports of Waste Discharge that would subsequently be refined with the Regional Water Boards in the tentative and final NPDES permits. This approach allows the MS4s the opportunity to closely review their programs and align their measures with their water quality issues, public interest, and fiscal and personnel resources. The level of detail would have to be sufficient enough to ensure the measures are properly quantified to avoid misunderstandings during the permit compliance assessment.

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**The level of detail in the flow charts in the CASQA *Progressive Approach* could connote that the *Progressive Approach* is a lengthy process – is it?**

Time is not a design feature of the *Progressive Approach*. The approach is silent on timelines and schedules because the times it takes to implement the approach are dependent on several factors, including extent and level of understanding of the water quality issue, pollutant causing the issue, level of knowledge of pollutant sources and their controllability, and current level of BMP implementation and ability to increase it. For some pollutants and sources, the time to implement the approach could be relatively short while for others, significant time may be needed. Although not explicitly designed around the scientific method, the *Progressive Approach* does incorporate some of its basic principles (e.g., objectivity, inquiry beginning with a state of uncertainty and moving toward a state of certainty – sufficient at least to terminate the inquiry for the time being), as well as the principles of adaptive management.

**How does the strategy articulated in the CASQA draft White Paper simplify compliance determination over the current Annual Reporting process?**

Determination of compliance under the current Annual Reporting process is based primarily on narrative descriptions of programs, activities, and BMPs; with some quantitative reporting of levels of effort expended – all of which are subjectively compared against a standard of maximum extent practicable. The draft White Paper introduces two significant enhancements to compliance determination: 1) triggers and 2) measures of achievement. These enhancements will take compliance determination from a subjective and difficult process to a more objective and transparent task, while also making compliance determination relevant and meaningful for water quality protection.



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May 29, 2008

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*Original Hand-Delivered*

Xavier Swamikannu, Storm Water Permitting  
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Los Angeles, California 90013

Re: Comments from Construction Industry Representatives Concerning the April 2008 Draft Tentative NPDES Permit No. CAS004002 – Ventura MS4.

Dear Mr. Swamikannu:

This letter is in response to the April 2008 draft tentative Waste Discharge Requirements for Municipal Storm Water Discharges within the Ventura County Watershed Protection District, County of Ventura, and the Incorporated Cities Therein (hereinafter, the “3rd Draft Permit” or “Permit”), which was released last month by the staff of the State of California, Los Angeles Regional Water Quality Control Board (the “Board”). The comments herein are those of the following entities, each of which represents the homebuilding industry or related construction and land development industries within the Southern California region which operate in Ventura County and ultimately the new homeowners who purchase there. Specifically, the comments are from:

- Building Industry Association of Southern California, Inc. (“BIA/SC”);
- The Los Angeles/Ventura Chapter of BIA/SC (“LAV”);
- Construction Industry Coalition on Water Quality (“CICWQ”); and
- Building Industry Legal Defense Foundation (“BILD”).

BIA/SC is a nonprofit trade association representing more than 2,300 member companies, which together have more than 200,000 employees. LAV, a Chapter of BIA/SC, represents approximately 650 member companies involved in every aspect of building and providing new homes in Ventura County and most of Los Angeles County. CICWQ is

“Building Homes ... Building Communities”

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comprised of the four major construction and building industry trade associations in Southern California. Specifically, CICWQ is the BIA/SC, the Associated General Contractors of California, the Engineering Contractors Association, and the Southern California Contractors Association. BILD is a non-profit mutual benefit corporation and wholly-controlled affiliate of BIA/SC. BILD's purposes are to monitor legal developments and to improve the business climate for the construction industry in Southern California. BILD focuses particularly on litigation and regulatory matters with a regional or statewide significance to its mission.

During and between the comment periods on the three drafts of the Permit, we have met with Board staff in efforts to elaborate on the substantial unintended consequences that the permit will create. We have participated in numerous stakeholder meetings to discuss concerns about the proposed requirements and submitted extensive comments on the previous drafts. We understand and support the goals of improving water quality. Yet we remained concerned that the permit as proposed will not achieve its water quality objectives and will in fact result in negative consequences that will impact the land use development process and the overall economy of Ventura County. Given the current direction of the LARWQCB to take the adopted requirements of this permit and apply them in a broader context to LA County, and US EPA's apparent intent to urge adoption of these requirements throughout Southern California, we must express our sincere disappointment that an appropriate and effective application of the law has not yet been achieved, despite our best efforts to utilize science and onsite experience to draft reasonable and practicable water quality requirements.

The Land Use Development (Part 5, Section E) and Construction (Part 5, Section F) sections of the permit are relatively unchanged since the first draft of the Permit. Previously we have offered significant comments on these sections, and the permit as a whole, we reiterate the following primary concerns with the proposed third draft (Draft Tentative) Permit.

- 1. The Proposed Permit has not been balanced, as required by the Board's enabling statutes under the Porter-Cologne Act, as specified in California Water Code Section 13241.**

When enacting water quality requirements using its discretion under the state Porter-Cologne Act, the Board is obligated to "balance" using the factors identified in Section 13241 (in accordance with *City of Burbank v. State Water Resources Control Bd*). The draft permit states that this balancing is not required but that it has been completed anyway (Findings F.22 and F.23, each at page 27. To date, we have seen no evidence of such balancing, either in documentation of such an analysis, or in the resulting requirements included in the permit. In fact, because the first draft of the permit did not indicate that balancing had been completed and the third draft does, the balancing analysis must have been completed since the first draft. Therefore, we find it startling that no documentation of such analysis has been presented nor have any of the requirements been reconsidered.

A complete balancing analysis would reveal the significant impact the proposed requirements will have on the overall economy in Ventura County and the cost impact on affordable housing. The grading ban alone will substantially decrease housing production and

increase the costs of housing development. Furthermore, such balancing would also necessitate the inclusion of a process in the Permit to address the natural environmental conditions, which can vary greatly across the County. The one-size-fits-all numeric standards for Effective Impervious Area, Erosion Potential, Treatment Standards and prohibitions on grading do not reflect the considerable range of geologic and hydrologic conditions throughout the County.

**2. If the permit were crafted under Federal authority, the proper analysis to justify the requirements has not been completed.**

Even though the permit claims that a balancing analysis has been completed under the Porter-Cologne Act, the findings state that the analysis is unnecessary because the permit is "not reserved state authority" Finding E.7, at page 11. Indeed, the permit claims that the authority for the permit is completely federal, because the "conditions could have been included in a permit adopted by U.S. EPA.... Hence they are not more stringent than federal law." Finding F.8, found at page 22-23. The authority for issuing permits in California clearly rests with the state, not U.S. EPA, and speculation on how U.S. EPA might act cannot provide a solid foundation for requirements in the permit. Indeed, a quick review of EPA-promulgated permits across the country will find no similarly sweeping numeric mandates for low impact development, nor any seasonal grading bans. In fact EPA's own guidance recognizes the impracticality of applying numeric standards to municipal stormwater discharges. Because the requirements of the Permit go beyond that required by federal law, the proposal must be done under the discretion of state law, and therefore balancing must be completed.

If one considers the permit prepared under federal authority, the requirements would need to be considered Technology Based Effluent Limits (TBELs). The federal law requirements for establishing TBELs have not been followed, and therefore these requirements cannot be promulgated under this authority. In order to establish TBELs, the Board would need to perform various analyses that we believe has not been performed to date. For example, the Board would need to undertake the following steps, among others:

- (i) gather extensive information on the industry (through questionnaires, sampling and monitoring, literature reviews, and other methods);
- (ii) perform detailed qualitative and quantitative analyses of this information;
- (iii) develop sets of proposed control options for the industry;
- (iv) estimate the effluent reductions, costs, economic impacts, and environmental effects of those options;
- (v) shape the options into a proposed set of limits;
- (vi) explain the proposed limits and additional supporting documents;
- (vii) review comments on the proposed limits; and
- (viii) incorporate those comments into a final regulation (again with considerable supporting documentation).

These procedures establish the framework and background to support any new TBEL standard that can be reasonably achieved using available and changing technology.



**3. There is no justification for a 6-1/2 month grading ban and such a ban will affect significant portions of land designated as developable property in the County.**

The 3<sup>rd</sup> draft Permit still includes a proposed ban on grading activity for over half the year. Again, this restriction cannot have been evaluated using the Section 13241 balancing factors, since the economic consequences, which must be considered, will result in work stoppage of construction activity and business expansion on a substantial portion of developable land in the County. Currently construction activity of one acre or greater is regulated under the State Construction General Permit, which is up for renewal. The additional restrictions in the draft MS4 Permit have not been substantiated by evidence of excessive violations or data indicating unusual water quality impacts from construction site storm water runoff in Ventura County.

The grading prohibitions as drafted in the Permit may in fact negatively impact the goal of improving water quality. By limiting the grading period between April and October you can actually increase a projects rainfall exposure through several years of grading as opposed to a one time disturbance. This prolongs the grading equipment required onsite to cut, fill, and balance a projects grading. The proposed grading restrictions result in the need to work, rework, and stockpile sections of grading within several six month periods actually increasing the overall carbon emissions that wind up in storm water runoff. In addition to increasing the overall site exposure to erosion and sedimentation though several grading seasons. Also, the proposed grading restrictions do not take into consideration other grading activities regulated by the United States Fish and Wildlife Service or the California Department of Fish and Game, which can further limit grading activity between the months of March though August for sensitive species monitoring.

The proposed ban will reduce the construction season for significant portions of developable land in Ventura County to less than half its current potential. Additional economic impacts result in the loss of construction jobs as equipment is relocated to other areas or remains idle. In fact, when combined with the restrictions on construction activity (such as limits to reduce fugitive emissions and to protect habitat) and the associated start-up and wrap-up times, the permit effectively reduces the construction season on affected parcels to less than five months per year, and in areas with additional sensitive species regulation it could be less than three months per year. The economic contribution of the construction industry, and the economic value added by new housing, new businesses and economic expansion do not appear to have been considered in the crafting of this prohibition.

The permit does authorize the co-permittees to provide a variance to the grading prohibition if certain conditions are met. However, it does not appear that this process will prove helpful or provide meaningful relief from the ban. First, the conditions of the variance, which include numeric effluent limits regardless of the size, duration, or intensity of a storm event, are untenable. In typical circumstances, these numeric effluent limits will force the use of Advanced Treatment Technology, which in itself adds considerable cost and poses additional environmental consequences that are not considered in the draft permit. In significant storm events, no technology will achieve the listed numeric effluent limits, and therefore co-permittees

will be reluctant to use their authority to grant a variance. In a significant rain the co-permittee will be automatically in violation of the permit and subject to penalty. . This risk will likely prove too great for any of the co-permittees to assume. The variance provision, therefore, is rendered ineffectual.

In order to assess the significant impact of the grading ban, we have repeatedly asked the Board staff to explain which properties would be affected by the ban, and to explain its assertion that "only 8% of projects" would be affected. We now understand that this estimate has been raised to "between 9 and 14% of projects." We find this analysis to be grossly insufficient. First, the original analysis did not appropriately apply the criteria specified in the permit – the permit states that land over a 20% slope would be subject to the ban, yet the original list of affected projects compiled by the Board staff used project *size* as a surrogate for slope and listed projects that were over 20 acres in size. This methodology over-counts large flat projects and under-counts small sloped projects. The latest list provided by Board staff appears to be based on slope, but remains incomplete, with the analysis of Environmentally Sensitive Areas still pending. In any case, the utilization of historical or momentary data based merely on the *number* of affected projects (versus the number of unaffected projects) inadequately portrays the widespread effect of the grading ban – because a 200 acre project and a 10 acre project are counted equally. Given that Ventura County has designated land for development through its SOAR ordinances; the Board's staff should analyze the amount of land that is designated for development and would be affected by the grading ban. We are confident that such an analysis will illustrate that much more land is affected, and that the associated balancing analysis is required under California Water Code Section 13241 as a result.

**4. The limitations on Effective Impervious Area do not reflect development patterns and scales, and are not consistent with the underlying research.**

The 3<sup>rd</sup> Draft Permit still includes the requirement that land use development projects limit the "effective impervious area" (EIA) to 5% of any project site. There are several concerns with this blanket requirement. The requirement appears to be based on research that correlates imperviousness in a watershed with water quality. Aside from the concern that the research has not been developed locally and has not been adequately peer-reviewed to meet U.S. Data Quality Act regimens, the requirements do not consider the spatial scale considered in the research.

Geosyntec evaluated the study Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices ("LID") for Ventura County to assess the assumptions used in the analysis related to runoff volume control and the findings of feasibility related to capping EIA. Key findings of this review are listed below, and the full evaluation is included in Attachment 1. The applicability of the EIA goal assumed for the study has not been supported by literature for watersheds with large tributary areas.

- On a whole, the imperviousness of the case studies analyzed are likely lower than typical development projects in Ventura County. The result is that more landscaped area is assumed to be available for LID features.
- The study assumed that all of the pervious area would be available for infiltration; no reduction was made to account for necessary building setbacks or to account for the typical

scenario in which some pervious area is upgradient of impervious area or otherwise not suitable for infiltration.

- Study findings regarding volume reduction apply only where geotechnical issues and high groundwater do result in statutory limits on infiltration. Simply providing amended soil to compensate for these conditions is not expected to provide the benefit that the study suggests, as the underlying soils control ultimate infiltration loss rates.
- The method used to develop the required infiltration volume potentially over predicts pre-development runoff and under predicts post-development runoff, thereby potentially biasing required infiltration volumes below what they would actually need to be to achieve the desired results.
- The Chralowicz study, which was used as the primary basis for estimating infiltration capacity, is based on assumptions that are not necessarily representative of typical conditions in Ventura County. Assumed infiltration rates are notably higher than typical Ventura County soils. Rainfall patterns are within the range of Ventura County conditions, but notably lower than some parts of Ventura County. Assumed infiltration basin design standards are not representative of typical LID features.
- The study relies on the logic that if the estimated volume reductions are met, the feasibility of the lower EIA standard is demonstrated. This finding does not consider the typical scenario in which EIA results from impervious area that is unavoidably down gradient of pervious area.

Overall, the findings of the study do not appear to fully support the stated conclusions related to volume reduction and feasibility of meeting an EIA standard lower than that proposed by the draft permit. Considering the simplifications that the study relied upon, we believe that there should be more qualifications of, or limitations on, the findings. For example, the study might more reasonably support the conclusion that LID is feasible in new development up to a certain level of density, where pervious area is appropriately located on the development site, native infiltration rates are sufficient, and where statutory limitations on infiltration are not present. From these findings, it may logically follow that most impervious area upgradient of pervious area could be feasibly disconnected. With proper site design practices, a low EIA is feasible in many project scenarios.

The Permit envisions a possible alternative path for redevelopment projects, called the Redevelopment Project Area Management Plan (RPAMP). The role of the RPAMP is to afford the co-permittees the authority to develop regional scale solutions that meet water quality goals on a scale larger than any individual project. We support the concepts behind the RPAMP, because it is more consistent with the underlying literature, but request that these provisions be restructured so that they become the fundamental framework of the permit, as opposed to making it an alternative that would require special Board action and be subject to uncertain and unspecified approval criteria.

**5. The permit requirements need to be integrated into the California Environmental Quality Act.**

California law has long established CEQA as the mechanism for evaluating – and mitigating – the environmental impacts of land development. The CEQA process evaluates all environmental impacts and provides a consistent process for their mitigation, with opportunity for input from a wide cross-section of agencies and public interests. By establishing fixed, inflexible numeric standards for low impact development and grading conditions, the permit trumps all other environmental considerations and improperly shifts the primary responsibility for land use approval authority to the Regional Water Quality Control Board. There are many situations where the fixed numerics prescribed in the permit cannot be met because of physical site and water quality characteristics or competing land use and environmental policy considerations. The permit provides no process for this site-specific evaluation by the co-permittees – which would otherwise appear intrinsic to the standard of maximum extent practicable.

We therefore recommend, as an alternative to fixed, inflexible numeric standards, that CEQA could be utilized to integrate low impact development and grading considerations into the project approval process in ways heretofore not applied. This would allow for the appropriate evaluation of water quality impacts in the context of all other environmental impacts. Perhaps more significantly, it would integrate the consideration of low impact development techniques into the land use planning process at the time of project design and development – rather than the all-too-common current occurrence where these techniques are evaluated after substantial approvals are in place and changes are difficult to retro-fit. Using CEQA as the tool to accomplish the integration of low impact development techniques would be achieved if the numeric standards were established as presumptive thresholds of environmental significance, which would significantly increase the level of analysis of water quality impacts – at the time when changes are most likely to be accommodated. We offer more detailed analysis of this approach in Attachment 2. The CEQA integration approach would achieve the Board's goals of appropriate attentiveness to low impact development concepts and reasonable consistency between jurisdictions and permits, while maintaining the ability to make local decisions appropriate for the jurisdiction's environmental circumstance.

**6. Newly added BMP performance BMPs have not been justified and are inappropriate MALs.**

This 3<sup>rd</sup> Draft Permit introduces new BMP performance standards that have not been included in previous drafts of the permit without any rationale or justification. (Attachment C, Tables 3 and 4.) Again, we are concerned that such a one-size-fits-all approach to numeric effluent limits is inappropriate given the variable geologic conditions within Ventura County. We also worry that these performance standards, which do not appear linked to any monitoring requirements, will demand expensive monitoring regimens in the future without any clear relationship to water quality. The basis for these standards needs to be explained. As we have explained in previous comment letters, we do not believe the permit is consistent with the State Water Quality Control Board's Blue Ribbon Committee Report. The Committee did not

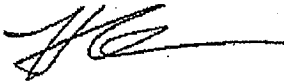
Dr. Xavier Swamikannu  
May 29, 2008  
Page 8 of 8

recommend the usage of numeric effluent limits, and yet the 3<sup>rd</sup> Draft Permit appears to increase the number and type of MALs.

\* \* \* \* \*

Since the first draft was released, the BIA and its affiliates have been active participants and contributors to the creation of new and improved MS4 permit. We believe that rational, implementable permit requirements are critical to achieving water quality goals. We have provided substantial comments and invested substantial time to discuss the proposed requirements with Board staff, the co-permittees and other stakeholders. We hope that these comments are received in the manner in which they are intended – to continue the discussion of how we can create a workable permit that improves water quality to the maximum extent practicable. We remain committed to a positive dialog with the Board that results in an informed, balanced and effective permit.

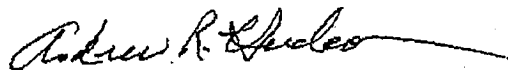
Sincerely,



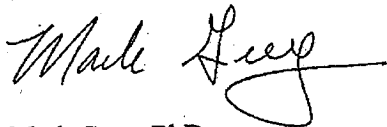
Holly Schroeder  
CEO, Building Industry Association of  
Southern California - Los Angeles/Ventura Chapter



Richard Lambros  
CEO, Building Industry Association of Southern California



Andrew Henderson  
General Counsel, Building Industry Legal Defense Foundation



Mark Grey, PhD  
Director of Environmental Affairs  
Construction Industry Coalition on Water Quality

0000567

Attachment 1 – Building Industry Association - Los Angeles/ Ventura Chapter

## Memorandum

Date: May 28, 2008  
To: Mark Grey, Building Industry Association of Southern California  
From: Lisa Austin, Felicia Federico, Aaron Poresky, and Eric Strecker,  
Geosyntec Consultants  
Subject: Review of Investigation of the Feasibility and Benefits of Low-Impact  
Site Design Practices ("LID") for Ventura County  
Geosyntec Project: LA0157

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### INTRODUCTION

The third draft Ventura County MS4 Permit contains the following provision:

#### *III. New Development/ Redevelopment Performance Criteria*

##### *1. Integrated Water Quality/ Resources Management Criterion*

*(a) Permittees shall require that all New Development and Redevelopment projects identified in subsection 5.E.II control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces through percolation, infiltration, storage, or evapo-transpiration, by reducing the percentage of Effective Impervious Area (EIA) to less than 5 percent of total project area [emphasis added].*

*(b) Impervious surfaces may be rendered "ineffective" if the storm water runoff is:*

- (1) Drained into a vegetated cell, over a vegetated surface, or through a vegetated swale, having soil characteristics either as native material or amended medium using approved soil engineering techniques; or*
- (2) Collected and stored for beneficial use such as irrigation, or other reuse purpose; or*
- (3) Discharged into an infiltration trench.*

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Richard Horner<sup>1</sup> investigated the practicability of the effective impervious area (EIA) permit requirement, modified to include a lower, three percent EIA requirement, using six development project case studies. Results of the investigation are contained in the study Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices ("LID") for Ventura County (provided in PDF format, unpublished). One of the findings of the investigation was that typical development categories, ranging from single family residential to large commercial, can feasibly implement low-impact post-construction BMPs design in compliance with the draft permit's requirements.

Geosyntec was asked to review this study to assess the assumptions used in the analysis related to runoff volume control and the findings of feasibility related to capping EIA. As such, we have not evaluated the pollutant removal assumptions, calculations, or findings also contained in the study in this memo.

It should be noted that Geosyntec advocates the use of LID features and the disconnection of impervious areas where appropriate, and we routinely rely on these principles in stormwater management planning and design. The findings of our review contained in this memorandum are not intended to challenge the value of LID as a tool in stormwater management, as we believe it is indeed a useful tool. However, we also believe that the effectiveness of LID is markedly influenced by project site and watershed conditions and that the concepts behind LID are not universally appropriate and effective in mitigating stormwater impacts. LID is a site by site approach. We believe that watershed considerations are critical in determining whether LID, and in particular infiltration, are the best approach. Finally, what has been lacking in most LID assessments is a water balance that looks at the resulting changes in evapotranspiration (usually the most changed water balance component when developing an undeveloped site), deeper infiltration, and runoff.

## REVIEW FINDINGS

The study tested the feasibility of capping EIA at three percent (rather than at five percent as stated in the draft Ventura County permit). The reason for using three percent instead of five

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<sup>1</sup> Research Associate Professor, University of Washington Department of Civil and Environmental Engineering and Landscape Architecture



percent was based on a study conducted by Coleman, *et al.*,<sup>2</sup> that found that the ephemeral / intermittent streams in southern California appear to be more sensitive to changes in percent impervious cover than streams in other areas. This study estimated that the threshold of response is approximately two percent to three percent impervious cover, as compared to seven percent to ten percent for other portions of the U.S. But, as was also emphasized in the Horner study, it is important to note that the conclusion in the Coleman study applies specifically to streams with a catchment drainage area of less than five square miles. Therefore, to use a three percent (or five percent) EIA threshold for all projects, without consideration of the size of the watershed that they are located in, is not correctly based on the findings of the Coleman study. The implications for projects in Ventura County are significant, as there are several large river systems (*i.e.*, the Ventura River, the Santa Clara River, and Calleguas Creek) whose watersheds are much larger than five square miles. Attached to this memorandum are further comments on the use of impervious area as a hydromodification control criteria.

### Case Studies

Six development project case studies were examined in the Horner study. Four of the case studies were based on building permit records from the City of San Marcos in San Diego County (the multi-family residential, small single family residential, restaurant, and office building case studies), with additional assumptions used to estimate the areas for roadways, walkways, and landscaping. The large single family residential development and retail commercial development case studies were hypothesized based on the other four cases. The land use, project area, and imperviousness for the six case studies are summarized in Table 1 below. Imperviousness is equal to the percentage of the total project area comprised of roof, parking, roadway, walkway, and driveway area. Also provided in Table 1 is the average imperviousness listed in Appendix A, Exhibit 14b, of the Ventura County Hydrology Manual for the corresponding case study land use type.

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<sup>2</sup> Coleman, D., C. MacRea, and E. D. Stein (2005). *Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams*. Southern California Coastal Water Research Project Technical Report #450, Westminster, CA.

**Table 1: Case Study Characteristics, Land Use, and Areas**

Case Study	Description	Project Area (acres)			Imperviousness (percent)	
		Impervious Area	Landscape Area	Total Area	Case Study	Ventura Hydrology Manual <sup>1</sup>
Multi-Family Residential	11 buildings 438 parking spaces	7.29	3.66	10.95	67	69 <sup>2</sup>
Small Single Family Residential	23 homes	1.36	1.67	3.04	45	65 <sup>3</sup>
Restaurant	1 building 33 parking spaces	0.38	0.39	0.77	49	85 <sup>4</sup>
Office	1 building 37 parking spaces	0.52	1.61	2.13	24	85 <sup>4</sup>
Large Single Family Residential	1,000 homes	59.29	72.69	131.98	45	65 <sup>3</sup>
Retail Commercial	1 building 500 parking spaces	4.73	0.47	5.20	91	85 <sup>4</sup>

<sup>1</sup> Hydrology Manual, Ventura County Watershed Protection District, Updated December 2006.

<sup>2</sup> Average imperviousness for residential – condominiums.

<sup>3</sup> Average imperviousness for residential – 1/8 acre lot. Case studies are 7.7 lots/acre (small project) and 7.6 lots/acre (large project).

<sup>4</sup> Average imperviousness for commercial and business.

Comparison of the Hydrology Manual average imperviousness to the case study imperviousness values shows that the multi-family residential and retail commercial case studies' imperviousness assumptions were reasonably close to the Hydrology Manual. The remaining case studies (small and large single family residential, restaurant, and office) analyzed scenarios with a lower imperviousness than the average value from the Hydrology Manual. In other words, these four case studies assumed a larger landscaped area than perhaps may be typical in Ventura County projects. The two single family residential case studies assumed the same density (approximately 7.6 – 7.7 houses per acre), but the assumed imperviousness corresponds to a lower density in the Hydrology Manual (approximately 5 houses per acre). The office building imperviousness assumption appears to be particularly low, as this case study assumes that 76 percent of the lot is landscaped. The restaurant case study is also quite low. These assumptions are important because they establish the post-development pervious area available for infiltration and other LID techniques.

### **Infiltration Capacity**

The Horner study attempted to determine if the pervious portion of each case study site would provide sufficient area for infiltration of the site's annual runoff from the pervious area and the "Not-connected Impervious Area" (the 97 percent of the site's impervious area that is not EIA).

For this determination, the study calculated the average annual runoff volume for each case study and compared this volume to the infiltration capacity of the pervious area of the site. The study assumed that all of the pervious area would be available for infiltration; no reduction was made to account for necessary building setbacks. Also, the assumption that all pervious area is available for infiltration assumes that the drainage from the impervious area must be able to flow to all of the pervious area, which is not typically the case in actual development projects. On sloping sites, there is usually some pervious area which is upgradient of the impervious areas and therefore unavailable for infiltration. Finally the study assumed that there are no geotechnical or high groundwater issues associated with infiltration in estimating achievable volume reductions.

The infiltration capacity for the case studies was estimated based on the findings of Chralowicz *et al.* (2001).<sup>3</sup> The Chralowicz study developed infiltration basin sizes using simple assumptions about infiltration capacity of San Fernando Valley soils, SCS-method estimates of runoff for various urban land uses, and ten years of precipitation data from a rain gauge in the City of Northridge. This project did not involve any field testing, monitoring, verification or basin construction. The Chralowicz report calculated the average annual volume of stormwater runoff that could be captured from a five-acre drainage area in the Northridge area by infiltration basins of four sizes (surface area of 0.1 and 0.5 acres, depths of 2 and 3 feet) under a range of infiltration rates (0.5, 1.0, and 2.0 inches per hour).

The Horner study analysis method calculated average annual runoff volume for the case study sites using the following equation:

$$\text{Average annual runoff volume} = C \times \text{RD} \times A$$

Where,

C = runoff coefficient, RD = average annual rainfall depth, and A = project area.

The methods used to calculate the runoff coefficient and the average rainfall depth are important to the outcome of the analysis. Runoff volumes for pervious areas were based on an NRCS

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<sup>3</sup> Chralowicz, Donna, Alvaro Dominguez, Tessa Goff, Melissa Mascali, and Emily Taylor. *Infiltration of Urban Stormwater Runoff to Recharge Groundwater Used for Drinking Water: A Study of the San Fernando Valley, California*. A Group Project submitted in partial satisfaction of the requirements for the degree of Master of Environmental Science and Management, University of California Santa Barbara. Committee in charge: Professor Thomas Dunne and Professor Charles Kolstad. June 2001.

method that uses a variable called the "Curve Number" (CN) and an average rainfall event to calculate the runoff coefficient. The CN method is simplistic and does not account for variations in rainfall intensity at smaller time steps that would impact basin sizing. The Horner study assumed a CN of 83 for undeveloped pervious area, citing a study by American Forests on a watershed in San Diego (see the link in the footnote on page 5). The American Forests publication states that the CN was determined to be 83, but does not show the calculations or describe the data used to derive that number. A CN of 83 seems quite high. As a point of comparison, curve numbers for undeveloped land uses are provided in Appendix A, Exhibit 14a, of the Ventura County Hydrology Manual. The CN for narrow leaf chaparral in fair condition with low permeability soils (the most conservative soil type assumption) is listed as 75. The effect of using a higher CN is that this assumption will estimate a higher runoff volume from the pervious area. A CN of 83 yields a runoff coefficient of 0.07. In contrast, if an undeveloped CN of 75 were used, then the runoff coefficient would be 0.003 – an order of magnitude less. The curve number for impervious areas was assumed to be 95; the Ventura County Hydrology Manual value for impervious surfaces is 98. Thus the runoff volume from the impervious area may be slightly under predicted using this methodology. Together with overpredicted runoff from pervious areas, the estimated difference in pre- and post-runoff volumes is less than may actually be the case.

The second assumption in estimating annual runoff volume used in the Horner study was the rainfall assumption, which was based on the City of Ventura rain gauge. In the footnote on the bottom of page 6, the Horner study states that there are locations in the County with higher rainfall averages than this, especially the Ojai area. Thus the study, when accounting for the effect of the higher average rainfall in the Ojai area, found that two of the case studies were not able to meet the EIA performance standard (the multi-family residential and retail commercial sites). Attachment 2 provides a map that illustrates soil types and rainfall contours (10-year, 1-hour rainfall) for Ventura County. This map illustrates the variation in rainfall across the County and shows that other urban areas within the County also have higher rainfall patterns than the City of Ventura.

The Horner study relied on the infiltration basin sizing developed in Chralowicz *et al.* in order to determine the infiltration capacity of the case study sites. The Chralowicz study assumed infiltration rates between 0.5 and 2.0 in/hr, representing soils with various loam textures. There are two issues related to this soil infiltration rate assumption. First is whether the selected infiltration rates are representative, even for the San Fernando Valley soils. Chralowicz cites the USDA/SCS 1980 Soil Survey, but these values may be very different from tested infiltration rates. For example, on a project located in northern Los Angeles County, the NRCS soils data cited infiltration rates of 0.6 to 2 in/hr, however, nearby infiltration testing found 0.16 – 0.25

in/hr infiltration rates. Additionally, soil infiltration rates are greatly reduced when compacted. The second is whether it is appropriate to apply the San Fernando Valley soils assumptions to Ventura County. The Horner study states that soils in Ventura County "at least relatively near the Coast" are similar in texture, "thus making the conclusions of the San Fernando Valley study applicable." However, although the soils in Ventura County are somewhat similar to San Fernando Valley near the coast, they differ in other areas of the County.

A map that illustrates Ventura County soil types is provided in Attachment 2. Soils have been grouped by the County into seven classifications ranging from a very low infiltration rate (Soil Type 1) to a very high infiltration rate (Soil Type 7). The map in Attachment 2 shows that the soils in the coastal portion of the County (City of Ventura and Oxnard) are predominately Type 3 soils, which have a relatively slow infiltration rate (0.5 inches per hour) when thoroughly wetted, are chiefly soils that have a layer impeding downward movement of water, or are moderately fine textured soils that have a slow infiltration rate when dry. The eastern portion of the County (Thousand Oaks, Simi Valley, and Moorpark) appear to have predominately Type 1 soils, which are soils with a very low infiltration rate (0.25 inches per hour) when wetted. They are chiefly clays that have a high shrink-swell potential, soils that have a high permanent water table, soils that have a claypan clay layer at or near the surface, or soils that are shallow over nearly impervious material. Type 1 soils will have very, very low infiltration rates when compacted. By comparison, the Chralowicz study analyzed scenarios with infiltration rates between 0.5 and 2.0 inches per hour.

The infiltration basin sizing developed in Chralowicz *et al.* was based on ten years of precipitation data from a rain gauge in the City of Northridge. Chralowicz *et al.* assumed that precipitation in Northridge was representative of precipitation in the entire San Fernando Valley and that ten years was a sufficient timeframe to represent precipitation patterns. The sizing accounted for storms that occurred over more than one day by restricting the maximum volume that may be captured the second day by the volume that remained in the basin from the previous day. Thus the precipitation patterns in the rain gauge data were reflected on a daily time step in the basin sizing. The Northridge rain gauge is not representative of precipitation patterns for all of the urban portions of Ventura County. Table 2 below shows the mean precipitation and the 85th percentile rainfall depth for several National Climatic Data Center (NCDC) rain gauges in Ventura County and one in San Fernando (in close proximity to Northridge) using an inter-event dry period of 6 hours for storms greater than 0.1 inch. These rainfall statistics for Ventura County show that the depth of the average event and 85<sup>th</sup> percentile rainfall vary greatly across the County and that the San Fernando rainfall data falls within this range.

**Table 2: NCDC Hourly Gauge Summaries**

Station Name	Available Period of Record	Number of Events <sup>1</sup>	Average Event Rainfall Depth <sup>1</sup> (in)	85th Percentile Rainfall Depth <sup>1</sup> (in)
Ventura Gauges				
Apache Camp	1948 - 1971	405	0.41	0.6
Chuchupate Ranger Stn	1948 - 2002	836	0.65	1.0
Simi Sanitation Plant	1975 - 2002	436	0.83	1.4
Ozena Guard Station	1972 - 2002	501	0.92	1.6
Piru Telemetering	1971 - 2002	495	0.93	1.7
Wheeler Springs 7 N	1948 - 1965	257	1.18	2.1
Pine Mountain Inn	1965 - 2002	637	1.28	2.1
Wheeler Springs 2 Ssw	1948 - 1969	333	1.28	2.4
Matilija Dam	1969 - 2002	597	1.53	2.5
San Fernando Gauge				
San Fernando Phase 3	1948 - 2003	850	0.98	1.8

<sup>1</sup> Statistics were determined using an inter-event time of 6 hours and storm events greater than 0.1 inch.

Another consideration in the use of the basin sizing results of Chralowicz *et al.* is that daily rainfall totals tend to smooth individual event peaks considerably, so using daily rainfall totals to size an infiltration basin may overpredict infiltration capacity and undersize the basin.

In summary, the Horner study relies on a study on infiltration of urban stormwater runoff in the San Fernando Valley with one soil type and rainfall pattern to estimate the infiltration capacity required for the case studies. The combination of assumptions related to the available pervious area, the infiltration capacity of this pervious area, and the infiltration basin sizing may have lead to inaccurate findings of feasibility when applied to all of the urban areas of Ventura County.

**Horner Study Statement of Findings**

The summary of results in the Horner study states that “typical development categories, ranging from single family residential to *large commercial*, can feasibly implement low-impact post-construction BMPs designed in compliance with the draft permit’s requirements, as modified to include a lower, three percent EIA requirement” [emphasis added]. There are contradictions to this statement in the findings of the paper.. The results in Table 7 on page 13 show that the retail commercial land use case study had capacity to infiltrate only 26 percent of what would be required to meet the three percent EIA limit. At the higher Ojai rainfall level, the multi-family residential case study had the capacity to infiltrate only 78 percent of the annual runoff volume needed, and the retail commercial site had the capacity to infiltrate only 18 percent of the annual runoff volume needed.

The Horner study includes the following statement on page 13:

“For any development project at which infiltration-oriented BMPs are considered, it is important that infiltration potential be carefully assessed using site-specific soils and hydrogeologic data. In the event such an investigation reveals a marginal condition (e.g., hydraulic conductivity, spacing to groundwater) for infiltration basins, soils could be enhanced to produce bioretention zones to assist infiltration.”

Although bioretention areas are typically designed with highly amended sandy soils to promote the soil moisture holding capacity and evapotranspiration, the capacity of bioretention facilities to dispose of water, assuming no underdrain is provided, is most strongly influenced by the permeability of the underlying soils. Even in fairly low infiltration soils, for example 0.1 inches per hour, loss rate due to evaporation (from the ponded water surface and pores of the amended soil) is on the order of 10 to 15 times less than infiltration during summer months and 20 to 30 times less than infiltration during winter months. The combined loss rate, which is critical in determining the available storage capacity in subsequent storms, is predominantly controlled by the underlying soil infiltration rate, not the infiltration rate of the amended soil. Where combined loss rates are low, LID features must be designed with shallower ponding depths and consequently greater area requirements to achieve the same volume reductions.

In general, bioretention areas have a smaller runoff storage volume capacity than a basin and therefore the surface area required for bioretention is typically larger than an infiltration basin. In order for a bioretention area to be functionally equivalent to the infiltration basins in Chralowicz *et al.*, the bioretention area would require a four to six feet amended soil media depth with 12 to 18 inches of surface ponding. The statement also does not account for areas of Ventura County that are known to have groundwater levels near or at the surface (e.g., Simi Valley), which precludes the use of infiltration techniques completely.

Additional discussion is provided in the Horner study related to the use of water harvesting or infiltration trenches for roof runoff management. Underground techniques for storage (cisterns) or infiltration (infiltration galleries under parking) may be an option in space limited projects (assuming there is a consumptive use available during periods of rainfall for the stored water on the project or site conditions are amenable to infiltration), but the costs associated with the implementation of these types of practices are much greater and therefore may not be economically feasible for some projects.

Finally, the study concludes that because the estimated volume reductions are possible, then the feasibility of capping EIA at 3 percent is demonstrated. This conclusion neglects the typical development scenario in which EIA results of impervious area located down gradient of

available pervious area. To a certain extent, this can be limited by site design measures; however, it is common for competing project constraints such as right-of-way width, existing utilities, etc., to render it infeasible to “disconnect” some impervious areas. The study does not address this important consideration in developing findings of feasibility.

### Summary

Geosyntec evaluated the study Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices (“LID”) for Ventura County to assess the assumptions used in the analysis related to runoff volume control and the findings of feasibility related to capping EIA. Key findings of this review are listed below. The applicability of the EIA goal assumed for the study has not been supported by literature for watersheds with large tributary areas.

- On a whole, the imperviousness of the case studies analyzed are likely lower than typical development projects in Ventura County. The result is that more landscaped area is assumed to be available for LID features.
- The study assumed that all of the pervious area would be available for infiltration; no reduction was made to account for necessary building setbacks or to account for the typical scenario in which some pervious area is upgradient of impervious area or otherwise not suitable for infiltration.
- Study findings regarding volume reduction apply only where geotechnical issues and high groundwater do result in statutory limits on infiltration. Simply providing amended soil to compensate for these conditions is not expected to provide the benefit that the study suggests, as the underlying soils control ultimate infiltration loss rates.
- The method used to develop the required infiltration volume potentially over predicts pre-development runoff and under predicts post-development runoff, thereby potentially biasing required infiltration volumes below what they would actually need to be to achieve the desired results.
- The Chralowicz study, which was used as the primary basis for estimating infiltration capacity, is based on assumptions that are not necessarily representative of typical conditions in Ventura County. Assumed infiltration rates are notably higher than typical Ventura County soils. Rainfall patterns are within the range of Ventura County conditions, but notably lower than some parts of Ventura County. Assumed infiltration basin design standards are not representative of typical LID features.



- The study relies on the logic that if the estimated volume reductions are met, the feasibility of the lower EIA standard is demonstrated. This finding does not consider the typical scenario in which EIA results from impervious area that is unavoidably down gradient of pervious area.

Overall, the findings of the study do not appear to fully support the stated conclusions related to volume reduction and feasibility of meeting an EIA standard lower than that proposed by the draft permit. Considering the simplifications that the study relied upon, we believe that there should be more qualifications of, or limitations on, the findings. For example, the study might more reasonably support the conclusion that LID is feasible in new development up to a certain level of density, where pervious area is appropriately located on the development site, native infiltration rates are sufficient, and where statutory limitations on infiltration are not present. From these findings, it may logically follow that most impervious area upgradient of pervious area could be feasibly disconnected. With proper site design practices, a low EIA is feasible in many project scenarios.

#### **Suggested Additional Analyses**

The study relies upon quantitative analyses that may require more simplification than appropriate and may be based on assumptions that are not representative of typical development scenarios in Ventura County. Geosyntec suggests an alternative analysis that would attempt to address the study questions more explicitly and directly. We recommend that a series of continuous simulations be performed using the EPA Stormwater Management Model (SWMM) or another appropriate continuous simulation model. The analysis would evaluate LID performance over a historically-representative period of record using hourly (or 15 minute) rainfall records available in various parts of Ventura County. The key components of the analysis would include:

- Continuous simulation with 5 or more precipitation records and corresponding ET estimates representative of the range of hydrologic patterns observed in Ventura County;
- A range of native soil infiltration rates in logical increments;
- Max ponding depth and total storage depth defined by permissible drawdown rates and soil pore space recovery time;
- A range of degrees of implementation of LID features in logical increments;
- Tracking of runoff volumes in pre-development conditions, developed conditions without treatment controls, and developed conditions with LID features; and

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- Tracking and accounting for changes in deeper infiltration rates/volumes to evaluate whether the approaches could result in a change in the water balance that may not be appropriate.

Such an analysis would provide a range of expected performance based on inputs that are directly representative of typical Ventura County conditions.

A supplemental analysis of actual site plans to understand cases in which EIA is unavoidable, even with site design measures, would be appropriate to support findings of the feasibility of capping EIA for all cases.

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## ATTACHMENT 1

### THE USE OF IMPERVIOUS AREA AS A HYDROMODIFICATION CONTROL CRITERIA

#### *Studies Find Gross Measures are Inadequate*

In 2003, the Water Environment Research Foundation published a report entitled "Physical Effects of Wet Weather Flows on Aquatic Habitats: Present Knowledge and Research Needs" (Roesner and Bledsoe 2003). This report emphasized the limitations of current attempts to link stream impacts to gross measures of development such as total imperviousness, observing that these measures provide little meaningful information to understand key processes and to create practical strategies for mitigation. The authors contended that flow controls in urban drainage systems have strong influence on runoff hydrology, but this fact is not recognized in studies that attempt to relate stream impacts to gross imperviousness only. They stressed that predictive models of reach-scale habitat changes must account for the connectivity and conveyance of the drainage system and relevant stormwater controls.

Subsequent papers have also highlighted the difference between total impervious area, which they argue need not be specifically limited, and effective impervious area, which is more meaningful (Walsh et al, 2005; Walsh, Fletcher and Ladson, 2005). This further supports the idea that it is the drainage design which is most important, rather than specific limits on impervious area. Studies by Booth *et al* (2004) also demonstrate that impervious area alone is a flawed surrogate of river health.

These conclusions make sense in light of the current scientific understanding of the mechanisms by which land use changes translate to stream impacts, summarized briefly as follows.

#### *Land Use Alters Hydrologic and Geomorphic Processes*

Natural hydrologic and geomorphic processes are changed by the introduction of impervious surfaces, connectivity of these surfaces to efficient drainage systems, increase in drainage density, compaction of soil, and removal of vegetation. The natural proportions of infiltration, runoff and evapotranspiration are altered in such a way as to increase runoff volumes, frequency of runoff events, long-term cumulative duration of runoff and peak flows. Sediment supply to streams is also reduced, compounding the effects of increased flows. The current state of scientific knowledge indicates that observed impacts to streams, such as channel enlargement, decreased bank stability, and simplification of stream habitat features, are mechanistically linked to the long-term increase in volumes, durations and frequencies of the entire range of sediment transporting flows and the resulting increase in work done on the channel boundary.

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However, both the process alterations and the resultant impacts to streams are highly variable for a given percent impervious surface area. These variations are due to local watershed influences and the nature of the development site, as described in the next two sub-sections.

### *Local Watershed Influence*

Both regional climate and local watershed characteristics have a strong influence on the extent to which land use changes alter hydrologic processes (Chin 2006; Poff et al 2006; Gregory 2006; Konrad and Booth 2005). For example, where soils have high infiltration capacity, the conversion of open space to impervious surfaces will cause greater increases in runoff and stream flows compared to development on soils with low infiltration characteristics. The resulting in-stream effects can therefore also be more severe.

### *Site Drainage Design Influence*

New approaches, including incorporation of BMPs, both on site and in-stream, and the use of watershed protection and low impact development (LID) strategies as required by Section 5.E.III.2 of the second draft Ventura County MS4 Permit, are changing the nature of developments with respect to the characteristics that cause alteration of hydrologic processes. Treatment control BMPs are now required components of new developments and re-developments, in accordance with the current Ventura County MS4 Permit. Some treatment control BMPs have the capacity to infiltrate a significant portion of runoff volumes; Strecker et al (2004) summarized data for BMPs which showed that biofilters and dry-extended detention basins provide an average of approximately 40% and 30% reduction, respectively, in the volume of captured runoff. Flow duration control basins are currently being incorporated into new development projects to address hydromodification. These hydromodification control facilities will also provide water quality benefits and can be applied at multiple scales, from an individual project scale to a regional scale, to address both proposed and existing flows.

Recent modeling studies show urban cluster design to be one of the most effective at reducing runoff volume (Brander et al, 2004). USEPA (2000) summarized a literature review on the application of LID in new development and existing urban areas, as well as studies of LID projects which provide evidence of effectiveness in reducing runoff volumes. The report found that LID offers both economic and environmental benefits, but may still necessitate structural BMPs in conjunction with the LID techniques in order to achieve watershed objectives; appropriateness depends on site conditions such as soil permeability, slope and water table depth, in addition to spatial limitations.

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### *Alternative Quantitative Criteria*

These new approaches for managing stormwater, when designed using quantitative analyses based on continuous long-term simulations, have the potential to significantly reduce, and in some cases perhaps completely eliminate, those changes to hydrologic processes which took place through traditional development practices. Furthermore, changes in site design, coupled with the effects of local watershed characteristics, mean that gross measures of imperviousness are unsuitable for either predicting or controlling development impacts.

However, related metrics such as "effective impervious" or "connected impervious," are not viable alternative control metrics either, especially in the absence of quantitative criteria establishing a ratio of impervious area allowed for a given pervious area to which it drains (see further discussion in the following section). Instead, these metrics are only superficial assessments of those aspects of a development that we know have a directional relationship with changes in hydrologic processes and stream impacts, but for which there are poor quantitative relationships due to the number of influencing variables.

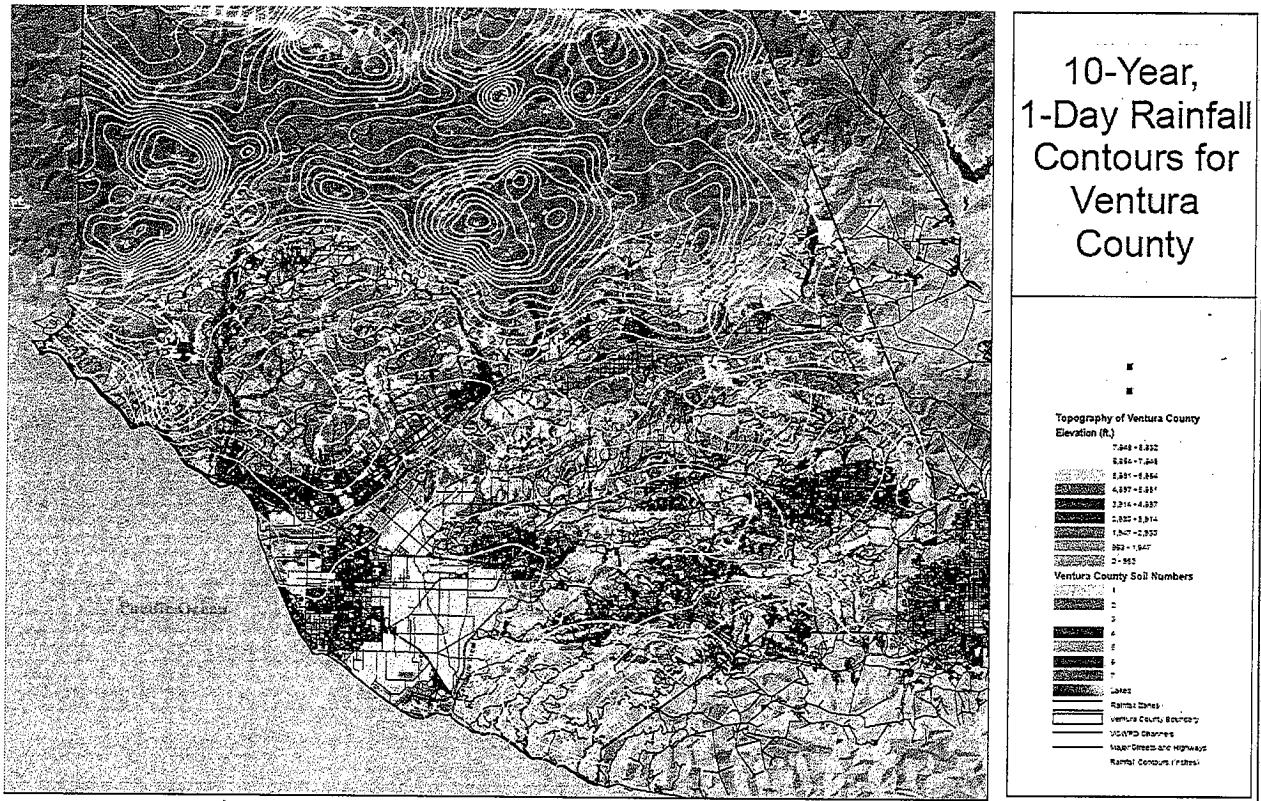
A simple analogy that might help clarify this important point is as follows: if a chemical reaction depended on having water at 100°C, then that exact temperature should be identified in any manufacturing or production process specifications. It would clearly not be appropriate to simply require that the water be "boiled", as this might result in water at various temperatures, depending on the elevation at which the process was taking place. A requirement to boil water would be fine for making tea, where the exact temperature is not critical, but would not be acceptable for a chemical process that is sensitive to the exact temperature. In other words, requirements should be specified in a way that is linked most directly to the required characteristic, when that characteristic is critical to the desired outcome, rather than to some other feature that is only generally associated with that characteristic. To take the analogy further, a requirement to boil the water would also preclude the use of other equipment such a pressure cooker, which could bring the water to the desired temperature without actually "boiling" it. By specifying requirements other than the truly relevant characteristic, innovative and potentially more cost effective solutions may be precluded, and effort may be spent to meet criteria that will not necessarily achieve the desired outcome. In the case of hydromodification control, the current scientific understanding indicates that the change in the long-term runoff flow duration series is the most critical hydrologic alteration, and the change in total work done on the channel boundary is the most critical effect to control, in order to prevent stream instability.

It is understood that there are logistical and practical considerations involved in the translation of scientific understanding into workable public policy. However, in this case, efforts undertaken over the past five years provide workable solutions. The specification of an Erosion Potential

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(Ep) is an example of such an implementable solution, which addresses the critical alterations discussed above, and is already incorporated into Section 5.III.3 of the second draft Ventura County Permit. Therefore, the EIA limits are unnecessary.

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This map, which includes the boundaries of hydrologic soil groups for the southern portion of Ventura County outside of the Los Padres National Forest, was created for reference purposes to show general hydrologic soil categories. The soils map was digitized from 1975 Soil Survey maps in 1997. The characteristics of the soils are one of the major factors affecting the rate of runoff and subsequent planning of storm drain facilities. Original data is based on 1970 publication by the Soil Conservation Service, U.S. Department of Agriculture in cooperation with the University of California Agriculture Experiment Station. Flood Control Staff reclassified the hundred of detailed hydrologic soil groups into seven general groups for drainage identification purposes. These soils groups are described below.

Soil Type 1 (NRCS Hydrologic Group D): Soils have a very low infiltration rate (0.25 inches per hour) when wetted. They are chiefly clays that have a high shrink-swell potential, soils that have a high permanent water table, soils that have a claypan-clay layer at or near the surface, or soils that are shallow over nearly impervious material. Rate of transmission is very slow; thus, runoff potential is very high.

Soil Type 2 and 3 (NRCS Hydrologic Group C): Soils have slow infiltration rate (0.4 to 0.5 inches per hour respectively) when thoroughly wetted; chiefly soils that have a layer impeding

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downward movement of water, or moderately fine textured soils that have slow infiltration when dry. Rate of water transmission is low.

Soil Type 4 and 5 (NRCS Hydrologic Group B): Soils have moderate infiltration rate (0.75 to 1.0 inches per hours respectively) when thoroughly wetted; chiefly soils that are moderately deep to deep, moderately well drained to well drained, and moderately coarse textured. Rate of water transmission is moderate.

Soil Type 6 and 7 (NRCS Hydrologic Group A): Soils have a high infiltration rate (1.5 to 2.0 inches per hours respectively) when thoroughly wetted; chiefly deep, well drained to excessively drained sand, gravel or both. Rate of water transmission is high; thus, runoff potential is low.



Attachment 2 – Building Industry Association - Los Angeles/ Ventura Chapter

**Attachment to  
Construction Industry Comments  
re: proposed Ventura County MS4 permit**

**Building Industry Association of Southern California, Inc. (BIA/SC)**

**Integration of  
Low Impact Development Measures  
and CEQA Approvals**

**May 29, 2008**

In recent months, at least one of Southern California's regional water quality control boards have put forth proposals aimed at requiring local governments to impose fixed "low impact development" ("LID") numerical requirements on a lot-by-lot basis on all development within their respective jurisdictions. LID concepts generally involve designing and engineering real estate developments, and incorporating storm water best management practices, such that both (i) the water quality effects of increased storm water volume resulting from construction of impervious surfaces are minimized or mitigated, and (ii) the off-site hydrological impacts of the development are minimized. LID numerics attempt to quantify such concepts by, for example, specifying that new development and redevelopment projects must be mitigated by reducing impervious surfaces, or increasing percolation, infiltration, storage or evapotranspiration such that no more than (for example) 5% of the total project area is effectively impervious.

BIA/SC is eager to foster improvement in real estate development and redevelopment practices concerning LID. However, faced with proposals to impose of one-size-fits-all numeric LID requirements, such as fixed and absolute Effective Impervious Area (EIA) or erosion potential (Ep) requirements, we are opposed to such impositions. This is not to suggest that the LID numerical measures cannot be put to very good use. To the contrary, evolving LID metrics of this type are useful, so long as physical development constraints and land use and environmental policy implications relevant to their application can also be taken into account. LID metrics should therefore be integrated into land use/environmental approvals for development projects.

Despite the potential usefulness of metrics, we oppose the imposition of any strict and absolute numeric mandates, for example, the 5% maximum EIA or the maximum Ep=1 limitation, as generally-mandated restrictions. Our opposition is based on our view that there are many situations where relevant physical site and water quality characteristics, and/or competing land use and environmental policy considerations, would warrant deviation (large or small) from strict compliance with numeric LID requirements – whether for infill, redevelopment, or undeveloped land.

This position paper sets forth the current views of BIA/SC's staff concerning two areas of thought. Both relate to the integration of LID water quality metrics into California's longstanding and highly evolved land use environmental review and

approval process, which is mandated and governed by the California Environmental Quality Act ("CEQA"). In this first section below, emphasis is on *chronologically* synchronizing the application of LID mandates with CEQA review and approvals, which we feel is imperative. Second, looking more at the substantive effects of regulation (i.e., affecting outcomes), we discuss the potential integration of MS4 permit LID metrics into the CEQA review and approval process. We believe that such synchronization and integration with CEQA will permit reasonable consideration of appropriate LID requirements exceptions based on consideration of physical constraints, feasibility, and the availability of scalable solutions.

**I. Synchronizing application of MS4 LID measures with the CEQA process.**

We believe that synchronizing CEQA review and application of MS4 Permit LID objectives is necessary for several reasons. First, to be timely applied, LID water quality metrics should be taken into account as **early as possible** in land use planning and development design processes. Second, the introduction of LID metrics should not unduly complicate the already challenging land use and environmental review, permitting and approval process. Third, LID metrics should not be imposed in ways that undermine vested project design approvals that are already settled pursuant to CEQA. Therefore, rather than impose water quality LID metric standards apart from CEQA, regulators wishing to impose LID metrics should instead direct proper attention to them at the right stage of the land use and environmental approval process: *during* CEQA.

CEQA compliance is required by law whenever a California public agency proposes to carry out or approve any discretionary plan or project, including private land use and development projects. For example, any approval of a city's or a county's comprehensive general plan must be in compliance with CEQA, as must other discretionary actions (such as the decision of a city to annex additional land, or approve zoning, tentative tract maps, or other development applications). Each such discretionary action where CEQA compliance is required presents an opportunity for LID considerations to be brought to bear.

In general, CEQA compliance is designed to assure that local agencies regulate activities so that major consideration is given to preventing environmental damage and protecting environmental quality. Cal. Pub. Res. Code § 21000(g); 21001. To comply with CEQA, public agencies must analyze projects as provided by the Act to identify the potentially significant effects of the project on the environment, to identify and evaluate alternatives to the project, and to identify and evaluate mitigation measures to avoid, reduce and mitigate impacts of the project on the environment.

Further, CEQA compliance assures meaningful public disclosure of potentially significant project effects on the environment and available mitigation measures, and provides the opportunity for comments and input regarding the project and its effects on the environment by the public and other agencies, including responsible and trustee agencies protecting California's resources. See, e.g., Cal. Pub. Res. Code §§ 21002,

21003, 21080.3, and 21091. Perhaps most importantly, and unlike other environmental review statutes, CEQA requires that public agencies shall not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of the project (Cal. Pub. Res. Code § 21001); and the Act further requires the incorporation of all feasible mitigation measures prior to approval of any discretionary project that will result in unavoidable significant adverse effects. Cal. Pub. Res. Code § 21081.

Besides being applicable to proposed discretionary approvals related to *general* planning and potentially sweeping governmental steps like large annexations of land for potential future project development, CEQA is the pivotal and conclusive step in the private *project* planning process. As the California Supreme Court explained long ago:

[W]e have consistently interpreted CEQA to authorize, indeed to require, environmental review of private projects **at the earliest possible stage**. The CEQA Guidelines embody this principle as well. Thus, **EIRs and Negative Declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment.**

*Napa Valley Wine Train, Inc. v. Public Utilities Com.*, 50 Cal.3d 370, 398-99 (1990) (internal quotations and citations omitted, emphasis added). See also Cal. Pub. Res. Code §21003.1. Because CEQA review should take place at the optimal time to influence a private project's design, conditioning and approval, and when mitigation can best be addressed, LID considerations should be taken into account then as well.

Therefore, we hope that any adopted LID numeric standards would be imposed and applied only in *chronological* (i.e., procedural) synchronicity with CEQA approvals. Stated differently, any imposition of LID metric standards by any of the regional water boards should both "grandfather" vested private project approvals and govern future CEQA analysis and project approvals. Without appropriate grandfathering and chronological and procedural integration, strong industry resistance against otherwise acceptable impositions should be expected.

## **II. Criteria for waivers or exception from of LID numeric requirements based on site-specificity, feasibility, alternative scalable solutions, project scale, and project type.**

If a regional water quality control board were to impose fixed LID numerical limitations for land development within its jurisdiction, many questions would naturally arise about physical and environmental conditions that would warrant exception to such fixed standards. In light of recent proposals by regional water boards, BIA/SC's staff has reflected on these questions, and has attempted to set forth for consideration a slate of "waiver conditions" or "exceptions" which could apply to absolute LID numeric standards. The exercise has clarified our view of a dichotomy between (i) the

opportunity for site-specific balancing and tailoring of LID practices to physical and environmental conditions that is possible under CEQA, and (ii) the futility of efforts to develop a fixed, precisely-described slate of waiver conditions or exceptions that can sufficiently address the many factors that should be considered when considering LID metrics to determine sufficiency of LID measures.

Specifically, as we worked to prescribe a fixed slate of waiver conditions, we continued to recognize the many different circumstances in which site-specific characteristics should be taken into account. Given our recognition of this fact, we would expect that any fixed slate of numeric LID standards, coupled with equally fixed, numeric waiver provisions or exceptions, would likely be objectionable to various camps at the outset – simply because they would fail to take into account both (i) the broad array of potential differing site-specific characteristics and physical conditions, and (ii) the wide spectrum of policy considerations that influence land use and environmental decisions.

As we tried to develop such a slate of waiver provisions, we therefore found ourselves constantly reflecting on the CEQA approach – not just in terms of *chronology* and process, but also in terms of CEQA's substantive approach to site-specificity and tailoring to account for feasibility. That is because CEQA requires focused consideration of the individual physical site characteristics and the specific design and plan for each proposed project, as well as evaluation of project-specific impacts. In addition, CEQA requires environmental mitigation tailored to the specific physical and development characteristics and impacts in each instance. Essentially, the level and degree of informed tailoring that CEQA requires is much more than the level and degree of tailoring that one could achieve through developing and agreeing upon a prescriptive, static slate of waiver criteria, drafted into a county-wide MS4 permit.

The following, brief description of CEQA may help to explain our desire to use CEQA in concert with the MS4 permit as the means to advance LID metrics. Under CEQA, virtually all individual projects and plans (e.g., parcel maps to comprehensive general plans) that may result in significant environmental impacts are required to undergo an "environmental impact" analysis. For relatively simple projects, a lesser degree of analysis is appropriate, resulting in a negative declaration (or mitigated negative declaration) based upon appropriate findings. However, whenever any interested citizen presents a "fair argument" of any significant environmental impact, a full environmental impact report ("EIR") is required, complete with the fielding of public comments, the provision of responses thereto, a public hearing, etc.

Importantly, the processes for both negative declarations and EIRs have opportunities for public participation and inter-agency involvement. Affected agencies such as regional water boards can and should participate in the CEQA processes: (i) *anecdotally* if possible by commenting on any particular plan or project, and (ii) *formulaically* through the establishment of relevant "thresholds of environmental significance" for matters within their respective expertise. Established thresholds of environmental significance in turn drive both (i) the level of required environmental analysis, and (ii) required levels of mitigation.

Also under CEQA, the agency that is primarily responsible for approving and conditioning any project or plan must require the incorporation of mitigation measures to avoid, reduce or minimize significant environmental impacts. If significant, unmitigated environmental impacts likely will remain despite such requirements, then the lead agency may approve the project only upon if it makes two sets of further findings: First, the agency must find that, with respect to each unavoidable significant environmental effect, (a) changes or alterations have been required or incorporated into the project that mitigate or avoid significant effects, (b) those changes or alterations are within the responsibility or jurisdiction of another public agency, and/or (c) specific considerations or circumstances make additional mitigation measures infeasible. Second, the agency must find that the societal benefits of the project outweigh the residual environmental impacts.

Frankly, BIA/SC's member companies are not especially fond of the CEQA process. As a process, it is arduous, costly, and frequently abused by critics of development. Therefore, it is ironic that BIA/SC's staff finds itself touting CEQA as essential to the orderly and wise advancement of LID concepts. We do so because, in addition to the need for chronological and procedural integration discussed above, substantively, CEQA's best attribute is the potential to *balance* and to *tailor* the conditioning and approval of, and development of mitigation measures for any project to its site specific circumstances. The ability to *tailor* and require all reasonably feasible mitigation measures can best assure that sensible LID measures are required and that non-sensible LID measures are not required.

Against this backdrop, we feel that the best approach would be for regional water boards to use MS4 Permits to establish selectively-applicable and presumptive LID thresholds of environmental significance for use in the CEQA process. For example, through the permit, a regional board could make  $Ep = 1.2$  a presumptive threshold of environmental significance for certain larger scale projects, and mandate application of the "hydromodification analysis study" (HAS) process to larger developments and comprehensive plans.<sup>1</sup> CEQA would then operate procedurally to require environmental analysis of all larger scale projects where there is a fair argument that  $Ep > 1.2$  in the post-development condition. Pursuant to CEQA, the analysis would have to evaluate the significance of hydro-modification impacts in light of specific project physical and environmental conditions.

Substantively, unless the required HAS were to lead to finding that there would be no significant environmental impacts from allowing an even higher  $Ep$  value,<sup>2</sup> the

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<sup>1</sup> The HAS process is complicated and expensive – too much so to apply to smaller projects and individual infill projects. Accordingly, we would urge limiting its application to very large projects and also to larger-scale general and watershed planning (which would ultimately influence smaller projects).

<sup>2</sup> We know from experience that there are projects where robust engineering and environmental analyses can show that a project-scale  $Ep$  value in excess of 1.2 will

analysis must identify and evaluate appropriate mitigation to reduce of environmental impacts to below the presumptive level of significance, wherever feasible. Thus, a regional water board could impose the LID numeric standard ( $E_p =$  no more than 1.2), both to assure proper assessment of potential impacts and to identify and incorporate of mitigation; but the imposition would not be an inviolable absolute. Instead, the board could impose the measure where appropriate such that, presumptively, it must be (i) achieved where it is reasonably feasible to do so, and (ii) approached as nearly as feasible where achievement is infeasible – in each case by operation of CEQA.

A similar approach could likewise convert the proposed 5% EIA limit from an absolute requirement to a presumptive CEQA threshold, which can trigger CEQA analysis to assure mitigation is appropriately incorporated to the greatest extent warranted and feasible through the CEQA process. Here as well, we would hope that the regional water boards would make the 5% EIA threshold of significance selectively applicable only to the larger projects impacting theretofore undeveloped lands which are likely to impact surface water quality in a potentially significant and adverse way. For example, small projects, infill projects, projects that would improve upon baseline conditions, projects that drain into regional BMPs, and the like, should be expressly exempt from application of such 5% EIA presumptive threshold of significance.

### **III. Conformity between California's CEQA review and approval of new development and redevelopment projects and federal regulations pertaining to MS4 permits and post-construction storm water pollution.**

The federal regulations pertaining to MS4 permit applications and land use planning and development approval processes and outcomes discuss “structural and source control measures to *reduce* pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system....” 40 C.F.R. § 122.26(d)(2)(iv)(A) (emphasis added). Specifically concerning land use planning and post-construction storm water pollution, 40 C.F.R. § 122.26(d)(2)(iv)(A)(2) requires in relevant part (emphasis added) the MS4 permit applicant to provide:

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nonetheless avoid significant environmental impacts (due to the site characteristics, the nature of downhill lands and downstream waters, natural morphologic characteristics, and the like). Accordingly, any prescribed threshold of significance should be “presumptive” rather than absolute, so that mitigation toward the selected threshold is not required when it does not serve to avoid significant environmental impacts. For example, concerning imperviousness, where a project is proposed for development on exposed natural bedrock, there may be no negative environmental impact from failing to provide for disconnection and percolation. By establishing a threshold of significance at  $EIA = 5\%$  which is presumptive, the presumption can be appropriately negated upon a proper showing of facts. Moreover, by making the threshold presumptive, interested citizens could still put forth a “fair argument” that the threshold of significance should be even lower in appropriate instances, consistent with CEQA case law and guidelines.

A description of *planning procedures* including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls *to reduce* pollutants in discharges from municipal separate storm sewers after construction is completed.

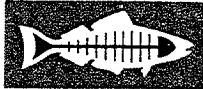
These federal regulations indicate neither (i) that strict maintenance of the *status quo* is the *sine qua non* of all land development and redevelopment, nor (ii) that the EPA Administrator (or its authorized state surrogate) must assert project-specific control over all land use planning and projects in order to define the "maximum extent practicable" pollution-avoidance measures. Instead, the regulations require the MS4 applicant to provide a proposed management program which:

- "shall include *a comprehensive planning process* which involves public participation and where necessary intergovernmental coordination, *to reduce* the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate." 40 C.F.R. § 122.26(d)(2)(iv) (preamble) (emphasis added); and
- describes "procedures of site planning which incorporate consideration of potential water quality impacts." 40 C.F.R. § 122.26(d)(2)(iv)(D).

We believe that CEQA – as a process – fulfills these requirements, including public participation, intergovernmental coordination, and most importantly a very specific, case-by-case determination of what design and mitigation measures are appropriate in light of potential water quality impacts.

\* \* \* \*





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May 29, 2008

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

**Re: Third Draft Ventura County Municipal Separate Storm Sewer System Permit,  
dated April 29, 2008 (NPDES Permit No. CAS004002)**

Dear Ms. Egoscue:

On behalf of Heal the Bay, we submit the following comments on the April 29, 2008, Third Draft Ventura County Municipal Separate Storm Sewer System Permit ("Third Draft" or "Permit"), NPDES Permit No. CAS004002. We submit these comments to address important areas in which the Permit must be strengthened to best resolve Ventura County's water quality problems. We also incorporate by reference the October 15, 2007 letter submitted to the Regional Board by Heal the Bay and NRDC.

Our comments concern five areas within the Permit: (1) performance criteria for best management practices ("BMPs"); (2) municipal action levels; (3) TMDL waste load allocations (4) low impact development; and (5) monitoring requirements. We believe that the Permit can be – and needs to be – revised as we have described in order to meet the Clean Water Act's NPDES standards. These concerns are described in detail below.

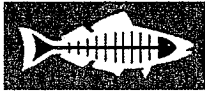
**I. Performance Criteria**

**The Draft Permit's performance-based criteria should be revised to reflect effluent performance that will benefit water quality.**

One of the most significant shortcomings in previous stormwater permits and municipal stormwater management programs is the lack of performance-based criteria for BMPs. As a result, BMPs are added as part of SUSMP requirements or pollution abatement efforts without any focus on the quality of the water exiting the BMPs. One of the most effective ways to ensure the success of stormwater programs and the attainment of water quality standards is to require performance-based criteria. Appropriately, the Third Draft Permit includes a provision that requires treatment control BMPs be designed to meet specified performance criteria. While we applaud the Regional Board for introducing performance-based criteria into the Draft Permit, we are extremely concerned by the performance ranges established in the permit.

After conversations with Regional Board staff, it is our understanding that the Regional Board selected the median performance as the lower bound of the range and chose the upper boundary of the 95% confidence interval around the mean as the upper bound. This approach does not

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achieve the desired effect of moving the County towards improving water quality by designing BMPs to meet at least the upper half of performance based on the EPA/ASCE database. There is no basis for allowing BMPs to be installed that perform worse than the median value for a specific BMP. In fact, this would be a major step backwards in water quality. Instead, the Regional Board should look at the distribution of BMP effluent quality performance values that we provided in our previous comments.

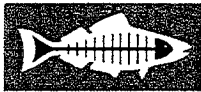
As submitted previously, the recent Geosyntec analysis of the ASCE/EPA stormwater BMP database (summary tables are included as Exhibit 1) paves the way for the development of scientifically sound water quality performance criteria. This analysis contains effluent concentration percentiles for certain pollutant parameters and BMPs. The Board should require that BMPs installed at new development and redevelopment projects covered under the SUSMP provision to perform as well or better than 75% of the BMPs within a BMP and pollutant category as listed in the ASCE/EPA database table provided. The Board should require that BMPs in sub-watersheds that have no demonstrated water quality impairments (i.e., not on the 303(d) list as impaired) or that are not on the list of SUSMP development categories meet *at least* the 50<sup>th</sup> percentile performance (median) for the term of this permit. No discharger can reasonably refute that it should have to meet median BMP performance criteria. Thus, we urge the Regional Board to make these necessary changes in the Draft Permit.

Obviously, this proposal concentrates on BMP performance and should be accompanied by a design storm component as well in order to provide certainty to the regulated community on how to apply the design criteria. Since this is a new concept, we believe that the SUSMP standards that have been used for a decade in local stormwater permits should apply. The 85<sup>th</sup> percentile storm standard in SUSMP should be used (the 85<sup>th</sup> percentile runoff event with 0.2 inches per hour intensity). However, in order to move toward attaining water quality standards, a larger design storm, such as the two or five-year storm, may be necessary.<sup>1</sup>

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<sup>1</sup> Our recommendations are as follows. Volume-Based Post-Construction Structural or Treatment Control BMPs shall be designed to mitigate (infiltrate or treat) stormwater runoff from: (1) the volume of annual runoff based on unit basin storage water quality volume, to achieve 80% or more volume treatment by the method recommended in the California Stormwater Best Management Practices Handbook – Industrial/ Commercial (1993), the Ventura Countywide Stormwater Quality Management Program Land Development Guidelines; (2) the 85<sup>th</sup> percentile 24-hour runoff event determined as the maximized capture stormwater volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87 (1998); (3) the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system; or (4) the volume of runoff produced from a historical record-based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in pollutant loads achieved by the 85<sup>th</sup> percentile 24-hour runoff event. Flow-Based Post-Construction Structural or Treatment Control BMPs shall be sized to handle the flow generated from either: (1) a rain event equal to at least 0.2 inches per hour intensity; or (2) a rain event equal to at least two times the 85<sup>th</sup> percentile hourly rainfall intensity for Ventura County.

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## II. Municipal Action Levels (“MALs”)

**The MALs provided in the Permit are seriously flawed and should be either completely revised or removed.**

The Third Draft includes municipal action levels (“MALs”) that were calculated using nationwide Phase I MS4 monitoring data. The Clean Water Act requires municipal dischargers to reduce stormwater pollution to the Maximum Extent Practicable (“MEP”), a standard that continually evolves and improves as better technologies become available and are demonstrated to be effective. In the Third Draft, the Board is using the MALs to represent MEP numerically. While we agree that MALs can be useful as interpretations of the MEP standard, the values presented in the Third Draft are completely inappropriate and in no shape or form represent MEP.

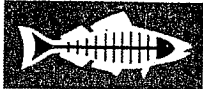
Although MALs are not intended to reflect water quality standards, the comparison to California Toxics Rule (“CTR”) criteria brings to light flaws with the proposed values. As shown in the following table, the proposed copper, lead, and zinc MALs are significantly less stringent than CTR criteria. For instance, the lead MAL is *fourteen times* less stringent than the CTR chronic criterion. Discrepancies of this magnitude are not substantiated.

Parameter	Proposed MAL (ug/L)	CTR Acute Criterion(ug/L)	CTR Chronic Criterion(ug/L)
Total Cu	70.7	13.5	9.38
Total Pb	62.2	82.17-110	3.16-4.24
Total Ni	19.2	470.9	52.16
Total Zn	756	122.7	121.7

Table 1: Comparison of proposed MAL values and CTR criteria

More important, a comparison of the MALs to actual BMP performance data shows that the MALs are flawed and that they do not represent the MEP standard. The attached tables (Exhibit 1) were taken from an analysis by Geosyntec Consultants of the ASCE/EPA BMP database.<sup>2</sup> The comparison of the proposed MALs to demonstrated BMP effluent water quality clearly indicates that the MALs are set to reflect relatively poor BMP performance, not average or “best” practicable performance, as specifically required by the Clean Water Act’s MEP standard. For instance, the proposed MAL for total copper is 70.7 ug/L, while over 95% of the hydrodynamic devices in the database achieve at least 38.55 ug/L total copper. The median

<sup>2</sup> The Geosyntec study was an internally funded document on BMP performance. Heal the Bay’s use of this information does not imply any agreement or disagreement by Geosyntec with the conclusions advanced by Heal the Bay.



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performance is 15.41 ug/L. As another example, the MAL for zinc is 756 ug/L, while even the worst 5% of biofilter BMPs achieve 181.28 ug/L. The median performance is 30.26 ug/L.

In other words, almost all of the BMPs that were monitored achieved better effluent water quality than the proposed MAL in these cases, and the median performance is vastly superior to the MAL value. This discrepancy between the proposed MALs and demonstrated BMP performance cannot be justified given that MALs are defined to reflect and interpret MEP. The data set forth above show that, presently, MALs actually represent a Lowest Extent Practicable ("LEP") standard in many instances. Dischargers can "practicably" achieve significantly higher effluent quality than the MAL values suggest. Moreover, the inadequate MALs are weakened even further by the Permit's allowance for exceedances of the MAL values up to 20% of the time.

The MAL concept has great potential as an expression of MEP. Staff should be supported and encouraged in their efforts to better define MEP. MALs should furthermore be retained in the final Permit, but they must be strengthened to reflect good science and existing technical achievement in this region and the rest of the country. The Board could use as its reference point the water quality achieved by the top 10% of MS4 programs in the U.S. Alternatively, the Board could utilize the Geosyntec analysis of BMP performance to develop appropriate MALs.

### III. TMDLs

**The Permit must include numeric effluent limits based on waste load allocations ("WLAs") and required implementation actions for all TMDLs in effect in Ventura County.**

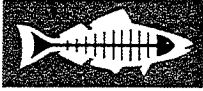
In general the Total Maximum Daily Load Provisions in the Third Draft are much improved from the last draft. Appropriately, the Regional Board includes Waste Load Allocations and required implementation schedule actions for most TMDLs that are in effect in Ventura County. Federal law clearly commands that the Board integrate already adopted TMDLs into the effluent limitations of appropriate NPDES permits. Specifically, federal regulations require that:

Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7.<sup>3</sup>

Further, implementation schedules actions must be included in the Permit, as they are vital steps in ensuring that dischargers are on-track for ultimate compliance with the waste load allocations.

However, the Permit fails to include WLAs for three TMDLs in effect in Ventura County: Calleguas Creek Nitrogen TMDL (in effect July 13, 2003), Santa Clara River Chloride TMDL (in effect May 4, 2005), and Malibu Creek Nutrients TMDL (in effect March 22, 2003). In conversations with Regional Board staff, it appears that chlorides in Santa Clara and nutrients in Calleguas Creek are primarily attributed to POTWs and thus were excluded from the Draft

<sup>3</sup> 40 CFR § 122.44(d)(1)(vii)(B).



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Permit. However, the Santa Clara River Chloride TMDL includes a WLA for "other NPDES" permittees. This should be considered for inclusion in the Draft Permit. The absence of the Malibu Creek TMDL WLAs in the permit is particularly troublesome, as stormwater is a large source of nutrients to the Creek. High nutrient concentrations and eutrophication problems continue to plague the Malibu Creek watershed, yet the Regional Board has not included nutrient WLAs, LAs or effluent limits in any permits to date despite the fact that the TMDL was approved over five years ago. Thus, the Board must modify the Permit to include these numeric WLAs in the Ventura MS4 permit.

In addition, there are two TMDLs that have been adopted by the Board but are not in effect as of the date of this letter: the Calleguas Creek Watershed Salts TMDL and the Harbor Beaches of Ventura County Bacteria TMDL. The WLAs and implementation actions in these TMDLs should be included in the Permit, if they come into effect before the Board hearing to consider this item. As these and other future TMDLs come into effect, the Board should incorporate the appropriate WLAs into the MS4 Permit.

**The Permit must clearly state that numeric effluent limits based on waste load allocations are enforceable.**

The Draft Permit appears to state that an exceedance of a WLA may not be enforced upon:

"If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, the Regional Water Board staff will evaluate the need for further enforcement action."<sup>4</sup>

The implementation of a workplan does not constitute an enforcement action. A WLA must be met for purposes of water quality standards attainment and is an enforceable limit. Thus, the Permit must clarify that any exceedance of a WLA is a violation and will be enforced.

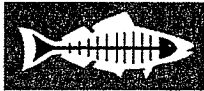
**Miscellaneous**

- The zero trash WLA for Revolon Slough and Beardsley Wash and Ventura River Estuary is appropriately included in the Permit. However the Draft Permit should also include the trash reduction milestones. For instance, a 20 percent trash reduction from baseline is required at year four.
- There appears to be a typographical error for the Arroyo Simi 4,4-DDD Interim WLA in Table 11. The Basin Plan Amendment assigns a limit of 14 ng/g, not 140 ng/g.
- WLAs for nitrogen compounds in Reach 7 of the Santa Clara River are not included in the Draft Permit. Is Reach 7 within Ventura County? If so, this WLA should be included in the Draft Permit.

**IV. Low Impact Development**

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<sup>4</sup> Third Draft Permit at 83-90.



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As discussed in our previous comment submissions, research has shown low impact development (“LID”) to be the most effective and cost-efficient means of managing stormwater and abating water pollution. Further, LID has multiple benefits and is entirely feasible in Ventura County. In order for the LID provisions in the Third Draft to lead to water quality standards attainment, a numeric sizing criterion must be applied to the EIA standard and RPAMPs and other alternate programs must be held to the same standards as individual projects. These concerns are discussed in further detail below. We also strongly support the May 29, 2008 comments on the Third Draft submitted by NRDC and incorporate them, herein, by reference.

As written, the Draft Permit includes an Effective Impervious Area (“EIA”) standard and no numeric sizing criterion. Without a numeric sizing criterion, developers could fulfill the permit’s EIA standard by installing an inadequately sized LID feature that would overflow to the storm sewer system with minimal infiltration or capture. Thus, it is essential that the Permit include a sizing criterion. We urge the Board to use the 85<sup>th</sup> percentile storm standard from SUSMP (the 85<sup>th</sup> percentile runoff event with 0.2 inches per hour intensity).

Provisions 5.E.IV.4(a)-(b) allow for approval of a “regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements.” Provisions 5.E.IV.4(c)-(f) establish the option of submitting a Redevelopment Project Area Master Plan (“RPAMP”) to the Regional Board. The result of implementing alternative programs should be to achieve the same pollution reduction, hydromodification, and other goals as individual regulated projects, and the specific, numeric targets imposed on individual regulated projects should be imposed on alternative programs. However, the Draft Permit does not include these necessary requirements. Thus, the Regional Board should modify the Draft Permit to specify that projects covered by alternative programs must meet the Permit’s EIA and hydromodification standards. This would address developers’ concerns that particular sites may be unable to achieve these standards, and it would allow developers and municipalities flexibility in crafting stormwater mitigation programs that encompass multiple sites. At the same time, this would ensure that the alternative compliance options do not enable areas covered by an alternative stormwater mitigation program to discharge greater quantities of pollution and higher volumes/peak flows than other regulated projects. Also it is critical that the Regional Board specify that the RPAMP should be contained in the same subdrainage area of the project in order to reduce overall stormwater volume and loading to a tributary of a watershed.

In order to ensure that an adequate RPAMP is approved in a timely manner, the RPAMP should be available for a 30-day public review and it should be approved or disapproved by the Executive Officer within 90 days.

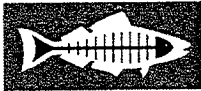
## V. Monitoring

**The Permit’s monitoring program must be adequate to determine compliance with the Permit’s requirements.**

The Clean Water Act requires that a Permittee undertake a self-monitoring program sufficient to determine compliance with its NPDES permit.<sup>5</sup> This general requirement is reflected in the

<sup>5</sup> See 40 C.F.R. § 122.44(i)(1).

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Third Draft, which lists one of its monitoring goals as assessing "...compliance with effluent limitations and water quality objectives."<sup>6</sup> As written, the Permit is adequate to determine compliance with water quality standards, but clarifications of the program must be provided.

The Draft Permit requires monitoring at "the end-of-pipe of major outfalls" four times per year. According to the Draft Permit, a major outfall is defined as "a major municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent..." Does the Regional Board expect that every outfall that is 36 inches or greater in diameter be monitored? This is how the current Draft Permit reads. If not, the Regional Board must specify in the Permit those outfalls that will be monitored. This is extremely important to ensure that appropriate land-use categories are monitored and to be able to determine which MS4 is causing or contributing to a water quality objective exceedance. Furthermore, it is extremely difficult to make relevant comments on this core monitoring program without knowing the specific locations of the monitoring sites and other monitoring programs currently in place. At a minimum, the Board should provide requirements for the discharger to use in selecting the specific discharges that are monitored. For instance, drainages carrying stormwater from commercial, industrial, and high-use transportation should be prioritized. Of note, the first draft of the Permit included a tributary monitoring program to identify sub-watersheds where stormwater dischargers are causing or contributing to exceedances of water quality objectives; the major outfall monitoring program must now serve this purpose as the tributary monitoring is no longer included as an element in the core monitoring program.

The Total Maximum Daily Load Monitoring section of the Draft Permit simply refers back to the monitoring plans that have been "agreed upon" by stakeholders. Again, this ambiguity makes review of the overall scope of the Draft Permit's monitoring program in conjunction with the TMDL monitoring plans extremely difficult as the monitoring provisions are not described in the permit itself. It is impossible to discern if the TMDL monitoring programs are adequate for determining if water quality objectives are achieved in the receiving water. Also, are monitoring programs in place for all of the TMDLs that are in effect in Ventura County and have all of these monitoring plans been approved by the Regional Board Executive Officer? The Regional Board should provide specificity and clarity in the Draft Permit's TMDL monitoring program.

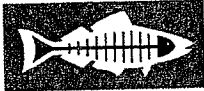
The mass emissions monitoring element of the Draft Permit's core monitoring program requires that three mass emission stations be monitored every other year.<sup>7</sup> This is a very small number of monitoring locations given that Ventura County covers an area of 1,873 square miles and multiple Permittees preside over each of the three main watershed management areas ("WMAs"). A stated goal of the mass emissions monitoring program is to determine if the MS4 is causing or contributing to exceedances of water quality standards.<sup>8</sup> By monitoring on such an infrequent basis and at only three locations, there is no way that variability will be captured and that MS4 compliance can truly be assessed. Also, an assessment of how the MS4 programs are reducing overall loads of pollutants to the coast or other receiving waters from year to year

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<sup>6</sup> Third Draft Permit at F-1

<sup>7</sup> Third Draft Permit at F-2.

<sup>8</sup> Third Draft Permit at F-1.



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cannot be accurately determined without an adequate number of mass emission sites. Thus, the Regional Board should increase the number of monitoring locations and frequency of mass emission monitoring. At a minimum, the Regional Board should remove the biennial monitoring system because the frequency is not adequate to determine loadings status and trends.

In sum, the monitoring program in the Draft Permit is difficult to evaluate, as it is unclear what monitoring is already underway and the additional monitoring locations required in the Draft Permit. First, the Board Staff should compile a list or table of all stormwater monitoring requirements in order for the public to evaluate whether the Permit's requirements, when combined with current monitoring efforts, will be sufficient. In general, though, the Permit must contain minimum monitoring requirements, which are necessary to assess compliance and impacts from the MS4. If another program covers some of these requirements, the discharger can work with this other monitoring program to coordinate logistical issues like cost-sharing.

The Regional Board incorporated the Los Angeles County beach bacteria monitoring program in the 1996 MS4. The Ventura County MS4, despite the presence of the Harbor Beaches bacteria TMDL and the impact of stormwater on recreational use and public health, does not contain beach monitoring requirements. The permit should incorporate the beach monitoring program and require monitoring at the wave-wash directly in front of storm drain and stream sources (point zero). The monitoring modification would provide consistency throughout the region and greater protection of public health.

**The Board should revise toxicity requirements to meet the working group's recommendations.**

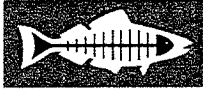
Over a year ago, the Board convened a multi-stakeholder toxicity working group that developed the *SMBRC Technical Memorandum on Toxicity Testing of Wet and Dry Weather Runoff* ("Memorandum"). This working group was chaired by the Southern California Coastal Water Research Project ("SCCWRP") and included representatives from wastewater treatment and stormwater agencies. The objective of the SCCWRP- and stakeholder-authored Memorandum is to provide guidance to the Board for use in developing MS4 permit toxicity monitoring and reporting requirements. However, several of the current toxicity requirements in the Second Draft appear to be inconsistent with the Memorandum. For instance, the Memorandum recommends sampling both dry and wet weather events, but the Third Draft includes only wet weather sampling. The Board should revise the Permit to be consistent with the Board's working group recommendations.

Several of the toxicity monitoring program requirements included in the Third Draft are arbitrary and will not provide a proper determination of whether stormwater discharges are impacting aquatic life. Toxic Identification Evaluations ("TIEs"), for instance, are required only if 90% or more toxicity is found in the first year. Also, a Toxic Reduction Evaluation ("TRE") is only triggered if the same pollutant or class of pollutants is identified through the TIE process.<sup>9</sup> These triggers are arbitrary and unsubstantiated and will not provide adequate information to assess impacts to aquatic species or to protect aquatic life in waters receiving polluted storm runoff. Thus, the monitoring requirements should be modified to contain a more protective toxicity

<sup>9</sup> Third Draft Permit at Attachment F-9 to F-10.

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threshold and to require TIEs and TREs when there are significant toxicity problems in receiving waters. Additionally, each TRE action should include an implementation plan with milestones for constructing specific BMPs that meet the 75<sup>th</sup> percentile performance criteria and target the pollutant of concern.

**The Board should include bioassessment monitoring in the Permit.**

There are no bioassessment monitoring requirements in the Third Draft Permit. Bioassessment monitoring is critical to assess the full impacts of the discharge and should be performed on a regular basis. Ventura County has some of the best remaining aquatic biological resources in Southern California, and the impacts of stormwater on these resources must be assessed. In addition, bioassessment requirements have for years been a part of NPDES monitoring programs for dischargers – including POTWs, refineries, and power plants – so requiring bioassessment as part of the Permit's core monitoring requirements would not be precedent-setting. In order to determine the impacts of stormwater on biological resources in receiving waters, the Board must include a defined semi-annual or annual bioassessment monitoring program in the Permit as part of the "Core Monitoring" requirements.

We thank the Board Members and Board Staff for this opportunity to comment on the Third Draft. More than fifteen years after urban stormwater runoff permitting took effect under the Clean Water Act, the region still struggles with the impacts of this source of pollution. This draft Permit contains the seeds of approaches that can make a significant difference in better controlling runoff. The focus on low impact development is particularly important, and it promises – with some improvements set forth above – to be highly effective. In other respects, however, such as the interpretation of MEP through MALs and actual compliance monitoring requirements, the conceptual strengths of the Permit are largely counteracted by weak implementation of these concepts in the draft Permit. These weaknesses must be corrected before the Permit is adopted.

If you have any questions, please contact us at 310-451-1500.

Sincerely,

Kirsten James, MESM  
Water Quality Director

Mark Gold, D. Env.  
President

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Effluent Statistics		Effluent Percentiles									
BMPID	Parameter	Count	NDCount	%ND	5th	10th	25th	50th	75th	90th	95th
Detention Basins	Cadmium, Dissolved (ug/L as Cd)	75	43	57%	0.012	0.020	0.050	0.144	0.566	1.830	2.167
Detention Basins	Cadmium, Total (ug/L as Cd)	97	29	30%	0.083	0.110	0.248	0.568	1.313	2.359	3.145
Detention Basins	Copper, Dissolved (ug/L as Cu)	152	0	0%	1.947	2.526	4.864	8.117	13.727	24.263	28.125
Detention Basins	Copper, Total (ug/L as Cu)	184	14	8%	2.870	3.697	7.180	13.016	21.922	32.357	42.223
Detention Basins	Lead, Dissolved (ug/L as Pb)	111	52	47%	0.061	0.093	0.185	1.031	3.353	5.731	7.519
Detention Basins	Lead, Total (ug/L as Pb)	146	18	12%	0.837	1.639	4.902	12.725	28.191	52.553	97.903
Detention Basins	Nitrate + Nitrite, Total (mg/L as N)	27	18	67%	0.002	0.003	0.010	0.048	0.142	0.575	1.020
Detention Basins	Nitrate Nitrogen, Total (mg/L as N)	103	10	10%	0.133	0.174	0.270	0.578	0.918	1.684	2.150
Detention Basins	Nitrogen, Ammonia Total (mg/L as N)	13	3	23%	0.016	0.019	0.029	0.048	0.098	0.208	0.289
Detention Basins	Nitrogen, Kjeldahl, Total (mg/L as N)	97	14	14%	0.436	0.542	0.781	1.242	1.951	3.162	3.918
Detention Basins	Nitrogen, Total (mg/L as N)	12	0	0%	0.528	0.575	0.775	1.272	2.431	3.856	4.495
Detention Basins	Phosphorous, Dissolved (mg/L as P)	49	12	24%	0.028	0.035	0.049	0.085	0.143	0.251	0.329
Detention Basins	Phosphorous, Total (mg/L as P)	174	20	11%	0.014	0.019	0.037	0.108	0.283	0.460	0.670
Detention Basins	Solids, Total Dissolved (mg/L)	81	1	1%	9.083	19.536	45.677	73.510	111.402	233.722	379.539
Detention Basins	Solids, Total Suspended (mg/L)	177	8	5%	2.114	3.043	9.192	21.958	43.145	76.742	117.592
Detention Basins	Zinc, Dissolved (ug/L as Zn)	153	1	1%	3.585	7.232	20.610	34.267	60.530	101.297	146.808
Detention Basins	Zinc, Total (ug/L as Zn)	207	2	1%	12.097	17.843	34.930	60.976	105.574	197.697	263.675
Biofilters	Cadmium, Dissolved (ug/L as Cd)	342	66	19%	0.079	0.096	0.199	0.200	0.200	0.303	0.464
Biofilters	Cadmium, Total (ug/L as Cd)	361	49	14%	0.081	0.149	0.200	0.206	0.424	0.840	1.258
Biofilters	Copper, Dissolved (ug/L as Cu)	399	4	1%	1.046	1.530	2.939	5.868	11.064	17.656	22.703
Biofilters	Copper, Total (ug/L as Cu)	468	9	2%	1.787	2.656	4.273	7.984	17.241	32.435	44.607
Biofilters	Lead, Dissolved (ug/L as Pb)	368	26	7%	0.293	0.471	1.000	2.959	6.677	11.700	11.700
Biofilters	Lead, Total (ug/L as Pb)	483	50	10%	0.824	1.000	1.345	4.157	14.028	43.513	66.517
Biofilters	Nitrate + Nitrite, Total (mg/L as N)	27	0	0%	0.138	0.174	0.311	0.611	0.955	1.641	2.215
Biofilters	Nitrate Nitrogen, Total (mg/L as N)	476	12	3%	0.052	0.095	0.165	0.375	0.748	1.601	2.486
Biofilters	Nitrogen, Ammonia Total (mg/L as N)	14	4	29%	0.007	0.009	0.017	0.031	0.066	0.142	0.173
Biofilters	Nitrogen, Kjeldahl, Total (mg/L as N)	395	4	1%	0.469	0.633	0.894	1.342	2.138	3.600	6.378
Biofilters	Nitrogen, Total (mg/L as N)	96	0	0%	0.128	0.205	0.396	0.643	1.560	2.329	2.855
Biofilters	Phosphorous, Dissolved (mg/L as P)	38	0	0%	0.136	0.151	0.197	0.283	0.483	1.039	1.417
Biofilters	Phosphorous, Total (mg/L as P)	539	8	1%	0.042	0.056	0.114	0.240	0.451	0.815	1.167
Biofilters	Solids, Total Dissolved (mg/L)	357	1	0%	11.444	23.210	46.397	76.845	114.831	164.080	201.933
Biofilters	Solids, Total Suspended (mg/L)	467	7	1%	1.255	3.043	8.371	20.027	49.854	115.978	233.464
Biofilters	Zinc, Dissolved (ug/L as Zn)	399	4	1%	5.000	5.000	8.732	19.485	35.696	52.821	71.794
Biofilters	Zinc, Total (ug/L as Zn)	533	51	10%	4.479	6.395	14.164	30.256	67.208	119.646	181.275

Effluent Statistics		Parameter	Count	NDCount	%ND	Effluent Percentiles						
BMPID	Hydrodynamic Devices					5th	10th	25th	50th	75th	90th	95th
	Hydrodynamic Devices	Cadmium, Dissolved (ug/L as Cd)	79	32	41%	0.011	0.017	0.042	0.199	0.785	1.793	2.239
	Hydrodynamic Devices	Cadmium, Total (ug/L as Cd)	88	25	28%	0.024	0.038	0.102	0.382	1.261	3.035	5.047
	Hydrodynamic Devices	Copper, Dissolved (ug/L as Cu)	89	15	17%	1.074	1.409	2.961	9.580	16.630	31.985	41.695
	Hydrodynamic Devices	Copper, Total (ug/L as Cu)	99	0	0%	2.791	3.340	7.462	15.409	21.659	32.301	38.550
	Hydrodynamic Devices	Lead, Dissolved (ug/L as Pb)	89	35	39%	0.123	0.201	0.434	1.184	3.769	7.376	8.733
	Hydrodynamic Devices	Lead, Total (ug/L as Pb)	95	8	8%	0.887	1.351	2.691	6.297	13.428	23.845	42.576
	Hydrodynamic Devices	Nitrate + Nitrite, Total (mg/L as N)	42	13	31%	0.062	0.078	0.117	0.226	0.359	0.506	0.707
	Hydrodynamic Devices	Nitrate Nitrogen, Total (mg/L as N)	59	2	3%	0.073	0.098	0.152	0.306	0.680	1.299	2.120
	Hydrodynamic Devices	Nitrogen, Ammonia Total (mg/L as N)	69	19	28%	0.009	0.014	0.041	0.090	0.313	0.814	1.103
	Hydrodynamic Devices	Nitrogen, Kjeldahl, Total (mg/L as N)	77	4	5%	0.224	0.351	0.566	1.086	1.830	3.576	5.984
	Hydrodynamic Devices	Nitrogen, Total (mg/L as N)	13	0	0%	0.902	0.988	1.335	2.101	3.633	5.233	5.939
	Hydrodynamic Devices	Phosphorous, Dissolved (mg/L as P)	58	19	33%	0.000	0.001	0.002	0.019	0.088	0.172	0.253
	Hydrodynamic Devices	Phosphorous, Total (mg/L as P)	170	5	3%	0.011	0.023	0.067	0.148	0.270	0.926	2.612
	Hydrodynamic Devices	Solids, Total Dissolved (mg/L)	198	6	3%	3.905	6.206	19.175	60.768	422.937	7951.478	22415.772
	Hydrodynamic Devices	Solids, Total Suspended (mg/L)	199	14	7%	2.977	5.543	17.995	43.173	99.360	190.249	303.150
	Hydrodynamic Devices	Zinc, Dissolved (ug/L as Zn)	99	18	18%	3.357	5.113	12.784	34.762	76.530	156.734	334.604
	Hydrodynamic Devices	Zinc, Total (ug/L as Zn)	174	13	7%	11.341	17.793	37.092	69.089	124.178	201.430	291.030
	Media Filters	Cadmium, Dissolved (ug/L as Cd)	111	74	67%	0.009	0.014	0.033	0.097	0.290	0.680	1.261
	Media Filters	Cadmium, Total (ug/L as Cd)	139	80	58%	0.035	0.053	0.109	0.257	0.764	1.401	1.778
	Media Filters	Copper, Dissolved (ug/L as Cu)	258	7	3%	1.344	1.971	4.050	7.064	13.178	23.449	29.351
	Media Filters	Copper, Total (ug/L as Cu)	294	19	6%	1.881	2.692	5.569	9.795	19.043	35.176	54.304
	Media Filters	Lead, Dissolved (ug/L as Pb)	227	117	52%	0.055	0.088	0.195	0.550	1.641	3.681	5.916
	Media Filters	Lead, Total (ug/L as Pb)	251	44	18%	0.426	0.609	1.397	4.376	13.378	23.679	39.362
	Media Filters	Nitrate + Nitrite, Total (mg/L as N)	35	11	31%	0.170	0.213	0.301	0.951	1.763	2.859	3.926
	Media Filters	Nitrate Nitrogen, Total (mg/L as N)	232	16	7%	0.181	0.253	0.424	0.690	1.151	2.029	2.643
	Media Filters	Nitrogen, Ammonia Total (mg/L as N)	38	19	50%	0.003	0.006	0.022	0.102	0.728	1.919	2.931
	Media Filters	Nitrogen, Kjeldahl, Total (mg/L as N)	229	12	5%	0.352	0.464	0.855	1.491	2.303	3.779	6.796
	Media Filters	Nitrogen, Total (mg/L as N)	20	0	0%	1.921	2.077	2.530	3.472	4.695	6.024	6.682
	Media Filters	Phosphorous, Dissolved (mg/L as P)	90	21	23%	0.019	0.025	0.038	0.085	0.142	0.238	0.407
	Media Filters	Phosphorous, Total (mg/L as P)	280	25	9%	0.018	0.040	0.075	0.129	0.230	0.394	0.566
	Media Filters	Solids, Total Dissolved (mg/L)	114	0	0%	12.216	24.105	41.104	56.574	85.506	137.169	230.416
	Media Filters	Solids, Total Suspended (mg/L)	358	15	4%	1.317	2.762	6.321	14.784	37.784	87.741	148.957
	Media Filters	Zinc, Dissolved (ug/L as Zn)	254	15	6%	3.212	5.915	14.843	30.677	76.394	143.497	266.374
	Media Filters	Zinc, Total (ug/L as Zn)	383	19	5%	2.596	4.680	14.669	35.580	103.083	281.505	436.429

Effluent Statistics		Effluent Percentiles									
BMPID	Parameter	Count	NDCount	%ND	5th	10th	25th	50th	75th	90th	95th
Retention Ponds	Cadmium, Total (ug/L as Cd)	200	89	45%	0.003	0.007	0.043	0.145	0.527	7.252	9.983
Retention Ponds	Copper, Dissolved (ug/L as Cu)	182	5	3%	1.744	2.473	3.224	4.358	5.976	8.829	12.865
Retention Ponds	Copper, Total (ug/L as Cu)	327	10	3%	1.122	1.891	3.140	5.367	8.958	28.112	49.725
Retention Ponds	Lead, Dissolved (ug/L as Pb)	153	53	35%	0.174	0.310	0.821	2.848	9.059	29.422	35.410
Retention Ponds	Lead, Total (ug/L as Pb)	404	78	19%	0.256	0.466	1.007	3.366	15.793	36.788	64.062
Retention Ponds	Nitrate + Nitrite, Total (mg/L as N)	247	18	7%	0.004	0.005	0.012	0.038	0.173	0.371	0.546
Retention Ponds	Nitrate Nitrogen, Total (mg/L as N)	142	2	1%	0.040	0.066	0.114	0.310	0.632	1.150	1.408
Retention Ponds	Nitrogen, Ammonia Total (mg/L as N)	265	21	8%	0.011	0.016	0.027	0.056	0.127	0.238	0.314
Retention Ponds	Nitrogen, Kjeldahl, Total (mg/L as N)	244	9	4%	0.463	0.577	0.772	1.043	1.571	2.298	3.202
Retention Ponds	Nitrogen, Total (mg/L as N)	239	0	0%	0.537	0.631	0.867	1.278	1.776	2.410	2.907
Retention Ponds	Phosphorous, Dissolved (mg/L as P)	204	5	2%	0.019	0.021	0.039	0.062	0.116	0.206	0.253
Retention Ponds	Phosphorous, Total (mg/L as P)	486	14	3%	0.018	0.035	0.063	0.142	0.283	0.714	1.198
Retention Ponds	Solids, Total Dissolved (mg/L)	79	0	0%	27.590	56.563	129.402	390.152	633.739	1389.317	1779.409
Retention Ponds	Solids, Total Suspended (mg/L)	469	3	1%	0.559	1.197	4.281	11.612	28.307	66.130	110.111
Retention Ponds	Zinc, Dissolved (ug/L as Zn)	158	6	4%	1.002	1.199	2.482	9.770	28.517	47.281	75.918
Retention Ponds	Zinc, Total (ug/L as Zn)	423	52	12%	1.426	2.172	7.183	19.601	37.214	70.121	121.125
Wetland Basins	Cadmium, Dissolved (ug/L as Cd)	7	4	57%	2.726	4.014	9.874	28.487	61.896	85.135	92.601
Wetland Basins	Cadmium, Total (ug/L as Cd)	50	1	2%	0.090	0.100	0.100	0.164	1.145	5.736	9.569
Wetland Basins	Copper, Dissolved (ug/L as Cu)	7	0	0%	4.772	4.956	5.538	6.522	7.389	7.724	7.793
Wetland Basins	Copper, Total (ug/L as Cu)	80	0	0%	1.087	1.578	2.257	3.091	5.404	8.409	10.310
Wetland Basins	Lead, Dissolved (ug/L as Pb)	11	1	9%	0.354	0.391	0.524	0.793	1.070	1.385	1.582
Wetland Basins	Lead, Total (ug/L as Pb)	91	0	0%	0.231	0.377	0.830	1.066	2.351	4.940	6.356
Wetland Basins	Nitrate + Nitrite, Total (mg/L as N)	144	0	0%	0.006	0.008	0.015	0.043	0.178	0.468	0.791
Wetland Basins	Nitrate Nitrogen, Total (mg/L as N)	91	4	4%	0.015	0.040	0.111	0.207	0.410	0.798	1.064
Wetland Basins	Nitrogen, Ammonia Total (mg/L as N)	188	1	1%	0.006	0.009	0.019	0.041	0.118	0.278	0.401
Wetland Basins	Nitrogen, Kjeldahl, Total (mg/L as N)	146	0	0%	0.640	0.717	0.888	1.146	1.376	1.691	2.073
Wetland Basins	Nitrogen, Total (mg/L as N)	201	0	0%	0.558	0.741	0.922	1.278	1.783	2.670	3.976
Wetland Basins	Phosphorous, Dissolved (mg/L as P)	114	0	0%	0.007	0.010	0.024	0.053	0.178	0.356	0.444
Wetland Basins	Phosphorous, Total (mg/L as P)	220	1	0%	0.014	0.024	0.040	0.070	0.183	0.405	0.522
Wetland Basins	Solids, Total Dissolved (mg/L)	25	0	0%	6.596	8.420	12.181	20.775	70.372	312.445	460.257
Wetland Basins	Solids, Total Suspended (mg/L)	211	0	0%	0.866	1.110	1.956	6.775	16.507	41.338	75.644
Wetland Basins	Zinc, Dissolved (ug/L as Zn)	7	0	0%	9.726	10.433	12.592	15.943	19.866	23.022	24.222
Wetland Basins	Zinc, Total (ug/L as Zn)	107	1	1%	8.342	9.903	12.884	19.005	40.343	124.055	227.030

Effluent Statistics		Parameter	Count	NDCCount	%ND	Effluent Percentiles								
BMPID						5th	10th	25th	50th	75th	90th	95th		
	Wetland Channel	Lead, Dissolved (ug/L as Pb)	11	0	0%	1.425	1.674	2.751	5.129	15.298	41.726	61.601		
	Wetland Channel	Lead, Total (ug/L as Pb)	41	0	0%	1.008	1.079	2.308	5.387	13.481	41.883	112.900		
	Wetland Channel	Nitrate Nitrogen, Total (mg/L as N)	41	0	0%	0.056	0.081	0.122	0.235	0.458	0.841	1.544		
	Wetland Channel	Nitrogen, Ammonia Total (mg/L as N)	10	0	0%	0.030	0.036	0.062	0.132	0.338	0.810	1.087		
	Wetland Channel	Nitrogen, Kjeldahl, Total (mg/L as N)	33	0	0%	0.657	0.717	0.868	1.285	1.576	1.926	2.198		
	Wetland Channel	Nitrogen, Total (mg/L as N)	42	0	0%	0.729	0.851	1.033	1.491	1.949	3.650	9.669		
	Wetland Channel	Phosphorous, Dissolved (mg/L as P)	41	0	0%	0.039	0.045	0.059	0.080	0.136	0.188	0.226		
	Wetland Channel	Phosphorous, Total (mg/L as P)	43	0	0%	0.073	0.083	0.118	0.190	0.315	0.502	0.997		
	Wetland Channel	Solids, Total Dissolved (mg/L)	9	0	0%	80.579	89.337	116.846	250.169	890.815	1588.032	1806.235		
	Wetland Channel	Solids, Total Suspended (mg/L)	41	0	0%	3.126	4.359	8.931	19.119	75.927	322.275	992.616		
	Wetland Channel	Zinc, Dissolved (ug/L as Zn)	9	0	0%	6.392	7.679	10.642	22.766	105.009	236.595	291.699		
	Wetland Channel	Zinc, Total (ug/L as Zn)	9	0	0%	20.242	22.827	30.856	54.025	207.935	545.748	713.850		

0000007



May 29, 2008

Executive Officers and Members of the Board  
CA Regional Water Quality Control Board Los Angeles Region  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013  
Attn: Xavier Swamikannu

Re: Draft Tentative Ventura County Municipal Separate Storm Sewer System (MS4) Permit distributed April 29, 2008 (NPDES PERMIT No. CASOO4002)

Dear Ms. Egoscue and Members of the Board:

Thank you for the opportunity to comment on the above-referenced permit (the "Draft Permit").

Ventura Coastkeeper ("VCK") is a program of the Wishtoyo Foundation. The Wishtoyo Foundation is a community based, non-profit, membership organization located in the City of Ventura. The foundation uses traditional Native American Chumash beliefs, practices, songs, stories and dances to increase awareness of our connection with the environment and to preserve the culture and resources of coastal communities. Core values of the Chumash nation include sustainable living and respect for the environment.

In 2000, the Wishtoyo Foundation launched VCK to protect and restore Ventura County's traditional waterways and marine habitat. VCK's programs include: (1) a citizen monitoring program in Calleguas Creek and Revolon Slough to measure the effectiveness of Best Management Practices (BMPs) and assess impacts of pollutants flowing from Calleguas Creek into Mugu Lagoon; (2) surveys of the Santa Clara River to determine ecosystem health; and (3) the Ormond Beach Wetlands recovery project. Additionally, VCK investigates polluters and, when necessary, takes legal action to stop them. In commenting on the Draft Permit, VCK draws upon the Wishtoyo Foundation's unique perspective, our involvement with the local community, and our experience protecting the traditional waterways of Ventura County.

VCK's overriding comment is that, although the Draft Permit contains many innovative programs to protect water quality (such as Municipal Action Levels and Low Impact Development requirements), it continues the fundamentally flawed storm water permit scheme created by the State and Regional Boards. Storm water permits are overly complicated, difficult to enforce, and contain opaque standards and monitoring programs that are difficult to implement and understand. VCK urges the Regional Board to simplify and objectify compliance standards and the monitoring program.

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0000608

Additionally, VCK strongly supports the comments of the Natural Resources Defense Council (NRDC) and Heal the Bay to the first, second and third drafts of the permit. Finally, VCK's has the following specific comments to the Draft Permit:

**1. Draft Permit Must Link Monitoring Data to Water Quality Standards**

The monitoring program must be sufficient to determine whether a municipality is causing or contributing to violations of the permit. See 40 C.F.R. §122.44(i). The Draft Permit prohibits any discharges from the MS4 that cause or contribute to a violation of water quality standards. Draft Permit Part 3.1 at page 32. Thus, legally, the monitoring program must be sufficient to determine whether the permittees are violating water quality standards. The Draft Permit, however, does not satisfy this requirement for two reasons:

(1) First, the monitoring locations are insufficient to identify the activities or failures that are causing or contributing to impairment. This source identification problem is summarized by Jonathan Bishop, the former Executive Officer of the Regional Board, in a letter to the Principal Permittee dated March 9, 2007:

"The Monitoring Program has been in effect for several years in the County of Ventura and Permittees report exceedances of several of the same water quality objectives year after year in receiving waters without being able to identify or eliminate the sources of the exceedances. Without differentiation of sources from the Permittee's MS4s, the application of appropriate Best Management Practices (BMPs) to reduce the discharge of pollutants of concern to the maximum extent practicable (MEP) is unattainable."

To evaluate the permittees' compliance with water quality standards and what additional steps must be taken to achieve compliance, the Draft Permit must require upstream monitoring that is representative of their respective discharges. The Regional Board needs to define which major outfalls will be monitored in accordance with this objective. It is unacceptable to allow the permittees' to determine which major outfalls are "transporting representative landuse discharges" and thus need to be monitored. Draft Permit at page F-4. Unless the Regional Board and the permittees know the source of the pollutants causing and contributing to water quality violations, how can anyone know what BMPs are needed or working? For all of these reasons, the Draft Permit needs to contain, at the outset, a robust program of upstream monitoring and source identification.

(2) Second, the Draft Permit does not articulate how to make a determination of compliance with water quality standards. To make such a determination, the Draft Permit must link the measurements obtained by the monitoring program to water quality standards such as those set forth in the California Toxics Rule ("CTR"). VCK is asking the Regional Board to invest a significant amount of time to articulate how monitoring data can be converted into a

determination of compliance with water quality standards. Not only is it legally required, but it will greatly simplify implementation and enforcement of the final permit.

Has the Regional Board evaluated how many person years it will take to review all of the various reports, Storm Water Quality Management Plans and field inspections required by the Draft Permit (apart from the time it is taking to draft the nearly 200-page permit)? The State Board itself found that "the current level of program staffing resources is not sufficient to fully implement the storm water program." Draft Enforcement Report, CA State Water Board, January 2008, page 14. For fiscal year 2006-2007, the State Board estimated that the NPDES Storm Water Program needed 400 staff in order to operate a fully-functioning program. As of April 2008, the NPDES Storm Water Program had about 100 staff. Baseline Enforcement Report (FY 2006-2007), CA State Water Board, revised April 30, 2008, page 21. Adoption of water quality standards will lessen the need for so many reports, plans and programs because it will be clear from the monitoring program alone whether the permittees are in compliance and, more importantly, the permittees will know better how to achieve compliance.

It is also important to put the Draft Permit into context. This is the third iteration of Ventura County's Phase I MS4 Permit (first adopted in 1994). The MS4 Permit has been regulating storm water discharges for nearly 15 years but storm water continues to exceed water quality standards and impair our waters. Draft Permit at page 2. In 2007, monitoring data showed elevated pollutant concentrations at all monitoring sites during one or more monitored wet weather storm events, and at specific sites during one or more dry weather events. Ventura Countywide Stormwater Quality Management Program, Annual Report for Permit Year 7, Reporting Year 13 (October 2007) at page 9-17. Yet, the Draft Permit limits monitoring to three mass emission stations and an undefined set of major outfalls. Let's not wait another five to seven years before we make a serious attempt to identify the source of this pollution.

## **2. Require Compliance with MALs and Provide a Method of Enforcement**

VCK agrees with NRDC and Heal the Bay regarding the MALs (a) being too high relative to water quality standards (such as the CTR), and (b) constituting technology-based effluent limitations that do not reflect the Maximum Extent Practicable (MEP) standard. Notwithstanding those issues, at a minimum, the Draft Permit needs to actually require compliance with the MALs on a reasonable schedule, and to provide a mechanism for enforcement. Staff has indicated that, to account for sampling abnormalities, the Draft Permit allows the permittees to exceed the MALs 20% of the time over the first three years of the Draft Permit before attempting to require any corrective action. Draft Permit Part 2.1 at page 32. If the MALs are exceeded more than 20% of the time, the violating permittee is required to "affirmatively augment and implement all necessary storm water controls and measures to reduce the discharge of the associated class of pollutants in accordance with [MEP]," which is exactly what every permittee is required to do in the first place. Id. Thus, the Draft Permit undermines the very MAL standards it sets forth and requires no real progress for at least three more years in a program intended to achieve compliance in 1992.



The Draft Permit should be revised to provide that any exceedance of the MALs shall create a presumption that the permittees have not complied with MEP and require all permittees upstream from the point of discharge to notify the Regional Water Board within 30 days of knowledge of such exceedance and thereafter submit a MAL Compliance Report in accordance with the procedures set forth for RWL Compliance Reports at Part 3.3 of the Draft Permit. If there is any sampling abnormality, the EO can make such a determination and modify the contents of the MAL Compliance Reports accordingly.

### **3. Trigger for Receiving Water Limitation Compliance Reports is Too Subjective**

Part 3 of the Draft Permit is internally inconsistent. Part 3.1 states that “[d]ischarges from the MS4 that cause or contribute to a violation of water quality standards are prohibited.” Draft Permit at page 32. But, Part 3.3 of the Draft Permit goes on to say that “[i]f exceedances of water quality standards or water quality standards *persist* . . . ,the permittee shall ensure compliance with discharge prohibitions and receiving water limitations by [submitting a Receiving Water Limitations [RWL] Compliance Report].” Draft Permit at pages 32-33 (emphasis added). By allowing violations of water quality standards to “persist” for an undefined period of time, the Draft Permit in effect permits rather than prohibits such violations. The word “persist” needs to be deleted from Part 3.3 of the Draft Permit because (a) it is inconsistent with the permit’s stated objective of ensuring compliance with water quality standards, and (b) it undermines effective enforcement of water quality standards by setting a totally subjective trigger for RWL Compliance Reports. Draft Permit Finding F.2 at page 21.

### **4. Implement Storm Water Quality Management Programs Sooner**

The Draft Permit gives permittees 365 days to adopt a Storm Water Quality Ordinance and modify their storm water management programs. Draft Permit Part 4 at pages 35, 37. However, per the existing MS4 permit, the permittees already have storm water quality ordinances and storm water management programs in place. Order No. 00-108 at pages 11-12. Ninety (90) days is a reasonable period of time to amend existing ordinances and revise existing Storm Water Management Programs.

### **5. Principal Permittee Should Share In Responsibility for Permittees’ Compliance**

The Principal Permittee’s pipes convey pollutants from the municipalities to waters of the United States via point sources. Yet, the Draft Permit purports to relieve the County from any liability for these discharges which is inconsistent with the requirements Clean Water Act. Draft Permit, Part 4.E.1(b) at page 37 (stating that “the Principal Permittee is not responsible for ensuring compliance of any other individual permittee”). Not only is this illegal, it is bad public policy. If the parties want to make a distinction between the responsibility of the Principal Permittee and the other permittees, they need to monitor upstream to determine pollutant source and relative contribution of the permittees to water quality impairment. Otherwise, all permittees upstream from a discharge violating water quality standards (including the Principal Permittee) should be jointly responsible for such violations. The permittees can work out relative liability amongst themselves.

## **6. Grading Prohibition Variance is Too Broad**

The Draft Permit requires each permittee to prohibit grading activity at construction sites with a high risk of erosion during the wet weather season. Draft Permit Part 5.F.1 at page 63. Although sediment is a "primary pollutant impacting beneficial uses of watercourses," the Draft Permit goes on to allow the permittees to grant grading prohibition variances without any notice to or input from the Regional Board. *Id.* Instead, the Draft Permit leaves it to the permittees to determine whether the builder can demonstrate that the proposed BMPs are "reasonably expected to (1) Not cause or contribute to the degradation of water quality . . . (4) Not impair beneficial uses, [and] (5) Includes a monitoring program to ensure effectiveness." *Id.* The Draft Permit needs to eliminate the variance or (a) delete the "reasonably expected to" language and require the BMPs to actually meet the variance requirements, (b) articulate how to determine compliance with requirements (1), (4) and (5), and (c) require the permittee to submit the variance documents to the Regional Board as a public document prior to issuance of the variance.

## **7. Replace TMDL "Workplans" with Existing RWL Compliance Report Process**

To enforce compliance with Total Maximum Daily Load requirements ("TMDLs"), the Draft Permit provides: "[i]f any [Waste Load Allocation] is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, the Regional Water Board staff will evaluate the need for further enforcement action." Draft Permit at pages 83-89. However, the Draft Permit does not define "MS4 Effluent Quality Source Identification Workplans." Staff indicated that said Workplans are one and the same document as the workplans required of the permittees at Part 6.II of the Draft Permit, which must be approved by the Executive Officer of the Regional Board. Draft Permit Part 6.II at page 82. There is no need to create another type of compliance report. The Draft Permit should delete all references to the workplans and simply provide that any exceedance of WLAs is a violation of water quality standards and requires RWL Compliance Reports in accordance with Part 3 of the Draft Permit.

## **8. Protect Areas of Special Biological Significance (ASBS)**

The California Ocean Plan prohibits discharges to Areas of Special Biological Significance (ASBS) (now called "State Water Quality Protection Areas") such as Mugu Lagoon. Although Calleguas Creek flows into Mugu Lagoon, the Draft Permit does not appear to impose any additional requirements based on Mugu's ASBS status. The Draft Permit needs to address the legal protection afforded to Mugu Lagoon by the California Ocean Plan. Moreover, Mugu Lagoon has special significance because it was originally the location of Muwu, a traditional Chumash village from which the name "Mugu" is derived. Allowing polluted discharges of storm water to Mugu Lagoon disregards the value of our traditional village and resources.

Thank you for this opportunity to comment on the Draft Permit and for all of your work to protect our waters. Please contact us at with any questions you may have.

Sincerely,

[signature sent via fax]

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Mati Waiya  
Coastkeeper

[signature sent via fax]

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Ruby Evans  
Project Manager  
Ruby.evans1@verizon.net

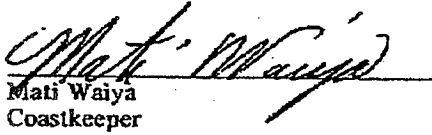
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**D000613**

Thank you for this opportunity to comment on the Draft Permit and for all of your work to protect our waters. Please contact us at with any questions you may have.

Sincerely,

  
Mati Waiya  
Coastkeeper

  
Ruby Evans  
Project Manager  
Ruby.evans1@verizon.net



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LOS ANGELES, CA 90013

May 29, 2008

Executive Officers and Members of the Board  
CA Regional Water Quality Control Board Los Angeles Region  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013  
Attn: Xavier Swamikannu

Re: Draft Tentative Ventura County Municipal Separate Storm Sewer System (MS4)  
Permit  
distributed April 29, 2008 (NPDES PERMIT No. CASO04002)

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### **1. Draft Permit Must Link Monitoring Data to Water Quality Standards**

The monitoring program must be sufficient to determine whether a municipality is causing or contributing to violations of the permit. See 40 C.F.R. §122.44(i). The Draft Permit prohibits any discharges from the MS4 that cause or contribute to a violation of water quality standards. Draft Permit Part 3.1 at page 32. Thus, legally, the monitoring program must be sufficient to determine whether the permittees are violating water quality standards. The Draft Permit, however, does not satisfy this requirement for two reasons:

(1) First, the monitoring locations are insufficient to identify the activities or failures that are causing or contributing to impairment. This source identification problem is summarized by Jonathan Bishop, the former Executive Officer of the Regional Board, in a letter to the Principal Permittee dated March 9, 2007:

“The Monitoring Program has been in effect for several years in the County of Ventura and Permittees report exceedances of several of the same water quality objectives year after year in receiving waters without being able to identify or eliminate the sources of the exceedances. Without differentiation of sources from the Permittee's MS4s, the application of appropriate Best Management Practices (BMPs) to reduce the discharge of pollutants of concern to the maximum extent practicable (MEP) is unattainable.”

To evaluate the permittees' compliance with water quality standards and what additional steps must be taken to achieve compliance, the Draft Permit must require upstream monitoring that is representative of their respective discharges. The Regional Board needs to define which major outfalls will be monitored in accordance with this objective. It is unacceptable to allow the permittees' to determine which major outfalls are “transporting representative landuse discharges” and thus need to be monitored. Draft Permit at page F-4. Unless the Regional Board and the permittees know the source of the pollutants causing and contributing to water quality violations, how can anyone know what BMPs are needed or working? For all of these reasons, the Draft Permit needs to contain, at the outset, a robust program of upstream monitoring and source identification.

(2) Second, the Draft Permit does not articulate how to make a determination of compliance with water quality standards. To make such a determination, the Draft Permit must link the measurements obtained by the monitoring program to water quality standards such as those set forth in the California Toxics Rule (“CTR”). VCK is asking the Regional Board to invest a significant amount of time to articulate how monitoring data can be converted into a determination of compliance with water quality standards. Not only is it legally required, but it will greatly simplify implementation and enforcement of the final permit.

Has the Regional Board evaluated how many person years it will take to review all of the various reports, Storm Water Quality Management Plans and field inspections required by the Draft Permit (apart from the time it is taking to draft the nearly 200-page permit)? The State Board itself found that "the current level of program staffing resources is not sufficient to fully implement the storm water program." Draft Enforcement Report, CA State Water Board, January 2008, page 14. For fiscal year 2006-2007, the State Board estimated that the NPDES Storm Water Program needed 400 staff in order to operate a fully-functioning program. As of April 2008, the NPDES Storm Water Program had about 100 staff. Baseline Enforcement Report (FY 2006-2007), CA State Water Board, revised April 30, 2008, page 21. Adoption of water quality standards will lessen the need for so many reports, plans and programs because it will be clear from the monitoring program alone whether the permittees are in compliance and, more importantly, the permittees will know better how to achieve compliance.

It is also important to put the Draft Permit into context. This is the third iteration of Ventura County's Phase I MS4 Permit (first adopted in 1994). The MS4 Permit has been regulating storm water discharges for nearly 15 years but storm water continues to exceed water quality standards and impair our waters. Draft Permit at page 2. In 2007, monitoring data showed elevated pollutant concentrations at all monitoring sites during one or more monitored wet weather storm events, and at specific sites during one or more dry weather events. Ventura Countywide Stormwater Quality Management Program, Annual Report for Permit Year 7, Reporting Year 13 (October 2007) at page 9-17. Yet, the Draft Permit limits monitoring to three mass emission stations and an undefined set of major outfalls. Let's not wait another five to seven years before we make a serious attempt to identify the source of this pollution.

## **2. Require Compliance with MALs and Provide a Method of Enforcement**

VCK agrees with NRDC and Heal the Bay regarding the MALs (a) being too high relative to water quality standards (such as the CTR), and (b) constituting technology-based effluent limitations that do not reflect the Maximum Extent Practicable (MEP) standard. Notwithstanding those issues, at a minimum, the Draft Permit needs to actually require compliance with the MALs on a reasonable schedule, and to provide a mechanism for enforcement. Staff has indicated that, to account for sampling abnormalities, the Draft Permit allows the permittees to exceed the MALs 20% of the time over the first three years of the Draft Permit before attempting to require any corrective action. Draft Permit Part 2.1 at page 32. If the MALs are exceeded more than 20% of the time, the violating permittee is required to "affirmatively augment and implement all necessary storm water controls and measures to reduce the discharge of the associated class of pollutants in accordance with [MEP]," which is exactly what every permittee is required to do in the first place. *Id.* Thus, the Draft Permit undermines the very MAL standards it sets forth and requires no real progress for at least three more years in a program intended to achieve compliance in 1992.

The Draft Permit should be revised to provide that any exceedance of the MALs shall create a presumption that the permittees have not complied with MEP and require all permittees upstream from the point of discharge to notify the Regional Water Board within 30 days of knowledge of such exceedance and thereafter submit a MAL Compliance Report in accordance with the procedures set forth for RWL Compliance Reports at Part 3.3 of the Draft

Permit. If there is any sampling abnormality, the EO can make such a determination and modify the contents of the MAL Compliance Reports accordingly.

### **3. Trigger for Receiving Water Limitation Compliance Reports is Too Subjective**

Part 3 of the Draft Permit is internally inconsistent. Part 3.1 states that “[d]ischarges from the MS4 that cause or contribute to a violation of water quality standards are prohibited.” Draft Permit at page 32. But, Part 3.3 of the Draft Permit goes on to say that “[i]f exceedances of water quality standards or water quality standards *persist* . . . , the permittee shall ensure compliance with discharge prohibitions and receiving water limitations by [submitting a Receiving Water Limitations [RWL] Compliance Report].” Draft Permit at pages 32-33 (emphasis added). By allowing violations of water quality standards to “persist” for an undefined period of time, the Draft Permit in effect permits rather than prohibits such violations. The word “persist” needs to be deleted from Part 3.3 of the Draft Permit because (a) it is inconsistent with the permit’s stated objective of ensuring compliance with water quality standards, and (b) it undermines effective enforcement of water quality standards by setting a totally subjective trigger for RWL Compliance Reports. Draft Permit Finding F.2 at page 21.

### **4. Implement Storm Water Quality Management Programs Sooner**

The Draft Permit gives permittees 365 days to adopt a Storm Water Quality Ordinance and modify their storm water management programs. Draft Permit Part 4 at pages 35, 37. However, per the existing MS4 permit, the permittees already have storm water quality ordinances and storm water management programs in place. Order No. 00-108 at pages 11-12. Ninety (90) days is a reasonable period of time to amend existing ordinances and revise existing Storm Water Management Programs.

### **5. Principal Permittee Should Share In Responsibility for Permittees’ Compliance**

The Principal Permittee’s pipes convey pollutants from the municipalities to waters of the United States via point sources. Yet, the Draft Permit purports to relieve the County from any liability for these discharges which is inconsistent with the requirements Clean Water Act. Draft Permit, Part 4.E.1(b) at page 37 (stating that “the Principal Permittee is not responsible for ensuring compliance of any other individual permittee”). Not only is this illegal, it is bad public policy. If the parties want to make a distinction between the responsibility of the Principal Permittee and the other permittees, they need to monitor upstream to determine pollutant source and relative contribution of the permittees to water quality impairment. Otherwise, all permittees upstream from a discharge violating water quality standards (including the Principal Permittee) should be jointly responsible for such violations. The permittees can work out relative liability amongst themselves.

### **6. Grading Prohibition Variance is Too Broad**



The Draft Permit requires each permittee to prohibit grading activity at construction sites with a high risk of erosion during the wet weather season. Draft Permit Part 5.F.1 at page 63. Although sediment is a "primary pollutant impacting beneficial uses of watercourses," the Draft Permit goes on to allow the permittees to grant grading prohibition variances without any notice to or input from the Regional Board. Id. Instead, the Draft Permit leaves it to the permittees to determine whether the builder can demonstrate that the proposed BMPs are "reasonably expected to (1) Not cause or contribute to the degradation of water quality . . . (4) Not impair beneficial uses, [and] (5) Includes a monitoring program to ensure effectiveness." Id. The Draft Permit needs to eliminate the variance or (a) delete the "reasonably expected to" language and require the BMPs to actually meet the variance requirements, (b) articulate how to determine compliance with requirements (1), (4) and (5), and (c) require the permittee to submit the variance documents to the Regional Board as a public document prior to issuance of the variance.

#### **7. Replace TMDL "Workplans" with Existing RWL Compliance Report Process**

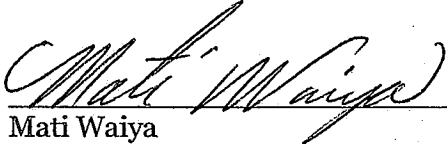
To enforce compliance with Total Maximum Daily Load requirements ("TMDLs"), the Draft Permit provides: "[i]f any [Waste Load Allocation] is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, the Regional Water Board staff will evaluate the need for further enforcement action." Draft Permit at pages 83-89. However, the Draft Permit does not define "MS4 Effluent Quality Source Identification Workplans." Staff indicated that said Workplans are one and the same document as the workplans required of the permittees at Part 6.II of the Draft Permit, which must be approved by the Executive Officer of the Regional Board. Draft Permit Part 6.II at page 82. There is no need to create another type of compliance report. The Draft Permit should delete all references to the workplans and simply provide that any exceedance of WLAs is a violation of water quality standards and requires RWL Compliance Reports in accordance with Part 3 of the Draft Permit.

#### **8. Protect Areas of Special Biological Significance (ASBS)**

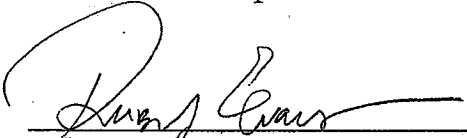
The California Ocean Plan prohibits discharges to Areas of Special Biological Significance (ASBS) (now called "State Water Quality Protection Areas") such as Mugu Lagoon. Although Calleguas Creek flows into Mugu Lagoon, the Draft Permit does not appear to impose any additional requirements based on Mugu's ASBS status. The Draft Permit needs to address the legal protection afforded to Mugu Lagoon by the California Ocean Plan. Moreover, Mugu Lagoon has special significance because it was originally the location of Muwu, a traditional Chumash village from which the name "Mugu" is derived. Allowing polluted discharges of storm water to Mugu Lagoon disregards the value of our traditional village and resources.

Thank you for this opportunity to comment on the Draft Permit and for all of your work to protect our waters. Please contact us at with any questions you may have.

Sincerely,



Mati Waiya  
Ventura Coastkeeper



Ruby Evans  
Project Manager  
Ruby.evans1@verizon.net



May 29, 2008

NATURAL RESOURCES DEFENSE COUNCIL

Via electronic mail and U.S. mail

Chair Francine Diamond and Members of the Board  
California Regional Water Quality Control Board, Los Angeles Region  
Attention: Xavier Swamikannu, Storm Water Permitting  
320 West 4th Street, Suite 200  
Los Angeles, CA 90013

Dear Chair Diamond and Members of the Board:

On behalf of the Natural Resources Defense Council and Heal the Bay, we submit the following comments on the April 29, 2008, Draft Tentative Order, Ventura County Municipal Separate Storm Sewer System Permit ("Permit"), NPDES Permit No. CAS004002. These comments focus on the Permit's Planning and Land Development Program and in particular on the use of low-impact development ("LID") site design techniques to mitigate the deleterious impacts of urban runoff, principally stormwater pollutant loading and adverse hydromodification. Our previous submissions have highlighted the multiple benefits of LID and the feasibility of implementing LID in Ventura County. While we are pleased to see that the Regional Board has required the integration of LID principles into project design, we are concerned about several provisions of the Planning and Land Development Program that threaten to undermine the Permit's objectives.

The critical remaining issues, discussed in our previous letter of October 15, 2007, and again in more detail below, are:

- (1) The Permit limits the applicability of post-construction treatment control requirements to projects above certain threshold sizes (§ 5.E.II), even though LID, which the Permit prioritizes for BMP selection, is demonstrably superior to other stormwater treatment methods and can be adapted to all sites;
- (2) Regional Board staff have appropriately chosen to include an "Effective Impervious Area" limitation to guide LID implementation at regulated projects (§ 5.E.III.1), but the Permit's 5% limitation does not represent the MEP standard and is higher than scientifically advisable for preventing the degradation of Ventura County's watersheds;
- (3) The Integrated Water Quality/Flow Reduction/Resources Management Criterion (§ 5.E.III.1) does not clearly include the necessary sizing standard to ensure that surfaces are truly rendered "ineffective;" and

- (4) The Alternative Post Construction Storm Water Mitigation Programs section (§ 5.E.IV.4) is unlawfully vague and could undercut the potential benefits of other sections of the Permit.

Below, we have provided our recommendations for rewriting these provisions to ensure that LID measures are implemented properly and that stormwater pollution is reduced to the maximum extent practicable, as required by the Clean Water Act.

**I. The Permit requires the implementation of post-construction treatment controls only for projects above certain threshold sizes, but LID techniques offer demonstrably superior water quality results and are adaptable to all sites.**

Section 5.E.II of the Permit outlines various developments that, if sufficiently large, are required to implement post-construction treatment controls, and section 5.E.I.1(e) prioritizes LID measures as the preferential treatment option. However, projects that do not meet the threshold size criteria are not required to implement these stormwater controls. This runs counter to the first draft of the Permit—"All new development and redevelopment projects shall integrate Low Impact Development ... principles into project design"<sup>1</sup>—and to LID's adaptability. This current approach is ill-advised and inconsistent with the MEP standard. As we have highlighted in our previous comments and in technical reports by Dr. Richard Horner, even small project sites have the capacity to implement LID with extraordinary results. Indeed, every site *should* incorporate LID to the maximum extent because LID designs are a proven, cost-effective, and superior means of reducing stormwater pollution that would otherwise be discharged from developed sites. At the very least, basic LID requirements should apply to these projects.

**II. The Permit's "Effective Impervious Area" ("EIA") limitation of 5% will not reduce pollution to the maximum extent practicable and will not adequately ensure the health of Ventura County's waters.**

As demonstrated in our previous submissions, an EIA limitation of 3% is both advisable from an ecological viewpoint and achievable from a technical standpoint. Watershed research has shown that the threshold for negative effects on streams in semi-arid regions of California is 2-3% EIA,<sup>2</sup> not 5%, as proposed in the Permit. Because 3% EIA is a feasible and scientifically supported standard for a wide variety of development typologies in Ventura County, the Permit should adopt this more stringent limitation to ensure that pollution is reduced to the Clean Water Act's maximum extent practicable standard.

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<sup>1</sup> Los Angeles Regional Water Quality Control Board, *Draft Ventura County Municipal Separate Storm Sewer System Permit*, NPDES No. CAS004002 (Dec. 27, 2006), Part 4.E.I.1 (hereinafter "First Draft Permit").

<sup>2</sup> See R. Horner, *Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices ("LID") for Ventura County* (February 2007) at A-1 to A-2 (hereinafter "Horner Report").

**III. The Permit must include a numeric sizing criterion to assure that impervious surfaces are truly disconnected from storm sewer systems so that the Permit's EIA limitation will meet the MEP standard.**

The Permit contains a requirement that New Development and Redevelopment projects must reduce the percentage of Effective Impervious Area to less than 5% of the total project area. (§ 5.E.III.1(a).) The Permit also describes acceptable methods for rendering surfaces "ineffective" by directing stormwater to various infiltration or storage areas. (§ 5.E.III.1(b).) While the designs described could conceivably convert impervious area to effective pervious area, the permit fails to specify clearly that these designs must be properly sized to infiltrate or store all runoff from the impervious areas drained. We have consistently noted in our past submissions that this lack of clarity is both scientifically and legally unsound because it undermines the technical value of the EIA concept and prevents the EIA limitation from meeting the MEP standard. The Permit still does not adequately address these concerns.

As currently written, a developer may assert that the permit's EIA limitation is satisfied by installing an inadequately sized LID feature that would overflow to the storm sewer system with minimal infiltration or capture. Although the Permit does require that any such overflow be "mitigated in accordance with subpart 5.E.III.4" (Draft Tentative Order § 5.E.III.1(c)), this subverts the purpose of establishing an EIA standard because subpart 5.E.III.4 allows for any volumetric or flow-based treatment control BMPs and does not prioritize the implementation of LID. Dr. Horner comments in his letter (attached) that if developers divert a large portion of site runoff to conventional facilities, considerably less pollution reduction will occur and hydromodification benefits will not be realized. Thus, from a technical perspective, the provisions providing direction on how to render impervious surface "ineffective" could create disagreement about interpretation, could be abused, and could undercut the water quality benefits that the Permit could otherwise create.

Failing to insert a sizing criterion addressing how a developer effectively disconnects impervious surface to meet the EIA limitation would also prevent the Permit from meeting the MEP standard because the installation of conventional stormwater treatment controls, as the EIA provisions could currently allow, cannot generate the same pollution reduction and hydromodification benefits as LID practices. Dr. Horner has demonstrated the superior effectiveness of LID stormwater treatment controls, but, as explained above and in Dr. Horner's letter, the Permit's current language could create room for disagreement about whether the installation of conventional controls could be used on a site to treat the vast majority of stormwater runoff. This would necessarily result in less effective pollution reduction and less effective mitigation of the adverse impacts of hydromodification. Such outcomes are contradictory to meeting the MEP standard, and for this reason the EIA provisions currently fail to uphold the Clean Water Act's mandate.

Furthermore, allowing any room for developers to meet the Permit's EIA limitation through the installation of conventional proprietary devices is inconsistent with the entire EIA concept. The purpose of imposing an "effective" impervious area limitation is to ensure that the

vast majority of stormwater receives treatment through LID and never even enters the storm sewer system. The lack of a sizing criterion, however, could permit some to argue that huge quantities of stormwater can be permissibly discharged into the storm sewer system after only receiving conventional treatment, which necessarily implies that very little impervious surface would have been rendered "ineffective." The Regional Board does not have the discretion to adopt insufficiently clear and potentially self-contradictory definitions, or fail to give words their natural meanings. Doing so would be inconsistent with standards applicable to quasi-adjudicative action, such as permit issuance.

For the foregoing technical and legal reasons, the EIA provisions must be revised to include a numeric sizing criterion. In Attachment A, below, we have suggested alternative language to remedy the EIA provisions' current inadequacy.

**IV. The Permit's alternative compliance provisions are unlawfully vague and confusingly worded and would not ensure pollution reduction to the maximum extent practicable.**

The Permit includes a section detailing "Alternative Post Construction Storm Water Mitigation Programs" that allow permittees or coalitions of permittees to circumvent the post-construction requirements of the Permit by implementing larger-scale runoff management plans. Although there are merits to this approach (it theoretically enables multi-site strategies for severely constrained, ultra-urban areas, for instance), it could become a vehicle for ill-conceived mitigation efforts that would accomplish much less than the site-specific strategies otherwise required by the Permit. For this reason, the alternative programs section of the Permit must be clearly drawn and impose standards equivalent to the standards imposed on individual projects. Unfortunately, the Permit remains legally inadequate in this regard.

**1. The Permit does not clearly identify whether section 5.E.IV.4 creates one or two alternative stormwater mitigation programs.**

Provisions 5.E.IV.4(a)-(b) allow for approval of a "regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements." Provisions 5.E.IV.4(c)-(f) establish the option of submitting a Redevelopment Project Area Master Plan ("RPAMP") to the Regional Board. It is not evident from the Permit's language and structure, however, whether the "regional or sub-regional storm water mitigation programs" are the same as "RPAMPs" (provision (d) in the RPAMP portion, for instance, references balancing the interests of provision (b) in the regional and sub-regional portion). We understand from Regional Board staff that these are intended to be separate programs, so we will address their legal inadequacies in turn.

2. The “regional or sub-regional storm water mitigation program” (“regional program”) is not clearly articulated, does not include public review opportunities, and generally fails to meet federal requirements.
  - a. **The vagueness of the regional program’s provisions and lack of enforceable standards constitute a failure to impose the stormwater treatment controls required by law to meet the MEP standard.**

The provisions that create the regional program alternative compliance option are unlawfully vague, especially considering that this program would substitute in part or wholly for the Permit’s post-construction stormwater control requirements. Of particular concern, the Permit fails to describe in adequate detail the pollution reduction and hydromodification criteria that regional programs must meet. Rather, the alternative compliance section would impose such imprecise requirements as: “Protect stream habitat;” “Promote cooperative problem solving by diverse interests;” etc. As drafted, these are no more than broad objectives unconnected to specific performance standards.

Substituting vagaries for the Permit’s otherwise applicable requirements runs directly against the regulatory obligation that the Regional Board must actually set forth “permit conditions to reduce pollutants in discharges to the maximum extent practicable.” (40 C.F.R. § 122.26(d)(2)(iv).) Indeed, these conditions must satisfy the statutory obligation that every permit issued to a municipal discharger “shall require *controls* to reduce the discharge of pollutants to the maximum extent practicable. . . .” (33 U.S.C. § 1342(p)(3)(B)(iii) (emphasis added).) The amorphous guidance described above, however, does not constitute the imposition of “controls” at all. It is merely aspirational language that contains nothing approximating a control measure or numerical requirement that would ensure achievement of the MEP standard.

EPA guidance unambiguously reinforces the conclusion that BMP design under the NPDES permit program requires the inclusion of measurable goals “that quantify the progress of program implementation and the performance of [Permittees’] BMPs.”<sup>3</sup> Generally, “considerable deference” must be extended “to an administrative agency’s interpretation of its own regulations,” and thus EPA’s guidance interpreting the requirements of NPDES permits “is entitled to great weight unless unauthorized or clearly erroneous.” (*Communities for a Better Environment v. State Water Resources Control Board*, 109 Cal.App.4th 1089, 1107 (2003).) EPA “strongly recommends” that, among other components, measurable goals include “a quantifiable target to measure progress toward achieving the activity or BMP.”<sup>4</sup> This requirement for quantifiable BMP targets is further clarified in EPA’s examples of BMPs and

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<sup>3</sup> EPA, *Measurable Goals Guidance for Phase II Small MS4s: Part 2. Process for Developing Measurable Goals Under a General Permit*, available at <http://cfpub.epa.gov/npdes/stormwater/measurablegoals/part2.cfm>.

<sup>4</sup> *Id.*

associated measurable goals. These examples clearly demonstrate that the considerations outlined in the regional program provisions are impermissibly vague:

**BMP:** Reduce directly connected impervious surfaces in new developments and redevelopment projects by requiring that grassed swales or filter strips be installed along roadsides in lieu of curbs and gutters.

**Measurable Goal:** Directly connected impervious road surfaces in new developments and redevelopment areas will be reduced by 30 percent (relative to the traditional scenario in which curbs and gutters are used) over the course of the first permit term.

**BMP:** Incorporate the use of road salt alternatives for roadway deicing.

**Measurable Goal:** During the 1st year, reduce the amount of road salt applied to roadways by 50% through the use of less-toxic alternatives, such as liquid calcium magnesium acetate (CMA).<sup>5</sup>

In each of these cases, to constitute an adequately described BMP, EPA requires that a clear performance standard be linked with an activity.

Moreover, the State Water Board has agreed that such specific requirements are advisable, stating that, “[t]he addition of measurable standards for designing the BMPs provides additional guidance to developers and establishes a clear target for the development of the BMPs.” (SWRCB, Water Quality Order No. 2000-11, at 17.) By contrast, in the case of the Permit’s regional program provisions, there is no recommended or required activity, no measurable goal, no means of assessing BMP performance or progress, and no means of determining whether the alternative program has achieved its purpose. As a result, the vaguely worded provisions in section 5.E.IV.4 fail to satisfy EPA regulations and guidance and are invalid under the Clean Water Act.

Further, the Permit’s regional program section has taken an approach mimicking approaches that have previously proven ineffective. This approach—including vague goals and no enforceable criteria—grants to individual permittees discretion to determine the extent of their implementation of stormwater management BMPs. Consequently, the Permit itself does not include a set of controls that will reduce pollutants to the *maximum extent practicable* as far as regional programs are concerned. (See *Defenders of Wildlife v. Babbitt*, 130 F.Supp.2d 121, 131 (D.D.C. 2001) (phrase “maximum extent practicable” “imposes a clear duty on the agency to fulfill the statutory command to the extent that it is feasible or possible”). By including greater specificity and creating enforceable performance standards (as recommended below), the

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<sup>5</sup> EPA, *Phase II BMP & Measurable Goal Examples*, available at <http://cfpub.epa.gov/npdes/stormwater/measurablegoals/ex5.cfm>; <http://cfpub.epa.gov/npdes/stormwater/measurablegoals/ex6.cfm>.



Regional Board can bring this section of the Permit into compliance with Clean Water Act mandates.

- b. The regional program's failure to include specific pollution reduction and hydromodification goals prevents the Permit from meeting applicable water quality requirements.**

Pursuant to federal regulations, "no permit may be issued" when "the imposition of conditions cannot *ensure* compliance with the applicable water quality requirements of all affected States." (40 C.F.R. § 122.4(d) (italics added).) The word "ensure" is defined as "to make certain or sure of."<sup>6</sup> "Certain" is further defined as "definite"; "sure to happen"; and "established beyond question or doubt."<sup>7</sup> In other words, permit conditions must make sure, or establish beyond question, that applicable water quality standards will be met. This requirement applies to the issuance of MS4 permits. In a precedential order, the State Water Resources Control Board elaborated on this requirement and determined that municipal stormwater permits must prohibit discharges of pollution that cause or contribute to the violation of water quality standards. (See State Water Resources Control Board WQ Order 2000-11.)

The regional program provisions discussed above, which include no performance criteria, fail to "establish beyond question or doubt" that water quality standards will be met. This deficiency independently violates the Clean Water Act. (See *In Re Government of the District of Columbia Municipal Separate Storm Sewer System*, 10 E.A.D. 323, 341-342 (BMPs that are "reasonably capable" of attaining water quality standards do not "appear to be entirely comparable to the concept of *ensuring* compliance").)

- c. By not including opportunities for public comment, and by failing to establish enforceable criteria through which permittee compliance can be assessed, the regional program provisions in effect unlawfully preclude both public review of the Permit's terms and public or Regional Board enforcement of the Permit.**

The failure to include an objective performance standard or clear and detailed requirements for LID in the regional program provisions, which could entirely waive the Permit's post-construction requirements, violates the Clean Water Act by precluding required agency and public review of permit conditions. Deferring the creation of stormwater mitigation programs to the process of approving regional programs would prevent the Regional Board and the public from reviewing permittees' substantive implementation of the Clean Water Act until after the MS4 permit has been issued. This is unlawful. (See, e.g., *Environmental Defense Center v. EPA*, 344 F.3d 832, 857-58 (9th Cir. 2003) ("*EDC*"); see also *Waterkeeper Alliance v. U.S. EPA*, 399 F.3d 486, 500 (2d Cir. 2005).) Meaningful review means *ensuring* that the MS4

<sup>6</sup> Webster's II New College Dictionary (Houghton Mifflin Co. 1995).

<sup>7</sup> *Id.*

permits are in fact designed to reduce pollutants in stormwater to the MEP standard. (33 U.S.C. § 1342(b) (States are allowed to issue NPDES permits only where, *inter alia*, the state permitting programs “*apply, and insure compliance with, any applicable [effluent limitations and standards].*”) (emphasis added).)

If the Regional Board allows the waiver of all normally applicable post-construction requirements, the Permit must at least contain provisions that ensure the achievement of the MEP standard with respect to the alternative compliance program. But, as discussed above, the current draft of the Permit fails to do so. The combination of vague goals that do not meet the MEP standard, compounded by the failure to describe in any detail what requirements regional programs must contain, amounts to the *de facto* creation of an impermissible self-regulatory program. There is little to stop a permittee from “misunderstanding or misrepresenting its own stormwater situation and proposing a set of minimum measures for itself that would reduce discharges by far less than the maximum extent practicable.” (*EDC*, 344 F.3d at 855.) It is precisely to prevent this type of problem that *EDC* and *Waterkeeper Alliance* require the Regional Board itself to ensure that the Permit contains objective performance standards and the level of detail necessary to reduce pollutants in actuality to the maximum extent practicable. As currently written, it would be impossible for the Board to conclude that a regional program approved under section 5.E.IV.4 would necessarily meet the MEP standard.

3. The RPAMP alternative compliance option suffers from the same problems as the regional program option and deviates even further from the mandates of the Clean Water Act.

The only requirement with any arguable substance in the RPAMP provisions is a reference to balancing the interests identified in provision 5.E.IV.4(b). Provision 5.E.IV.4(b), however, is far from passing muster under the Clean Water Act, as described above. Thus, the RPAMP option is unlawful for all of the reasons previously discussed.

But the RPAMP option is, unfortunately, even less strict and more ambiguous than the regional program option, which places it further from compliance with the MEP standard. Specifically, it allows a “balancing of interests ..., including water quality,” and would appear to enable water quality to be traded away for other benefits. (§ 5.E.IV.4(c)-(d).) This is not only unnecessary—Regional Board staff have not demonstrated that redevelopment areas are inherently incapable of meeting the same standards as other areas subject to the Permit’s requirements—it is illegal. The Clean Water Act mandates that the Regional Board ensure the implementation of BMPs that will reduce pollution *to the maximum extent practicable*. The Permit requires compliance with water quality standards. The Regional Board does not have the authority to relax water quality requirements in favor of promoting non-water-related urban planning interests; the Board is acting in a quasi-adjudicative role; it is not the Legislature or Congress, drafting law on a blank slate. “Balancing” already occurred when legislative bodies deliberated, revised, and then adopted state and federal water quality laws. Indeed, here, there is no evidence in the record to show that achieving water quality goals is antithetical to the other benefits sought. Finally, because the Board is obligated to issue permits that contain specific

controls that are susceptible to review by the public and Boardmembers, any lawful "balancing" must occur in the creation of a control, not afterward. A BMP that purports to allow permit holders to "balance" factors to develop the control constitutes a self-regulatory scheme that is further illegal for this reason.

4. Instead of listing vague goals in 5.E.IV.4(b), the Permit should subject regional and sub-regional programs and RPAMPs to the same standards as individual projects.

The result of implementing alternative programs should be to achieve the same pollution reduction, hydromodification, and other goals as individual regulated projects, and the specific, numeric targets imposed on individual regulated projects should be imposed on alternative programs, too. The principal difference between alternative programs and the requirements for individual developments should be that alternative programs allow for the achievement of water quality goals on an area-wide basis, rather than on a site-by-site or project-by-project basis. This promotes the Board's interest in providing reasonable flexibility to permit holders while meeting the Clean Water Act's substantive mandates. We would support such an approach.

For the reasons discussed above, we recommend that the Regional Board rewrite section 5.E.IV.4 to require that the areas covered by alternative programs meet the Permit's EIA and hydromodification standards. This would address developers' concerns that particular sites may be unable to achieve these standards, and it would allow developers and municipalities flexibility in crafting stormwater mitigation programs that encompass multiple sites. At the same time, this would ensure that the alternative compliance options do not enable areas covered by an alternative stormwater mitigation program to discharge greater quantities of pollution and higher volumes/peak flows than other regulated projects. Even with our suggested changes, the alternative programs would still represent a significant departure from the rest of the Permit's Planning and Land Development Program, and thus the Regional Board must require that all alternative compliance program applications be approved by the Board itself and not simply by the Board's Executive Officer.

#### **V. Recommended changes.**

In Attachment A, we have redlined two of the problematic sections of the Permit's Planning and Land Development Program: the Integrated Water Quality/Flow Reduction/Resources Management Criterion and the Alternative Post Construction Storm Water Mitigation Programs section. With regard to the first, we have inserted a numeric sizing criterion, as suggested by Dr. Horner in his attached letter. With regard to the second, our recommendation is to eliminate the "regional or sub-regional" option because it is extremely open-ended and not grounded in any identifiable concerns about the feasibility of implementing the Permit's project-specific requirements. However, if the Regional Board wishes to retain this option, it should be subjected to the same performance criteria as the RPAMP option, as suggested below.

Chair Francine Diamond and Members of the Board

May 29, 2008

Page 10 of 10

Our recommendations are oriented toward eliminating ambiguities in the current Permit language, increasing the clarity and enforceability of performance requirements, and ensuring that the Planning and Land Development Program will meet the Clean Water Act's MEP standard, which it currently fails to do.

**VI. Conclusion.**

We appreciate the effort that Regional Board staff has invested in establishing LID requirements for the Planning and Land Development Program. At this stage in the permitting process, however, we hope that our remaining concerns, described in previous comments and reiterated in this letter, will be quickly addressed so that the Permit meets the MEP standard and stands up to Clean Water Act scrutiny when it is ultimately issued. This will require implementing revisions to the problematic sections of the Planning and Land Development Program, as detailed above. Please contact us if you have any questions about our suggested changes or if you would like to discuss modifications to our recommended Permit language.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Beckman', with a long horizontal flourish extending to the right.

David Beckman

Bart Lounsbury

Natural Resources Defense Council

# **Attachment A**

ATTACHMENT A

IV. Implementation

4. Alternative Post Construction Storm Water Mitigation Programs

(a) A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) for redevelopment projects within Redevelopment Project Areas, in consideration of exceptional site constraints that inhibit site-by-site or project-by-project implementation of post-construction requirements

Deleted: regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements.

(b) Upon review and a determination by the Regional Water Board Executive Officer that the proposal is technically valid and appropriate, the Regional Water Board may consider for approval such a program if its implementation will:

(1) Result in equivalent or superior reduction of storm water pollutant loads in comparison to individual projects regulated by this permit;

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(2) Satisfy, on a Redevelopment Project Area-wide basis, the hydromodification criteria of Section 5.E.III.3;

(3) Reduce the percentage of Effective Impervious Area (EIA) to less than 5 percent of the Redevelopment Project Area, using properly sized storm water treatment/collection features, as described in Section 5.E.III.1;

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(4) Be fiscally sustainable and have secure funding; and

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(5) Be completed in four years or less, including the construction and start-up of treatment facilities.

(c) The RPAMP should prioritize the implementation of LID storm water mitigation measures, as described in and required by Section 5.E.III.2.

Deleted: A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) for redevelopment projects within Redevelopment Project Areas, in consideration of balancing water quality protection with the needs for adequate housing, population growth, public transportation and management, land recycling, and urban revitalization.

(d) For the RPAMP to be considered, a technical panel of the Local Government Commission or an equivalent state or regional planning agency must have reviewed and approved the proposed RPAMP, prior to its submittal to the Regional Water Board, for conformity with the requirements of (b) above, The Regional Water Board Executive Officer may then consider the RPAMP for approval and submit it to the Regional Water Board for consideration if it meets the criteria outlined above. The Regional Board must subject every RPAMP proposal to public

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review, including at least a 30-day notice-and-comment period, before the Regional Board approves an RPAMP.

(e) An RPAMP may substitute in part or wholly for site-specific post-construction requirements, provided that the applicant makes the necessary showings.

(f) Redevelopment Project Areas include the following:

- (1) City Center areas
- (2) Historic District areas
- (3) Brownfield areas
- (4) Infill Development areas
- (5) Urban Transit Villages
- (6) Any other redevelopment area so designated by the Regional Water Board

Deleted: The RPAMP, on approval, may substitute in part or wholly for on-site postconstruction and hydromodification requirements

(g) Nothing in these provisions shall be construed to allow a Permittee or a coalition of Permittees to delay the implementation of post-construction control requirements, as approved in this Order. Permittees shall implement the post-construction control requirements detailed in this Order until the Regional Water Board has formally approved, and Permittees have begun active implementation of, an alternative stormwater mitigation program under this section.

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### **III. New Development/Redevelopment Performance Criteria**

#### **1. Integrated Water Quality/Flow Reduction/Resources Management Criterion**

- (a) Permittees shall require that all New Development and Redevelopment projects identified in subpart 5.E.II control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces through percolation, infiltration, storage, or evapo-transpiration, by reducing the percentage of Effective Impervious Area (EIA) to less than 5 percent of total project area
- (b) Impervious surfaces may be rendered "ineffective" if the storm water runoff is:
- (1) Drained into a vegetated cell, over a vegetated surface, or through a vegetated swale, having soil characteristics either as native material or amended medium using approved soil engineering techniques; or

- (2) Collected and stored for beneficial use such as irrigation, or other reuse purpose; or
- (3) Discharged into an infiltration trench
- (c) All features constructed to render impervious surfaces "ineffective," as described in provision (b), above, shall be properly sized to infiltrate or store for beneficial reuse at least the volume of water that meets the criteria in subpart 5.E.III.4.
- (d) Any excess surface discharge of the storm water runoff shall be mitigated in accordance with subpart 5.E.III.4
- (e) Alternatively, where a permittee or a coalition of permittees has a Redevelopment Project Area Master Plan (RPAMP) approved in accordance with subpart 5.E.IV, the provisions of the RPAMP will substitute for the site-specific EIA requirements identified above.

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# **Attachment B**

**RICHARD R. HORNER, PH.D.**

230 NW 55<sup>TH</sup> STREET  
SEATTLE, WASHINGTON 98107

TELEPHONE: (206) 782-7400  
E-MAIL: [rrhorner@msn.com](mailto:rrhorner@msn.com)

May 28, 2008

Chair Francine Diamond and Members of the Board  
California Regional Water Quality Control Board, Los Angeles Region  
Attention: Xavier Swamikannu, Storm Water Permitting  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Dear Chair Diamond and Members of the Board:

I am writing with reference to subpart 5.E.III.1 of the Draft Ventura County Municipal Separate Storm Sewer System Permit (NPDES Permit No. CASOO4002), which concerns New Development/Redevelopment Performance Criteria. The section now requires that new development and redevelopment projects have less than 5 percent of total project area as Effective Impervious Area (EIA). It proceeds to state that impervious surfaces can be rendered "ineffective" if the storm water runoff is: (a) drained into one of several types of vegetated management areas, (b) collected for a beneficial use, or (c) discharged into an infiltration trench. Further, any excess runoff existing after exercising one of those options is to be managed as specified in subpart 5.E.III.4, which sets criteria for application of conventional stormwater practices.

As I documented in my report Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices ("LID") for Ventura County, provided to you when the Draft Permit was first issued in 2007, applying a 3% EIA limitation in conjunction with LID practices of the type anticipated by subpart 5.E.III.1 would reduce site runoff volume and pollutant loading to zero in typical rainfall scenarios in five out of six case studies considered. The EIA provision furnishes a numerical, enforceable standard for LID implementation. However, I am concerned that the permit does not include any sizing criterion for site designs that render surfaces "ineffective" for the purposes of the 3% standard recommended by NRDC or the 5 percent EIA standard now in the draft permit. I believe that this omission could severely undermine the standard.

The ability of the permit stipulations to achieve water quality and hydromodification benefits depends on the proper sizing of LID practices used to manage the quantity and quality of stormwater runoff. If developers construct inadequately sized LID features (as the current permit language might allow), a large proportion of the site runoff would be directed to conventional facilities, which are substantially less effective than LID options. The permit continues to allow "Prefabricated/Proprietary Treatment Control BMPs" [best management practices], which often reduce only the gross solids, treat other pollutants very little, and offer no hydromodification benefits. Therefore, the lack of a sizing

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criterion to accompany the EIA standard could turn a site capable of emitting no pollutants and unquestionably meeting hydromodification requirements into one that discharges most of the potential runoff and pollutants. This situation would make the EIA standard meaningless.

Failing to clearly define actions needed to render impervious area "ineffective" allows for abuse by and creates inconsistency and confusion in those to whom it applies. It is out of step with prevalent practice in the stormwater management field, and even with how conventional practices are handled in the Draft Permit. As it stands, a developer could contend that the existing language allows LID practices to be sized to the designer's liking, whereas conventional BMPs are held to the specific criteria in subpart 5.E.III.4. It is essential for the standard to have usefulness and meet the intended hydromodification prevention and water quality protection objectives that it be coupled with a sizing criterion that truly renders all but no more than 3 percent of the site area "ineffective" as impervious runoff contributing area.

To remedy this shortcoming I recommend that subpart 5.E.III.1 be redrafted as follows (new text in *italics*):

### III. New Development/ Redevelopment Performance Criteria

#### 1. Integrated Water Quality/ Flow Reduction/ Resources Management Criterion

[...]

(b) Impervious surfaces may be rendered "ineffective" if the storm water runoff is:

- (1) Drained into a vegetated cell, over a vegetated surface, or through a vegetated swale, having soil characteristics either as native material or amended medium using approved soil engineering techniques; or
- (2) Collected and stored for beneficial use such as irrigation, or other reuse purpose; or
- (3) Discharged into an infiltration trench.

*(c) All features constructed to render impervious surfaces "ineffective," as described in provision (b), above, shall be properly sized to infiltrate or store for beneficial reuse at least that volume of water meeting the criteria in subpart 5.E.III.4.*

*(d) Any excess surface discharge of the storm water runoff shall be mitigated with quantity control practices as necessary to meet the hydromodification requirements in subpart 5.E.II and conventional treatment practices designed in accordance with subpart 5.E.III.4.*

Chair Francine Diamond and Members of the Board

May 28, 2008

Page 3

I would be pleased to discuss my assessment and recommendations with you and invite you to contact me if you wish to do so.

Sincerely,

A handwritten signature in cursive script that reads "Richard R. Homer". The signature is written in dark ink and is positioned above the printed name.

Richard R. Homer

D000638



BUILDING & SAFETY/ENGINEERING/ENVIRONMENTAL/FIRE PREVENTION

May 29, 2008

Ms. Tracy Escogue, Executive Director  
Los Angeles Regional Water Quality Control Board  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013

Re: Comments for the Ventura County NPDES MS4 Draft Permit (NPDES Permit No. CAS004002)

Dear Ms. Escogue:

Charles Abbott Associates Inc., (CAA) strives to assist our clients in meeting the goals of the third draft of the Ventura County NPDES MS4 Permit. CAA is committed to providing our municipal clients with assistance in fulfilling regional water quality objectives. It is with this in mind that we submit the following comments regarding the current version of the draft Ventura County NPDES MS4 (Permit). We have identified eight (8) areas that we believe require further clarification and discussion before adoption by the Los Angeles Regional Water Quality Control Board ("Regional Board" or "Board"). We appreciate this opportunity to submit comments and thank Regional Board staff for their recent efforts to clarify some of our initial concerns. CAA believes that with minor clarification and revision, the new Permit will enhance local and State Water Quality objectives. CAA therefore submits the following comments and suggested alternatives for the Board's consideration; we have identified those areas of general and specific concerns in the following sections.

#### **I. Specific Comments & Suggestions**

The following comments are specific issues that CAA believes it is critical to resolve prior to further proceedings.

##### **A. Monitoring Major Outfalls**

Parts 2 and 3 of the draft Permit discuss monitoring programs and requirements related to "major outfalls." Currently, the draft Permit indicates that all major outfalls, as defined by 40 C.F.R.



§122.26 (b) (5) and (6), shall require monitoring at all times. CAA believes that such monitoring of all major outfalls is logistically and practically impossible, both financially and physically. As the Board is well aware, roughly 80% of the geographic land area in Ventura County is currently undeveloped. As written, in addition to the Municipal Separate Storm Sewer System (MS4) conveyances greater than 36" in diameter, all areas that drain 50 acres or more would be required to be monitored throughout the six-year Permit term. We believe this provision significantly overprotects the watershed to the detriment of physical and financial resources. Such an effort to monitor all such storm water conveyance is well beyond that which is needed or necessary. An alternative to such an extensive and potentially unnecessary monitoring program could be to develop a ranking or risk based approach or procedure for selecting high, medium and low risk discharge locations. Ranking based on risk could easily be developed using existing land use analysis. Alternatively, the Board could consider a single or multi-year monitoring program of areas to assess the actual pollutant loading. Where results from these identified discharges show no water quality exceedances, monitoring periods could be extended for longer and longer periods until a trigger event occurs, such as an exceedance of receiving water quality limits. Either method would allow the Permittees to would comply with anti-degradation mandates while maximizing costs for application to truly impaired water bodies.

#### B. Municipal Action Levels

Part 2.1 and 2.3 of the draft Permit provides that, "[c]ontinued exceedances after Year 3 of the operative MAL(s) shall create a presumption that the permittee(s) have not complied with the MEP provision in subpart 4.A.2, and have failed to implement adequate storm water control measures and BMPs to comply with the MEP criteria." Additionally, sub-part 2.3 provides that, "[t]he absence of MAL exceedances does not give rise to a presumption that the permittee is complying with the MEP criteria." CAA is gravely concerned that inclusion of the "presumption" in both compliance and non-compliance is unnecessary, restrictive and perilous. For MS4's that have not complied with the Permit, the Board should easily be able to find instances of non-compliance; the presumptive clause is therefore unnecessary. Additionally, the presumptive clause in sub-part 2.3 seems unnecessary and contrary to generally accepted legal principals. If a Jurisdiction is in full compliance with receiving water limitations, it is in



compliance; if not, it is subject to the enforcement capabilities of the Regional Board. Presumptions are simply unnecessary.

C. Receiving Water Limitations

The "Receiving Water Limitations" section found in Part 3.3(a) states that, "[u]pon an exceedance(s) of water quality water quality objectives which may be inferred from the results of the receiving water monitoring programs... all Permittee(s) upstream of the point of discharge shall notify the Regional Water Board, within 30 days of any such inference of exceedance..." In discussions with other Permittees it has been questioned whether the date upon which the "inference of exceedance" occurs is: 1) the date the Permittee becomes aware of an actual exceedance, e.g., the date a sample result is reviewed; or 2) whether it is another date. The significance can be important due to the 30 day limit in which the Permittee must provide the Regional Board with notice. Can the Board clarify whether: 1) the date upon which the inference occurs is either: 1) the date the sampling result is received; or 2) the date the sample was collected.<sup>1</sup> CAA recommends and believes, based on the plain reading of the terms, that the prior is true; that the 30 day reporting begins once the Permittee becomes aware of the inference of an exceedance via a sampling or test result.

D. Redevelopment Project Area Master Plan (RPAMP)

The "RPAMP," as identified in Part 5.E.IV.4 (page 60) defines certain procedures that a Jurisdiction can pursue for identified redevelopment projects. The procedures for approval of a RPAMP are, in our view, extensive. CAA is greatly concerned that for small related projects, such as intercity Brownfield projects, the procedures are unduly restrictive. CAA believes that the Board should provide some mechanism or less restrictive procedures for small categorical projects. For example, in lieu of the review and approval by a "technical panel of the Local Government, Commission or an equivalent state or regional planning agency..." and then the review and approval by the Regional Board, a provision could be inserted simply adding, for

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<sup>1</sup> The question leaves open the potential for Permittees to inadvertently miss reporting deadlines, and in doing so not comply with provisions of the Permit. It is not uncommon for some sample data/parameters to be received several weeks after sample collection. Thus, routine sample processes are often out of the Permittees' control. Contra, some sample results, such as pH, DO, and other parameters are relatively immediately available and exceedances can be reported forthwith.



example, that, “where the Jurisdiction believes this process is too restrictive for the scope and size of the particular redevelopment project, the Jurisdiction can apply directly to the Regional Board’s Executive Officer for exemption or direct approval.”

#### E. Pre-Developed Conditions

Part 7, “Definitions,” of the draft Permit defines, “Pre-Developed Condition” as:

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

This definition leaves open the potential for great error in determining what constitutes the “...typical vegetation, soil and storm water runoff characteristics of open space areas in coastal Southern California...”; therefore potentially causing significant and differing defining baselines for developers, Permittees, and regulatory agencies. This definition, a significant element in the Development Planning program, **must** be clarified to ensure clear compliance parameters. For example one entity could easily define “pre-development” as that of the mid-1700’s, while other could define it based on the definition of “Development” found in this Part of the draft Permit, Part 7.<sup>2</sup> Hence, the start point could reasonably be interpreted as that time before “development” as defined as before “...any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and any other non-residential projects, including public agency projects; or mass grading for future construction.

#### F. Development Construction BMPs

Specified sets of Development Construction BMPs are listed in the draft Permit as Tables 6, 7, and 8. These tables list specific stormwater BMPs for construction sites per CASQA and Caltrans guidelines. Although these Development Construction Program (DCP) measures include the operative term “an effective combination of the following BMPs...” it is

<sup>2</sup> “Development - means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and any other non-residential projects, including public agency projects; or mass grading for future construction.”  
Page 93 of 115. draft Ventura Permit Dated April 29, 2008.



recommended that the Board consider including additional Permit terms allowing Permittees and developers to utilize new or alternative treatment BMPs where it can be shown or proven that other BMPs would equally perform treatment. A provision following F., 4., could be added to the effect, "where the Developer or Jurisdiction can show equal or greater protection through alternative treatment BMPs, and following review by Regional Board staff, the Jurisdiction can allow such alternative or experimental treatment BMPs." Further, this provision could include a provision stating that if the alternative treatment does not perform to expected treatment levels or if an exceedance occurs then the Developer must install, at their own expense, the recommended set of treatment BMPs. Such provisions would encourage developers and their engineers to examine new and developing treatment technologies – ones that may in fact work better than those listed.

#### G. Other

Part 5., G., 1., of the draft Permit, discusses a Storm Water Pollution Control Plan (SWPCP) for Public Agency construction sites whose development disturbs less than one acre. Additionally, the reference in this sub-part identifies Table 5 as the appropriate table. First, should this sub-part reference the construction BMPs as found in Table 6 or is Table 5 correct? Secondly, Part 5.F.(a) provides that each project 1 acre or greater must comply with all requirements as found in "F.1 to F. 5." Sub-part F.4 covers projects 5 acres or greater. It is unclear whether all projects greater than 1 acre also require those measures found in F.4. If so, it is unclear why there is a distinction between the 1 and 5 acre distinctions. Lastly, does the text in this sub-part, "F.1 - F.5" intentionally include itself or did the text intend to reflect only F.1 – F.4.?

## **II. General Comments & Suggestions**

### A. TMDL Chart Clarification

The charts listing limitations for pollutants throughout the TMDL section are not clearly formatted making them hard to understand. Will the Board reformat these charts and allow time for Permittees to review and comment, if necessary, prior to Permit adoption?

### B. Costs of Compliance

The section titled "FINDINGS," sub-part E, number 7, paragraph 5 and 6 reference that Jurisdictions can, "...levy service charges, fees, or assessments sufficient to pay for compliance with this Order." Additionally, the paragraphs continue that the "[l]ocal agencies can levy service charges, fees, or assessments on these activities, independent of real property ownership." Although these statements are partially true, that is Jurisdictions can charge fees for inspections and direct services such as plan reviews, unless a 2/3 voter approval is obtained Jurisdictions can not levy assessments for general storm water programs. The statements should be revised to reflect, more accurately, these abilities of local agencies and Jurisdictions. In part, the statement did in one instance reflect such language. The statement that the local agency can "defray costs of a program without raising taxes..." is true to the extent that local agencies can charge the actual costs related to plan and inspection reviews, inspection costs, and similar direct and identifiable services.

### **III. Conclusions & Recommendations**

In conclusion, CAA reiterates it's appreciation to the Board and it's staff in allowing further comment and suggestion on this the third draft of the Ventura County NPDES MS4 Permit. We believe that with minor clarification and revision, the Board will achieve its objective in improving the state's water quality. We know the municipal entities involved equally share this goal. We therefore suggest and propose that the Board and Staff consider delaying further proceedings on the Permit until these and other prior comments have been fully addressed and considered.

If you have questions, comments, or require additional information regarding these comments, please contact at the above contacts or alternatively at [kimberlycolbert@caaprofessionals.com](mailto:kimberlycolbert@caaprofessionals.com).



BUILDING & SAFETY/ENGINEERING/ENVIRONMENTAL/FIRE PREVENTION

Yours truly,

*Kimberly Colbert*

Kimberly Colbert, Director

Environmental Services Division  
Charles Abbott Associates, Inc.

3152 Shad Court  
Simi Valley, CA 93063  
May 28, 2008

Dr. Xavier Swamikannu  
LARWQCB  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Re: The Proposed Third Draft of the Ventura Countywide  
MS4 (NPDES No. CAS004002) Permit for the Ventura County  
Watershed Protection District, the County of Ventura,  
and the Incorporated Cities Therein--Public Workshop.

Dear Dr. Swamikannu:

This letter is a continuation of my May 27, 2008 letter  
in opposition to the aforementioned item.

COMMENTS

#4 - Page 8 of 115, under Section D. Permit Coverage, "2.", it is stated "The permittees covered under this Order were designated on a system-wide basis under Phase I of the CWA Section 402(p) (3)(B)(i). The action of covering all Ventura County municipalities under a single MS4 permit on a system-wide basis was consistent with the provisions of 40 CFR 122.26(a)(3)(iv), which states that one permit application may be submitted for all or a portion of all municipal separate--continued on top of Page 9 of 115-- storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems; and the Regional Water Board may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems." While this is so, the Los Angeles Regional Water Quality Control Board also relied on the Permittees crossing all t's and dotting all i's with regards to the Ventura Countywide 1992

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MS4 NPDES Permit Implementation Agreement agreements, and this was not done. If anything the 1992 Ventura Countywide MS4 Permit Implementation Agreement agreements were violated, and now so is the 2008 Amendment to the 1992 Ventura Countywide MS4 NPDES Permit Implementation Agreement.

- #5 - Page 9 of 115, under "3.", it is stated "Federal, State, Regional, or local entities within the permittees' boundaries or in jurisdictions outside the Ventura County Watershed Protection District, and not currently named in this Order, may operate storm drain facilities and/or discharge storm water to storm drains and watercourses covered by this Order. The permittees may lack legal jurisdiction over these entities under State and Federal constitutions. The Regional Water Board will work with these entities to ensure the implementation of programs that are consistent with the requirements of this Order." This is why it is not acceptable to include "Los Angeles County" under Section A. Permit Parties and History, "1." (Page 1 of 115).

If Los Angeles County is retained, then the Boeing Company's Santa Susana Field Laboratory must also be included in this Order.

- #6 - Page 9 of 115, under "7.", it is stated "Permittees should work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system through inter-agency agreements or other formal arrangements." This is a weak condition at best due to the problems already inherent with the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement agreements, and the 2008 Amendment to the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement violations.

- #7 - Page 12 of 115, second paragraph, it is stated "As discussed in prior State Water Resources Control Board decisions, in many respects this Order does not require strict compliance with water quality standards...The Order, therefore,

regulates the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources." This statement contradicts the statements under "17." on Page 17 of 115, "The Regional Water Board supports Watershed Management planning to address water quality protection in the region. The objective of the Watershed Management planning is to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed."

Thus, I do not have confidence in the statements on Page 10 of 115. "The U.S. EPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Water Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This Order incorporates provisions incorporating approved WLAs for municipal storm water discharges and--continued on top of Page 11 of 115--requires amending the SMP after subsequent pollutant loads have been allocated and approved. In light of the statement on Page 21 of 115, under "3.", which says "The implementation of measures set forth in this Order are reasonably expected to reduce the discharge of pollutants conveyed in storm water discharges into receiving waters, and to meet the TMDL WLAs for discharges from MS4s that have been adopted by the Regional Water Board." And, in light of the statement on Page 33 of 115, under PART 4 - STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION, A. General Requirements, "1.", which says "Each permittee shall, at a minimum, adopt and implement applicable terms in this Order within its jurisdictional boundary."

#8 - Page 12 of 115, third paragraph, it is stated "Third, the local agency permittees have the authority to levy service charges, fees, or

assessments sufficient to pay for compliance with this Order. The fact sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments on these activities, independent of real property ownership...The ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention."

With regards to the original Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement agreements: 1. they were undertaken without public hearings, and 2. the Implementation Agreement agreements' Section on amendments, and others were violated by the Permittees.

With regards to the 2008 Amendment to the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement recently undertaken by the District, the County, and almost all of the Cities (as of this writing I am not sure about the City of Ojai); 1. no public hearings were held, 2. not all Amendment to the 1992 Ventura Countywide MS4 NPDES Permit Implementation Agreement copies presented to each Permittee followed the same text, 3. most Permittees approved a Signature Page, and one followed normal local government procedure by approving a Resolution, 4. misleading statements are incorporated in the text, and 5. etceteras.

The Ventura County Watershed Protection District Board of Directors, the Board of Supervisors of Ventura County, the City of Simi Valley City Council, Mr. Raul Medina of the LARWQCB, and the Howard Jarvis Taxpayers Association have all been informed about this legal quagmire.

This is the reason that the existing NPDES Permit Program projects' related assessment fees cannot be increased.

This is the reason that Assemblyman Nava through alight of hand (by amending Assemblywoman

Karnette's proposed bill) got the Ventura County Watershed Protection Act amended, and signed by Governor Schwarzenegger to give the Ventura County Watershed Protection District the authority to levy property-related fees. Only problem is the District would have to let the voters know the story behind the existing assessment fees levied since 1992 because of Proposition 218 passed by voters in 1996.

- #9 - Page 12 of 115, last paragraph, it is stated "Fourth, the permittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. Section 1311(a)..."
- #10 - Page 22 of 115, under "7.", it is stated that "The implementation of an effective Public Information and Participation Program is a critical component of a storm water management program." And, Page 39 of 115, under "C. Public Information and Participation Program(PIPP), "1.i.", it is stated "To measurably increase the knowledge of the target audience about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts." So is a Public Response Program to submitted letters on public review and comment period legally noticed documents to keep State Government laws from being violated.

The County of Ventura to date has not responded to my letter submitted on the Draft Multi-Jurisdiction Hazard Mitigation Plan--the document approved by the Board of Supervisors is incomplete and inaccurate.

The Ventura County Watershed Protection District to date has not responded to my letter submitted on the Draft Flood Mitigation Plan--document approved by the District Board of Directors is incomplete and inaccurate.

The City of Simi Valley to date has not responded to my letters submitted on the FEMA/County of



Ventura/Nolte Preliminary Flood Insurance Study (FIS), and Preliminary Flood Insurance Rate Maps (FIRMs)--the documents are incomplete and inaccurate.

The City of Simi Valley does not provide written responses to my letters submitted, per City staff request, on the Preliminary Base Budget. Until this year, and only because I submitted a City Complaint Form, the City provided a copy of the current fiscal year City Budget. Otherwise, all former requests, even under the California Records Act, went unmet.

It is also stated on Page 41 of 115, under "(9)", that "The permittees shall develop and implement a behavioral change assessment strategy...in order to ensure that the PIPP is demonstrably effective in changing the behavior of the public." It is just as important that the behavior of local governments toward the citizenry is also gauged to comply with State Government public participation process laws.

#11 - Page 27 of 115, under "22.", it is stated "This Order takes into consideration the housing needs in the area under the permittees' jurisdiction by balancing the implementation of Smart Growth and Low Impact Development techniques with the protection of the water resources of the region." For over a decade, I have been aware that the City of Simi Valley has its SCAG designed RHNA's waved time and again. This was done to get the regional mall built by showing developers that the City's medium income based on larger single family homes could support it. That was not Smart Growth because there is a large gap between expensive housing and affordable housing even if the values are declining because of the bubble.

Low Impact development may not be just around the corner, either, as far as the City of Simi Valley is concerned, because once the Boeing Company's Santa Susana Field Laboratory property is declared cleaned up by the DTSC and the area turned into the future Santa Susana State Park

the City will have to look toward high impact development to make up the Ventura County Water Works District No. 8's loss in revenue and water use. So, the areas that may be considered for this future development are the areas of: 1. Marr Ranch, 2. the Brandeis-Bardin Institute, and 3. the land north of the Ronald Reagan Presidential Library and Museum since the Simi Valley's 1988 General Plan Update will not be finalized until sometime in 2010 or beyond.

- #12 - Page 28 of 115, under "6.", it is stated "This Order may be modified or alternatively revoked or reissued prior to its expiration date or any administrative extension thereto..."
- #13 - Page 35 of 115, under "2.", it is stated "The permittees shall possess adequate legal authority to:..." Please refer to my comments under #8.
- #14 - Page 61 of 115, under "5. Mitigation Funding (a)" it is stated "A permittee or a coalition of permittees may create a management framework to fund regional or subregional solutions to storm water pollution, where any of the following situations occur:..." This is a quagmire since the Ventura Countywide Storm Water Program (the MS4 NPDES Permit Permittees) has already botched the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement agreements, and the 2008 Amendment to the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement. Please refer to my comments under #8.
- #15 - The Tables, on Pages 85 to 89 of 115, are not "reader-friendly".

#### ADDITIONS

1. Page 27 of 115, under Section G. Public Notification, "2.", it is stated "The Regional Water Board has notified the permittees, and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an

- opportunity to make statements and submit their comments." Include the submission tools of: 1. mail, 2. facsimile, 3. E-mail, 4. walk-in (to the LARWQCB office), and 5. messenger service.
2. Include Referral of Public Complaint Forms under Interagency Coordination (Page 49 of 115).
  3. Include Investigation of Public Complaints under Interagency Coordination (Page 49 of 115).
  4. Include signatures by the District Board of Directors Chairperson, the Board of Supervisors Chairperson, and each of the Cities Mayors under Section H. Signatory Requirements (Page 110 of 115) what with the quagmire that the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement agreements, and the 2008 Amendment to the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement violations have wrought.

#### QUESTIONS

1. Page 8 of 115, under Permit Background Section "5."; it is stated in the second sentence that "The permittees are entitled, but did not elect to pursue a permit with numeric end-of-pipe limits for storm water discharges, which would have required them to satisfy specific effluent limitations rather than implement storm water management programs. Where a MS4 permittee voluntarily chooses a Best Management Practice (BMP) based storm water management program as permit effluent limitations rather than end-of-pipe numeric effluent limits, there exists no compulsion of a specific regulatory scheme that would violate the 10<sup>th</sup> Amendment to the United States Constitution." Are the statements referring to a specific regulatory scheme action by the USEPA, or the Permittees, or both?

On the basis of the legal quagmire that has resulted from the Ventura Countywide 1992 NPDES Permit Implementation Agreement agreements and the 2008 Amendment to the Ventura Countywide 1992

NPDES Permit Implementation Agreement violations by the Permittees, then the lack of compulsion to scheme is premature. If the act is lacking with regards to the USEPA, then the statement should be reflective of this.

2. Would this lack of compulsion to scheme with regards to a specific regulation also apply to the LARWQCB?
3. Why was case law City of Abilene V. EPA, 325 F.3d 657 (5<sup>th</sup> Cir., 2003) noted, and not "County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention]" (Page 12 of 115, end of first paragraph).
4. Did LARWQCB staff know that there were a couple of Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement agreements signed by the Permittees?
5. If so, did LARWQCB staff check the text of all Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement agreements?
6. If the Permittees have all approved/adopted the Amendment to the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement, has LARWQCB staff gotten a copy? If so, has LARWQCB staff gone through the document to make sure all t's are crossed and i's dotted?
7. Was it a requirement that the LARWQCB get a copy of the Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement? If not, it should have.
8. Is it a requirement that the LARWQCB get a copy of the Amended Ventura Countywide 1992 MS4 NPDES Permit Implementation Agreement? If not, it must.
9. Page 27 of 115, under Section G. Public Notification, "3.", it is stated "The Regional Water Board staff has conducted 24 scoping meetings from February 9, 2007 through October 3,

2008, with..." Does LARWQCB staff foresee this Order being approved by the Regional Water Board after October 3, 2008?

10. Page 55 of 115, under "(C)", it is stated "Natural drainage systems, which include unlined or unimproved(not engineered) creeks, streams, rivers and their tributaries, are located in the following watersheds:..." Why is Malibu Creek not included?
11. Are the City of Simi Valley's NPDES Permit regional storm water detention basins' mitigation measures no longer required to comply with the MUN and Ventura Countywide MS4 NPDES Permits--as of this writing only 1 out of 6 - 11 dams is built, yet FEMA funding has been received by Simi Valley, and only God knows where the millions of \$ have gone?

Dr. Swamikannu, please note that Ginn Doose concurs with my comments. Please note that Ginn Doose can be reached at (707) 994-6881 (her work telephone number).

Sincerely,



Mrs. Teresa Jordan



TERESA JORDAN  
3152 SHAD COURT  
SIMI VALLEY, CA 93063  
TELEPHONE NO. (805) 522-5016

TO: Dr. Xavier Zwamikannu

LARWQCB

320 W. 4th Street, Suite 200

Los Angeles, CA 90013

FAX NO.: (213) 576-6640

DATE: May 27, 2008

NO. OF PAGES: 35 (includes cover sheet)

RE: WDRs for MS4 Ventura

County Watershed Protection District,

County of Ventura & Incorporated Cities

NPDES Permit No (CA5004002)  
-- workshop.

3152 Shad Court  
Simi Valley, CA 93063  
May 27, 2008

Dr. Xavier Swamikannu  
LARWQCB  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Re: Proposed Changes to the Waste Discharge Requirements  
for Municipal Separate Storm Sewer System Discharges  
Within the Ventura County Watershed Protection  
District, County of Ventura and the Incorporated  
Cities Therein, (NPDES No. CAS004002)--Workshop.

Dear Dr. Swamikannu:

I am opposed to the third Draft of the Ventura  
Countywide MS4 NPDES Permit for the following reasons.

#1 - Page 1 of 115, under Section A. Permit Parties  
and History, "1.", it is stated "Ventura County  
Watershed Protection District (Principal  
Permittee), County of Ventura, cities of  
Camarillo, Fillmore, Moorpark, Ojai, Oxnard,  
Port Hueneme, San Buenaventura (Ventura), Santa  
Paula, Simi Valley and Thousand Oaks (hereinafter  
referred to separately as permittees) have joined  
together to form the Ventura Countywide Storm  
Water Quality Management Program to discharge  
wastes. While this statement is true, there are  
legal problems with the joint venture--the  
Ventura Countywide 1992 MS4 NPDES Permit  
Implementation Agreement agreements.

With regards to the original Ventura Countywide  
1992 (MS4) NPDES Permit Implementation Agreement  
agreements: they were undertaken without public  
hearings, and 2. the Implementation Agreement  
agreements' Section on amendments, and others  
were violated.

With regards to the 2008 Amendment to the Ventura  
Countywide 1992 (MS4) NPDES Permit Implementation

D000657

Agreement recently undertaken by the District, the County, and almost all of the Cities (as of this writing I am not sure about the City of Ojai): 1. no public hearings were held, 2. not all Amendment to the 1992 Ventura Countywide Implementation Agreement copies presented to each Permittee followed the same text, 3. most Permittees approved a Signature Page, and one followed normal local government procedure by approving a Resolution, 4. misleading statements are incorporated in the text, and 5. etceteras.

The Ventura County Watershed Protection District Board of Directors, the Board of Supervisors of Ventura County, the City of Simi Valley City Council, Mr. Raul Medina of the LARWQCB, and the Howard Jarvis Taxpayers Association have all been informed about this legal quagmire. This is the reason that the existing NPDES Permit program projects' related assessment fees cannot be increased. This is the reason that Assemblyman Nava through slight of hand (by amending Assembly Woman Karnette's proposed bill) got the Ventura County Watershed Protection Act passed to give the Ventura County Watershed Protection District the authority to levy property-related fees.

- #2 - Pages 1 and 2 of 115, under Section A. Permit Parties and History, "3.", it is stated at the top of Page 2 that "The Ventura County MS4 Permittees have entered into an agreement with the Watershed Protection District to finance the activities related to the Ventura County MS4 Permit for shared and district wide expenses. The Permittees are also given the option to use the Benefit Assessment Program to finance their respective activities related to reducing the discharge of storm water pollutants under the MS4 Permit." NOTE: Same comments as #1.
- #3 - This Order does not ensure that compliance will be the outcome because this MS4 NPDES Permit is being carried out with voluntary program-based BMPs, instead of with end-of-pipe numeric limits, which are less stringent.



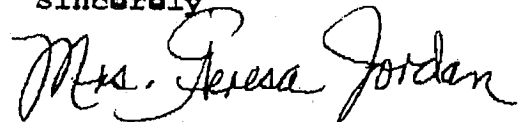
ERRORS

1. Page 1 of 115, under Section A. Permit Parties and History, "1.", it is stated at the end of the last sentence "...into the Watershed Management Areas of Ventura River, Santa Clara River, Calleguas Creek, Malibu Creek and Miscellaneous Ventura Coastal all within Ventura County and Los Angeles County..." This Countywide MS4 NPDES Permit is not being requested by the County of Los Angeles, and its agencies, and cities. The request is being made by the Ventura County Watershed Protection District, the County of Ventura, and the Cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura (Ventura), Santa Paula, Simi Valley and Thousand Oaks. If the County of Los Angeles is benefiting from this MS4 NPDES Permit, then it must be included in all of the Ventura Countywide MS4 NPDES permit documents, and be included in the Amendment to the Ventura Countywide 1992 NPDES Permit Implementation Agreement.
2. Page 1 of 115, under Section A. Permit Parties and History, "3.", it is stated in the first sentence that "The Ventura County Board of Supervisors approved the concept of a countywide NPDES permit program and the use of the Flood Management District (presently the Watershed Protection District) benefit assessment authority to finance it on April 14, 1992". The correct name of the County agency then was the Flood Control District.
3. Page 1 of 115, under Section A. Permit Parties and History, "3.", it is stated in the second sentence that "On June 30, 1992, the Ventura County Board of Supervisors adopted a benefit assessment levy for storm water and flood management in the unincorporated areas of Ventura County and the cities within the County, to be used in part to finance the implementation of a countywide NPDES municipal storm water--continued on top of Page 2 of 115, "permit program". The Board of Supervisors levied benefit assessment program fees.
4. Page 3 of 115, the "space" is missing between "3." and "4."

CHANGES

1. Page 1 of 115, under Section A. Permit Parties and History, "3.", it is stated in the first sentence that "The Ventura County Board of Supervisors approved the concept of a countywide NPDES permit program and the use of the Flood Management District (presently the Watershed Protection District) benefit assessment authority to finance it on April 14, 1992". The use of the Ventura County Flood Control District's Benefit Assessment Program was approved by the Board of Supervisors. If the Board approved the "authority" then the sentence must refer to the Ventura County Flood Control Act of 1944 (now the Ventura County Watershed Protection Act; A.B. 2320 (Strickland) was approved by the Governor on September 14, 2002).

Sincerely



Mrs. Teresa Jordan

## Enclosures:

- May 16, 2008, Letter to Mr. Raul Medina, LARWQCB; City of Simi Valley Water Quality Control Plant NPDES Permit. (6 Pages)
- May 16, 2008, Letter to Mr. Raul Medina, LARWQCB; City of Simi Valley Water Quality Control Plant NPDES Permit. (2 Pages)
- May 7, 2008, Letter to the Ventura County Board of Supervisors; Ventura County Watershed Protection District's FY 2008-2009 Benefit Assessment Program. (22 Pages)

3152 Shad Court  
Simi Valley, CA 93063  
May 16, 2008

Mr. Raul Medina  
LARWQCB  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Re: CHANGE OF VENUE AND REVISED TENTATIVE WASTE DISCHARGE  
REQUIREMENTS AND NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM (NPDES) PERMIT - CITY OF SIMI  
VALLEY, SIMI VALLEY WATER QUALITY CONTROL PLANT  
(NPDES NO. CA 0055221, CI NO. 3021).

Dear Mr. Medina:

I am still opposed to the aforementioned matter for the reasons given in my May 5, 2008 letter, and for the following reasons.

#1 - Page D-5, under Section IV. STANDARD PROVISIONS - RECORDS. A, the records retention period for "all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order" is set for "at least three (3) years from the date of the sample, measurement, report or application."

Because the records retention period for the Discharger's sewage sludge use and disposal activities is set for "at least five years (or longer as required by Part 503)", I ask the Regional Water Board to make the retention period for all records consistent with the 5 years and Part 503 provision since it is also stated in the same paragraph "This period may be extended by request of the Regional Water Board Executive Officer at any time."

D000661

- #2 - Page D-9, under Section G. Anticipated Noncompliance, there is no provision for the Discharger to give advance notice to the public "of any planned changes in the permitted facility or activity that may result in noncompliance with General Order requirements."
- #3 - Page E-14, under Section B.2.b.1. Screening and Monitoring, a specific time period is not given for the Discharger to "conduct the first chronic toxicity test screening for three consecutive months in 2008". Half the year is almost over.
- #4 - Page E-15, under Section 2. Re-screening, it is stated "If the first suite of re-screening tests demonstrate that the same species is the most sensitive then the re-screening does not need to include more than one suite of tests."
- #5 - Page F-4, under Section II.A. Description of Wastewater and Biosolids Treatment or Controls, it is stated "Treated wastewater discharged to Arroyo Simi is dechlorinated but the effluent delivered for reuse is not dechlorinated."
- #6 - Page F-34, under Section xvii. Radioactivity, second sentence, it is stated "Mining or industrial activities increase the amount of radioactive substances in waters to levels that are harmful to aquatic life, wildlife, or humans. Section 301(f) of the CWA..." and "Chapter 5.5 of the California Water Code" "section 13375" contain radioactivity discharges prohibitions to federal navigable waters, and State of California waters. Yet, it is also stated that "However, rather than give a hard and fast absolute prohibition on radioactive substances, Regional Water Board staff have set the following effluent limit for radioactivity: 'Radioactivity of wastes discharged shall not exceed the limits specified in Title 22, Chapter 15, Article 5, section 64443, of the California Code of Regulations, or subsequent revisions.' The limit is based on the Basin Plan incorporation of Title 22, Drinking Water Standards, by reference, to protect beneficial uses. Therefore, the accompanying Order will

retain the limit for radioactivity." No wonder the Rockwell/Boeing Rocketdyne Santa Susana Field Laboratory (SSFL) has been allowed to slip through the cracks with regards to its own NPDES related Permit, the City of Simi Valley's Municipal related NPDES Permit, and the Ventura Countywide MS4 related NPDES Permit.

- #7 - Page F-59, under Section B. Groundwater, fourth sentence, it is stated "Surface water from the Arroyo Simi percolates into the Simi Valley and Ventura Central Groundwater Basins with MUN beneficial use specified in the Basin Plan. Since groundwater from these Basins is used to provide drinking water to the community, the groundwater aquifers should be protected. However, this Order and Monitoring and Reporting Program does not include requirement for groundwater monitoring because none of the limitations are based upon the protection of MUN use of underlying groundwater." Yet, on Page F-62 it is stated under Section D.2. Groundwater "Groundwater monitoring is required to determine compliance with groundwater limitations and to track impacts to the groundwater basins."
- #8 - Pages F-60 and F-61, Table 9. Effluent Monitoring Program Comparison Table changes:
- Algal biomass (Chlorophyll a) is being deleted,  
Flouride is semiannually instead of monthly;  
Gamma-BHC (Lindane) is semiannually instead of monthly,  
Iron; 2,3,7,8-TCDD (Dioxin); Tetrachloroethylene,  
Endrin, Methoxychlor, Barium, 2,4-D, and  
2,4,5-TP (Silvex) are semiannually instead of quarterly.
- #9 - Page F-61, Table 9. Effluent Monitoring Program Comparison Table, Ammomium perchlorate has no change. It should be done quarterly.
- #10 - Page F-61, Table 9. Effluent Monitoring Program Comparison Table, Methy-tert-butyl-ether (MTBE) has semiannually. It should be done quarterly.

- #11 - Page F-61, Table 9. Effluent Monitoring Program Comparison Table, 1,2,3-Trichloropropane's is the same--semiannually. Should be quarterly.
- #12 - Fecal Coliform(monthly), E. Coli(monthly), and Radioactivity(monthly) have been excluded from Table 9. Effluent Monitoring Program Comparison Table(Pages F-60 and F-61).
- #13 - Pages F-66, under Section VIII. Public Participation B. Written Comments, it is stated "Interested persons are invited to submit written comments concerning these tentative WDRs. Comments must be submitted either in person or by mail to the Executive Office at the Regional Water Board at the address above on the cover page of this Order." This does not comply with Governor Schwarzenegger's open government policy.

#### QUESTIONS

1. Does the May 6, 2008 letter from Blythe Ponak-Bacharowski, Chief Municipal Permitting Unit (NPDES), to Mr. James Langley, City of Simi Valley Deputy Director/Sanitation Services, MAILING LIST entity the "Ventura County Department of Public Works, Flood Control and Drainage" refer to the Ventura County Flood Control District? If so, the name is incorrect since this entity is now named the Ventura County Watershed Protection District, and impacts the Amendment to the 1992 Ventura Countywide NPDES Permit Implementation Agreement.
2. What is the date(month, day and year) of the City of Simi Valley Water Quality Control Plant(WQCP) topographical map on Page B-1?
3. On Page F-14, Table 3b. Basin Plan Beneficial Uses - Ground Waters, for the Simi Valley Basin DWR Basin No. 4-9 Confined Aquifers, it is stated "Municipal and domestic water supply(MUN), industrial service supply(IND), industrial process supply(PROC), and agricultural supply(AGR)". What entities benefit from this agricultural supply? Give name of entities, addresses, and locations (within, or outside of the City of Simi Valley).

4. On Page F-15, Table 3b. Basin Plan Beneficial Uses - Ground Waters, for the Simi Valley Basin DWR Basin No. 4-9 Unconfined Aquifers, it is stated "Municipal and domestic water supply (MUN), industrial service supply (IND), industrial process supply (PROC), and agricultural supply (AGR)". What entities benefit from this agricultural supply? Give name of entities, addresses, and locations (within, or outside of the City of Simi Valley).
5. Is the P.W. Gillibrand Company facility the only mining entity within, or adjacent to, the City of Simi Valley? Does the Company still mine Titanium? Is it still exported by boat out of the port in the County of Ventura?
6. What were the changes to the Effluent Limitations for Cyanide's Average Monthly and Maximum Daily due to (Table 6, Page F-45)?
7. Where is the "Ventura Central Groundwater" Basin located (Page F-59)? Is this the Las Posas Basin?
8. Does this Order cover the future City of Simi Valley/P.W. Gillibrand Company Tapo Canyon/Gillibrand Canyon Water Treatment Plant? If not, why not? Will a separate Municipal NPDES Permit be required for the Tapo Canyon/Gillibrand Canyon Water Treatment Plant?
9. Why was the information on the May 16, 2008 extended period noted on Page F-66?
10. Why was the information on the Board's meeting location change not noted on Page F-66?

#### ERRORS

- #1 - Page F-5, under Section B. Discharge Points and Receiving Waters, middle paragraph, second sentence, it is stated "Storm water and dry weather urban runoff from MS4 are regulated under an NPDES permit, Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the Ventura County Flood Control District, County of Ventura, and the Cities of Ventura

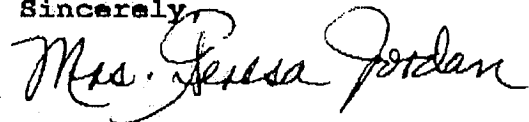
County (Ventura Municipal Permit), NPDES Permit No. CAS004002)." The sentence must read "Ventura County Watershed Protection District (formerly Ventura County Flood Control District)" to coincide with the Amended 1992 Countywide NPDES Permit Implementation Agreement.

- #2 - Page F-5, under Section B. Discharge Points and Receiving Waters, second to last paragraph, first sentence, it is stated "The Ventura County Flood Control District channelized portions of Calleguas Creek to convey and control floodwater, to prevent damage to homes located adjacent to the Creek." The sentence must read "Ventura County Watershed Protection District (formerly Ventura County Flood Control District)" to coincide with the Amended 1992 Countywide NPDES Permit Implementation Agreement.
- #3 - Page F-61, Table 9. Effluent Monitoring Program Comparison Table, information for 1,2,3-Trichloropropane has semiannually instead of "no change".

#### SUGGESTIONS

1. Pages F-1 and F-2, ATTACHMENT F - FACT SHEET Table of Contents, Capitalize the titles of the Roman numerals' sections to coincide with the text.
2. Pages F-60 and F-61, Table 9. Effluent Monitoring Program Comparison Table, to the Monitoring Frequency (2003 Permit) and (2008 Permit) columns' titles add the word "Sampling" between Monitoring and Frequency.
3. Page F-61, Table 9. Effluent Monitoring Program Comparison Table, change the order of 4,4'-DDT and 4,4'-DDD to coincide with Page E-22.

Sincerely,



Mrs. Teresa Jordan



3152 Shad Court  
Simi Valley, CA 93063  
May 16, 2008

Mr. Raul Medina  
LARWQCB  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Re: REVISED TENTATIVE WASTE DISCHARGE REQUIREMENTS AND  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
(NPDES) PERMIT - CITY OF SIMI VALLEY, SIMI VALLEY  
WATER QUALITY CONTROL PLANT (NPDES NO. CA0055221,  
CI NO. 3021).

Dear Mr. Medina:

This letter is a continuation of my earlier May 16, 2008  
letter on the aforementioned item, and CHANGE OF VENUE.

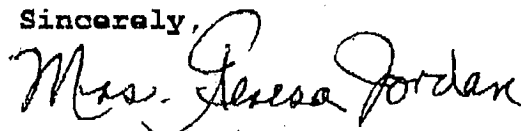
- #14 - Page 45, under Section 7. Compliance Schedules,  
it is stated "The stakeholders in the Calleguas  
Creek Watershed are embarking on a watershed-  
wide solution to salt management... The  
dischargers need time to complete the capital  
improvement projects." They also need time to  
get to County voters the matter of property-  
related fees to cover NPDES Permit projects.  
The Amendment to the 1992 Countywide NPDES Permit  
Implementation Agreement does not have all t's  
crossed, and i's dotted. Also, the Amendment to  
the 1992 IA mentions under the Recitals that  
there are 4 separate 1992 Implementation  
Agreements--"divided by watershed zone and  
approved by the CITIES, the COUNTY and the  
DISTRICT" (Whereas)--yet I have counted only 3.
- #15 - Page D-6, under Section V. STANDARD PROVISIONS -  
REPORTING B. Signatory and Certification  
Requirements. Same comments as #14.
- #16 - Page E-5, under Section N, it is stated "A  
watershed-wide Monitoring Program will be  
developed within two years from the effective

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date of this Order and permit for the Calleguas Creek Watershed...Changes to the compliance monitoring program may be required to fulfill the goals of the watershed-wide monitoring program...Revisions to the Discharger's program will be made under the direction of the Regional Water Board, as necessary, to accomplish the goal, and may include a reduction or increase in the number of parameters to be monitored, the frequency of monitoring, and/or the number of samples collected." Same comments as #14.

- #17 - Page E-23, under VIII. OTHER MONITORING REQUIREMENTS A. Watershed Monitoring 1., it is stated "To achieve the goals of the Watershed-wide Monitoring Program, revisions to the Receiving Water Monitoring Requirements will be made under the direction of USEPA and the Regional Board. The City has participated with stakeholders in the Calleguas Creek Watershed, to develop the watershed-wide monitoring program. The Discharger shall implement the watershed-wide monitoring program and shall submit quarterly reports detailing ongoing efforts toward the implementation of the Watershed-wide Monitoring Program." Same comments as #14. I concur with the last sentence that states "The first report should be received in the Regional Board office by October 15, 2008."

Sincerely,



Mrs. Teresa Jordan

Enclosures:

May 5, 2008, Letter to the City of Simi Valley City Council. (2 Pages)

April 14, 2008, Letter to the City of Simi Valley City Council. (14 Pages)

3152 Shad Court  
Simi Valley, CA 93063  
May 7, 2008

Ventura County Board of Supervisors  
Hall of Administration  
800 S. Victoria Avenue  
Ventura, CA 93009

Re: The Ventura County Watershed Protection District  
(formerly Ventura County Flood Control District)'s  
FY 2008-2009 Benefit Assessment Program.

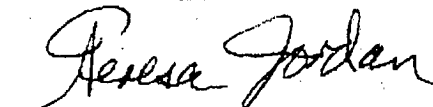
Dear Members of the Board:

I am opposed to staff recommendations for the  
aforementioned item, most especially with relative to the  
Amendment to the 1992 Countywide NPDES Permit  
Implementation Agreement for the reasons given in my  
December 17, 2007 letter to you, the April 14, 2008 letter  
to the City of Simi Valley City Council, the May 5, 2008  
letter to the City of Simi Valley City Council, in my May  
5, 2008 letter to Mr. Raul Medina (LARWQCB), and the  
following point.

- #1 - The contact telephone number and facsimile  
number for the City of Moorpark differ among  
the Amendment to the Implementation Agreement  
documents undertaken by the County's cities.

Members of the Board, all of the MS4 Countywide Permit  
Co-Permittees must pass resolutions, sign and date the very  
same Amendment to the 1992 Implementation Agreement if you  
contemplate putting the issue of the Ventura County  
Watershed Protection District levying property-related fees  
before the voters of Ventura County in the future.

Sincerely,



Teresa Jordan

**Enclosures:**

May 5, 2008, Letter to the City of Simi Valley City Council. (2 Pages)

May 5, 2008, Letter to Mr. Raul Medina (LARWQCB). (4 Pages)

April 14, 2008, Letter to the City of Simi Valley City Council. (9 Pages)

December 17, 2007, Letter to the Ventura County Board of Supervisors. (5 Pages)

3152 Shad Court  
Simi Valley, CA 93063  
May 5, 2008

Simi Valley City Council  
Simi Valley City Hall  
2929 Tapo Canyon Road  
Simi Valley, CA 93063

Re: Agenda Item Consent Calendar 5(6) --Request  
Authorization to Amend Countywide Stormwater Quality  
Management Program Implementation Agreement.

Dear Members of the Council:

I am opposed to the aforementioned item for reasons given in my April 14, 2008 letter to you, my comments given in my December 17, 2007 letter to the Ventura County Board of Supervisors/Watershed Protection District members, and the following points.

- #1 - You are not approving a Resolution in accordance with the Board of Supervisors/District members February 15, 2005 meeting discussions on the matter of Amending the Ventura County Watershed Protection Act to authorize the Ventura County Watershed to levy property-related fees.
- #2 - The Signature Page, on Page 7 of tonight's Staff Report, does not include a date of approval.
- #3 - The text of your copy of the Amendment to the 1992 Implementation Agreement does not coincide with the language approved by the Board of Supervisors on December 17, 2007.
- #4 - Section 3. Expenditures, Section IV, subsection C as proposed for amendment sets a dangerous precedent by requiring the cities to fund a portion of the Ventura County Watershed Protection District's expenses that are a requirement of being a principal permittee (City

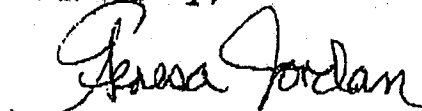
D000671

of Thousand Oaks Amended IA February 6, 2008  
Meeting Staff Report).

#5 - The Amendment to the 1992 Implementation  
Agreement is not being undertaken as a public  
hearing.

Members of the Council, this proposed Amendment to the  
1992 Countywide Implementation Agreement must not be  
approved.

Sincerely,



Teresa Jordan

3152 Shad Court  
Simi Valley, CA 93063  
May 5, 2008

Mr. Raul Medina  
LARWQCB  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Re: Tentative Waste Discharge Requirements (WDRs) and  
National Pollutant Discharge Elimination System (NPDES)  
Permit for City of Simi Valley, Simi Valley Water  
Quality Control Plant (NPDES NO. CA0055221, CI NO.  
3021).

Dear Mr. Medina:

I am opposed to the aforementioned matter for the  
following reasons.

- #1 - While I received a reply from Ms. Tracie Billington (DWR) on my March 14, 2008 letter on the Watersheds Coalition of Ventura County's Proposition 50, Chapter 8 Integrated Regional Water Management (IRWM) Implementation Grant Program Application (Round 1; PIN: 9604; \$25 Million)--City of Simi Valley's Tapo Canyon/Gillibrand Canyon Water Treatment Plant Project--Mr. Scott Couch (SWRCB) has not. So, I conclude that the City of Simi Valley is a Ventura Countywide MS4 Permit Co-Permittee who has been "participating under the previous MOU for the former Ventura Countywide IRWMP" (March 11, 2008 Ventura County Board of Supervisors Meeting Agenda Item 10 Letter/Staff Report). Please note that the Ventura County Board of Supervisors to date has not responded to my inquiries on this matter.
- #2 - ORDER NO. R4-2008-XXXX, NPDES NO. CA0055221 can be amended.
- #3 - The 1992 Ventura Countywide Stormwater Quality Management Program (NPDES Permit) Implementation

D000673

Agreement was approved without public hearings at the Ventura County's cities level.

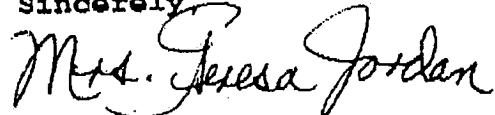
- #4 - The text of the 1992 Implementation Agreement (IA) watersheds' agreements signed by the Ventura County Flood Control District (now the Ventura County Watershed Protection District, the County of Ventura, and the County's cities--Camarillo, Fillmore, Hueneme, Moorpark, Ojai, Oxnard, San Buenaventura, Santa Paula, Simi Valley, and Thousand Oaks--was not consistent. Sections IX, XVII, and XII were amended in the Calleguas Creek Watershed's signatories--among them the City of Simi Valley--1992 IA agreement. Amendments to the 1992 IA require "written consent" of all "of the parties, signed and approved by the governing bodies of the parties" (Section IX).
- #5 - The 2008 countywide proposed Amendment to the 1992 Implementation Agreement is not being approved with resolutions from the County's ten cities as stipulated--some City Councils have approved a Signature Page and one has approved a resolution instead of a Signature Page--during the Ventura County Board of Supervisors February 15, 2005 Meeting Agenda Item 34 discussions (to amend the 2005 Ventura County Legislative Agenda and Platform to introduce State Legislation to amend the Ventura Countywide Watershed Protection District Act to allow the collection of property-related fees by the Ventura County Watershed Protection District because since 1996 Proposition 218 requires a vote of the people for the existing assessment fees to be increased and that would mean the perpetrated fraud would be disclosed to voters).
- #6 - The text of the 2008 countywide proposed Amendment to the 1992 Implementation Agreement agreements is not consistent.
- #7 - The Signature Page of the 2008 countywide proposed Amendment to the 1992 Implementation Agreement agreements approved by the City Councils does not include a date.



- #8 - Section 3 (EXPENDITURES, SECTION IV, SUBSECTION C IS AMENDED AS FOLLOWS) of the 2008 proposed Amendment to the 1992 Implementation Agreement agreements is setting a dangerous precedent by requiring the cities to fund a portion of the Ventura County Watershed Protection District's expenses that are a requirement of being a principal permittee (City of Thousand Oaks Amended IA February 6, 2008 Staff Report).
- #9 - The City Councils of the Ventura County cities are approving the proposed Amended IA's *Signature Page*, or Resolution under the Agendas' Consent Calendar section instead of under public hearings.
- #10 - The 2008 proposed Amendment to the 1992 Implementation Agreement agreements still keeps intact Section XVII. EXECUTION IN COUNTERPARTS which is the cause of the ongoing problem with the existing Ventura County Watershed Protection District's assessment fees (Section 8 in new IA).
- #11 - The 2008 proposed Amendment to the 1992 Implementation Agreement agreements still keeps intact the section AUTHORITY TO EXECUTE AGREEMENT which has caused the ongoing problem with the existing Ventura County Watershed Protection District's assessment fees because it allows others besides the City Councils to execute agreements on the governing bodies behalf.
- #12 - The 2008 proposed Amendment to the 1992 Implementation Agreement agreements is backdating the "TERM" period to fiscal year 2007/2008, "commencing on July 1, 2007, and terminating on June 30, 2008. The proposed Amendment to the 1992 Implementation Agreement agreements has been agendaized for the City of Simi Valley's May 5, 2008 meeting. I do not know about the City of Ojai--the Simi Valley City Council's May 5, 2008 staff report for Consent Calendar Item 5(6), on Page 1, last sentence states that "all agencies have adopted this proposed amendment, except the cities of Simi Valley and Ojai".

Mr. Medina, also, to date the County of Ventura has not responded to my letter submitted on the Multi-Jurisdiction Hazard Mitigation Plan. The Ventura County Watershed Protection District to date has not responded to my letter submitted on the Flood Mitigation Plan. The Federal Emergency Management Agency (FEMA) to date has not responded to my submitted letter on the Ventura County Flood Insurance Study (FIS), and Flood Insurance Rate Maps (FIRMs). All of these documents are incomplete and erroneous. The City of Simi Valley does not respond to my submitted letters on the City's Preliminary Base budgets so I cannot follow the money trail with regards to the federal funds for the regional stormwater detention basins (dams) that were applied for and received to mitigate the NPDES Permit --to date out of 11 basins, only one has been built with funds procured from the federal and State governments. So, I do not have any confidence that my City, and State will do the right thing as far as the municipal permit is concerned. Nor will the right thing be done as long as the Boeing Company is allowed to skate from the Santa Susana Field Laboratory impacts to Simi Valley's municipal permit.

Sincerely,



Mrs. Teresa Jordan

Enclosures:

April 14, 2008, Letter to the City of Simi Valley City Council; Agenda Item 2B--Public Hearing to Consider Utilization of Ventura County Watershed Protection District's Benefit Assessment Program and Adoption of Resolution Approving A Stormwater Management Program Assessment for FY 2008-2009. (2 Pages)  
3

December 17, 2007, Letter to the Ventura County Board of Supervisors; Agenda Item 54--Approval of an Amendment to the Implementation Agreement for the Ventura Countywide Stormwater Quality Management Program. (5 Pages)

FILE NO: 102-4-1*City Clerk's Office*  
Original3152 SHAD COURT  
SIMI VALLEY, CA 93063  
April 14, 2008SUBMITTED BY:  
Jane [unclear]City Council  
City Hall  
2929 Tapo Canyon Road  
Simi Valley, CA 93063AGENDA ITEM 2B  
DATE 4-14-2008

Re: Agenda Item 2B (Public Hearing to Consider Utilization of Ventura County Watershed Protection District's Benefit Assessment Program and Adoption of Resolution Approving A Stormwater Management Program Assessment for FY 2008-2009).

Dear Members of the Council:

I am opposed to the aforementioned Agenda item for the following reasons.

- #1 - Though the City Council has historically used the Ventura County Flood Control District (now the Ventura County Watershed Protection District)'s Benefit Assessment Program to fund a portion of the City's Stormwater Management Program, for over a decade the City Council cannot increase these fees, not just because "the City did not initiate a ballot for a local assessment increase per Proposition 218" (Page 1 of the Staff Report), but because the 1992 Countywide NPDES Implementation Agreement was violated when the Calleguas Creek Watershed entities amended their related documentation.
- #2 - The City of Simi Valley's March 24, 1992 request to the County of Ventura Board of Supervisors to include detention basin fees in the Ventura County Flood Control District (now Ventura County Watershed Protection District)'s Benefit Assessment Program did not go through public hearings in the City of Simi Valley, and no public hearings were held by the other Co-Permittees.

D000677

Members of the Council, while the staff report states that "If the City chooses not to adopt this resolution, the City will forfeit all future revenues from this program" (Page 1 of the Staff Report), I believe that you do not as long as:

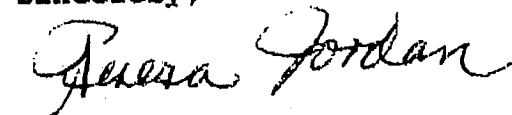
1. the City Council's March 24, 1992 detention basin fees request to the Board of Supervisors is rescinded,
2. the December 18, 2007 County Board of Supervisors/ Watershed Protection District Directors approved Amended Implementation Agreement is rescinded,
3. the 1992 Implementation Agreement is rescinded, and
4. a legal Implementation Agreement--whose language applies evenly to all entities--is approved by all of the 12 Co-Permittees.

Thus, you won't have to go through this wrenching decision of: 1. decreasing fees, 2. not increasing fees, and 3. letting the status quo rule into perpetuity.

Members of the Council, what led to the violation of the 1992 Implementation Agreement is Section XIV. AUTHORIZED SIGNATORIES which reads "The Engineer-Manager of DISTRICT, the Public Works Director of COUNTY and the City Managers of CITIES (or their designees) shall be authorized to execute all documents and take all other procedural steps necessary to file for and obtain a PERMIT(s) or amendments thereto."

Members of the Council, please note that the third Recital (WHEREAS) of the proposed Resolution is erroneous. It should read the Ventura County Flood Control District (now the Ventura County Watershed Protection District, and VCFCD (now VCWPD). Thank you.

Sincerely,

  
Teresa Jordan

**Enclosures:**

April 14, 2008, Jordan Compilation of Co-Permittees  
1992 NPDES Implementation Agreement Approval Date.

April 14, 2008, Jordan Compilation of Co-Permittees  
1992 NPDES Implementation Agreement Approved  
Section IX(9).

April 14, 2008, Jordan Compilation of Co-Permittees  
1992 NPDES Implementation Agreement Approved  
Section XII(12).

April 14, 2008, Jordan Compilation of Co-Permittees  
1992 NPDES Implementation Agreement Approved  
Section XVII(17).

December 17, 2007, Letter to the Ventura County Board  
of Supervisors; Amendment to the 1992 NPDES  
Implementation Agreement. (5 Pages)

April 4, 2002, Jordan County of Ventura Grand Jury  
Complaint; County Flood Control District's Benefit  
Assessment Program fees for detention basins.

March 24, 1992, Mayor Greg Stratton Letter to Ventura  
County Board of Supervisors; detention basin fees  
included in the Ventura County Flood Control  
District's Benefit Assessment Funding Program.

[NOTE: Enclosures submitted only with the City Clerk's  
Office original letter.]

## NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

## 1992 IMPLEMENTATION AGREEMENT

## STORMWATER REGULATION PROGRAM

## CO-PERMITTEES APPROVED SECTION XVII

Compiled by Teresa Jordan  
April 14, 2008

VENTURA RIVER AND COASTAL WATERSHEDSSANTA CLARA RIVER AND COASTAL WATERSHEDS

## #1 - "EXECUTION IN COUNTERPARTS":

"This AGREEMENT may be executed and delivered in any number of counterparts or copies by the parties hereto. When each party has signed and delivered at least one counterpart to the other parties hereto, each counterpart shall be deemed an original and, taken together, shall constitute one and the same AGREEMENT, which shall be binding and effective as to the parties hereto."

CALLEGUAS CREEK WATERSHED

## #1 - "EXECUTION IN COUNTERPARTS":

"This AGREEMENT may be executed and delivered in any number of counterparts or copies ("counterpart") by the parties hereto. When each party has signed and delivered at least one counterpart to the other parties hereto, each counterpart shall be deemed an original and, taken together, shall constitute one and the same AGREEMENT, which shall be binding and effective as to the parties hereto." Amended!!! A violation of the AGREEMENT signed by Ventura River and Coastal Watersheds, and Santa Clara River and Coastal Watersheds!!!

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
1992 IMPLEMENTATION AGREEMENT  
STORMWATER REGULATION PROGRAM  
CO-PERMITTEES APPROVED SECTION XII

Compiled by Teresa Jordan  
April 14, 2008

VENTURA RIVER AND COASTAL WATERSHEDS

#1 - "NOTICES":

Ventura County Flood Control District  
County of Ventura  
City of Ojai  
City of San Buenaventura

SANTA CLARA RIVER AND COASTAL WATERSHEDS

#1 - "NOTICES":

Ventura County Flood Control District  
County of Ventura  
City of Camarillo  
City of Fillmore  
City of Oxnard  
City of Port Hueneme  
City of San Buenaventura  
City of Santa Paula

CALLEGUAS CREEK WATERSHED

#1 - "NOTICES":

Co-Permittees are not listed, and the Section's language has been deleted, and added to--amended! Ventura County Flood Control District, County of Ventura, Cities of Camarillo, Moorpark, Simi Valley, and Thousand Oaks. Amended!!! Violates the documents signed by VR & CWS, and SCR & CWS!

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
1992 IMPLEMENTATION AGREEMENT  
STORMWATER REGULATION PROGRAM  
CO-PERMITTEES APPROVED SECTION IX

Compiled by Teresa Jordan  
April 14, 2008

VENTURA RIVER AND COASTAL WATERSHEDS

SANTA CLARA RIVER AND COASTAL WATERSHEDS

#1 - "AMENDMENTS TO AGREEMENT":

"A. This AGREEMENT may be amended by written consent of the parties, signed and approved by the governing bodies of the parties."

"B. Any amendment shall comply with the requirements and regulations set forth by LARWQCB."

CALLEGUAS CREEK WATERSHED

#1 - "AMENDMENTS TO AGREEMENT":

"A. This AGREEMENT may be amended by consent of the Principal Permittee and a two-thirds majority of the Co-Permittees." Amended!!! A violation of the AGREEMENT signed by Ventura River and Santa Clara River and Coastal Watersheds!!!

"B. Any amendment shall comply with the requirements and regulations set forth by the LARWQCB." Amended!!! Violates Ventura River and Santa Clara River and Coastal Watersheds docs!!!

"C. No amendment to this AGREEMENT shall be effective unless it is signed and approved by the governing bodies of the majority of the parties." New Section!!! Amended!!! A violation!!!



**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM****1992 IMPLEMENTATION AGREEMENT****STORMWATER REGULATION PROGRAM****CO-PERMITTEES APPROVAL DATE**

Compiled by Teresa Jordan  
April 14, 2008

**VENTURA RIVER AND COASTAL WATERSHEDS DOCUMENTATION**

Ventura County Flood Control District(6/30/1992)  
County of Ventura(6/30/1992)  
City of Ojai(6/9/1992)  
City of San Buenaventura(10/6/1992)

**SANTA CLARA RIVER AND COASTAL WATERSHEDS DOCUMENTATION**

Ventura County Flood Control District(6/30/1992)  
County of Ventura(6/30/1992)  
City of Camarillo(6/12/1992)  
City of Fillmore(6/17/1992)  
City of Oxnard(6/23/1992)  
City of Port Hueneme(7/17/1992)  
City of San Buenaventura(10/6/1992)  
City of Santa Paula(6/16/1992)

**CALLEGUAS CREEK WATERSHED DOCUMENTATION**

Ventura County Flood Control District(6/30/1992)  
County of Ventura(6/30/1992)  
City of Camarillo(4/28/1992!!!)  
City of Moorpark(6/17/1992)  
City of Simi Valley(6/22/1992)  
City of Thousand Oaks(4/21/1992)

# county of ventura

Grand Jury  
800 South Victoria Avenue  
Ventura, CA 93009

(805) 654-2873

**ALL COMPLAINTS RECEIVED BY THE GRAND JURY ARE TREATED CONFIDENTIALLY**

Date: April 4, 2002

Your Name: Mrs. Maria Teresa Jordan  
Home Address: 3152 Shad Court  
City, State, & Zip: Simi Valley, CA 93063  
Phone Number: Home (805) 528-5016 Work ( ) \_\_\_\_\_

**BRIEF SUMMARY OF PROBLEM** - Include dates of events, names of officials, other persons, departments and agencies involved. (Attach additional sheets if necessary.)

Dear Members of the Grand Jury:

I am requesting that you investigate the County Flood Control District's Benefit Assessment Program fees for detention basins.

In March 24, 1992, the City of Simi Valley City Council requested to the Ventura County Board of Supervisors to levy this fee on residents of Simi Valley, Moorpark, Camarillo, Thousand Oaks, and County unincorporated areas without public hearings in any of the communities. The City of Simi Valley has garnered State CDBG Program and FEMA HMP funds in the millions of dollars, but to date the City Council, nor the County Supervisors have rescinded the fee. It is unfair for other communities to pay for Simi Valley projects.

Please refer to enclosed January 15, 2002 report's "Ventura County Flood Control District" section.

Signature: Mrs. Teresa Jordan  
Maria

Date: April 4, 2002

D000684

# CITY OF SIMI VALLEY



2928 Topo Canyon Road, Simi Valley, California 93083 • (805) 683-6700

March 24, 1992

Ventura County Board of Supervisors  
800 S. Victoria Avenue  
Ventura, CA 93009

Honorable Chair Flynn and Members of the Board:

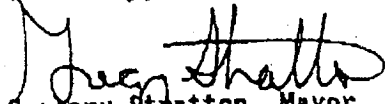
The City of Simi Valley anticipates that in May 1992 it will be notified by the Federal Government that stormwater permitting will be required. In order to keep stormwater quality within the proposed standards and to retain stormwaters within the drainage facilities (redline channels) presently in place, the detention basins identified in Simi Valley's Master Plan of Drainage should be constructed.

Presently, significant areas of Simi Valley are shown to be susceptible to flooding as shown in Flood Hazard Boundary maps published by the Federal Emergency Management Agency (FEMA). Properties in these flood areas are required to obtain insurance under specific guidelines of the Federal Insurance Program. The cost of this insurance is substantial, ranging up to approximately \$500 per house per year.

The City Council recommends that the Board of Supervisors modify its existing Benefit Assessment Funding Program(s), administered by the Ventura County Flood Control District, to include detention basins. This program will meet the need to control the quantity (and quality) of the stormwater runoff thus eliminating Simi Valley's susceptibility to flooding.

City and County staff have held preliminary discussions regarding such a Benefit Assessment Funding Program. It is hoped that your Board would support this effort.

Sincerely,

  
Gregory Stratton, Mayor  
City of Simi Valley

cc: City Council  
City Manager  
City Attorney  
Administrative Officer - Ventura County  
City Managers-Cities of Thousand Oaks, Camarillo, Moorpark  
Director of Public Works - Ventura County  
Director of Public Works, Cities of Thousand Oaks, Camarillo, Moorpark

U259.LTR\1a

3152 Shad Court  
Simi Valley, CA 93063  
December 17, 2007

Ventura County Board of Supervisors  
VCWPD Board of Directors  
800 South Victoria Avenue  
Ventura, CA 93009

Re: December 18, 2007 Meeting Agenda Item #54 - Request  
for Approval of an Amendment to the Implementation  
Agreement for the Ventura Countywide Stormwater  
Quality Management Program.

Dear Supervisors/Directors:

I am vehemently opposed to the aforementioned Agenda  
Item for the following reasons.

- #1 - The December 18, 2007 Letter/Staff Report posted  
on the Board of Supervisors' Website on December  
13, 2007 was replaced with a different letter/  
staff report. Please note that I logged onto the  
Agenda & Summary section on December 13, 2007  
(Thursday) and partially printed the  
documentation because I was almost out of copying  
paper. Then, on December 15, 2007 (Saturday), I  
logged on once again to print the pages I had  
skipped. I was shocked and disgusted to find  
that changes had been made to the documentation,  
and they were major modifications to the already  
logged information.
- #2 - The December 18, 2007 Letter/Staff Report posted  
on December 13, 2007 was addressed only to the  
Ventura County Board of Supervisors. The  
December 15, 2007 copy of the December 18, 2007  
Letter/Staff Report is now addressed to both the  
Ventura County Board of Supervisors and the  
Ventura County Watershed Protection District.
- #3 - The December 18, 2007 Letter/Staff Report posted  
on December 13, 2007 listed on the first page 3  
Recommendations. The December 15, 2007 Letter/

D000686

Staff Report now lists only 2 Recommendations on the first page.

- #4 - The Fiscal/Mandatory information and dollar(\$) amounts in the December 15, 2007 copy of the December 18, 2007 Letter/Staff Report now differ from the December 13, 2007 copy of the December 18, 2007 Letter/Staff Report. (Page 1)
- #5 - The Summary of Revenues & Costs information and dollar(\$) amounts in the December 15, 2007 copy of the December 18, 2007 Letter/Staff Report now differ from the December 13, 2007 copy of the December 18, 2007 Letter/Staff Report. (Page 1)
- #6 - Page 2, the title of the "Current FY 2007-2008 Budget Projection" chart now differs between the December 13, 2007 and December 15, 2007 copies of the December 18, 2007 Letter/Staff Report.
- #7 - Page 2, the formatting of the "Current FY 2007-2008 Budget Projection" chart columns' subjects is now different between the 2 copies.
- #8 - Page 2, the dollar(\$) amounts in the "Current FY 2007-2008 Budget Projection" chart now differ between the 2 copies.
- #9 - The "Discussion" information on Pages 2 through 4 of the December 18, 2007 Letter/Staff Report do not match the beginning and ending between the December 13, 2007 and December 15, 2007 copies.
- #10 - The wording in #3 under "Highlights of the Proposed Revised Agreement" (Page 3 of the December 18, 2007 Letter/Staff Report) does not match between the two copies.
- #11 - Pages 3 and 4, the paragraph beginning with "Staff recommends" and ends with "Principle Permittee requirements" in the December 13, 2007 copy of the December 18, 2007 Letter/Staff Report is now separated in the December 15, 2007 copy of the December 18, 2007 Letter/Staff Report.
- #12 - Page 4, the last paragraph/sentence in the December 13, 2007 copy of the December 18, 2007

Letter/Staff Report is now different from the December 15, 2007 copy of the December 18, 2007 Letter/Staff Report.

- #13 - The December 13, 2007 copy of the December 18, 2007 Letter/Staff Report was signed by the Engineering Services Department Director, Alec T. Pringle "Acting" for Ronald C. Coons, Director of the Public Works Agency. The December 15, 2007 copy of the December 18, 2007 Letter/Staff Report was signed by Jeff Pratt, Director of the Watershed Protection District.
- #14 - The format differs for the text information on Pages 1 through 5 of the Draft NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AMENDMENT TO IMPLEMENTATION AGREEMENT VENTURA COUNTYWIDE STORMWATER QUALITY MANAGEMENT PROGRAM between the two copies of the December 18, 2007 Letter/Staff Report.
- #15 - Public hearings have not taken place by the City Councils of the ten(10) County cities on the Amendment to the 1992 Countywide NPDES Permit Implementation Agreement.
- #16 - Current resolutions approving the Amendment to the 1992 Countywide NPDES Permit Implementation Agreement by the City Councils of the County's ten(10) cities have not been filed.
- #17 - Both copies have two pages with the IA signed for the City of Thousand Oaks, but one page is not dated, and the other page has a date inserted after the fact.
- #18 - The problems that have led to no formal public hearings by each Co-Permittee each time there was an IA approved are the 1992 Countywide NPDES Permit Implementation Agreement Sections 7 (Authority to Execute Agreement) and 8 (Execution in Counterparts).
- #19 - The Amendment to the Implementation Agreement is being backdated--July 2007.

4

- #20 - The request is a long-term program; not just for fiscal year 2007-2008, but future ones.
- #21 - The Amendment DOES NOT COMPLEMENT the 1992 NPDES Permit(Countywide) Implementation Agreement.
- #22 - Approval of the Amendment request puts the Los Angeles Regional Water Quality Control Board in a legal quandary.
- #23 - This exercise is being undertaken to get around Proposition 218.
- #24 - This exercise, and the proposed Amendment are in violation of the 1992 Countywide NPDES Permit Implementation Agreement/Agreements Section "IX. AMENDMENTS TO AGREEMENT, A. This AGREEMENT may be amended by written consent of the parties, signed and approved by the governing bodies of the parties."
- #25 - The words "Page 2, 3, 4, and 5 of 5" of each additional page after the first of the proposed Amendment to the 1992 Implementation Agreement were deleted. So were the words above this.

#### QUESTIONS

1. Did you receive 2 Letters/Staff Reports?
2. If so, when did you receive each one?
3. If not, which one did you receive?
4. Did the County/District use the same consultant on the NPDES Permit Amendment to the Implementation Agreement item as it used for the Amendment to the Legislative Agenda(February 15, 2005)?
5. Did all parties sign the 1992 Countywide NPDES Permit Implementation Agreement when the dates indicate on the documentation?
6. Is this why the existing NPDES assessment fees cannot be increased without going through the Proposition 218 process?

ADDITION

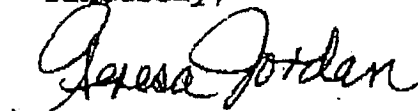
#1 - To the Proposed Amendment title add "1992".

Members of the Boards, I had jotted additional concerns on my December 13, 2007 copy of the December 18, 2007, but due to the time it took me to finish my letter on the Santa Susana Field Laboratory Group 4 RCRA Facility Investigation Report to the State Department of Toxic Substances (DTSC), it will take too long to get this letter to you for your consideration.

Supervisors/Directors, I ask that you NOT approve the request being made of you. This item must be sent back for County and District staff to crank out the information the right way, not tweak it as they please--this is so reminiscent of the February 15, 2005(?) Amendment to the Legislative Agenda staff/consultant debacle; *property-related fees.*

Members of the Boards, since the Letters/Staff Reports have been reviewed by the County Executive Office, County Counsel, and the Auditor-Controller's Office, and the County Executive Office recommends approval of this Agenda Item, and they have been signed by the Director of the Ventura County Watershed Protection District and staff acting on behalf of the Ventura County Public Works Agency Director, all of these people including the Director of the Ventura County Public Works Agency Director, and any other County and District staff who have been involved with this matter should be fired ASAP. The consultant, if there was one hired, should also be fired ASAP.

Sincerely,



Teresa Jordan



STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0037  
(916) 319-2037  
FAX (916) 319-2137

DISTRICT OFFICE  
2659 TOWNSGATE RD., STE 236  
WESTLAKE VILLAGE, CA 91361  
(805) 230-9167  
FAX (805) 230-9183

Assembly  
California Legislature



AUDRA STRICKLAND  
ASSEMBLYWOMAN, THIRTY-SEVENTH DISTRICT

July 2, 2008

Francine Diamond, Chair  
Los Angeles Regional Water Quality Control Board  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

RE: Ventura County MS-4 Draft Permit-NPDES Permit No. CAS004002

Dear Chair Diamond:

Thank you for providing for the additional hearing on the Ventura County Stormwater Permit. My district covers a large portion of Ventura County, including the cities of Simi Valley, Thousand Oaks, Moorpark, Camarillo, Santa Paula, Fillmore, and Ojai. I am very concerned about the implications of the new MS-4 Permit that is being proposed for Ventura County and its ten cities. I certainly value the quality of life that we enjoy in the County and we have a group of local governments who have proven to be good stewards of the environment.

For a county that is consistently recognized for its commitment to protecting our resources, I'm concerned with the very stringent new regulatory mandates that are being considered as part of the MS-4 Permit. The concept of Municipal Action Levels (MAL's), and the associated cost, for a County that has clean beaches, significant amounts of open space, and good water quality seems to be overreaching.

I would respectfully request that you and your Board reconsider the issue of MAL's and work with the County and the cities to provide for an improvement to the existing permit that is reasonable, manageable, and cost effective.

Sincerely,

A handwritten signature in cursive script that reads "Audra Strickland".

Audra Strickland  
Assemblywoman, 37<sup>th</sup> District



**CITY OF FILLMORE**

CENTRAL PARK PLAZA  
250 Central Avenue  
Fillmore, California 93015-1907  
(805) 524-3701 • FAX (805) 524-5707

June 3, 2008

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**SUBJECT: COMMENTS ON THE VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES No. CAS004002) FOR THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES**

Dear Ms. Egoscue:

With this permit the LA Board is taking a dramatic step in the storm water program establishing Municipal Action Levels (MAL's) that will require the installation of storm water treatment in existing communities. The L.A. Board is the first in the Nation to establish such a requirement. This huge step causes at least a \$600/year per household cost compared to voter opinion surveys showing acceptance of \$20/year for storm water quality. If communities don't comply with the new permit we could be subject to about \$27,000 per day Mandatory Minimum Penalties per storm drain outlet.

**THIS IS AN INSURMOUNTABLE GRAND CANYON OF A DIVIDE THAT CANNOT BE RESOLVED AT THE LOCAL LEVEL.**

The only way treatment can be provided in existing communities is if there is State funding and State legislation changing Proposition 218 and granting local elected bodies authority to establish fees for storm water treatment. State participation is not going to occur if local Regional Boards piecemeal, county by county, the requirement to provide treatment for existing communities.

However if treatment for existing communities is implemented simultaneously state wide then every city and county in the state will face the challenge together and there will be the political will to create a State sanctioned funding mechanism to make the treatment a reality. Any other approach will fail to achieve the L.A. Board's objective because there is no money of this magnitude for installation or maintenance of treatment devices in existing communities.

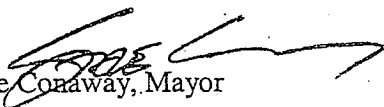
Therefore in the interest of achieving an implementable storm water program the Board must eliminate the MAL provisions in the draft permit and pursue these requirements through the State Board for State wide, simultaneous, implementation.

LARWQCB  
Draft Storm Water NPDES Permit  
Page 2

There are other issues of concern to Fillmore but they have been addressed in prior comment letters and in the joint comment letter by the Ventura County Watershed Protection District on behalf of the Co-Permittees.

Very Truly Yours,

CITY OF FILLMORE

  
Steve Conaway, Mayor

Cc: Ventura County Board of Supervisors  
Mayors of Ventura County Cities  
State Senators  
State Assembly Members

D000693



"Citrus Capital of the World"

# City of Santa Paula

970 Ventura Street • Santa Paula, California • Mailing Address: P.O. Box 569 • 93061 • Phone: (805) 525-4478 • Fax: (805) 525-6278

May 29, 2008

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**City of Santa Paula - Comments on NPDES No. CAS004002 – Draft Tentative Order of April 29<sup>th</sup>, 2008 (Permit)**

Dear Ms. Egoscue,

The City of Santa Paula is a community of 29,000 people in just under five square miles in east Ventura County. We have a small staff, but have been willing and active participants in the stormwater permits to date. However, the draft MS4 Permit for Ventura County proposed by your staff is misguided, counterproductive, ineffectively expensive, and prohibitive to implement, especially in a small community like Santa Paula.

We do not have the resources to comment individually on all details, but have been working closely with our co-permittees in review of the draft Permit. Rather than repeat what has been said by others, suffice it to say that the City of Santa Paula endorses the comments of Gerhardt J. Hubner in his letter of May 27, 2008, on behalf of all the co-permittees, and of the City of Ventura in their letter of May 29, 2008. Copies of those letters are attached.

We urge you to respond constructively to our comments, and we look forward to the opportunity to learn about your responses at the July 10 workshop of the Los Angeles Regional Water Quality Control Board.

Sincerely,

Wally Bobkiewicz  
City Manager

cc: Mayor and City Council  
Gerhardt J. Hubner, Ventura Countywide Stormwater Management Program  
Jeff Pratt, Director, Ventura County Watershed Protection District



# CITY OF OJAI

401 SOUTH VENTURA STREET  
P.O. BOX 1570 / OJAI, CA 93024  
TELEPHONE (805) 646-5581  
FAX (805) 646-1980

May 29, 2008

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**Subject: Comments on NPDES No. CAS004002 – Draft Tentative Order of April 29<sup>th</sup>, 2008 (Permit)**

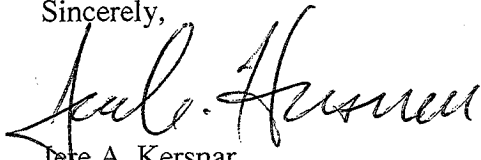
Dear Ms. Egoscue:

The City of Ojai is a community of 8,000 people in just under five square miles in northwest Ventura County. We have a small staff, but have been willing and active participants in the stormwater permits to date. However, the draft MS4 Permit for Ventura County proposed by your staff is misguided, counterproductive, ineffectively expensive, and prohibitive to implement, especially in a small community like Ojai.

We do not have the resources to comment individually on all details, but have been working closely with our co-permittees in review of the draft Permit. Rather than repeat what has been said by others, suffice it to say that the City of Ojai wholeheartedly endorses the comments of Gerhard J. Hubner in his letter of May 27, 2008, on behalf of all the co-permittees, and of the City of Ventura in their letter of May 29, 2008. Copies of those letters are attached.

We urge you to respond constructively to our comments, and we look forward to the opportunity to learn about your responses at the July 10 workshop of the LARWQCB.

Sincerely,

  
Jere A. Kersnar  
City Manager

Cc: Mayor and City Council  
Mike Culver, Public Works Director, City of Ojai  
William (Bill) O'Brien, PE, CFM, Hawks and Associates  
Gerhard J. Hubner, Ventura Countywide Stormwater Management Program  
Jeff Pratt, Director, Ventura County Watershed Protection District  
Rick Cole, City Manager, City of Ventura

RECEIVED  
2008 MAY 30 PM 2 28  
CITY OF OJAI  
401 SOUTH VENTURA STREET  
P.O. BOX 1570  
OJAI, CALIFORNIA 93024  
LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

D000695

Attachment 1 – City of Ojai



**Ventura Countywide  
Stormwater Quality  
Management Program**

Participating Agencies

- Camarillo
- County of Ventura
- Fillmore
- Moorpark
- Ojai
- Oxnard
- Port Hueneme
- San Buenaventura
- Santa Paula
- Simi Valley
- Thousand Oaks
- Ventura County Watershed Protection District

May 27, 2008

Ms. Tracy Egoscue  
Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

RECEIVED  
 2008 MAY 30 PM 2 28  
 LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

**SUBJECT: DRAFT TENTATIVE ORDER OF THE VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES No. CAS004002) FOR THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES**

Dear Ms. Egoscue:

The Ventura Countywide Stormwater Program ("Ventura Program") would like to take this opportunity to provide comments on the Regional Water Quality Control Board's ("Regional Water Board") draft tentative of Waste Discharge Requirements for Storm Water Discharges from the Municipal Separate Storm Sewer System ("MS4") within the Ventura County Watershed Protection District, County of Ventura, and the Incorporated Cities therein (collectively referred to as the "Permittees") ("Draft Tentative Order") (NPDES Permit No. CAS004002), which was released for public comment by the Regional Water Board on April 29, 2008.

Many of our comments submitted here are similar, and in some cases identical, to comments previously submitted on earlier versions of the Draft Tentative Order. We find it necessary to repeat, or incorporate by reference, many of our comments previously submitted because several essential elements of the Draft Tentative Order remain the same despite repeated attempts to convey our major concerns. **In particular, we continue to have major concerns with the inclusion of Municipal Action Levels ("MALs") in the form as currently constituted in the Draft Tentative Order.** Since the first draft was issued in 2006, we have submitted comprehensive comments on both March 6, 2007 and October 12, 2007. To the extent that such comments apply to the remaining issues of concern, we hereby incorporate by reference our earlier submittals.



Furthermore, we continue to find ourselves at a disadvantage with regard to the Regional Water Board's thought process and consideration of previous comments because the Draft Tentative Order does not include the requisite fact sheet required by the Code of Federal Regulations, Title 40, section 124.56. We recognize that the Regional Water Board intends to release a final tentative order for public review and comment that will include the fact sheet prior to Regional Water Board consideration and adoption. However, in the meantime, the Permittees and other interested parties are unable to fully comment on the Draft Tentative Order until all required elements are provided for review and comment. Thus, while we have made significant effort to convey our comments and concerns on the Draft Tentative Order through these comments and all of the comments previously submitted, the Ventura Program reserves the right to provide new and different comments when the final tentative order, fact sheet and other related documents are released for public review and comment.

Our primary purpose with this letter is to highlight our more fundamental issues associated with the Draft Tentative Order. In addition, as we have done in the past, we have included a marked-up version of the Draft Tentative Order as an attachment. (See Attachment A.) The marked-up version provides our suggested permit language for provisions within the Draft Tentative Order which we feel will improve and/or provide better water quality protection.

Our fundamental issues with the Draft Tentative Order included here are as follows:

- I. Overly Prescriptive and Lacks Flexibility
- II. Inappropriate Calculation, Development and Application of Municipal Action Levels (MALs) for Ventura County Stormwater
- III. Misuse of MALs to Determine Compliance with Maximum Extent Practicable (MEP)
- IV. Unintended Consequences of Performance Criteria for Treatment Control BMPs
- V. Lack of Fully Integrated and Technically Sound Approach to Water Quality Protection for New Development
- VI. Misapplication of Monitoring to Support Program Implementation
- VII. Miscellaneous Permit Provisions (TMDLs, Trash Excluders)

Before proceeding directly with our comments, we must first convey to you our ultimate goal. We, the Permittees, collectively and individually wish to work cooperatively with the Regional Water Board and the Regional Water Board staff to obtain a reasonable MS4 permit that reflects the issues of concern for Ventura County and allows Ventura County and the incorporated cities therein to prioritize and direct resources appropriately within jurisdictional boundaries. Unfortunately, the Draft Tentative Order is replete with prescriptive requirements that remove local flexibility in the implementation and regulation of an effective stormwater program. More importantly, the financial impact to our communities based on implementation of the Draft Tentative Order as proposed may be devastating and may make compliance with all provisions of the Draft Tentative Order impossible. We estimate the annual cost to comply with this Draft Tentative Order to be approximately \$600 per household, which is a seventeen-fold increase from the current average cost of \$35/household. The Draft Tentative Order summarily dismisses local financial concerns by finding that local agency Permittees have the authority to levy service charges, fees, or assessments to pay for activities necessary to ensure compliance. (Draft Tentative Order at p. 12.) This finding fails to balance the realities associated with municipal



financing, limitations on local taxes due to Proposition 218, and the ability of local residents to pay increased fees for stormwater, especially in the current economic climate. In its adoption of an MS4 permit, the Regional Water Board should carefully balance the need to protect water quality, the activities associated with water quality protection and the financial cost of permit requirements. In many cases, the proposed permit requirements may not result in significant water quality improvement as compared to the cost of implementation.

Our specific comments on the fundamental issues included here are provided below and in the attachments.

**I. Overly Prescriptive and Lacks Flexibility**

As currently configured, the Draft Tentative Order is overly prescriptive. Instead of requiring the Permittees to maintain and implement the various program elements associated with a successful stormwater program in a manner that allows for individual determinations with regard to specifics, the Draft Tentative Order specifically identifies the actions, activities and best management practices ("BMPs") that the Permittees must implement. In fact, the Draft Tentative Order is so prescriptive that to substitute a different BMP for any that have been specifically identified in the Draft Tentative Order, the Permittees must petition the Regional Water Board's Executive Officer to obtain approval. (Draft Tentative Order at p. 38.) This provision requires substantial fiscal and technical justification for a different BMP but provides limited guidance to direct the justification. Thus, the structure and nature of the Draft Tentative Order places new burdens on the Permittees as well as Regional Water Board staff. Furthermore, some of the requirements are illogical and beyond the legal authority of the municipalities.

For example, the Public Information and Participation Program ("PIPP") requires the Permittees to develop and implement an outreach program for school age students. The education program may take the form of working within each school district and gaining access to the class rooms, paying funds to a Statewide Environmental Education Account, or conducting an outreach program directed at school age students. (Draft Tentative Order at pp. 40-41.) However, and regardless of the option chosen, the Draft Tentative Order requires the Permittees to develop and implement a strategy to measure the effectiveness of in-school educational programs. (Draft Tentative Order at p. 41.) Such a requirement is beyond the ability of the municipalities. It is not the role of municipalities to assess the efficacy of education curriculum at a local or statewide level. At most, the Permittees can ask for cooperation from the various in-county school districts to develop feasible education goals that include some measure of effectiveness, because the School Districts are under no obligation to work with the Permittees.

Another prime example of an inflexible permit provision is the one associated with the Annual Report. (Draft Tentative Order at Attachment H.) This provision provides a line-by-line listing of questions that must be replied to by the MS4s with no opportunity for the Ventura Program to offer an alternative reporting format. The Ventura Program has over the years developed a comprehensive and relevant annual reporting format. This format will need to be completely revised for no apparent benefit as the new format will not help to answer the fundamental question of whether our stormwater program is effective in reducing pollutants to the MEP.

Instead, the Annual Report will become an extensive bean counting exercise focused solely on tallying-up the number of BMPs that have been implemented without considering the effectiveness of implementation. In this specific instance, we strongly recommend that the Draft Tentative Order be modified to allow the Permittees to develop an Annual Report format that is subject to Regional Water Board Executive Officer approval. Furthermore, we suggest that the permit allow the use of an Annual Report format that reflects the Program Effectiveness Assessment Guidance Manual developed by the California Association of Stormwater Quality Agencies (CASQA). Other Regional Water Boards have begun to use this document as a basis for assessing the effectiveness of stormwater programs.

In another example, the Permittees must provide an electronic tracking system for grading permits. (Draft Tentative Order at p. 68.) While we believe a tracking system is important and should be maintained, we take exception to the Draft Tentative Order dictating the platform for tracking. Similar to a wastewater treatment plant, a NPDES permit should dictate the performance standard, not the method of treatment to meet the performance.

In summary, the overall structure and nature of the Draft Tentative Order should be revised to direct Permittees to achieve specified goals related to the various program elements versus requiring Permittee implementation of the individual actions, activities and BMPs identified in the Draft Tentative Order. Otherwise the Draft Tentative Order remains overly prescriptive, lacks flexibility and fails to allow for adaptive management to ensure that BMPs are effective in improving water quality.

## **II. Inappropriate Calculation, Development and Application of Municipal Action Levels (MALs) for Ventura County Stormwater**

The Ventura Program continues to have considerable and serious concerns regarding the calculation, development and application of MALs. Overall, we contend that the MALs as calculated are not technically sound, and more importantly, are not legal in the manner as proposed in the Draft Tentative Order. Furthermore, exceedances of the MALs after Year 3 may subject the Permittees to mandatory minimum penalties because the current configuration of MALs in the Draft Tentative Order may be considered effluent limitations under state law. (See Wat. Code, § 13385.1 where effluent limitation means "a numerically expressed narrative restriction.") Our comments here highlight and summarize the relevant points to MALs that have been provided in previous submittals. For a more comprehensive discussion on both the technical and legal issues associated with the MALs as proposed in the Draft Tentative Order, we direct you in particular to Attachment A (Legal and Policy Comments) of the Ventura Program comments submitted on October 12, 2007 in response to the Second Draft Order dated August 28, 2007.

### **A. Draft Tentative Order use of MALs is Inconsistent with the Blue Ribbon Panel**

Consistent with our previous comments on the earlier Draft Orders, we submit that the specific MALs contained in the Draft Tentative Order are not technically supportable or valid. The technical validity of establishing numeric limits for outfalls was posed to a State Water

Resources Control Board ("State Water Board") convened group of experts referred to as the Blue Ribbon Panel ("BRP"). The results and conclusions of the BRP are highlighted in a June 2006 Blue Ribbon Panel Report ("BRP Report")<sup>1</sup>. The BRP Report unequivocally states the position that numeric limits for municipal stormwater discharges are not possible at this time. However, the BRP did agree that "action levels" may be used to identify "bad actor" catchments. Specifically, the BRP Report states:

*It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges ....*

*For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible. However, the approach of setting an 'upset' value, which is clearly above the normal observed variability, may be an interim approach which would allow "bad actor" catchments to receive additional attention. For the purposes of this document, we are calling this "upset" value an **Action Level** because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken ... . (BRP Report at p. 8, emphasis added.)*

The Draft Tentative Order attempts to portray MALs as levels consistent with the BRP Report. (Draft Tentative Order at pp. 23-24.) However, comprehensive reading of the Draft Tentative Order provides evidence to the contrary. In fact, after Year 3, MALs in the Draft Tentative Order become enforceable numeric limits, not action levels as envisioned by the BRP. Furthermore, the proposed MALs were not developed in a manner that is consistent with the concept of MALs as put forward by the BRP. To develop an appropriate action level, the BRP suggested various options, which included: (1) consensus based approach; (2) ranked percentile distribution; and, (3) statistically based population parameters.

The Draft Tentative Order claims to use a statistical approach that uses the central tendency of the dataset and accounts for data variability. (Draft Tentative Order at p. 23.) In its actual calculation, the Draft Tentative Order took the median value of a national dataset and multiplied it by the coefficient of variation times two. There is no basis for this approach in establishing action levels. In fact, this calculation reflects the variability of the data (measured as the standard deviation) and does not account for the central tendency of the dataset.<sup>2</sup> This statistical approach is not consistent with the BRP suggestion for a statistically relevant calculation.

In addition, the Draft Tentative Order uses a national database to generate the MALs. (Draft Tentative Order at p. 23.) It is not appropriate to use a national database in this case because it penalizes the dry or semiarid (low rainfall) regions of the country. (See discussion below.) Moreover, the BRP noted that there is greater opportunity to use various datasets for establishing the MALs. Three options proposed in the BRP Report, in order of preference, are:

<sup>1</sup> The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial, and Construction Activities (June 19, 2006).

<sup>2</sup> See CASQA March 7, 2007 letter regarding the Ventura Draft permit at page 4.

- Local urban stormwater monitoring data (the BRP even notes the existence of such datasets from Los Angeles County, Orange County and other California MS4 programs)
- Combine municipal permit monitoring datasets if there is a lack of data for specific constituents in any one location
- National database

The Draft Tentative Order selects the least preferred option to generate the MALs even though there are significant local stormwater datasets available. In fact, California MS4s have more comprehensive datasets than other MS4s throughout the country. Thus, there is ample opportunity to use local, regional and statewide datasets to establish action levels and it is not necessary to rely on a national dataset.

The MALs in the Draft Tentative Order are inconsistent with the intent and purpose of MALs as originally introduced by the BRP, and are calculated in a manner that is inconsistent with the BRP's suggested approach.

**B. MALs in Draft Tentative Order may Establish New Water Quality Objectives for a Waterbody**

Instead of identifying "bad actors," the MALs as calculated in the Draft Tentative Order may actually establish new water quality objectives for a waterbody. Or, at the very least, they may establish action levels that are below applicable water quality objectives for the waterbodies in question. For example, the Draft Tentative Order proposes a MAL for total nickel of 19.2 ug/L that must be complied with 80% of the time based on a running average. (Draft Tentative Order at p. 32; Attachment C at p. 1.) Currently, the waterbodies in Ventura County and representative outfalls cannot comply with this MAL because they exceed the nickel MAL more then 20% of the time, as summarized below in Table 1.

Table 1. Comparison of Ventura County Waterbodies with Nickel MAL

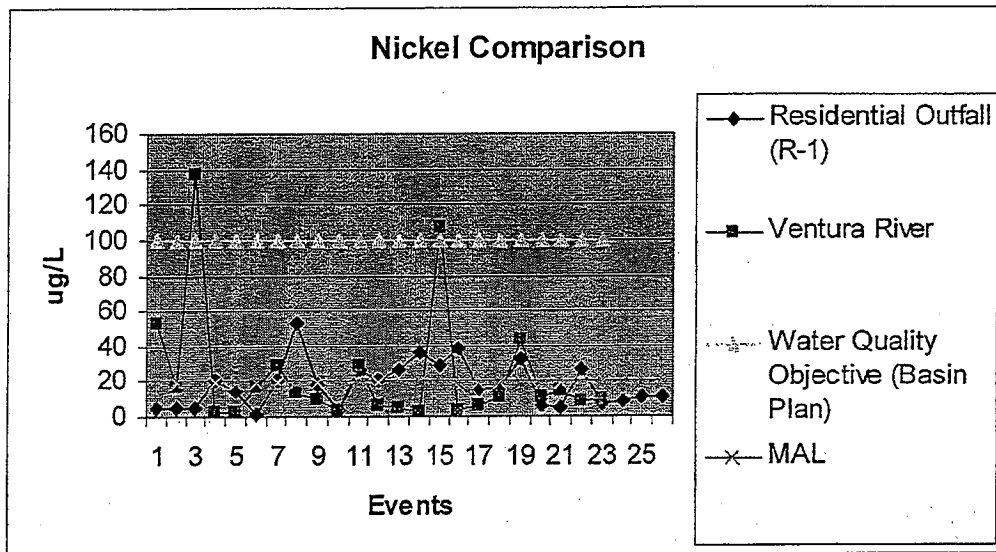
Waterbody/discharge	Percentage of time <sup>1</sup> > MAL
Calleguas Creek	59
Santa Clara River	70
Ventura River	26
Residential outfall	41
Industrial outfall	58

On the other hand, the Water Quality Control Plan for the Los Angeles Region ("Basin Plan") contains a surface water quality objective for nickel in Ventura County that is set at 100 ug/L<sup>3</sup>. By comparison, the MAL is five times more restrictive than the adopted water quality objective, which has been adopted to protect beneficial uses. The net result is that all waterbodies in

<sup>3</sup> Alternatively, the CTR establishes acute and chronic water quality objectives based on hardness. Using a hardness of 100 mg/L as CaCO<sub>3</sub> the dissolved nickel objective ranges from 52 to 469 µg/L.

Ventura County are out of compliance with the nickel MAL (see above Table 1), but not necessarily with the applicable water quality objective. In sum, the waterbodies exceed the MALs even though they comply with the applicable water quality objective that supports beneficial uses. Consequently, the Permittees will be found to be out of compliance with the MEP standard even though they are not causing or contributing to an exceedance of an applicable water quality standard. A plot of monitoring data for the Ventura River (of which the watershed is only 3% developed) and a residential outfall as compared to the MAL, and the water quality objective is shown in Table 2 below.

Table 2.



A closer review of Table 2 shows the Ventura River is substantially in compliance with the water quality objective in the Basin Plan but not the MAL. Furthermore, because the waterbody is primarily in compliance with the applicable water quality objective, discharges from residential storm drain outfalls are clearly not causing or contributing to an exceedance of a water quality standard. Thus, the MS4 discharges and the waterbody do not exceed or impact the Basin Plan water quality standards, but due to the application of the MAL, the Permittees would be out of compliance with the Draft Tentative Order and would potentially be subject to mandatory minimum penalties for failing to comply with an effluent limitation.

**C. Compliance with MALs will Prove to be Problematic**

It is also worth noting that at the September 20, 2007 workshop, Regional Water Board staff and Heal-the-Bay presented BMP performance data for treatment control BMPs and not for source control BMPs implemented through a stormwater management program. Thus, presumably compliance is only achievable through the implementation of treatment control BMPs. As a result, **the Draft Tentative Order is structured to effectively require Permittees to retrofit all outfalls with treatment control BMPs.** However, the language in the Draft Tentative Order creates an illusion that the Permittees can comply with the MALs through a traditional stormwater management program. (Draft Tentative Order at p. 32.) If it is the Regional Water

Board's intent to structure compliance around the implementation of treatment control BMPs (and abandon source control), then the Draft Tentative Order must clearly state that all outfalls are to be retrofitted with treatment control BMPs. Obviously, the costs and ramifications on Permittees for such a requirement are huge and in some cases may not be possible without displacing existing development. Preliminary cost estimates for retrofitting all outfalls with treatment control BMPs are presented later in this comment letter.

The Draft Tentative Order states that the American Society of Civil Engineers—Best Management Practices' (ASCE BMP) database was used to demonstrate the practicality and ability of the municipalities to achieve the MALs. (Draft Tentative Order at p. 24.) Regional Water Board staff articulated this same point at the September 20, 2007 workshop. However, in reviewing options for lowering the nickel concentrations to the MAL level, the Permittees were unable to verify that the BMPs purported to be practicable in the database could in fact reduce nickel to levels required for compliance. This is further supported in Attachment C of the Draft Tentative Order, which does not include a performance standard for nickel. In other words, the ASCE BMP database has no supporting documentation demonstrating the effectiveness of treatment control BMPs to reduce nickel.

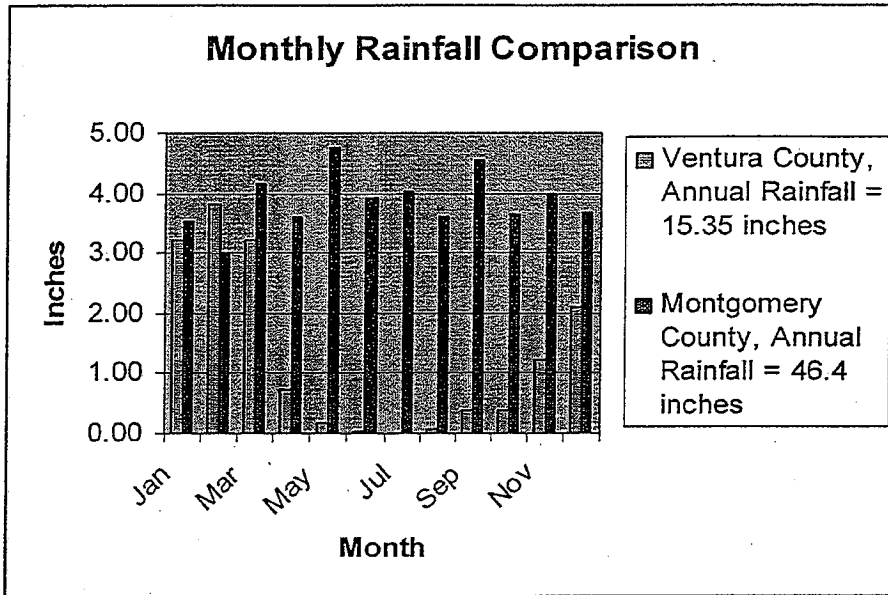
**D. MALs Penalize West Coast Stormwater Programs**

As noted previously, the MALs as currently configured will penalize municipal programs in dry or semiarid climates. By way of example, we examined two comprehensive stormwater management programs, one on the east coast and one on the west coast to consider the impact of arid conditions. The east coast program was for Montgomery County, Maryland, and the west coast program was for Ventura County. The general demographics of the two programs are summarized in Table 3 below.

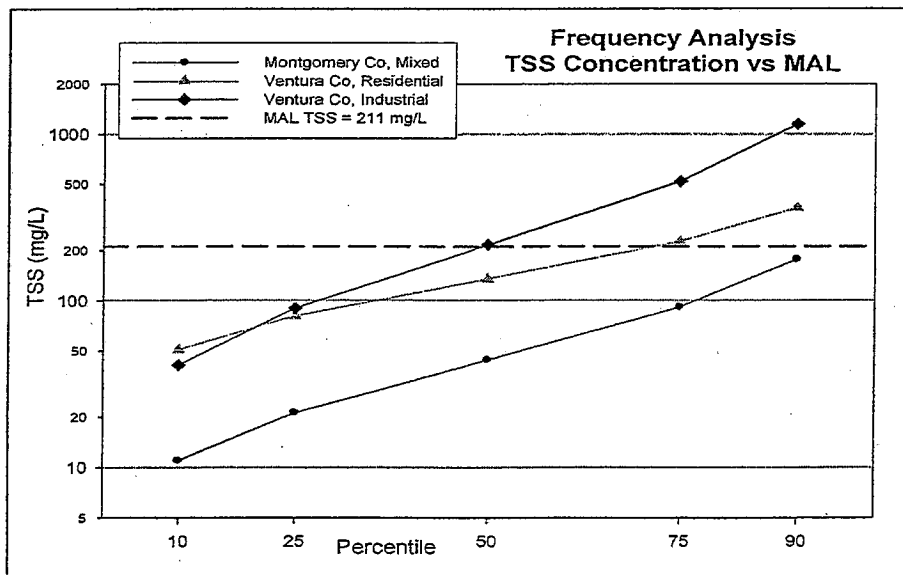
Table 3. Comparison of Ventura County and Montgomery County Characteristics

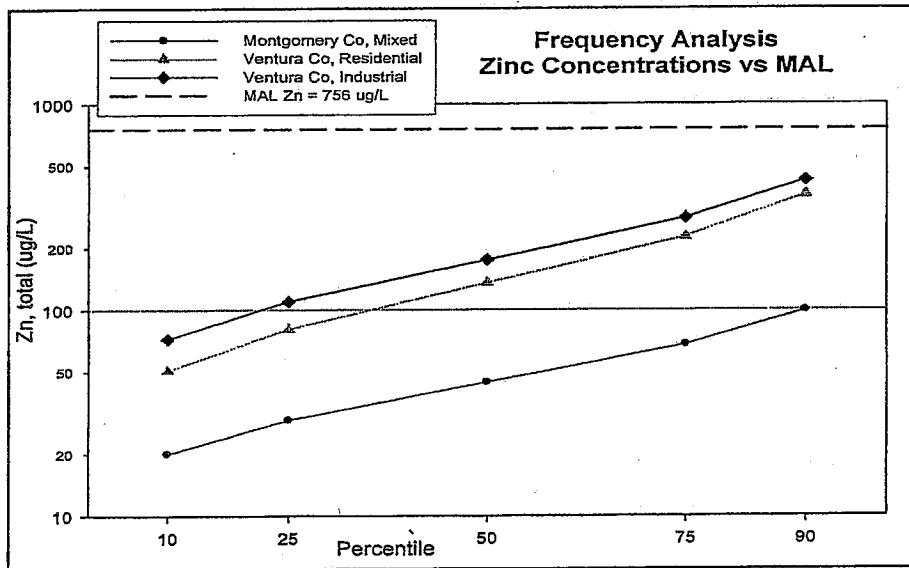
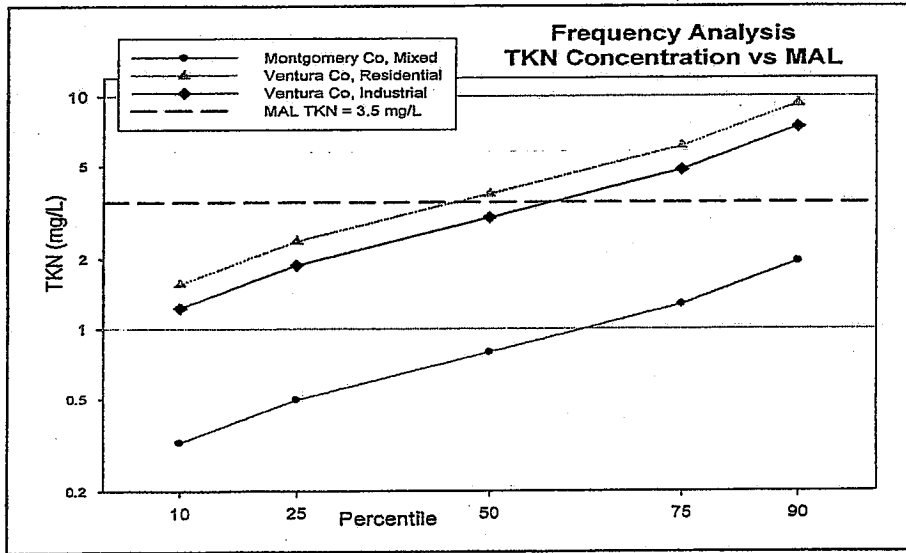
<b>Montgomery County, MD</b>	<b>Ventura County, CA</b>
County population in 2005: 927,583	County population in 2006: 817,346
Population distribution: 97% urban, 3% rural	Population distribution: 97% urban, 3% rural
Population density: 1872 people per square mile	Population density: 431 people per square mile
Land area: 496 sq. mi.	Land area: 1845 sq. mi.
Water area: 11.6 sq. mi.	Water area: 362.9 sq. mi.
Forested area: 19%	Forested Area: 46%

The two counties have similar stormwater management programs (see Attachment B), and as shown by Table 3 above similar demographics. The significant difference between the two programs is the annual rainfall amount and precipitation pattern. This is shown in the graph that follows.



Both programs have long-term monitoring programs including characterization of discharges. A side-by-side comparison of the monitoring results of selected constituents common to both programs is shown in the following frequency distribution graphs. The proposed MALs are also included in the graphs.





A review of the graphs clearly shows that the runoff from the Montgomery area is of better quality than the runoff from Ventura County. The reason for this difference is not due to a difference in stormwater management program implementation but rather to the difference in annual precipitation. Both programs have similar implementation efforts and the outfalls examined in each program are similar in characteristics. The year-round distribution of rainfall on the east coast mitigates the build-up and wash-off of pollutants. This may be shown another way by calculating the differences in the runoff means and comparing that difference with the inverse difference in rainfall; in other words, the pollutant concentration is inversely related to the amount of rainfall.



This is shown in Table 4 below.

Table 4.

Constituent	Units	Runoff means		Ratio (Mont/Ven)
		Montgomery	Ventura (R-1)	
TSS	mg/L	44	135	.33
KN	mg/L	0.8	3.8	.21
Total P	mg/L	0.13	0.40	.33
Cadmium	ug/L	0.22	.81	.27
Copper	ug/L	28.5	23.2	1.23
Lead	ug/L	7.5	15.1	.50
Zinc	ug/L	44	135	.33
Annual Rainfall	inches	46.4	15.35	.33 (Ven/Mont)

Another way to consider the impact of rainfall is to calculate the annual loading for the noted constituents using the local runoff data and climatic data. Assuming similar runoff coefficients (RO = 0.60) the annual loading for a typical development in each county is summarized in Table 5 below.

Table 5.

Constituent	Montgomery Annual Load (#/acre)	Ventura Annual Load (#/acre)
TSS	0.28	0.28
KN	0.01	0.01
Total P	0.0008	0.0008
Cadmium	0.0017	0.0014
Copper	0.05	0.18
Lead	0.03	0.05
Zinc	0.28	0.28

Again a review of Table 5 demonstrates that on an annual basis the two programs have very similar annual runoff loads.

Such a conclusion is consistent with the results of the national dataset (used by the Regional Water Board staff to establish the MALs). The following finding is taken from the most recent Progress Report regarding the National Stormwater Quality Database:

*5. Residential area data were also analyzed across the different EPA rain zones for the country. The wettest areas of the country (Southeast and Northwest) may have the lowest EMCs for some stormwater pollutants. This may be due to the reduced inter-event times for pollutant buildup and greater runoff for dilution. (Page 6.)<sup>4</sup>*

<sup>4</sup> [http://www.cwp.org/NPDES\\_research\\_report.pdf](http://www.cwp.org/NPDES_research_report.pdf)

The point to be made here is that the use of any dataset to establish Technology Based Effluent Limits (i.e., to establish MEP) must be done in the context of U.S. EPA guidance for developing such limits. A full range of issues must be considered and not the least being local climatic data. (See Attachment A (Legal and Policy Comments) of the Ventura Program comments submitted on October 12, 2007, in response to the Second Draft Order dated August 28, 2007, for a full discussion on the need to consider required factors when developing technology based limits.) As presented in the previous paragraphs, the Ventura Program would be out of compliance with the MALs while Montgomery County would be in compliance even though the Ventura Program is as comprehensive of a stormwater management program as the one in Montgomery County. This is because compliance is directly related to the amount of rainfall versus the different levels of BMP implementation between the two stormwater programs. This is fundamentally inconsistent with the definition of MEP and inherently unfair to dry and semi-arid climate stormwater programs.

**E. Cost for Compliance with MALs is Not Commensurate with the Environmental Benefits to Be Gained**

In addition to our concerns regarding the substantive, prescriptive provisions contained within the Draft Tentative Order, we are also concerned that the Draft Tentative Order establishes a countywide program that has little connection with the pollutants of concern ("POC") as identified by the Permittees. Over the course of the last five years, the Ventura Program has spent considerable resources on identifying the pollutants that warrant special attention. In some cases the POC focus complements what the Draft Tentative Order specifies and in other cases there is no relationship (e.g., installation of treatment control BMPs for nickel, chromium, mercury, and COD which are not listed as a POC).

To better understand the Permittees' liability in meeting the Draft Tentative Order, we compiled our monitoring data for both the land discharge sites and mass emission sites. These data were compared to the MALs from Attachment C of the Draft Tentative Order. Our review showed that the Permittees would be in substantial non-compliance with the MALs for constituents not typically found in urban runoff. Using our entire data set for the residential monitoring site, our assessment shows that our discharges will exceed the 20% running average for nickel, COD, TKN, and nitrate. If we use only the data from a specific year to calculate the running average then list of non-compliance expands to include chromium and TSS. As a result, we would be required to construct treatment control BMPs to meet the MALs.

To further assess the Permittees' exposure, we have estimated the costs for complying with the Draft Tentative Order. Our costs reflect a program required to meet the new baseline program element provisions, an enhanced program which includes the baseline program plus the installation and maintenance of trash excluders, and a compliance program which consists of baseline, enhanced, and the cost for constructing BMPs to comply with MALs<sup>5</sup>.

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<sup>5</sup> It should be noted that although we have developed cost estimates for implementing treatment control BMPs to meet MALs, it is uncertain whether such an approach is valid (see our discussion regarding BMP performance). To support this comment one should consider the nickel MAL. We are uncertain which BMP can meet the nickel MALs as there are no BMP performance data for nickel removal.

The costs estimated below are for compliance with the Draft Tentative Order only and do not include costs of compliance associated with implementation of adopted Total Maximum Daily Loads ("TMDL"). We initially developed the cost for the City of Camarillo and expanded it to the Ventura Program. This comparison is shown in the following Table. ✓

Table 6. Summary of Ventura Program Costs Impacts

Program	Annual Cost \$/Household			
	Current Effort	Draft Order Baseline <sup>3</sup>	Enhanced <sup>4</sup>	Compliance <sup>5</sup>
Statewide Study <sup>1</sup>				
Range	18-46	--	--	--
Mean	29	--	--	--
Ventura County				
Range	18-44 <sup>2</sup>	--	--	--
Mean	35	60	68	598

<sup>1</sup>NPDES Stormwater Cost Survey, Prepared by Office of Water Programs for State Water Board, Jan '05. Reflects Annual Budgets for 02/03.

<sup>2</sup>Based on 03/04 budget submitted in Ventura Countywide 2004/05 Annual Report.

<sup>3</sup>Reflects an increase in Permittee staff to meet Draft Tentative Order baseline requirements.

<sup>4</sup>Reflects baseline requirements (see note 3) and installation and maintenance of trash excluders in high trash generating areas.

<sup>5</sup>Reflects countywide program estimated costs for baseline, enhanced and retrofit (infiltration, bioretention) of outfalls and drainage areas to meet MALs. Treatment BMP costs were based on City of Fillmore 10/07/07 comment letter.

A review of Table 6 demonstrates that the typical household costs will increase approximately seventeen-fold for full compliance, excluding costs for TMDL implementation. In addition, new requirements under the Planning and Land Development program will result in increases in housing costs. Although these costs are not directly related to the general public per se, these additional costs impact local affordability and the economic viability of the communities.

### III. Misuse of MALs to Determine Compliance with MEP

The Draft Tentative Order contains slightly revised provisions related to MALs as compared to the Second Draft Order. (Draft Tentative Order at p. 32.) However, overall the use and implication of MALs remains the same. The Draft Tentative Order continues to use MALs as a numeric metric to interpret the technology based MEP. Furthermore, the MALs are applied "end-of-pipe" and are functionally numeric effluent limits, which may subject the Permittees to mandatory minimum penalties. In turn, the Permittees continue to oppose the use of MALs in this fashion for many reasons, both legal and technical. As indicated above, we have previously submitted extensive comments on the legal and policy implications associated with the use of

MALs in the manner proposed by the Draft Tentative Order. We encourage Regional Water Board staff to review our previous comments and objections because they continue to apply. However, for the sake of efficiency, we have not repeated those comments here. In summary, we believe that the MALs as proposed in the Draft Tentative Order are major obstacles to compliance and the fiscal viability of implementing the provisions contained in the Draft Tentative Order.

In the alternative, the Permittees recommend that MALs be re-fashioned from a nationally based numeric value that determines permit compliance to a locally relevant upset value that triggers the need for further evaluation and, if appropriate, modification of management practices. Our alternative proposal for the use of MALs is summarized here. We have also provided specific recommended language for this approach in Attachment A.

**A. Permittees' Alternative Approach for Use of MALs**

The Permittees continue to disagree with the use of MALs to define MEP as a numeric value to determine compliance. However, we are supportive of an alternative method that is consistent with the approach proposed by the BRP in its Report. We believe that our alternative meets the Regional Water Board's desire, as we understand it, to elevate the municipal stormwater program in Ventura County.

The alternative approach would establish "an 'upset' value, which is clearly above the normal observed variability ... which would allow bad actor catchments to receive additional attention." (BRP Report at p. 8, emphasis added.) The BRP Report termed upset value as "... an Action Level because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken ...." (*Id.*) The strikeout/underline language in Attachment A presents the Permittees' proposal for how MALs should be developed and used to achieve the purpose set forth in the BRP Report. In summary, the Permittees' proposal is to use locally relevant MALs as a tool which, together with additional investigation and attention, will ensure that the MEP standard is achieved in each sub-watershed.

To develop MALs for this purpose, the Permittees propose to use the 80<sup>th</sup> percentile of local, countywide data to develop MALs. Any sub-watershed that exceeds the 80<sup>th</sup> percentile would be above the normal observed variability and in need of additional attention. Also, the Permittees propose to develop MALs only for those pollutants where there is water quality impairment (based on the section 303(d) list), or have been identified as POCs by the Permittees and that are present in significant quantities in MS4 discharges. Such an approach avoids using public resources unwisely and inefficiently by giving attention to pollutants that are achieving norms and not resulting in water quality concerns.

Where a sub-watershed exceeds an MAL due to the MS4 discharge, the Permittees propose that the responsible Permittee be required to submit an "MAL Action Plan" to the Regional Water Board's Executive Officer. The plan would need to include an assessment of the sources responsible for the abnormal pollutant levels, the existing BMPs that address those sources, an assessment of additional BMPs and actions that could be implemented, and, based on such analyses, the additional BMPs and/or actions the responsible Permittee proposes to implement to

achieve the MEP standard. The Executive Officer, in approving the plan, would have the opportunity to identify additional BMPs or actions that the Regional Water Board believes necessary to address the constituent of concern.

In other words, the Permittees propose that MALs be used to identify poor performing catchments or sub-watersheds for pollutants of concern to implement further practical controls. Where MALs are exceeded, the Permittees, in conjunction and with approval by the Regional Water Board's Executive Officer, would be required to implement additional actions deemed necessary to address the high concentration. MALs would not be used to interpret MEP numerically and would not function as effluent limitations. Overall, we propose that MALs be used to elevate municipal responsibility in a manner that is reasonable and practical while improving water quality – not in a manner that is designed for failure.

#### **IV. Unintended Consequences of Performance Criteria for Treatment Control BMPs**

The Draft Tentative Order includes a major new permit requirement that was not in previous draft versions of the permit. For the first time, the Draft Tentative Order proposes to require performance standards for treatment control BMPs. Although the Permittees support the idea of establishing performance standards for these BMPs, we believe the approach taken in the Draft Tentative Order is seriously flawed. As part of our assessment of this new requirement, we retained the services of Dr. Michael Barrett of the University of Texas at Austin. Dr. Barrett is a well-known expert in the area of stormwater BMPs and currently serves on the project oversight committee for the ASCE/BMP database used by the Regional Board staff. His review and recommendations are provided in Attachment C.

In summary, his review finds that in general, the adoption of performance standards for stormwater treatment systems is an improvement over requirements that specify little more than the water quality volume. However, there are several issues related to the proposed numerical performance standards in the Draft Tentative Order, which include:

1. The analysis used by Regional Water Board staff to establish numerical standards based on performance by pollutant results in a situation where a BMP that does not meet every single criterion is eliminated from consideration. In fact, the performance standards established in Attachment C of the Draft Tentative Order will exclude the use of media filters, extended detention basins, biofilters, and hydrodynamic separators in Ventura County.
2. The BMP categories used in the analysis grouped together many devices that are not that similar. For example, the BMP category for biofilters includes both swales and vegetated buffers. Performance of the two BMPs is substantially different. Furthermore, there is a more robust dataset for the buffer strips, which exhibit better performance than swales.
3. The use of effluent concentrations ignores the benefit of ancillary infiltration that occurs in a variety of low impact development techniques. This is especially true when one considers the infiltration capability of a BMP.

4. The use of effluent discharge concentrations overcomes some of the problems associated with characterizing pollutant reduction as a percent removal; however, there are a number of other significant problems with this approach.
5. There will be difficulty in administering an effluent standard for BMP performance. Given the uncertainty about the precise BMP design criteria (e.g., drawdown time) that are needed to support the BMP performance, the Permittees will need to rely on common design guidelines (e.g., California BMP Handbooks) and expect some uncertainty in the performance.

To properly and appropriately use BMP performance standards in the Draft Tentative Order, we recommend the following:

1. Redefine the standards as goals to acknowledge the uncertainty of the technology and the variability of the design criteria in the BMP database. In lieu of a performance goal, establish design criteria (even if by reference) to provide assurance to the Permittees and development community that if they implement a BMP per the design criteria then they will be presumed to be in compliance.
2. Establish a BMP performance standard based on BMP categories and not use the pollutant-by-pollutant category now in the Draft Tentative Order.
3. Create a standard that will allow more than one BMP to qualify.

Unless BMP performance standards are substantially revised in a manner as we have suggested immediately above, such standards should be removed from the Draft Tentative Order. Otherwise, as currently proposed, the BMP performance standards (much like the MALs) are akin to technology based limits that have not been adopted in accordance with applicable federal regulations.

**V. Lack of Fully Integrated and Technically Sound Approach to Water Quality Protection for New Development**

It is fair to say that the requirements for new development may have some of the most far reaching ramifications on development and redevelopment in California. While the Regional Water Board staff should be acknowledged for their initial efforts to define metrics for water quality protection, the Permittees have major concerns that when the requirements are taken as a whole they fall well short of the goal and may actually work against the goal. The Permittees make the following suggestions because the current approach (e.g., EIA, hydrograph matching, treatment BMP performance) does not adequately address the following issues:

- Sediment balance
- Magnitude of flow in the receiving waters
- Supportable exemptions
- Interdependence of hydrologic controls

Furthermore, the current approach will likely have unintended consequences for erosion downstream.

A. Sediment Balance

The Draft Tentative Order addresses the issue of hydromodification of natural stream channels by considering only flow rates and duration. The complimentary and necessary issue of sediment balance is ignored. Regulating the combination of flows and sediment to preserve downstream habitat and channels should be the goal of the final hydromodification criteria. A graphical representation of the relationship between sediment and flow in degrading (cutting) or aggrading (building) downstream channels is provided in Attachment D.

The Draft Tentative Order refers to "sediment" as a "primary pollutant impacting beneficial uses." (Draft Tentative Order at p. 63.) This blanket referral attempts to generically characterize sediment as a pollutant that always impairs beneficial uses. Thus, the Draft Tentative Order attempts to remove any sediment from the construction and land development process. Such a characterization of sediment is inappropriate because it fails to recognize that there are many areas in our watersheds where there is high natural sediment yield, and the sediment yield is beneficial for a variety of uses. To avoid such a blanket characterization, the Draft Tentative Order should be revised to state "*sediment may at times contain pollutants or be a pollutant that impairs beneficial uses of watercourses.*"

B. Magnitude of Flow in the Receiving Waters

The flood studies in Ventura County by FEMA show that there are some large streams that will not be geomorphologically affected by slight changes in side drainage caused by new development projects. When the 100-year flow of the receiving water is very dominant compared to side drainages, the geomorphology of the receiving water is not significantly affected by side drainage. However, in some smaller Ventura County streams, like Arroyo Simi, even low but clear (effluent) flows have caused hydromodification effects of erosion downstream. While smaller streams like Arroyo Simi need hydromodification analysis, larger streams should be exempted. From a review of flow records in Ventura County, streams with larger than 100-year flow of 25,000 cfs are recommended to be exempt from hydromodification analysis. This threshold would exempt drainage to the County's major waterways:

- Ventura River downstream of North Fork Matilija Creek
- Santa Clara River downstream of the County line
- Piru Creek, Sespe Creek, and Santa Paula Creek, downstream of the foothills
- Calleguas Creek downstream of Conejo Creek

C. Supportable Exemptions

The Draft Tentative Order requires all qualified projects to comply with hydromodification requirements, i.e. there are no exemptions for projects that have little to no effect on the streambed. To streamline and support the Permittees processing of project applicants, a list of exemptions to the hydrologic controls is suggested and shown below. This list may need to be

revised after the Stormwater Monitoring Coalition of Southern California ("SMC") study is completed for final hydromodification criteria.

Exceptions to hydromodification requirements should include:

- A. All projects that disturb less than one acre;
- B. Projects that are replacement, maintenance or repair of a Permittee's existing flood control facilities, storm drain, or transportation network;
- C. Redevelopment projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions;
- D. Projects that have any increase in discharge that go directly to, or via a storm drain, a sump, lake, area under tidal influence, waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to hydromodification impacts; and
- E. Projects that discharge directly, or via a storm drain, into concrete or improved (not natural) channels (e.g., rip rap, sackcrete, etc.), which, in turn, discharge into a receiving water that is not susceptible to hydromodification impacts (as in D above).

**D. Interdependence of Hydrologic Controls**

The Draft Tentative Order should recognize the interdependence of hydrologic controls and the need to sequence analysis. We recommend that first municipalities be directed to utilize low impact development ("LID") strategies, followed by water quality mitigation through treatment control BMPs and finally hydromodification controls for any remaining runoff. (See recommended flow chart in Attachment E.)

When LID and/or treatment BMP's are used, a sediment balance study should be included to evaluate erosion potential - not the hydromodification criteria in the Draft Tentative Order. In the interim, and because of the complexity of this analysis, we recommend only developments greater than 50 acres be required to include the sediment balance analysis until the SMC studies are completed and design tools are developed. This is similar to the recent San Diego MS4 Permit.

Finally, we request the opportunity to update the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures, and revising Provision 5.E.III.1 to include new sections on how to analyze combinations of hydrologic control measures and to address the sediment balance.



**E. Unintended Consequences**

We are concerned that the interim hydromodification criteria contained in the Draft Tentative Order will increase downstream erosion of habitat and stream channels because of it ignores the cumulative influence of LID and treatment BMP's on sediment transport. (Draft Tentative Order at p. 55.) The Draft Tentative Order only addresses water shear forces and does not consider the sediment balance issue. (See Attachment D for a detailed explanation.)

LID and treatment control BMPs in the Draft Tentative Order require post-project peak outflow from a project area be equal to or less than existing peak outflow, by allowing some storage, infiltration, consumption, or treatment. (Draft Tentative Order at p. 53.) This has the effect of settling sediments so that sediment outflow from a project that utilizes LID and/or treatment BMPs is less than the pre-project sediment outflow. This clearer "sediment hungry" discharge created by the LID or BMPs erodes downstream habitat, stream channels, and "starves" beaches of sand. Taking this to the extreme shows the potential extent of unintended consequences: to obtain the natural sediment load downstream of a LID site or treatment BMP, sediment needs to be collected at the project site, transported downstream, and then re-injected to the stream. To avoid such unintended consequences, we recommend that the interim criteria reflect only the implementation of LID strategies until such time that the SMC completes its Hydromodification Control Study.

**F. The Permit Creates A Disincentive for Redevelopment and Smart Growth Projects and the Redevelopment Project Area Master Plan (RPAMP) Alternative is not presently viable due to its lack of definition**

The Draft Tentative Order's requirements for redevelopment projects are equivalent to that of new Greenfield development:

- 5% EIA
- Treat runoff from a .75" rainfall
- Match the post-development hydrologic conditions with predevelopment conditions where "predevelopment" is defined as "native vegetation and soils that existed at the site prior to first development"
- Hydromodification controls such that the 2-year, 24 hour storm event post development peak flow matches pre-development peak flow, within 1%.

The Draft Tentative Order does not consider the unintended consequences on re-development. Only by considering redevelopment's benefit to the larger watershed and resource protection will water quality be improved. The Draft Tentative Order also misapplies the 5% EIA at a project level rather than a watershed or subwatershed level. Therefore, we propose that the Permittees be allowed to work with the Local Government Commission in the development of evaluation criteria for redevelopment and smart growth projects that recognizes and encourages the water quality and other environmental benefits of higher density infill and redevelopment projects. At this time, the concept of RPAMP is not fully developed and the proposed language in the Draft Tentative Order does not provide an adequate interim alternative. Until such time that all stakeholders can work cooperatively and collectively to further develop a viable RPAMP or

similar program, the Draft Tentative Order should instead allow a set of minimum LID BMPs that must be utilized on all redevelopment projects.

**G. Development Construction Program**

The Draft Tentative Order contains a prescriptive approach for addressing runoff from construction sites regardless of the nature of the construction site or activities on a site. The Draft Tentative Order would require all construction sites less than 1 acre in size to calculate the erosivity factor to determine if specific BMPs are required. Such a requirement would be overly prescriptive for many smaller construction site operators. In this case, the Draft Tentative Order should provide the Permittees with sufficient flexibility to require minimum BMPs as necessary and defer regulation of stormwater from the construction sites to the State Construction General Permit to address the erosivity issue.

The Permittees remain concerned with the overly restrictive nature of the grading prohibition as it currently stands. In particular, the Permittees are concerned with efforts necessary to administer a variance from the prohibition. To grant a variance from the prohibition, the Draft Tentative Order requires the Permittees to ensure total suspended solids are discharged at a concentration of 100 mg/L or less; turbidity of the discharge is 50 NTU or less; that the discharge will not impair beneficial uses; and, that there is a monitoring program to ensure effectiveness. These requirements for a variance would apply even to projects that are anticipated to have little or no discharge to the waterbody because the sites include properly designed, erosion and sediment control BMPs. Furthermore, in our estimation, the turbidity and total suspended solids limitations would require the installation of advanced treatment units.

Fundamentally, we have concerns that the requirements proposed for issuance of a variance are in fact technology based effluent limits for high-risk construction sites. (Draft Tentative Order at p. 63.) The Permittees do not support using the Ventura MS4 Stormwater permit to create such technology-based limits. We would submit that it would be more appropriate for technology based effluent limits to be developed through the State Construction General Permit process where all stakeholders are involved versus the Ventura permit, which is of interest to only a few. Please note that our comments relative to the development of technology based effluent limits noted previously in this letter and in our October 12, 2007 comments are relevant here as well.

In lieu of the approach proposed in the Draft Tentative Order, we support the alternative approach forwarded by the Building Industry Association ("BIA"). Under the BIA approach, the order should specify the additional BMPs that would be required for high-risk projects such as those conducted on slopes that exceed 20%.

**VI. Misapplication of Monitoring to Support Program Implementation**

The Draft Tentative Order requires a monitoring program that is disconnected to the needs of our Countywide Stormwater Management Program. While we agree that the current monitoring program under Order No. 00-108 can be improved to provide better information that leads improvements in the stormwater quality program, the Draft Monitoring Plan is resource intensive and misdirected. The Draft Monitoring Plan should be revised to appropriately identify water

quality problems and provide the Permittees with useful information to improve program effectiveness.

Throughout this process, the Permittees have worked with Regional Water Board staff to draft a Monitoring Plan that is designed to assess stormwater program effectiveness and aid in directing program activities to improve stormwater runoff. In fact, the outfall monitoring in the Draft Monitoring Plan is a direct result of the Permittees' commitments to conduct end-of-pipe monitoring to support program effectiveness assessment even though moving directly to end-of-pipe monitoring skips several steps outlined in the SMC's Model Monitoring Program for MS4s in Southern California. Nevertheless, the Permittees have agreed to outfall monitoring because it can provide useful programmatic information. Unfortunately, the current focus of the Draft Monitoring Plan is not to assess program effectiveness, but rather to determine compliance with numeric effluent limits characterized as MALs. (Draft Monitoring Plan at p. F-1.)

Furthermore, the Draft Monitoring Plan does not follow the same protocol used in characterizing urban runoff data from which the numeric MALs were derived. The standard to date has been to collect a flow weighted sample for the entire event (thus the name Event Mean Concentration)<sup>6</sup>. In California, these events typically last longer than 3 hours but are usually limited to 24 hours. However, the Draft Monitoring Plan requires runoff to be characterized by the first three hours of a storm (i.e., the 3 hour mean concentration). (Draft Monitoring Plan at p. F-2.) Given the fact that runoff quality is typically poorer in the first part of the storm,<sup>7</sup> the Ventura Program will be penalized by this different method for determining compliance with MALs. In other words the MALs are based on EMCs but the compliance will be based on 3 hour mean concentrations.<sup>8</sup>

Besides being inconsistent with the derivation of MALs, the requirement to characterize runoff based on the first 3 hours of a storm event is a monumental shift in the Ventura Program and its collection of data. Over the last 15 years of the Ventura Program, we have followed standard procedures for collecting EMCs for over 94 storm events. By switching to the 3 hour mean concentration, the Regional Water Board is in effect rendering all of our historical data useless. The Ventura Program's historical data is critical as it allows us to establish baselines and measure trends. Because of the importance associated with historical data, and more importantly, because it is not a true characterization of stormwater in California, we do not support the recommended Draft Monitoring Plan language that requires characterization of stormwater based on a 3 hour mean concentration.

**A. Requirement to Report Monitoring Results within 45-days is Unrealistic**

The Draft Monitoring Plan requires the Permittees to report monitoring results within 45-days of sample collection. (Draft Monitoring Plan at pp. F-3, F-6, F-10, F-12.) Such a requirement is unrealistic considering the turn-around time associated with most laboratory analyses. In fact,

<sup>6</sup> Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Storm Sewer Systems, USEPA, EPA 833-B-92-002, November 1992.

<sup>7</sup> First Flush Phenomenon Characterization, Caltrans, CTSW-RT-05-73-02.6, August 2005.

<sup>8</sup> Our comments here are intended to point the inconsistencies between the Regional Water Board's calculation of MALs and the determination of compliance with MALs. Our comments here should not be viewed as conceding to our opposition to the current calculation process used to derive MALs.

Regional Water Board staff should be well aware of this fact considering that it took longer than 45 days for a laboratory to report data that was requested by the Regional Water Board to be reported as soon as it was available. This is not unusual. In reality, there are few laboratories available that can perform the required analytical tests to the low levels as currently required for many constituents. Because there are only a handful of such laboratories available, they become seriously backlogged when it rains because every stormwater program in California is sending samples to same laboratories. To require data to be reviewed and converted into an electronic format in less time than it generally takes to get the preliminary results back from a contract laboratory is unrealistic. Undoubtedly, such a process would create constant confusion, an atmosphere where errors would occur frequently, and would put the Permittees in the position of constantly violating terms and conditions of the Draft Monitoring Plan. Instead of requiring that monitoring data be reported within 45 days, we recommend 90-days, which is consistent with other MS4 permits in California.

**B. Sampling Locations for Major Outfalls is Unclear**

The Draft Tentative Order includes two definitions for major outfalls. (Draft Tentative Order at p. 98.) These definitions do not provide the Permittees with direction for selecting representative major outfalls for monitoring. The Draft Monitoring Plan requires the representative outfalls to transport flows from representative land uses from each drainage area to sub-watersheds. (Draft Monitoring Plan p. F-4.) However, one definition of major outfall in the Draft Tentative Order conflicts with this requirement and defines major outfalls as industrial zoned areas. (Draft Tentative Order at p. 98.) Moreover, the language of "drainage areas" and "sub-watersheds" in the Draft Tentative Order to describe major outfall monitoring locations is also confusing and could be interpreted to mean one site per sub-watershed in each jurisdiction. (Draft Monitoring Plan at p. F-4.) If that interpretation is correct, we estimate that requirement would encompass over 200 sites. In contrast, the Permittees have proposed to monitor one site per Permittee's MS4 (a total of 11 sites) to assess program assessment. We recommend that the Draft Monitoring Plan be revised accordingly.

**C. Extensive Aquatic Toxicity Monitoring Requirements for Major Outfalls are Unnecessary**

The Draft Monitoring Plan requires that the major outfalls be monitored for toxicity. (Draft Monitoring Plan at p. F-7.) However, such monitoring is inappropriate because it fails to provide useful information regarding toxicity in the receiving water. Toxicity monitoring on the outfalls should only be required if toxicity has been identified in the receiving water. Otherwise, the information is unnecessary and an unnecessary expenditure.

**D. Requirement for Toxicity Reduction Evaluation (TRE) does not Reflect Variable Nature of Urban Runoff**

The Draft Monitoring Plan requires that a Toxicity Reduction Evaluation ("TRE") be performed when toxicity is identified through the Toxicity Identification Evaluation ("TIE"). (Draft Monitoring Plan at p. F-9.) This requirement is unclear as to its application to any one sample or to repeated events because the language in question requires a TRE when the "same pollutant or

class of pollutants is identified.” (Draft Monitoring Plan at p. F-9.) A TRE is a costly and detailed study that should only be undertaken if there is high probability of resolving a continuing problem. A single sample displaying toxicity likely could be due to an isolated incident that cannot be resolved through the TRE process. Requiring a TRE when successive samples display toxicity for the same pollutant or class of pollutants is appropriate; however, requiring a TRI when there is only one sample is not. We recommend that the language be revised to clearly indicate that the requirement for a TRE is triggered when there are successive samples that display toxicity.

**E. Pyrethroid Monitoring is Duplicative of Costly Efforts Required under the Calleguas Creek Toxicity TMDL**

The Draft Monitoring Plan would require extensive monitoring for pyrethroids. (Draft Monitoring Plan at p. F-11.) Such a requirement is duplicative because there already exists a comprehensive plan for a pyrethroid study in Calleguas Creek. The approved study is part of the Calleguas Creek Toxicity TMDL and it will determine if urban sources of pyrethroids are impacting receiving waters. Although the Draft Tentative Order acknowledges the existence of other efforts, it fails to not recognize scope, extent and value of efforts already underway in other programs. Thus, the Draft Tentative Order assumes that additional monitoring is necessary. In this case, additional pyrethroid monitoring will provide little added value as compared to the additional cost. Furthermore, the Draft Tentative Order’s reference to using other monitoring programs to satisfy this requirement provides no real relief because any other study must be done exactly as spelled out in the Draft Tentative Order, which includes poorly defined methods (e.g., “monitoring shall occur after sediment has settled within the waterbody”). (Draft Monitoring Plan at p. F-11.) In summary, the objective of determining impacts to receiving waters caused by pyrethroids will be satisfied by the Calleguas Creek TMDL study, and it is therefore unnecessary to require additional monitoring at this time in the Draft Tentative Permit and Draft Monitoring Plan.

**F. Misuse of California Toxics Rule Chronic Exposure Limits**

The Draft Monitoring Plan would require monitoring results to be compared to the California Toxics Rule (“CTR”) chronic exposure limits, which are based on a four-day exposure time frame. (Draft Monitoring Plan at pp. F-1, F-3, F-5, F-6.) Such a comparison is inappropriate for stormwater because rain events create short-term exposure that usually exists for less than 12 hours, which is not equivalent to the more continual long-term exposure for which the chronic CTR limits were created.

VII. Miscellaneous Permit Provisions (TMDLs, Trash Excluders)

As you will see in our redline/strikeout of the Draft Tentative Order (see Attachment A), there are many fundamental issues of concern still outstanding. We have in our previous comments to the Regional Water Board provided background information and recommendations on a number of these issues. The following items, although not inclusive of all our comments, are highlighted to identify critical issues that are in addition to those discussed above:

Definitions

Maximum Extent Practicable: The Draft Tentative Order attempts to redefine MEP as a "minimum" standard. Such an attempt is incorrect and inconsistent with the Clean Water Act and EPA's efforts to define MEP. We have provided language that is consistent with the EPA efforts to define MEP.

Construction: The proposed definition for construction includes a definition for maintenance. The two terms in reality are different and therefore should as a practical matter be defined separately. We have provided suggestions to remedy this confusion.

Water line and hydrant flushing. Section A of Part 1 "Discharge prohibitions" of the Draft Tentative Order needs clarification for water line and fire hydrant flushing discharges. These types of releases should be allowed with BMPs until such time as a new General Permit for these activities is adopted. We have provided appropriate language for footnote #2 on p. 29 of the Draft Tentative Order in Attachment A.

TMDLs. The Draft Tentative Order addresses a number of our previous concerns and comments we expressed on the earlier draft orders. However, it still includes requirements that are inconsistent with approved TMDLs and Basin Plan amendments. We have provided language in Attachment A to address this inconsistency.

Time schedules for program implementation. Throughout the Draft Tentative Order we have suggested more time for implementation to reflect public agency funding processes.

Trash management alternatives. Trash Management alternatives should be provided, such as a trash management program or allowing trash collection at the end of the drainage system but prior to the receiving water.

Again, we thank you for your time and effort in attempting to address some of our concerns, especially in the February 27 and 28 meetings here in Ventura. However, as we expressed previously, the Draft Tentative Order contains many new requirements that will excessively burden the Ventura Program and the Permittees. Unless there are fundamental revisions of the Draft Tentative Order, we find ourselves in the unenviable position of needing to oppose the proposed action as a whole. We sincerely hope that we can avoid such opposition at the public hearing before the Regional Water Board later this fall by continuing to work with you and your staff to address our concerns with the impact and implementation of the Draft Tentative Order in its current form.

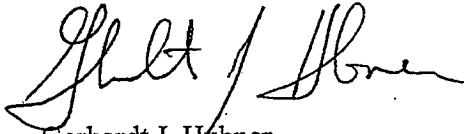
Ms. Tracy Egoscue  
RWQCB-LA

-25-

May 27, 2008

To that end, we request a meeting with you prior to the July 10, 2008 Public Workshop to discuss and understand the rationale and lack of responsiveness to our previous comments, especially in regards to Municipal Action Levels. If you have any questions, please contact me at (805) 654-5051, or via email at [Gerhardt.Hubner@ventura.org](mailto:Gerhardt.Hubner@ventura.org)

Sincerely,



Gerhardt J. Hubner  
*On Behalf of the Entire  
Ventura Countywide  
Stormwater Management Program*

cc: LARWQCB Board Members  
Xavier Swamikannu, Senior - Storm Water Permitting, Los Angeles Regional Water Quality Control Board  
Ventura Countywide Program Permittees  
Jeff Pratt, Director, Ventura County Watershed Protection District

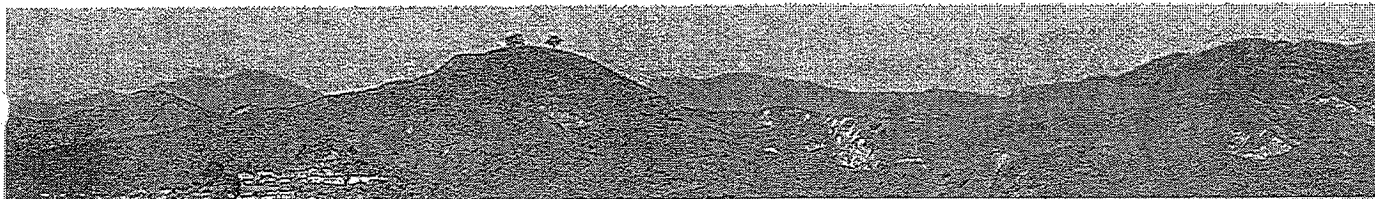
Attachments

- A MS4 Redline Draft Tentative Order  
MS4 Redline Monitoring Program
- B M. Walker 10/11/07 Memorandum regarding Comparison between Montgomery County (MD) and Ventura County (CA) Stormwater Management Programs
- C M. Barrett report "Treatment BMP Performance Standards", May 19, 2008
- D Hydromodification White Paper, April 19, 2008, Relationship of Sediment and Flow and Figure 1 - Ventura County New Development Flow Chart

D000721







May 29, 2008

Tracy Egoscue, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

**SUBJECT: Comments on NPDES No. CAS004002 – Draft Tentative Order of April 29<sup>th</sup>, 2008 (Permit)**

Dear Ms. Egoscue:

The City of Ventura continues to be committed to working with the Regional Board to collaboratively create a successful new permit that will achieve our mutual water quality goals. Along with all the other jurisdictions operating under the joint permit, we have looked forward to working with your staff to finalize a plan for ensuring continued progress toward clean rivers and beaches.

However, at this time we feel that we have invested an extraordinary amount of time and resources into this effort with minimal results. We have repeatedly drawn attention to elements in the proposed permit that are contradictory, duplicative, unworkable, counter-productive and/or fiscally irresponsible. Yet the current revised draft permit reflects very few of our recommendations for practical and reasonable approaches to achieving our shared water quality goals. Unfortunately, the continued insistence on untested and unwarranted regulatory schemes over collaborative partnerships squanders an extraordinary opportunity for an environmental “win-win.” Local governments will not be able to afford the mandates, nor will they achieve the desired goals. We again appeal to you to reconsider our recommended approaches, particularly in the areas of Redevelopment Requirements and Municipal Action Levels.

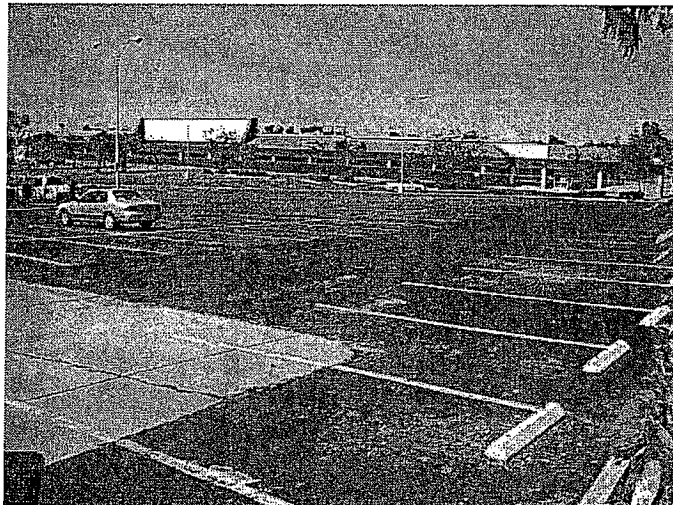
The Ventura County Co-Permittees have worked together to review the Permit in a spirit of making it work, and the City of Ventura is pleased to say that we are substantially in agreement with the comments submitted on May 28, 2008 by Gerhardt Hubner, Chair of the Countywide Program, on behalf of all Co-Permittees. The City of Ventura hopes that these comments will serve as a catalyst for additional stakeholder discussions and will enable us to again produce an effective and achievable permit. In addition to the countywide comments, the City would like to take this opportunity to focus on several key issues regarding the Permit. Rather than repeat the same comments we provided in our October, 12, 2007 letter here, I have also attached this letter for your reference.

### **Issue: Redevelopment Requirements**

The Permit discourages redevelopment and infill/smart growth projects. The following example illustrates the unintended consequences of the Permit's provisions.

If a developer proposes to make improvements to the old K-mart building on the site pictured below, they must meet the following requirements under the Draft Tentative MS4 stormwater permit:

1. Reduce the effective impervious to 5% of the site or less; and
2. Treat runoff from a 0.75" or greater storm event; and
3. Design treatment control BMPs to meet performance standards that are described as effluent limitations; and
4. Match post-development hydrologic conditions with pre-development conditions, where "pre-developed" is defined in the Permit as "native vegetation and soils that existed at the site prior to first development"; and
5. Install hydromodification controls such that the 2-year, 24-hour storm event post development peak flow matches pre-development peak flow, within 1%.



*Vacant K-Mart building located in the City of Ventura*

While these requirements would be quite difficult on a development on the outskirts of the City that had not been previously developed, they would be next to impossible on this, and other, urban redevelopment sites. A developer of this project would likely choose **not to** redevelop the site for an intensification and mix of uses, and instead be confined to a few cosmetic improvements and lease the building "as-is." New housing and new jobs would go elsewhere – in all likelihood to "greenfield" sites that currently are not sources of any run-off pollution issues. The result is a double environmental travesty: no improvement to existing serious sources of polluted run-off and promotion of suburban sprawl.

Like the Regional Board, the City of Ventura desires to encourage redevelopment and Smart Growth infill projects using Low Impact Development techniques. In fact, we welcome the opportunity to lead in this area. Redevelopment and infill projects, should be encouraged in the Permit for improvement of quality of life and protection of the overall watershed, especially water quality improvement.

Frankly, we continue to be astonished at the lack of interest in this issue by the staff, when many of the provisions proposed directly contradict the permit's supposed embrace of "smart growth." There is incontrovertible evidence and expert consensus that "brownfield" or "greyfield" redevelopment is environmentally superior to even the most sensitive development in currently undeveloped areas. Low-impact development is the right goal. But rules designed to minimize stormwater pollution from previously undeveloped sites should not be arbitrarily imposed on previously developed sites. That simply promotes suburban sprawl. It doesn't make economic sense. It doesn't make environmental sense. And it is a clear case of unintended environmental injustice to disadvantaged urban communities.

### **Recommendation:**

Modify Section 4 in the Implementation portion of the Planning & Land Development Program; Page 60 in the April 29, 2008 – draft Tentative Permit. Insert the following before (c) in Alternative Post Construction Storm Water Mitigation Programs. :

The Ventura Co-Permittees will assist the Local Government Commission in the development of RPAMP evaluation criteria within 24 months of permit adoption, and submit the criteria to the Regional Board Executive Officer for approval. These criteria will recognize and encourage the water quality benefits of high-density infill and redevelopment projects. Until the evaluation criteria are approved, the Co-permittees will use the following minimum BMPs for low impact development of all redevelopment and infill projects:

- i. *Master Planned Community Scale LID:*
  - (a) *Cluster development to preserve open space.*
  - (b) *Provide riparian buffers.*
  - (c) *Locate development on least infiltrative soils.*
  - (d) *Utilize infiltration properties of sandy soils for groundwater recharge.*
- ii. *Tract Map Scale LID:*
  - (a) *Minimize impervious areas by incorporating open space and/or parks.*
  - (b) *Use vegetated or infiltration-based treatment control and/or hydromodification control BMPs.*
  - (c) *In areas not subject to mass grading, delineate and flag the smallest site disturbance area possible and restrict temporary storage of construction equipment in these areas to minimize soil compaction.*
  - (d) *Provide riparian buffers by clustering development upland and away from Natural Drainage Systems.*
  - (e) *Preserve and/or restore and enhance natural slopes and native vegetation on slopes adjacent to Natural Drainage Systems.*
- iii. *Planning Area Scale LID:*
  - (a) *Construct streets, sidewalks, and parking lot aisles to the minimum widths specified in the land use code and in compliance with regulations for the Americans with Disabilities Act and safety requirements for fire and emergency vehicle access.*
  - (b) *Use vegetated or infiltration-based treatment control and/or hydromodification control BMPs.*
  - (c) *Construct trails with open-jointed paving materials, granular materials, or other pervious materials, in compliance with regulations for the Americans with Disabilities Act and safety requirements for fire and emergency vehicle access..*

- (d) Use native and/or non-native/non-invasive, climate-appropriate landscaping vegetation that requires less watering and chemical application.
  - (e) Minimize impervious surfaces in landscape design.
  - (f) Use efficient irrigation technologies and centralized irrigation controls for landscape watering in common areas, commercial areas, multiple family residential areas, and parks.
- iv. Lot Scale LID:
- (a) Direct runoff from sidewalks, walkways, trails, and patios into adjacent landscaping or to vegetated or infiltration-based treatment control and/or hydromodification control BMPs.
  - (b) Use vegetated or infiltration-based treatment control and/or hydromodification control BMPs.
  - (c) Do not use copper or zinc building materials for roof gutters and downspouts.
  - (d) Direct roof runoff through landscaped areas where site conditions allow.
  - (e) Use efficient irrigation technologies for landscape watering.

### Issue: Municipal Action Levels (MALs)

The City of Ventura cannot support the MALs, as written, for the following reasons:


- The Permit uses MALs as a numeric compliance metric for the technology-based standard of maximum extent practicable (MEP) rather than guidance for identifying problem areas and redirecting program efforts for maximum effectiveness.
- We agree with the State Board's Blue Ribbon Panel that stated that "It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges..."
- The numeric limits set are not consistent with local or State data;
- The City does not have jurisdiction or control of all discharges to the City's storm drain system, e.g., agriculture, State Agencies, and other municipalities, and can therefore not be held responsible for their inputs to our storm drain system; and
- The City needs flexibility to be able to improve water quality in the most cost-effective and efficient manner possible, without being tied to the MALs plus the multitude of prescriptive and administrative actions that are not effective in improving water quality.
- Implementation of the Permit, with MALs as written, is expected to raise the annual cost of the municipal stormwater program immediately to a level of \$600/household. During current economic times, the ability for agencies to comply and public support for this level of program is unlikely.

### Recommendation:

Rewrite the Permit provisions to ensure that the numeric limits are set using appropriate scientific, locally applicable data and that they are used as guidance for identifying problem areas and redirecting program efforts for maximum effectiveness, not as enforcement. Combine this with performance based criteria in other program areas, as recommended by the California Association of Stormwater Agencies and in the Ventura Countywide Program materials provided to Regional Board staff, to offer reasonable flexibility with accountability.

If you have any questions, please contact Vicki Musgrove at 805-677-4133, or e-mail [vmusgrove@ci.ventura.ca.us](mailto:vmusgrove@ci.ventura.ca.us).

Sincerely,



Christy Weir  
Mayor



Rick Cole  
City Manager

**C: Jeff Pratt, Director, Ventura County Watershed Protection District  
City Attorney; City of Ventura**

**Attachment:**

October 12, 2007 Correspondence; Calkins to Swamikannu - comment letter on second draft of the NPDES permit.



## City of Brea

June 25, 2008

Ms. Tracy Egoscue, Executive Officer  
 Los Angeles Regional Water Quality Control Board  
 320 W. 4<sup>th</sup> Street, Suite 200  
 Los Angeles, CA 90013

Via Fascimile: 213-576-6640

**Subject: Draft Tentative Order - MS4 NPDES Permit for the Ventura  
 Countywide Stormwater Program**

Dear Ms. Egoscue:

Thank you for this opportunity to comment on the April 29, 2008 draft Tentative Order MS4 NPDES Permit for the Ventura Countywide Stormwater Program (Ventura Draft Tentative Order), which only recently came to our attention. We understand that the indicated deadline for comment has already passed, but since the draft order is designated as "preliminary", it is still subject to further iteration. Moreover, we have recently learned that the United States Environmental Protection Agency advocates that all southern California MS4 permit holders adopt numeric performance standards as proposed – or perhaps similar to those proposed – in the Ventura Draft Tentative Order.

Although our City does not typically comment on individual municipal permits, especially in Board regions other than our own, we understand the Los Angeles Regional Water Quality Control Board staff proposes certain requirements in the Ventura Draft Tentative Order which may become, in effect, the baseline precedent for other municipal permits. Therefore, Brea has concerns regarding several proposed "one size fits all" approaches reflected in the Ventura Draft Tentative Order, particularly regarding the proposed Municipal Action Levels (MALs), Effective Impervious Area (EIA) and Best management practice (BMP) performance design criteria.

Rather than restate the lengthy practical and technical merits of our position, we would adopt and endorse the positions taken by the California Stormwater Quality Association in their May 29, 2008 letter. To summarize:

1) The MALs in the Draft Tentative Order conflict with the State's Blue-Ribbon Panel Report Findings regarding the purpose and use of Action Levels.

**City Council**     **Don Schweitzer**     **John Beauman**     **Ron Garcia**     **Roy Moore**     **Marty Simonot**  
                                  Mayor                                   Mayor Pro Tem                                   Councilmember                                   Councilmember                                   Councilmember

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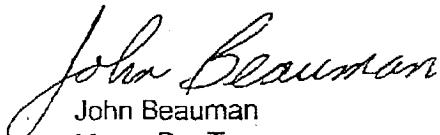
Ms. Tracy Egoscue, Executive Officer  
Los Angeles Regional Water Quality Control Board  
June 25, 2008  
Page 2

2) The EIA threshold requirements constitute an improper take over of municipalities' ability to efficiently plan development. They effectively prohibit the building of projects including municipal infrastructure and community projects.

3). The use of BMP effluent quality data to mandate design criteria is untested and does not offer a reasonable solution to address the multitude of physical, engineering and practical factors that affect the planning and development of each project.

We appreciate the opportunity to comment on this permit. Thank you for your consideration.

Very truly yours,



John Beauman  
Mayor Pro Tem

cc: Xavier Swamikannu, Chief-Stormwater Permitting, Los Angeles Regional Water Board, FAX 213-576-6640  
Tam Doduc, Chair, State Water Board, FAX 916-341-5543  
Gary Wolff, Vice-Chair, State Water Board, FAX 916-341-5543  
Frances Spivy-Weber, Member, State Water Board/Liaison, Los Angeles Regional Water Board, FAX 213-576-6640  
Dorothy Rice, Executive Director, State Water Board, FAX 916-341-5543  
Jonathan Bishop, Chief Deputy Director, State Water Board, FAX 916-341-5543  
Bruce Fujimoto, Section Chief-Stormwater, State Water Board, FAX 916-341-5543  
Alexis Strauss, Director, USEPA Region IX, FAX 213-244-1850  
Stuart Drown, Executive Director, Little Hoover Commission, FAX 916-322-7709  
Santa Ana Regional Water Board, FAX 951-781-6288  
Heather Dion, Townsend Public Affairs, FAX 949-476-8215  
Ralph Webb, The Ferguson Group, FAX 202-331-1598

WARREN D. WILLIAMS  
General Manager-Chief Engineer



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RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
May 29, 2008

Ms. Tracy Egoscue, Executive Officer  
Los Angeles Regional Water Quality Control Board  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Dear Ms. Egoscue:

Re: Draft Tentative Order - MS4 NPDES  
Permit for the Ventura Countywide  
Stormwater Program

Thank you for this opportunity to comment on the April 29, 2008 Draft Tentative Order - MS4 NPDES Permit for the Ventura Countywide Stormwater Program (Draft Tentative Order). Please accept these comments regarding the Draft Tentative Order submitted by the Riverside County Flood Control and Water Conservation District (District).

The District serves as the Principal Permittee on three Municipal Separate Storm Sewer System (MS4) Permits issued by three Regional Water Quality Control Boards (Regional Boards). Two of the MS4 Permits issued to Riverside County cover semi-arid areas and are issued by the San Diego and Santa Ana Regional Boards. The Colorado Regional Board has issued an MS4 Permit for the Coachella Valley area, which is in the desert area of the County.

**General Support for CASQA's Comments**

The District and its Co-Permittees concur with the reasoning for and comments of the California Stormwater Quality Association (CASQA) regarding the Draft Tentative Order. Los Angeles Regional Board staff is proposing in the Ventura Draft Tentative Order, for the first time in any Phase I MS4 permit in California, permit design features (i.e., Municipal Action Levels (MALs), Effective Impervious Area (EIA), Best Management Practice (BMP) performance design criteria) that raise significant technical issues, questions or concerns, and that if adopted could be interpreted to be precedent setting.

Accordingly, we strongly encourage the Los Angeles Regional Board to accept CASQA's recommendations and to work with the Ventura Permittees, CASQA and stakeholders to develop a technically solid stormwater quality management permit that will, in turn, be more effective at helping to meet water quality goals.

0000730



Re: Draft Tentative Order – MS4 NPDES

Permit for the Ventura Countywide Stormwater Program

**Focus on LID may be at the Expense of other Sustainable Development Concepts**

In addition to supporting CASQA's comments, the District would also like to further support those comments by referencing the Discussion Section of the recently adopted May 6, 2008 State Water Resource Control Board (State Board) Policy on Sustainable Development (Resolution 2008-0030):

"Regional Water Quality Control Boards (Regional Water Boards) have already begun to integrate LID and other sustainable water management strategies into compliance documents. Examples of Regional Water Board efforts include working with stormwater permittees to implement aggressive infiltration BMPs and requiring municipalities to consider LID for new developments and redevelopment projects in municipal separate storm sewer system permits. However, LID is only one element of the sustainability equation. It is critical that flexibility be allowed as the Regional Water Boards work to implement sustainable water management strategies such as LID. For example, certain LID concepts such as use of porous pavements and irrigated landscaping may not be suitable for arid and semi-arid regions, due to limited rainfall and high evapotranspiration rates.

Regional Water Board staff is aware of ongoing studies intended to develop metrics for semi-arid areas and as studies are completed, climate appropriate metrics will be phased into the permitting process. Flexibility is also needed in regions where infiltration is limited by poorly drained clay soil. In these cases, a modification may be needed to the design and implementation of the LID technique or other sustainable water management techniques can be used, such as xeriscaping. Certain sites, such as brownfields, may not be suitable for application of low impact development techniques. Flexibility will allow each Regional Water Board to include the appropriate sustainable water management strategy for a particular project, considering variations in climate, soil and other environmental factors."

The District believes this Policy further supports the comments made by CASQA.

**Proliferation of MS4 Permit Requirements – Need for Statewide Policy**

The ongoing proliferation of MS4 Permit requirements, as evidenced in this Draft Permit, is resulting in the imposition of *de facto* statewide mandates that have significant statewide policy implications and local budgetary consequences that should be subject to State Board or legislative determination and which should be subject to a statewide hearing process. The District and other MS4 Permittees recently expressed concerns to the Little Hoover Commission about the informal collaboration amongst United States Environmental Protection Agency (USEPA) and Regional Board staff to promote MS4 Permit "consistency". We firmly maintain that the establishment of statewide MS4 policy initiatives needs to occur in an open forum at the State Board level - not by an *ad hoc* group of Regional Board/USEPA staff meeting behind closed doors.

Given this situation, the issues raised in this Draft Permit regarding Municipal Action Levels, Effective Impervious Area and BMP Performance Design Criteria clearly need to be removed from this Permit.

Ms. Tracy Egoscue, Executive Officer  
Re: Draft Tentative Order – MS4 NPDES  
Permit for the Ventura Countywide Stormwater Program

- 3 -

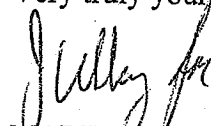
May 29, 2008

**Closing**

The Riverside County MS4 Permittees remain committed to management of urban runoff to protect receiving water quality in a manner that balances that objective with the universe of complementary and competing needs and expectations of the citizens of California living within Riverside County.

If you have any questions regarding these comments, please contact me at 951.955.8411 or email me at [mwills@rcflood.org](mailto:mwills@rcflood.org). You can also contact Jason Uhley of the Regulatory Division at 951.955.1273 or email him at [juhley@rcflood.org](mailto:juhley@rcflood.org).

Very truly yours,



MARK H. WILLS  
Chief of Regulatory Division

c: Riverside County MS4 Permittees  
Attn: Robert Collacott, URS Corporation

JEU:cw  
P8/119340

D000732

**Ventura County Watershed Planning Project**  
*Watershed-based Planning Solutions for Ventura County*

**MEMO: Alternative Compliance - Developing Redevelopment Project Area Master Plans**

The Local Government Commission (LGC) is working with local and regional agencies and other stakeholders to align local land use planning and stormwater management Ventura County. This project, which is funded by the California Water Boards with Prop 40 funds is developing watershed-based planning strategies and policy recommendations to minimize the water quality impacts of development.

The draft NPDES stormwater permit for Ventura County, which was released shortly before the project began, has become a focal point of the project. LGC has provided comment on past drafts of the permit to shed light on challenges and opportunities within land development program of the permit. Particular emphasis has been placed on recognizing the importance of the form and location of development to water quality and watershed health. These brief comments call for taking additional steps needed to develop the Redevelopment Project Area Master Plan component of the permit's Alternative Compliance program.

Many questions remain regarding the impact of the permit's site level requirements on the form and location of development, which are also critical to water quality. The RPAMP program is a response to concerns that the draft permit's emphasis on site level requirements may be at odds with other environmental planning goals such as redevelopment, infill and compact community design. The Regional Board should be commended for providing a program that recognizes importance of development patterns and community design in managing stormwater. The program offers a cutting edge approach that has the potential to connect planning and design strategies across multiple scales and development contexts, but it needs further development.

The RPAMP program introduced in the draft permit is quite innovative but poses challenges and questions. At a basic level, there is uncertainty regarding what an RPAMP is and how the program would work. *How will an RPAMP be developed? What are the performance criteria? What are the conditions of approval? How much will it cost? How long will it take to develop and what happens in the interim? How are areas designated? What rules still apply within the RPAMP?* These are among the key questions that have surfaced through the meetings during the course of the project and must be met to reduce complexity and ensure that an RPAMP-type program is workable and effective.

LGC has led initial discussions with staff from local agencies, the LA Regional Board, and other stakeholders to begin answering these questions. However, to advance the program a broader dialogue and further vetting are needed. LGC has initiated discussions with other relevant constituencies and is developing concepts for one or more workshops to outline the details of the program and how it can be developed and implemented. The content of the workshop(s) will attend to the ultimate objectives of the program, methods for determining RPAMP areas, conditions of approval, performance criteria for projects within an RPAMP, and finally the development of a pilot RPAMP. LGC staff are compiling input from interested parties and exploring options for carrying out these next steps. We will provide additional comments and a proposed plan of action in coming weeks.

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D000734



## Local Government Commission

1303 J Street • Suite 250 • Sacramento, CA 95814 • (916) 448-1198

Board of Directors June 26, 2008

*Councilmember Thomas Butt*  
Chairperson  
City of Richmond

Dr. Xavier Swamikannu  
Los Angeles Regional Water Quality Control Board  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013

*Councilmember Jean Quan*  
Vice-Chair  
City of Oakland

*Mayor Jake Mackenzie*  
Vice-Chair, Government Relations  
City of Rohnert Park

Re: Draft Tentative MS4 NPDES Permit for the Ventura Countywide Stormwater Program

*Councilmember Pam O'Connor*  
Secretary/Treasurer  
City of Santa Monica

Dr. Swamikannu,

*Vice Mayor Christina Billeci*  
City of Marysville

*Councilmember Brian Brennan*  
City of Ventura

*Supervisor Roger Dickinson*  
County of Sacramento

*Mayor Jesús Gamboa*  
City of Visalia

*Supervisor Josie Gonzales*  
County of San Bernardino

The Local Government Commission (LGC) appreciates the opportunity to provide comments on the land development program in the Draft Tentative Permit for the Ventura County Stormwater Program. These comments build upon our comments submitted May 29<sup>th</sup>, 2008 as part of our on-going project to align water quality and land use planning policies in Ventura County. Funded by Proposition 40, this project has enabled LGC to work with local and regional stakeholders to integrate stormwater management, land use planning and watershed protection programs.

*Supervisor Mary Jane Griego*  
County of Yuba

*Mayor Jon Harrison*  
City of Redlands

*Mayor Jennifer Hosterman*  
City of Pleasanton

The comments below, and in the attached paper, support inclusion of smart growth practices in the final permit that provide stormwater benefits and minimize the water quality impacts of development. Smart growth is not only important to water management but also to reducing land conversion, air pollution and greenhouse gas (GHG) emissions.

*Deputy Mayor Maggie Houlihan*  
City of Encinitas

*Supervisor Kathy Long*  
County of Ventura

*Supervisor John Woolley*  
County of Humboldt

The permit includes wide ranging details that address stormwater management at several scales: from watershed management to site level practices. The draft permit also includes language on the importance of smart growth and supports inclusion of efficient land use within plans, ordinances and policies. However, certain parameters take technical, legal and enforcement precedence. Several measures, notably the effective impervious cover element and the expected response to hydromodification rules are likely to drive the ultimate plans and ordinance changes at the local level. As we have noted previously, permit compliance will not occur in a policy vacuum. Changes will be considered in an already contentious policy environment related to infill, traffic concerns, the CEQA process and starkly lower revenue streams.

*Executive Director*  
Judith A. Corbett

The selection of policies and best management practices will thus be weighed against several factors: ease of implementation, cost, stability, and local water stressors. Perhaps more importantly, the ability to measure results is likely to drive the adoption of certain measures over others. While there are several models that can assess impacts at the larger scales at which smart growth operates, they are not as robust as models that operate at the site or subdivision scale. The mix of on-site requirements being used to advance LID in the permit poses challenges for smart growth planning strategies that also provide stormwater benefits, including compact development, urban infill, and redevelopment. As proposed, on-site requirements will be easier to implement, easier to measure for compliance and less expensive to achieve at lower densities and on undeveloped "greenfield" sites than at higher densities and on urban infill and redevelopment sites. This further tilts an already slanted playing field

in favor of dispersed, low-density land use patterns that add imperviousness and disrupt larger areas of natural drainage patterns in the watershed.

The draft permit does, however, contain provisions to help address these issues. The alternative compliance mechanism called the Redevelopment Project Area Master Plan (RPAMP) provides an opportunity to include smart growth as a stormwater strategy. As part of the alternative compliance program, RPAMPs could be used to integrate smart growth and LID within the regulatory framework of the permit, enabling a merger of green site design and green communitywide design in Ventura County. The program reflects an evolving awareness of the root causes of stormwater runoff and the true scale of its impacts: that development patterns are central to existing and future water quality problems; that the location of development affects its impact on water quality; that the overall form of development, and our communities as a whole, affects water quality; and that infill, redevelopment, and compact development provide water quality and watershed benefits for which they should be given credit.

RPAMPs are a departure from conventional stormwater management approaches, and it is this innovation that is so promising. Yet this novelty also increases the challenges and complexities of developing the program. In the end, RPAMPs will only be successful if they make redevelopment as attractive as greenfield development or remodeling of an existing building to avoid new permit requirements. Many unanswered questions remain. *How will an RPAMP be developed? What are the performance criteria? What are the conditions of approval? How much will it cost? How long will it take to develop and what happens in the interim? How are areas designated? What rules still apply within the RPAMP?* LGC has led initial stakeholder discussions to start approaching these questions. Now a broader dialogue, and additional analysis are needed. We propose one or more RPAMP workshops to further conceptualize the program and determine how it will be administered. The workshop(s) will clarify key questions about the overall objectives of the program, methods for determining RPAMP areas and performance criteria, clarifying conditions of approval, and finally the options for piloting the program.

To advance the discussion and hopefully refine the program, we have prepared a concept paper outlining some of the main ideas and challenges behind the program. We look forward to continued collaboration with the Regional Board, local agencies, environmental organizations and other stakeholders in developing comprehensive and sustainable solutions to water and land use challenges.

Again, we appreciate the chance to provide comments to support development of the MS4 NPDES Permit for the Ventura Countywide Stormwater Program.

Sincerely,



Clark Anderson, Project Manager  
Local Government Commission

# Redevelopment Project Area Master Plans (RPAMPs)

Stormwater management has evolved in recent years, with closer ties to land use planning and a growing emphasis on “green” approaches. So far the shift from “grey” to “green” has focused on site level practices such as Low Impact Development (LID). More recently, planning practices focusing on a larger scale, including urban infill, redevelopment, and compact community form - hallmarks of smart growth - have been recognized as stormwater best practices. This recognition follows on studies showing that the water impacts for a given amount of growth depend largely on the pattern of development used to accommodate that growth. This understanding is changing the way we look at the problem of stormwater runoff. It calls for even closer coordination between water quality and land use planning efforts. The merger of smart growth and LID represents the next progression in stormwater management. This will address impacts at the site, while attending to the larger issue of development patterns.

The Los Angeles Regional Water Quality Control Board (LA Regional Board) included an innovative program in the draft tentative permit that reflects this progression. The Redevelopment Project Area Master Plan (RPAMP), part of the alternative compliance program, provides a framework for recognizing the stormwater benefits of infill, redevelopment and compact community form. The basic idea is to designate certain area(s) within which some level of on-site requirements could be reduced for certain kinds of development that are shown to have stormwater benefits. The planning area, and the rules that apply inside it, would constitute the RPAMP.

The RPAMP is an important and new concept

that raises many questions. How will RPAMP areas be designated? What are the performance criteria? What are the performance metrics? What is the approval process? How will they be administered? What are the costs? What is the timeframe? Can one be amended once established? Some are concerned that the RPAMP could pose an “administrative nightmare.” Others fear it may present a loophole.

This paper is not intended to resolve the questions or concerns about the RPAMP, but to discuss the potential utility of an RPAMP-type program, to begin refining the concept, and to provide steps for moving forward.

## Background – Connecting Watershed and Land Use Planning

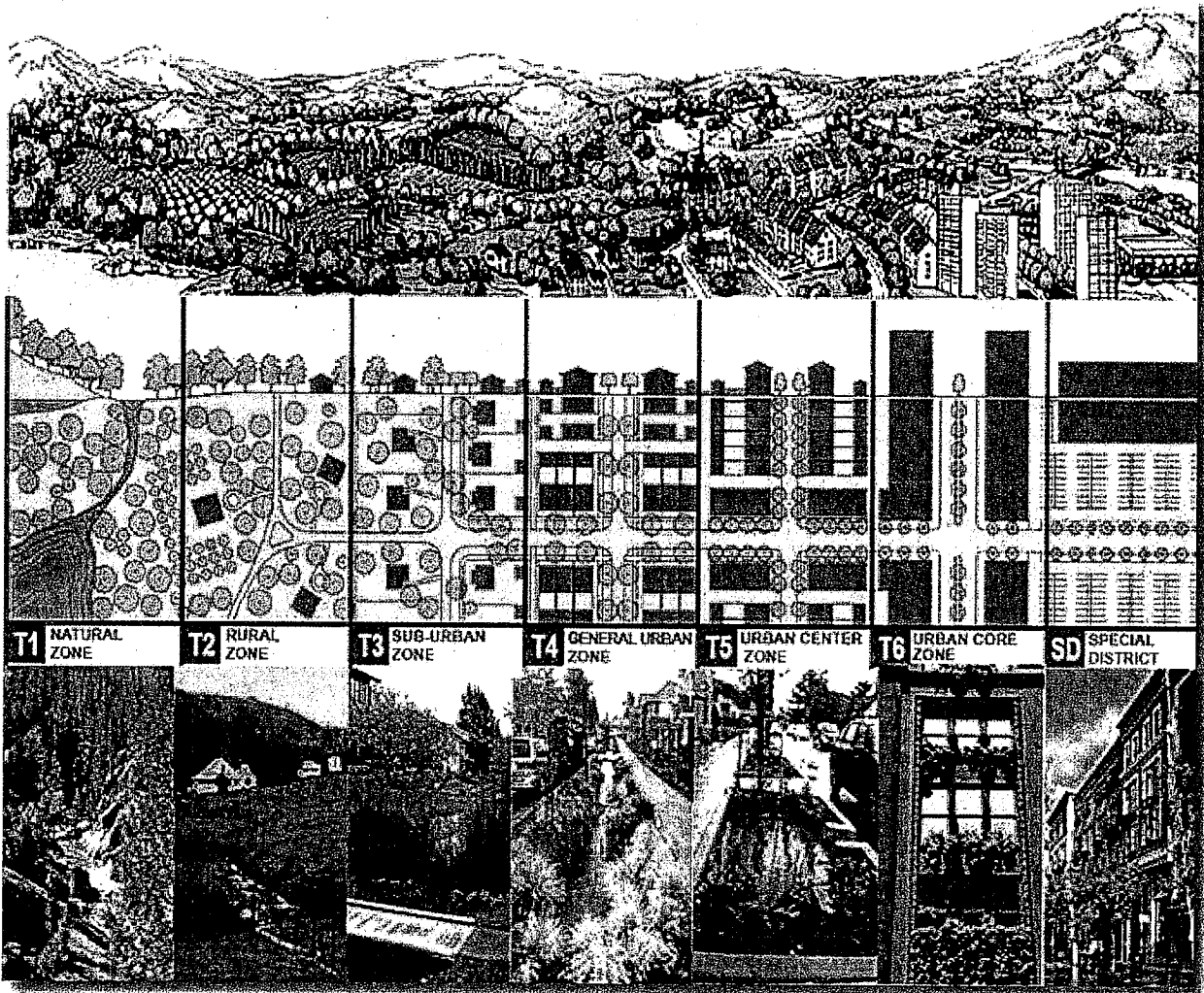
Having an RPAMP or another program with similar objectives in the permit is important to linking water and land use at a watershed level. The reasoning lies in basic watershed concepts such as scale and integration, as well as newer themes at the water and land use nexus. Several of these are discussed below to provide context.

**The Importance of Scale** – Watershed-based strategies, and coordinated water and land planning in general, rely on recognition of scale. Stormwater is most deftly managed when the building, site, neighborhood, district or community (subwatershed) and region (watershed) are simultaneously considered for opportunities and impacts. The emphasis on site level practices is important, but the impacts of development on water quality also depend on its location, form and overall pattern. Successful watershed approaches need to address the overall footprint and pattern

of development while minimizing site level impacts.

**The Importance of Development Context -** Different development contexts offer different opportunities and constraints for implementing LID and other environmental planning practices. Joint water/land use planning is most effective when it recognizes that rural, edge, suburban and urban areas present different sets of constraints and opportunities when it comes to managing the built and natural environments. Appreciation of these differences is fundamental to any watershed-based approach.

**Ecological Services and Natural Infrastructure –** A watershed approach recognizes that natural systems and processes provide benefits, often called “ecosystem services,” such as flood attenuation, water purification, and groundwater recharge. From a stormwater management perspective, these benefits create an essential “natural infrastructure.” Low Impact Development (LID) aims to mimic watershed functions using site design and engineering practices. At a larger scale, infill, redevelopment and compact community form are needed to protect remaining open space and ecologically valuable areas as a larger network of natural infrastructure.



*The most effective types of stormwater solutions will vary depending on development context.*



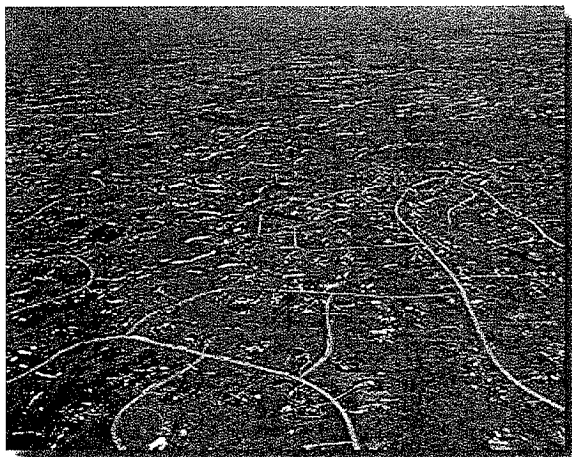
### The Importance of Land Use Patterns-

Recent planning efforts have focused on curbing dispersed, low-density, auto-dependent land use patterns known as sprawl. From a watershed planning perspective, sprawling land use patterns generate more impervious cover and consume more undeveloped land than compact, mixed-use, pedestrian-oriented development patterns. Improving site design without attending to the underlying development pattern may make sprawl greener, but the problems of excess land conversion, auto-related impacts, and higher per-capita imperviousness will remain.

### Redevelopment as a Stormwater Strategy-

Redevelopment is one of the most effective forms of stormwater management and watershed protection. Recycling existing impervious cover through redevelopment satisfies development demand without adding new pavement to the watershed. This equates essentially to “zero impact development.” Additionally, redevelopment offers opportunities to retrofit paved sites with water quality improvements, which equates to “net positive development.”

*Land Use Patterns: The sprawling development on the left generates more impervious cover than the one on the right.*



*Redevelopment accommodates development demand on existing pavement preventing new imperviousness in the watershed and allowing opportunities to retrofit developed areas.*



Before



After

Photo credit: Steve Price, Urban Advantage

**Specific Plans and Area Plans** - Cities and the County of Ventura have been using specific plans and other types of area plans to coordinate development and redevelopment in targeted areas for decades. Specific area plans provide the process for orchestrating multiple planning and design considerations. They may emerge as one of the more valuable tools for integrating stormwater into public space, buildings, infrastructure and other aspects of community design. For the permit, specific and area plans provide a basis, either conceptually or literally, for developing Redevelopment Project Area Master Plans (RPAMPs).

**Why is the RPAMP program needed?**

Approaches to stormwater management are adapting to new information and awareness about the causes and consequences of impervious cover associated with loss of natural land cover. Closer linkage between water and land use has been important to the development of newer approaches, particularly at the site level. However, a broader realization of the potential and possibilities for using land use planning to prevent and manage stormwater are emerging. In addition to site design, the great and largely untapped potential is to reform land use policies that are driving

the creation of excess impervious cover. Recent studies and modeling underscore the importance of this approach, which looks at the larger development pattern to address stormwater problems.

In 2002, the USEPA modeled three development scenarios to compare the stormwater impacts of accommodating the same amount of growth (number of dwelling units) at different densities (1 unit per acre, 4 units per acre, and 8 units per acre). The study revealed that higher density development patterns generate less total runoff, less total impervious cover, and consume less undeveloped land than lower density development patterns. The figures below show the results at several different scales of development.

Figure 1 demonstrates that the amount of runoff – per housing unit – is higher at lower densities, and lessens as more units are accommodated per acre. In Figure 2, overall impervious cover for the watershed decreases as site density increases. The lowest-density scenario (Scenario A) covers the entire watershed and generates 187 million cubic feet per year of stormwater runoff. At four houses per acre, Scenario B consumes less

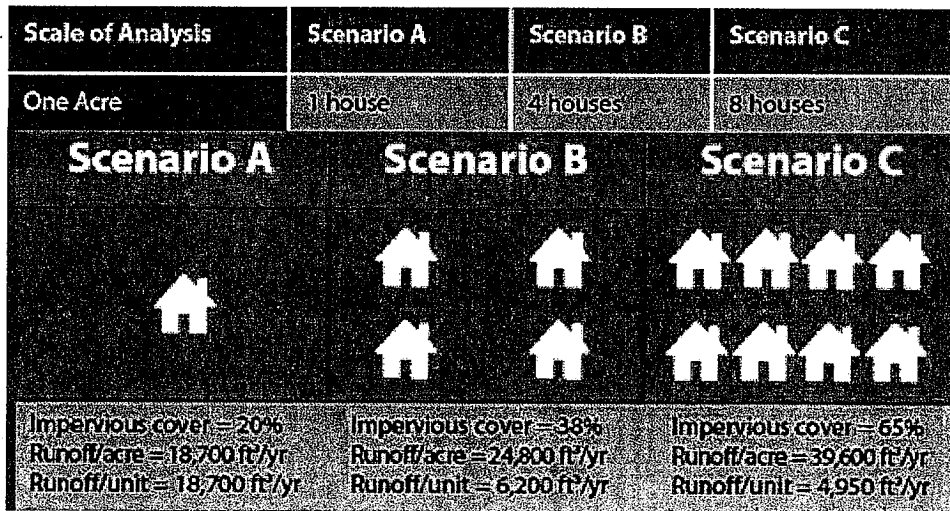


Figure 1

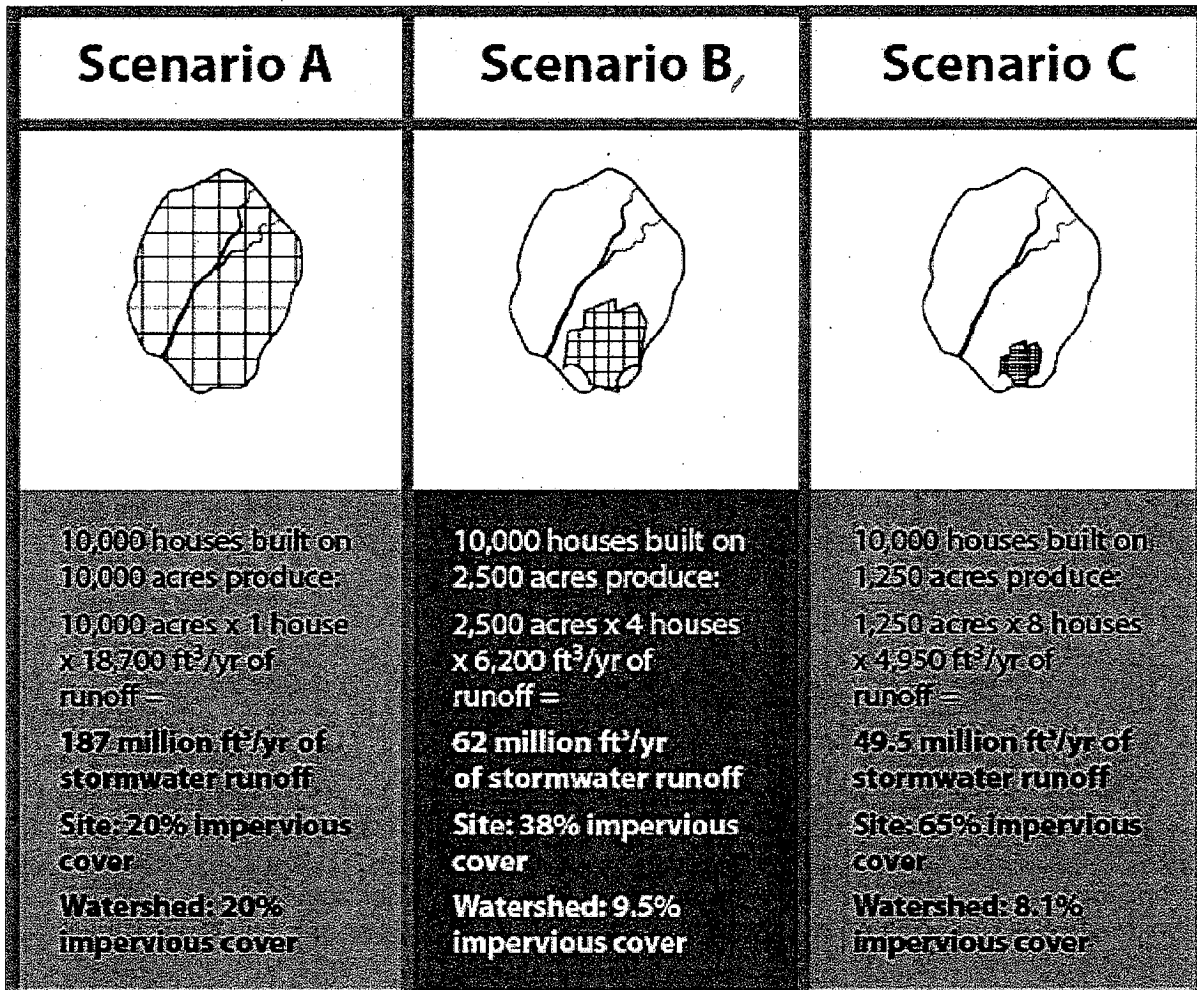


Figure 2

land and generates less than half as much stormwater runoff as Scenario A. At the highest density, Scenario C consumes the least land and produces just 49.5 million cubic feet per year of stormwater runoff. Scenario A generates approximately three times the runoff of Scenario B and four times as much as in Scenario C.

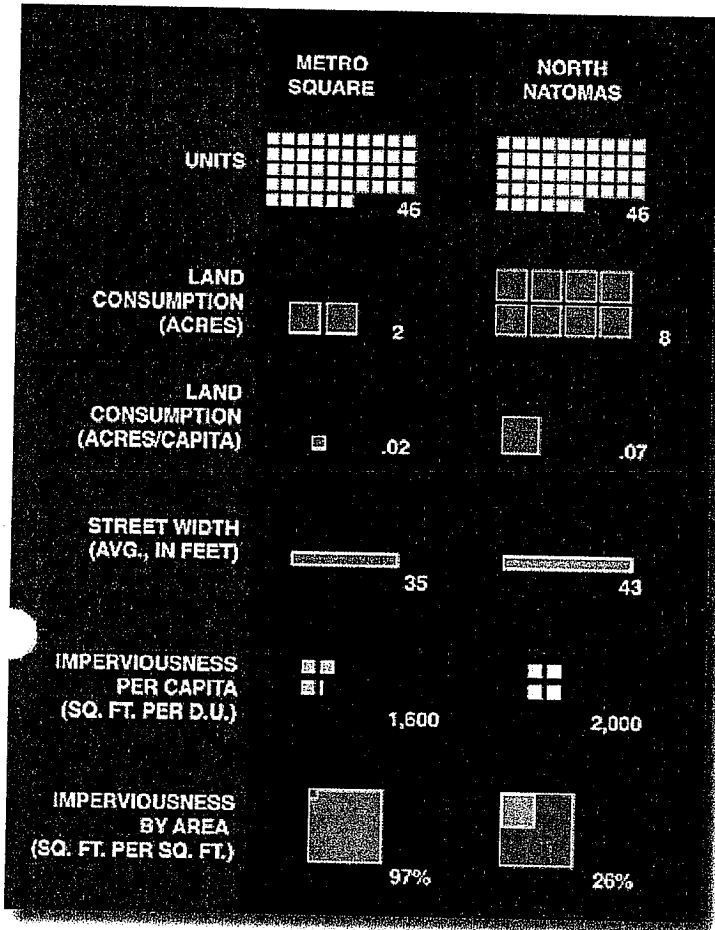
The lower density scenarios consumed more land than higher density alternatives to accommodate the same amount of growth. The study also shows that concentrating a given amount of growth at higher densities results in

less overall impervious cover and runoff than dispersing growth at lower densities.

The EPA study corroborates research from Purdue University showing that placing low-density development on the urban fringe would produce 10 times more runoff than a higher-density development in the urban core.<sup>1</sup>

<sup>1</sup> Harbor, J.B., Engle, et. Al (2000) "A Comparison of Long-term Hydrological Impacts of Urban Renewal Versus Urban Sprawl." Purdue University.

Similar results from a comparison of two development projects in the Sacramento region using "Index" software are shown in the table below.



Metro Square, the "urban infill" site, is higher density. North Natomas, the "suburban greenfield" site, is lower density single family residential. An area-based comparison of imperviousness suggests that at 26% impervious, the *suburban greenfield* site outperforms the *urban infill* site, which is 97% impervious. But on a per-unit basis, the *urban infill* site prevails. For each unit of development, the *suburban greenfield* project creates 400 square feet more impervious cover than the *urban infill* site. At a watershed, the lower density *suburban*

*greenfield* project creates 18,400 square feet more impervious cover than the higher density *urban infill* project, to accommodate the same number of units.

The two maps on the following page show impervious cover in a larger region based on overall area (left) and per capita (right).

Both maps show measures of imperviousness in the greater Seattle metropolitan region. On the left, a traditional area-based measure is used. The more urbanized areas have a greatest intensity of impervious cover. The map on the right shows imperviousness on a per capita basis showing that more urbanized areas have relatively lower amounts of impervious cover.

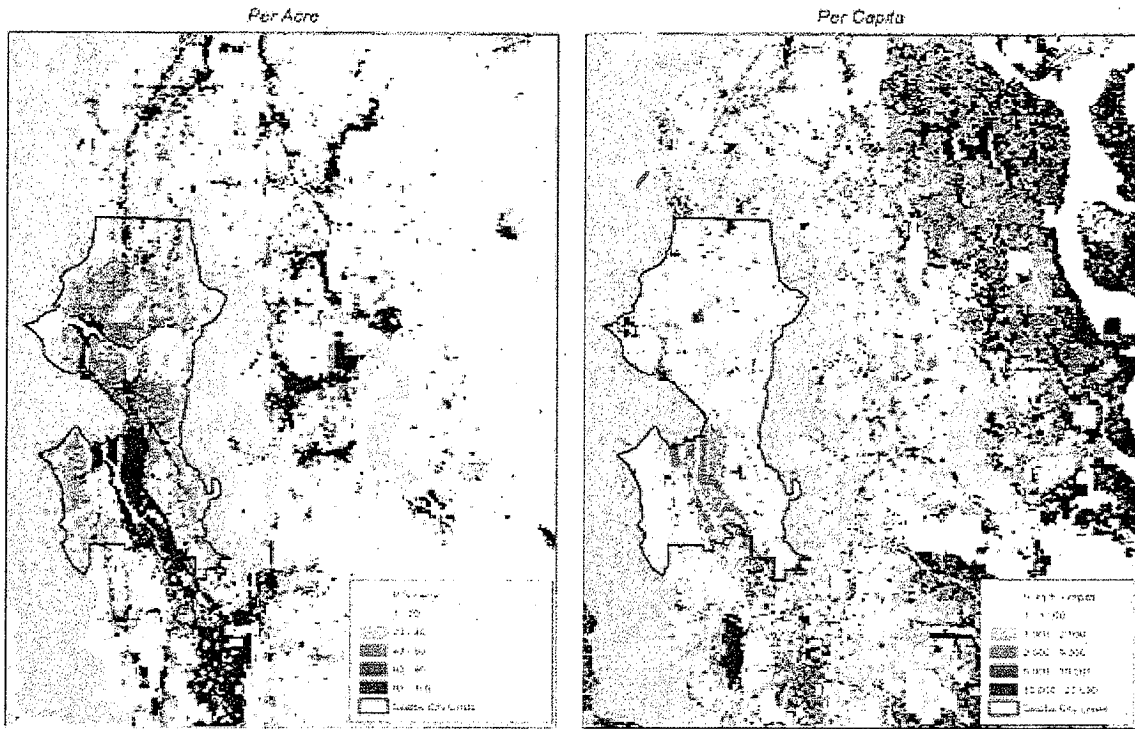
The map on the left makes it clear that highly urbanized areas are already heavily impacted and need to be fixed using a full range of green design and infrastructure strategies, which will largely be accomplished through redevelopment, retrofits and restoration projects (e.g., daylighting urban creeks).

The map on the right makes it clear that as an area grows, significant reductions in the area and reach of impervious cover can be made by growing more compactly and by directing new growth to those areas that are already impacted so that:

1. Impacts to outlying areas are avoided and remaining open space is preserved; and
2. Redevelopment is encouraged in strategic areas with zero or minimal net increase in watershed impervious cover.

This second point is critical to stormwater rules in Ventura County. At a watershed scale, redevelopment satisfies development demand while adding nominal or no new impervious cover. The existing pavement in the watershed is "recycled." Additionally, redevelopment

*Metropolitan Seattle Imperviousness: Two ways looking at imperviousness cover in a region based on per capita (right) and area (left).*

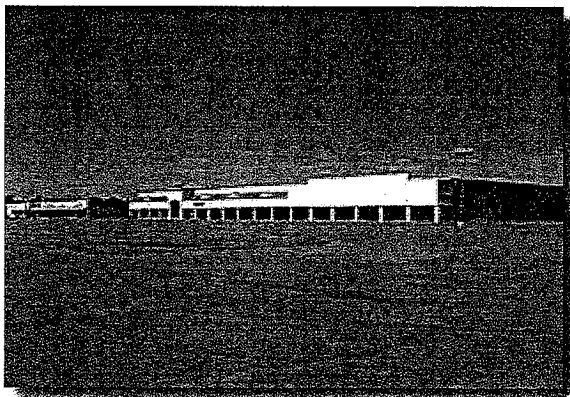


Source: Criterion Planners for the Puget Sound Regional Council

provides opportunities to retrofit older development patterns by incorporating density, use mix, and economic vitality into older commercial strips and commercial centers.

In relation to the stormwater permit, using the same performance criteria for new development and redevelopment could add another barrier that prevents or delays redevelopment, or leads to building

rehabilitation that avoids site improvements to improve stormwater performance. Both site and watershed level benefits are then lost as the site remains unchanged and the development demand goes elsewhere. There is a balance that the RPAMP may help achieve: encourage redevelopment, even if it means lessening some on-site requirements, while still getting as many on-site and/or sub-regional water quality improvements as possible.



*Which site is better for the watershed, meadow or existing pavement? Stormwater standards treat both these sites the same.*

## What is it? – Components of an RPAMP

The text below includes all language in the permit that refers to the RPAMP program:

*(d) Alternatively, where a permittee or a coalition of permittees have a Redevelopment Project Area Master Plan (RPAMP) approved in accordance with subpart 5.E.IV that balances multiple considerations, the provisions of the RPAMP will substitute for the ELA requirements identified above. (page 53)*

### *Alternative Post Construction Storm Water Mitigation Programs*

*(c) A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) for redevelopment projects within Redevelopment Project Areas, in consideration of balancing water quality protection with the needs for adequate housing, population growth, public transportation and management, land recycling, and urban revitalization. (page 60)*

*(d) For the RPAMP to be considered, a technical panel of the Local Government Commission or an equivalent state or regional planning agency must have reviewed and approved the proposed RPAMP, prior to its submittal to the Regional Water Board, for conformity with the balancing of interests identified in (b), including water quality. The Regional Water Board Executive Officer may then consider the RPAMP for approval, or elect to submit it to the Regional Water Board for consideration. (page 60)*

*(e) The RPAMP, on approval, may substitute in part or wholly for on-site postconstruction and hydromodification requirements.*

*(f) Redevelopment Project Areas include the following:*

- (1) City Center areas*
- (2) Historic District areas*
- (3) Brownfield areas*
- (4) Infill Development areas*
- (5) Urban Transit Villages*
- (6) Any other redevelopment area so designated by the Regional Water Board*

*(g) Nothing in these provisions shall be construed as to delay the implementation of post-construction control requirements, as approved in this Order. (pg 61)*

**Objectives** - The program has potential to meet multiple water quality objectives and other environmental and community goals. These need to be clearly defined and linked to water quality goals to provide overall direction, avoid confusion and misuse of the program, and to ensure buy-in from interested parties.

**Location** – Location is one of the most critical factors influencing the impact of development on water resources. RPAMPs are location-based in the permit, with one or more defined areas constituting the RPAMP area. The permit provides direction on what areas are allowed: City Center areas; Historic District areas; Brownfield areas; Infill Development areas; Urban Transit Villages.

Delimiting RPAMP areas promises to be one of the more critical steps in developing RPAMPs. Starting with existing policies and documents, particularly area plans and specific plans that address infill and redevelopment, may help. The process of deciding what areas do and do not fall into an RPAMP is a topic for broader discussion. As noted previously, this and other details can be discussed at an RPAMP workshop in the coming months.

**Performance Criteria Inside an RPAMP** – The permit says an RPAMP can substitute in part or wholly for on-site requirements, but does not clarify how this is determined. There are several options, including a tiered approach based on development context and density, a credit system that assigns value to different development practices, a trading system, or a combination of these.

**Credit System** - A credit system linking types of land use to water quality objectives is one method that could be used to encourage compact form as well as other water quality practices such as street trees, rain barrels, or cisterns. For example, projects that reach a level

of density that serves to offset its impact could receive credits that would allow reductions in on-site requirements. The EPA has developed a similar approach. Certain projects are eligible for credits with each credit equaling a 10% reduction in on-site requirements. There is a cap on the amount of credit that can be received so all projects have to achieve a minimum of on-site requirements. In this way, a project that meets several "smart growth" objectives, such as a higher density (1 credit), mixed use (1 credit), redevelopment project (1 credit) would have a 30% reduction in on-site requirements. A similar system with additional modifications could be used for the RPAMP.

**Relationship to other programs** - One of the more interesting options for an RPAMP is to consider how it could link up with other programs in the permit, including:

- Regional / Sub-regional Solutions (e.g., green streets, restoration, etc.)
- Site Design Criteria (Urban LID BMPs)
- Pollution / Imperviousness Trading / Offset Program
- Mitigation Funding (could be linked to other programs)
- TMDLs
- CEQA



## Building Blocks - Learning From Other Efforts

### LEED for Neighborhood Design

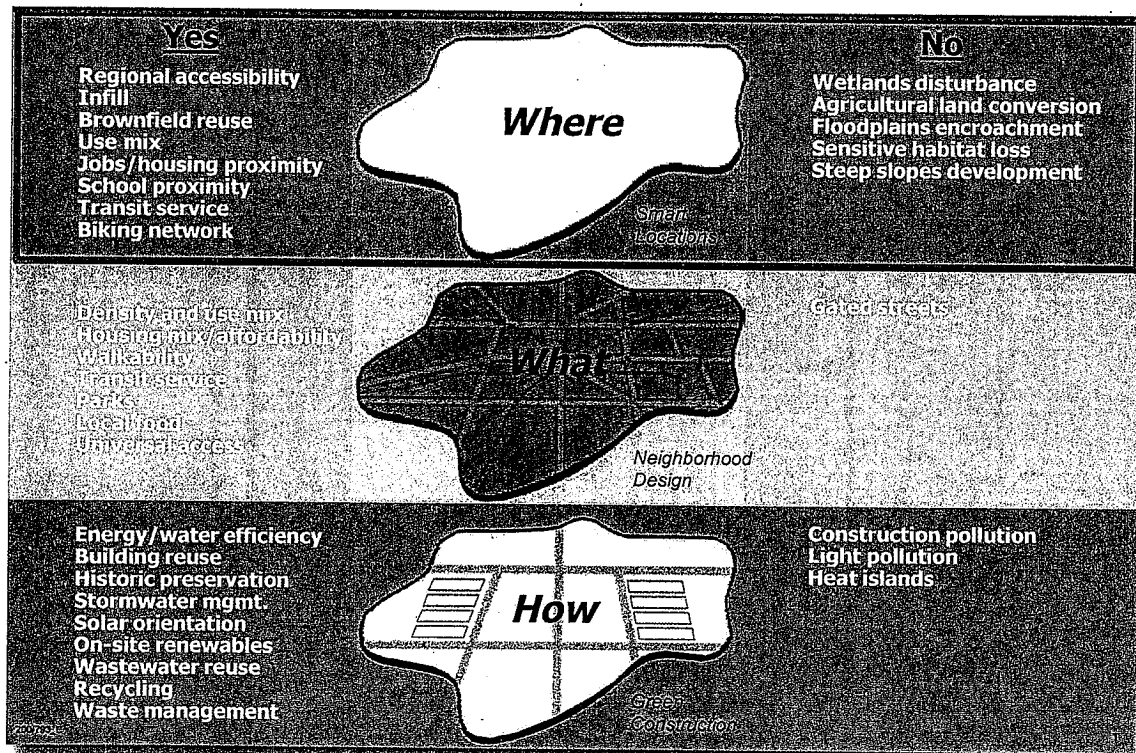
The US Green Building Council's Leadership in Energy and Environmental Design (LEED) rating systems provide broadly accepted performance criteria for green building and design practices. The most recent rating system, LEED for Neighborhood Development, confronts the same challenge being discussed in relation to the stormwater permit – how to align green design at the building or site level, with green planning at the community or regional level. The program arose to address concerns that a green building project could not be truly green if it was located in inappropriate areas or contributed to unsustainable patterns of development.

To address the challenge, the US Green Building Council partnered with the Congress for New Urbanism and Natural Resources

Defense Council (NRDC) to develop LEED for Neighborhood Development Rating System (LEED ND). LEED ND integrates the principles of smart growth, urbanism and green building into the first national system for neighborhood design. The following text from the LEED for Neighborhood Design website ([www.usgbc.org](http://www.usgbc.org)) describes some of the programs goals.

*In order to reduce the impacts of urban sprawl, or unplanned, uncontrolled spreading of urban development into areas outside of the metropolitan region, and create more livable communities, LEED for Neighborhood Development communities are:*

- locations that are closer to existing town and city centers
- areas with good transit access
- infill sites
- previously developed sites
- sites adjacent to existing development



LEED for Neighborhood Development Rating System

Source: Criterion Planners



As RPAMPs are developed, LEED ND could provide a useful model for the following reasons:

**Determining location:** LEED ND includes “smart location” prerequisites, meaning that some areas and sites are simply not eligible for LEED ND certification. This is similar to the current conception of an RPAMP, which also has a location-based component. LEED ND “smart location” prerequisites provide a starting point for discussions about areas that would be eligible for inclusion in an RPAMP. At least one private planning firm, Criterion Planners, has developed a method for identifying sites that are eligible for LEED ND certification.

This method could be tailored for the purposes of designating RPAMP areas. (See graph on previous page).

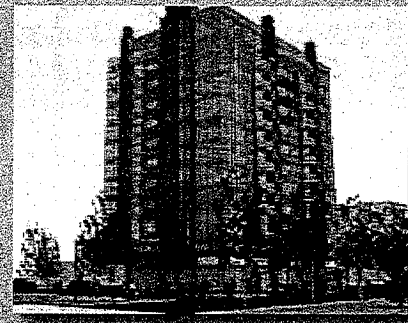
**Performance Criteria:** Additionally, LEED ND establishes a point system that may be useful in determining what types of development, or development practices could receive credit in an RPAMP and provides a basis for determining how much credit different practices (e.g., vertical mixed-use development) deserve.

**City of Grand Rapids -** The City of Grand Rapids developed an evaluation model to compare the impervious area generated by



**SW Benefits:**

- Compact footprint
- Pavement Reduction
- Land conservation
- vertical density
- structured parking
- mixed use



*Condominiums at Ionia have*  
**95.3%**  
*Runoff Reduction*

Ionia Condominiums, 240 Ionia SW	
<b>IMPERVIOUS AREA (Ai) (actual site impervious area)</b>	
Site Impervious Area	16,887 sf
Vegetative Roof Area	0 sf
<b>Impervious Area (site imp. area - veggie roof area) = Ai =</b>	<b>16,887 sf</b>
<b>EQUIVALENT (low density) IMPERVIOUS AREA (Aei)</b>	
Equivalent Residential Area	
Residential	72 units x 4700 sq/residential unit = 338,400 sf
Equivalent Parking Area	
Parking	72 spaces x 275 sq/parking space = 19,800 sf
Commercial/Office Area	
Gross Floor Area	0 sf
<b>Total Equivalent Impervious Area - Aei =</b>	<b>358,200 sf</b>
<b>ESTIMATED RUNOFF REDUCTION</b>	
<b>(1 - Ai / Aei) x 100% = 95.3% &gt; 80%</b>	
The proposed project QUALIFIES for consideration of a waiver from the stormwater detention requirement, provided there is no significant downstream impact.	

*Grand Rapids Project Evaluation Tool*

*Randy Lemoine: New Partners for Smart Growth for Smart Growth Presentation*

higher density projects to the amount generated by a typical low-density project of the same number of development units (residences, parking spaces, gross floor area). The evaluation tool was used to establish a policy to coordinate the City's "Smart Growth" initiative with its support for LID and the on-site requirements in the City's stormwater permit.

If a higher density project was shown to generate 80% less runoff (by virtue of its density) than a lower density project for the same amount of growth, then a waiver of on-site requirements could be granted.

For the purposes of the RPAMP, the Grand Rapids approach offers a model for determining "functional equivalence" for higher density infill and redevelopment projects. This tool and the methodology behind it might be particularly important for being able to quantify the water quality benefits of development in an RPAMP.

**Etowah Watershed Runoff Limits Program**  
Municipalities and watershed stakeholders in the Etowah Watershed in the Atlanta Georgia metro-region developed tiered performance criteria depending on the ecological sensitivity of various areas. Priority 1 areas have the most stringent requirements, followed by Priority 2 areas. Additionally, local governments can designate a limited number of "development nodes" for high-intensity uses and development that have a less strict performance standard. Development nodes are selected primarily on the basis of existing zoning. An option still being discussed are "in-lieu-of" fees that would go toward retrofitting existing development or protecting valuable lands.<sup>2</sup>

<sup>2</sup> Wenger, S.J. Carter, T.L., Vick, R.A., and Fowler .A. (2008) "Runoff Limits: An ecologically based stormwater management program." Stormwater Magazine (on-line: [www.gradingandexcavating.com/sw\\_runoff.html](http://www.gradingandexcavating.com/sw_runoff.html))

### **Model RPAMP and Associated Performance Measures/Criteria/Credit System**

With a grant through Proposition 40 funds, LGC has been working with local agency representatives responsible for stormwater management, local planners and local and regional stakeholders in Ventura County to develop strategies to better integrate stormwater management, land use planning and watershed protection. The group remains interested in the RPAMP idea and determined there is a need to explore further how RPAMPs would be created that would meet Regional Water Board approval and how they would be implemented. As a result, LGC plans to hold one or more workshops in the late summer and early fall to help develop a model RPAMP. Local and regional decision-makers and agencies involved in water quality control, stormwater management, land use planning, development review and approval, and critical stakeholder and environmental interest groups will be brought together to decide core issues and concerns associated with RPAMPs. A panel of experts will present methods that have been used to define, evaluate and credit infill, redevelopment and compact growth development projects for stormwater and water quality benefits. The group will then decide what the core components of an RPAMP should be and propose criteria for a pilot project to test and refine the RPAMP program.

Local Government Commission looks forward to continued collaboration with the Regional Board and its staff as well as stakeholders in Ventura County to help align water and land policies.

# Redevelopment Project Area Master Plan Concept

*What might an RPAMP look like?*

*Ideas for discussion and understanding.*



Local Government Commission

## RPAMP Components

**Objectives** - The program has potential to meet multiple water quality objectives and other environmental and community goals - these need to be defined.

**Location** - Determining location criteria will be up to a larger field of experts and will require modeling and data. Two related questions are important:

1. **What locations are eligible?** The permit provides direction: *City Center areas; Historic District areas; Brownfield areas; Infill Development areas; Urban Transit Villages.*
2. **How will RPAMP boundaries be determined?** Simple approach - use existing plan areas and/policy designations. More robust - approach use GIS to map eligible areas.

**Performance** - Permit says an RPAMP can substitute in part or wholly for on-site requirements, but does not clarify how this is determined. Again, the system and criteria need to be determined with input from a broader group and using data/modeling.

### Program Implementation

- ✓ Area(s) designation and approval criteria
- ✓ Performance and evaluation *inside* the RPAMP (i.e. Credit System?, Measurability?)
- ✓ Relationship to other programs: Regional / Sub-regional Solutions (e.g. green streets, restoration, etc); Site Design Prerequisites? (cap on EIA reduction? Mandatory BMPs?); Pollution / Imperviousness Trading / Offset Program; Mitigation Funding (could be linked to other programs)

We need input. Lets look at some hypothetical possibilities to stir up questions and ideas.

The following "strawman" ideas are very simplistic and meant only to advance discussion.



Local Government Commission

Location Component - this is the city of Ventura



**Location Component - Suppose the red area is established as an RPAMP area.**



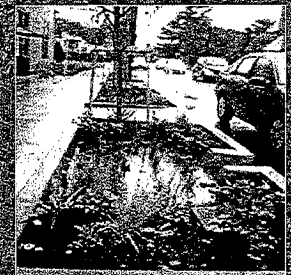
**Inside an RPAMP (*Performance Criteria*)**

Credit compact form and design/management strategies that fit the development context



**Compact Form**

- Infill & Redevelopment
- Transit proximity
- Mixed Use
- Density
- Streets and Parking



**Sustainable Design**

- Urban LID Techniques
- Street trees
- Cisterns / rainbarrels
- Retrofit prioritization
- Restoration / daylighting

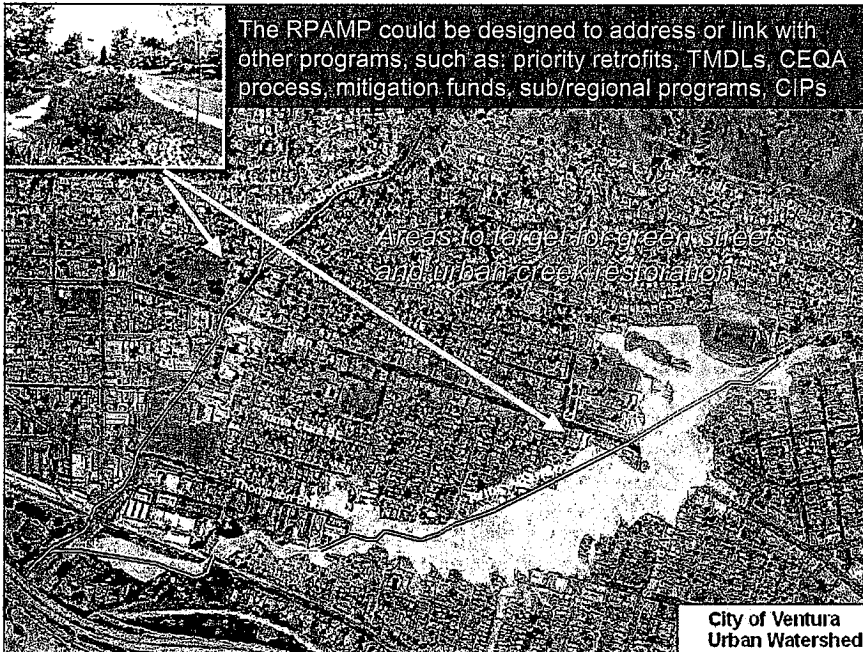
City of Ventura  
Urban Watershed

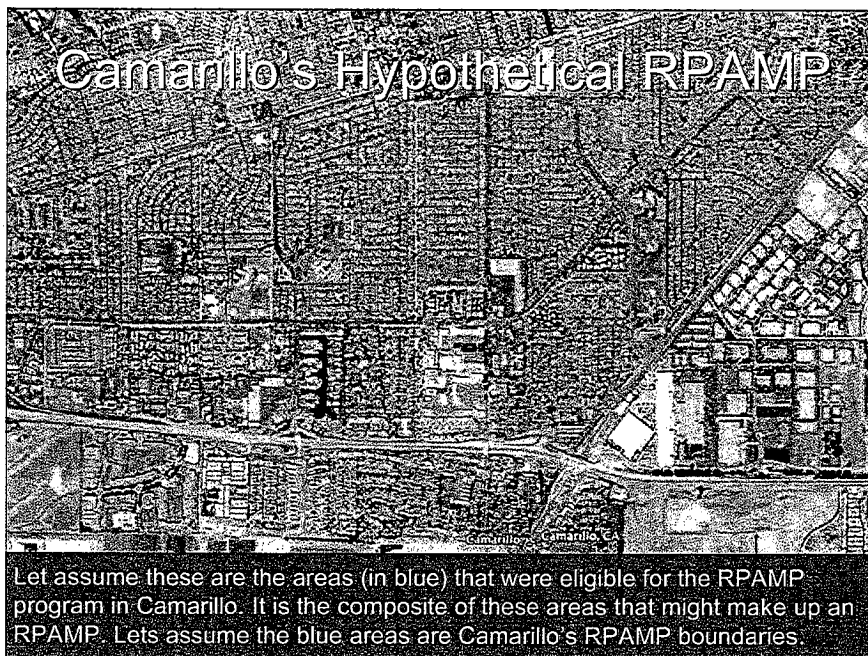
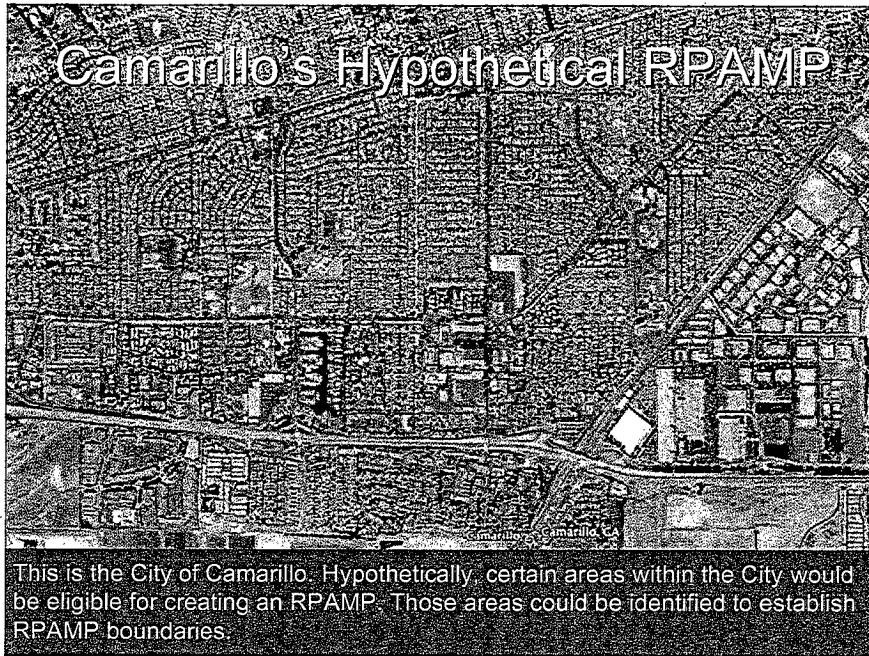


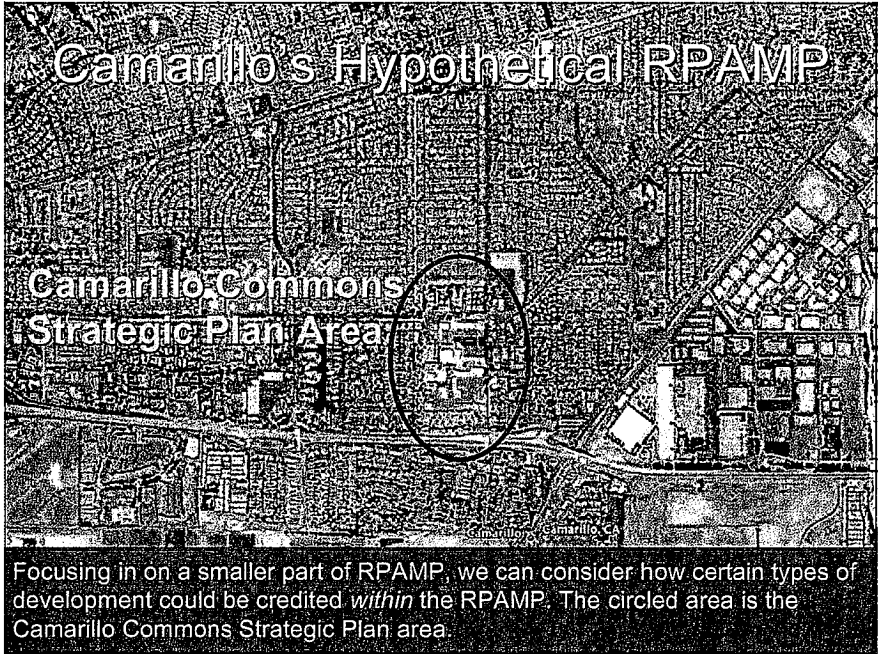
# Credit System?

Strategy	Criteria	Points
Use Mix	TBD	TBD
Density	TBD	TBD
Parking Strategies	TBD	TBD
Street Design	TBD	
Urban Forestry	TBD	
Others TBD		

A credit system linking development practices to water quality objectives is one method that could be used to encourage compact form as well as other water quality practices such as retrofits, street trees, rain barrels, or cisterns.









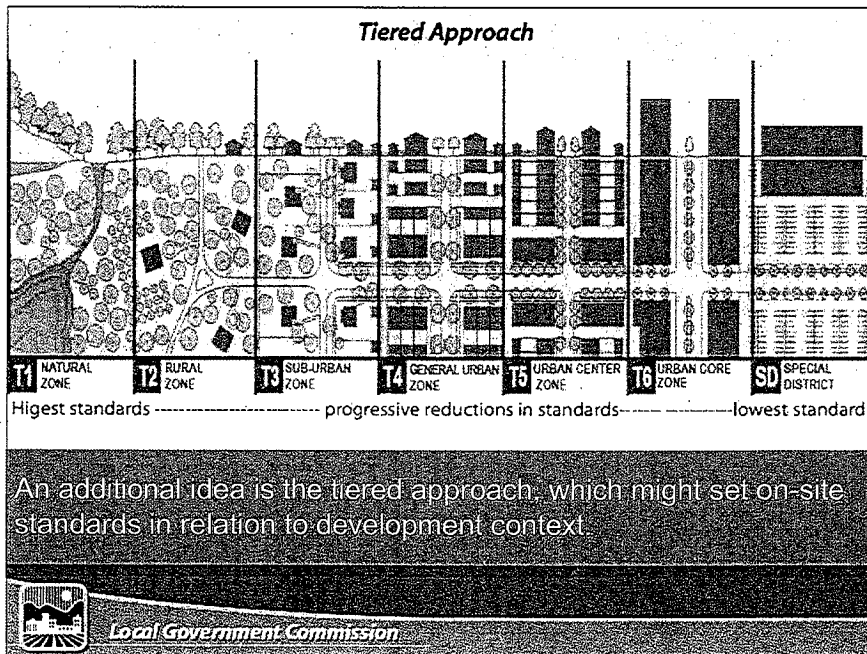
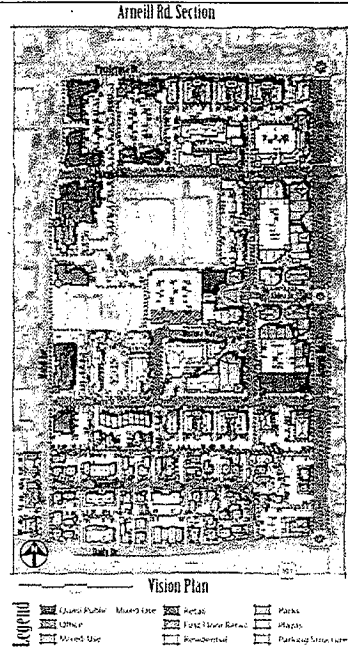
# Camarillo Commons

**Credit System (hypothetical)**  
 Credit could be assigned for different development practices that provide water quality benefits. Credit would enable progressive reductions in on-site requirements. The amount of credit assigned for different practices, and the amount of reduction allowed will need to be discussed more broadly and with the aid of modeling. For discussion, consider the following hypothetical project.

**Project Includes**

- + Mixed Use (x credits)
- + High Density (x credits)
- + Street Trees (x credits)
- = 3X credits

So, in this case the credits would result in a 3X% reduction in on-site requirements



## There is much more to determine!

The RPAMP concept is new and needs clarity. These slides provide initial ideas based on interpretation of permit language. Developing an effective RPAMP program (or something similar) will take additional dialogue between a wider audience of experts, additional resources (time and money), and the application of technology and data (modeling / measuring performance and impacts). We propose a workshop focused on the RPAMP as a critical next step.



Local Government Commission

## Next steps and Recommendations

- 1) Organize and hold an RPAMP Workshop  
Bring together experts to discuss details: methods, parameters, performance criteria, quantifying performance, setting RPAMP boundaries, approval criteria. Look at modeling options.
  - 1) LGC develops agenda, sets date/time
  - 2) Discuss at Regional Board workshop on July 10?
  - 3) Hold the workshop
- 2) Take steps to pilot the program
  - 1) Select pilot options
  - 2) Look for funds to develop pilot RPAMP
- 3) Begin developing RPAMPs for cities (with more funds/time)

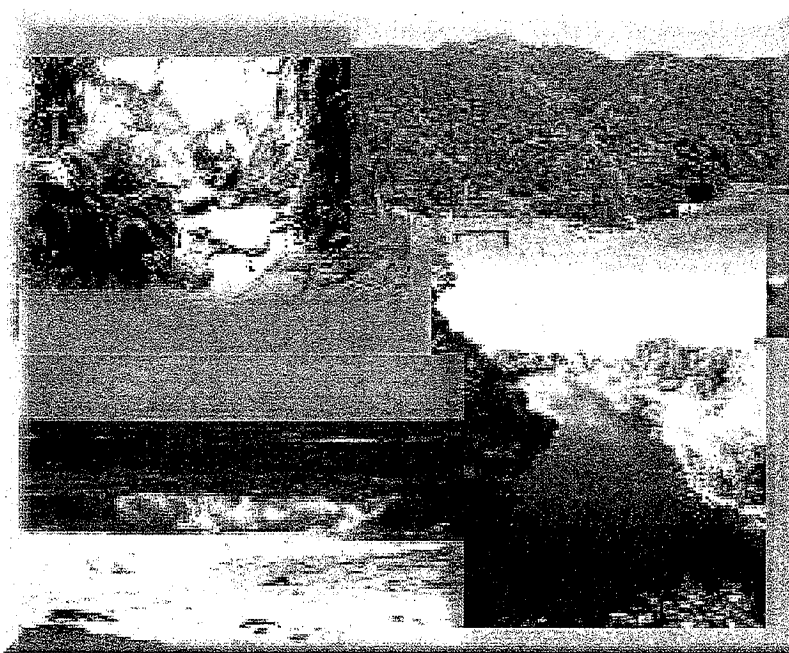
*- 2 and 3 are likely beyond the scope of current LGC project -*

STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION

ORDER 08-xxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS  
FOR  
STORM WATER (WET WEATHER) AND NON-STORM WATER (DRY WEATHER)  
DISCHARGES FROM  
THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS WITHIN THE VENTURA  
COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND  
THE INCORPORATED CITIES THEREIN.

Xxxxx xx, 200x



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

ORDER 08-xxx  
NPDES PERMIT NO. CAS004002  
WASTE DISCHARGE REQUIREMENTS  
FOR

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

**FINDINGS**

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

**A. Permit Parties and History**

1. Ventura County Watershed Protection District (Principal Permittee), County of Ventura, cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura (Ventura), Santa Paula, Simi Valley and Thousand Oaks (hereinafter referred to separately as permittees) have joined together to form the Ventura Countywide Storm Water Quality Management Program to discharge wastes. The permittees discharge or contribute to discharges of storm water and non-storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems, into the Watershed Management Areas of Ventura River, Santa Clara River, Calleguas Creek, Malibu Creek and Miscellaneous Ventura Coastal all within Ventura County and Los Angeles County (see Attachment "A").
2. Prior to the issuance of this permit storm water discharges from the Ventura County MS4 are covered under countywide waste discharge requirements contained in Order No. 00-108, adopted by the Regional Water Board on July 27, 2000, which replaced Order No. 94-082, adopted by the Regional Water Board on August 22, 1994. Order No. 00-108 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.
3. The Ventura County Board of Supervisors approved the concept of a countywide NPDES permit program and the use of the Flood Management District (presently the Watershed Protection District) benefit assessment authority to finance it on April 14, 1992. On June 30, 1992, the Ventura County Board of Supervisors adopted a benefit assessment levy for storm water and flood management in the unincorporated areas of Ventura County and the cities within the County, to be used in part to finance the implementation of a countywide NPDES municipal storm water

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permit program. The Ventura County MS4 Permittees have entered into an agreement with the Watershed Protection District to finance the activities related to the Ventura County MS4 Permit for shared and district wide expenses. The Permittees are also given the option to use the Benefit Assessment Program to finance their respective activities related to reducing the discharge of storm water pollutants under the MS4 Permit.

4. The Regional Water Board may require a separate NPDES permit for any entity that discharges storm water into the watersheds of Ventura County. Such an entity can be any State or Federal facility, special district or other public or private party.

**B. Nature of Discharge**

1. Storm water discharges consist of surface water runoff generated from various land uses in all the hydrologic drainage basins, which discharge into Waters of the State. The quality of these discharges varies and is affected by geology, land use, season, hydrology, and sequence and duration of hydrologic events. Based on the Ventura Countywide Storm Water Monitoring Program's Water Quality Monitoring Reports which were required under Order No. 00-108, the dry weather and wet weather Pollutants of Concern (POC) include an anion, bacteria, conventional pollutants, metals, a nutrient, organic compounds, and pesticides. The POC are identified in Attachment "B" of this Order. Many of the POC listed are causing impairments identified on the federal Clean Water Act (CWA) § 303(d) list of impaired waterbodies.

The State Water Board submits a report (a list of water quality limited segments (§ 303[d] list)) on the State's water quality to the U.S. EPA pursuant to § 305(b) of the 1972 CWA, and Title 40, CFR130.7, every 2 years. The Report provides water quality information to the general public and serves as the basis for U.S. EPA's National Water Quality Inventory Report to Congress. Section 303(d) requires that all waters that are not attaining standards after the implementation of those controls required by 1977, shall be included on the list. Title 40 CFR130.7(b)(3) defines "water quality standard applicable to such waters" as "those water quality standards established under § 303 of the [Clean Water] Act, including numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements."

2. Common pollutants in storm water and their respective sources are: bacteria from animal droppings and illegal discharges; Polycyclic Aromatic Hydrocarbons (PAHs) from the products of internal combustion engine operation and parking lot sealants wash off; nitrates from fertilizer application; pesticides from pest mitigating applications and from plant mitigating applications; bis (2-ethylhexyl) phthalate from the break down of plastic products; mercury from atmospheric fallout and improper disposal of mercury switches; lead from fuels, paints, automotive parts; copper from

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brake pad wear and roofing materials, zinc from tire wear and galvanized sheeting and fencing; sediment from land disturbance and erosion; and dioxins as products of combustion.

3. In general, the pollutants that are found in municipal storm water runoff can harm human health and aquatic ecosystems. In addition, the high volumes and high velocities of storm water discharged from MS4s into natural watercourses can adversely impact aquatic ecosystems and stream habitat and cause stream bank erosion and physical modifications. These changes are collectively termed hydromodification. Municipal point source discharges of runoff from urbanized areas remain a leading cause of impairment of surface waters in California.
4. Ammonia as Nitrogen, and Nitrate plus Nitrite Nitrogen are biostimulatory substances that can cause or contribute to eutrophic effects such as low dissolved oxygen and algae growth impairing warm freshwater and wildlife habitats. Ammonia is highly toxic to fish and other aquatic life. Excessive ammonia can cause aquatic life toxicity.
5. Elevated bacterial indicator densities impair the water contact recreation (REC-1) beneficial use at beaches, creeks, estuaries, lagoons, and marinas. Swimming in waters with elevated bacterial indicator densities has been associated with adverse health effects. Specifically, local and national epidemiological studies indicate that there is a causal relationship between adverse health effects and recreational water quality, as measured by bacterial indicator densities. Sources of elevated bacteria to marine and fresh waters may also include illegal discharges from improperly maintained standard septic systems, onsite wastewater treatment systems (OWTS) and illicit discharges from private drains.
6. Pesticides are substances used to prevent, destroy, repel or mitigate pests such as insects, weeds, and microorganisms. Their effects can be direct (e.g. fish die from exposure to a pesticide entering waterways, or birds do not reproduce after ingesting contaminated fish), or indirect (a hawk becomes sick from eating a mouse dying from pesticide poisoning). Pesticide categories include: Organochlorine, Organophosphorus, Organophosphate, and Pyrethroid.
7. Polychlorinated Byphenyls (PCBs) are a subset of the synthetic organic chemicals known as chlorinated hydrocarbons. Concern over PCBs toxicity, persistence (chemical stability) in the environment and that they have been shown to bioconcentrate significantly in aquatic organisms has led to prohibitions on PCBs.
8. Rising groundwater and swimming pool water have been found to be sources of pollutants such as salts (Chloride). Salts increase the salinity of otherwise freshwater systems and disrupt physiological processes. The Regional Water Board has waterbodies listed on the CWA § 303(d) list for impairment due to salts and has

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adopted Basin Plan amendments to include Total Maximum Daily Loads (TMDLs) for salts, and this Order includes provisions to control the discharges from these activities in order to directly or indirectly reduce or eliminate the discharge of salts to fresh water systems where salts may impair water quality and beneficial uses.

9. Trash and debris are pervasive pollutants which accumulate in streams, rivers, bays, and ocean beaches throughout Southern California. They poses a serious threat to our oceans and coasts, navigation, biological resources, recreation, human health and safety, aesthetics, and economies.
10. Municipal storm water (wet weather) and non-storm water (dry weather) discharges may contain pollutants that cause or threaten to cause an exceedance of the water quality standards, as outlined in the Los Angeles Region's Basin Plan, wet weather and dry weather discharges are subject to the conditions and requirements established in the Basin Plan for point source discharges. The water quality standards must be complied with at all times, irrespective of the source and manner of discharge.
11. Biological communities act to integrate the effects of water quality conditions in a stream by responding with changes in their population abundances and species composition over time. These populations are sensitive to multiple aspects of water and habitat quality, and provide expressions of ecological health that are more accurate than the results of chemical and toxicity tests. Bioassessment programs address the cumulative impacts of all stressors, especially chemical contamination, which result in a loss of biological diversity. Bioassessment information can help provide an ecologically based assessment of the overall health of a waterbody. Bioassessment is a cost-effective tool to monitor the biological and physical/ habitat conditions of streams and rivers. The Southern California Storm Water Monitoring Coalition's Regional Bioassessment Monitoring Program.
 

This last sentence is not accurate on a site specific basis. Most of the impervious area studies are on the scale of the watershed, not site specific. What about the per capita environmental value of high density urbanism vs. low density sprawl? As an example, 50 large lot single family residences have a much greater environmental impact than a 50 unit apartment building located near transit and services.
12. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat in natural drainages. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 3-10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development.
13. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as: strip malls, parking lots, commercial business parks, and fast food

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restaurants), or facilities that perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of POC in storm water.

14. Retail Gasoline Outlets (RGOs) are points of convergence for vehicular traffic and are similar to parking lots and urban roads. Studies indicate that storm water discharges from RGOs have high concentrations of hydrocarbons and heavy metals.

15. The industries and businesses listed in this Order that are to be inspected by permittees have the potential to discharge contaminated storm water into the storm water system. This storm water is an environmental threat because it can adversely impact public health and safety, and the quality of receiving waters. For example, pretreatment program compliance inspections and audits performed in the Los Angeles and Ventura Counties indicate that automotive service and food service facilities sometimes discharge-polluted storm water to the MS4s. The POC in such waters include oil and grease, toxic chemicals, and food waste. Spills from sanitary sewer lines have a high likelihood to reach the receiving waters via NIS. Overall, the most common POC identified in storm water discharge to the MS4s are: (i) heavy metals, (ii) oil and grease/ PAHs, (iii) sediments, (iv) oxygen demanding substances, (v) litter/ trash/ debris, (vi) nutrients, (vii) other toxic materials, such as pesticides. Municipal storm water monitoring data and industrial storm water monitoring data indicate that industrial and commercial sites continue to contribute significant quantities of pollutants in storm water runoff.

Not accurate, and needs clarification. EPA studies show that increased density brings proportionately lower levels of environmental impact on a per capita basis. Protecting Water Resources with Higher-Density Development  
[http://www.epa.gov/dced/water\\_density.htm](http://www.epa.gov/dced/water_density.htm)

16. Development and urbanization increase pollutant loads, volume, and discharge velocity. First, natural vegetated pervious ground cover is converted to impervious surfaces (paved) such as highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification process. In contrast, impervious surfaces (such as: pavement and concrete) can neither absorb water nor remove pollutants, and thus the natural purification characteristics are lost. Second, urban development creates new pollution sources as the increased density of human population brings proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage waste, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants. Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. These environmentally sensitive areas (ESAs) designated by the State in the Ventura County watershed include:
- Drainages to waters identified in the Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" Beneficial Use; and
  - California Coastal Commission's Environmentally Sensitive Habitat Areas as delineated on maps in Local Coastal Plans (LCPs).

17. The implementation of Low Impact Development techniques across the United States and Canada has demonstrated that the proper implementation of LID techniques not only results in water quality protection benefits and in a reduction of the cost of land development and construction but also bears other positive attributes that go beyond economic benefits such as enhanced property values, improved habitat, aesthetic amenities, and improved quality of life. *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices, USEPA Doc No. EPA 841-F-07-006, December 2007. Further, properly implemented LID techniques reduce the volume of runoff leaving a newly developed or re-developed area thereby lowering the peak rate of runoff, and thus minimize the adverse affects of hydromodification on stream habitat. A Review of Low Impact Development Policies: Removing Institutional Barriers to Adoption, Low Impact Development Center and State of California, State Water Resources Control Board, December 2007.* The requirements of this Order facilitate the implementation of LID strategies to protect water quality, reduce runoff volume, and to benefit from these additional enhancements.
18. The Regional Water Board adopted a Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R4-2005-0080) on November 3, 2005. The objective of the program is to monitor runoff from irrigated agriculture facilities in the coastal watersheds of Ventura and Los Angeles Counties. The Basin Plan, which designates beneficial uses and establishes water quality objectives for the Region, recognizes that agricultural activities can generate pollutants such as sediment, pesticides, and nutrients that upon discharge to receiving water, can degrade water quality and impair beneficial uses. A category identified by the Conditional Waiver as a source of pollutants is nursery operations. This Order includes requirements for the municipal operator to insure that nursery operators implement pollutant reduction and control measures with the objective of reducing pollutants in storm water runoff discharges.
19. Research conducted on the contribution of aerial deposition of trace heavy metals in Los Angeles County watersheds indicates that dry indirect deposition may account for a significant load of pollutants into surface waters. Similar patterns of aerial deposition likely occur in Ventura County. Of the atmospherically deposited pollutants on the watersheds, ten to twenty percent may account for the total load for copper, zinc, nickel, lead, and chromium to the waterbodies. Land reservoirs and sequestration may account for the remaining ninety to eighty percent of the atmospherically deposited pollutants on the watersheds. Emissions of semi-volatile organics such as polycyclic aromatic hydrocarbons (PAHs) and pesticides and their subsequent deposition may contribute to the contamination of receiving waters but appear to be less significant. The remaining percentage is stored in land reservoirs and eventually shows up in receiving waters.

**C. Permit Background**

1. The essential components of the Storm Water Management Program, as required by the Code of Federal Regulations (CFR) [40 CFR122.26(d)] are:
  - (a) Adequate Legal Authority.
  - (b) Fiscal Resources.
  - (c) Storm Water Quality Management Program (SMP)
    - (1) Public Information and Participation Program
    - (2) Industrial/ Commercial Facilities Program
    - (3) Planning and Land Development Program
    - (4) Development Construction Program
    - (5) Public Agency Activities Program
    - (6) Illicit Connection and Illicit Discharges Elimination Program
  - (d) Reporting Program (Monitoring Report and Program Report)
2. The Ventura County SMP, dated November 2001 (revision 2) identifies seven program areas, which are listed below and were previously approved under Board Order No. 00-108. For purposes of consistence are titled as follows:
  - (a) Ventura County SMP.
    - (1) Program Management
    - (2) Programs for Residents
    - (3) Programs for Industrial/ Commercial Businesses
    - (4) Programs for Planning and Land Development
    - (5) Programs for Construction Sites
    - (6) Programs for Public Agency Activities
    - (7) Programs for Illicit Connections/ Illegal Discharges
  - (b) For purposes of region-wide consistency, the program titles are revised and consolidated into the six areas listed in the preceding C.1(c). All permittee storm water documents submitted to the Regional Water Board are to follow the organization enumerated in C.1(c).
3. The permittees filed a Report of Waste Discharge (ROWD), dated January 26, 2005. The permittees applied for renewal of their waste discharge requirements for a 5-year period, which serves as an NPDES permit to discharge wastes to surface waters.
4. The Regional Water Board reviewed the ROWD and determined it to be partially complete under the reapplication policy for MS4s issued by the United States Environmental Protection Agency (U.S. EPA) (61 Fed. Reg. 41697). The Regional Water Board has prepared this Order so that implementation of provisions contained in this Order by permittees will meet the requirements of the federal NPDES regulations at 40 CFR122.26.



## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

5. The permittees Report of Waste Discharge contained a proposed Storm Water Management Program and a Monitoring Program to be considered by the Regional Water Board for incorporation into an MS4 NPDES Permit as permit conditions and to demonstrate compliance with federal law. The permittees are entitled, but did not elect to pursue a permit with numeric end-of-pipe limits for storm water discharges, which would have required them to satisfy specific effluent limitations rather than implement storm water management programs. Where a MS4 permittee voluntarily chooses a Best Management Practice (BMP) based storm water management program as permit effluent limitations rather than end-of-pipe numeric effluent limits, there exists no compulsion of a specific regulatory scheme that would violate the 10th Amendment to the United States Constitution. (City of Abilene V. EPA, 325 F.3d 657 (5th Cir., 2003)).
6. To-date, the monitoring program has consisted of mass emission, receiving water (tributaries), and land-use monitoring stations, toxicity testing, special studies for bioassessment of the Ventura River and hydrology, identification of ESAs, implementation of the Storm Water Quality Urban Impact Mitigation Plan (SQUIMP), and provides support for volunteer monitoring programs. This Order requires a monitoring program consisting of mass emission, toxicity, TMDL storm water (wet weather) MS4 water quality-based effluent limits, TMDL non-storm water (dry weather) MS4 water quality-based effluent limits, trash and debris study, Pyrethroid assessment that includes bio-assessment of Calleguas Creek tributary stations, continuation of the hydromodification study, low impact development study, participation in the Southern California Regional Bioassessment Program and Southern California Bight Project (SCBP).
7. The Principal Permittee is a member of the Southern California Coastal Water Research Project (SCCWRP) Commission. The Principal Permittee also participates in the Regional Monitoring Programs and research partnerships, such as the Southern California Storm Water Monitoring Coalition (SMC) and the Bioassessment Working Group.

**D. Permit Coverage**

1. The area covered by this Order includes all areas within Ventura County boundaries and all areas within each co-permittee's boundaries (see Figure 1) that drain into the MS4.
2. The permittees covered under this Order were designated on a system-wide basis under Phase I of the CWA § 402(p)(3)(B)(i). The action of covering all Ventura County municipalities under a single MS4 permit on a system-wide basis was consistent with the provisions of 40 CFR122.26(a)(3)(iv), which states that one permit application may be submitted for all or a portion of all municipal separate

## draft Tentative Order Ventura County Municipal Separate Storm Sewer System Permit

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

**E. Federal, State and Regional Regulations**

1. The Water Quality Act of 1987 added § 402(p) to the CWA (33U.S.C. § 1251-1387). This section requires the U.S. EPA to establish regulations setting forth NPDES requirements for storm water discharges in 2 phases.
  - (a) U.S. EPA Phase I storm water regulations were directed at MS4s serving a population of 100,000 or more, including interconnected systems and storm water discharges associated with industrial activities, including construction activities.

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The Phase I Final Rule was published on November 16, 1990 (55 Fed. Reg. 47990).

- (b) U.S. EPA Phase II storm water regulations are directed at storm water discharges not covered in Phase I, including small MS4s (population of less than 100,000), small construction projects (less than 5 acres), municipal facilities with delayed coverage under the Intermodal Surface Transportation Efficiency Act of 1991, and other discharges for which the U.S. EPA Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard, or is a significant contributor of pollutants to waters of the U.S. The Phase II Final Rule was published on December 8, 1999 (64 Fed. Reg. 68722).
2. The U.S. EPA published an 'Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits on August 9, 1996 (61 Fed. Reg. 41697). This policy requires that MS4 reapplication for reissuance for a subsequent five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.
  3. The U.S. EPA has entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service for enhancing coordination regarding the protection of endangered and threatened species under section 7 of the Endangered Species Act, and the CWA's water quality standards and NPDES programs. Among other actions, the MOA establishes a framework for coordination of actions by the U.S. EPA, the Services, and CWA delegated States on CWA permit issuance under § 402 of the CWA [66 Fed. Reg. 11202-11217].
  4. The CWA allows the U.S. EPA to authorize states with an approved environmental regulatory program to administer the NPDES program in lieu of the U.S. EPA. The State of California is a delegated State. The Porter-Cologne Water Quality Control Act (California Water Code) authorizes the State Water Resources Control Board (State Water Board), through the Regional Water Boards, to regulate and control the discharge of pollutants into all waters of the State, including waters of the United States, and tributaries thereto.
  5. Under CWA § 303(d) of the CWA, States are required to identify a list of impaired water-bodies and develop and implement TMDLs for these waterbodies (33 USC § 1313(d)(1)). The most recent 303(d) list's U.S. EPA approval date was June 28, 2007. The U.S. EPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Water Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This Order incorporates provisions incorporating approved WLAs for municipal storm water discharges and

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requires amending the SMP after subsequent pollutant loads have been allocated and approved.

6. Collectively, the restrictions contained in the TMDL Provisions for Storm Water (Wet Weather) Discharges and Non-Storm Water (Dry Weather) Discharges of this Order on individual pollutants are no more stringent than required to implement the provisions of the CWA. Where a TMDL has been approved, NPDES permits must contain effluent limits and conditions consistent with the assumptions and requirements of the available WLAs in TMDLs (40 CFR122.44(d)(1)(vii)(B)).
7. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. This Order implements federally mandated requirements under CWA § 402, subdivision (p)(3)(B). (33 U.S.C. § 1342(p)(3)(B).) This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (Natural Resources Defense Council, Inc. v. U.S. E.P.A. (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. Burbank v. State Water Resources Control Bd. (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead, is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region (2006) 135 Cal.App.4th 1377, 1389; Building Industry Ass'n of San Diego County v. State Water Resources Control Bd. (2004) 124 Cal.App.4th 866, 882-883.)

Likewise, the provisions of this Order to implement TMDLs are federal mandates. The CWA requires TMDLs to be developed for waterbodies that do not meet federal water quality standards. (33 U.S.C. § 1313(d).) Once the U.S. EPA or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation. (40 CFR122.44(d)(1)(vii)(B).)\*\*\*]

Second, the local agency permittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicable exceptions, the Clean Water Act regulates the discharge of pollutants from point

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sources (33 U.S.C. § 1342) and the Porter-Cologne regulates the discharge of waste (Wat. Code, § 13263), both without regard to the source of the pollutant or waste. As a result, the “costs incurred by local agencies” to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and nongovernmental dischargers. (See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

The Clean Water Act and the Porter-Cologne Water Quality Control Act largely regulate storm water with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Except for municipal separate storm sewer systems, the Clean Water Act requires point source dischargers, including discharges of storm water associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. § 1311(b)(1)(C), *Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1164-1165 [noting that industrial storm water discharges must strictly comply with water quality standards].) As discussed in prior State Water Resources Control Board decisions, in many respects this Order does not require strict compliance with water quality standards. (SWRCB Order No. WQ 2001-15, p. 7.) The Order, therefore, regulates the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.

Third, the local agency permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. The fact sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments 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 ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487-488.)

Fourth, the permittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their discharges. (See finding 5., supra.) To the extent, 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.) Likewise, the permittees have voluntarily sought a program-based municipal storm water permit in lieu of a numeric limits approach. (See *City of Abilene v. U.S. E.P.A.* (5th Cir. 2003) 325 F.3d 657, 662-663 [noting that municipalities can choose between a management permit or a permit with numeric

limits].) The local agencies' voluntary decision to file a report of waste discharge proposing a program-based permit is a voluntary decision not subject to subvention. (See *Environmental Defense Center v. USEPA* (9th Cir. 2003) 344 F.3d 832, 845-848.)

Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under state law predates the enactment of Article XIII B, Section (6) of the California Constitution.

8. Under § 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Coastal States with approved coastal zone management programs are required to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: 1) agriculture; 2) silviculture; 3) urban; 4) marinas; and 5) hydromodification. This Waste Discharge Requirement addresses the management measures required for the urban category and the hydromodification category, with the exception of septic systems.
9. The Regional Water Board addresses septic systems through the administration of non-Chapter 15 regulatory programs and the implementation of Regional Water Board Order No. R4-2004-0146. Septic systems are also addressed under State Assembly Bill (AB) 885 (2000). The Regional Water Board will implement and enforce regulations issued by the State Board pursuant to AB 885. Taken together, these State and Local agency requirements when imposed on septic system operators are expected to reduce the bacterial contamination of storm water from improperly maintained septic systems.
10. The State Water Board has issued waste discharge requirements for discharges from utility vaults (CAG990002). The Regional Water Board has issued waste discharge requirements for discharges from well heads and hydrostatic pipe testing (CAG674001). These discharges to the MS4 shall be conducted under coverage of a separate NPDES permit specific to that activity.
11. On May 18, 2000, the U.S. EPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule (CTR) 65 Fed. Reg. 31682 (40 CFR131.38) for the protection of human health and aquatic life. These apply as ambient water quality criteria for inland surface waters, enclosed bays and estuaries. The State Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (SIP) - 2000, on March 2, 2000, for implementation of the CTR (State Board Resolution No. 2000-15, as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL derived waste load allocations as soon as possible, but no later than 2020.

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12. The State Water Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) in 2005. The California Ocean Plan establishes water quality objectives for California's ocean waters and provides the basis for regulation of wastes discharged into the State's coastal waters. It applies to point and nonpoint source discharges. The Ocean Plan identifies the applicable beneficial uses of marine waters that include preservation and enhancement of designated Areas of Special Biological Significance (ASBS) (now called "State Water Quality Protection Areas") and establishes a set of narrative and numerical water quality objectives designed to protect beneficial uses. The SWRCB adopts the California Ocean Plan, and both the SWRCB and the six coastal Regional Water Quality Control Boards (RWQCBs) implement and interpret the California Ocean Plan.
13. This Regional Water Board adopted a revised Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994. The Basin Plan, specifies the beneficial uses of Ventura County waterbodies and their tributary streams, and contains both narrative and numerical water quality objectives for these receiving waters. The following beneficial uses identified in the Basin Plan apply to all or portions of each watershed covered by this Order:
  - (a) Municipal and domestic supply
  - (b) Agricultural supply
  - (c) Industrial service supply
  - (d) Industrial process supply
  - (e) Ground water recharge
  - (f) Freshwater replenishment
  - (g) Navigation
  - (h) Hydropower generation
  - (i) Water contact recreation
  - (j) Non-contact water recreation
  - (k) Ocean commercial and sport fishing
  - (l) Warm freshwater habitat
  - (m) Cold freshwater habitat
  - (n) Preservation of Areas of Special Biological Significance
  - (o) Saline water habitat
  - (p) Wildlife habitat
  - (q) Preservation of rare and endangered species
  - (r) Marine habitat
  - (s) Fish migration
  - (t) Fish spawning
  - (u) Shellfish harvesting
14. On March 22, 1999 the Consent Decree in Heal the Bay, Inc.; Santa Monica BayKeeper, Inc. v. Browner, Case No. 98-4825 SBA was approved. Under Establishment of TMDLs- The parties understand that California has the initial

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opportunity pursuant to § 303(d) of the CWA to adopt and submit to U.S. EPA for approval TMDLs to be established under this Consent Decree. TMDLs developed by Regional Water Boards are generally adopted through Basin Plan amendments. Basin plan amendments the State Board pursuant to Water Code section 13246, and the regulatory portions must be approved by the Office of Administrative Law pursuant to Government Code section 11353(b). TMDLs established pursuant to CWA section 303(d)(1) must be submitted to U.S. EPA for approval pursuant to section 303(d)(2), and incorporated into the state's water quality management plan

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



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- (G) Compliance for Final WLA is 2 years after effective date (March 24, 2008)
- (4) Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs), and Siltation in Calleguas Creek, Its Tributaries and Mugu Lagoon.
  - (A) Regional Water Board Resolution No. 2005-010
  - (B) State Water Board Resolution No. 2005-0068
  - (C) OAL file No. 05-1206-03 S
  - (D) U.S. EPA approval date March 14, 2006
  - (E) Final fee exemption date March 24, 2006 (effective date)
  - (F) Compliance for Interim WLA is effective date (March 24, 2006)
  - (G) Compliance for Final WLA is 20 years after effective date (March 24, 2026), which is beyond the term of this Order
- (5) Calleguas Creek Watershed Metals
  - (A) Regional Water Board Resolution No. 2006-012
  - (B) State Water Board Resolution No. 2006-0078
  - (C) OAL file No. 06-1222-015 S
  - (D) U.S. EPA approval date March 26, 2007
  - (E) Final fee exemption date March 27, 2007 (effective date)
  - (F) Compliance for Interim WLA is effective date (March 27, 2007)
  - (G) Compliance for Final WLA is Within 15 years after the effective date (March 27, 2022), which is beyond the term of this Order
- (6) Revolon Slough & Beardsley Wash Trash TMDL
  - (A) Regional Water Board Resolution No. 2007-007
  - (B) State Water Board Resolution No 2007-0076
  - (C) OAL file No 2007-1227-05 S
  - (D) U.S. EPA approval date February 27, 2008
  - (E) Final fee exemption date March 6, 2008 (effective date)
  - (F) Compliance for Trash Monitoring & Reporting Plan Submittal is 6 months from effective date (September 6, 2008)
  - (G) Compliance for Final WLA is 8 years from effective date (March 6, 2016)
- (7) Ventura River Estuary Trash TMDL
  - (A) Regional Water Board Resolution No. 2007-008
  - (B) State Water Board Resolution No 2007-0072
  - (C) OAL file No 2007-1227-01 S
  - (D) U.S. EPA approval date February 27, 2008
  - (E) Final fee exemption date March 6, 2008 (effective date)
  - (F) Compliance for Trash Monitoring & Reporting Plan Submittal is 6 months from effective date (September 6, 2008)

(G) Compliance for Final WLA is 8 years from effective date  
(March 6, 2016)

16. The Regional Water Board adopted and approved requirements for new development and significant redevelopment projects in Ventura County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Water Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000 for Los Angeles County and the Cities in Los Angeles County. Since 2000, new development and redevelopment water quality criteria have been implemented by the permittees to be consistent with SUSMP. The State Board affirmed the Regional Water Board action and SUSMPs in State Board Order No. WQ 2000-11, issued on October 5, 2000.
- (a) A statewide policy memorandum (dated December 26, 2000), which interprets the Order to provide broad discretion to Regional Water Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in environmentally sensitive areas, and water quality design criteria for Retail Gasoline Outlets (RGOs, see part 7 for definition). The Regional Water Board properly justified the extensions of SUSMPs and water quality criteria to ministerial projects, projects in environmentally sensitive areas, and RGOs, during the adoption of Regional Water Board Order 01-182. The Regional Water Board's action was upheld by the County of Los Angeles Superior Court (In Re: *County of Los Angeles v. State Water Resources Control Board* (2006) 143 Cal.App.4<sup>th</sup> 985).
- (b) The State Water Board's Chief Counsel interpreted the Order to encourage regional solutions and endorsed a mitigation fund or "bank" as alternatives for new development and significant redevelopment. The Regional Water Board has included provisions for regional solutions and the establishment of a mitigation bank in this Order.
17. The Regional Water Board supports Watershed Management planning to address water quality protection in the region. The objective of the Watershed Management planning is to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources.

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18. To facilitate compliance with federal regulations, the State Water Board has issued the following 4 Statewide General NPDES Permits associated with storm water:
  - (a) Industrial General Permit (IASGP- Industrial Activities Storm Water General Permit), NPDES No. CAS000001, issued on November 19, 1991, reissued on September 17, 1992 and April 17, 1997, currently under review for reissuance.
  - (b) Construction General Permit (CASGP- Construction Activities Storm Water General Permit), NPDES No. CAS000002, issued on August 20, 1992, reissued August 19, 1999, currently under review for reissuance.
  - (c) Small Linear Underground/ Overhead Construction Projects General Permit (small LUPs), NPDES No. CAS000005, issued on June 18, 2003.
  - (d) Small MS4 Permit WQ Order No. 2003-0005-DWQ adopted on April 30, 2003.
  
19. Facilities discharging storm water associated with industrial activities, construction projects that disturb one or more acres of soil, or construction projects that disturb less than one acre but are part of a larger common plan of development or sale that in total disturbs 1 or more acres, and construction activities associated with small linear underground/ overhead projects that result in land disturbances greater than one acre, but less than five acres (small LUPs), are all required to obtain individual NPDES permits for storm water discharges, or be covered by the statewide General Permits by completing and filing a Notice of Intent (NOI) with the State Board. The U.S. EPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.
  
20. State Water Board Resolution No. 68-16 contains the state Antidegradation Policy, titled "Statement of Policy with Respect to Maintaining High Quality Waters in California" (Resolution 68-16), which applies to all waters of the state, including ground waters of the state, whose quality meets or exceeds (is better than) water quality objectives. Resolution No. 68-16 incorporates the federal Antidegradation Policy (40 CFR131.12) where the federal policy applies, (State Water Board Order WQO 86-17). Both, federal and state antidegradation policies acknowledge that an activity that results in a minor water quality lowering, even if incrementally small, can result in violation of Antidegradation Policies through cumulative effects, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.
  - (a) Federal Antidegradation Policy (40 CFR131.12) states that the State shall develop and adopt a statewide antidegradation policy and identify the methods for implementing such policy pursuant to this subpart. The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following:
    - (1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.
    - (2) Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that

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quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

(3) Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

(4) In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with section 316 of the Act.

- (b) State Water Board Resolution No. 68-16 establishes essentially a 2-step process for compliance with the policy.
- (1) Step 1- if a discharge will degrade high quality water, the discharge may be allowed if any change in water quality:
    - (A) Will be consistent with maximum benefit to the people of the State.
    - (B) Will not unreasonably affect present and anticipated beneficial use of such water.
    - (C) Will not result in water quality less than that prescribed in state policies (e.g., water quality objectives in Water Quality Control Plans).
  - (2) Step 2- any activities that result in discharges to high quality waters are required to:
    - (A) Meet waste discharge requirements that will result in the best practicable treatment or control of the discharge necessary to avoid a pollution or nuisance.
    - (B) Maintain the highest water quality consistent with the maximum benefit to the people of the State.
      - (i) If such treatment or control results in a discharge that maintains the existing water quality, then a lowering of water quality would not be consistent with state Antidegradation Policy.
      - (ii) Likewise, the discharge could not be allowed under state Antidegradation Policy if:
        - (I) The discharge, even after treatment, would unreasonably affect beneficial uses; or
        - (II) The discharge, would not comply with applicable provisions of Water Quality Control Plans.

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21. The State Water Board on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitation language to be included in all municipal storm water permits issued by the State and Regional Water Boards.
22. Cal. Water Code § 13263(a) requires that waste discharge requirements issued by Water Boards shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; and the need to prevent nuisance.
23. Cal. Water Code § 13370 et. seq. requires that waste discharge requirements issued by the Water Boards implement the provisions of the CWA (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto.
24. The California State Assembly passed AB 1721 (Pavley Environmental Education) on September 8, 2005, to add § 13383.6 to the Water Code, relating to environmental education. On and after January 1, 2007, if a Regional Water Board or the State Board issues a municipal storm water permit pursuant to § 402(p) of the CWA (33 U.S.C. Sec. 1342(p)) that includes a requirement to provide elementary and secondary public schools with educational materials on storm water pollution, the permittee may satisfy the requirement, upon approval by the Regional Water Board or State Board, by contributing an equivalent amount of funds to the Environmental Education Account established pursuant to subdivision (a) of § 71305 of the Public Resources Code.

**F. Implementation**

1. The California Environmental Quality Act (CEQA) (Cal. Pub. Resources Code § 2100 et seq.) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary (a governmental agency can use its judgment in deciding whether and how to carry out or approve a project, § 15357) and does not apply to ministerial projects (the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, § 15369). A ministerial project may be made discretionary by adopting local ordinance provisions or imposing conditions to create decision-making discretion in approving the project. In the alternative, permittees may establish standards and objective criteria administratively for storm water mitigation for ministerial projects. For water quality purposes regardless of whether a project is discretionary or ministerial, the Regional Water Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements.

2. The objective of this Order is to ensure that discharges from the MS4 in Ventura County comply with water quality standards, including protecting the beneficial uses of receiving waters. To meet this objective, the Order requires that Best Management Practices (BMPs) will be implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable (MEP), and achieve water quality objectives and standards. The U.S. EPA envisioned that municipal storm water program would be implemented in an iterative manner and improved with each iteration by using information and experience gained during the previous permit term (*Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits* - 61 Fed. Reg. 41697). Municipalities are required to evaluate what is effective and make improvements in order to protect beneficial uses of receiving waters. This Order requires implementation of an effective combination of pollution control and pollution prevention measures, education, public outreach, planning, and implementation of source control BMPs and Structural and Treatment Control BMPs. The better-tailored BMPs combined with the performance objectives outlined in this Order have the purpose of attaining water quality objectives and standards (*Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits*- 61 Fed. Reg. 43761). Where WLAs have been adopted for storm water (wet weather) and non-storm water (dry weather) discharges from MS4s, this Order requires permittees to implement controls to achieve the WLAs within the compliance schedule provided in the TMDLs.
3. The implementation of measures set forth in this Order are reasonably expected to reduce the discharge of pollutants conveyed in storm water discharges into receiving waters, and to meet the TMDL WLAs for discharges from MS4s that have been adopted by the Regional Water Board.
4. The U.S. EPA has recommended that all future TMDLs and TMDL amendments be expressed as daily increments consistent with a federal court ruling (*Friends of the Earth, Inc. v. EPA, et al.* No. 05-5015 (D.C. Cir. 2006)). However, this interpretation does not affect the discretionary authority of the Regional Water Board to express NPDES permit limits and conditions in non daily terms because there is no express or implied statutory limitation (CWA §502(11)) (*Establishing TMDL "Daily Loads" in Light of the Decision by the U.S. Court of Appeals for the D.C. Circuit in Friends of the Earth, Inc. v. EPA, et al. (April 2006) and Implications for NPDES Permits*, U.S. EPA Office of Water, memorandum, Nov 15, 2006). This Order translates MS4 TMDL WLAs adopted by the Regional Water Board into forms "consistent with the assumptions and requirements of the TMDL".
5. During the term of the Order, the permittees shall implement all necessary control measures to reduce pollutant(s) which cause or continue to cause or contribute to water quality impairments, but for which TMDLs have not yet been developed or approved, to eliminate the water quality impairment(s). Successful efforts to reverse

add  
"encouragement of  
high-density  
development, infill,  
and redevelopment  
in lieu of suburban  
sprawl"

the wet weather impairments during the permit term for such pollutants, may avoid the need for a WLA for wet weather or the need to develop a TMDL in the future.

6. This Order promotes a land development and redevelopment strategy that considers the water quality and water management benefits associated with smart growth techniques. Such measures include hydromodification mitigation requirements, minimization of impervious surfaces, integrated water resources planning, and low impact development guidelines. (Reference: *Protecting Water Resources with Smart Growth*, EPA 231-R-04-002, U.S. EPA 2004; *Using Smart Growth Techniques as Storm Water Best Management Practices*, EPA 231-B-05-002, U.S. EPA 2005; *Parking Spaces/Community Places: Finding the Balance through Smart Growth Solutions*, EPA 231-K-06-001, U.S. EPA 2006; *Protecting Water Resources with Higher-Density Development*, EPA 231-R-06-001, U.S. EPA 2006.)
7. The implementation of an effective Public Information and Participation Program is a critical component of a storm water management program. While commercial and industrial facilities are traditionally subject to multiple environmental regulations and receive environmental protection guidance from multiple sources, the general public, in comparison, receives significantly less education in environmental protection. An effective Public Information and Participation Program is required because:
  - (a) Activities conducted by the public such as vehicle maintenance, improper household waste materials disposal, improper pet waste disposal and the improper application of fertilizers and pesticides have the potential to generate a significant amount of pollutants that could be discharged in storm water.
  - (b) An increase in public knowledge of storm water regulations, proper storage and disposal of household wastes, proper disposal of pet wastes and appropriate home vehicle maintenance practices can lead to a significant reduction of pollutants discharged in storm water.
8. The California Supreme Court ruled that although Water Code section 13263 requires the Water Boards to consider the factors set forth in Water Code section 13241 when establishing waste discharge requirements, when issuing an NPDES permit, the Water Boards may not consider the factors to justify imposing pollutant restrictions that are less stringent than the applicable federal regulations require (*City of Burbank v. State Water Resources Control Bd.*, 35 Cal.4d, 618 (2005)). However, when the pollutant restrictions in an NPDES are more stringent than federal law, Water Code section 13263 requires that the Water Boards consider the factors described in section 13241. The requirements in this Order may be explicit or more specific than those enumerated in federal regulations under 40 CFR122.26 or in U.S. EPA guidance. However, the requirements have been prescribed to be consistent with the federal statutory mandates described in CWA § 402(p)(3)(B)(ii) and (iii) and the related federal regulations. Consistent with federal law, all of the conditions in this permit could have been included in a permit adopted by U.S. EPA in the absence of the in

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lieu authority of California to issue NPDES permits. These requirements are necessary to reduce the discharges of pollutants to the maximum extent practicable, and to attain water quality standards. Hence they are not more stringent than federal law.

9. This Order also provides flexibility for permittees to petition the Regional Water Board Executive Officer to substitute a BMP under this Order with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

10. This Order contemplates that the permittees are responsible for considering potential storm water impacts when making planning decisions in order to fulfill the permittees' CWA requirement to reduce the discharge of pollutants in municipal storm water to the MEP and attain water quality objectives from new development and redevelopment activities. However, the permittees retain authority to make final land-use decisions and retain full statutory authority for deciding what land uses are appropriate at specific locations within each permittee's jurisdiction. This Order and its requirements are not intended to restrict or control local land use decision-making authority.

But they do restrict land use decisions for high density development, infill, and redevelopment.

11. The State Water Board amended the Policy for the Implementation of Toxics Standards In Inland Surface Waters, Enclosed Bays and Estuaries of California (State Implementation Policy – SIP) on February 24, 2005. This Order includes a Monitoring Program that incorporates Minimum Levels (MLs) established under the State Implementation Policy. The MLs represent the lowest quantifiable concentration for priority toxic pollutants that is measurable with the use of proper method-based analytical procedures and factoring out matrix interference. The SIP's MLs therefore represent the best available science for determining MLs and are appropriate for a storm water monitoring program. The use of MLs allows the detection of toxic priority pollutants at concentrations of concern using recent advances in chemical analytical methods.

12. This Order establishes Municipal Action Levels (MALs) for selected pollutants based on nationwide Phase I MS4 monitoring data for pollutants in storm water. (<http://unix.eng.ua.edu/~rpitt/Research/Research.shtml>, last visited on August 14, 2007). The MALs were computed using the statistical based population approach, one of three approaches recommended by the California Water Board's Storm Water Panel in its report, 'The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 2006). The MALs were obtained by multiplying the Median (central tendency measure) with 2 x the Coefficient of Variance (estimate of variance measure). MALs are identified in Attachment "C". Permittees shall



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implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the MALs. MALs express an integration of the adequacy/inadequacy of programmatic measures and BMPs required in this Order. The exceedance of an MAL will create a presumption that MEP is not being met..

13. The International Storm Water Best Management Practices (BMP) Database was established in 1996 as a cooperative initiative between the U.S. EPA and the American Society of Civil Engineers (ASCE) to provide scientifically sound information to improve the design, selection and performance of storm water BMPs. The BMP database includes standardized BMP monitoring and reporting protocols, a storm water BMP database, BMP performance evaluation protocols, and BMP monitoring guidance. The storm water BMP database is updated approximately semi-annually to add new BMP studies and performance data. BMP performance data from the database was used to establish that it is practicable for municipalities to achieve the MALs in this Order. (<http://www.bmpdatabase.org/>, last visited August 15, 2007.) The International Storm Water Database is now maintained by the Water Environment Research Foundation (WERF).
14. This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Health Services or local vector agencies in accordance with CA Health and Safety Code, § 116110 et seq. Certain Treatment Control BMPs if not properly designed, operated or maintained may create habitats for vectors (e.g. mosquitoes and rodents). This Order contemplates that the permittees will closely cooperate and collaborate with local vector control agencies and the State Department of Health Services for the implementation, operation, and maintenance of Treatment Control BMPs in order to minimize the risk to public health from vector borne diseases.
15. This Order contemplates that permittees will ensure that implemented Treatment Control BMPs will not pose a safety or health hazard to the public. This Order contemplates that permittees will ensure that the maintenance of implemented Treatment Control BMPs will comply with all applicable health and safety regulations, such as, but not limited to requirements for worker entry into confined spaces under OSHA Safety and Training education, § 1926.21(b)(6)(i).
16. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from construction sites to the MEP. The BMPs are identified in Table 6 (BMPs at Construction sites less than 1 acre), Table 7 (BMPs at Construction Sites 1 acre or greater but less than 5 acres), and Table 8 (BMPs at Construction sites 5 acres or greater). These BMPs include erosion control, sediment control, and construction site waste management practices. The BMPs listed in part 5.F of the Order were selected based on the Water Boards' experience of regulating such sites since 1992,

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and are referenced in the *California Stormwater Quality Association (CASQA) Storm Water Best Management Practice Handbook Construction (January 2003)* and from the *Stormwater Quality Handbooks, Project Planning and Design Guide, Stormwater Pollution Prevention Plan (SWPPP) and Water Pollution Control Plan (WPCP) Preparation Manual, Construction Site Best Management Practices (BMPs) Reference Manual, March 2007* (Caltrans Document Number CTSW-RT-06-171.11-1) which serve as an industry standard for California. The BMPs identified in the Tables are technically feasible, practicable, and cost-effective. For the exceptional case where an identified BMP may be impracticable on a particular site, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.

17. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from commercial and industrial sites to the MEP. The BMPs are identified in Table 2 (BMPs at Restaurants), Table 3 (BMPs at Automotive Service Facilities), Table 4 (BMPs at Retail Gasoline Outlets), and Table 5 (BMPs at Nurseries). These BMPs include the implementation of good housekeeping practices designed to control pollutants at the source, promote the use of proper waste management practices, and implement control practices to keep pollutants away from any entrance to the storm drainage system. The BMPs listed in part 5.D of the Order were selected based on the Water Boards' experience of regulating such sites since 1992 and referenced in the *California Stormwater Quality Association (CASQA) Storm Water Best Management Practice Handbook Commercial/Industrial Activity (January 2003)* and from the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide May 2003* (Caltrans Document Number CTSW-RT-02-057), which serve as an industry standard for California. The BMPs identified in the Tables are technically feasible, practicable, and cost-effective. For the exceptional case where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.
18. This Order incorporates presumptive BMPs to reduce pollutants in storm water discharges from Public Agency Activities to the MEP. The BMPs are identified in Table 9 (BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards). These BMPs include the implementation of good housekeeping practices designed to control pollutants at the source, promote the use proper waste management practices, implement control practices to keep pollutants away from any entrance to the storm drainage system and from being deposited or discharged directly into waters of the U.S. The BMPs listed in part 5.G of the Order were selected based on the Water Boards' experience of regulating such sites since 1990, and are referenced in the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide May 2003* (Caltrans Document Number CTSW-RT-02-057), which serve as a statewide standard for the California Department of Transportation (Caltrans). The

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BMPs identified in the Table are technically feasible, practicable, and cost-effective, and are the standard of practice for Caltrans sites statewide. For the exceptional case where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.

19. This Order incorporates BMPs to ensure that authorized Non-Storm Water Discharges are not a source of pollutants to the MS4, Table 1 (Required Conditions for Non-Storm Water Discharges). The BMPs included are for the purpose of dechlorination and/or for prevention of erosion and sediment loss, or to reduce other harmful pollutants during the discharge of authorized non storm water discharges to the MS4. The BMPs listed in part 1.B of the Order were selected from the *American Water Works Association AWWA Guidelines For The Development Of Your Best Management Practices (BMP) Manual For Drinking Water System Releases Developed by the CA-NV AWWA Environmental Compliance Committee (2005)* which serve as an industry standard for California, from the results of studies directed by the Los Angeles Water Board, - *Evaluation of Non-Storm Water Discharges to California Storm Drains and Potential Policies for Effective Prohibition Methods, Final Report*, University of California, Los Angeles, Contract No. 5-104-140-0 (1997), and *Water Quality Concerns and Regulatory Controls for Non Storm Water Discharges to Storm Drains*, Duke L.D. and M. Kihara, Journal of the American Water Resources Association, Vol. 34: 661-676, (1998), and from the Water Boards' experience of controlling authorized non-storm discharges to the MS4 since 1990. The BMPs identified in the Table are technically feasible, practicable, and cost-effective. For the exceptional case where an identified BMP may be impracticable, this Order includes a provision to select and implement an alternative BMP, through the BMP substitution provisions in subpart 5.A.2.
20. In accordance with Federal regulations at 40 CFR 124.8, a Fact Sheet has been prepared to explain the principal facts and the significant factual, legal, methodological, policy, and economic matters considered in preparing the Tentative Order. Also included are the analyses of factors required under Cal. Water Code 13241. This Fact Sheet has been made a part of the Administrative Record.
21. The State Water Board adopted statewide General Waste Discharge Requirements for Sanitary Sewer Systems, (WQ Order No. 2006-0003) on May 2, 2006, to provide a consistent, statewide regulatory framework to address sanitary sewer overflows ("SSO Order's"). The SSO Order establishes requirements for public agencies that own or operate sanitary sewer systems to develop and implement sewer system management plans and to report SSOs. SSOs that enter MS4s have the potential to impair the recreational use of receiving waters, and to harm public health. This Order establishes coordination, response, and notification requirements for MS4 permittees when SSOs result in a discharge to the MS4 system.

22. This Order takes into consideration the housing needs in the area under the permittees' jurisdiction by balancing the implementation of Smart Growth and Low Impact Development techniques with the protection of the water resources of the region. Although not required, the Regional Water Board considered the need for housing and the appropriate techniques to allow for reasonable development while protecting the receiving waters from degradation.
23. This Order may have an incremental effect on costs required for compliance provisions contained herein. Although not required, the Regional Water Board considered costs in preparing this Order. Though also not required, the Water Board has also considered the factors set forth in Water Code section 17556. But high density housing is a major solution to the housing needs, and this regulation puts a heavy burden on it.
24. The California Department of Finance has determined that municipal storm water waste discharge requirements and provisions requiring trash controls and the inspection of industrial facilities and construction sites to reduce the discharges of pollutants in storm water did not impose a reimbursable state burden on local agencies under the California Constitution, Article XIII B, Section 6 (see Letter notifying conclusions of review of Los Angeles County MS4 Permittees test claims, from Ms. Ducay, California Department of Finance to Ms. Higashi, Executive Director, California Commission on State Mandates, dated March 27, 2008). The Department of Finance concluded that because federal law requires that the conditions be imposed on local agencies, the requirements are not reimbursable pursuant to the federal mandate exception (Cal. Govt. Code 17556 (c)).

#### G. Public Notification

1. The issuance of waste discharge requirements is exempt from the California Environmental Quality Act in accordance with California Water Code section 13389. County of Los Angeles et al., v. California Water Boards et al., (2006), 143 Cal.App.4<sup>th</sup> 985.
2. The Regional Water Board has notified the permittees, and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to make statements and submit their comments.
3. The Regional Water Board staff has conducted 24 scoping meetings from February 9, 2007 through October 3, 2008, with permittees their representatives (Larry Walker and Associates, and Somach, Simmons & Dunn), and various stakeholders (Building Industry Association of Southern California/ Greater Los Angeles Ventura Chapter (BIAGLA/ VC), California State Dept. of Health Services, Calleguas Water District, California Stormwater Quality Association (CASQA), City of Downey, City of Los Angeles-EMD, Coalition for Practical Regulation (CPR), Construction Industry Coalition on Water Quality (CICWQ), County of Orange,

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Geosyntec Consultants, Golden State, Heal The Bay; Local Government commission, Los Angeles City; Los Angeles County Department of Public Works, Los Angeles County-SD, Los Angeles Department of Water & Power, Metropolitan Water District, Natural Resources Defense Council (NRDC), Richard Watson Association, San Bernardino Flood Control District, Santa Monica Bay Restoration Commission, Southern California Coastal Water Research Project, University of California Sea Grant, Ventura CoastKeeper). On April 5, 2007 and September 20, 2007 the Regional Water Board conducted workshops to discuss drafts of the NPDES Order and received input from the permittees and the public regarding proposed changes.

4. This Order shall serve as a NPDES permit, pursuant to CWA § 402, and shall take effect 90 days from Order adoption date provided the Regional Administrator of the U.S. EPA has no objections.
5. Pursuant to Cal. Water Code § 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board within 30 days of the date of adoption the Order by the Regional Water Board. A petition must be sent to:

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

6. This Order may be modified or alternatively revoked or reissued prior to its expiration date or any administrative extension thereto, in accordance with 40 CFR122.41(f) and 122.62.

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

#### **PART 1 - DISCHARGE PROHIBITIONS**

##### **A. Prohibitions – Discharges**

1. Discharges into and from the MS4 in a manner causing or contributing to a condition of pollution, contamination or nuisance (as defined In Cal. Water Code § 13050), in waters of the State are prohibited.
2. Discharges from the MS4, which cause or contribute to exceedances of receiving water quality standards are prohibited.

3. Discharges to the MS4 that are not authorized by an NPDES individual or general permit are prohibited except as set forth in part B., Prohibitions – Non-Storm Water Discharges, below.

**B. Prohibitions - Non-Storm Water Discharges**

1. The permittees shall effectively prohibit non-storm discharges into the MS4 and watercourses, except where such discharges either:
  - (a) Originate from a State, federal, or other source which they are pre-empted by State or Federal law from regulating.
  - (b) Fall within one of the categories below and in Table 1 (Required Conditions for Non-Storm Water Discharges), are not a source of pollutants, and meet all conditions where specified by the Regional Water Board Executive Officer:
    - (1) Stream diversions authorized by the State Water Board
    - (2) Natural springs and rising ground water
    - (3) Uncontaminated ground water infiltration [as defined by 40 CFR35.2005(20)]<sup>1</sup>
    - (4) Flows from riparian habitats or wetlands
    - (5) Flows from emergency fire fighting activity
    - (6) Discharges from potable water sources<sup>2</sup>
    - (7) Gravity flow from foundation, footing and crawl space drains.
    - (8) Air conditioning condensate
    - (9) Reclaimed and potable landscape irrigation runoff
    - (10) Dechlorinated/ debrominated swimming pool discharges [see def. part 7]
    - (11) Non-commercial car washing by residents or non-profit organizations
    - (12) Sidewalk rinsing
    - (13) Pooled storm water from treatment BMPs<sup>3</sup>

Table 1 – Required Conditions for Non-Storm Water Discharges

Type of Discharges:	Conditions under which allowed:	Required conditions for discharge to occur:
Stream diversions permitted by the State Water Board;	Authorization by the State Water Board	Permittees shall comply with all conditions in the authorization.
Natural springs and rising ground water	1. Ground water dewatering requires a separate NPDES permit. 2. Segregate flow to	Permittees shall comply with all conditions in the authorization.

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

<sup>2</sup> The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge [see section G for specific BMPs].

<sup>3</sup> All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer, and designed to drain within 72 hours of the end of a rain. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.

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Type of Discharges:	Conditions under which allowed:	Required conditions for discharge to occur:
	prevent introduction of pollutants.	
Uncontaminated ground water infiltration [as defined by 40 CFR35.2005(20)] (Utility vault dewatering requires a separate NPDES permit.)	NPDES permit for ground water dewatering is required within the Los Angeles Region including Ventura County	Permittees shall comply with all conditions in the authorization.
Flows from riparian habitats or wetlands	Provided that all necessary permits or authorizations are received prior to diverting the stream flow.	Permittees shall comply with all conditions in the authorization.
Flows from emergency fire fighting activity	Pooled water after fire must be controlled.	
Discharges from potable water sources	See Footnote #2 on page 29.  Provided discharges from water lines and potable water sources shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments.	See Footnote #2 on page 26. To be discharged, this type of water shall be dechlorinated using aeration and/ or sodium thiosulfate and/ or other appropriate means and/or be allowed to infiltrate to the ground. BMPs such as sand bags or gravel bags, or other appropriate means shall be utilized to prevent sediment transport. All sediments shall be collected and disposed of in a legal and appropriate manner.
Drains for foundation, footing and crawl drains	Dewatering requires a separate NPDES permit.	Permittees shall comply with all conditions in the authorization.
Air conditioning condensate	Segregation of flow to prevent introduction of pollutants. Percolation whenever possible.	Permittees shall comply with all conditions in the authorization.
Water from crawl space pumps	Dewatering requires a separate NPDES permit within the Los Angeles Region including Ventura County	Permittees shall comply with all conditions in the authorization.
Reclaimed and potable landscape irrigation runoff	Segregation of flow to prevent introduction of pollutants.	Implement conservation programs to minimize this type of discharge by using less water.

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Type of Discharges:	Conditions under which allowed:	Required conditions for discharge to occur:
Dechlorinated/ debrominated swimming pool discharges [see definition part 8]	<p>Where the discharge is not accepted by the sanitary sewer operator. Swimming pool discharges are to be dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments.</p> <p>Waste water and filter back wash shall not be discharged to municipal separate storm sewers.</p> <p>Water that has been hyperchlorinated shall not be discharged to municipal separate storm sewers, even after de-chlorination.</p> <p>No discharges are allowed containing salts in excess of Water Quality Standards.</p> <p>Chlorine residual in discharge shall not exceed 0.1mg/L.</p>	Pool water may be dechlorinated using time, aeration, and/ or sodium thiosulfate, or other alternative effective means.
Non-commercial car washing by residents or non-profit organizations	Preferably at a commercial car wash or designated area where wash water can infiltrate. Pumps or vacuums may be used to direct water to pervious areas.	Permittees shall comply with all conditions in the authorization.
Sidewalk rinsing	This may be undertaken only if high pressure low volume is used as described in the glossary under "Sidewalk Rinsing".	
Pooled storm water from treatment BMPs	All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer. All storm water BMPs shall be designed to drain within 72 hours of the end of the rain event to avoid the breeding of vectors. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. The discharge shall cease before the discharge has become a source of a pollutant(s), (bottom sediment included). Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.	



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

**PART 2 – MUNICIPAL ACTION LEVELS**

1. Beginning Year 3 after Order adoption date, a running average of twenty percent or greater of exceedances of any discharge of storm water from the MS4 to waters of the U.S. that exceed the Municipal Action Levels (MALs) for the pollutants listed in Attachment "C" (Municipal Action Levels) will require each permittee to affirmatively augment and implement all necessary storm water controls and measures to reduce the discharge of the associated class of pollutant(s) in accordance with the Maximum Extent Practicable (MEP) provision in subpart 4.A.2. Continued exceedances after Year 3 of the operative MAL(s) shall create a presumption that the permittee(s) have not complied with the MEP provision in subpart 4.A.2, and have failed to implement adequate storm water control measures and BMPs to comply with the MEP criteria.
2. The end-of-pipe assessment points for the determination of MAL exceedances are the major outfalls, as defined in 40 CFR122.26(b)(5) and (b)(6).
3. The absence of MAL exceedances does not give rise to a presumption that the permittee is complying with the MEP criteria.

**PART 3 – RECEIVING WATER LIMITATIONS**

1. Discharges from the MS4 that cause or contribute to a violation of water quality standards are prohibited.
2. Discharges from the MS4 of storm water, or non-storm water, for which a permittee is responsible, shall not cause or contribute to a condition of nuisance.
3. The permittee shall comply with the Order through timely implementation of control measures and other actions to reduce pollutants in storm water discharges in accordance with this Order. This Order shall be implemented to achieve compliance with receiving water limitations. If exceedance(s) of water quality objectives or water quality standards persist, notwithstanding implementation of the Order and its

components and other requirements of this Order, the permittee shall ensure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

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

#### **PART 4 - STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION**

##### **A. General Requirements**

1. Each permittee shall, at a minimum, adopt and implement applicable terms of this Order within its jurisdictional boundary. The Principal Permittee shall be responsible for program coordination as described in this Order as well as compliance with applicable portions of the permit within its jurisdiction. This Order shall be implemented no later than (90 days after Order adoption date), unless a later date has

been specified for a particular provision in this Order and provided the Regional Administrator of the U.S. EPA has no objections.

2. Each permittee shall, comply with the requirements of 40 CFR122.26(d)(2) and implement programs and control measures so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality standards.
3. Each permittee shall require that treatment control BMPs being implemented under the provisions of this Order shall be designed, at a minimum, to achieve the BMP performance criteria for common storm water pollutants as identified in Attachment "C", Table 3 and Table 4. Expected BMP pollutant removal performance for effluent quality was developed from the WERF-ASCE/ U.S. EPA International BMP Database.
4. Each permittee shall implement programs and measures to comply with the TMDLs' WLAs for the MS4.

#### **B. Legal Authority**

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

- (11) Stationary and mobile pet grooming facilities
  - (12) Trash container leachate
2. The permittees shall possess adequate legal authority to:
- (a) Control through interagency agreement, the contribution of pollutants from one portion of the MS4 to another portion of the MS4.
  - (b) Require persons within their jurisdiction to comply with conditions in the permittees' ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows).
  - (c) Utilize enforcement measures (e.g., stop work orders, notice of violations, fines, referral to City, County, and/ or District Attorneys, referral to strikeforces, etc.) by ordinances, permits, contracts, orders, administrative authority, and civil and criminal prosecution.<sup>1</sup>
  - (d) Control pollutants, including potential contribution<sup>2</sup> in discharges of storm water runoff associated with industrial activities, including construction activities to its MS4, and control the quality of storm water runoff from industrial sites, including construction sites.
  - (e) Carry out all inspections, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the MS4.
  - (f) Require the use of control measures to prevent or reduce the discharge of pollutants to achieve water quality objectives.
  - (g) Require that Treatment Control BMPs be properly operated and maintained.
3. Each permittee has adopted a Storm Water Quality Ordinance based upon a countywide model. Each permittee shall ensure, no later than (365 days after Order adoption date), that its Storm Water Quality Ordinance authorized the permittee to enforce all requirements of this Order.
4. Each permittee shall submit no later than (365 days after Order adoption date), a statement by its legal counsel that the permittee has obtained and possesses all necessary legal authority to comply with this Order through adoption of ordinances and/ or municipal code modifications.

<sup>1</sup>In the case of private responsible parties such as, HOAs, the Permittee must retain enforcement authority.

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

**C. Fiscal Resources**

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

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

**D. Modifications/ Revisions**

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

**E. Designation and Responsibilities of the Principal Permittee**

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

**F. Responsibilities of the Permittees**

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

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

**PART 5 - SPECIAL PROVISIONS (BASELINE)**

**A. General Requirements**

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

As written, this regulation will require many high density, mixed-use, infill and redevelopment projects to resort to this measure, when they are the solution to the problem, not the exception.

**B. Watershed Initiative Participation**

- 1. The Principal Permittee consents to participate in watershed management and planning, including but not limited to the following:
  - (a) Southern California Stormwater Monitoring Coalition (SMC)
  - (b) Other Watershed planning groups as appropriate.
- 2. The Principal Permittee consents to participate in the following regional water quality programs, and projects for watershed management and planning:
  - (a) SMC Regional Monitoring Programs
    - (1) Southern California Regional Bioassessment
      - (A) Level of effort per watershed
        - (i) Probabilistic sites per watershed
          - (I) Ventura River - Six
          - (II) Santa Clara River - Three
          - (III) Calleguas Creek - Six
        - (ii) Integrator sites per watershed
          - (I) Ventura River - One

- (II) Santa Clara River - One
- (III) Calleguas Creek - One
- (b) Southern California Bight Projects
  - (1) Regional Monitoring Survey – 2008, and successive years.

**C. Public Information and Participation Program (PIPP)**

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

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

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



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

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submit a plan to the Regional Water Board Executive Officer for consideration no later than (90 days of adoption of the Order), to provide outreach outside of the school curriculum. Pursuant to Water Code section 13383.6, the permittees, in lieu of providing educational materials/ funding to School Districts in the County, may opt to provide an equivalent amount of funds or fraction thereof to the Environmental Education Account established within the State Treasury.<sup>1</sup>

- (7) Each permittee shall provide the contact information for their appropriate staff responsible for storm water public education activities to the Principal Permittee and contact information changes no later than 30 days after a change occurs.
  - (8) The permittees shall develop and implement a strategy to measure the effectiveness of in-school educational programs. The protocol shall include assessment of students' knowledge of the adverse impacts of storm water pollution and solutions before and after educational programs are conducted. The strategy shall be implemented no later than (365 days after Order adoption date).
  - (9) The permittees shall develop and implement a behavioral change assessment strategy no later than (365 days after Order adoption date), in order to ensure that the PIPP is demonstrably effective in changing the behavior of the public. The strategy shall be developed based on current sociological data and studies.
- (d) Pollutant-Specific Outreach
- The Principal Permittee, in cooperation with permittees, shall coordinate to develop outreach programs that focus on the watershed-specific pollutants identified in Attachment "B" (Pollutants of Concern) no later than (180 days after Order adoption date). Metals may be appropriately addressed through the Industrial/ Commercial Facilities Program (e.g. the distribution of educational materials on appropriate BMPs for metal fabrication and recycling facilities that have been identified as a potential source). Region-wide pollutants may be included in the Principal Permittee's mass media outreach program.

## 2. Businesses Program

### (a) Corporate Outreach

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

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

parts franchisers, two home improvement center franchisers and six restaurant franchisers. At a minimum, this program shall include:

- (A) Confer with corporate management to explain storm water regulations.
  - (B) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide managers with recommendations to facilitate employee and facility compliance with storm water regulations.
- (b) Business Assistance Program
- (1) The permittees shall implement a Business Assistance Program to provide technical resource assistance to small businesses to advise them on BMPs implementation to reduce the discharge of pollutants in storm water. The Program shall include:
    - (A) On-site technical assistance or consultation via telephone or e-mail to identify and implement storm water pollution prevention methods and best management practices.
    - (B) Distribution of storm water pollution prevention education materials to operators of auto repair shops, car wash facilities (including mobile car detailing), mobile carpet cleaning services, commercial pesticide applicator services and restaurants.

#### **D. Industrial/ Commercial Facilities Program**

- I. Each permittee shall require implementation of pollutant reduction and control measures at industrial and commercial facilities, with the objective of reducing pollutants in storm water. Except where specified otherwise in this Order, pollutant reduction and control measures may be used alone or in combination, and may include Structural Treatment Control, Source Control BMPs, and operation and maintenance procedures, which may be applied before, during, and/ or after pollution generating activities. At a minimum, the Industrial/ Commercial Facilities Control Program shall include requirements to:
  - i. Track
  - ii. Inspect
  - iii. Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water
- 1. Inventory of Critical Sources
  - (a) Each permittee shall maintain a watershed-based inventory or database of all facilities within its jurisdiction that are critical sources of storm water pollution. Critical Sources to be tracked are summarized below, and specified in Attachment "D":
    - (1) Commercial Facilities
      - (A) Restaurants

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- (B) Automotive service facilities
  - (C) RGOs and automotive dealerships
  - (D) Nurseries and nursery centers
- (2) U.S. EPA Phase I, II Facilities
- (3) Other Federally-mandated Facilities [as specified in 40 CFR122.26(d)(2)(iv)(C)]
- (A) Municipal landfills
  - (B) Hazardous waste treatment, disposal, and recovery facilities
  - (C) Facilities subject to SARA Title III (also known as the Emergency Planning and Community Right-to-Know Act (EPCRA))
- (b) Each permittee shall include the following minimum fields of information for each critical sources industrial and commercial facility
- (1) Name of facility and name of owner/ operator.
  - (2) Address of facility
  - (3) Coverage under the IASGP or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Board pertaining to runoff discharges.
  - (4) A narrative description including Standard Industrial Classification (SIC) System/ North American Industry Classification System (NAICS) Codes that best describe the industrial activities performed and principal products used at each facility and status of exposure to storm water.
- (c) The Regional Water Board recommends that permittees include additional fields of information, such as material usage and/ or industrial output, and discrepancies between SIC System/ NAICS Code designations (as reported by facility operators) and identify the actual type of industrial activity that has the potential to pollute storm water. In addition, the Regional Water Board recommends the use of an automated database system, such as a Geographical Information System (GIS) or Internet-based system.
- (d) Each permittee shall update its inventory of critical sources at least annually. The update may be accomplished through collection of new information obtained through field activities or through other readily available inter and intra-agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits, and similar information).
2. Inspect Critical Sources
- (a) Commercial Facilities
- Permittee shall inspect all facilities identified in subpart 5.D.2. twice during the 5-year term of the Order, provided that the first inspection occurs no later than (2 years after Order adoption date). A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. In addition, each permittee shall implement the activities outlined in the following subparts.

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At each facility, inspectors shall verify that the operator is implementing the source control BMPs. The permittees may require implementation of additional treatment control BMPs where storm water flows from the MS4 discharge to an environmentally sensitive area (ESA, see part 7 for definition) or a CWA § 303(d) listed waterbody (see subpart 3(b) below). Likewise, for those BMPs that are not adequate to achieve MALs and/ or water quality objectives, permittees may require additional site-specific controls, such as treatment control BMPs.

## (1) Restaurants-

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

Table 2 - BMPs at Restaurants

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

(2) Automotive Service Facilities-

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

Table 3 - BMPs at Automotive Service Facilities

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

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## (3) Retail Gasoline Outlets and Automotive Dealerships-

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

Table 4 - BMPs at Retail Gasoline Outlets

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

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

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

Table 5 - BMPs at Nurseries

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

(b) Industrial Facilities

Each Permittee shall conduct compliance inspections as specified below.

(1) **Frequency of Inspection**

- (A) Each permittee shall perform an initial inspection at all industrial facilities identified by the U.S. EPA in 40 CFR122.26(c) no later than (2 years after Order adoption date). After the initial inspection, all facilities determined as having exposure of industrial activities to storm water are subject to a second mandatory compliance inspection. A minimum interval of 6 months between the first and the second compliance inspection is required.
- (B) Following the first mandatory compliance inspection, a permittee shall perform a second mandatory compliance inspection yearly at a minimum of 20% of the facilities determined not to have exposure of



industrial activities to storm water. The purpose of this inspection is to verify the continuity of the no exposure status. Facilities determined as having exposure will be notified that they must obtain coverage under the IASGP. A facility need not be inspected more than twice during the term of the Order unless subject to an enforcement action. A minimum interval of 6 months in between the first and the second compliance inspection is required.

- (C) Applicable to all facilities: A permittee need not inspect facilities that have been inspected by the Regional Water Board within the previous 24 month interval. However, if the Regional Water Board performed only one inspection, the permittee shall conduct the second required mandatory compliance inspection.
- (2) **Level of Inspection:** Each permittee shall confirm that each operator:
- (A) Has a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a Storm Water Pollution Prevention Plan (SWPPP) is available on-site.
  - (B) Is effectively implementing BMPs in compliance with County and municipal ordinances. Facilities must implement the source control BMPs identified in subpart 5.D.3. and Appendix D, *California Stormwater Industrial and Commercial BMP Handbook (2003)*. The permittees shall require implementation of additional treatment control BMPs where the storm water from the MS4 discharges to a CWA § 303(d) listed waterbody; or
  - (C) Has applied and has a current No Exposure Certification (and WDID number) for facilities subject to this requirement.
3. Ensure Compliance of Critical Sources
- (a) **BMP Implementation:** In the event that a permittee determines that a BMP is infeasible at any site, including those specified in the California Stormwater Industrial and Commercial BMP Handbook (2003), the permittee shall require implementation of similar BMPs that will achieve the equivalent reduction of pollutants in the storm water discharges. Likewise, for those BMPs that are not adequate to achieve water quality objectives, permittees may require additional site-specific controls, such as treatment control BMPs for pollutants identified in Attachment "B".
  - (b) **Environmentally Sensitive Areas (ESAs) and Impaired Waters:** For critical sources that discharge to ESAs or that are tributary to CWA § 303(d) listed impaired waterbodies, the permittees shall require operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality objectives.

- (c) **Progressive Enforcement:** Each permittee shall implement a progressive enforcement policy to ensure that facilities are brought into compliance with all storm water requirements within a reasonable time period as specified below.
- (1) In the event that a permittee determines, based on an inspection conducted, that an operator has failed to adequately implement all necessary BMPs, that permittee shall take progressive enforcement actions which, at a minimum, shall include a follow-up inspection within 4 weeks from the date of the initial inspection.
  - (2) In the event that a permittee determines that an operator has failed to adequately implement BMPs after a follow-up inspection, that permittee shall take further enforcement action as established through authority in its municipal code and ordinances or through the judicial system.
  - (3) Each permittee shall maintain records and make them available on request to the Regional Water Board, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.

#### 4. Interagency Coordination

- (a) **Referral of Violations of the Municipal Storm Water Ordinances and California Water Code § 13260:** A permittee may refer a violation(s) of § 13260 by Industrial and Commercial facilities to the Regional Water Board provided that under its municipal storm water ordinance the permittee has made a good faith effort of progressive enforcement. At a minimum, a permittee's good faith effort must be documented with:
- (1) Two follow-up inspections
  - (2) Two warning letters or notices of violation
- (b) **Referral of Violations of the Industrial Activities Storm Water General Permit (IASGP), including Requirements to File a Notice of Intent or No Exposure Certification:** For those facilities in violation of the municipal storm water ordinance and subject to the IASGP, permittees may escalate referral of such violations to the Regional Water Board (electronically on a quarterly basis to the Regional Water Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov) after one inspection and one written notice (copied to the Regional Water Board) to the operator regarding the violation. In making such referrals, permittees shall include, at a minimum, the following documentation:
- (1) Name of the facility
  - (2) Operator of the facility
  - (3) Owner of the facility
  - (4) WDID Number (if applicable)

- (5) Industrial activity being conducted at the facility that is subject to the IASGP
- (6) Records of communication with the facility operator regarding the violation, which shall include at least an inspection report
- (7) The written notice of the violation copied to the Regional Water Board
- (c) **Investigation of Complaints Regarding Facilities – Transmitted by the Regional Water Board Staff:** Each permittee shall initiate, within one business day,<sup>1</sup> investigation of complaints of non-storm water discharges to the MS4 from facilities within its jurisdiction (other than non-storm water discharges). The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm the complaint to determine if the facility is effectively complying with the municipal storm water urban runoff ordinances, and to oversee corrective action.
- (d) **Assistance of Regional Water Board Enforcement Actions:** As directed by the Regional Water Board Executive Officer, permittees shall assist Regional Water Board enforcement actions by: helping in identification of current owners, operators, and lessees of facilities; providing staff, when available, for joint inspections with Regional Water Board inspectors; appearing as witnesses in Regional Water Board enforcement hearings; and providing copies of inspection reports and other progressive enforcement documentation.
- (e) **Participation in a Task Force:** The permittees consent to participate with the Regional Water Board, and other public agencies on an enforcement task force such as the Storm Water Task Force, to communicate concerns regarding special cases of storm water violations by industrial and commercial facilities and to develop a coordinated approach to enforcement action.

**E. Planning and Land Development Program**

**I. Purpose**

- 1. The permittees shall implement a Planning and Land Development Program pursuant to part 5.E. for all New Development and Redevelopment projects subject to this Order to:
  - (a) Minimize the adverse impacts from storm water runoff on the biological integrity of Natural Drainage Systems and the beneficial uses of waterbodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21100).
  - (b) Minimize the percentage of impervious surfaces on land developments to support the percolation and infiltration of storm water into the ground.
  - (c) Minimize pollutant loadings from impervious surfaces such as roof-tops, parking lots, and roadways through the use of properly designed, technically appropriate

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

Suggest adding "per capita" to items a, b and c.

BMPs (including Source Control BMPs such as good housekeeping practices), Low Impact Development Strategies, and Treatment Control BMPs.

- (d) Properly select, design and maintain Treatment Control BMPs and Hydromodification Control BMPs to address pollutants that are likely to be generated, reduce post-development surface flows, assure long-term function, and to avoid the breeding of vectors.<sup>1</sup>
- (e) Prioritize the selection of BMPs suites to remove storm water pollutants, reduce storm water runoff volume, and beneficially reuse storm water to support an integrated approach to protecting water quality and managing water resources in the following order of preference:
  - (1) Low Impact Development Strategies (see subpart E.III.2 below)
  - (2) Integrated Water Resources Management Strategies
  - (3) Multi-benefit Landscape Feature BMPs
  - (4) Modular/ Proprietary Treatment Control BMPs

## II. Applicability

### 1. New Development Projects.

- (a) Development projects subject to permittee conditioning and approval for the design and implementation of post-construction treatment controls to mitigate storm water pollution, prior to completion of the project(s), are:
  - (1) All development projects equal to 1 acre or greater of disturbed area
  - (2) Industrial park 5,000 square feet or more of surface area
  - (3) Commercial strip mall 5,000 square feet or more of surface area
  - (4) Retail gasoline outlet 5,000 square feet or more of surface area
  - (5) Restaurant (SIC 5812) 5,000 square feet or more of surface area
  - (6) Parking lot 5,000 square feet or more of surface area, or with 25 or more parking spaces
  - (7) Street and road construction of 5,000 square feet or more of surface area
  - (8) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more of surface area]
  - (9) Redevelopment projects in subject categories that meet Redevelopment thresholds (identified in subpart E.II.2 below)
  - (10) Projects located in or directly adjacent to, or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
    - (A) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat.
    - (B) Create 2,500 square feet or more of impervious surface area
  - (11) Single-family hillside homes
    - (A) Measures to be implemented:
      - (i) Conserve natural areas

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

- (ii) Protect slopes and channels
- (iii) Provide storm drain system stenciling and signage
- (iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability
- (v) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability

2. Redevelopment Projects

- (a) Redevelopment projects subject to permittee conditioning and approval for the design and implementation of post-construction treatment controls to mitigate storm water pollution, prior to completion of the project(s), are:
  - (1) Land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site on development categories identified in subpart 5.E.II.1.
  - (2) Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.
  - (3) Where Redevelopment results in an alteration to less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the alteration must be mitigated, and not the entire development.
- (b) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways, is not considered a routine maintenance activity.
- (c) Redevelopment does not include the repaving of existing roads to maintain original line and grade.
- (d) Existing single-family structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.

3. Effective Date – The New Development and Redevelopment requirements contained in part E. of the Order shall apply to projects or project phases that have not:

- (a) Received post construction control approval prior to [90 days after Order adoption date], or
- (b) Began grading or construction activity prior to [30 days after Order adoption date], after having received post construction control approval under Board Order No. 00-108.

This must, must, must be tuned to rural - urban transect. This regulation will encourage low-density suburban sprawl and penalize/prohibit high-density urban development and infill and redevelopment. One threshold does not fit the entire environment. 5% is nothing to a sprawl development - but a project-buster to urban infill and redevelopment.

b. CAS004002

Order No. 08-xxx

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### New Development/ Redevelopment Performance Criteria

#### Integrated Water Quality/ Flow Reduction/ Resources Management Criterion

- (a) Permittees shall require that all New Development and Redevelopment projects identified in subpart 5.E.II control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces through percolation, infiltration, storage, or ~~evapo-transpiration~~, by reducing the percentage of Effective Impervious Area (EIA) to less than 5 percent of total project area
- (b) Impervious surfaces may be rendered "ineffective" if the storm water runoff is:
- (1) Drained into a vegetated cell, over a vegetated surface, or through a vegetated swale, having soil characteristics either as native material or amended medium using approved soil engineering techniques; or
  - (2) Collected and stored for beneficial use such as irrigation, or other reuse purpose; or
  - (3) Discharged into an infiltration trench
- (c) Any excess surface discharge of the storm water runoff shall be mitigated in accordance with subpart 5.E.III.4
- (d) Alternatively, where a permittee or a coalition of permittees have a Redevelopment Project Area Master Plan (RPAMP) approved in accordance with subpart 5.E.IV that balances multiple considerations, the provisions of the RPAMP will substitute for the EIA requirements identified above.

#### 2. Low Impact Development (LID) Measures

A companion section should be added or incorporated into the LID section, that addresses the "Protecting Water Resources through Higher density" [http://www.epa.gov/dced/water\\_density.htm](http://www.epa.gov/dced/water_density.htm)

- (a) All new development and redevelopment projects identified in subpart 5.E.II shall integrate Low Impact Development (LID) principles into project design. LID is a storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect predevelopment hydrologic functions.
- (b) The permittees shall develop a LID Technical Guidance section to the Ventura County Water Guidance Manual for Storm Water Quality Control Measures no later than (365 days from the Order's adoption date) for use by land planners and developers. The LID Technical Guidance section shall include objectives and specifications for integration of LID strategies in the areas of:
- (1) Site Assessment
  - (2) Site Planning and Layout
  - (3) Vegetative Protection, Revegetation, and Maintenance
  - (4) Techniques to Minimize Land Disturbance
  - (5) Techniques to Implement LID Measures at Various Scales
  - (6) Integrated Water Resources Management Practices
  - (7) LID Design and Flow Modeling Guidance
  - (8) Hydrologic Analysis
  - (9) LID Credits

- (A) Alternatively, the permittees may satisfy this requirement by jointly developing a Southern California Regional LID Technical Guidance Document in partnership with the SMC, no later than (365 days from the Order's adoption date) if the Southern California Regional LID Technical Guidance Document at a minimum addresses all the objectives and integration strategies identified in the preceding (1) through (9).

Again, the urban-rural transect could be applied to greatly improve the overall watershed. For example, requiring T-3 (suburbia) to enhance the hydrograph of the area (not just maintain it) so that higher density development and infill and redevelopment can get a break in hydromodification levels. A regulation that treats an acre of downtown the same as an acre in the country is doing a disservice to the community and the environment. Another way this could be applied could be through an off-site mitigation trade - if done in the right part of the watershed (such as upstream) it could be much more valuable to the watershed than an onsite measure.

- (c) The permittees shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications contained in the LID Technical Guidance Section through a training program. The LID training program will include the following:
  - (1) LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders
  - (2) A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects
  - (3) Materials and data from LID pilot projects and demonstration projects including case studies
  - (4) Guidance on how to integrate LID requirements into the local regulatory program(s) and requirements
  - (5) Availability of the LID Technical Guidance regarding integration of LID measures at various project scales
  - (6) Guidance on the relationship among LID strategies, Source Control BMPs, Treatment Control BMPs, and Hydromodification Control requirements

Hydromodification (Flow/ Volume/ Duration) Control Criteria

- (a) Each permittee shall require all New Development and Redevelopment projects identified in subpart 5.E.II to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems. The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration. This shall be achieved by maintaining the project's pre-development storm water runoff flow rates and durations.
  - (1) Description
    - (A) Hydromodification control in natural drainage systems shall be achieved by maintaining the Erosion Potential ( $E_p$ ) in streams at a value of 1, unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat (see Attachment "E" - Determination of Erosion Potential)
    - (B) Hydromodification control may include one, or a combination of on-site, regional subregional hydromodification control BMPs, LID strategies, or stream restoration measures, with preference given to

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- LID strategies and hydromodification control BMPs. Any in-stream restoration measure shall not adversely affect the beneficial uses of the natural drainage systems
- (C) Natural drainage systems, which include unlined or unimproved (not engineered) creeks, streams, rivers and their tributaries, are located in the following watersheds:
    - (i) Ventura River
    - (ii) Santa Clara River
    - (iii) Calleguas Creek
    - (iv) Miscellaneous Ventura Coastal
  - (D) The Southern California Storm Water Monitoring Coalition (SMC) is developing a regional methodology to eliminate or mitigate the adverse impacts of hydromodification as a result of urbanization, including hydromodification assessment and management tools.
    - (i) The SMC has identified the following objectives for the Hydromodification Control Study (HCS):
      - (I) Establishment of a stream classification for Southern California streams
      - (II) Development of a deterministic or predictive relationship between changes in watershed impervious cover and stream-bed/ stream bank enlargement
      - (III) Development of a numeric model to predict stream-bed/ stream bank enlargement and evaluate the effectiveness of mitigation strategies
  - (E) The permittees shall participate in the SMC HCS to develop:
    - (i) A regional stream classification system
    - (ii) A numerical model to predict the hydrological changes resulting from new development
    - (iii) A numerical model to identify effective mitigation strategies
  - (F) Until the completion of the SMC HCS, permittees shall implement the Interim Hydromodification Control Criteria, described in subpart 5.E.III.3(a)(2) below, to control the potential adverse impacts of changes in hydrology that may result from new development and redevelopment projects identified in subpart 5.E.II
  - (G) Existing single-family structures are exempt from the Hydromodification control requirements unless such projects disturb one acre or more of land or create, add, or replace 10,000 square feet or more of impervious surface area
- (2) Interim Hydromodification Control Criteria
- (A) The Interim Hydromodification Control Criteria to protect natural drainage systems until permittees complete Hydromodification Control Plans (HCPs), described in subpart 5.E.III.3(a)(3) below, are as follows:



The urban - rural transect needs to be considered. These criteria will have a strong tendency to generate sprawl. Why? Because compliance is very simple in T-3 (suburban densities) and very expensive and cost prohibitive in T-4 through T-6 (urban and downtown) densities. Higher density developments, especially infill or redevelopment, should receive special credit in the regulations.

(i)

**Projects disturbing land area of less than fifty acres**

Projects in this category shall implement hydromodification controls such that the 2-year 24-hour storm event post development hydrograph peak flow and volume will match within one percent of the 2-year 24-hour storm event pre-development peak flow and volume hydrograph.

(ii)

**Projects disturbing land areas of fifty acres or greater**

Projects in this category shall develop and implement a Hydromodification Analysis Study (HAS) that demonstrates that post development conditions are not expected to alter the duration of sediment transporting flows in receiving waters. The HAS must demonstrate that the selected hydromodification control BMPs will maintain an Erosion Potential value of 1 unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage systems.

(I) Alternatively, project proponents in this category may elect to develop, in partnership with permittees, an equivalent implementation method based on flow duration control in the form of nomographs relating planned impervious area and local soil type (infiltration rates) to determine hydromodification control BMP volume and land area requirements for the proposed project. The nomographs shall be derived from continuous simulation modeling using Ventura County specific rain gauge records and soil types, and calibrated using data from a local undeveloped watershed.

## (3) Final Criteria

(A) The permittees shall develop and implement watershed specific HCPs no later than 180 days after the completion of the SMC HCS.

(i) The HCP shall identify:

- (I) Stream classifications
- (II) Flow rate and duration control methods
- (III) Sub-watershed mitigation strategies
- (IV) Stream restoration measures, which will maintain the stream and tributary Erosion Potential at 1 unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage system tributaries

- (B) The HCP shall contain the following elements:
- (i) Hydromodification Management Standards
  - (ii) Natural Drainage Areas and Hydromodification Management Control Areas
  - (iii) New Development and Redevelopment Projects subject to the HCP
  - (iv) Description of authorized Hydromodification Management Control BMPs
  - (v) Hydromodification Management Control BMP Design Criteria.
  - (vi) For flow duration control methods, the range of flows to control for, and goodness of fit criteria
  - (vii) Allowable low critical flow,  $Q_c$ , which initiates sediment transport
  - (viii) Description of the approved Hydromodification Model.
  - (ix) Any alternate Hydromodification Management Model and Design
  - (x) Stream Restoration Measures Design Criteria
  - (xi) Monitoring and Effectiveness Assessment
  - (xii) Record Keeping

4. Water Quality Mitigation Criteria

- (a) Each permittee shall require all New Development and Redevelopment projects identified in subpart 5.E.II to implement post-construction storm water treatment BMPs and control measures to mitigate storm water pollution as follows:

- (1) Projects disturbing land areas less than 50 acres
- (A) Volumetric Treatment Control BMP
- (i) The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area using a 48 to 72-hour draw down time, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998)*; or
  - (ii) The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions); or
  - (iii) The volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system;<sup>1</sup> and/ or
- (B) Flow Based Treatment Control BMP
- (i) The flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity; or

Same comment as above regarding the rural to urban transect, density, and the recognition of "per capita" stormwater impacts.

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

- (ii) The flow of runoff produced from a rain event equal to at least 2 times the 85th percentile hourly rainfall intensity as determined from local rainfall records; or
  - (iii) Eight percent of the 50-year storm design flow rate as determined from the method recommended in the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions)
- (2) Projects disturbing land area of 50 acres or greater
- (A) Eighty percent of the average runoff volume using an appropriate public domain continuous flow model (such as Storm Water Management Model (SWMM) or Hydrologic Engineering Center – Hydrologic Simulation Program – Fortran (HEC-HSPF), using the local rainfall record and relevant BMP Performance data.

#### IV. Implementation

##### 1. Maintenance Agreement and Transfer

- (a) Each permittee shall require that all new development and redevelopment projects subject to post-construction BMP requirements provide verification of maintenance provisions for Structural BMPs, Treatment Control BMPs, and Hydromodification Control BMPs including but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, CEQA mitigation requirements, conditional use permits, and/ or other legally binding maintenance agreements.

- (1) Verification at a minimum shall include the developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either
- (A) A signed statement from the public entity assuming responsibility for all Structural BMP, Treatment Control BMP, and Hydromodification Control BMP maintenance; or
  - (B) Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection at least once a year; or
  - (C) Written text in project covenants, conditions, and restrictions (CCRs) for residential properties assigning BMP maintenance responsibilities to the Home Owners Association (HOA); or
  - (D) Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of BMPs.

##### 2. Tracking, Inspection, and Enforcement of Post-Construction BMPs

- (a) Each permittee shall implement a tracking system, and an inspection and enforcement program for new development and redevelopment post-construction

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storm water BMPs as set forth in part 5.E no later than (365 days after Order adoption date).

(1) Implement a GIS or other electronic system for tracking projects that have been conditioned for construction/ post-construction BMPs. The electronic system, at a minimum, should contain the following information:

- (A) Municipal Project ID
- (B) State WDID No
- (C) Project Acreage
- (D) BMP Type and Description
- (E) BMP Location (coordinates)
- (F) Date of Acceptance
- (G) Date of O&M Certification
- (H) Maintenance Records
- (I) Inspection Date and Summary
- (J) Corrective Action
- (K) Date Certificate of Occupancy Issued
- (L) Replacement or Repair Date

(b) Inspect all development sites upon completion of construction and prior to the issuance of occupancy certificates to ensure proper installation of LID measures, structural BMPs, treatment control BMPs and Hydromodification control BMPs. The inspection may be combined with other inspections provided it is conducted by trained personnel.

(c) Verify proper maintenance and operation of post-construction BMPs previously approved for new development and redevelopment. The post construction BMP maintenance inspection program shall incorporate the following elements:

- (1) Post-construction BMP Maintenance Inspection checklist.
- (2) Inspection at least once every 2 years, beginning (365 days after Order adoption date), of post-construction BMPs to assess operation conditions with particular attention to:
  - (A) For Non-proprietary BMPs – hydraulic function, failure, invasive vegetation, vector risk, fugitive material, sediment clogging, and improper modifications.
  - (B) For Proprietary BMPs – solids removal, pump-out, blockage and drawdown drainage.
- (3) Criteria and procedures for post construction Treatment Control and Hydromodification Control BMP repair, replacement, or re-vegetation.

(d) Undertake enforcement based on the results of the inspection.

3. Permitting Authorities Post Construction BMP Implementation Coordination and Enforcement

(a) The Regional Water Board, State Water Board, or U.S. EPA may include the following actions for coordination of the permittees' program with the post-

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construction BMP provisions of the statewide construction activity storm water general permit or individual construction activity storm water permits.

- (1) Absence, Inadequate or Ineffective Post-Construction BMPs.
  - (A) If the permitting authorities' inspection does not readily identify the implementation of post-construction control BMPs at the site, progressive enforcement action will be initiated against the permittee and/ or project owner/ developer.
  - (B) If the permitting authorities' inspection identifies the implementation of post-construction BMPs, but they are determined to be inadequate or ineffective (e.g. undersized, or non-specific to pollutants of concern, or poorly maintained), progressive enforcement action will be initiated against the permittee and/ or project owner/ developer.
  - (C) Failure to implement or the implementation of inadequate or ineffective BMPs may be grounds for the permitting authorities to deny the construction activity storm water permit Notice of Termination (NOT) for the project.

4. Alternative Post Construction Storm Water Mitigation Programs

- (a) A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements.
- (b) Upon review and a determination by the Regional Water Board Executive Officer that the proposal is technically valid and appropriate, the Regional Water Board may consider for approval such a program if its implementation will:
  - (1) Result in equivalent or improved storm water quality
  - (2) Protect stream habitat
  - (3) Be fiscally sustainable and has secure funding
  - (4) Promote cooperative problem solving by diverse interests
  - (5) Be completed in four years or less including the construction and start-up of treatment facilities

These needs are too urgent and obvious to be left to individual permitting, and should be a vital and integral component of the MS4.

- (c) A permittee or a coalition of permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) for redevelopment projects within Redevelopment Project Areas, in consideration of balancing water quality protection with the needs for adequate housing, population growth, public transportation and management, land recycling, and urban revitalization.
- (d) For the RPAMP to be considered, a technical panel of the Local Government Commission or an equivalent state or regional planning agency must have reviewed and approved the proposed RPAMP, prior to its submittal to the Regional Water Board, for conformity with the balancing of interests identified in (b), including water quality. The Regional Water Board Executive Officer may then consider the RPAMP for approval, or elect to submit it to the Regional Water Board for consideration.

- (e) The RPAMP, on approval, may substitute in part or wholly for on-site post-construction and hydromodification requirements.
- (f) Redevelopment Project Areas include the following:
  - (1) City Center areas
  - (2) Historic District areas
  - (3) Brownfield areas
  - (4) Infill Development areas
  - (5) Urban Transit Villages
  - (6) Any other redevelopment area so designated by the Regional Water Board
- (g) Nothing in these provisions shall be construed as to delay the implementation of post-construction control requirements, as approved in this Order.

5. Mitigation Funding

- (a) A permittee or a coalition of permittees may create a management framework to fund regional or subregional solutions to storm water pollution, where any of the following situations occur:
  - (1) A waiver for impracticability is granted
  - (2) Funds become available
  - (3) Off-site mitigation is required because of loss of environmental habitat; or
  - (4) An approved watershed management plan, or an integrated water resources management plan, or a regional storm water mitigation plan, or a wetlands recovery plan exists that incorporates an equivalent or improved strategy for storm water pollution mitigation

6. Developer Technical Guidance and Information

- (a) The permittees shall update the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures to include, at a minimum, the following:
  - (1) Hydromodification Control criteria described in this Order, including numerical criteria.
  - (2) Expected BMP pollutant removal performance including effluent quality and removal efficiency ranges (ASCE/ U.S. EPA International BMP Database, CASQA New Development BMP Handbook, technical reports, local data on BMP performance, and the scientific literature).
  - (3) Selection of appropriate BMPs for storm water pollutants of concern.
  - (4) Data on Observed Local Effectiveness and performance of implemented BMPs.
  - (5) BMP Maintenance and Cost Considerations.
  - (6) Criteria to facilitate integrated water resources planning and management in the selection of BMPs, including water conservation, groundwater recharge, public recreation, multipurpose parks, open space preservation, and redevelopment retrofits.
  - (7) LID principles and specifications.
  - ← (8) High density urban development principles and specifications.

7. Project Coordination

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

V. State Statute Conformity

1. California Environmental Quality Act (CEQA) Document Update

- (a) Each permittee shall incorporate into its CEQA process no later than (6 months from Order adoption date), those additional procedures necessary for considering potential storm water quality impacts and providing for appropriate mitigation when preparing and reviewing CEQA documents.
- (1) The procedures shall require consideration of the following:
    - (A) Potential impact of project construction on storm water runoff.
    - (B) Potential impact of project post-construction activity on storm water runoff.
    - (C) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.
    - (D) Potential for discharge of storm water to impair the beneficial uses of the receiving waters.
    - (E) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and waterbodies.
    - (F) Potential for significant changes in the flow velocity or volume of storm water runoff to cause harm to or impair the beneficial uses of natural drainage systems.
    - (G) Potential for significant increases in erosion at the project site or surrounding areas.

2. General Plan Update

- (a) Each permittee shall amend, revise or update its General Plan to include watershed and storm water quality and quantity management considerations and policies when any of the following General Plan elements are updated or amended:
- (1) Land Use
  - (2) Housing

- (3) Conservation
- (4) Open Space
- (b) Each permittee shall provide the Regional Water Board with the draft amendment or revision when a listed General Plan element or General Plan is noticed for comment in accordance with Cal. Govt. Code § 65350 *et seq.*

## F. Development Construction Program

- I. Soil disturbing activities during construction and demolition exacerbate sediment losses. Sediment is a primary pollutant impacting beneficial uses of watercourses. Sediments, and other construction activity pollutants must be properly controlled to reduce or eliminate adverse impacts.
  - 1. Grading Restrictions
    - (a) Each permittee shall implement a program to control storm water discharges from construction activity at all construction sites within its jurisdiction. During the wet season, the program shall ensure that the following requirements are effectively implemented at all the construction sites in the categories listed below:
      - (1) No grading shall occur between October 1 – April 15 (wet season) for construction projects in the following areas of high erosivity:
        - (A) On hillsides with slopes 20% or steeper prior to land disturbance (If hillside development is not defined by a zoning ordinance, then the prohibition will apply to steep or long continuous slopes, or areas with silty soils, fine sands, or soils lacking vegetative cover.).
        - (B) Directly discharging to a waterbody listed on the CWA § 303 (d) list for siltation or sediment; or
        - (C) Within or adjacent to an environmentally sensitive area (ESAs)
      - (b) If grading operations in these areas are not completed before the onset of the wet season beginning October 1st, grading shall be halted and effective erosion control measures shall be put in place to minimize erosion. Grading shall not resume until after April 15<sup>th</sup>. Depending on the project area, the developer shall implement the Erosion and Sediment control BMPs listed in the following Tables 6, 7, and 8.
      - (c) A Grading Prohibition Variance may be granted by the permittee where the project proponent can demonstrate that the proposed BMP measures can be reasonably expected to:
        - (1) Not cause or contribute to the degradation of water quality
        - (2) Ensure that Total Suspended Solids discharged is 100mg/L or less
        - (3) Ensure that Turbidity of the discharge is 50 NTU or less
        - (4) Not impair beneficial uses
        - (5) Includes a monitoring program to ensure effectiveness



## 2. Construction Sites Less than an Acre

- (a) Each permittee shall require the implementation of an effective combination of the following BMPs at all construction sites (see Table 6- BMPs at Construction sites less than 1 acre) to prevent erosion and sediment loss, and the discharge of construction wastes.<sup>1</sup> Where the Erosivity Factor (R) for the construction project is 50 or greater, erosion controls (erosion avoidance) are the preferred BMPs.<sup>2</sup>

Table 6 - BMPs at Construction sites less than 1 acre

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

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

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

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

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

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

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

4. Construction Sites 5 acres and Greater

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

Table 8 - BMPs at Construction sites 5 acres or greater

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

5. Local Agency Requirements

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

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or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

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

(2) Certification Statement

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

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

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

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

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

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

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

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

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

(12) Minimizing total paving area by avoiding excessive lane, driveway, or shoulder widths; or providing porous paving surfaces.

7. Electronic Site Tracking System
  - (a) Each permittee shall use an electronic system to track grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by each permittee. To satisfy this requirement, the use of a database or GIS system is encouraged, but not required.
8. Inspections
  - (a) Each permittee shall inspect all construction sites for the implementation of storm water quality controls a minimum of once during the wet season. Concurrently, each permittee shall ensure that:
    - (1) The Local SWPPP is reviewed for compliance with local codes, ordinances, and permits.

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- (2) A follow-up inspection takes place within two weeks for inspected sites that have not adequately implemented their Local SWPPP.
  - (b) Each permittee shall take additional enforcement actions to achieve compliance as specified in municipal codes, if compliance with municipal codes, ordinances, or permits has not been attained.
  - (c) Each permittee can refer sites to the Regional Water Board for further joint enforcement actions for violation of municipal storm water ordinances and the Construction Activities Storm Water General Permit (CASGP), or Small Linear Underground/ Overhead Construction Projects General Permit (small LUPs), after conducting a minimum of 2 site inspections and issuing a minimum of 2 written notices to the operator regarding the violation (copied to the Regional Water Board). In making such referrals, permittees shall include, at a minimum, the following documentation:
    - (1) Name of the site
    - (2) WDID number
    - (3) Site developer
    - (4) Site owner
    - (5) Records of communication with the site operator regarding the violation(s), which shall include at least an inspection report
    - (6) Written notice of the violation copied to the Regional Water
  - (d) Prior to approving and/ or signing off for occupancy and issuing the Certificate of Occupancy for all construction projects subject to post-construction controls, each permittee shall inspect the constructed site design, source control and treatment control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and this Order. The initial/ acceptance BMP verification inspection does not constitute a maintenance and operation inspection, as required in the preceding subpart E.IV.2(c).
  - (e) Each permittee shall inspect all construction sites at least once within the 60 day period preceding the wet season to ensure wet weather readiness.
9. State Conformity Requirements
- (a) Each permittee shall ensure that no grading permit, encroachment permit, demolition permit, building permit, electrical permit, or construction permit (or any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) is issued for any project requiring coverage under the CASGP or Small LUP General Permit<sup>1</sup> unless:
    - (1) Proof of coverage under a State NPDES permit is demonstrated (a copy of a letter from the State Water Board showing a valid Waste Discharger Identification Number (WDID) for that site).

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

- (2) Demonstration or Certification that a SWPPP has been prepared by the project developer. A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP.
- (3) Proof of an updated NOI(s) and a copy of the modified SWPPP(s) at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

10. Interagency Coordination

(a) **Referral of Violations:**

A permittee may refer a violator of the municipal storm water ordinance and CWC § 13260 to the Regional Water Board provided that the permittee has made a good faith effort at progressive enforcement consistent with the preceding subpart F.8(c). At a minimum, the permittee's good faith effort shall be documented with:

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

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

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

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

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

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

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

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

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

**G. Public Agency Activities Program**

- I. Each permittee shall implement a Public Agency Activities Program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:
  - i. Public Construction Activities Management.
  - ii. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ Municipal Operations.
  - iii. Vehicle and Equipment Wash Areas
  - iv. Landscape and Recreational Facilities Management
  - v. Storm Drain Operation and Management
  - vi. Streets and Roads Maintenance
  - vii. Infrastructure Maintenance - Long-term
  - viii. Public Industrial Activities Management
  - ix. Emergency Procedures
  - x. Employee Training
1. Public Construction Activities Management
  - (a) Each permittee shall implement and comply with the Planning and Land Development Program requirements in part 5.E. of this Order at permittee owned or operated public construction projects for project types identified in part 5.E of this Order.
  - (b) Each permittee shall implement and comply with the Planning and Land Development Program requirements in part 5.E. for streets, roads, and highways construction of 5,000 square feet or more of surface area
  - (c) Each permittee shall implement and comply with the appropriate Development Construction Program requirements in part 5.F. of this Order at permittee owned or operated construction projects.
  - (d) For public projects that disturb less than one acre of soil the permittees shall require the development and implementation of a Storm Water Pollution Control Plan. The SWPCP shall include BMPs as identified in Table 5.



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2. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ Long Term Maintenance Programs
- (a) Each permittee shall implement the following BMPs<sup>1</sup> at all permittee owned, leased facilities and job sites including but not limited to vehicle/ equipment maintenance facilities, material storage facilities, and corporation yards, and at any area that includes the activities as described in the following Tables. Additionally, for any activity or area described in the footnote below,<sup>2</sup> each permittee shall also implement the BMPs in the Caltrans Storm Water Quality Handbook Maintenance Staff Guide described as B-4 in Table 9 (BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards).

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

From the Caltrans Storm Water Quality Handbook Maintenance Staff Guide	Appendix B
Activity Specific BMPs	Page
<b>General BMPs</b>	B-4
<b>Flexible Pavement</b>	B-9
Asphalt Cement Crack and Joint Grinding/ Sealing	B-9
Asphalt Paving	B-10
Structural Pavement Failure (Digouts) Pavement Grinding and Paving	B-11
Emergency Pothole Repairs	B-13
Sealing Operations	B-14
<b>Rigid Pavement</b>	B-15
Portland Cement Crack and Joint Sealing	B-15
Mudjacking and Drilling	B-16
Concrete Slab and Spall Repair	B-17
<b>Slope/ Drains/ Vegetation</b>	B-19
Shoulder Grading	B-19
Nonlandscaped Chemical Vegetation Control	B-21
Nonlandscaped Mechanical Vegetation Control/ Mowing	B-23
Nonlandscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-24
Fence Repair	B-25
Drainage Ditch and Channel Maintenance	B-26
Drain and Culvert Maintenance	B-28
Curb and Sidewalk Repair	B-30
<b>Litter/ Debris/ Graffiti</b>	B-32
Sweeping Operations	B-32
Litter and Debris Removal	B-33
Emergency Response and Cleanup Practices	B-34

<sup>1</sup> These BMPs are identified in Appendix B of the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide, May 2003*, and its addenda.

<sup>2</sup> Scheduling and Planning; Spill Prevention and Control; Sanitary/ Septic Waste Management; Material Use; Safer Alternative Products; Vehicle/ Equipment Cleaning, Fueling, and Maintenance; Illicit Connections Detection, Reporting and Removal; Illegal Spill / Discharge Control and Maintenance Facility Housekeeping Practices.

<b>Activity Specific BMPs</b>	<b>Page</b>
Graffiti Removal	B-36
<b>Landscaping</b>	B-37
Chemical Vegetation Control	B-37
Manual Vegetation Control	B-39
Landscaped Mechanical Vegetation Control/ Mowing	B-40
Landscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-41
Irrigation Line Repairs	B-42
Irrigation (Watering), Potable and Nonpotable	B-43
<b>Environmental</b>	B-44
Storm Drain Stenciling	B-44
Roadside Slope Inspection	B-45
Roadside Stabilization	B-46
Storm Water Treatment Devices	B-48
Traction Sand Trap Devices	B-49
<b>Public Facilities</b>	B-50
Public Facilities	B-50
<b>Bridges</b>	B-52
Welding and Grinding	B-52
Sandblasting, Wet Blast with Sand Injection and Hydroblasting	B-54
Painting	B-56
Bridge Repairs	B-57
Draw Bridge Maintenance	B-58
<b>Other Structures</b>	B-59
Pump Station Cleaning	B-59
Tube and Tunnel Maintenance and Repair	B-61
Ferryboat Operations	B-62
Tow Truck Operations	B-63
Toll Booth Lane Scrubbing Operations	B-64
<b>Electrical</b>	B-65
Sawcutting for Loop Installation	B-65
<b>Traffic Guidance</b>	B-67
Thermoplastic Striping and Marking	B-67
Paint Striping and Marking	B-68
Raised/ Recessed Pavement Marker Application and Removal	B-70
Sign Repair and Maintenance	B-71
Median Barrier and Guard Rail Repair	B-73
Emergency Vehicle Energy Attenuation Repair	B-75
<b>Snow and Ice Control</b>	B-76
Snow Removal	B-76
Ice Control	B-77
<b>Storm Maintenance</b>	B-78
Minor Slides and Slipouts Cleanup/ Repair	B-78
<b>Management and Support</b>	B-80
Building and Grounds Maintenance	B-80
Storage of Hazardous Materials (Working Stock)	B-82

Activity Specific BMPs	Page
Material Storage Control (Hazardous Waste)	B-84
Outdoor Storage of Raw Materials	B-85
Vehicle and Equipment Fueling	B-86
Vehicle and Equipment Cleaning	B-87
Vehicle and Equipment Maintenance and Repair	B-88
Aboveground and Underground Tank Leak and Spill Control	B-90

3. Vehicle and Equipment Wash Areas

(a) Each permittee shall eliminate discharges of wash waters from vehicle and equipment washing no later than (365 days after Order adoption date) by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:

- (1) Self-contain, and haul off for disposal
- (2) Equip with a clarifier
- (3) Equip with an alternative pre-treatment device; or
- (4) Plumb to the sanitary sewer

(b) Each permittee shall ensure that any municipal facilities constructed, redeveloped, or replaced has all vehicle and equipment wash areas plumbed to the sanitary sewer or be self contained and all wastewater/ washwater hauled for legal disposal.

4. Landscape, Park, and Recreational Facilities Management

(a) Integrated Pest Management (IPM)

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

- (1) Pesticides are used only if, after monitoring indicates they are needed according to established guidelines.
- (2) Treatments are made with the goal of removing only the target organism.
- (3) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial, non-target organisms, and the environment.
- (4) Its use of pesticides, including Organo-phosphates and Pyrethroids do not threaten water quality.
- (5) Partner with other agencies and organizations to ensure that pesticide use within their jurisdiction does not threaten water quality.
- (6) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) in the permittees' overall operations and on municipal property.

- (7) Policies, procedures, and ordinances shall include commitments and timelines to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:
    - (A) Quantify pesticide use by its staff and hired contractors.
    - (B) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.
    - (C) Demonstrate reductions in pesticide use.
  - (b) Each permittee shall implement the following requirements no later than (180 days after Order adoption date):
    - (1) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.
    - (2) Comply with the provisions and the monitoring requirements for application of aquatic pesticides to surface waters (WQ Order No. 2004-0008-DWQ).
    - (3) Ensure no application of pesticides or fertilizers are applied to an area immediately prior to, during, or immediately after a rain event, or when water is flowing off the area.
    - (4) Ensure that no banned or unregistered pesticides are stored or applied.
    - (5) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.
    - (6) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and
    - (7) Store pesticides and fertilizers indoors or under cover on paved surfaces or use secondary containment.
      - (A) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.
      - (B) Regularly inspect storage areas.
5. Storm Drain Operation and Management
- (a) Catch Basin Cleaning
    - (1) Each permittee shall designate catch basin inlets within its jurisdiction as one of the following:
      - Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/ or debris.
      - Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/ or debris.
      - Priority C: Catch basins that are designated as generating low volumes of trash and/ or debris.
    - (2) Each permittee shall clean catch basins according to the following schedule:
      - Priority A: A minimum of 3 times during the wet season and once during the dry season every year.

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- Priority B: A minimum of once during the wet season and once during the dry season every year.
- Priority C: A minimum of once per year.
- (3) In addition to the preceding schedule, permittees shall ensure that any catch basin that is at least 25% full of trash and/ or debris shall be cleaned out.
- (b) Trash Management at Public Events
- (1) Each permittee shall require for any event in the public right of way or wherever it is foreseeable that substantial quantities of trash and litter may be generated, that the following measures are implemented:
- (A) That conditions be placed on any special use permit issued for such event; and
- (B) Require the proper management of trash and litter generated; and
- (C) Arrange for temporary screens to be placed on catch basins; or
- (D) Clean out catch basins, trash receptacles, and grounds in the event area within 24 hours subsequent to the event.
- (c) Trash Receptacles
- (1) Each permittee shall install trash receptacles, or equivalent trash capturing devices at transit stops in commercial areas, near educational institutions, and in areas subject to high trash generation within its jurisdiction no later than (6 months after Order adoption date).
- (2) Each permittee shall ensure that all trash receptacles are cleaned out and maintained as necessary to prevent trash overflow.
- (d) Catch Basin Labels
- (1) Each permittee shall inspect the legibility of the catch basin stencil or label nearest each catch basin and inlet before the rainy season begins.
- (2) Each permittee shall record and re-stencil or re-label within 15 days of inspection, catch basins with illegible stencils.
- (e) Trash Excluders
- (1) Each permittee shall install trash excluders, or equivalent devices on or in catch basins to prevent the discharge of trash to the storm drain system no later than (365 days after Order adoption date) in commercial areas, industrial areas, and near educational institutions (i.e. areas subject to high trash generation) except in sites where the application of such BMP(s) alone will cause flooding. Lack of maintenance that causes flooding is not an acceptable exception to the requirement to install.
- (f) Storm Drain Maintenance
- (1) Each permittee shall implement a program for Storm Drain Maintenance no later than (180 days after Order adoption date) that includes the following:
- (A) Visual monitoring of permittee-owned open channels and other drainage structures for debris at least annually.
- (B) Remove trash and debris from open channel storm drains a minimum of once per year before the storm season.

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- (C) Eliminate the discharge of contaminants during MS4 maintenance and clean outs.
- (D) Quantify the amount of materials removed using standard measures and ensure the materials are properly disposed of.
- (g) Spill Response Plan
  - (1) Each permittee shall implement a response plan for spills to the MS4 within their respective jurisdiction. The response Plan shall clearly identify agencies responsible and telephone numbers and e-mail address for contact and shall contain at a minimum the following:
    - (A) Investigation of all complaints received within 24 hours of the incident report.
    - (B) Response within 2 hours to spills for containment upon notification.
    - (C) Notification to appropriate public health agencies and the Office of Emergency Services (OES).
- (h) Permittee Owned Treatment Control BMPs
  - (1) Each permittee shall implement an inspection and maintenance program for all permittee owned treatment control BMPs, including post-construction treatment control BMPs.
  - (2) Each permittee shall ensure proper operation of all treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.
  - (3) Any residual water within a treatment control BMP when being maintained shall be:
    - (A) Hauled away and legally disposed of;
    - (B) Discharged to the sanitary sewer system (with permits or authorization); or
    - (C) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 10 (Discharge Limitations for Dewatering Treatment BMPs) prior to discharge to the MS4.

Table 10 - Discharge Limitations for Dewatering Treatment BMPs<sup>1</sup>

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

<sup>1</sup> Technology based effluent limits.

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## 6. Streets and Roads

## (a) Maintenance

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

## (b) Road Construction and Reconstruction

(G) Minimize impervious pavement area to the maximum extent practicable. (MEP)

- (1) Each permittee shall implement the following BMPs for road reconstruction:
  - (A) Drain Inlet protection from sediments.
  - (B) Dewatering of below grade construction areas.
  - (C) Secondary containment for cold mix.
  - (D) Sheeting underneath cold mix (during storage) to prevent discharge of spray release, and
  - (E) Sheeting to cover cold mix (during storage).
  - (F) If street material is to be concrete, then provide a vehicle wash off area that is isolated from the MS4.

## (c) Post Construction Controls

- (1) Municipal activities involving pothole repairs and square cut patching will not trigger post construction controls.

## 7. Emergency Procedures

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

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

## 8. Municipal Employee and Municipal Contractor Training

- (a) Each permittee shall, no later than (6 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to:
  - (1) Promote a clear understanding of the potential for activities to pollute storm water.
  - (2) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.
- (b) Each permittee shall, no later than (6 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:
  - (1) The potential for pesticide-related surface water toxicity.

- (2) Proper use, handling, and disposal of pesticides.
- (3) Least toxic methods of pest prevention and control, including IPM.
- (4) Reduction of pesticide use.
- (c) Each permittee shall, no later than (6 months after Order adoption date) and annually thereafter before June 30, train all of their employees and contractors who are responsible for illicit connections and illicit/ illegal discharges. Training programs shall address:
  - (1) Identification
  - (2) Investigation
  - (3) Termination
  - (4) Cleanup
  - (5) Reporting of Incidents
  - (6) Documentation of Incidents

#### **H. Illicit Connections and Illicit Discharges Elimination Program**

- I. Each permittee shall eliminate all Illicit Connections and Illicit Discharges (IC/ ID) to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.
  1. General
    - (a) Implementation - Each permittee shall implement an IC/ ID Program. The IC/ ID procedures shall be documented and made available for public review.
    - (b) Tracking - All permittees shall, no later than (2 years after Order adoption date), map at a scale and in a format specified by the Principal Permittee all permitted connections to their storm drain system. All permittees shall map at a scale and in a format specified by the Principal Permittee incidents of illicit connections and discharges on their baseline maps, and shall transmit this information to the Principal Permittee no later than (2 years after Order adoption date). Permittees shall use this information to identify priority areas for further investigation and elimination of IC/ ID.
  2. Public Reporting
    - (a) Permittees shall establish and maintain a phone hotline and internet site to receive all reports of IC/ ID complaints.
    - (b) Permittees shall document the location of the reported IC/ ID and the actions undertaken in response to all IC/ ID complaints.
  3. Illicit Connections
    - (a) Screening for Illicit Connections
      - (1) Each permittee shall submit to the Principal Permittee:



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- (A) A GIS layer showing the location and length of underground pipes 18 inches and greater in diameter, and channels within their jurisdiction in accordance with the following schedule:
  - (i) All channeled portions of the storm drain system no later than (365 days after Order adoption date).
  - (ii) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, (no later than 3 years after Order adoption date).
  - (iii) All portions of the storm drain system consisting of storm drain pipes 18 inches in diameter or greater, (no later than 5 years after Order adoption date).
- (B) The status of suspected, confirmed, and terminated illicit connections.
- (2) Permittees shall conduct field screening of their storm drain systems in accordance with screening procedures described in the Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development and Technical Assessments (2004)<sup>1</sup>. Permittees shall conduct field screening for illicit connections in accordance with the following schedule:
  - (A) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
  - (B) High priority areas identified during the mapping of illicit connections and discharges, and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
  - (C) All portions of storm drain systems 50 years or older in age and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
- (3) Each permittee shall maintain a list containing all connections under investigation for possible illicit connection and their status.
- (b) Response to Illicit Connections
  - (1) Investigation -  
Each permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall complete an investigation within 21 days, to determine the following:
    - (A) Source of the connection.
    - (B) Nature and volume of discharge through the connection.
    - (C) Responsible party for the connection.
  - (2) Termination -  
Each permittee, upon confirmation of an illicit storm drain connection, shall ensure the following:

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

- (A) Termination of the connection within 180 days of completion of the investigation, using formal enforcement authority to eliminate the illicit connection.
  - (3) Documentation -  
Each permittee shall keep records of all illicit connection investigations and the formal enforcement taken to eliminate all illicit connections.
4. **Illicit Discharges**
- (a) Investigation -  
Each permittee shall investigate an illicit/ illegal discharge during or immediately following containment and cleanup activities, and shall take formal enforcement action to eliminate the illegal discharge.
  - (b) Abatement and Cleanup -  
Each permittee shall respond, within 1 business day of discovery or a report of a suspected illicit/ illegal discharge, with actions to abate, contain, and clean up all illegal discharges, including hazardous substances.
  - (c) Documentation -  
Each permittee shall maintain records of all illicit/ illegal discharge discoveries, reports of suspected illicit/ illegal discharges, their response to the illicit/ illegal discharges and suspected illicit/ illegal discharges, and the formal enforcement taken to eliminate all illicit/ illegal discharges.

## I. REPORTING PROGRAM

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

- (b) The requirements described under Part 2- Program Report.
5. Plans shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
  6. Study Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
  7. Progress Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).

#### **PART 6 - TOTAL MAXIMUM DAILY LOAD PROVISIONS**

- I. Part 6 of this Order incorporates provisions to assure that Ventura County MS4 permittees comply with WLAs and other requirements of TMDLs covering impaired waters impacted by the permittees' discharges.
- II. Each permittee shall attain the storm water WLAs incorporated into this Order by implementing BMPs in accordance with the MS4 effluent quality workplan and source identification approved by the Executive Officer.
- III. TMDLs in effect and covered in this Order are the following:
  1. TMDL for Nitrogen Compounds for the Santa Clara River - (Effective date: March 23, 2004).
  2. TMDL for Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
  3. TMDL for Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
  4. TMDL for Bacteria in Malibu Creek and Lagoon - (Effective date: January 26, 2006).
  5. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon (Effective date: March 26, 2007)
  6. TMDL for Trash in Revolon Slough and Beardsley Wash
  7. TMDL for Trash in the Ventura River Estuary
- IV. TMDL Interim WLAs incorporated into this Order due to compliance dates which exceed the term of this Order are the following:
  1. Final Wet Weather Bacteria WLAs for Malibu Creek and Lagoon - (Compliance date: January 24, 2016).

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2. Final Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation WLAs for Calleguas Creek, its Tributaries and Mugu Lagoon – (Compliance date: March 24, 2026).
3. Final Metals and Selenium WLAs for Calleguas Creek, its Tributaries and Mugu Lagoon (Compliance date: March 26, 2022)

## V. TMDL WLAs and Other TMDL Provisions Incorporated into this Order are as follows:

1. TMDL for Nitrogen Compounds in the Santa Clara River
  - (a) Waste Load Allocations:
    - (1) The Ventura County MS4 permittees discharging to the Santa Clara River (the cities of Fillmore and Santa Paula) (“Santa Clara MS4 permittees”) shall implement BMPs to achieve the following MS4 wasteload allocations applicable to River Reach 3:
 

Ammonia nitrogen 30-day average	2.0 mg/L
Ammonia nitrogen 1-hour average	4.2 mg/L
Nitrate + Nitrite nitrogen 30-day average	8.1 mg/L
  - (b) Compliance Monitoring:
    - (1) Compliance with the WLAs is to be determined through receiving water monitoring conducted in accordance with the Santa Clara River Nitrogen TMDL Monitoring Program approved by the Executive Officer.
    - (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
  - (c) Actions and Special Studies required of Santa Clara MS4 permittees:
    - (1) Annual Progress Reports. Santa Clara River MS4 permittees, either independently or in conjunction with other stakeholders, shall submit an annual progress report with respect to achievement of the WLAs.
2. TMDL for Toxicity, Chlorpyrifos, and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon.
  - (a) Waste Load Allocations:
    - (1) MS4 permittees discharging to Calleguas Creek, its tributaries and Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) (“Calleguas MS4 permittees”) shall implement BMPs to achieve the following MS4 WLAs:
 

Toxicity WLA	1.0 TUc
Chlorpyrifos WLA	0.014 ug/L
Diazinon WLA	0.10 ug/L
    - (2) Pursuant to the TMDL, the final storm water WLAs for Toxicity, Chlorpyrifos and Diazinon, listed above, are receiving water concentrations

measured in-stream at the base of each subwatershed within the Calleguas Creek watershed.

(b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality at the base of each of the Calleguas Creek subwatersheds, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (3) If as a result of compliance monitoring and subsequent investigations it is determined that a Calleguas MS4 permittee is responsible for exceedance of the in-stream Toxicity WLA, that permittee shall initiate the TRE/TIE process as outlined in U.S. EPA's "Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program" (2000) or the approved Toxicity TMDL monitoring plan, and take appropriate action to eliminate the identified source of the toxicity.

(c) Actions and Special Studies required of Calleguas MS4 permittees:

- (1) Special Study #1. Together with Calleguas POTW permittees, investigate the pesticides that will replace diazinon and chlorpyrifos in the urban environment, their potential impact on receiving waters and potential control measures. Special Study #1 is to be completed by March 24, 2008.
- (2) Special Study #2. Together with Calleguas Agricultural Dischargers, consider results of monitoring of sediment concentrations by source/land use type through the special study required in the Calleguas OC Pesticide, PCB and Siltation TMDL Implementation Plan. Complete within 6 months of completion of the OCs TMDL special study #1.
- (3) Pesticide Collection Program. Together with Calleguas POTW permittees, develop and implement a collection program for diazinon and chlorpyrifos and an educational program. Collection and education could occur through existing programs such as household hazardous waste collection events. The Pesticide Collection Program is to be implemented by March 24, 2009.
- (4) Special Study #3. Together with Calleguas Agricultural Dischargers, consider the findings of transport rates developed through the OC Pesticide, PCB and Siltation TMDL Implementation Plan. Complete within 6 months of completion of the OCs TMDL special study #1.

3. TMDL for Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs) and Siltation in the Calleguas Creek, its Tributaries and Mugu Lagoon.

(a) Waste Load Allocations:

- (1) MS4 permittees discharging to Calleguas Creek, its tributaries or Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) ("Calleguas MS4 permittees") shall implement BMPs to achieve the interim WLAs listed in Table 11.

Table 11. Interim Sediment Concentration WLAs (ng/g)

Constituent	Subwatershed		Calleguas Creek		Revolon Slough	Arroyo Las Posas
	Mugu Lagoon	Arroyo Simi	Conejo Creek			
Chlordane	25	17	48	3.3	3.3	3.4
4,4-DDD	69	66	400	290	140	5.3
4,4-DDE	300	470	1600	950	170	20
4,4-DDT	39	110	690	670	25	2
Dieldrin	19	3	5.7	1.1	1.1	3
PCBs	180	3800	7600	25700	25700	3800
Toxaphene	22900	260	790	230	230	260

- (2) Pursuant to the TMDL, the interim storm water WLAs for OC Pesticides, PCBs and Siltation, listed above, are annual average, sediment-based concentrations measured in surface waters at the base of each subwatershed within the Calleguas Creek watershed.
- (b) Compliance Monitoring:
  - (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality at the base of each of the Calleguas Creek subwatersheds, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
  - (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (c) Actions and Special Studies required of Calleguas MS4 permittees:
  - (1) Pesticide Collection Program. Together with Calleguas POTW permittees, implement a collection program and source control measures pursuant to a work plan approved by the Executive Officer. The Pesticide Collection Program is to be implemented by March 24, 2011.
  - (2) Special Study #1. Together with Calleguas POTW permittees, Calleguas Agricultural Dischargers, and the Point Mugu Naval Base, submit a work plan to quantify sedimentation in the Calleguas Creek Watershed, evaluate management methods to control siltation and contaminated sediment transport to Calleguas Creek, identify appropriate BMPs to reduce sediment loadings and evaluate the effect of sediment on habitat preservation in Mugu Lagoon for approval by the Executive Officer. This special study is also to

evaluate the concentration of OC pesticides and PCBs in sediments from various sources/land use types. Special Study #1 is to be completed by March 24, 2014.

- (3) Special Study #2. Together with Calleguas Agricultural Dischargers, identify areas of high OC concentrations and evaluate the effects of watershed protection and land use practices on water quality. Such practices include but are not limited to management of sediment reduction practices and structures, streambank stabilization, and other projects related to stormwater conveyance and flood control improvements in the Calleguas Creek watershed. Special Study #2 is to be completed based on the schedule provided in the workplan, submitted in March, 2007
  - (4) Special Study #3 – Together with Calleguas POTW permittees, Calleguas Agricultural Dischargers, and the Point Mugu Naval Base, evaluate natural attenuation rates and evaluate methods to accelerate organochlorine pesticide and polychlorinated biphenyl attenuation and examine the attainability of wasteload and load allocations in the Calleguas Creek Watershed. Special Study #3 is to be completed by March 24, 2016.
4. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon.
- (a) Waste Load Allocations:
- (1) MS4 permittees discharging to Calleguas Creek, its tributaries or Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) (“Calleguas MS4 permittees”) shall implement BMPs to achieve the interim WLAs listed in Table 12 and Table 13.

Table 12. Interim WLAs for Copper, Nickel and Selenium (ug/L)

Constituent	Calleguas and Conejo Creek (a)			Revolon Slough		
	Dry Daily Maximum (ug/L)			Dry Monthly Average (ug/L)		Wet Daily Maximum (ug/L)
	Dry Daily Maximum (ug/L)			Dry Monthly Average (ug/L)		Wet Daily Maximum (ug/L)
Copper	23	19	204	23	19	204
Nickel	15	13	(a)	15	13	(a)
Selenium(b)	(b)	(b)	(b)	14 (c)	13(c)	(a)

- (A) The current loads do not exceed the TMDL under wet conditions, interim limits are not required
- (B) Selenium allocations have not been developed for this reach as it is not on the 303(d) list
- (C) Attainment of interim limits will be evaluated in consideration of background loading data, if available

- (2) Pursuant to the TMDL, the interim storm water WLAs for copper, nickel, and selenium are receiving water concentrations measured in-stream at the base of Calleguas Creek and Revolon Slough and in Mugu Lagoon.

Table 13. Interim WLAs for Mercury in Sediment (lbs/yr)

Annual Cumulative Flow (million gallons per year)	Calleguas Creek (lbs/yr)	Revolon Slough (lbs/yr)
0-15,000	3.3	1.7
15,000-25,000	10.5	4
Above 25,000	64.6	10.2

- (3) Pursuant to the TMDL, the interim storm water WLAs for mercury are suspended sediment loads measured in-stream at the base of Calleguas Creek and Revolon Slough and in Mugu Lagoon.
- (4) Determination of the applicable interim WLA will be determined by calculating the total annual flow (October 1-September 30) in the Calleguas Creek watershed as measured by the flow gage at CSUCI.
- (b) Compliance Monitoring:
- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality and total suspended solids (TSS) at the base of Calleguas Creek, Revolon Slough and in Mugu Lagoon, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (c) Actions and Special Studies required of Calleguas MS4 permittees:
- (1) Conduct a source control study, develop and submit an Urban Water Quality Management Program (UWQMP) for copper, mercury, nickel, and selenium. Complete by March 26, 2009.
- (2) Implement the UWQMP within one year of approval by Executive Officer.
- (3) In cooperation with agricultural dischargers, evaluate the results of the OCs TMDL special study on sediment transport rates for applicability to the metals and selenium TMDL. Complete within 6 months of completion of the OCs TMDL special study #1.
- (4) In cooperation with agricultural dischargers, include monitoring for copper, mercury, nickel and selenium in the OC pesticides TMDL special study – Monitoring of Sediment by Source and Land Use Type. The special study is to be completed by March 26, 2014.
- (5) Evaluate the results of the OC Pesticides TMDL Special Study – Effects of BMPs on Sediment and Siltation, to determine the impacts on metals and



selenium. Complete within 6 months of completion of the OC Pesticides special study #1.

- (6) Evaluate the effectiveness of BMPs implemented under the UWQMP in controlling metals and selenium discharges. This is to be completed by March 26, 2013.
- (7) Re-evaluate urban waste load allocations for copper, mercury, nickel and selenium based on the evaluation of BMP effectiveness. By March 26, 2012, urban dischargers will have a required 25% reduction in the difference between the loadings at the time of the TMDL preparation and the final WLAs effective in 2022.
- (8) In cooperation with POTW permittees and agricultural dischargers, conduct a study to identify selenium contaminated groundwater sources. Special Study is to be completed within one year of the approval of the workplan.
- (9) In cooperation with agricultural dischargers, conduct a study to investigate metals "hot spots" and natural soils concentrations. This special study is to be completed within 2 years of the approval of the workplan.

5. TMDL for Bacteria in Malibu Creek and Lagoon

(a) Waste Load Allocations:

- (1) The Ventura County MS4 permittees discharging to Malibu Creek or its tributaries (Ventura County Watershed Protection District, County of Ventura and the cities of Thousand Oaks and Simi Valley) ("Malibu MS4 permittees") shall achieve the WLAs identified in Table 5. These WLAs are expressed as the number of daily or weekly sample days that may exceed the single sample limits or 30-day geometric mean bacteria targets identified in Table 6.

Table 14 – Wasteload Allocations expressed as the Number of Exceedence Days for Geometric Mean \ Single Sample - Dry Weather

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

## Table 15 - Bacteria Targets

Parameters Unit

Fresh Water Targets

Geometric Mean Single Sample

E. coli mg 126/ 100 235/ 100

Fecal coliform mg 200/ 100 400/ 100

- (2) The wasteload allocations are to be achieved no later than January 26, 2012.
- (b) Compliance Monitoring:
- (1) Achievement of the WLAs is to be determined through receiving water monitoring conducted in accordance with the Santa Monica Bacteria TMDL Compliance Monitoring Program approved by the Executive Officer.
  - (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (c) Actions and Special Studies required of Malibu MS4 permittees:
- (1) If TMDL compliance monitoring indicates that the Malibu MS4 permittees are causing or contributing to an exceedance of the WLAs in the receiving waters, the permittees shall conduct a source identification study and implement additional controls sufficient to achieve the WLAs in the receiving waters.
6. TMDL for Trash in Revolon Slough and Beardsley Wash
- (a) Wasteload Allocations
- (1) WLAs are zero trash.
- (b) Compliance Monitoring
- (1) Responsible jurisdictions will develop a TMRP for Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in Revolon Slough and Beardsley Wash and/or within responsible jurisdiction land areas. The TMRP shall include a plan to establish the trash Baseline WLAs.
  - (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
- (c) Actions and Special Studies required of Revolon Slough and Beardsley Wash MS4 permittees
- (1) Submit results of Trash Monitoring and Reporting Plan, recommend trash baseline WLA, and propose Full Capture System prioritization.

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7. TMDL for Trash in the Ventura River Estuary
- (a) Wasteload Allocations
    - (1) WLAs are zero trash.
  - (b) Compliance Monitoring
    - (1) Responsible jurisdictions will develop a TMRP for Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in the Ventura River Estuary and/or within responsible jurisdiction land areas. The TMRP shall include a plan to establish the trash Baseline WLAs.
    - (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the MS4 Effluent Quality and Source Identification Workplans. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.
  - (c) Actions and Special Studies required of Revolon Slough and Beardsley Wash MS4 permittees
    - (1) Submit results of Trash Monitoring and Reporting Plan, recommend trash baseline WLA, and propose Full Capture System prioritization.

**PART 7 - DEFINITIONS**

The following are definitions for terms in this Order:

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

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

**Antidegradation Policies** - means policies which protect surface and ground waters from degradation, and federal policies, which protect high quality surface waters. In particular, this policy protects waterbodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water (*Statement of Policy with Respect to Maintaining High Quality Water in California*, State Board Resolution No. 68-16; 40 CRF 131.12).

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

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

**Areas Subject to Storm Water Mitigation Requirements** - means areas designated as an Area of Special Biological Significance (ASBS) by the State Board, an area designated as a significant natural resource by the California Resources Agency, or an area identified by the discharger as environmentally sensitive for water quality purposes, based on the Regional Water Board Basin Plan and CWA § 303(d) Impaired Water-bodies List for the County of Ventura.

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

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

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

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

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

**Bacteria Total Maximum Daily Load (TMDL) Wet Weather** - defined in the Bacteria TMDLs as a day with 0.1 inch or more of rain and 3 days following the rain event.

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

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

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

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

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

**Chronic Toxicity** - means a measurement of a sublethal effect (e.g., reduced growth, reproduction) to experimental test organisms exposed to an effluent or ambient waters compared to that of the control organisms.

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

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

**Construction** - means any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in a land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility. As used above "Routine Maintenance" only applies to road shoulder work, dirt or gravel road repaving, or ditch clean-outs. A CWA § 401 certification may be required for ditch cleanouts. For municipal operators, repaving of asphalt roads is routine maintenance except where the underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation. Where clearing, grading, or excavating of underlying soil takes place, permit coverage is required if more than one acre is disturbed or part of a larger plan or if the activity is part of more activities part of a municipality's Capital Improvement Project Plan.

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

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

**Dechlorinated/ Debrominated Swimming Pool Discharge** - means any swimming pool discharge with a residual chlorine or bromine level of 0.1mg/L or less; and does not contain any detergents, waste, or other chemicals including salts from swimming pool filter backwash or swimming pool water containing bacteria. Add a definition for density. referred to as "salt water pools". The term does not include swimming pool filter backwash or swimming pool water containing bacteria.

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

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

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

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

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

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

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

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

**Effect Concentration (EC)** is a point estimate of the toxicant concentration that would cause an observable adverse effect (e.g., death, immobilization, or serious incapacitation) in a given percent of the test organisms, calculated from a continuous model (e.g., Probit Model). EC<sub>25</sub> is a point estimate of the toxicant concentration that would cause an observable adverse effect in 25 percent of the test organisms.

**Effective Impervious Surface** - means that portion of the surface area that is hydrologically connected via sheet flow over a hardened conveyance or impervious surface without any intervening medium to mitigate flow volume.

**Effluent limitation** - means any restriction imposed by the Permitting Authority (PA) on quantities, discharge rates, concentrations, and/ or mass loadings of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

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

**End-of-Pipe** - means the end of the major outfall as defined as defined in 40 CFR122.26 (b)(5) and 40 CFR122.26 (b)(6).

**Endpoint** - means a biological measurement used to quantify the results obtained from analytical methods such as whole effluent toxicity testing [e.g., lethal concentration ( $LC_{50}$ ); inhibition concentration ( $IC_{25}$ ); and no observed effect concentration (NOEC)]. Such endpoints are quantitative measurements of the responses of test organisms (e.g., survival, growth, mobility, reproduction, and weight gain or loss) in response to exposure to a serial dilution of effluent.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

**Inhibition Concentration (IC)** - means a point estimate of the toxicant concentration that would cause a given percent reduction in a non-lethal biological measurement (e.g., reproduction or growth), calculated from a continuous model (i.e., Interpolation Method). IC25 is a point estimate of the toxic concentration that would cause a 25-percent reduction in a non-lethal biological measurement.

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

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

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

**Large Municipal Separate Storm Sewer System (MS4)** - means all MS4s that serve a population greater than 250,000 (1990 Census) as defined in 40 CFR122.26 (b)(4). The Regional Water Board designated Ventura County as a large MS4 in 1990, based on: (i) the U.S. Census Bureau 1990 population count of 669,016 thousand, and (ii) the interconnectivity of the MS4s in the incorporated and unincorporated areas within the County.

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

**Low Impact Development (LID)** – means a design strategy with the goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques to create a functionally equivalent hydrologic site design. Hydrologic functions of storage, infiltration and ground water recharge, as well as the volume and frequency of discharges are maintained through the use of integrated and distributed micro-scale storm water retention and detention areas, reduction of impervious surfaces, and the lengthening of runoff flow paths and flow time. Other strategies include the preservation/protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable (mature) trees, flood plains, woodlands, and highly permeable soils. ←

**Major Municipal Separate Storm** municipal separate storm sewer outfall of 36 inches or more or its equivalent pipe which is associated with a drainage area of more than 50 acres, or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more), as defined in 40 CFR122.26 (b)(5).

This definition should not be "site specific" only. It should also address the entire watershed - and entire political region, and how the considerations of the rural/urban transect, density and per capita impacts are applicable.

**Major Outfall** - means a major municipal separate storm sewer outfall, as defined in 40 CFR122.26 (b)(6).

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

**Method Detection Limit (MDL)** - means the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR136, Appendix "G" of this Order.

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

**Minimum Significant Difference (MSD)** - means a measure of test sensitivity that establishes the minimum difference required between a control and a test treatment in order for that difference to be considered statistically significant.

**Municipal Separate Storm Sewer System (MS4)** - means a conveyance or system of conveyances (including roads w/ drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains), as defined in 40 CFR122.26(b)(8):

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Federal Clean Water Act (CWA) that discharges into waters of the United States
2. Designed or used for collecting or conveying storm water
3. Which is not a combined sewer
4. Which is not part of a Publicly Owned Treatment Works (POTW), as defined in 40 CFR122.2

**NAICS** - means North American Industry Classification System.

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

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

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

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

**No Observed Effect Concentration (NOEC)** - means the highest tested concentration of an effluent or toxicant that causes no observable adverse effect on the test organisms (i.e., the highest concentration of toxicant at which the values for the observed responses are not statistically different from the controls).

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

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

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

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

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

(B) **Nursery (Commercial Facilities - Merchant Wholesalers, Nondurable Goods, and Retail Trade)** - means industries Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers under NAICS Code 424930; and Nursery, Garden Center, and Farm Supply Stores under NAICS Code 444220. This Order covers these types of operations. The industry in NAICS Code 424930 comprises establishments primarily engaged in the merchant wholesale distribution of flowers, florists' supplies, and/ or nursery stock (except plant seeds and plant bulbs). The industry in NAICS Code 444220 comprises establishments primarily engaged in retailing nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, floriculture products and sod, which are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves.

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

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

**Percent Minimum Significant Difference (PMSD)** - means the minimum significant difference divided by the control mean, expressed as a percent (see minimum significant difference).

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

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

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

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

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

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

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

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

**Priority Pollutants** - means those constituents referred to in 40 CFR401.15 and listed in the U.S. EPA NPDES Application Form 2C, pp. V-3 through V-9.

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

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

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

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

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

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

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

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

- **RGOs: 447190 Other Gasoline Stations:**

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

- **RGOs: 447110 Gasoline Stations with Convenience Stores:**

Retailing automotive fuels in combination with a convenience store or food mart.

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

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

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

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

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

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



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

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

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

**Storm Water** - means storm water runoff, snow melt runoff, and surface runoff and drainage, as defined in 40 CFR122.26(b)(13).

**Storm Water Discharge Associated with Industrial Activity** - means industrial discharge, as defined in 40 CFR122.26(b)(14).

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

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

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

**t-Test** (formally Student's t-test) - means a statistical analysis comparing two sets of replicate observations, in the case of WET, only two test concentrations (e.g., a control and 100% effluent). The purpose of this test is to determine if the means of the two sets of observations are different [e.g., if the 100% effluent concentration differs from the control (i.e., the test pass or fails)].

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

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

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

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

**Toxicity Test** - means a procedure using living organisms to determine whether a chemical or an effluent is toxic. A toxicity test measures the degree of the effect of a specific chemical or effluent on exposed test organisms.

**Toxic Unit (TU)** - means a measure of toxicity in an effluent as determined by the acute toxicity units (TUa) or chronic toxicity units (TUc) measured. The larger the TU, the greater the toxicity.

**Toxic Unit - Chronic (TUc)** - means 100 times the reciprocal of the effluent concentration that causes no observable effect on the test organisms in a chronic toxicity test ( $TUc = 100/NOEC$  or  $100/EC25$ ) (see NOEC).

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

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

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

**U.S. EPA Phase I Facilities** - means facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR122.26(c).

These categories include:

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

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

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

**Waste Load Allocations (WLAs)** - means a portion of a receiving water's Total Maximum Daily Pollutant Load (TMDL) that is allocated to one of its existing or future point sources of pollution (Reference: 40 CFR130.2(h)).

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

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

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

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

- a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b. All interstate waters, including interstate "wetlands";
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  1. Which are or could be used by interstate or foreign travelers for recreational or other purposes
  2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  3. Which are used or could be used for industrial purposes by industries in interstate commerce
- d. All impoundment's of waters otherwise defined as waters of the United States under this definition;
- e. Tributaries of waters identified in the preceding paragraph (a) through (d) of this definition;
- f. The territorial sea; and
- g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in the preceding paragraph (a) through (f) of this definition.  
(Reference: 33 CFR328)

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

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

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

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

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

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

## **PART 8 - STANDARD PROVISIONS**

### **A. General Requirements**

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

### **B. Regional Water Board Review**

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

### **C. Public Review**

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

**D. Duty to Comply [40 CFR122.41(a)]**

1. Each permittee must comply with all of the terms, requirements, and conditions of this Order. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance, or a combination thereof [40 CFR122.41(a), CAL. WATER CODE § 13261, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350].
2. A copy of these waste discharge specifications shall be maintained by each permittee so as to be available during normal business hours to permittee employees and members of the public.
3. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

**E. Duty to Mitigate [40 CFR122.41 (d)]**

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

**F. Inspection and Entry; Investigations; Responsibilities [40 CFR122.41(i), Cal. Water Code § 13225 and § 13267]**

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

**G. Proper Operation and Maintenance [40 CFR122.41 (e), Cal. Water Code § 13263(f)]**

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

**H. Signatory Requirements [40 CFR122.41(k) & 122.22]**

1. Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Water Board shall be signed by the Director of Public Works, City Engineer, or authorized designee and certified as set forth in 40 CFR122.22.

**I. Reopener and Modification [40 CFR122.41(f) & 122.62]**

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Water Board, in accordance with the procedural requirements of the CAL. WATER CODE and CCR Title 23 for the issuance of waste discharge requirements, 40 CFR122.62, and upon prior notice and hearing, to:
  - (a) Address changed conditions identified in the required reports or other sources deemed significant by the Regional Water Board;
  - (b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan, including TMDLs;
  - (c) Comply with any applicable requirements, guidelines, and/ or regulations issued or approved pursuant to CWA § 402(p); and/ or,
  - (d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.
2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
  - (a) Violation of any term or condition contained in this Order;
  - (b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts;  
or,
  - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

3. The filing of a request by the Principal Permittee or permittees for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
4. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR122.63, if processed as a minor modification. Minor modifications may only:
  - (a) Correct typographical errors; or
  - (b) Require more frequent monitoring or reporting by the permittee.

**J. Severability**

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

**K. Duty to Provide Information [40 CFR122.41(h)]**

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

**L. Twenty-Four Hour Reporting [40 CFR122.41(l)(6)]<sup>1</sup>**

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

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



**M. Bypass [40 CFR122.41(m)]<sup>1</sup>**

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

**N. Upset [40 CFR122.41(n)]<sup>2</sup>**

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

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

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

3. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.
4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

**O. Property Rights [40 CFR122.41(g)]**

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

**P. Enforcement**

1. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The CWA provides the following:
  - (a) Criminal Penalties for:
    - (1) Negligent Violations [CWA 309 (c)(1)(B)]:  
The CWA provides that any person who negligently violates permit conditions implementing CWA § 301, 302, 306, 307, 308, 318, or 405 is subject to a fine of not less than \$2,500 nor more than \$25,000 per day for each violation, or by imprisonment for not more than 1 year, or both.
    - (2) Knowing Violations [CWA 309 (c)(2)(B)]:  
The CWA provides that any person who knowingly violates permit conditions implementing CWA § 301, 302, 306, 307, 308, 318, or 405 is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.
    - (3) Knowing Endangerment [CWA 309 (c)(3)(A)]:  
The CWA provides that any person who knowingly violates permit conditions implementing CWA § 301, 302, 307, 308, 318, or 405 and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.
    - (4) False Statement [CWA 309 (c)(4)]:  
The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by

imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both.

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

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

2. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The Cal Water Code § 13885 provides the following:

(a) Any person who violates any of the following shall be liable civilly in accordance with this section:

- (1) Section 13375 or 13376.
- (2) Any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.
- (3) Any requirements established pursuant to Section 13383.
- (4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.
- (5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.
- (6) Any requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

**Q. Need to Halt or Reduce Activity not a Defense [40 CFR122.41(c)]**

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

**R. Rescission of Board Order**

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

**S. Board Order Expiration Date**

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

**T. MS4 Annual Reporting Program [40 CFR122.42(c)]**

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

The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under 40 CFR122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

    - (1) The status of implementing the components of the storm water management program that are established as permit conditions;
    - (2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with 40 CFR122.26(d)(2)(iii) of this part;
    - (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR122.26(d)(2)(iv) and (d)(2)(v) of this part;
    - (4) A summary of data, including monitoring data that is accumulated throughout the reporting year;
    - (5) Annual expenditures and budget for year following each annual report;
    - (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
    - (7) Identification of water quality improvements or degradation.

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

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Tracy J. Egoscue  
Executive Officer



May 29, 2008

Dr. Xavier Swamikannu  
320 W. 4th Street, Suite 200  
Los Angeles, CA 90013

RE: DRAFT TENTATIVE VENTURA COUNTY MS4 PERMIT (NPDES PERMIT NO. CASOO4002)

Dear Dr. Swamikannu,

Thank you for the opportunity to comment on the draft tentative Ventura County MS4 permit. First, I would like to reiterate the comments I submitted October 15, 2007 in response to the last draft of the permit. In my reading of the current draft I did not see substantial changes made in response to those comments. I also did not see any staff response to comments on the previous draft posted on the "Ventura Municipal Permits" page on the Board web site. The current draft was not accompanied by a fact sheet or any explanation of changes, and did not track changes within the document. This makes it extremely difficult to identify new changes. Nevertheless, I assume that my previous comments were read and understood since I received no questions or requests for clarification from Board staff.

In addition to a list of specific suggestions, my prior comments focused on the BMP selection hierarchy appearing in Part 5, Section E.I.1.e, the 5% effective impervious area requirement in Part 5, Section E.III.1, and concerns regarding LID strategy implementation. In addition to reiterating those comments, I would like to add the following comments:

**Part 5, Section E.I.1.e**  
**BMP Selection Hierarchy**

The section currently establishes the following BMP Selection Hierarchy:

- (1) Low Impact Development Strategies (see the following section E.III.2).
- (2) Integrated Water Resources Management Strategies.
- (3) Multi-benefit Landscape Feature BMPs.
- (4) Modular/ Proprietary Treatment Control BMPs.

At a minimum the last option should be changed to "Treatment Only BMPs" since there are likely to be modular and proprietary elements incorporated in management strategies that could also be considered as one or more of the other three options.

My preference is that this hierarchy be removed because it does not distinguish between mitigation approaches on the basis of water quality and quantity benefits provided by them.

**Part 5, Section E.IV.6**  
**Technical Guidance Manual Update**

A date for revision of the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures is not given in this section. A reasonable time frame should be specified after consultation with the permittees.

**Part 5, Section G.I.5.e**  
**Trash Excluders**

This section states "Each permittee shall install trash excluders, or equivalent devices on or in catch basins to prevent the discharge of trash to the storm drain system..."

There are various end-of-pipe means of controlling trash that may be more effective and economical to

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maintain than catch basin inserts and excluders. Most end-of-pipe devices are less susceptible to flooding issues and the resuspension of captured materials during peak flows since they include a peak flow bypass that is external to the treatment and pollutant storage chamber. One such system, the CDS, has been used throughout Southern California and is recognized by the Board as a full capture device. In the City of Los Angeles tens of thousands of excluders and inserts have been installed in response to trash TMDLs there. Inspection of these units where CDS systems are also installed downstream reveals that the excluders and vertical and horizontal catch basin inserts do not perform as intended without much more rigorous maintenance than has been provided. The evidence of their failure is most apparent where CDS systems are installed downstream and are catching materials by the cubic yard that are bypassing the inserts and excluders. Attached to this letter are photographic summaries of the conditions of three sites draining to large CDS units that have been retrofitted with inserts and excluders.

At a minimum, end-of-pipe full capture BMPs, like the CDS should be added to this section as an acceptable means of control. It would also be prudent to reevaluate the maintenance requirements and effectiveness of those inserts and excluders installed in the Los Angeles River and Ballona Creek watersheds in high trash loading areas prior to requiring new installations in Ventura County.

**Part 5 Section H.1  
Reporting Program**

This section references requirements in Attachment "H". This attachment is not provided for review on the Board web site.

**Part 6 Section V.6-7  
Trash TMDL Provisions**

For both trash TMDLs, it would be prudent to require that "full capture" BMPs be installed to treat runoff from the 1-year design storm on all new development and significant redevelopment projects in tributary areas regulated by this permit.

It is well known that the cost of retrofitting catchments with BMPs for the express purpose of TMDL compliance is far more expensive than integrating satisfactory BMPs into the site during initial development or redevelopment. In particular, the cost of retrofitting with BMPs like CDS systems that are installed downstream of multiple inlets can be an order of magnitude higher when installation of the BMP is the sole purpose of the construction activity. Exorbitant retrofit costs are the biggest objection to the widespread installation of these devices. Most projects will require some kind of treatment control to be installed anyway, so the incremental cost of ensuring that the device is a "full capture" BMP should be minimal. This also defers some of the cost of compliance from the permittees themselves.

**Part 7 - Definitions  
Effective Impervious Surface**

This definition requires that flow from impervious areas be routed through an "intervening medium to mitigate flow volume" in order for that area to be subtracted from the total effective impervious surface area. The flow volume mitigation that this intervening medium must provide is not quantified anywhere in this permit. This is a major oversight that will lead to the design of BMPs that have no meaningful impact on runoff rates or volumes. Engineers will be encouraged to send extremely high flow rates and volumes through token vegetated areas in order to reduce their effective impervious area to 5% or less as this permit requires. Without a clear definition of how much runoff the permeable surface must be designed to infiltrate or store, meeting this requirement may offer no benefit. At worst, it may lead to accelerated erosion of overburdened landscaped areas and concentration of pollutants like oil and sediment in vegetated areas at a rate that becomes toxic to vegetation and a public nuisance.

There are also sites where infiltration is not allowable due to site constraints like existing soil or

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groundwater contamination, proximity to foundations and utilities, steep or unstable slopes, expansive or low permeability soils. In these cases, flow-through treatment BMPs are typically used to reduce pollutant concentrations, and detention BMPs are integrated to moderate discharge rates. These sites have no flow volume mitigation BMPs but might otherwise meet the water quality and quantity requirements of this permit. On these sites, the 5% effective impervious area maximum is an additional requirement that offers no clear benefit as written and defined in this permit.

To examine the effect of a more thorough definition exposes the infeasibility of the 5% EIA requirement. Specifying any runoff volume reduction requirement to be applied on all sites would render many sites with infiltration restrictions undevelopable. If no volume reduction is intended by this standard, it should be clear what the intended benefit of this requirement is. Alternative approaches that provide the same or better water quality and quality benefit that is intended by this standard should also be allowed.

**Part 8**  
**Section M**

This section prohibits bypass. Virtually all stormwater BMPs have some bypass inherent to their designs which effectively divert runoff from the treatment facility. Typically the water quality flow rate or volume that BMPs are designed to mitigate is a small percentage of the peak flow rate or volume that a catchment system is designed to accommodate. Runoff exceeding the water quality flow rate or volume is usually bypassed. This seems to directly contradict this provision which defines bypass as "the intentional diversion of waste streams from any portion of a treatment facility".

**Conclusion**

Thank you for reading these comments. If you have any questions, please feel free to contact me. I look forward to the next draft of this permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Vaikko", with a long horizontal stroke extending to the right.

Vaikko Allen  
Regulatory Manager- Southwest  
Contech Stormwater Solutions, Inc.

Phone: 310-260-7953  
e-mail: [allenv@contech-cpi.com](mailto:allenv@contech-cpi.com)

[www.contechstormwater.com](http://www.contechstormwater.com)



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Attachment 1 - CONTECH Stormwater Solutions Inc.

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Field observations of the condition of inserts, excluders and a CDS system in the Coliseum area of Los Angeles, CA - 3/7/08

Vaikko Allen  
CONTECH Stormwater Solutions Inc.  
[allenv@contech-cpi.com](mailto:allenv@contech-cpi.com)

The Los Angeles Regional Water Quality Control Board has City of LA has certified both vertical and horizontal catch basin inserts as "full capture" devices which meet the trash TMDL requirements for the Los Angeles River and Ballona Creek. This decision was based on a report by the City of Los Angeles summarizing the performance of horizontal inserts in the area of Vermont Ave. and 42nd Street in Los Angeles. No vertical inserts were studied. Excluders were subsequently installed over batch basin inlets at this location as well.

The study area drains to a large CDS system. In the City's report assessing the trash removal capability of the inserts, the mass of all material in the inserts was weighed and compared to the mass of floating materials in the CDS system. This showed that the inserts were between 92 and 97% effective over four storms. This methodology is seriously flawed since the floating trash mass is relatively small in comparison to the total weight of sediment and non-buoyant debris on the site. Based on captured material characterization studies of CDS units at other urban sites, it is likely that greater than 85% of the mass of captured pollutants in the CDS system was not floating. A more accurate measurement would have been to measure the same pollutants in both the inserts and the CDS system.

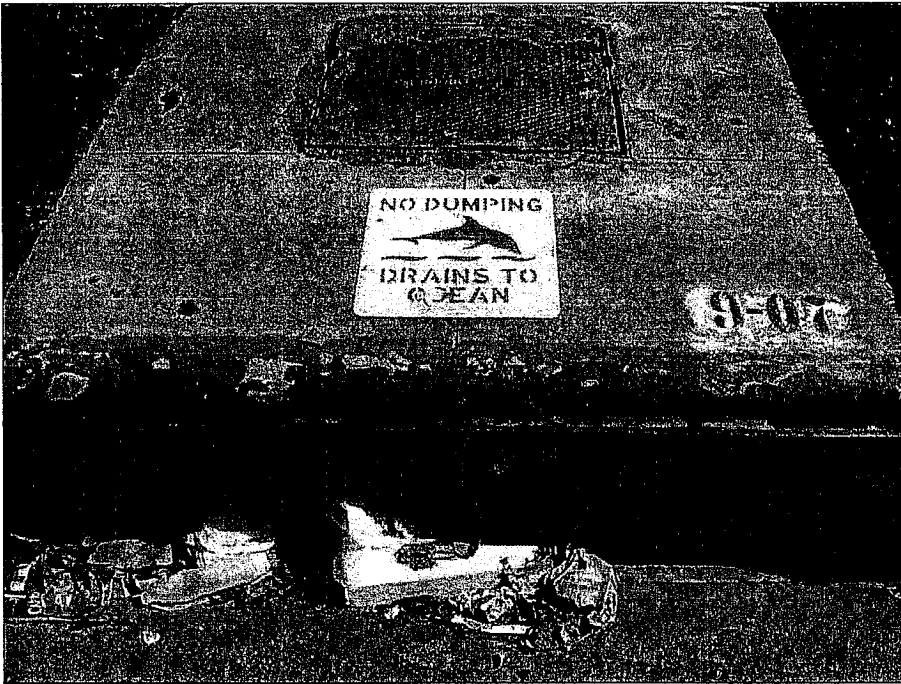
A field observation of the inserts and the CDS unit in the study was made on 3/7/08 to qualitatively assess the performance of the inserts and excluders. In most cases the insert screens were blanketed with fine sediment and debris and appeared to be impenetrable. About half the excluders were either stuck in the closed position with debris smothering the face of them, or were stuck in the open position with debris pinned in the opening. The CDS system downstream was completely full with an estimated volume of trash, debris and sediment of at least 10 cubic yards. The last date of maintenance for any of these systems is unknown.

From these observations, it is apparent that the catch basin retrofit solutions employed by the City of Los Angeles are preventing some sediment, trash and debris from entering the Los Angeles River. It is also apparent that none of these devices are reliably meeting the definition of "full capture". The CDS system is apparently very effectively capturing materials that these devices are not capturing. All systems are in desperate need of maintenance.

Sample photos and field notes are included below. All photos are available on request.



This retractable excluder is held open by trash which is jammed in the inlet opening.



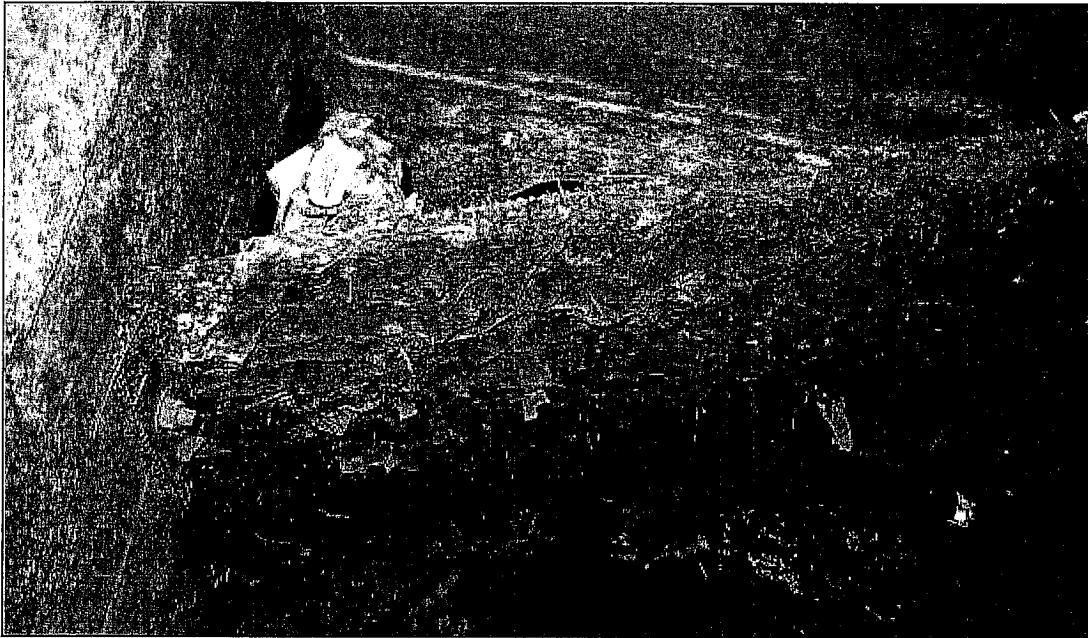
This retractable excluder is held open by trash which is jammed in the inlet opening.



This excluder is stuck closed with trash and debris occluding the screen. According to local residents the area experiences local flooding issues in wet weather.



View of L shaped insert typical of the City of LA's horizontal insert. Trash has completely smothered the insert screen and material is draped over the top of the vertical section of the insert indicating that material is freely passing downstream.



View of a vertical insert screen that is plastered with sediment and trash. There is very little trash accumulation in the insert.



View of the separation chamber of the CDS system downstream of the catch basin retrofit study area. The mat of floating material is impenetrable past about 4' with a stadia rod. The unit appears to be full with approximately 10-14 cubic yards of trash, debris and sediment.

Attachment 2 - CONTECH Stormwater Solutions Inc.

Field observations of the condition of inserts, excluders and CDS systems in the Westlake and Park Grove areas of Los Angeles, CA – 4/4/08

Vaikko Allen  
CONTECH Stormwater Solutions Inc.  
[allenv@contech-cpi.com](mailto:allenv@contech-cpi.com)

The City of Los Angeles installed three large CDS systems around 2002 which were intended to control trash in medium to high trash generating areas of the city. A PSW70\_70 was installed in the Los Angeles Coliseum area, a PSW 70\_70 in the Westlake area and a PSW 100\_100 in the downtown area on Park Grove. Subsequently the City installed catch basin inserts and retractable excluder screens in the catchment areas draining to these CDS systems as part of trash TMDL compliance efforts. Inspection of the Coliseum CDS system on Vermont Ave. revealed that the excluder screens and the horizontal inserts were typically not operating as intended. As a result the downstream CDS system with a capacity of about 14 cubic yards was full.

To determine whether the Coliseum conditions were typical, the other two CDS systems were inspected along with a few randomly selected retrofitted catch basins upstream. In these locations, vertical inserts were installed in the catch basins instead of the horizontal inserts typical of the Coliseum drainage area. From these observations a few conclusions can be drawn:

- The two areas inspected in this report are not generating as much trash as the Coliseum area.
- The vertical inserts appear to work slightly better than the horizontal inserts in that they were more likely to have some remaining open screen area and hydraulic capacity
- The excluder screens were about 50% reliable with some stuck in the open position, some with accumulated material on their faces, and some in the closed position but with gaps around them.
- Where the excluder screens are malfunctioning the inserts are much more likely to become occluded and fail.
- Some of the vertical inserts appear to be losing trash and debris even when most of the screen area is open.
- Some vertical inserts appear to have buckled under the pressure of water pooled in the catch basin.
- A large amount of trash and debris is passing by both the excluders and the inserts and is captured in the CDS systems.

Sample photos and field notes are included below. All photos are available on request.

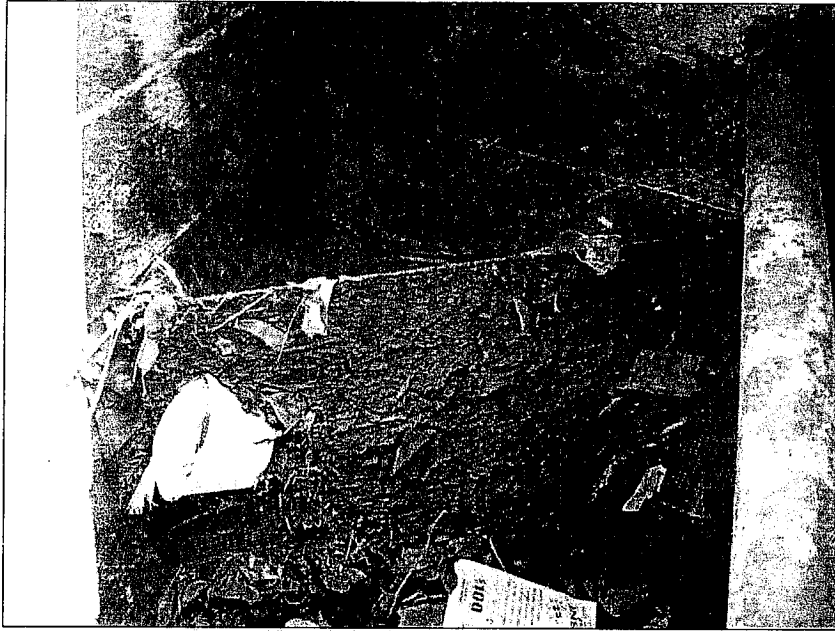


Excluder stuck partially open apparently not due to trash wedged in the opening.

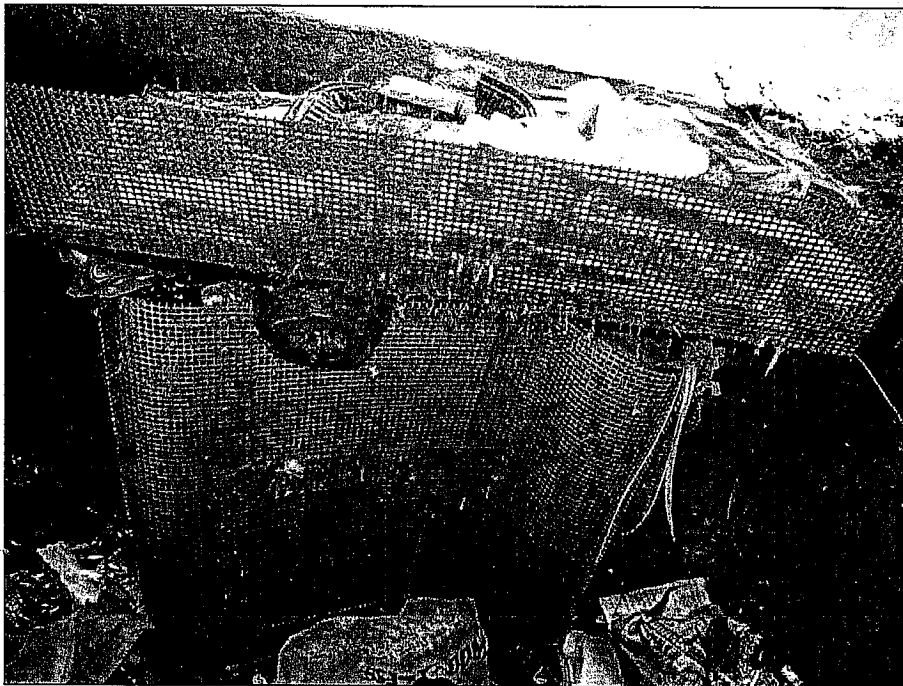


Vertical insert screen totally occluded with evidence of materials passing downstream. About 1"-2" of material on the floor of the catch basin.





Vertical insert with sediment and debris stapled to the surface. About 10% of the screen area is visible. Materials clearly passing downstream. Less than 1" of material in the catch basin.

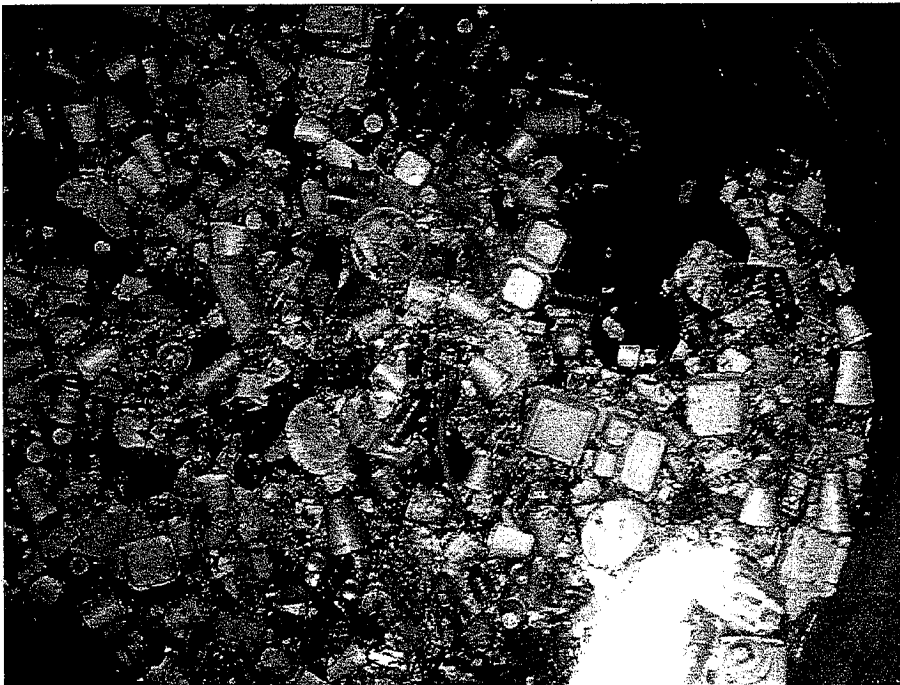


A vertical insert without much material in the screen, but it appears to have buckled under pressure from water pooled in the catch basin. Debris tray is installed under inlet because pipe exits toward street. About 2" of material on the floor of the catch basin.





View of 7' diameter CDS separation chamber with a floating Styrofoam mat about 1' thick. Westlake System.



View of 10' diameter CDS separation chamber with a floating Styrofoam mat about 1' thick. Park Grove System.

**Citizens Coalition of Fillmore**  
P.O. Box 1082  
Fillmore, CA 93016

July 10, 2008

Ms. Tracy Egoscue  
Executive Officer  
California Water Quality Control Board  
Los Angeles Region  
320 W. 4th Street, Suite 200,  
Los Angeles, California 90013

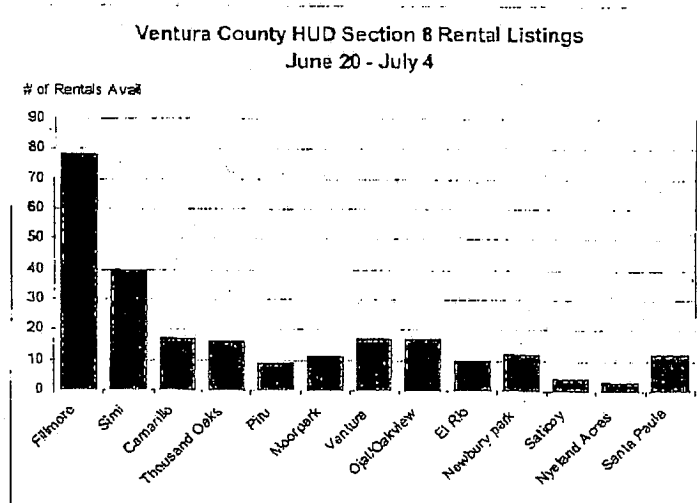
Re: Draft NPDES Permit for Ventura County MS4

Dear Ms. Egoscue,

We represent several citizen groups in Fillmore, California. We are a city of 15,000 in Ventura County.

Our community is very concerned about water quality and we have made efforts to comply with all laws. However, the following issues are a concern.

First, the issue of economics in regards to small communities needs to be addressed. We are currently in the process of building an \$80 million dollar treatment plant and our current sewer rates are \$72 per month. What we have experienced in our community has been a devastating and costly process that has divided the community and will ultimately remove hundreds of millions of discretionary (and not so discretionary) income in the next twenty years.



This chart shows the impact that the sewer bills have had on the City of Fillmore. People are moving away and we now have the highest vacancy rate in Ventura County. This doesn't just reflect the bursting of the housing bubble since other communities are not seeing these vacancy rates.

June 10, 2008  
Ms. Tracy Egoscue

Second, the issue of aircraft aerial deposition should be considered. The Fillmore VOR (VHF Omni-directional Radio Range) is the primary navigational aid for air traffic from northern California and the Pacific Northwest heading into Southern California. We are right under and in the path of hundreds of flights daily.

*"In highly populated and industrialized regions like Southern California, aerial inputs to terrestrial ecosystems may represent a substantial fraction of the total pollutant loading to watersheds. For example, Stolzenbach et. al, 2001, concluded that for some trace metals, atmospheric deposition is the major contributor to the metal loading in runoff in Southern California."*

([http://www.projectcleanwater.org/pdf/aerial\\_deposition\\_sum.pdf](http://www.projectcleanwater.org/pdf/aerial_deposition_sum.pdf))

Also, there are about seven lanes of State Highway 126, which, according to Caltrans data, carries 60,000 vehicles, including heavy diesel trucks, per day right through the middle of our city. The exhaust from those vehicles could contribute more metal and grease pollutants than our entire city. Where is the justification for the low income residents to treat this runoff?

In addition, the State's Blue Ribbon panel has concluded that the MAL's are not feasible. Why is the Board pursuing an infeasible permit?

Our small, low income community cannot afford this burden. You can imagine the additional harsh impact that this pending stormwater treatment cost will impose on our citizens.

Due to regulatory burdens the City of Fillmore and its businesses are losing the ability to have a prosperous economic future. Multiply what has happened here to many other small California communities and the entire State's economic future is also diminished.

Where is the environmental justice and where is the funding for these projects? As a country, we are now facing major economic uncertainties and our city's financial existence is already impaired from continuous and unfunded compliance efforts.

Sincere Regards,

Gayle Washburn  
Citizens for Responsible Growth  
805-524-7313

Clay Westling  
Concerned Citizens of Fillmore  
805-524-5134

Richard Schuck  
El Dorado Residents for Affordable Sewage  
805-524-0350

Bob Stroh  
Citizens United for Fillmore's Future  
805-524-2028

June 26, 2008

RECEIVED  
2008 JUL 1 PM 2:12

LA REGIONAL WATER QUALITY CONTROL BOARD  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013

OFFICE OF THE REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION

Subject: **I Oppose the Proposed Stormwater Permit**

Dear Members of the Board:

I am writing to express my concerns about the proposed Municipal Stormwater Permit (e.g. the MS4 Permit), currently being reviewed by the Los Angeles Regional Water Quality Control Board. This permit is considered by many to be the most onerous in the State of California, and it has serious implications for the region.

One of the most outrageous components of the permit is that it prohibits construction during the "wet season," defined as the six-and-a-half months between October 1 and April 15. On average, it rains fewer than 30 days within that six-and-a-half-month period. In fact, in Southern California, the wet season is relatively devoid of precipitation.

The most obvious victim of such a mandate is the region's vital construction industry, which would suffer as high-paying construction jobs are lost due to construction workforces being idle for more than six months each year. That could prove to be a significant setback to an industry that is an important cog in the economic engine that drives this state. It is not just home builders that would suffer – this permit threatens business expansion and the local economy by negatively impacting schools, roads, libraries, fire stations, hospitals, churches and other vital community resources via construction limitations and costs.

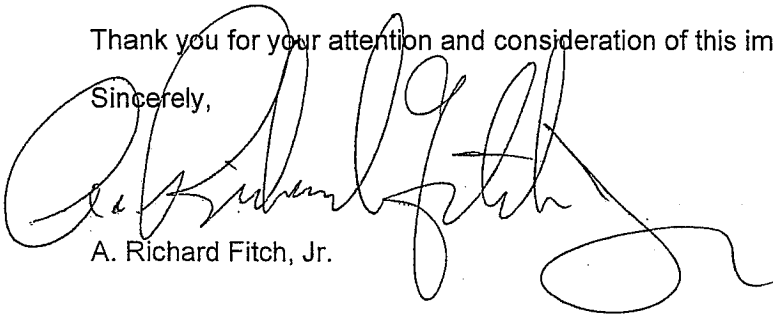
The proposed Grading Ban would also cost between \$62,500 and \$125,000 per acre to implement during the "wet season" because of significant land carrying costs. At the same time, it would only achieve better water quality control on the limited days where there is actually rainfall, and only for sites that are not already using appropriate sediment and erosion controls, as required by the General Construction Permit.

The bottom line is that this Stormwater Permit uses a "one-size-fits-all" approach that does not consider Ventura County's unique climate, geology, hydrogeology or terrain. Instead, it forces cities to spend their money on the Regional Water Quality Control Board's specific, unfunded mandates rather than on their local priorities.

The proposed Stormwater Permit doesn't work for Ventura County and it doesn't work for Southern California. I urge you to reject the current MS4 proposal and focus on developing a stormwater program that benefits the region and truly addresses the very important issue of water quality.

Thank you for your attention and consideration of this important issue.

Sincerely,



A. Richard Fitch, Jr.

D000894

To Whom it May Concern:,

I'm writing to express my concerns about the proposed Municipal Stormwater Permit (e.g. the MS4 Permit), currently being reviewed by the Los Angeles Regional Water Quality Control Board. This permit is considered by many to be the most onerous in the State of California, and it has serious implications for the region.

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The proposed stormwater permit doesn't work for Ventura County and it doesn't work for Southern California. I urge you to reject the current MS4 proposal and focus on developing a stormwater program that benefits the region and truly addresses the very important issue of water quality.

Sincerely,

Terra Donlon  
23255 Redbud Ridge Circle  
Valencia, CA 91355

Ventura MS4 Permit Discussion Meeting Action Items and Status List

Issue	Action item	Responsibility	Date Created	Due Date	Status
Permit Negotiations	Vicki/Mack/Gerhardt to confer with City managers regarding possible rescheduling the 12/10/08 Workshop. Gerhardt to get back to Sam/RWQCB on outcome/decision	Permittees	10/17/08	asap	Done
	Update on status of letter requesting rescheduling of workshop - Letter Sent	WPD	10/31/08		Done
	Provide 2009 Board calendar	RWQCB	11/7/08	11/21/08	Done
MALs	Review four exceedance triggers: single sample greater than mean + 2 stds, 2 consecutive greater than 80 <sup>th</sup> percentile, greater than 50% samples (rolling calculation) exceed 80 <sup>th</sup> percentile, triggers used in mandatory minimum penalty language.	RWQCB	12/5/08	12/19/08	
	Provide counter proposal to RWQCBs proposal to set MALs at 80 <sup>th</sup> percentile.	Permittees (Mack)	11/21/08		Done
MALs	Respond to permittee's proposal for MAL development	RWQCB	11/7/08	11/21/08	Done
MALs	Flow chart and time steps of accelerated MAL trigger/response schedule for action within one year.	Permittees	10/10/08	10/17/08	Done
MALs	RWQCB will review and give feed back on flow chart.	RWQCB	10/17/08	10/31/08	
MALs	Data comparison of local land use data and climate region 6 of national dataset. Develop numerics (hurdles to action) using the 80 <sup>th</sup> percentile as offered in early comment letters and other potential levels (median plus two standard deviations).	Permittees	10/10/08	10/17/08	Done
MALs	Prioritize all permit time frames to determine which could be pushed back to free resources for accelerated MAL schedule.	Permittees	10/10/08	Future Date	Ongoing

MALs	Develop a comparison chart of POCs and data sources for MAL development.	Permittees	10/17/08	Done
MALs	RWQCB/Carlos Urrunaga to develop finding re: non-jurisdictional flows, the permittees responsibilities and where those responsibilities are shared with the Regional Board regarding extra-jurisdictional inputs into MS4.	RWQCB	10/17/08	Done
MALs	Proposed jurisdictional area language -- consider permittee's language changes.	RWQCB	11/7/08	
MALs	RWQCB- Ivar /Mack to look at different options to calculate MALs using Region 6 dataset, including comparing with CTR and Basin Plan	RWQCB/LWA	10/17/08	Done
MALs	All to review POC/MAL constituents & develop a short list. (consider WQOs, TMDLs, local issues).	All	10/17/08	Done
MALs	Provide information on how to submit data to Dr. Pitt's National Stormwater Dataset	RB (Ivar)	10/31/08	Done
MALs	Distribute mean plus one and two standard deviations from Climate Region 6. Compare to CTR values.	Permittees (Mack)	10/31/08	Done
MALs	- Respond to Climate Region 6 data analysis for MAL levels	RWQCB	10/31/08	Done
MALs	Submit recommendations and rationale for a focused MAL constituent list.	Permittees (Mack)	10/31/08	Done
MEP	Draft finding defining MEP	RWQCB	11/21/08	Done
	Schedule and Discuss MEP Draft Finding	RWQCB/Permittees	12/05/08	
MEP	Share Mike Levy's changes to MEP	RWQCB	11/7/08	Done
MEP	Schedule conference call w/ Mike Levy on MEP and Jurisdictional language -- 10:00 Mon. 11/17	RWQCB	11/7/08	Done
MEP	Draft "PART 3" MEP description/definition	Permittees	10/31/08	Done
MEP	Respond to draft "PART 3" MEP description/definition	RWQCB	10/31/08	Done
MEP	RWQCB to sent link to Academy of Science report to EPA re MEP. Gerhardt to forward to Permittees for review.	RWQCB/Permittees	10/17/08	Done
Dry weather	Review Permittee's Dry Weather permit language markup	RWQCB	11/21/08	
Dry weather	Provide Calleguas Creek Dry Weather Characterization Study	Anita Kuhlman	11/7/08	Done

Version - 07/23/2009





dry weather	Determine which potential sites would probably have flow in dry season	WPD	11/7/08	11/21/08	Done
dry weather	Discuss dry weather monitoring as an Illicit Discharge and Illicit Connection Metric, and evaluate with current IC/ID permit requirements.	All	10/10/08	10/17/08 (at next meeting)	Done
dry weather	Gerhardt to circulate ID/IC text to Permittees. MS4s to review ID/IC text from Sam, and provide comments. Sam to work with Tracy Woods re: dry weather monitoring language.	Permittees & RWQCB	10/17/08	10/31/08	Done
dry weather	Draft Dry Weather Monitoring language	RWQCB	11/7/08	11/21/08	Done
Monitoring	Email e-copy of Toxicity and Pyrethroid language	Permittees	12/5/08	12/8/08	Done
Monitoring	RWQCB to Review/Comment on Toxicity and Pyrethroid language	RWQCB	12/5/08	12/19/08	
Monitoring	Sam to relay Heal the Bay's requests and issues on bioassessment monitoring.	RWQCB	12/5/08	12/12/08	
Monitoring	Present sample volumes required for full suite and toxicity and limitations of sampling equipment	Permittees (Arne)	11/21/08	12/5/08	Done
Monitoring	Draft language for TIE and TRE requirements.	Permittees (Arne)	11/21/08	12/5/08	Done
Monitoring	Draft language for alternative pyrethroid study	Permittees (Arne)	11/21/08	12/5/08	Done
Monitoring	Review meaning of SWAMP comparable data	RWQCB	11/21/08		
Monitoring	Recommendations on technical issues	RWQCB	11/7/08	11/12/08	Done
Monitoring	Produce map of new suggested site for Oxnard	WPD	10/10/08	10/17/08	Done
Monitoring	Develop permit language that specifies identified monitoring site locations. Add language to allow for the sites to be changed if needed due to extenuating circumstances.	Permittees	10/10/08	10/17/08	Done
	<i>If a monitoring site is found to be unworkable due to immitigable factors the sampling location may be relocated upon Executive Officer's approval of another location.</i>				
Monitoring	RWQCB/Tracy Woods to review, and develop response to technical monitoring program proposed language changes table provided at 10/10/08 meeting.	RWQCB	10/10/08	10/17/08	Done

Monitoring	Tommy Liddell to develop fact sheets on each urban outfall with maps coordinates and land uses. Send via email to Tracy Woods.	WPD - Tommy Liddell	10/17/08	11/12/08	Done
Monitoring	Chart a side by side comparison of monitoring requirements of TMDLs and permit needs for toxicity and pyrethroids.	RWQCB & Permittees	10/10/08	10/17/08	
Trash	Provide Trash Management write to RB staff	WPD	11/7/08	11/10/08	Done
Trash	Respond to above, link to SWAMP trash monitoring protocol.	RWQCB	11/7/08		
Trash	Refine catch basin prioritization requirement to include a trash element.	Permittees (Shaun Kroes)	10/31/08		Done
Trash	Write language (building off of redline) that provides programmatic BMPs be allowed if as effective as trash excluders. "demonstrates to the E.O. equivalent reduction..." Include end-of-pipe trash capture options.	RWQCB	10/31/08		Done
Trash	Public Agency Activities - RWQCB to propose and send out language on Trash Management prioritization scheme	RWQCB	10/17/08	10/31/08	Done
Critical Sources	Rewrite section D. 2. a. to clarify where MALs and WQOs are applied	RWQCB	12/5/08	12/12/08	
	Clarify that it is the MS4 that must discharge to an ESA or 303(d)	Permittees	10/31/08		
	Share markup language	Mack	11/21/08		
ESA	Distribute original letter of acceptance of and incorporate into definition.	RWQCB	10/31/08		Done
	Consider not including improved and lined channels.	RWQCB	10/31/08		
BMP Performance Criteria	Email e-copy of Permittee's edits to Table C to RWQCB	Permittees	12/5/08	12/12/08	Done
BMP	Review BMP selection matrix in Technical Guidance Manual	All	12/5/08	12/12/08	
BMP	Rewrite paragraph 3 language to focus on 303(d) listing and constituents of concern.	Permittees (Mack)	12/5/08	12/19/08	
BMP	Draft proposal on BMP performance criteria with new attachment C and numerics by category of BMP and class of pollutants.	Permittees (Mack)	11/21/08		Done



	Identify which numbers were used from ASCE database for calculations.	RWQCB (Ivar)	10/31/08	Done
BMP	Share data and charts developed for different constituents	Permittees (Mack)	10/31/08	Done
BMP	Send link to Ventura Countywide Land Development Technical Guidance Manual	WPD	11/7/08	Done
BMP	Review Technical Guidance Manual for BMP performance issues	RWQCB	11/7/08	Ongoing
TMDL	Determine if TMDL substitution needs EO or Board approval, incorporate into part 5A. 2. 3	RWQCB	11/7/08	
TMDL	RWQCB to review proposed TMDL language changes, and get back at next meeting whether they are acceptable.	RWQCB	10/17/08	Done
TMDL	Mack to provide MS4s with EPAs policy paper re: green infrastructure	RWQCB	10/17/08	No date set
Land Development	Research resistance to Los Angeles County's LID ordinance	RWQCB	11/21/08	
	Draft Land Development White Paper with Case Studies and Volume Reduction Approach. Consider including some type of Metric	Permittees (Mack)	12/5/08	
	Review Los Angeles County's LID ordinance and guidance manual	All	11/21/08	Ongoing
	Invite Yuon Sim of LA County to 12/12/08 meeting	RWQCB	11/21/08	Done
Construction	Rewrite Grading Restriction section, and replace with Enhance BMP approach (building on Permittee redline)	RWQCB		12/12/08
Construction	Email definition of construction	Permittees (Anita)	12/5/08	Done
Construction	Contact BIA and Distribute BIA's enhanced BMPs for slopes (list and description)	Permittees	12/5/08	12/12/08
Construction	Review draft construction permit language for rain event planning and enhanced BMPs in place of grading restriction.	RWQCB	11/21/08	Done
Construction	Revise definition of "construction";	Permittees (Joanne and Anita)	11/21/08	Done
Construction	Draft definition of "routine maintenance"			
Construction	Respond to grading restriction creating a hurdle to construction in Ventura County	RWQCB	11/7/08	Done

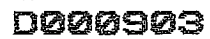
Construction	Consider State SWPPP acceptable as local SWPPP if it meets all local requirements.	RWQCB	11/7/08	11/21/08	Done
Construction	Review latest draft SWRCB General Construction Permit	All	11/7/08		Ongoing
Outreach	Update strikeout to include urban P.O.C.s and send to RWQCB	Permittees (Arne)	11/21/08		Done
Receiving Water Limitations	Part 3. 4. Continuing Exceedances: rewrite to clarify responsibilities	RWQCB	12/5/08	12/19/08	
Reporting	Develop Reporting format based on stockton's permit and CASQA's quantifiable measures.	Permittees (Mack)	11/21/08		Done
Reporting	Review proposed reporting format	RWQCB	11/21/08		

Version - 07/23/2009

D000902

Ventura MS4 Permit Discussion Meeting Action Items and Status List

Issue	Action item	Responsibility	Date Created	Due Date	Status
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	Update on status of letter requesting rescheduling of workshop - Letter Sent	WPD	10/31/08		Done
	Provide 2009 Board calendar	RWQCB	11/7/08	11/21/08	Done
MALs	Provide counter proposal to RWQCBs proposal to set MALs at 80 <sup>th</sup> percentile.	Permittees (Mack)	11/21/08		
MALs	Respond to permittee's proposal for MAL development	RWQCB	11/7/08	11/21/08	Done
MALs	Flow chart and time steps of accelerated MAL trigger/response schedule for action within one year.	Permittees	10/10/08	10/17/08	Done
MALs	RWQCB will review and give feed back on flow chart.	RWQCB	10/17/08	10/31/08	
MALs	Data comparison of local land use data and climate region 6 of national dataset. Develop numerics (hurdles to action) using the 80 <sup>th</sup> percentile as offered in early comment letters and other potential levels (median plus two standard deviations).	Permittees	10/10/08	10/17/08	Done
MALs	Prioritize all permit time frames to determine which could be pushed back to free resources for accelerated MAL schedule.	Permittees	10/10/08	Future Date	Ongoing
MALs	Develop a comparison chart of POCs and data sources for MAL development.	Permittees		10/17/08	Done
MALs	RWQCB/Carlos Urrunaga to develop finding re: non-jurisdictional flows, the permittees responsibilities and where those responsibilities are shared with the Regional Board regarding extra-jurisdictional inputs into MS4.	RWQCB	10/17/08	10/31/08	Done



MALs	Proposed jurisdictional area language -- consider permittee's language changes.	RWQCB	11/7/08		
MALs	RWQCB- Ivar /Mack to look at different options to calculate MALs using Region 6 dataset, including comparing with CTR and Basin Plan	RWQCB/LWA	10/17/08	10/31/08 (at next meeting)	Done
MALs	All to review POC/MAL constituents & develop a short list. (consider WQOs, TMDLs, local issues).	All	10/17/08	10/31/08	Done
MALs	Provide information on how to submit data to Dr. Pitt's National Stormwater Dataset	RB (Ivar)	10/31/08		
MALs	Distribute mean plus one and two standard deviations from Climate Region 6. Compare to CTR values.	Permittees (Mack)	10/31/08	11/4/08	Done
MALs	- Respond to Climate Region 6 data analysis for MAL levels	RWQCB	10/31/08	11/7/08	Done
MALs	Submit recommendations and rationale for a focused MAL constituent list.	Permittees (Mack)	10/31/08	11/7/08	Done
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MEP	Share Mike Levy's changes to MEP	RWQCB	11/7/08	11/10/08	Done
MEP	Schedule conference call w/ Mike Levy on MEP and Jurisdictional language -- 10:00 Mon. 11/17	RWQCB	11/7/08	11/17/08	Done
MEP	Draft "PART 3" MEP description/definition	Permittees	10/31/08	11/7/08	Done
MEP	Respond to draft "PART 3" MEP description/definition	RWQCB	10/31/08		Done
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Dry weather	Review Permittee's Dry Weather permit language markup.	RWQCB	11/21/08		
dry weather	Provide Calleguas Creek Dry Weather Characterization Study	Anita Kuhlman	11/7/08	11/21/08	Done
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dry weather	Discuss dry weather monitoring as an Illicit Discharge and Illicit Connection Metric, and evaluate with current IC/ID permit requirements.	All	10/10/08	10/17/08 (at next meeting)	Done
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Monitoring	Chart a side by side comparison of monitoring requirements of TMDLs and permit needs for toxicity and pyrethroids.	RWQCB & Permittees	10/10/08	10/17/08	?
Trash	Provide Trash Management write to RB staff	WPD	11/7/08	11/10/08	Done
Trash	Respond to above, link to SWAMP trash monitoring protocol.	RWQCB	11/7/08		
Trash	Refine catch basin prioritization requirement to include a trash element.	Permittees (Shaun Kroes)	10/31/08		Done
Trash	Write language (building off of redline) that provides programmatic BMPs be allowed if as effective as trash excluders. "demonstrates to the E.O. equivalent reduction . . ." Include end-of-pipe trash capture options.	RWQCB	10/31/08		Done

Task	Public Agency Activities – RWQCB to propose and sent out language on Trash Management prioritization scheme	RWQCB	10/17/08	10/31/08	Done
<b>Critical Sources</b>	Clarify that it is the MS4 that must discharge to an ESA or 303(d)	Permittees	10/31/08		
	Share markup language	Mack	11/21/08		
<b>ESA</b>	Distribute original letter of acceptance of and incorporate into definition.	RWQCB	10/31/08		Done
	Consider not including improved and lined channels.	RWQCB	10/31/08		
<b>BMP Performance Criteria</b>	Draft proposal on BMP performance criteria with new attachment C and numerics by category of BMP and class of pollutants.	Permittees (Mack)	11/21/08		
<b>BMP</b>	Identify which numbers were used from ASCE database for calculations.	RWQCB (Ivar)	10/31/08		
<b>BMP</b>	Share data and charts developed for different constituents	Permittees (Mack)	10/31/08		Done
<b>BMP</b>	Send link to Ventura Countywide Land Development Technical Guidance Manual	WPD	11/7/08	11/13/08	Done
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<b>TMDL</b>	RWQCB to review proposed TMDL language changes, and get back at next meeting whether they are acceptable.	RWQCB	10/17/08	10/31/08	Done
<b>TMDL</b>	Mack to provide MS4s with EPAs policy paper re: green infrastructure	RWQCB	10/17/08	No date set	
<b>Land Development</b>	Research resistance to Los Angeles County's LID ordinance	RWQCB	11/21/08		
	Review Los Angeles County's LID ordinance and guidance manual	All	11/21/08		
	Invite Yuon Sim of LA County to 12/12/08 meeting	RWQCB	11/21/08		
<b>Construction</b>	Review draft construction permit language for rain event planning and enhanced BMPs in place of grading restriction.	RWQCB	11/21/08		



Construction	Revise definition of "construction"; Draft definition of "routine maintenance"	Permittees (Joanne and Anita)	11/21/08	
Construction	Review BIA's tiered approach/ Sam to share link	All	11/7/08	
Construction	Respond to grading restriction creating a hurdle to construction in Ventura County	RWQCB	11/7/08	
Construction	Consider State SWPPP acceptable as local SWPPP if it meets all local requirements.	RWQCB	11/7/08	11/21/08 Done.
Construction	Review latest draft SWRCB General Construction Permit	All	11/7/08	
Outreach	Update strikeout to include urban P.O.C.s	Permittees (Arne)	11/21/08	
Reporting	Develop Reporting format based on stockton's permit and CASQA's quantifiable measures.	Permittees (Mack)	11/21/08	
Reporting	Review proposed reporting format	RWQCB	11/21/08	

Ventura MS4 Permit Discussion Meeting Action Items and Status List

Issue	Action item	Responsibility	Date Created	Due Date	Status
Permit Negotiations	Vicki/Mack/Gerhardt to confer with City managers regarding possible rescheduling the 12/10/08 Workshop. Gerhardt to get back to Sam/RWQCB on outcome/decision	Permittees	10/17/08	asap	Done
	Update on status of letter requesting rescheduling of workshop - Letter Sent	WPD	10/31/08		Done
	Provide 2009 Board calendar	RWQCB	11/7/08	11/21/08	Done
MALs	Respond to permittee's proposal for MAL development	RWQCB	11/7/08	11/21/08	
	Flow chart and time steps of accelerated MAL trigger/response schedule for action within one year.	Permittees	10/10/08	10/17/08	Done
	RWQCB will review and give feed back on flow chart.	RWQCB	10/17/08	10/31/08	
	Data comparison of local land use data and climate region 6 of national dataset. Develop numerics (hurdles to action) using the 80 <sup>th</sup> percentile as offered in early comment letters and other potential levels (median plus two standard deviations).	Permittees	10/10/08	10/17/08	Done
	Prioritize all permit time frames to determine which could be pushed back to free resources for accelerated MAL schedule.	Permittees	10/10/08	Future Date	Ongoing
	Develop a comparison chart of POCs and data sources for MAL development.	Permittees		10/17/08	Done
	RWQCB/Carlos Urrunaga to develop finding re: non-jurisdictional flows, the permittees responsibilities and where those responsibilities are shared with the Regional Board regarding extra-jurisdictional inputs into MS4.	RWQCB	10/17/08	10/31/08	Done
	Proposed jurisdictional area language – consider permittee's language changes.	RWQCB	11/7/08		

	RWQCB-Ivar/Mack to look at different options to calculate MALs using Region 6 dataset, including comparing with CTR and Basin Plan	RWQCB/LWA	10/17/08	10/31/08 (at next meeting)	Done
	All to review POC/MAL constituents & develop a short list. (consider WQOs, TMDLs, local issues).	All	10/17/08	10/31/08	Done
	Provide information on how to submit data to Dr. Pitt's National Stormwater Dataset	RB (Ivar)	10/31/08		
	Distribute mean plus one and two standard deviations from Climate Region 6. Compare to CTR values.	Permittees (Mack)	10/31/08	11/4/08	Done
	- Respond to Climate Region 6 data analysis for MAL levels	RWQCB	10/31/08	11/7/08	Done
	Submit recommendations and rationale for a focused MAL constituent list.	Permittees (Mack)	10/31/08	11/7/08	Done
MEP	Share Mike Levy's changes to MEP	RWQCB	11/7/08	11/10/08	Done
	Schedule conference call w/ Mike Levy on MEP and Jurisdictional language - 10:00 Mon. 11/17	RWQCB	11/7/08	11/17/08	Done
	Draft "PART 3" MEP description/definition.	Permittees	10/31/08	11/7/08	Done
	Respond to draft "PART 3" MEP description/definition	RWQCB	10/31/08		Done
	RWQCB to sent link to Academy of Science report to EPA re MEP. Gerhardt to forward to Permittees for review.	RWQCB/Permittees	10/17/08	10/31/08	Done
MALs - dry weather	Determine which potential sites would probably have flow in dry season	WPD	11/7/08	11/21/08	Done
	Provide Calleguas Creek Dry Weather Characterization Study	Anita Kuhlman	11/7/08	11/21/08	Done
	Discuss MALs for dry weather as an Illicit Discharge and Illicit Connection Metric, and evaluate with current IC/ID permit requirements.	All	10/10/08	10/17/08 (at next meeting)	Done
	Gerhardt to circulate ID/IC text to Permittees. MS4s to review ID/IC text from Sam, and provide comments. Sam to work with Tracy Woods re: dry weather monitoring language.	Permittees & RWQCB	10/17/08	10/31/08	Done
	Draft Dry Weather Monitoring language	RWQCB	11/7/08	11/21/08	
Monitoring	Recommendations on technical issues	RWQCB	11/7/08	11/12/08	Done
	Produce map of new suggested site for Oxnard	WPD	10/10/08	10/17/08	Done

	Develop permit language that specifies identified monitoring site locations. Add language to allow for the sites to be changed if needed due to extenuating circumstances.		10/10/08	10/17/08	Done
	<i>If a monitoring site is found to be unworkable due to immitigable factors the sampling location may be relocated upon Executive Officer's approval of another location.</i>				
	RWQCB/Tracy Woods to review, and develop response to technical monitoring program proposed language changes table provided at 10/10/08 meeting.	RWQCB	10/10/08	10/17/08	
	Tommy Liddell to develop fact sheets on each urban outfall with maps coordinates and land uses. Send via email to Tracy Woods.	WPD - Tommy Liddell	10/17/08	11/12/08	Done
	Chart a side by side comparison of monitoring requirements of TMDLs and permit needs for toxicity and pyrethroids.	RWQCB & Permittees	10/10/08	10/17/08	?
Trash	Provide Trash Management write to RB staff	WPD	11/7/08	11/10/08	Done
	Respond to above, link to SWAMP trash monitoring protocol.	RWQCB	11/7/08		
	Refine catch basin prioritization requirement to include a trash element.	Permittees (Shaun Kroes)	10/31/08		Done
	Write language (building off of redline) that provides programmatic BMPs be allowed if as effective as trash excluders. "demonstrates to the E.O. equivalent reduction . . ." Include end-of-pipe trash capture options.	RWQCB	10/31/08		Done
	Public Agency Activities - RWQCB to propose and send out language on Trash Management prioritization scheme	RWQCB	10/17/08	10/31/08	Done
Critical Sources	Clarify that it is the MS4 that must discharge to an ESA of 303(d)	Permittees	10/31/08		
ESA	Distribute original letter of acceptance of and incorporate into definition.	RWQCB	10/31/08		Done
	Consider not including improved and lined channels.	RWQCB	10/31/08		

BMP Performance Criteria	Identify which numbers were used from ASCE database for calculations.	RWQCB (Ivar)	10/31/08	
	Share data and charts developed for different constituents	Permittees (Mack)	10/31/08	Done
	Send link to Ventura Countywide Land Development Technical Guidance Manual	WPD	11/7/08	Done
	Review Technical Guidance Manual for BMP performance issues	RWQCB	11/7/08	
	RWQCB to present alternative bmp criteria approach	RWQCB	11/7/08	11/24/08
TMDL	Determine if TMDL substitution needs EO or Board approval, incorporate into part 5A. 2. 3	RWQCB	11/7/08	
	RWQCB to review proposed TMDL language changes, and get back at next meeting whether they are acceptable.	RWQCB	10/17/08	Done
	Mack to provide MS4s with EPAs policy paper re: green infrastructure	RWQCB	10/17/08	No date set
Land Development				
Construction	Review BIA's tiered approach/ Sam to share link	All	11/7/08	
	Respond to grading restriction creating a hurdle to construction in Ventura County	RWQCB	11/7/08	
	Review construction definition	RWQCB	11/7/08	
	Consider State SWPPP acceptable as local SWPPP if it meets all local requirements.	RWQCB	11/7/08	
	Review latest draft SWRCB General Construction Permit	All	11/7/08	

Ventura MS4 Permit Discussion Meeting Action Items and Status List

Issue	Action item	Responsibility	Date Created	Due Date	Status
Permit Negotiations	Vicki/Mack/Gerhardt to confer with City managers regarding possible rescheduling the 12/10/08 Workshop. Gerhardt to get back to Sam/RWQCB on outcome/decision	Permittees	10/17/08	asap	Done
	Update on status of letter requesting rescheduling of workshop	WPD	10/31/08		
	Provide 2009 Board calendar	RWQCB	11/7/08		
MALs	Respond to 4 MAL proposals	RWQCB	11/7/08		
	Flow chart and time-steps of accelerated MAL trigger/response schedule for action within one year.	Permittees	10/10/08	10/17/08	Done
	RWQCB will review and give feed back on flow chart.	RWQCB	10/17/08	10/31/08	
	Data comparison of local land use data and climate region 6 of national dataset. Develop numerics (hurdles to action) using the 80 <sup>th</sup> percentile as offered in early comment letters and other potential levels (median plus two standard deviations).	Permittees	10/10/08	10/17/08	Done
	Prioritize all permit time frames to determine which could be pushed back to free resources for accelerated MAL schedule.	Permittees	10/10/08	Future Date	Ongoing
	Develop a comparison chart of POCs and data sources for MAL development.	Permittees		10/17/08	Done
	RWQCB/Carlos Urrunaga to develop finding re: non-jurisdictional flows, the permittees responsibilities and where those responsibilities are shared with the Regional Board regarding extra-jurisdictional inputs into MS4..	RWQCB	10/17/08	10/31/08	
	RWQCB- Ivar /Mack to look at different options to calculate MALs using Region 6 dataset, including comparing with CTR and Basin Plan	RWQCB/LWA	10/17/08	10/31/08 (at next meeting)	In progress
	All to review POC/MAL constituents & develop a short list. (consider WQOs, TMDLs, local issues).	All	10/17/08	10/31/08	Done

	Provide information on how to submit data to Dr. Pitt's National Stormwater Dataset	RB (Ivar)	10/31/08	
	Distribute mean plus one and two standard deviations from Climate Region 6. Compare to CTR values.	Permittees (Mack)	10/31/08	11/4/08
	- Respond to Climate Region 6 data analysis for MAL levels	RWQCB	10/31/08	11/7/08
	Submit recommendations and rationale for a focused MAL constituent list.	Permittees (Mack)	10/31/08	11/7/08
	- Respond to recommendations and rationale for a focused MAL constituent list.	RWQCB	10/31/08	
MEP	Share Mike Levy's changes to MEP	RWQCB	11/7/08	11/10/08
	Schedule conference call w/ Mike Levy on MEP and Jurisdictional language - 2:30 Wed. 11/12	RWQCB		
	Draft "PART 3" MEP description/definition	Permittees	10/31/08	11/7/08
	Respond to draft "PART 3" MEP description/definition	RWQCB	10/31/08	
	RWQCB to sent link to Academy of Science report to EPA re MEP. Gerhardt to forward to Permittees for review.	RWQCB/Permittees	10/17/08	10/31/08
MALs - dry weather	Dry weather monitoring language.	RWQCB	11/7/08	11/21/08
	Determine which potential sites would probably have flow in dry season.	WPD	11/7/08	
	Provide Calleguas Creek Dry Weather Characterization Study	Anita Kuhlman	11/7/08	Done
	Discuss MALs for dry weather as an Illicit Discharge and Illicit Connection Metric, and evaluate with current IC/ID permit requirements.	All	10/10/08	10/17/08 (at next meeting)
	Gerhardt to circulate ID/IC text to Permittees. MS4s to review ID/IC text from Sam, and provide comments. Sam to work with Tracy Woods re: dry weather monitoring language.	Permittees & RWQCB	10/17/08	10/31/08
Monitoring	Draft Dry Weather Monitoring language	RWQCB	10/17/08	
	Recommendations on technical issues	RWQCB	11/7/08	11/12/08
	Develop fact sheets on each urban outfall with coordinates and land uses	WPD	11/7/08	done

	Produce map of new suggested site for Oxnard	WPD	10/10/08	10/17/08	Done
	Develop permit language that specifies identified monitoring site locations. Add language to allow for the sites to be changed if needed due to extenuating circumstances. <i>If a monitoring site is found to be unworkable due to immitigable factors the sampling location may be relocated upon Executive Officer's approval of another location.</i>	Permittees	10/10/08	10/17/08	Done
	RWQCB/Tracy Woods to review, and develop response to technical monitoring program proposed language changes table provided at 10/10/08 meeting. Tommy Liddell to send email maps and GIS locations to Tracy Woods.	RWQCB	10/10/08	10/31/08	
	Chart a side by side comparison of monitoring requirements of TMDLs and permit needs for toxicity and pyrethroids. Provide Trash Management write to RB staff	WPD - Tommy Liddell	10/17/08	10/31/08	Done
Trash	Respond to above, link to SWAMP trash monitoring protocol. Refine catch basin prioritization requirement to include a trash element.	RWQCB & Permittees	10/10/08	10/17/08	?
	Write language (building off of redline) that provides programmatic BMPs be allowed if as effective as trash excluders. "demonstrates to the E.O. equivalent reduction..." Include end-of-pipe trash capture options. Public Agency Activities - RWQCB to propose and sent out language on Trash Management prioritization scheme	WPD	11/7/08		
	Clarify that it is the MS4 that must discharge to an ESA or 303(d)	RWQCB	11/7/08		
Critical Sources	Distribute original letter of acceptance of and incorporate into definition. Consider not including improved and lined channels. Identify which numbers were used from ASCE database for calculations.	Permittees (Shaun Kroes)	10/31/08		
ESA		RWQCB	10/17/08	10/31/08	Done
BMP Performance Criteria		Permittees	10/31/08		
		RWQCB	10/31/08		
		RWQCB (Ivar)	10/31/08		



	Share data and charts developed for different constituents					
TMDL	Determine if TMDL (?) needs EO or Board approval, incorporate into part 5A. 2. 3		Permittees (Mack)	10/31/08		
	RWQCB to review proposed TMDL language changes, and get back at next meeting whether they are acceptable.		RWQCB	11/7/08		
	All agreed to Anita Kuhlman's TMDL changes		All	10/17/08	10/31/08	Done
	Mack to provide MS4s with EPAs policy paper re: green infrastructure		RWQCB	10/17/08	No date set	
Land Development	Send link to Technical Guidance Manual		WPD	11/7/08		
	Review Technical Guidance Manual for BMP performance issues		RWQCB	11/7/08		
Construction	Comment on BIA's tiered approach		All	11/7/08		
	Respond to grading restriction creating a hurdle to construction in Ventura County		RWQCB	11/7/08		
	Review construction definition		RWQCB	11/7/08		
	Consider State SWPPP acceptable as local SWPPP if it meets all local requirements.		RWQCB	11/7/08		

**RWQCB/VC Permittees  
Parking Lot of Remaining Issues**

December 29, 2008

- MEP Definition – Ensure Attorneys are ok with MEP Definition Language
- B.2 Legal Authority Footnote 1 – Confirm MS4 discharging to the ocean not subject to this prohibition
- Part 5 - Special Provisions A.1 – Recommended language change - Protect Beneficial Uses vs. achieve WQ standards
- D.1 Industrial/Commercial – Check proposed language: “as allowed by local ordinances”
- 3.b. Critical Sources – “Directly discharging” and “tributary (still in). Similar to issue in Construction/Grading restriction section.
- Public Agency Activities - Infrastructure Maintenance – Why proposed for deletion?

December 30, 2008

- Illicit Connections I.1.(b). Recommends vs. encourages language
- TMDLs – Check whether WPD is inappropriately listed in Permit vs. consistency with adopted TMDL Basin Plan amendment.
- Definitions – Check correct definition of Bacteria TMDL Dry Weather
- BMP Performance Criteria, Attachment C – Need to update Table in Attachment with new values
- MALs, Attachment C – Need to update Table in Attachment with new calculated values for 80<sup>th</sup> percentile
- Construction Program, Enhanced BMPs – Move in Table 6, Gravel bag berm BMP with silt fence BMP per recommendation of LWA

**D000916**

MS4 meeting 12-5-08  
Sign-in sheet

1. Kevin Sieschen Simi Valley
2. ARNE ANSEM NCPD
3. Vicki Musgrove Ventura
4. BERT RAPP FILLMORE
5. Mark Blanford Oxnard
6. RON MANWILL City of THOUSAND OAKS
7. Anita Kuhlman Camarillo
8. Bill O'Brien Ojai
9. Gerhardt Huber NCPD
10. Sam Unger RWQCB
11. Ivar K Ridgeway RWQCB-LA

ON PHONE: MACK WALKER

November 21, 2008  
 NPDES MS4 Permit Discussion Meeting with Regional Board  
 and Co-Permittees

Sign-in

Name	Agency
ARNE ANSELM	JCWPD
Anita Kuhlman	Campanillo
Shaun Kroes	Moorpark
KEVIN GIESCHEN	Simi Valley
BILL O'Brien	Ojai
Geoffrey Helmer	VCWPD
MARK PUMFORD	Oxnard
JoAnne Kelly	Thousand Oaks
Sam Unger	RWQCB
Mack Walker	Larry Walker Assoc.
Vicki Musgrave	Ventura
BERT RAPP	FILLMORE
FRED CAMARILLO	PORT HUENEME

# Ventura Countywide Draft Tentative MS4 Permit Discussion Meeting with RWQCB staff

November 7, 2008

Location: Administration Conference Room, 601 Carmen Dr., City of Camarillo

## --- Agenda ---

The purpose of the meeting is to discuss Stormwater permit topics & requirements contained in the draft Ventura County MS4 permit (NPDES No. CAS004001).

Introductions	All	1 minute
<b>9:00 am – 12:00 noon</b>		
1. Review of Action Items from October 10, 17, & 31, 2008 Meetings	RWQCB/Permittees	30 minutes
2. December 10 <sup>th</sup> RWQCB SW Permit Workshop	Sam Unger/Gerhardt Hubner	15 minutes
3. MAL Followup(s)/MEP Discussion (To be Heard at 9:30 am)	RWQCB/Permittees	30 minutes
4. Monitoring Program Followup(s)	RWQCB/Permittees	30 minutes
5. Public Agency Activities Followup(s)	RWQCB/Permittees	30 minutes
6. BMP Performance Criteria Followup(s)	RWQCB/Permittees	30 minutes
7. Construction Program (Initial Discussion) <ul style="list-style-type: none"> <li>• Grading Restrictions</li> <li>• State vs Local SWPPP</li> <li>• Definition of Construction</li> </ul>	Permittees	30 minutes
8. Agenda Topics for Next Meeting	All	5 minutes

### Ventura MS4 Permit Discussion Meeting Action Items and Status List

Issue	Action item	Responsibility	Date Created	Due Date	Status
Permit Negotiations	Vicki/Mack/Gerhardt to confer with City managers regarding possible rescheduling the 12/10/08 Workshop. Gerhardt to get back to Sam/RWQCB on outcome/decision	Permittees	10/17/08	asap	Done
MALs	Update on status of letter requesting rescheduling of workshop	WPD	10/31/08		
	Flow chart and time steps of accelerated MAL trigger/response schedule for action within one year.	Permittees	10/10/08	10/17/08	Done
	RWQCB will review and give feed back on flow chart.	RWQCB	10/17/08	10/31/08	
	Data comparison of local land use data and climate region 6 of national dataset. Develop numerics (hurdles to action) using the 80 <sup>th</sup> percentile as offered in early comment letters and other potential levels (median plus two standard deviations).	Permittees	10/10/08	10/17/08	Done
	Prioritize all permit time frames to determine which could be pushed back to free resources for accelerated MAL schedule.	Permittees	10/10/08	Future Date	Ongoing
	Develop a comparison chart of POCs and data sources for MAL development.	Permittees		10/17/08	Done
	RWQCB/Carlos Urrunaga to develop finding re: non-jurisdictional flows, the permittees responsibilities and where those responsibilities are shared with the Regional Board regarding extra-jurisdictional inputs into MS4..	RWQCB	10/17/08	10/31/08	
	RWQCB- Ivar /Mack to look at different options to calculate MALs using Region 6 dataset, including comparing with CTR and Basin Plan	RWQCB/LWA	10/17/08	10/31/08 (at next meeting)	In progress
	All to review POC/MAL constituents & develop a short list. (consider WQOs, TMDLs, local issues).	All	10/17/08	10/31/08	Done
	Provide information on how to submit data to Dr. Pitt's National Stormwater Dataset	RB (Ivar)	10/31/08		

	Distribute mean plus one and two standard deviations from Climate Region 6. Compare to CTR values.	Permittees (Mack)	10/31/08	11/4/08	
	- Respond to Climate Region 6 data analysis for MAL levels	RWQCB	10/31/08	11/7/08	
	Submit recommendations and rationale for a focused MAL constituent list.	Permittees (Mack)	10/31/08	11/7/08	
	- Respond to recommendations and rationale for a focused MAL constituent list.	RWQCB	10/31/08		
MEP	Draft "PART 3" MEP description/definition	Permittees	10/31/08	11/7/08	
	Respond to draft "PART 3" MEP description/definition	RWQCB	10/31/08		
	RWQCB to sent link to Academy of Science report to EPA re MEP. Gerhardt to forward to Permittees for review.	RWQCB/Permittees	10/17/08	10/31/08	Done
MALs - dry weather	Discuss MALs for dry weather as an Illicit Discharge and Illicit Connection Metric, and evaluate with current IC/ID permit requirements.	All	10/10/08	10/17/08 (at next meeting)	
	Gerhardt to circulate ID/IC text to Permittees. MS4s to review ID/IC text from Sam, and provide comments. Sam to work with Tracy Woods re: dry weather monitoring language.	Permittees & RWQCB	10/17/08	10/31/08	Done
Monitoring	Draft Dry Weather Monitoring language	RWQCB	10/17/08		
	Produce map of new suggested site for Oxnard	WPD	10/10/08	10/17/08	Done
	Develop permit language that specifies identified monitoring site locations. Add language to allow for the sites to be changed if needed due to extenuating circumstances.	Permittees	10/10/08	10/17/08	Done
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	RWQCB/Tracy Woods to review, and develop response to technical monitoring program proposed language changes table provided at 10/10/08 meeting.	RWQCB	10/10/08	10/31/08	

	Tommy Liddell to send email maps and GIS locations to Tracy Woods.	WPD - Tommy Liddell	10/17/08	10/31/08	Done
	Chart a side by side comparison of monitoring requirements of TMDLs and permit needs for toxicity and pyrethroids.	RWQCB & Permittees	10/10/08	10/17/08	?
Trash	Refine catch basin prioritization requirement to include a trash element.	Permittees (Shaun Kroes)	10/31/08		
	Write language (building off of redline) that provides programmatic BMPs be allowed if as effective as trash excluders . "demonstrates to the E.O. equivalent reduction . . ." Include end-of-pipe trash capture options.	RWQCB	10/31/08		
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TMDL	RWQCB to review proposed TMDL language changes, and get back at next meeting whether they are acceptable.	RWQCB	10/17/08	10/31/08	Done
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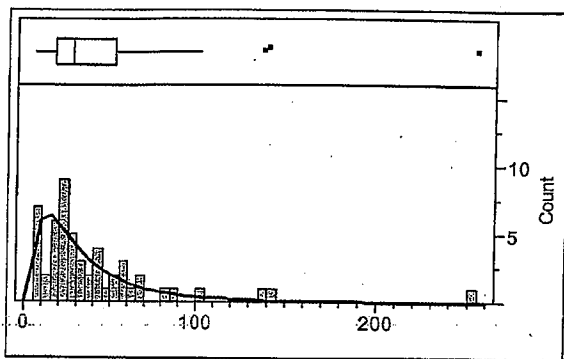


Copper - lognormal distribution

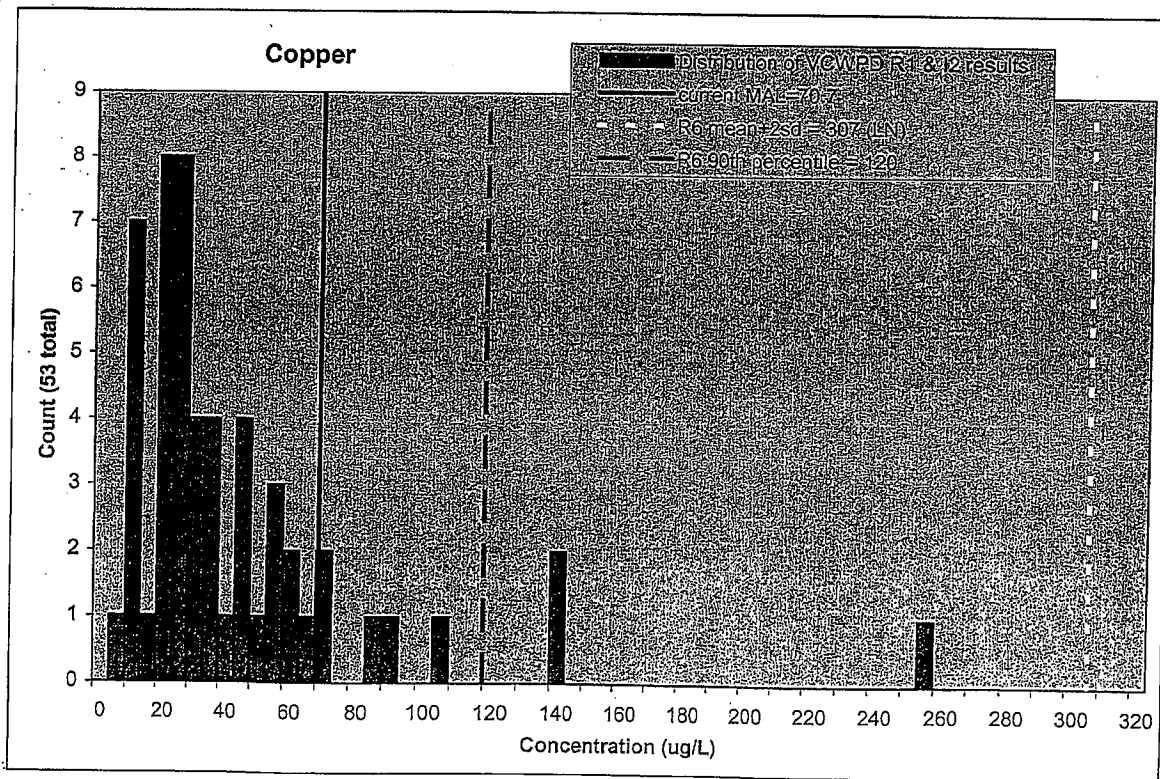
	Cu V I2&R	Cu R6	Cu Nat'l
count	53	252	2713
mean	28.08	28.98	14.63
std dev	2.37	3.26	2.78
median	27.00	32.00	14.00
CV	2.69	2.80	2.67
MALs			
mean+1*sd	66.55	94.33	40.72
mean+2*sd	157.72	307.04	113.33
80th percentile	55.60	87.00	31.00
90th percentile	80.38	120.00	53.00
median*2*CV	145.07	179.17	74.87

Copper - normal distribution

	Cu V I2&R	Cu R6	Cu Nat'l
count	53	252	2713
mean	40.68	51.99	27.64
std dev	42.42	57.04	63.99
median	27.0	32.0	14.0
CV	1.04	1.10	2.32
MALs			
mean+1*sd	83.10	109.03	91.62
mean+2*sd	125.53	166.07	155.61
80th percentile	55.60	87.00	31.00
90th percentile	80.38	120.00	53.00
median*2*CV	56.31	70.23	64.83



Percentile/Outlier Box:  
 tails: 10th and 90th percentiles  
 box: 25th and 75th percentiles  
 line: 50th percentile (median)  
 other marks: outliers

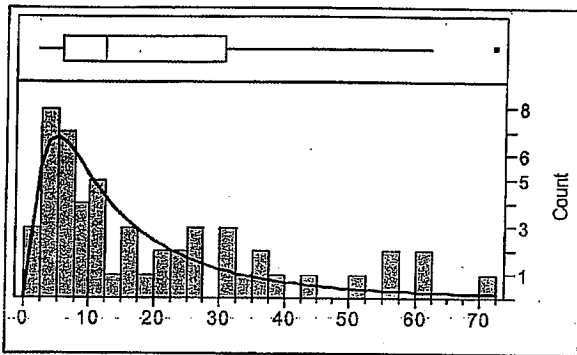


Lead - lognormal distribution

	Pb V I2&R	Pb R6	Pb Nat'l
count	53	272	2852
mean	12.76	36.66	13.99
std dev	2.71	3.65	3.86
median	12.2	32.5	14.0
CV	2.67	2.63	2.72
MALs			
mean+1*sd	34.60	133.74	53.95
mean+2*sd	93.86	487.86	208.04
80th percentile	32.44	122.39	41.00
90th percentile	49.56	224.49	80.00
median*2*CV	65.18	170.85	76.13

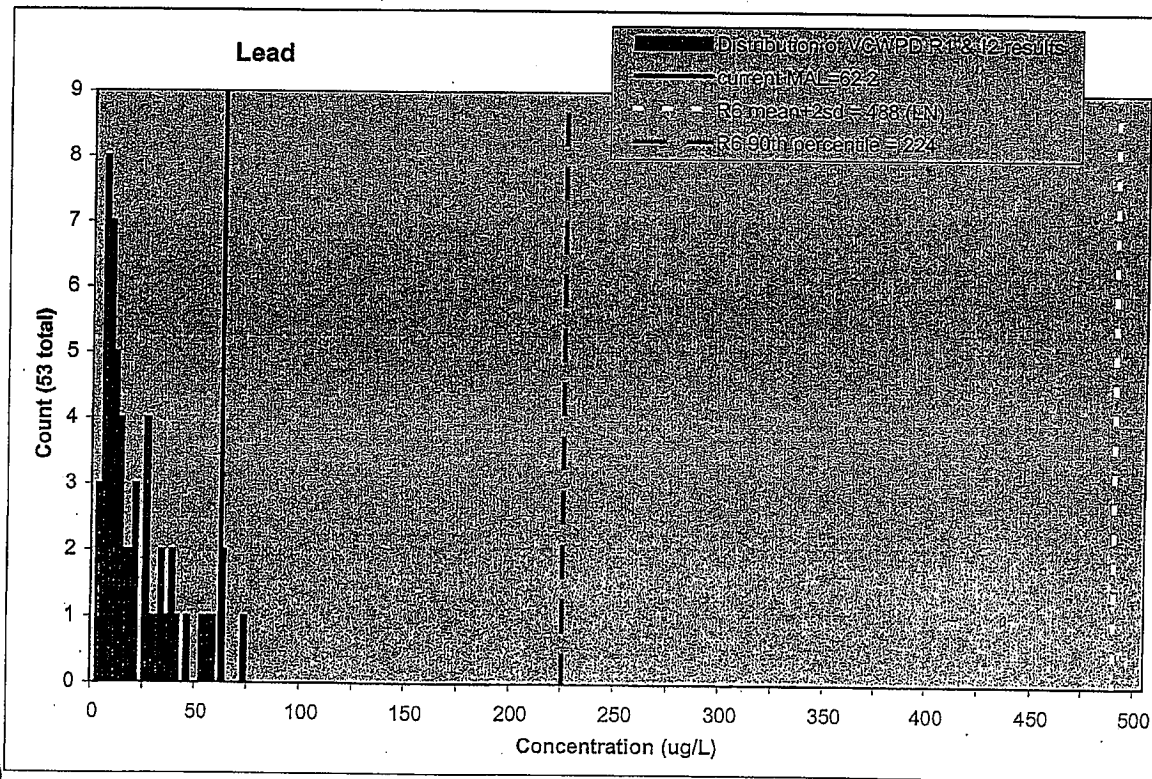
Lead - normal distribution

	Pb V I2&R	Pb R6	Pb Nat'l
count	53	272	2852
mean	19.87	79.61	34.08
std dev	18.22	106.95	65.82
median	12.2	32.5	14.0
CV	0.92	1.34	1.93
MALs			
mean+1*sd	38.09	186.56	99.90
mean+2*sd	56.32	293.51	165.72
80th percentile	32.45	122.40	41.00
90th percentile	49.64	224.50	80.00
median*2*CV	22.38	87.32	54.08



Percentile/Outlier Box:

tails: 10th and 90th percentiles  
 box: 25th and 75th percentiles  
 line: 50th percentile (median)  
 other marks: outliers

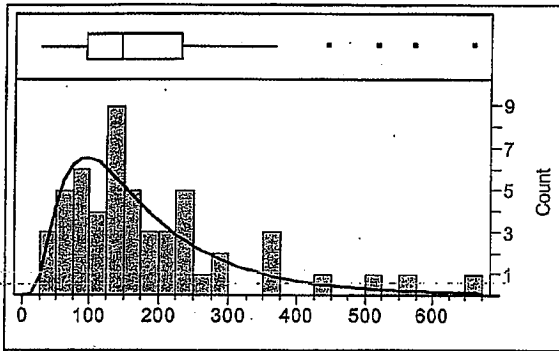


Zinc - Lognormal Distribution

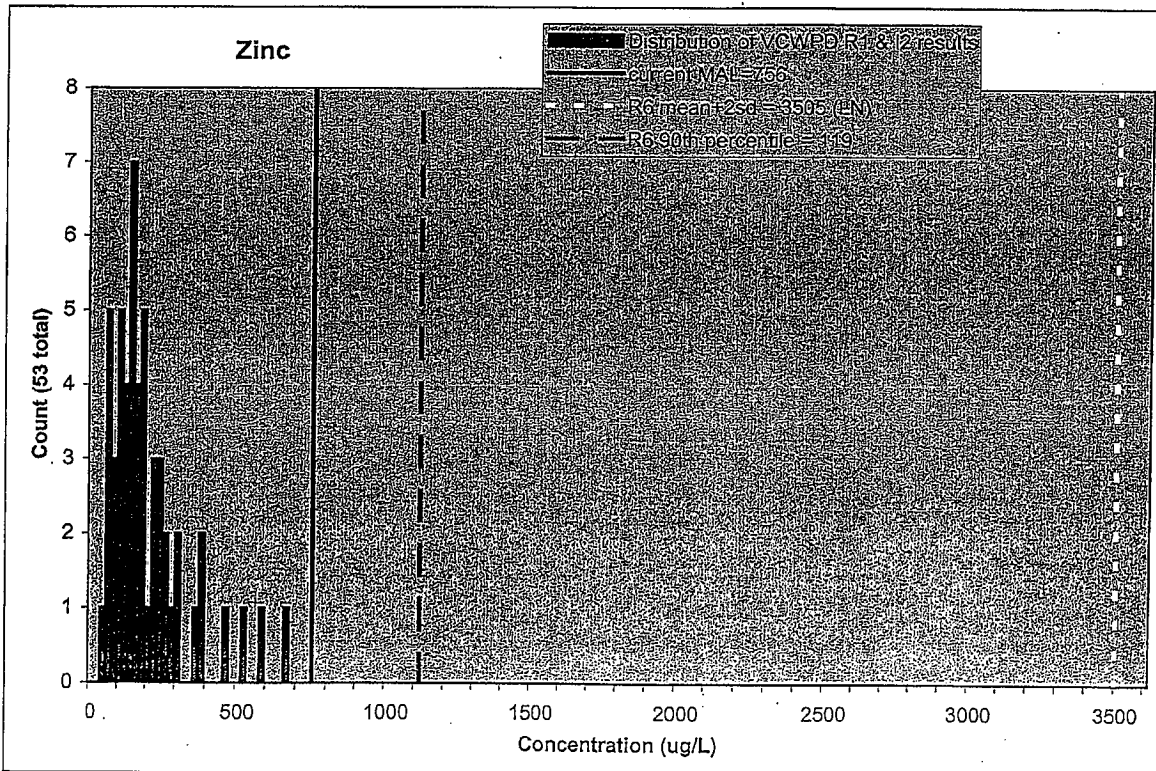
	Zn V I2&R'	Zn R6	Zn Nat'l
count	53	259	2991
mean	149.30	304.96	110.15
std dev	1.99	3.39	3.03
median	147.0	280.0	110.6
CV	2.71	2.68	2.72
MALs			
mean+1*sd	296.47	1033.83	333.36
mean+2*sd	588.71	<b>3504.66</b>	1008.86
80th percentile	244.60	660.00	250.00
90th percentile	362.95	<b>1119.31</b>	390.00
median*2*CV	796.70	1499.68	601.81

Zinc - Normal Distribution

	Zn V I2&R'	Zn R6	Zn Nat'l
count	53	259	2991
mean	186.74	828.12	220.82
std dev	134.00	2256.81	728.45
median	147.0	280.0	110.6
CV	0.72	2.73	3.30
MALs			
mean+1*sd	320.74	3084.94	949.28
mean+2*sd	454.73	5341.75	1677.73
80th percentile	244.60	660.00	250.00
90th percentile	363.00	1120.00	390.00
median*2*CV	210.97	1526.12	729.70



Percentile/Outlier Box:  
 tails: 10th and 90th percentiles  
 box: 25th and 75th percentiles  
 line: 50th percentile (median)  
 other marks: outliers

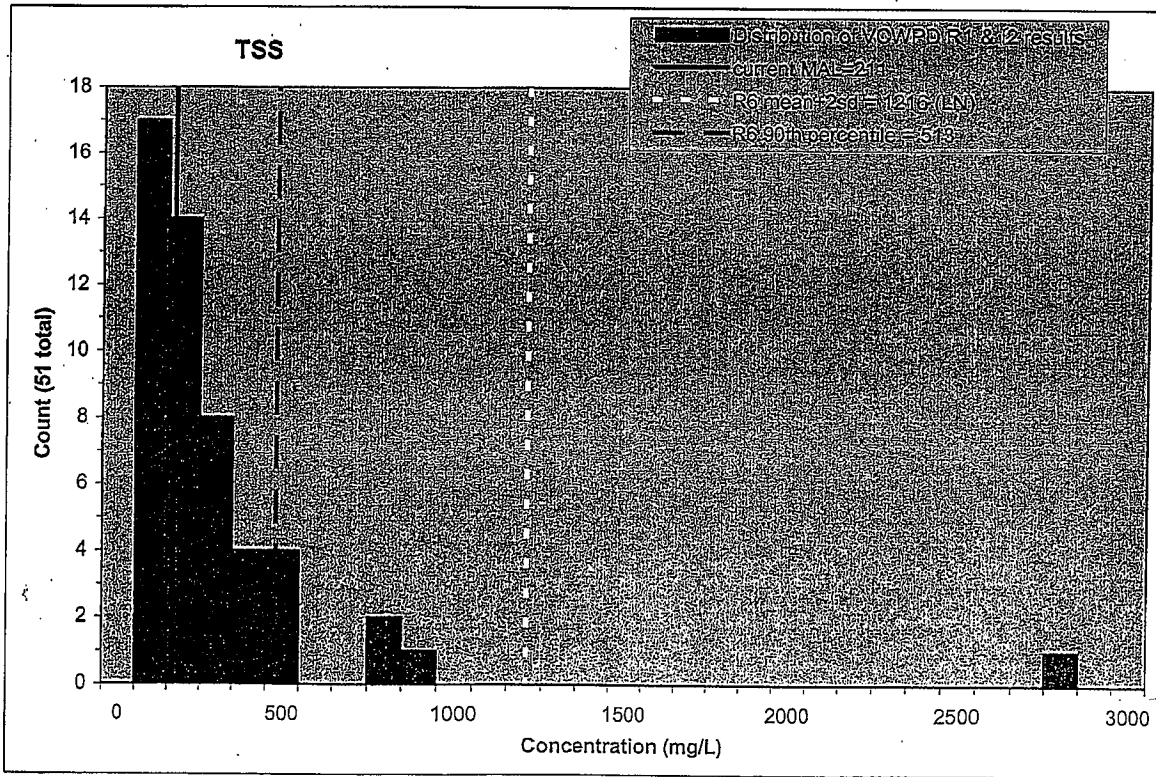
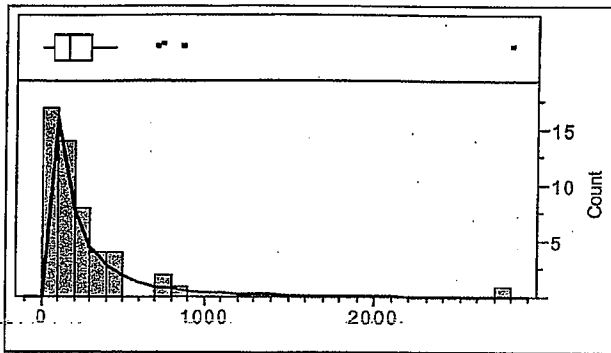


TSS - Lognormal Distribution

	TSS V I2&I	TSS R6	TSS Nat'l
count	51	268	3462
mean	133.58	115.04	58.85
std dev	3.49	3.25	3.49
median	167.00	117.02	58.00
CV	2.85	2.73	2.71
<b>MALs</b>			
mean+1*sd	466.74	374.05	205.39
mean+2*sd	1630.84	<b>1216.23</b>	716.82
80th percentile	305.00	252.39	158.00
90th percentile	421.00	<b>512.68</b>	287.70
median*2*CV	950.28	638.51	314.20

TSS - Normal Distribution

	TSS V I2&I	TSS R6	TSS Nat'l
count	51	268	3462
mean	254.13	233.34	127.57
std dev	407.45	422.13	229.06
median	167.0	117.0	58.0
CV	1.60	1.81	1.80
mean+1*sd	661.58	655.46	356.63
mean+2*sd	1069.04	1077.59	585.69
80th percentile	305.00	252.40	158.00
90th percentile	421.00	512.70	287.70
median*2*CV	535.51	423.47	208.29

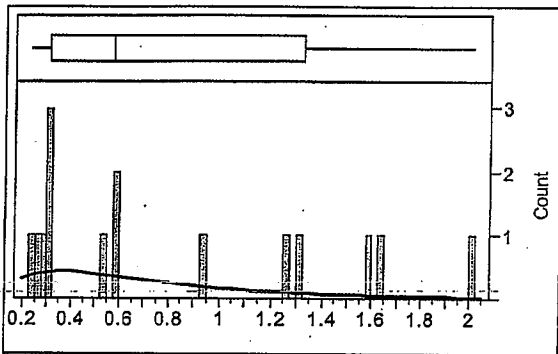


**Nitrate plus Nitrite, as N, Lognormal Distribution**

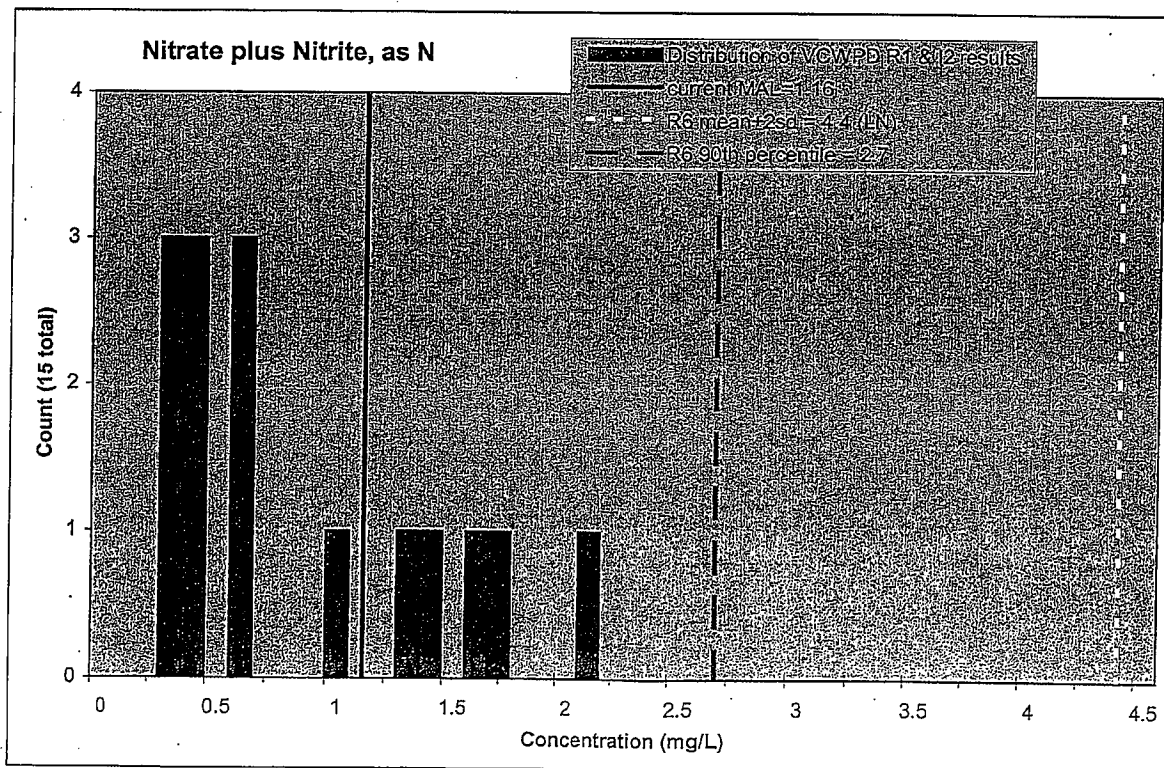
	NO2+3 V I	NO2+3 R6	NO2+3 Nat'l
count	15	146	3062
mean	0.62	1.23	0.54
std dev	2.15	1.90	2.47
median	0.58	1.24	0.60
CV	3.17	2.89	2.30
MALs			
mean+1*sd	1.33	2.33	1.34
mean+2*sd	2.87	4.43	3.31
80th percentile	1.37	2.00	1.08
90th percentile	1.61	2.70	1.5
median*2*CV	3.66	7.20	2.76

**Nitrate plus Nitrite, as N, Normal Distribution**

	NO2+3 V I	NO2+3 R6	NO2+3 Nat'l
count	15	146	3062
mean	0.81	1.47	0.77
std dev	0.60	0.89	0.76
median	0.58	1.25	0.60
CV	0.74	0.60	0.99
MALs			
mean+1*sd	1.41	2.36	1.52
mean+2*sd	2.01	3.25	2.28
80th percentile	1.38	2.00	1.08
90th percentile	1.61	2.70	1.5
median*2*CV	0.85	1.50	1.19



**Percentile/Outlier Box:**  
 tails: 10th and 90th percentiles  
 box: 25th and 75th percentiles  
 line: 50th percentile (median)  
 other marks: outliers



VCWPD Statistical Analysis and Comparison to National Data - all datasets assumed to be log-normally distributed

	Copper			Lead			Zinc		
	Cu V I2&R1	Cu R6	Cu Nat'l	Pb V I2&R1	Pb R6	Pb Nat'l	Zn V I2&R1	Zn R6	Zn Nat'l
count	53	252	2713	53	272	2852	53	259	2991
mean	28.08	28.98	14.63	12.76	36.66	13.99	149.30	304.96	110.15
std dev	2.37	3.26	2.78	2.71	3.65	3.86	1.99	3.39	3.03
median	27.00	32.00	14.00	12.2	32.5	14.0	147.0	280.0	110.6
CV	2.69	2.80	2.67	2.67	2.63	2.72	2.71	2.68	2.72
MALs									
mean+1*sd	66.55	94.33	40.72	34.60	133.74	53.95	296.47	1033.83	333.36
mean+2*sd	157.72	307.04	113.33	93.86	487.86	208.04	588.71	3504.66	1008.86
80th percentile	55.60	87.00	31.00	32.44	122.39	41.00	244.60	660.00	250.00
90th percentile	80.38	120.00	53.00	49.56	224.49	80.00	362.95	1119.31	390.00
median*2*CV	145.07	179.17	74.87	65.18	170.85	76.13	796.70	1499.68	601.81

	TSS			Nitrate plus Nitrite, as N		
	TSS V I2&R	TSS R6	TSS Nat'l	NO2+3 V I2	NO2+3 R6	NO2+3 Nat'l
count	51	268	3462	15	146	3062
mean	133.58	115.04	58.85	0.62	1.23	0.54
std dev	3.49	3.25	3.49	2.15	1.90	2.47
median	167.00	117.02	58.00	0.58	1.24	0.60
CV	2.85	2.73	2.71	3.17	2.89	2.30
MALs						
mean+1*sd	466.74	374.05	205.39	1.33	2.33	1.34
mean+2*sd	1630.84	1216.23	716.82	2.87	4.43	3.31
80th percentile	305.00	252.39	158.00	1.37	2	1.08
90th percentile	421.00	512.68	287.70	1.61	2.7	1.5
median*2*CV	950.28	638.51	314.20	3.66	7.20	2.76

example: R6 TSS mean+1\*sd =  $\exp(\ln(\text{mean}) + \ln(\text{stdev})) = \exp(\ln(115.04) + \ln(3.25)) = 374.05$

example: R6 TSS mean+2\*sd =  $\exp(\ln(\text{mean}) + 2 * \ln(\text{stdev})) = \exp(\ln(115.04) + 2 * \ln(3.25)) = 1216.23$

example: R6 TSS median\*2\*CV =  $115.04 * 2 * 3.25 = 638.51$

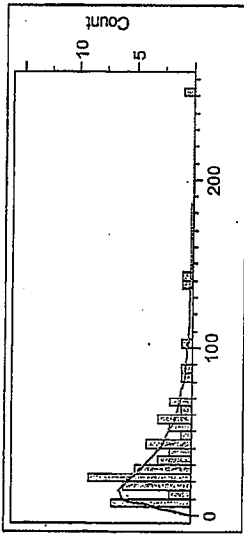
VCWPD Statistical Analysis and Comparison to National Data - all datasets assumed to be normally distributed

	Copper			Lead			Zinc		
	Cu V I2&R1	Cu R6	Cu Nat'l	Pb V I2&R1	Pb R6	Pb Nat'l	Zn V I2&R1	Zn R6	Zn Nat'l
count	53	252	2713	53	272	2852	53	259	2991
mean	40.68	51.99	27.64	19.87	79.61	34.08	186.74	828.12	220.82
std dev	42.42	57.04	63.99	18.22	106.95	65.82	134.00	2256.81	728.45
median	27.0	32.0	14.0	12.2	32.5	14.0	147.0	280.0	110.6
CV	1.04	1.10	2.32	0.92	1.34	1.93	0.72	2.73	3.30
MALs									
mean+2*sd	125.53	166.07	155.61	56.32	293.51	165.72	454.73	5341.75	1677.73
80th percentile	55.60	87.00	31.00	32.45	122.40	41.00	244.60	660.00	250.00
90th percentile	80.70	120.00	53.00	49.64	224.50	80.00	363.00	1120.00	390.00
median*2*CV	56.31	70.23	64.83	22.38	87.32	54.08	210.97	1526.12	729.70

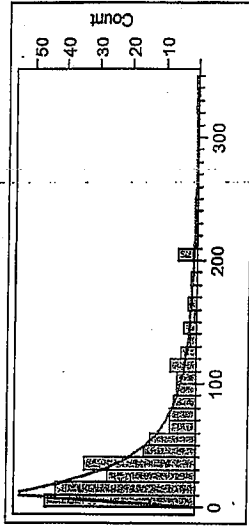
	TSS			Nitrate plus Nitrite, as N		
	TSS V I2&R1	TSS R6	TSS Nat'l	NO2+3 V I2&R1	NO2+3 R6	NO2+3 Nat'l
count	51	268	3462	15	146	3062
mean	254.13	233.34	127.57	0.81	1.47	0.77
std dev	407.45	422.13	229.06	0.60	0.89	0.76
median	167.0	117.0	58.0	0.58	1.25	0.60
CV	1.60	1.81	1.80	0.74	0.60	0.99
MALs						
mean+2*sd						
80th percentile	1069.04	1077.59	585.69	2.01	3.25	2.28
90th percentile	305	252.4	158	1.38	2	1.08
median*2*CV	421	512.7	287.7	1.61	2.7	1.5
	535.51	423.47	208.29	0.85	1.50	1.19

Distribut - with LogNormal curve fit

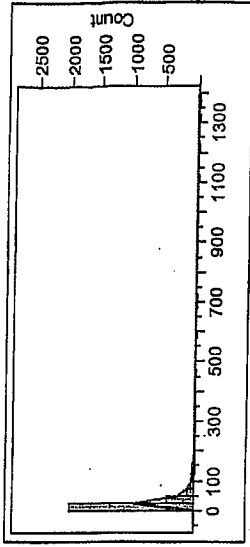
Cu VCWPD I-2 & R-1



Cu R6

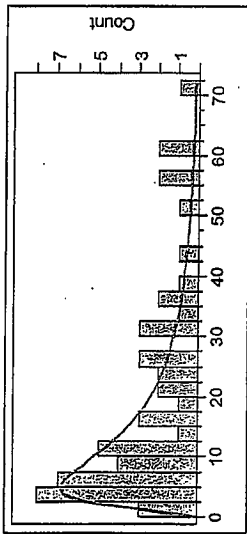


Cu Nat'l

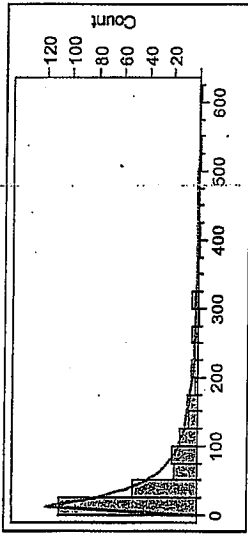




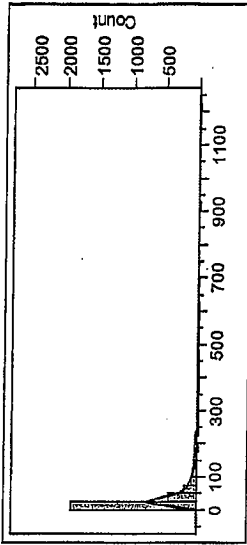
Pb VCWPD I-2 & R-1



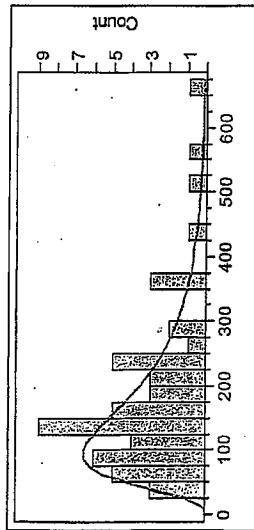
Pb R6



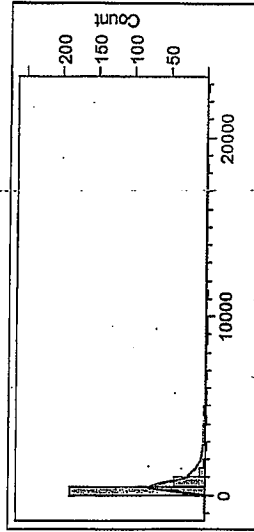
Pb Nat'l



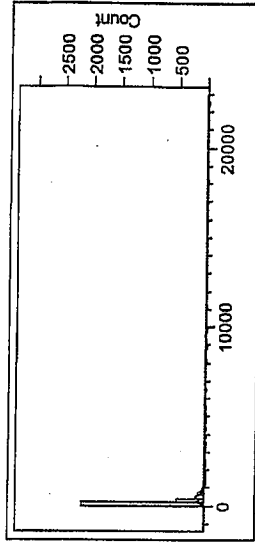
Zn VCWPD I-2 & R-1



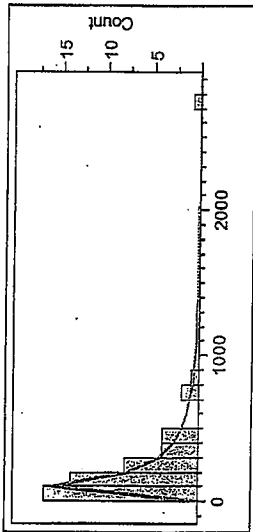
Zn R6



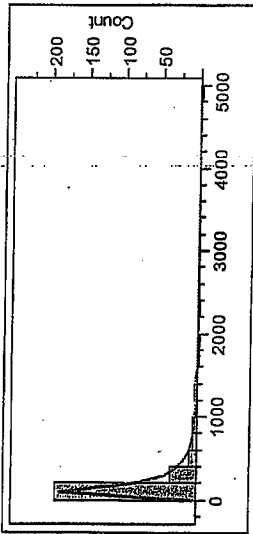
Zn Nat'l



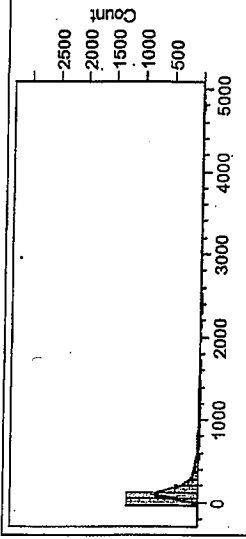
TSS VCWPD I-2 & R-1



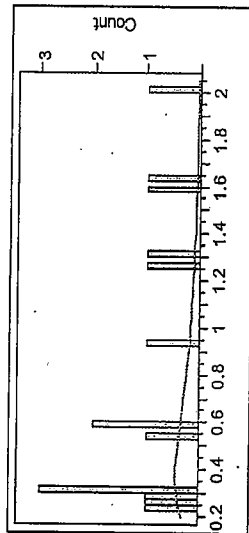
TSS R6



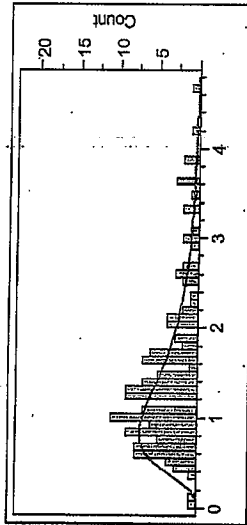
TSS Nat'l



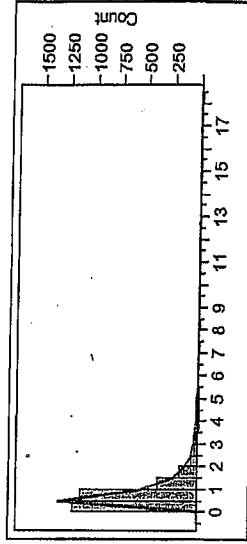
Nitrate plus Nitrite, as N VCWPD I-2 & R-1



Nitrate plus Nitrite, as N R6



Nitrate plus Nitrite, as N Nat'l



**Municipal Action Level Development  
Ventura County Permittee Proposal  
November 6, 2008  
For Discussion Purposes Only**

1. Which dataset to use?

**Proposal:** Region 6 dataset which is a subset of the national monitoring dataset.

**Rationale:** The Region 6 dataset provides a more robust dataset than the Ventura Countywide program, but also it reflects the arid conditions found in southern California.

2. Which distribution to use?

**Proposal:** Log normal distribution instead of normal distribution

**Rationale:** We examined the Ventura data and found 11 of the 13 constituents that looked to have log normal distribution. Furthermore the initial NURP study supported the use of log normal distribution as the appropriate distribution in which to base subsequent statistical analysis.

3. Which pollutants to utilize as MALs?

**Proposal:** TSS, Total Copper, Total Lead, Total Zinc and Nitrate-nitrite

**Rationale:** We recommend these constituents because they represent:

- General categories of pollutants – conventional (TSS), metals (Cu, Pb, and Zn) and nutrients (Nitrate-nitrite)
- Pollutants of concern as identified in the Countywide Program (Cu, Pb, Zn, and Nitrate-nitrite)
- Compliment ongoing TMDLs in the County (Cu and Nitrate-nitrite)
- Surrogate for well managed areas (TSS)
- Relevance to problematic construction sites and upstream undeveloped sources (TSS)

4. Which statistical method to use?

**Proposal:** Use a percentile method - specifically the 90% value

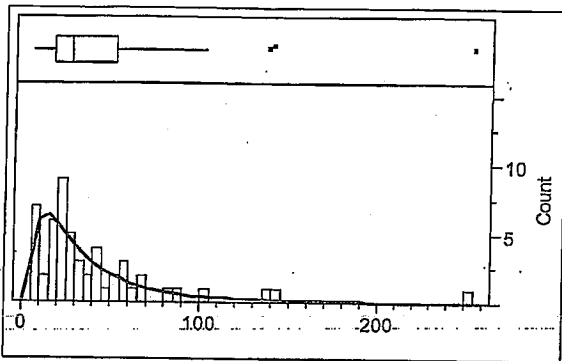
**Rationale:** Using such a value will by its very definition identify the top 10% EMCs for follow up action. The National Research Council in their draft report "Urban Stormwater Management in the United States" suggests the use of the median plus two standard deviations which is approximately the 98% value. Thus, we are proposing a slightly more aggressive value to identify the high EMCs.

Copper - lognormal distribution

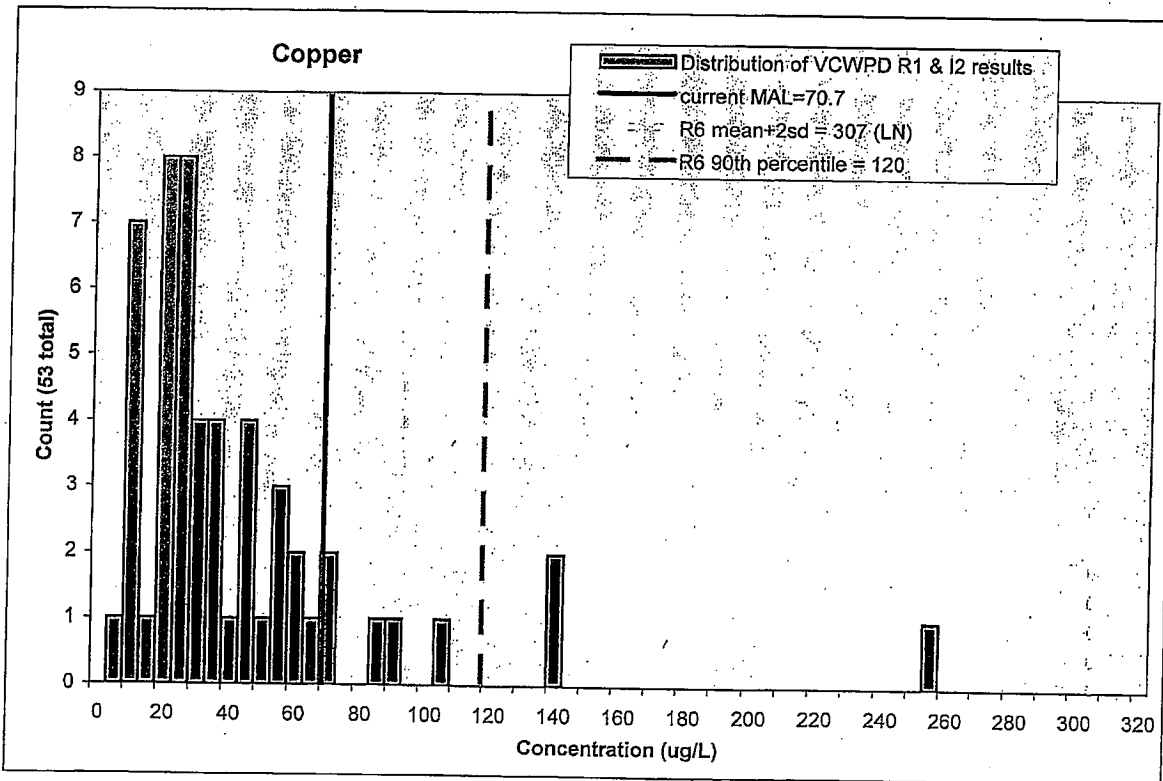
	Cu V I2&R	Cu R6	Cu Nat'l
count	53	252	2713
mean	28.08	28.98	14.63
std dev	2.37	3.26	2.78
median	27.00	32.00	14.00
CV	2.69	2.80	2.67
MALs			
mean+1*sd	66.55	94.33	40.72
mean+2*sd	157.72	<b>307.04</b>	113.33
80th percentile	55.60	87.00	31.00
90th percentile	80.38	<b>120.00</b>	53.00
median*2*CV	145.07	179.17	74.87

Copper - normal distribution

	Cu V I2&R	Cu R6	Cu Nat'l
count	53	252	2713
mean	40.68	51.99	27.64
std dev	42.42	57.04	63.99
median	27.0	32.0	14.0
CV	1.04	1.10	2.32
MALs			
mean+1*sd	83.10	109.03	91.62
mean+2*sd	125.53	166.07	155.61
80th percentile	55.60	87.00	31.00
90th percentile	80.38	120.00	53.00
median*2*CV	56.31	70.23	64.83



Percentile/Outlier Box:  
 tails: 10th and 90th percentiles  
 box: 25th and 75th percentiles  
 line: 50th percentile (median)  
 other marks: outliers

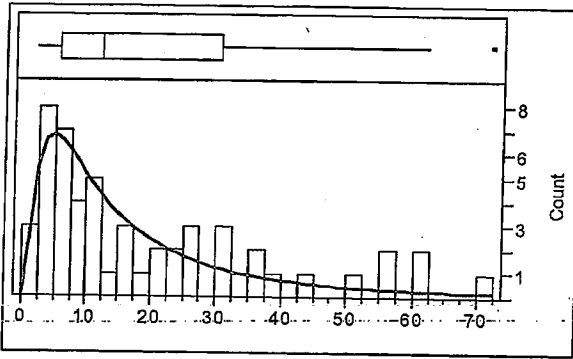


Lead - lognormal distribution

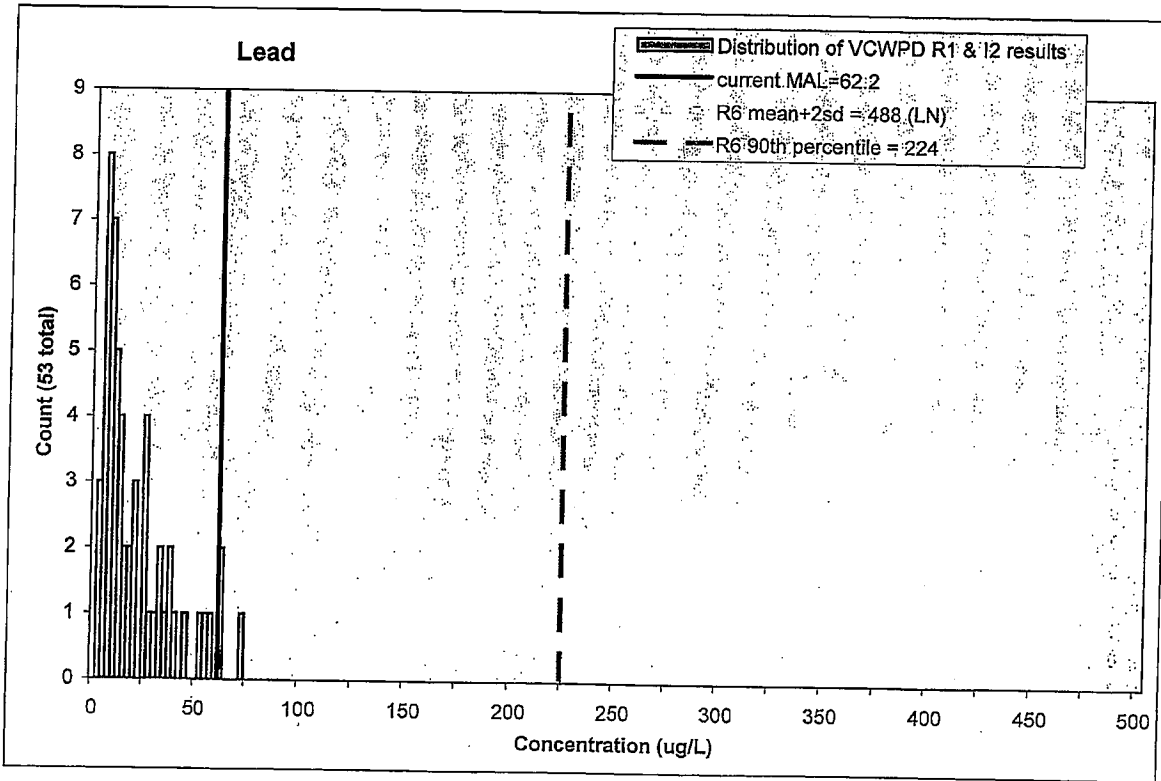
	Pb V I2&R	Pb R6	Pb Nat'l
count	53	272	2852
mean	12.76	36.66	13.99
std dev	2.71	3.65	3.86
median	12.2	32.5	14.0
CV	2.67	2.63	2.72
MALs			
mean+1*sd	34.60	133.74	53.95
mean+2*sd	93.86	<b>487.86</b>	208.04
80th percentile	32.44	122.39	41.00
90th percentile	49.56	<b>224.49</b>	80.00
median*2*CV	65.18	170.85	76.13

Lead - normal distribution

	Pb V I2&R	Pb R6	Pb Nat'l
count	53	272	2852
mean	19.87	79.61	34.08
std dev	18.22	106.95	65.82
median	12.2	32.5	14.0
CV	0.92	1.34	1.93
MALs			
mean+1*sd	38.09	186.56	99.90
mean+2*sd	56.32	293.51	165.72
80th percentile	32.45	122.40	41.00
90th percentile	49.64	224.50	80.00
median*2*CV	22.38	87.32	54.08



Percentile/Outlier Box:  
 tails: 10th and 90th percentiles  
 box: 25th and 75th percentiles  
 line: 50th percentile (median)  
 other marks: outliers

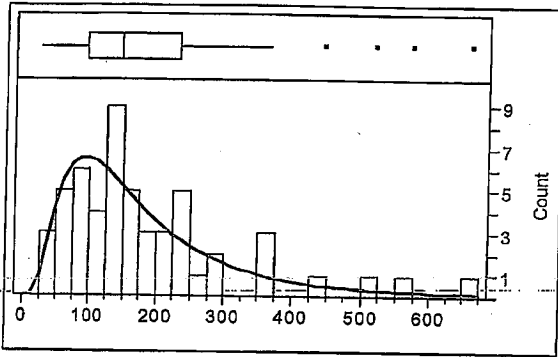


Zinc - Lognormal Distribution

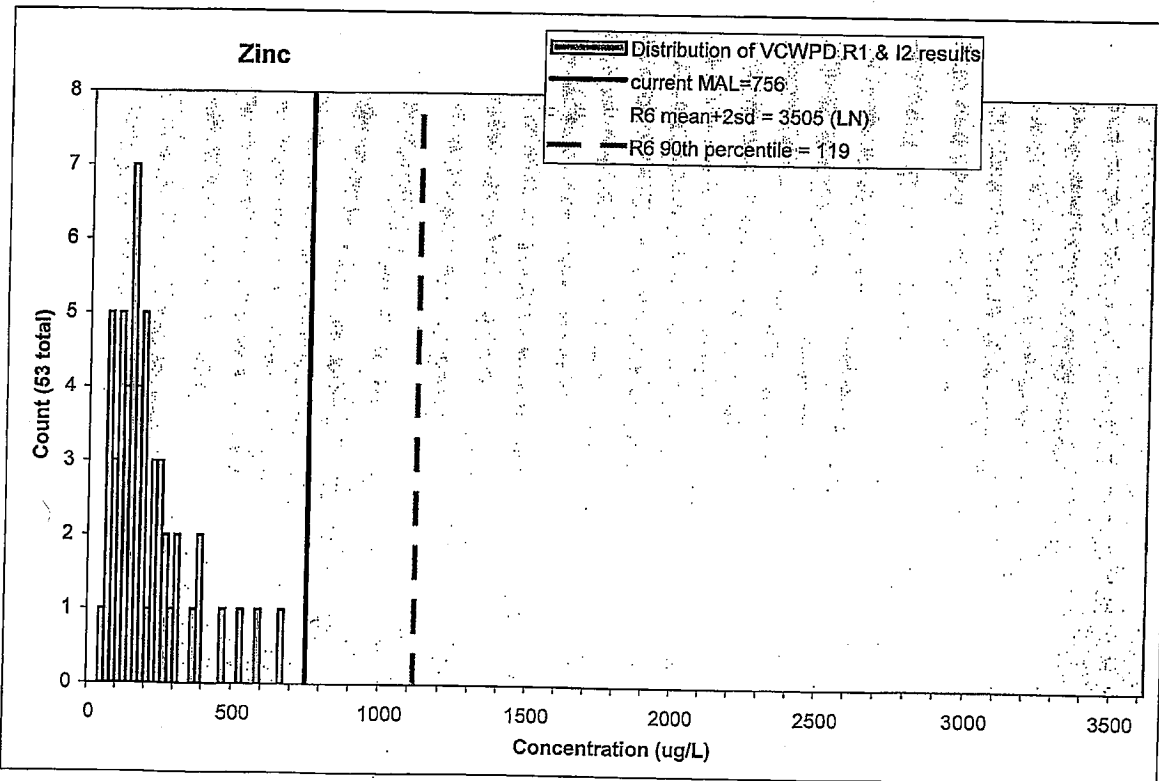
	Zn V I2&R'	Zn R6	Zn Nat'l
count	53	259	2991
mean	149.30	304.96	110.15
std dev	1.99	3.39	3.03
median	147.0	280.0	110.6
CV	2.71	2.68	2.72
MALs			
mean+1*sd	296.47	1033.83	333.36
mean+2*sd	588.71	<b>3504.66</b>	1008.86
80th percentile	244.60	660.00	250.00
90th percentile	362.95	<b>1119.31</b>	390.00
median*2*CV	796.70	1499.68	601.81

Zinc - Normal Distribution

	Zn V I2&R'	Zn R6	Zn Nat'l
count	53	259	2991
mean	186.74	828.12	220.82
std dev	134.00	2256.81	728.45
median	147.0	280.0	110.6
CV	0.72	2.73	3.30
MALs			
mean+1*sd	320.74	3084.94	949.28
mean+2*sd	454.73	5341.75	1677.73
80th percentile	244.60	660.00	250.00
90th percentile	363.00	1120.00	390.00
median*2*CV	210.97	1526.12	729.70



Percentile/Outlier Box:  
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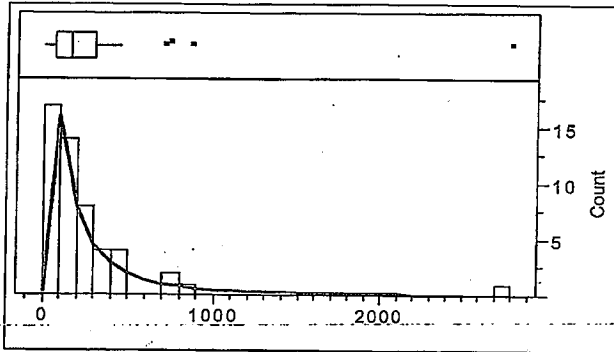


TSS - Lognormal Distribution

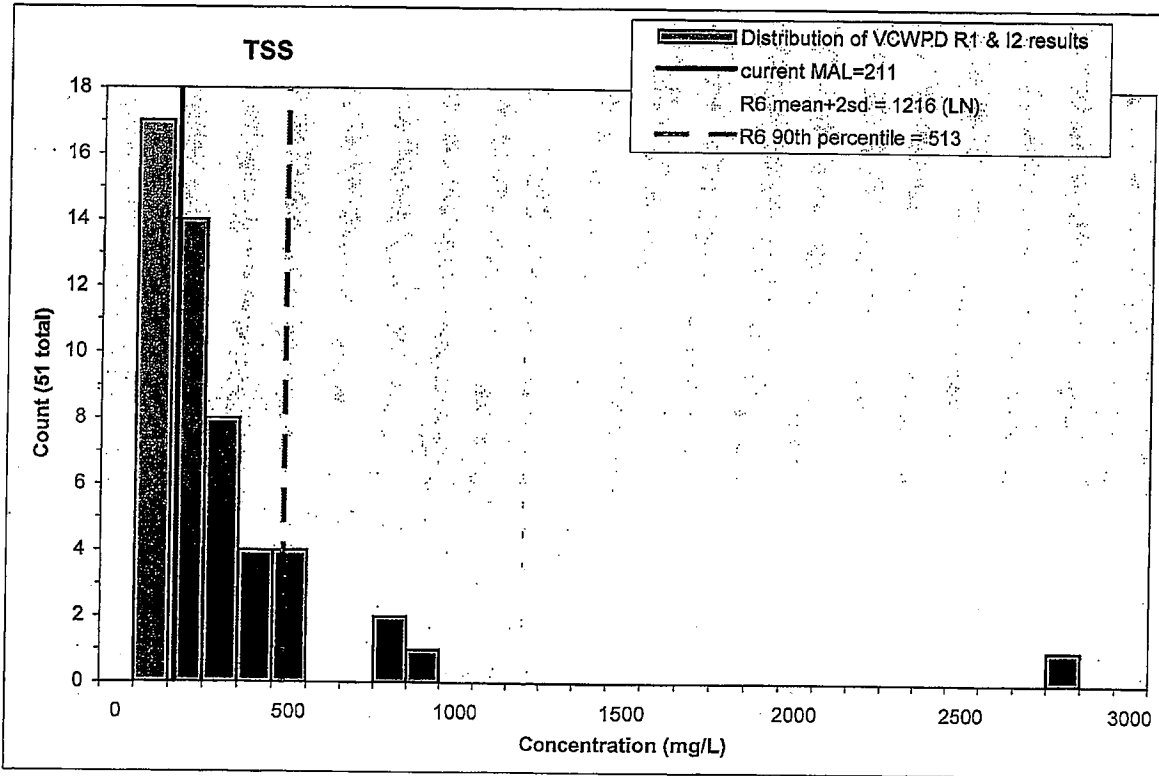
	TSS V I2&I	TSS R6	TSS Nat'l
count	51	268	3462
mean	133.58	115.04	58.85
std dev	3.49	3.25	3.49
median	167.00	117.02	58.00
CV	2.85	2.73	2.71
MALs			
mean+1*sd	466.74	374.05	205.39
mean+2*sd	1630.84	<b>1216.23</b>	716.82
80th percentile	305.00	252.39	158.00
90th percentile	421.00	<b>512.68</b>	287.70
median*2*CV	950.28	638.51	314.20

TSS - Normal Distribution

	TSS V I2&I	TSS R6	TSS Nat'l
count	51	268	3462
mean	254.13	233.34	127.57
std dev	407.45	422.13	229.06
median	167.0	117.0	58.0
CV	1.60	1.81	1.80
MALs			
mean+1*sd	661.58	655.46	356.63
mean+2*sd	1069.04	1077.59	585.69
80th percentile	305.00	252.40	158.00
90th percentile	421.00	512.70	287.70
median*2*CV	535.51	423.47	208.29



Percentile/Outlier Box:  
 tails: 10th and 90th percentiles  
 box: 25th and 75th percentiles  
 line: 50th percentile (median)  
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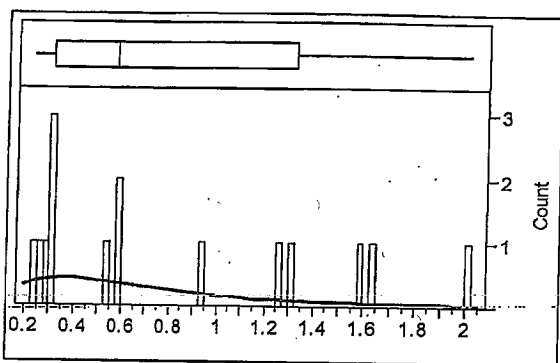


Nitrate plus Nitrite, as N, Lognormal Distribution

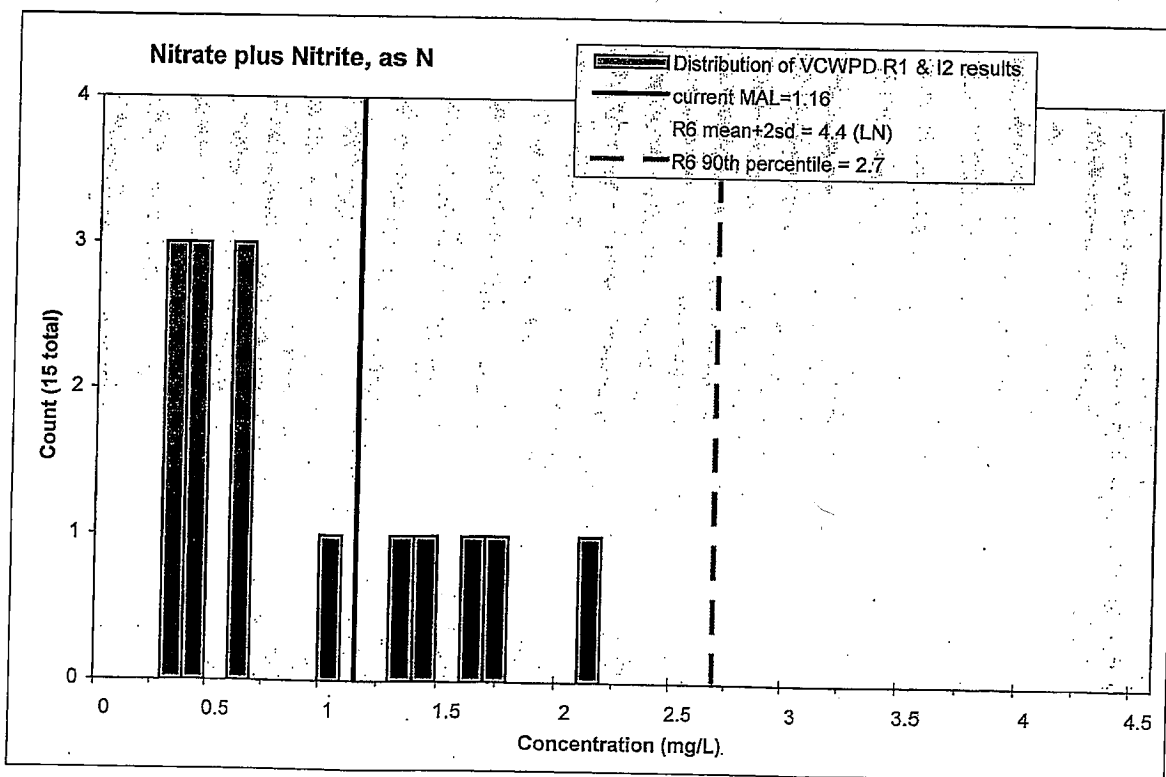
	NO2+3 V I'	NO2+3 R6	NO2+3 Nat'l
count	15	146	3062
mean	0.62	1.23	0.54
std dev	2.15	1.90	2.47
median	0.58	1.24	0.60
CV	3.17	2.89	2.30
MALs			
mean+1*sd	1.33	2.33	1.34
mean+2*sd	2.87	<b>4.43</b>	3.31
80th percentile	1.37	2.00	1.08
90th percentile	1.61	<b>2.70</b>	1.5
median*2*CV	3.66	7.20	2.76

Nitrate plus Nitrite, as N, Normal Distribution

	NO2+3 V I'	NO2+3 R6	NO2+3 Nat'l
count	15	146	3062
mean	0.81	1.47	0.77
std dev	0.60	0.89	0.76
median	0.58	1.25	0.60
CV	0.74	0.60	0.99
MALs			
mean+1*sd	1.41	2.36	1.52
mean+2*sd	2.01	3.25	2.28
80th percentile	1.38	2.00	1.08
90th percentile	1.61	2.70	1.5
median*2*CV	0.85	1.50	1.19



Percentile/Outlier Box:  
 tails: 10th and 90th percentiles  
 box: 25th and 75th percentiles  
 line: 50th percentile (median)  
 other marks: outliers





Ventura Countywide  
EW Program / Region Bd.  
Mtg.  
10-31-08  
1:00 - 4:00

Name	Representing	Phone #
Mack Walker	LWA	530.753.6400
ARNE ANSELM	VCWPD	805.654.3942
Anita Kuhlman	Camano 110	383-5659
Sam Unger	RWC CB	213-576-6622
MARK PUMFORD	City of Orange	714-2226
BOB GARDNER	THOUSAND OAKS	805/449-2424
PAUL TANTET	Ventura County RWA	805-662-6737
Shaun Krees	City of Moorpark	805-517-6257
Kevin Gieschen	City of Simi Valley	805-583-6462
Bill O'Brien	City of Ojai	805-698-6611
BERT RAPP	FILLMORE	

ON PHONE: CARLOS URANAGA

TRACY WOODS

IVAR RIDGEWAY

**Ventura MS4 Permit Action Items from 10/10/08 meeting.**

	<b>Action item</b>	<b>Responsibility</b>	<b>Due Date</b>
1	Flow chart and time steps of accelerated MAL trigger/response schedule for action within one year.	Permittees	10/17/08
2	Data comparison of local land use data and climate region 6 of national dataset. Develop numerics (hurdles to action) using the 80 <sup>th</sup> percentile as offered in early comment letters and other potential levels (median plus two standard deviations).	Permittees	10/17/08
3	Prioritize all permit time frames to determine which could be pushed back to free resources for accelerated MAL schedule.	Permittees	Future Date
4	Discuss MALs for dry weather as an Illicit Discharge and Illicit Connection Metric, and evaluate with current IC/ID permit requirements.	All	10/17/08 (at next meeting)
5	Produce map of new suggested site for Oxnard	WPD	10/17/08
6	Develop permit language that specifies identified monitoring site locations. Add language to allow for the sites to be changed if needed due to extenuating circumstances.  <i>If a monitoring site is found to be unworkable due to immitigable factors the sampling location may be relocated upon Executive Officer's approval of another location.</i>	Permittees	10/17/08
7	Draft permit language for a finding describing permittees responsibilities and where those responsibilities are shared with the Regional Board regarding extra-jurisdictional inputs into MS4.	RWQCB	10/17/08
8	Develop a comparison chart of POCs and data sources for MAL development.	Permittees	10/17/08
9	Add Regional Board's responses to chart on monitoring technical issues.	RWQCB	10/17/08
10	Chart a side by side comparison of monitoring requirements of TMDLs and permit needs for toxicity and pyrethroids.	RWQCB & Permittees	10/17/08
11	Next week's topics: Follow up MALs (constituents, levels, and response), Monitoring, IC/ID Program. New topic: TMDL monitoring, Public Agency Activities	All	10/17/08 Next meeting

# Municipal Action Level Comparison<sup>1</sup>

Pollutants	pH	TSS mg/L	COD mg/L	Kjeldahl Nitrogen (TKN) mg/L	Nitrate & Nitrite, total mg/L	P, total mg/L
Current MALS Median x 2(COV)		211	120	3.50	1.16	0.82
Climate Zone 6 MALS Median x 2(COV)		428.4	582	5.59	1.49	1.09
Basin Plan Water Quality Objectives	6.5 -8.5				10.0	

Pollutants	Cd, total µg/L	Cr, total µg/L	Cu, total µg/L	Pb, total µg/L	Ni, total µg/L	Zn, total µg/L	Hg, total µg/L
Current MALS Median x 2(COV)	7.34	20.4	70.7	62.2	19.2	756	1.01
Climate Zone 6 MALS Median x 2(COV)	2.43	28.4	70.1	94.3	25.7	1531	0.31
CTR Criterion continuous Concentration Freshwater	2.2	11 (Hex)	9.0	2.5	52	120	0.050 (Water & Organism Consumption)
CTR Criterion continuous Concentration Saltwater	9.3	50 (Hex)	3.1	8.1	8.2	81	0.050 (Water & Organism Consumption)

<sup>1</sup> All data derived from the National Stormwater Quality Database, Version 1.1.

VCWPD Statistical Analysis and Comparison to National Data - all datasets assumed to be log-normally distributed

	Cadmium			Chromium			Copper		
	Cd V I2&R1	Cd R6	Cd Nat'l	Cr V I2&R1	Cr R6	Cr Nat'l	Cu V I2&R1	Cu R6	Cu Nat'l
count	53	223	2392	53	221	1538	53	252	2713
mean	0.96	1.00	0.87	8.08	10.19	5.63	28.08	28.98	14.63
std dev	3.05	2.43	3.43	2.78	2.66	2.78	2.37	3.26	2.78
median	1.0	1.0	0.8	8.1	10.0	5.0	27.00	32.00	14.00
CV	1.00	1.00	5.32	2.72	2.70	2.54	2.69	2.80	2.67
MALs									
mean+2*sd	8.96	5.90	10.28	62.20	72.34	43.57	157.72	307.04	113.33
80th percentile	2.72	2.00	2.50	19.17	22.00	12.00	55.60	87.00	31.00
median*2*CV	1.00	1.00	0.47	66.00	96.31	20.07	674.63	1255.94	179.69

	Lead			Nickel			Zinc		
	Pb V I2&R1	Pb R6	Pb Nat'l	Ni V I2&R1	Ni R6	Ni Nat'l	Zn V I2&R1	Zn R6	Zn Nat'l
count	53	272	2852	53	241	1342	53	259	2991
mean	12.76	36.66	13.99	15.00	7.30	14.05	149.30	304.96	110.15
std dev	2.71	3.65	3.86	2.81	2.55	2.55	1.99	3.39	3.03
median	12.2	32.5	14.0	18.0	7.5	13.0	147.0	280.0	110.6
CV	2.67	2.63	2.72	2.91	2.76	2.64	2.71	2.68	2.72
MALs									
mean+2*sd	93.86	487.86	208.04	118.29	47.37	91.25	588.71	3504.66	1008.86
80th percentile	32.44	122.39	41.00	35.19	14.00	32.00	244.60	660.00	250.00
median*2*CV	136.37	836.42	196.22	477.83	59.40	145.42	20949.57	66258.34	12332.61

	Mercury			TSS			COD		
	Hg V I2&R1	Hg R6	Hg Nat'l	TSS V I2&R	TSS R6	TSS Nat'l	COD V I2&F	COD R6	COD Nat'l
count	49	178	1014	51	268	3462	34	203	2750
mean	0.087	0.075	0.117	133.58	115.04	58.85	99.59	144.37	50.24
std dev	4.647	1.875	2.534	3.49	3.25	3.49	2.63	2.41	2.67
median	0.250	0.050	0.100	167.00	117.02	58.00	81.50	150.00	52.00
CV	1.766	3.176	2.921	2.85	2.73	2.71	2.60	2.74	2.74
MALs									
mean+2*sd	1.885	0.263	0.750	1630.84	1216.23	716.82	690.90	836.52	357.16
80th percentile	0.250	0.100	0.250	305.00	252.39	158.00	177.55	305.96	103.00
median*2*CV	0.207	0.001	0.007	44487.06	14173.53	3267.81	4526.04	24304.30	2898.98

	TKN			Nitrate plus Nitrite, as N			Phosphorus		
	TKN V I2&R	TKN R6	TKN Nat'l	NO2+3 V I2	NO2+3 R6	NO2+3 Nat'l	P V I2&R1	P R6	P Nat'l
count	43	272	3169	15	146	3062	50	250	3269
mean	3.41	2.52	1.32	0.62	1.23	0.54	0.42	0.44	0.26
std dev	1.90	2.67	2.52	2.15	1.90	2.47	6.36	2.51	2.52
median	3.10	2.72	1.38	0.58	1.24	0.60	0.57	0.41	0.26
CV	2.52	2.96	3.19	3.17	2.89	2.30	1.89	2.99	2.70
MALs									
mean+2*sd	12.34	17.95	8.37	2.87	4.43	3.31	16.82	2.79	1.63
80th percentile	5.96	5.45	2.63	1.37	2	1.08	0.89	0.94	0.52
median*2*CV	8.06	8.83	2.11	0.28	1.59	0.43	0.49	0.14	0.07

pH - normal distribution only!

	pH V I2&R1	pH R6	pH Nat'l
count			
mean			
std dev			
median			
CV			
MALs			
mean-2sd			
mean+2*sd			
20th percentile			
80th percentile			
median*2*CV			

VCWPD Statistical Analysis and Comparison to National Data - all datasets assumed to be normally distributed

	Cadmium			Chromium			Copper		
	Cd V I2&R1	Cd R6	Cd Nat'l	Cr V I2&R1	Cr R6	Cr Nat'l	Cu V I2&R1	Cu R6	Cu Nat'l
count	53	223	2392	53	221	1538	53	252	2713
mean	1.59	1.46	2.40	13.31	16.93	9.60	40.68	51.99	27.64
std dev	1.58	1.39	9.39	16.02	24.20	14.66	42.42	57.04	63.99
median	1.0	1.0	0.8	8.1	10.0	5.0	27.0	32.0	14.0
CV	0.99	0.95	3.91	1.20	1.43	1.53	1.04	1.10	2.32
MALs									
mean+2*sd	4.76	4.23	21.18	45.34	65.33	38.92	125.53	166.07	155.61
80th percentile	2.72	2.00	2.50	19.20	22.00	12.00	55.60	87.00	31.00
median*2*CV	1.99	1.90	6.25	19.50	28.59	15.27	56.31	70.23	64.83

	Lead			Nickel			Zinc		
	Pb V I2&R1	Pb R6	Pb Nat'l	Ni V I2&R1	Ni R6	Ni Nat'l	Zn V I2&R1	Zn R6	Zn Nat'l
count	53	272	2852	53	241	1342	53	259	2991
mean	19.87	79.61	34.08	22.65	21.45	11.36	186.74	828.12	220.82
std dev	18.22	106.95	65.82	20.41	21.86	13.65	134.00	2256.81	728.45
median	12.2	32.5	14.0	18.0	13.0	7.5	147.0	280.0	110.6
CV	0.92	1.34	1.93	0.90	1.02	1.20	0.72	2.73	3.30
MALs									
mean+2*sd	56.32	293.51	165.72	63.47	65.18	38.67	454.73	5341.75	1677.73
80th percentile	32.45	122.40	41.00	35.20	32.00	14.00	244.60	660.00	250.00
median*2*CV	22.38	87.32	54.08	32.44	26.50	18.02	210.97	1526.12	729.70

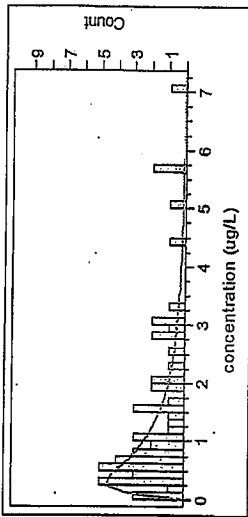
	Mercury			TSS			COD		
	Hg V I2&R1	Hg R6	Hg Nat'l	TSS V I2&R	TSS R6	TSS Nat'l	COD V I2&F	COD R6	COD Nat'l
count	49	178	1014	51	268	3462	34	203	2750
mean	0.187	0.097	0.297	254.13	233.34	127.57	222.12	194.39	77.95
std dev	0.183	0.105	1.621	407.45	422.13	229.06	572.00	148.10	89.06
median	0.250	0.050	0.100	167.0	117.0	58.0	81.5	150.0	52.0
CV	0.979	1.090	5.447	1.60	1.81	1.80	2.58	0.76	1.14
MALs									
mean+2*sd	0.552	0.308	3.539	1069.04	1077.59	585.69	1366.12	490.60	256.06
80th percentile	0.250	0.100	0.250	305	252.4	158	178.4	306	103
median*2*CV	0.490	0.109	1.089	535.51	423.47	208.29	419.76	228.56	118.81

	TKN			Nitrate plus Nitrite, as N			Phosphorus		
	TKN V I2&R	TKN R6	TKN Nat'l	NO2+3 V I2	NO2+3 R6	NO2+3 Nat'l	P V I2&R1	P R6	P Nat'l
count	43	272	3169	15	146	3062	50	250	3269
mean	4.27	3.80	1.97	0.81	1.47	0.77	0.89	0.70	0.40
std dev	3.70	3.88	2.52	0.60	0.89	0.76	1.61	0.94	0.61
median	3.10	2.73	1.38	0.58	1.25	0.60	0.57	0.41	0.26
CV	0.87	1.02	1.28	0.74	0.60	0.99	1.80	1.33	1.53
MALs									
mean+2*sd	11.67	11.56	7.02	2.01	3.25	2.28	4.10	2.58	1.63
80th percentile	5.96	5.45	2.63	1.38	2	1.08	0.89	0.94	0.52
median*2*CV	5.37	5.56	3.53	0.85	1.50	1.19	2.06	1.09	0.80

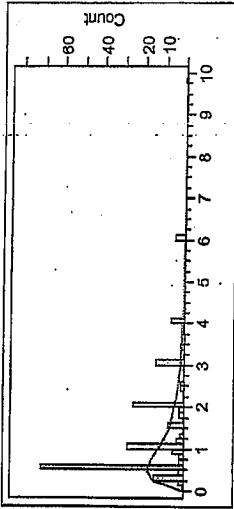
	pH		
	pH V I2&R1	pH R6	pH Nat'l
count	47	214	1665
mean	7.08	7.22	7.46
std dev	0.53	0.74	0.75
median	7.10	7.13	7.50
CV	0.07	0.10	0.10
MALs			
mean-2sd	6.02	5.96	5.74
mean+2*sd	8.14	8.69	8.96
20th percentile	6.52	6.85	6.59
80th percentile	7.50	7.90	8.10
median*2*CV	1.06	1.46	1.51

Distributions with LogNormal curve fit

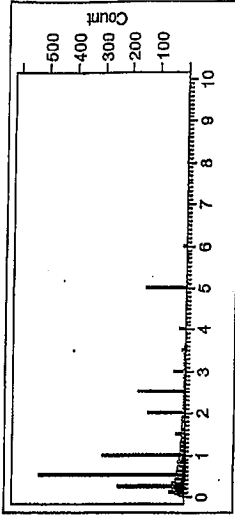
Cd VCWPD I-2 & R-1



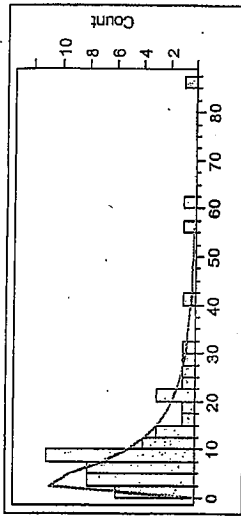
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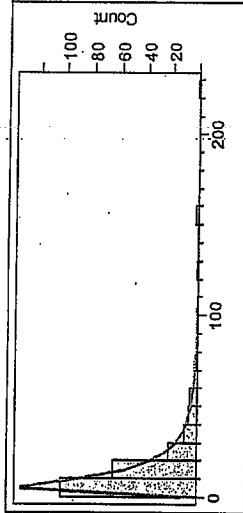
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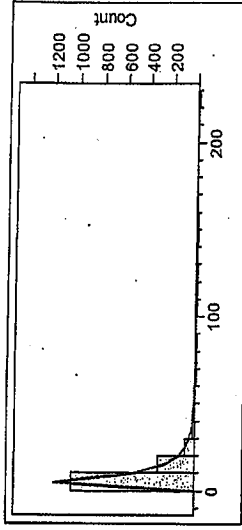
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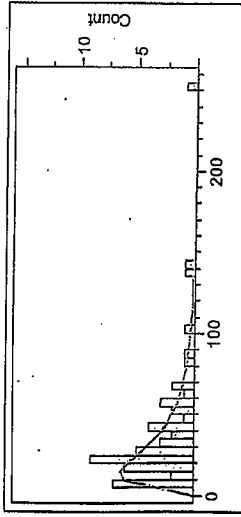
Cr R6



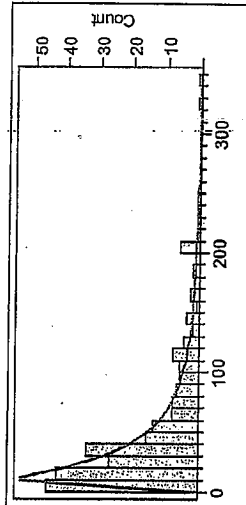
Cr Nat'l



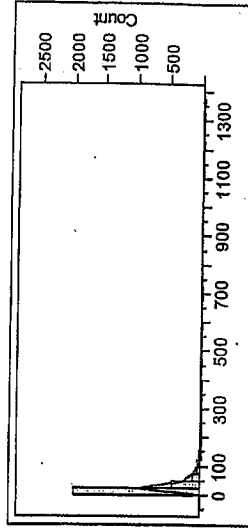
Cu VCWPD I-2 & R-1



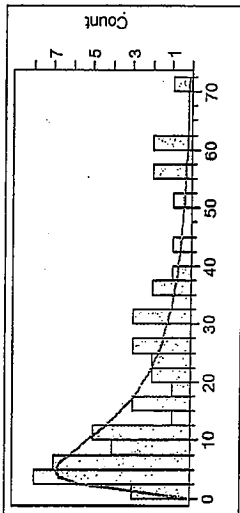
Cu R6



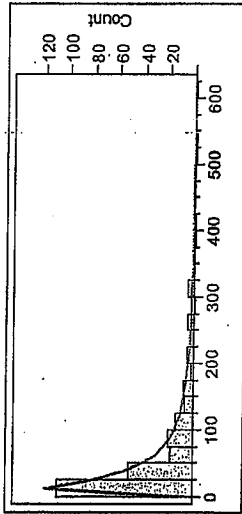
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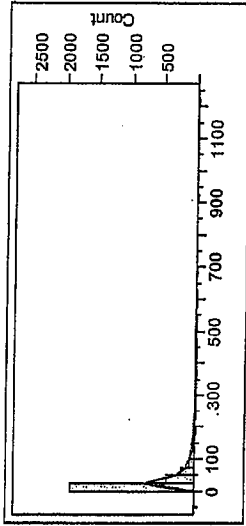
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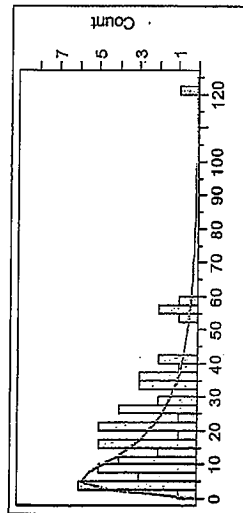
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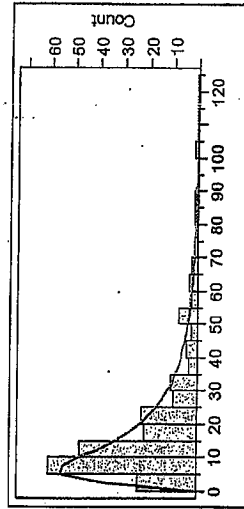
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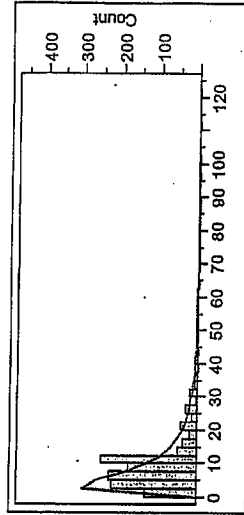
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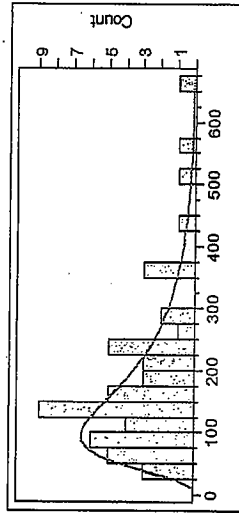
Ni R6



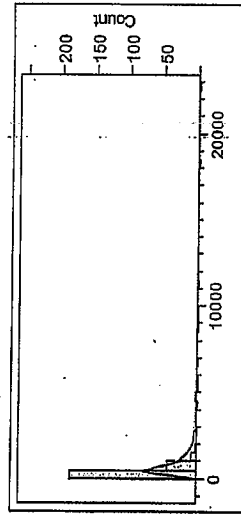
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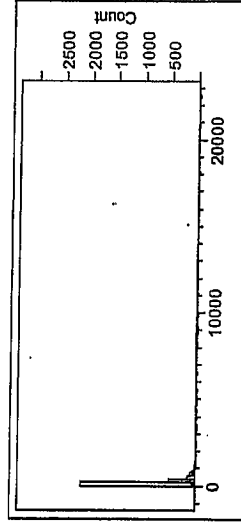
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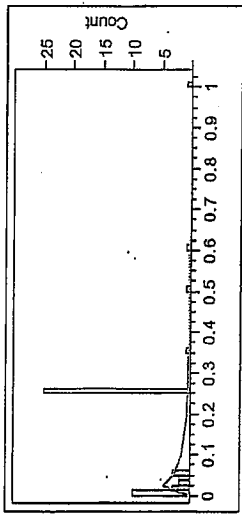
Zn R6



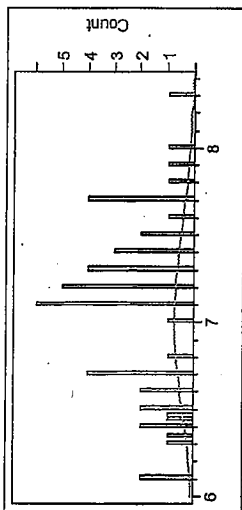
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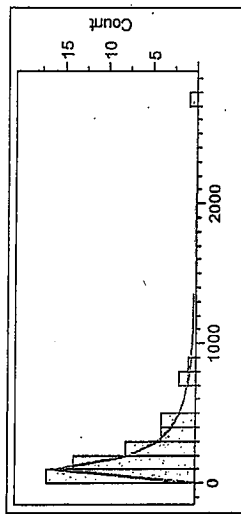
Hg (ug/L) VCWPD I-2 & R-1



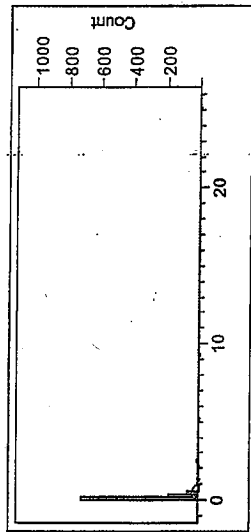
pH VCWPD I-2 & R-1



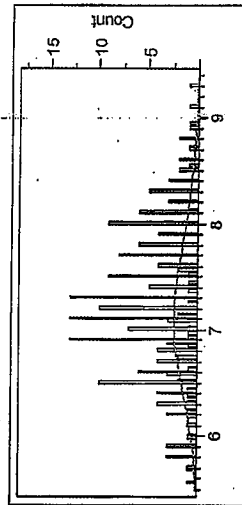
TSS VCWPD I-2 & R-1



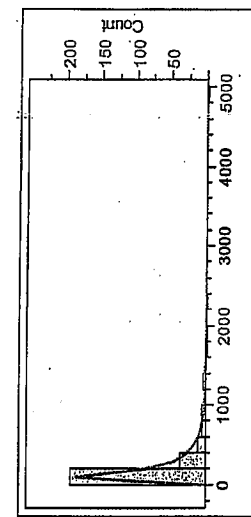
Hg R6



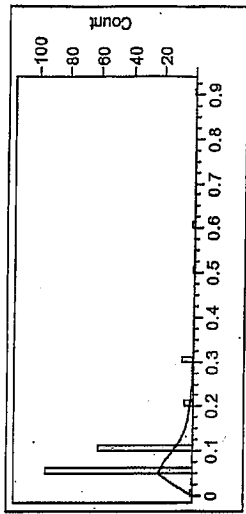
pH R6



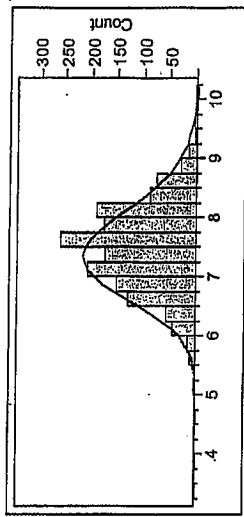
TSS R6



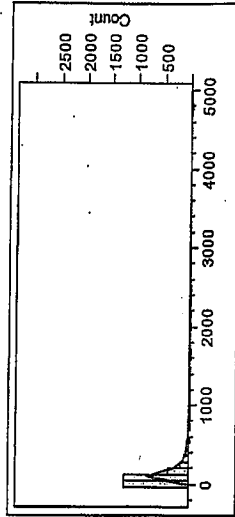
Hg Nat'l



pH Nat'l

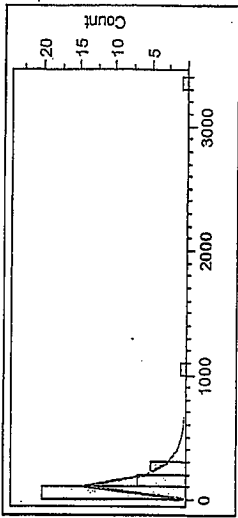


TSS Nat'l

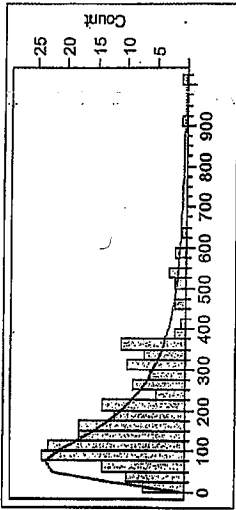




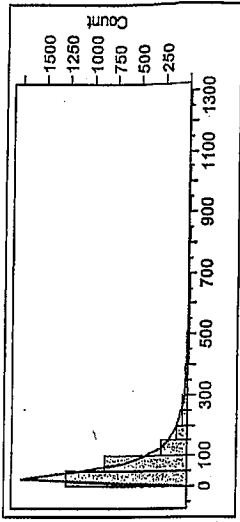
COD VCWP\_ 2 & R-1



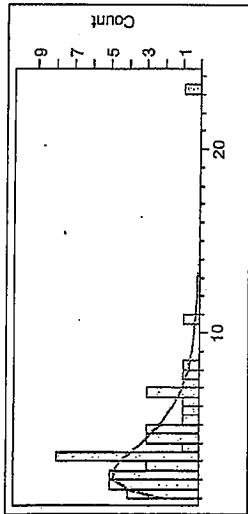
COD R6



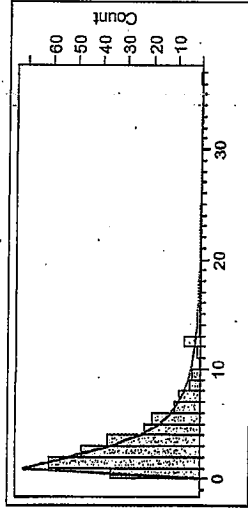
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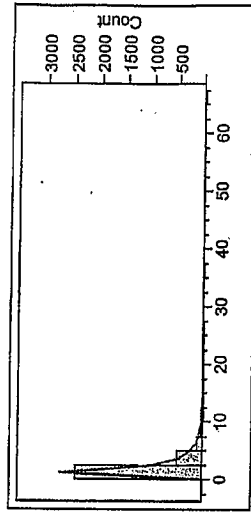
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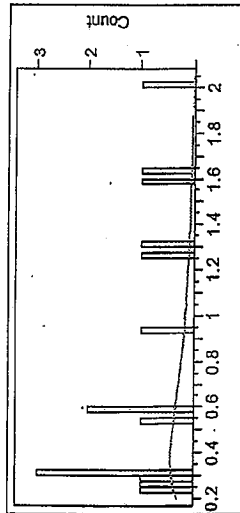
TKN R6



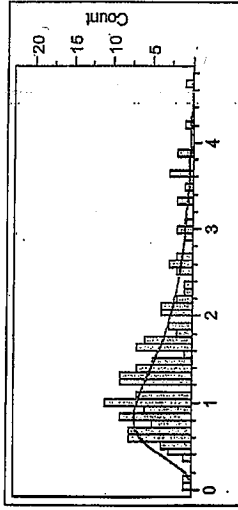
TKN Nat'l



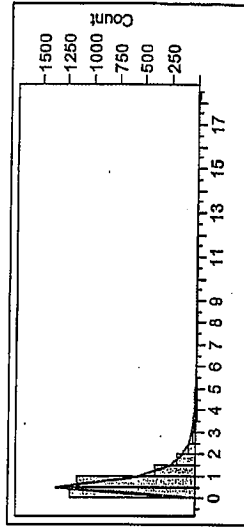
Nitrate plus Nitrite, as N VCWPD I-2 & R-1



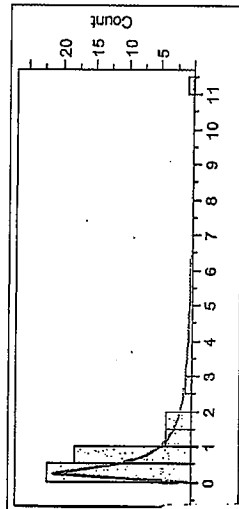
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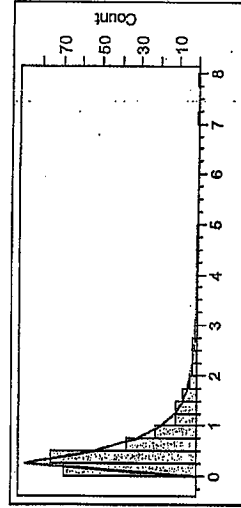
Nitrate plus Nitrite, as N Nat'l



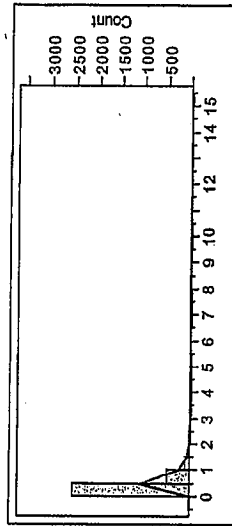
Phosphorus, total, VCWPD I-2 & R-1



Phosphorus, total, R6



Phosphorus, total, Nat'l



## **Ventura Countywide Issue Paper - MALs and Permit Implementation and Compliance**

**Issue:** The Draft Permit proposes to use municipal action levels (MALs) expressed as numeric values to assess compliance with the stormwater technology based standard of Maximum Extent Practicable (MEP). Outfalls greater than 36 inches are subject to MALs. If MALs are exceeded more than twice then the Permittees are presumed to be out of compliance with the MEP standard (and out of compliance with the Permit). If MALs are exceeded then the Permittees must augment control measures to reduce the discharge of pollutants to not violate the MEP standard. Furthermore even absence of MAL exceedances the Permittees may still be judged to be out of compliance with the MEP standard.

### **Ventura Countywide Alternative Approach**

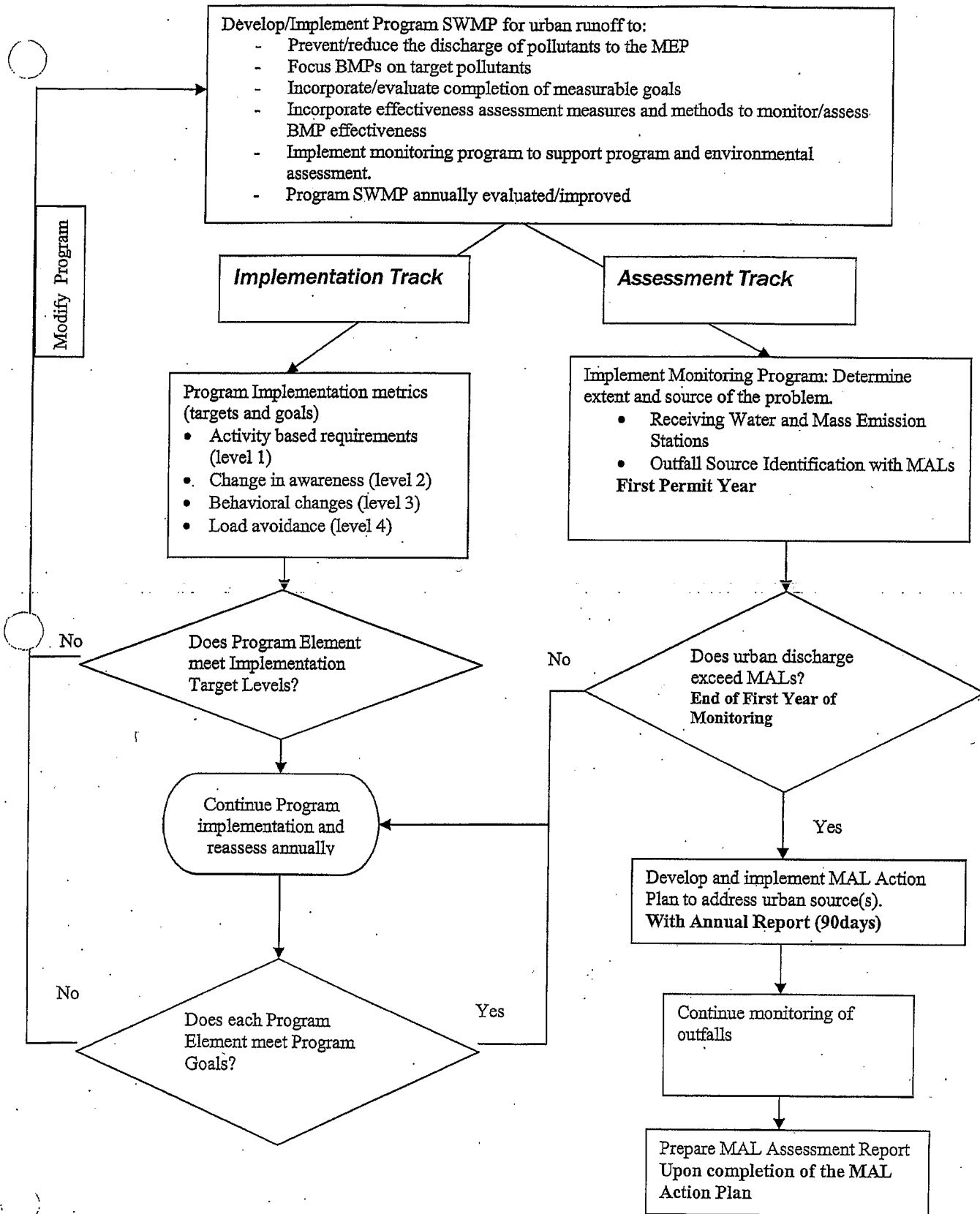
The Ventura Countywide Program proposes an alternative to the “MAL equal MEP” approach used in the Permit. The fundamental difference between the Regional Board and the Countywide approach is in the use (and definition) of MALs. The Countywide approach proposes to use MALs as an assessment tool to identify “bad actors” or catchments (through outfall monitoring). The MALs would be developed using local monitoring data and be applied to urban outfalls. In addition, the Permittees would develop performance metrics (defined as action levels and benchmark goals) for the stormwater program implementation. These metrics would be reviewed as part of the Annual Report.

Our approach is summarized below:

1. Using local monitoring data the Permittees would develop MALs at levels in excess of the normal range of runoff data (e.g. mean plus 2 standard deviations). Once developed the Permittees would conduct a monitoring program (see accompanying monitoring issue paper) and submit as part of the Annual Report an assessment that compares the outfall monitoring data with the applicable MAL.
2. For those outfalls/subwatersheds with discharges in excess of MALs the applicable Permittee would prepare an MAL Action Plan. The plan would include an assessment of the sources responsible for the abnormal pollutant levels, the existing BMPs that address those sources, an assessment of potential alternative BMPs and actions that could be implemented, the additional practicable BMPs and/or actions the Permittee proposes to ensure compliance with the MEP standard, and an implementation schedule for such actions. The MAL Action Plan would be submitted to the Executive Officer for review and approval.
3. Once the Action Plan is approved the Permittee would initiate the BMPs and actions proposed in the MAL Action Plan, together with any other practicable BMPs or actions that the Executive Officer determines to be necessary to comply

with the MEP standard. The Permittee would complete the proposed actions in accordance with the approved implementation schedule.

4. Upon completion of the actions specified in the approved MAL Action Plan, the Permittee would re-monitor the subject subwatershed in accordance with the MRP, and submit a Post-Project MAL Assessment Report to the Executive Officer.
5. In parallel to the MALs the Permittees would develop performance metrics (aka target levels and program goals) for program implementation. Each year the Permittee would assess their efforts to meet the performance metrics. Appropriate follow-up actions would be required for Permittees not meeting their performance metrics.



## PART 2 – MUNICIPAL ACTION LEVELS

1. Each Permittee is affirmatively required to implement controls to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP).
2. Under this Order, the locally relevant Municipal Action Levels (MALs) listed in Attachment "C" shall be utilized by Permittees to identify subwatersheds discharging pollutants at levels in excess of the normal range, and to ensure that, within those subwatersheds, Permittees take additional action necessary to reduce the discharge of pollutants to the MEP.
3. In order to determine if MS4 discharges are in excess of the normal range, Permittees shall conduct outfall monitoring as required in the Monitoring and Reporting Program (MRP). After the completion of the first year of the MRP a MAL Assessment Report shall be submitted to the Executive Officer as part of the Annual Report. The MAL Assessment Report shall present the monitoring data in comparison to the applicable MALs, and identify those subwatersheds with discharges in excess of the MALs.
4. Each Permittee shall submit to the Executive Officer as part of the MAL Assessment Report, an MAL Action Plan for those subwatersheds with discharges in excess of the MALs. The plan is to include an assessment of the sources responsible for the abnormal pollutant levels, the existing BMPs that address those sources, an assessment of potential alternative BMPs and actions that could be implemented, the additional practicable BMPs and/or actions the Permittee proposes to ensure compliance with the MEP standard, and an implementation schedule for such actions.
5. Within 90 days of the plan approval, the Permittee shall initiate the BMPs and actions proposed in the MAL Action Plan, together with any other practicable BMPs or actions that the Executive Officer determines to be necessary to comply with the MEP standard. The Permittee shall complete the proposed actions in accordance with the approved implementation schedule.
6. Upon completion of the actions specified in the approved MAL Action Plan, the Permittee shall re-monitor the subject subwatershed in accordance with the MRP, and submit a Post-Project MAL Assessment Report to the Executive Officer.
7. The Executive Officer will either accept the report as evidence that the Permittee has complied with the MEP standard or, alternatively, identify additional actions which the Executive Officer determines necessary to comply with the standard.

Ventura Countywide Stormwater Quality Program

Constituent	MALs	POCs <sup>1</sup>	TMDL
TSS	X		
Siltation			X
COD	X		
Cd, total	X		
Cr, total	X		
Cu, total	X	X	
Pb, total	X	X	
Ni, total	X		
Zn, total	X	X	
Bacteria (E. Coli and Fecal Coliform)		X DRY WEATHER ONLY	X
Mercury	X		X
Selenium			X
Organics			X
Pesticides (OC)		X	X
Pesticides (OP)		X	X
Nutrients			X
TKN	X	X	
Ammonia		X	
Nitrate & Nitrite	X		
Phosphorus Total	X		
Toxicity			X
Salts			X

1. From 2002/03 Annual Report, Chapter 9.

**Finding describing permittees' responsibilities, and where those responsibilities are shared with the Regional Board regarding extra-jurisdictional inputs into MS4:**

*from Bay Area Region Permit*

The Regional Board has, in prior years, issued a limited number of individual NPDES permits for non-storm water discharges to MS4s. The Regional Board or SWRCB may in the future, upon prior notice to the Copermittee(s), issue an NPDES permit for any non-storm water discharge (or class of non-storm water discharges) to a MS4. The State Board also has issued an NPDES permit for Stormwater Runoff to Caltrans and General Permits for the regulation of storm water discharges associated with industrial activities (General Industrial Permit). The Discharger is not authorized to enforce these NPDES permits, however, they may prohibit any non-storm water discharge (or class of non-storm water discharges) to a MS4 that is authorized under such separate NPDES permits.

*from San Diego permit*

This permit requires the Discharger to conduct local compliance inspections at industries or construction sites covered under State NPDES General Permits that discharge to their storm sewers. The Discharger, through inspection of these facilities for compliance with tenant agreements, can bring apparent General Permit compliance problems to the attention of Regional Board staff as a means of attaining more widespread compliance.

*new language*

In addition, this permit requires the Discharger to address elevated pollutant levels found in the MS4 through Municipal Action Level Action Plans. There may be discharges to an MS4 from facilities outside the Dischargers jurisdiction, such as federal and state facilities, and irrigated lands. To address pollutants that are found to be coming from facilities outside the Dischargers jurisdiction the Municipal Action Level Action Plan should require that the issue is brought to the attention of the responsible regulating agency, and subsequent investigation and enforcement efforts are supported.

Monitoring Technical Issues			
Citation	Issue	Alternative	
A 6 A 15, B 11, C 17	Sample first 3 hours of event  Report results in 45 days	only if composting by hand  90 days with errata included with final report	<b>Regional Board Response (Arne's take)</b> Change to first 24 hours 90 days acceptable if RB staff is informed of problematic results as they are available to the District.
C 1	Toxicity at outfalls (3 species) X (4 events) X 11 sites = 132 tests	Toxicity on first flush only, unless toxicity seen in receiving water.	Will consider frequency of toxicity monitoring and coordinate with toxicity required by TMDLs
D C 14	Pyrethroids - SWAMP is doing a study in all watersheds, CCTMDL is doing a study . . . T.I.E. required at 90% or greater tox	Define question to be answered through study, review other studies and find gaps, create a study to fill gaps. Use TUA or TUC greater than 1	Will consider need of pyrethroid monitoring and coordinate with monitoring required by TMDLs. May also consider requiring pyrethroid outreach and action plan in lieu of monitoring Will review, but TU > 1 sounds acceptable
C 15	T.I.E. prioritization option	confirm that C15 is an alternate for C14	SMC prioritization is allowed when there are multiple samples showing toxicity.
C 16	TRE trigger - same class pollutant cause tox - how often? compliance with "Effluent Limitations"	Clearly define trigger  delete	Suggested language of "two consecutive" TIE of same class of pollutant . . . is acceptable  not discussed
A 1.1. C-8	Estimate MS4 Mass Emissions from ME samples Marine-species-toxicity	Delete, use outfall monitoring inappropriate in fresh-water	not discussed
A 3	"measurable storm event" needs definition	0.1 " of rain?	Measurable will be defined as 0.25 inch of rain.
D.7. A9, B 5	QAPP for pyrethroid study? Why? grab samples 17.5 gallons needed for toxicity et al, Hg contamination likely through composite	Require only if grant money helping fund study  Grab for toxicity and Hg 0.25 " may not increase flow in river, suggest sampling when flow rises 20% above baseline.	Will be considered with pyrethroid monitoring requirement. Research needed to determine appropriate method.
A.5	set samplers to sample 0.25 inch event		Research needed to determine appropriate method.



iv) Piperonyl Butoxide (PBO) for metabolically-activated pesticides and some other organics

- 3) If a toxicant is identified through the TIE process, a Toxicity Reduction Evaluation (TRE) is performed to identify the sources of the toxicity and discuss appropriate BMPs to eliminate the causes of toxicity.

Statistically significant toxicity is defined by a greater than or equal to 50% increase in toxicity of test species<sup>4</sup>. If toxicity is statistically significant upon completion of the TRE, a TRE Corrective Action Plan will be included in the Annual Report to detail the source of pollutants and corrective actions. The SWMP will also be updated to reflect any changes to reduce the pollutants causing toxicity or increase pollutant monitoring.

### Dry Weather Field Screening

The primary purpose of the dry weather monitoring program is to identify dry weather flows and potential illicit discharges and illegal connections (see SWMP Section 2). The City monitors 20% of the outfalls each year (approximately 25 per year) so that all outfalls are screened over the course of the permit term. Field screening occurs during dry weather periods throughout each permit year (July 1 – June 30) and each event is preceded by non-rainfall period of at least two weeks. Grab samples are taken at sites with sufficient flow and analyzed in the field for temperature, pH, phenols, chlorine, total copper, specific conductance (EC), methyl blue activated substances (MBAS, which are detergents/surfactants), and turbidity. A list of outfalls planned to be screened during the 2007-2012 permit term is given in Appendix H-4. The list will be confirmed in the field and updated as necessary.

The SWMP identifies action levels that initiate a field procedure to identify potential illicit discharges and illegal connections and further investigation by source tracking. If any of the action levels identified shown in Table 8-5 are exceeded during dry weather monitoring events, source tracking upstream of the exceedance location is conducted in order to isolate the illicit discharge to a specific segment of the drainage system, if possible.

Table 8-5. Dry Weather Field Screening Action Levels

Contaminant	Unit	Action Levels
Phenols	mg/L	>0.017
Total copper	mg/L	>2
Electrical Conductivity	umhos/cm	>700
Methyl Blue Activated Substances (MBAS)	mg/L	>0.275
Turbidity	NTU	>55

Notes:

mg/L = milligrams per liter

umhos/cm = micromhos per centimeter =  $\mu$ S/cm = micro Siemens per centimeter

NTU = Nephelometric turbidity units

Dry weather field screening is ongoing throughout the dry season and is not coordinated with other baseline monitoring. However, Table 8-6 and Table 8-7 show how the monitoring activities of all baseline monitoring as well as supplemental monitoring overlap.

- (1) If TMDL compliance monitoring indicates that the Malibu MS4 permittees are causing or contributing to an exceedance of the WLAs in the receiving waters, the permittees shall conduct a source identification study and implement additional controls sufficient to achieve the WLAs in the receiving waters.

6. TMDL for Trash in Revolon Slough and Beardsley Wash

(a) Wasteload Allocations

- (1) WLAs are zero trash.

(b) Compliance Monitoring

- (1) Responsible jurisdictions will develop a TMRP for Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in Revolon Slough and Beardsley Wash and/or within responsible jurisdiction land areas. The TMRP shall include a plan to establish the trash Baseline WLAs.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

(c) Actions and Special Studies required of Revolon Slough and Beardsley Wash MS4 permittees

- (1) Per the adopted Basin Plan Amendment, compliance with the TMDL may be either through a progressive implementation schedule of full capture devices or other measures or by implementing a program for minimum frequency of assessment and collection in conjunction with best management practices (MFAC/BMP).

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Deleted: submit progressive implementation schedule of full capture devices or other measures or by implementing a program for minimum frequency of assessment and collection in conjunction with BMPs

Deleted: results of Trash Monitoring and Reporting Plan, recommend trash baseline WLA, and propose Full Capture System prioritization. ¶

Deleted: MS4 Effluent Quality and Source Identification Workplans

7. TMDL for Trash in the Ventura River Estuary

(a) Wasteload Allocations

- (1) WLAs are zero trash.

(b) Compliance Monitoring

- (1) Responsible jurisdictions will develop a TMRP for Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in the Ventura River Estuary and/or within responsible jurisdiction land areas. The TMRP shall include a plan to establish the trash Baseline WLAs.
- (2) If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions, Regional Water Board staff will evaluate the need for further enforcement action.

**Public Agency Activity Issues**

Citation	Issue	Alternative
Footnote 2 on page 29	Potable water discharges	Provide parity with non-permitted utilities. Add: Those releases for dewatering or hydro-testing or flushing of water supply and distribution mains and incidental and infrequent releases from well heads shall be allowed with the implementation of appropriate BMPs until such time as a new General Permit is adopted that addresses those types of releases. Discharges from hydrostatic pipe testing shall be subject to separate NPDES general permit coverage (CAG674001) and discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity
Part 5 - G. 1. (a)(b)(c) E II 2 b&c	Triggers for compliance with Planning and Land Development Program Requirements for CIPs	Comply 5000 sq ft threshold OK.
Page 73, Part 5 - G. 2. (b)Page 71, Part 5, G. 1.	Definitions of construction and maintenance and the CASPG requirements on CIPs (last line)	Provide parity with non-permitted utilities. Consolidate CIP construction requirements and require no more than in the State's permit
Page 75, Part 5 - G. 5. (a)(1)	Catch basin excluders at all commercial and industrial	Use catch basin prioritization under H. 5 (a) 1. to designate where trash excluders are most needed.
Page 75, Part 5 - G. 5. (a)(1)	Catch basin excluders at all commercial and industrial	Allow for alternatives - e.g. end-of-pipe capture and trash management programs
Page 75, Part 5 - G. 5. (a)(1)	Trash requirements not aligned with local trash TMDLs - options and timelines	TMDL process and should be incorporated into permit
Page 76, Part 5 - G. 5 (c)	Trash cans at schools and bus stops in 6 months to short to spec and bid.	One year

Page 728, Part 5 - G. 2. 1	BMP selection from Caltrans Handbook only.	Provide other options - California BMP handbook and other national resource
Page 77, Part 5 - G. 5. (g)(1)	Spill response in conflict with Illicit Discharge section	Clarify if section only applies to SSOs or other permittee discharges
Page 74, Part 5 - G. 4. (a) (5)	Requirement to partner with other agencies (non-permittees) to ensure proper use of pesticides	Encourage, not require
Page 78, Part 5 - G 7	Self-Waiver for emergency repairs	Almost daily routine minor emergencies (water line breaks/leaks, <b>other examples?</b> ) should be exempt from paperwork (provided BMPS to MEP) and major emergencies will need more 7 days for reporting. Provide parity with non-permitted utilities.
Page 31 Table 1	Swimming Pool discharge	Accept Hyper-chlorinated water after dechlorination (still no salts above WQS) <i>Swimming pool discharges: Swimming pool discharges are to be dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments.</i>

## Ojai

**Waterbody:** Fox Canyon Barranca (tributary to San Antonio Creek)

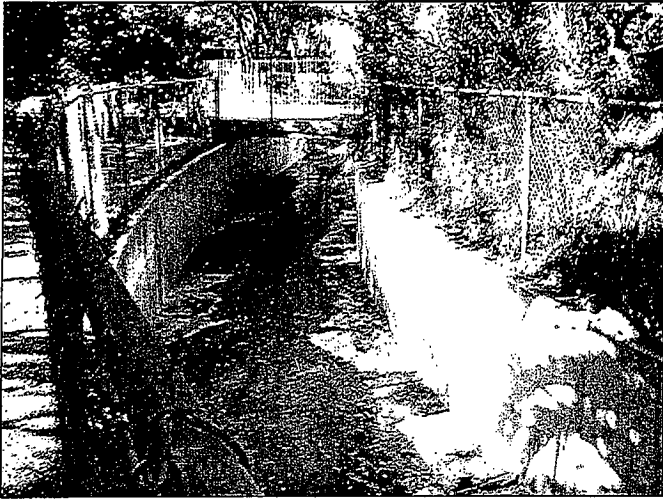
**Location:** Concrete box channel upstream Ojai Valley Athletic Club and downstream pedestrian walkway

**Pros:** Numerous bridges to sample from, located behind VCWPD gate, likely well-defined rating table

**Cons:** Some potential for vandalism

**Outstanding Site Selection Tasks:** Work with VCWPD O&M to ensure enclosure doesn't interfere with maintenance activities

**Other Potential Sites:** Downstream where Stewart Canyon crosses beneath Ventura St. (bioassessment site #8)



**Meiners Oaks (Unincorporated)**

**Waterbody:** Baldwin Rd. Drain (tributary to Ventura River)

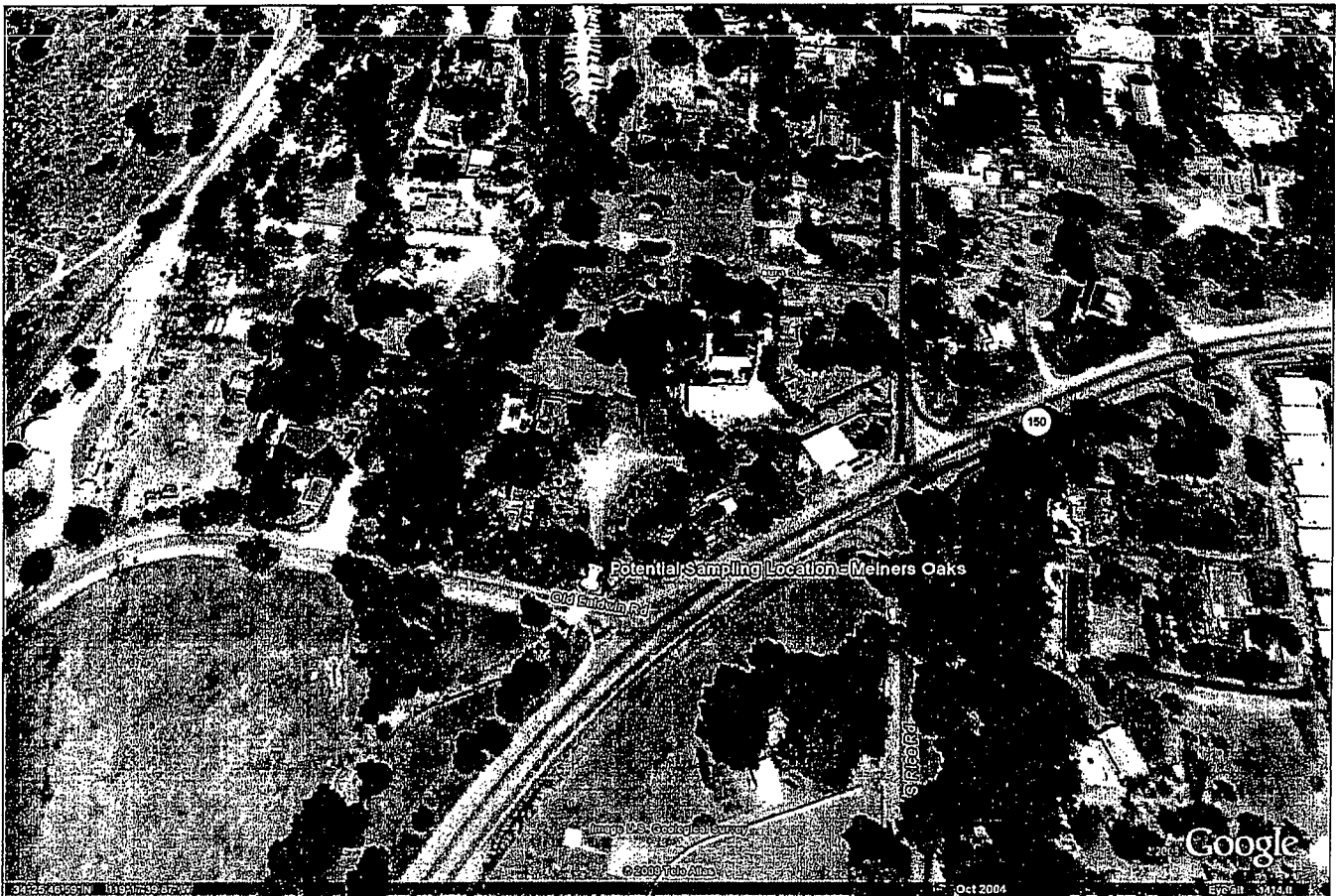
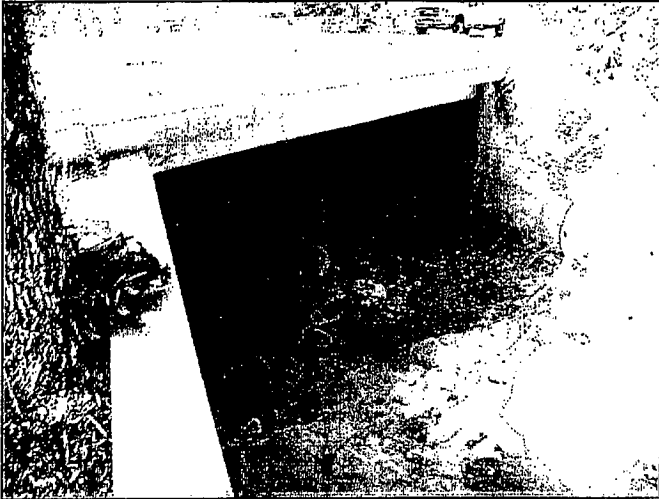
**Location:** Northwest of Baldwin Rd. and Old Baldwin Rd. intersection

**Pros:** Good horizontal control, fairly good access

**Cons:** Vertical control varied (grouted rip-rap), moderate visibility

**Outstanding Site Selection Tasks:** Assess private property issues

**Other Potential Sites:** Approximately 100 yds. downstream at Baldwin Rd.



## Ventura

**Waterbody:** Moon Ditch (tributary to Santa Clara River)

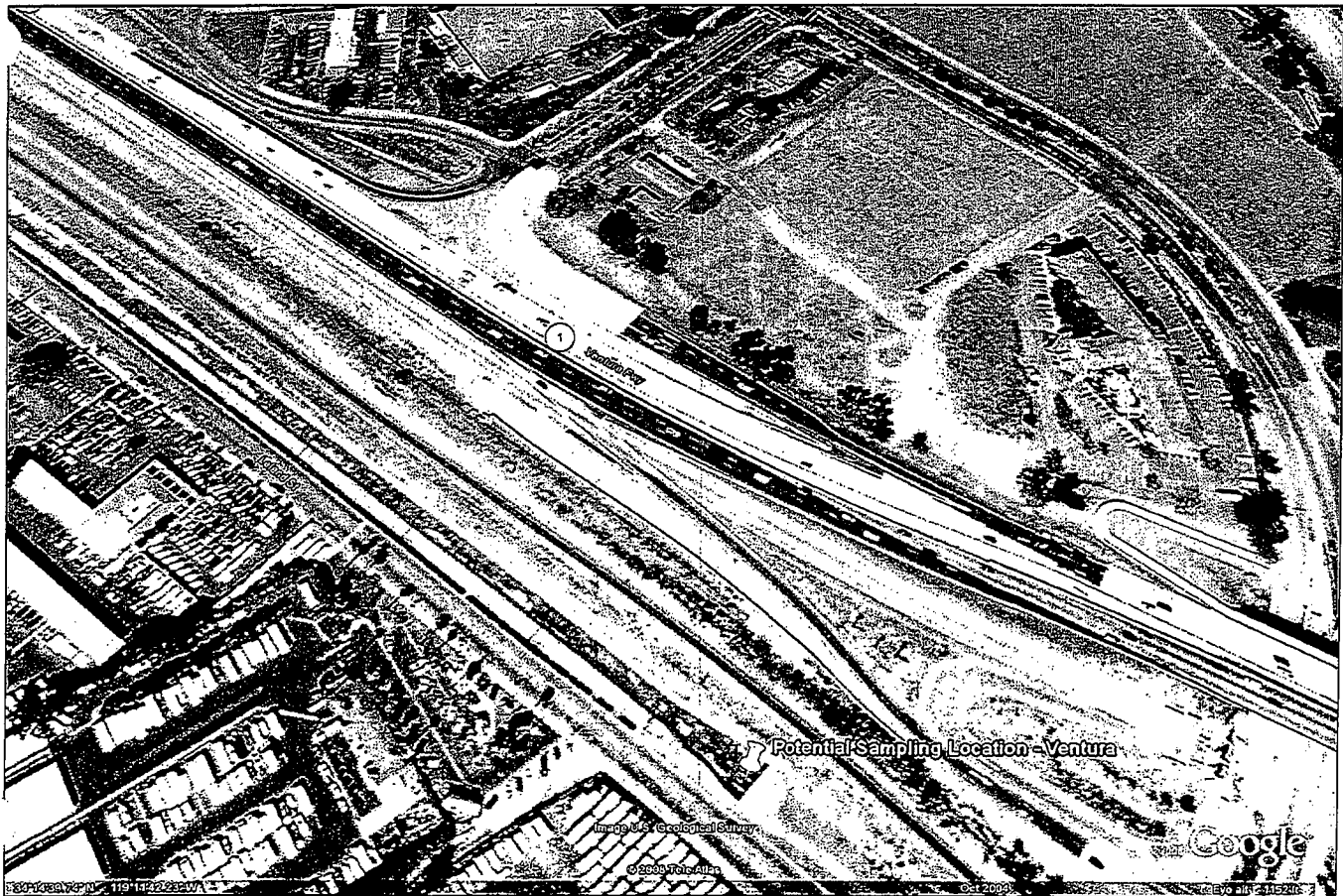
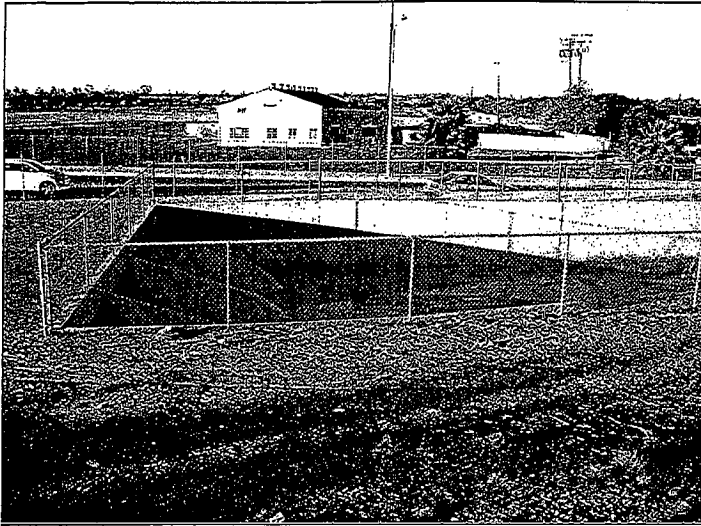
**Location:** Between Leland St. and US 101, north of Johnson Dr.

**Pros:** Likely well-defined rating table, fairly good protection (located behind VCWPD gate)

**Cons:** Wide concrete bottom will spread out low flows, placement of intake somewhat difficult

**Outstanding Site Selection Tasks:** None

**Other Potential Sites:** None



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## Oxnard

**Waterbody:** El Rio Drain (tributary to Santa Clara River)

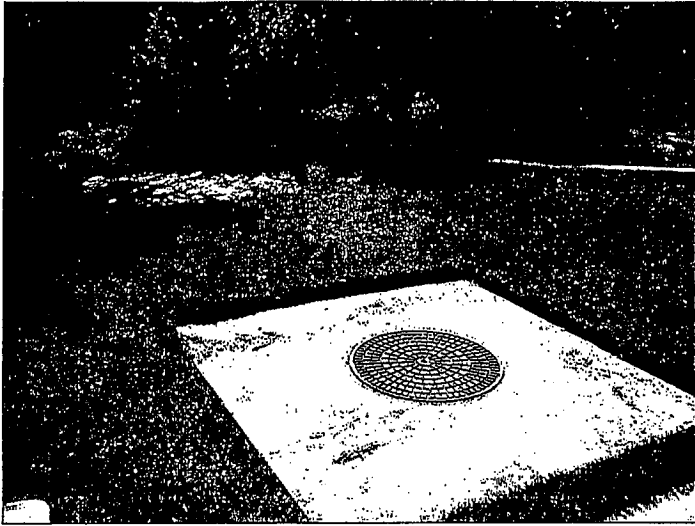
**Location:** Manhole near pedestrian walkway along Ventura Rd., 185 yards southwest of railroad tracks

**Pros:** Likely well-defined rating table, fairly secure inside manhole

**Cons:** All equipment below-ground (maintenance and trouble-shooting more complicated)

**Outstanding Site Selection Tasks:** Move sampling location shown on watershed map

**Other Potential Sites:** 150 yds. to northeast before El Rio Drain goes underground





## Port Hueneme

**Waterbody:** Hueneme Drain (tributary to Pacific Ocean)

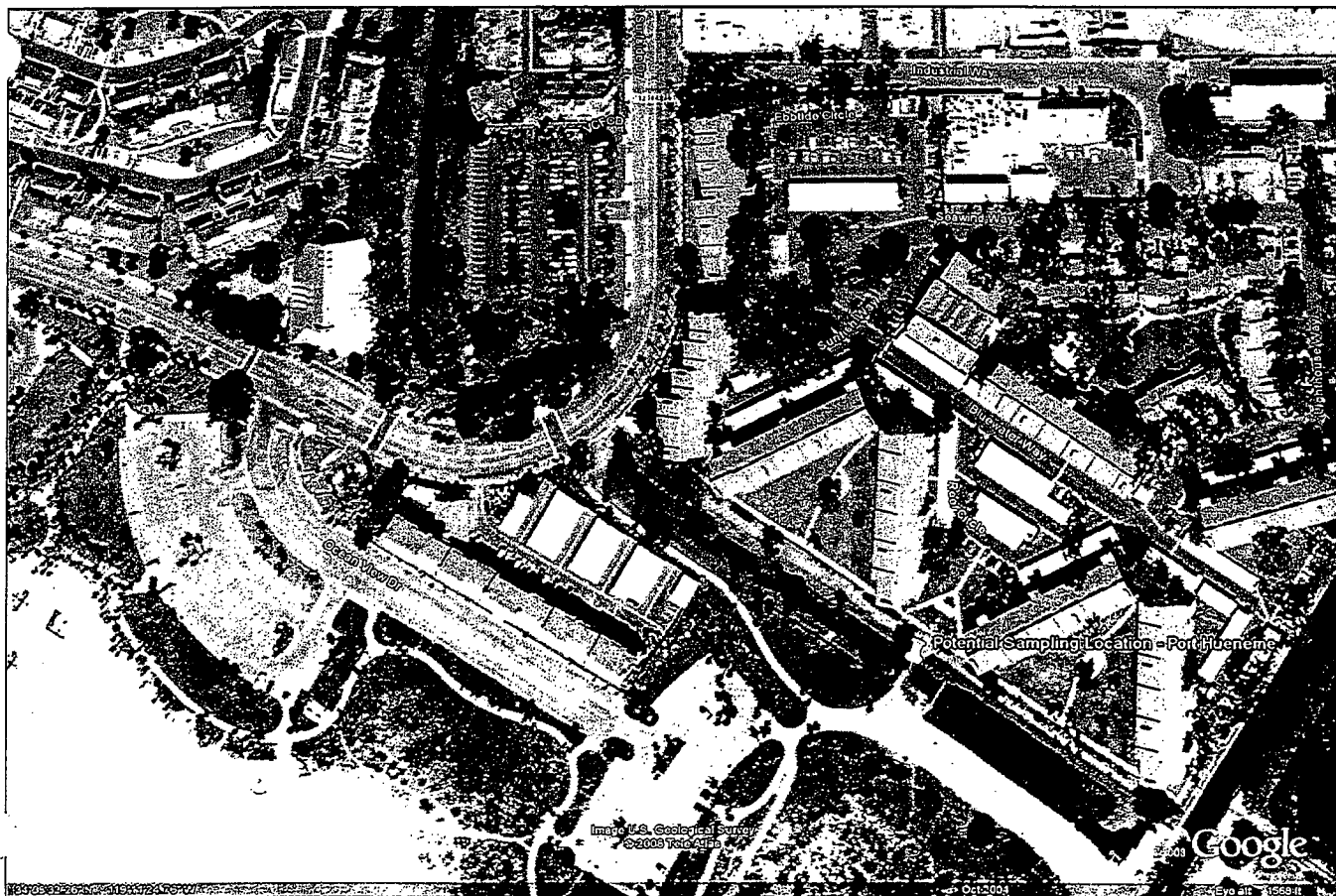
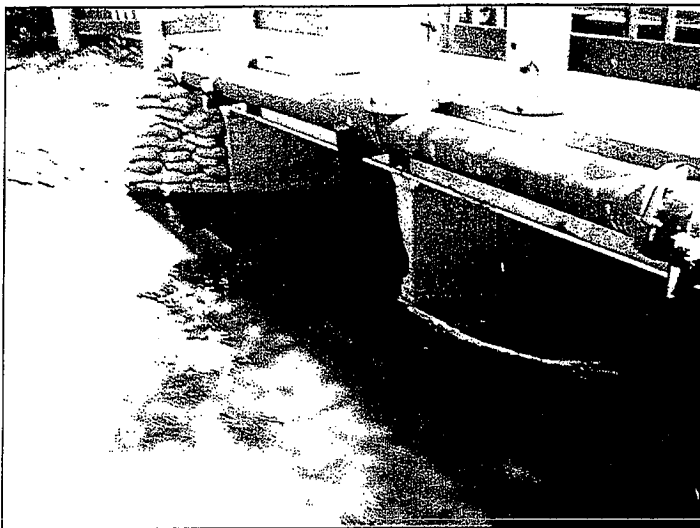
**Location:** Pedestrian bridge 200 yds. downstream Surfside Dr.

**Pros:** Grass-covered sides fairly stable

**Cons:** Lots of activity nearby, high potential for vandalism, stagnant water

**Outstanding Site Selection Tasks:** Verify positive flow

**Other Potential Sites:** At Surfside Rd. at lower end of Bubbling Springs Park



**Santa Paula**

**Waterbody:**

**Location:**

**Pros:**

**Cons:**

**Outstanding Site Selection Tasks:**

**Other Potential Sites:**

No information received from City of Santa Paula

**Fillmore**

**Waterbody:** North Fillmore Drain (tributary to Sespe Creek)

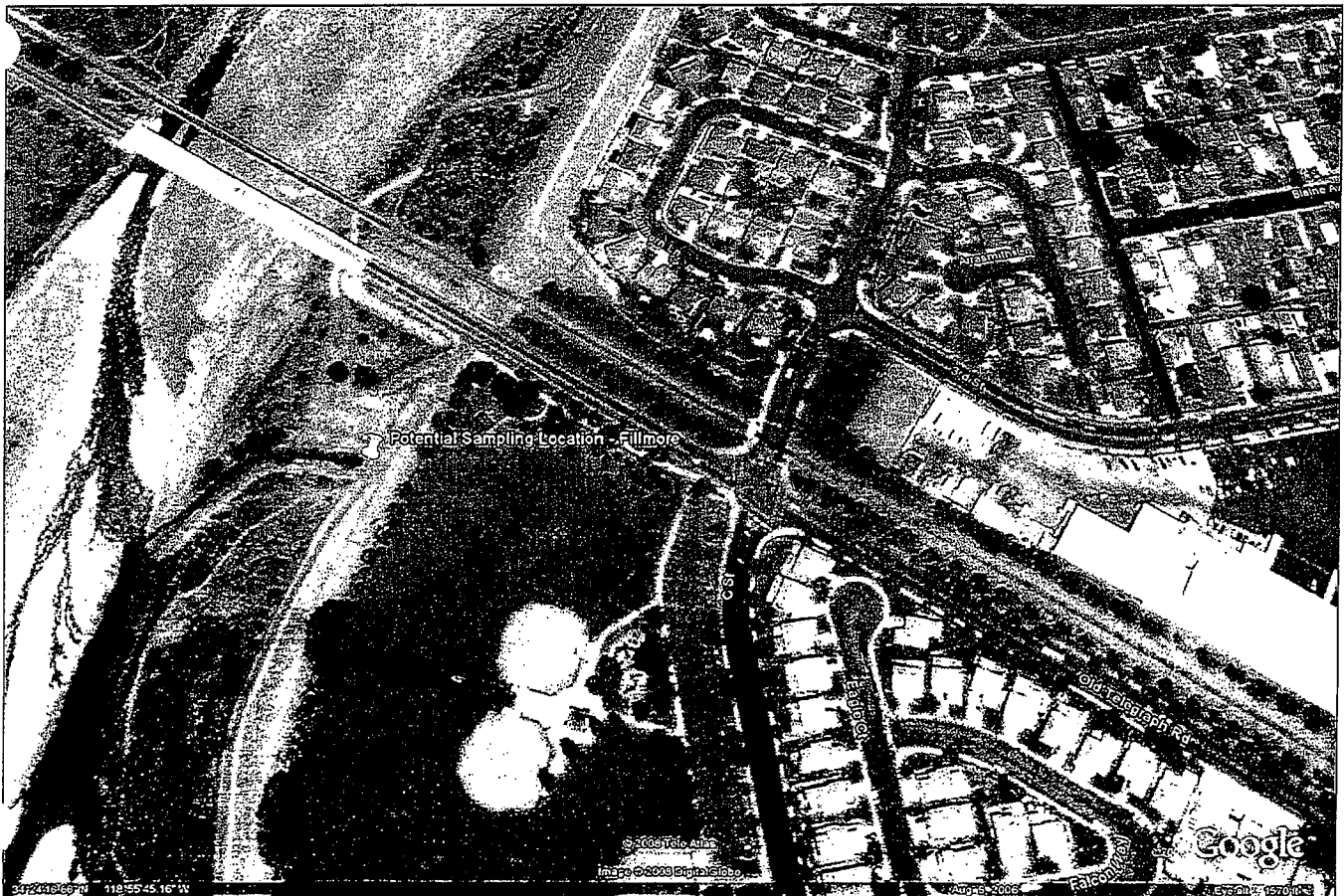
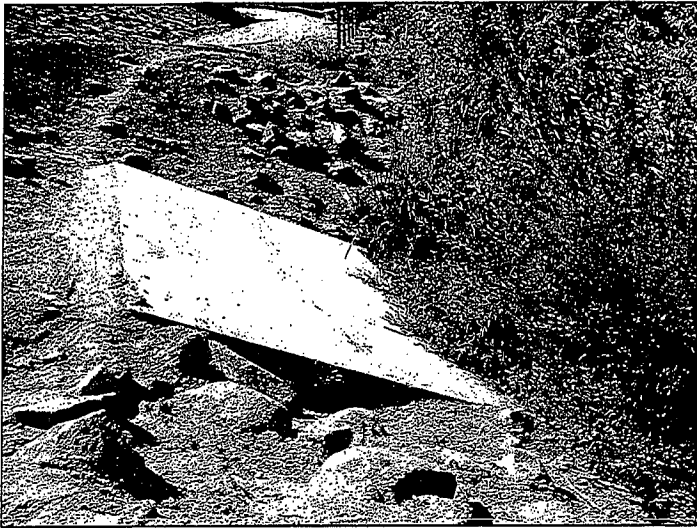
**Location:** 75 yds. southwest of Old Telegraph Rd.

**Pros:** Some portion of vegetation could be cleared by City of Fillmore

**Cons:** Potential for vandalism

**Outstanding Site Selection Tasks:** None

**Other Potential Sites:** C Street Drain and Central Ave. Drain



## Camarillo

**Waterbody:** Camarillo Hills Drain (tributary to Revolon Slough)

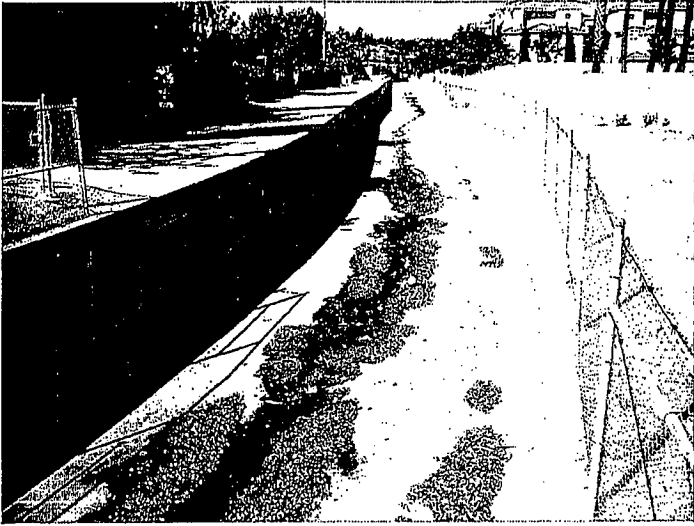
**Location:** Daily Rd. overcrossing

**Pros:** Likely well-defined rating table

**Cons:** Moderate potential for vandalism

**Outstanding Site Selection Tasks:** None

**Other Potential Sites:** None



## Moorpark

**Waterbody:** Gabbert Canyon Drain (tributary to Arroyo Las Posas)

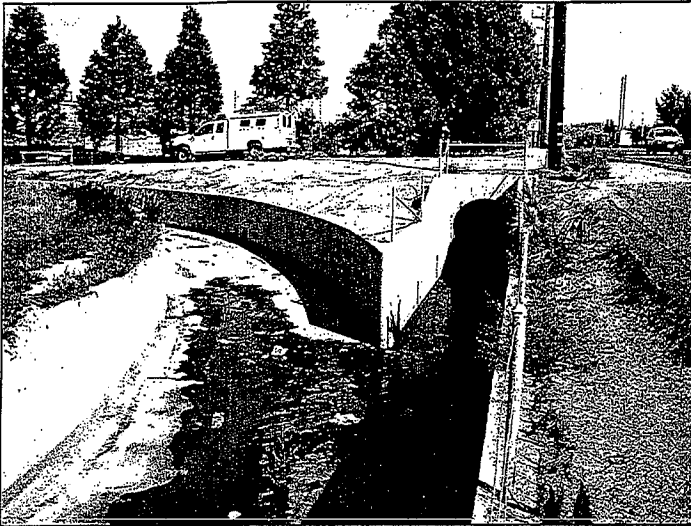
**Location:** North side of SR 118 near southwest corner of So. Cal. Edison property

**Pros:** Likely well-defined rating table

**Cons:** Aerial deposition from vehicular traffic on 118, potential for vandalism

**Outstanding Site Selection Tasks:** Move sampling location shown on watershed map

**Other Potential Sites:** Upstream current location, although site would interfere with access road



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## Simi Valley

**Waterbody:** Bus Canyon Drain (tributary to Arroyo Simi)

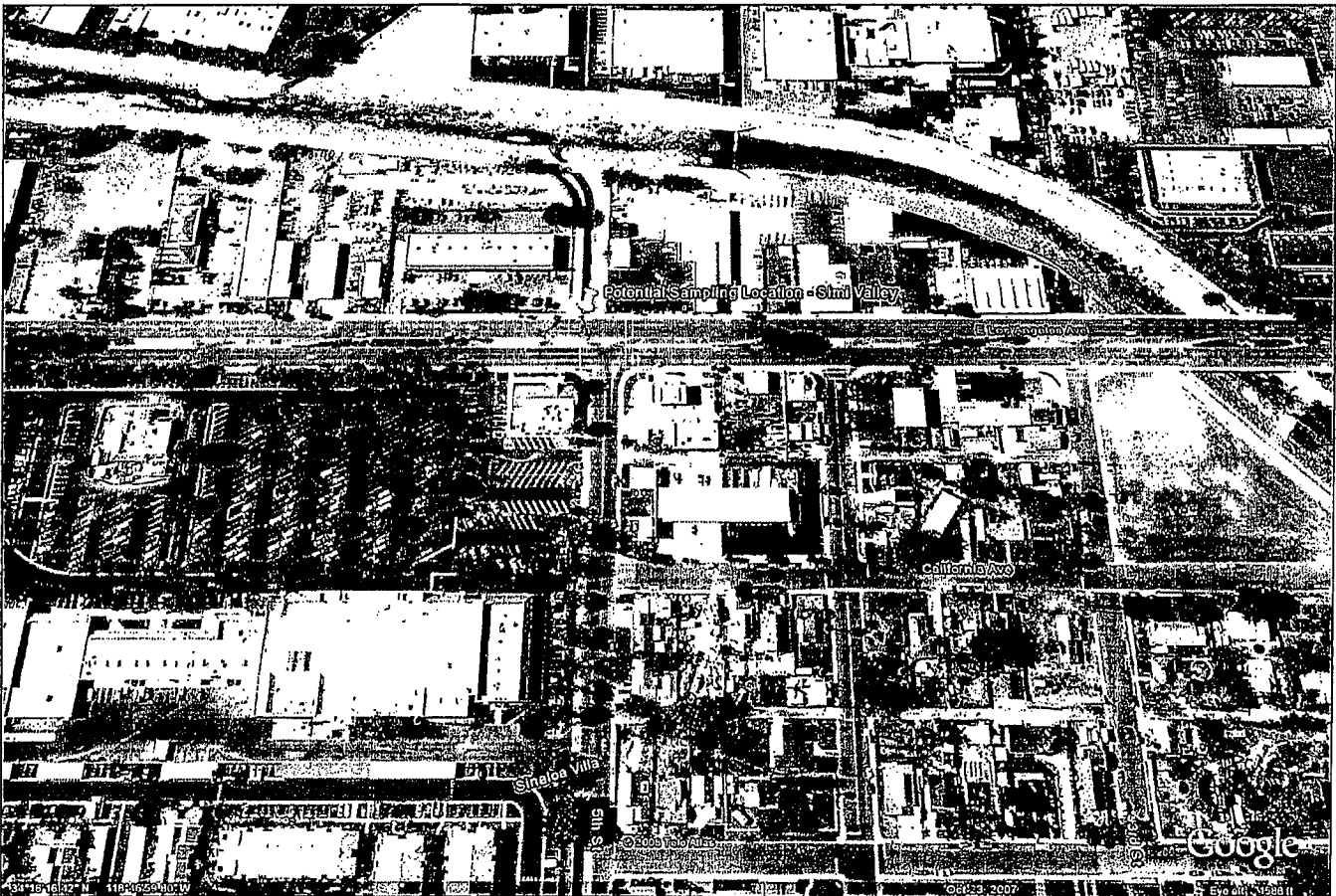
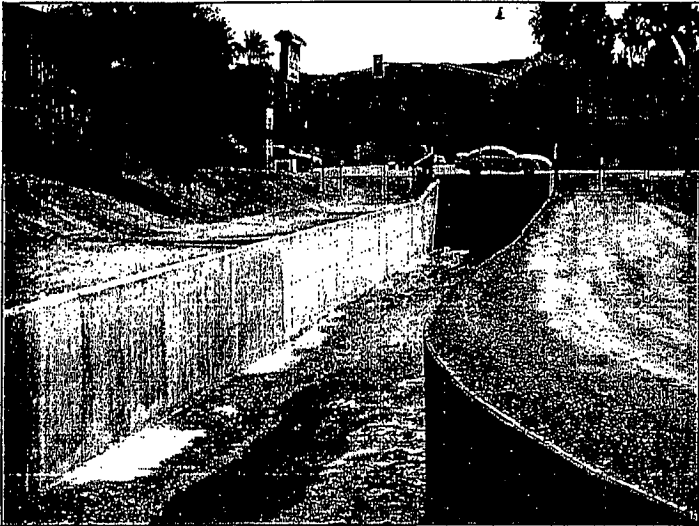
**Location:** North of intersection at 5<sup>th</sup> St. and Los Angeles Ave.

**Pros:** Likely well-defined rating table, located behind VCWPD gate

**Cons:** Pedestrian traffic on levee nearby

**Outstanding Site Selection Tasks:** Assess impacts of large groundwater discharge upstream, move sampling location shown on watershed map

**Other Potential Sites:** Upstream at 5<sup>th</sup> and Ventura Ave.



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## Thousand Oaks

**Waterbody:** North Fork Arroyo Conejo (tributary to Conejo Creek)

**Location:** Hill Canyon WWTP sampling location R-1

**Pros:** Very secure, helpful staff onsite, fairly well-defined channel, accessible via concrete stairs

**Cons:** Late-night access to WWTP could present problem

**Outstanding Site Selection Tasks:** None

**Other Potential Sites:** None



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# Ventura Countywide Draft Tentative MS4 Permit Discussion Meeting with RWQCB staff

October 10, 2008

Location: Pacific Conference Room, Ventura County Government Center

## --- Agenda ---

The purpose of the meeting is to discuss Stormwater permit topics & requirements contained in the draft Ventura County MS4 permit (NPDES No. CAS004001).

Introductions	All	5 minutes
9:30 pm – 12 noon		
1. Municipal Action Levels (MALs) & Stormwater Monitoring	Introduction by VC Permittees Discussion by All	2 hours, 30 minutes
2. Agenda Topics for Next Meeting	All	15 minutes

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**Ventura Countywide Stormwater Quality Management Roster**  
**Special Meeting**  
 May 15, 2008

<i>Name</i>	<i>Organization</i>
1. ARNE ANSELMI	VCWPD
2. Gishardt	VCWPD
3. Cheryl Allen	VCWPD
4. [Signature]	City of Camarillo
5. Richard B...	City of Ventura
6. Jim Taylor	City of Thousand Oaks
7. [Signature]	City of Oxnard
8. Kevin [Signature]	City of Simi Valley
9. Sibain Krues	City of Moorpark
10. JON TULLER	City of Santa Paula
11. [Signature]	City of Ojai
12. FRED CAMARILLO CARRIEMATTINGLY	City of Port Hueneme
13. Brent Dapp	City of Fillmore
14.	VCRMA
15. PAUL TANNETT	VCPWA
16. Tracy [Signature]	RWDQB-LA
17. Xavier Skomikanne	RWDQB-LA
18. Viki Musgove	City of Ventura

5. Review and Discuss Initial Draft Comment Letter on May 2008 Draft Tentative Order
  - a. Some City Managers have suggested a rewrite of the Permit.
  - b. A statewide performance-based permit has been discussed.
  - c. MALs remain the most important item of concern in the Draft Permit.
  - d. Bert Rapp shared that it would be beneficial to generate interest with the public via the Benefit Assessment sewer rate increase.
6. Feedback on Today's LDC Meeting -5/15/08
  - a. Gerhardt Hubner, Paul Tantet, Anita Kuhlman and Richard Bradley attended this 5/15 meeting.
  - b. Several of the Co-permittees were in favor of supporting the Local Government Commission's efforts. A scope of work will be obtained.
  - c. Funding is needed to run a series of workshops devoted to RPAMP.
  - d. Gerhardt recommended to proceed on a watershed/subwatershed EIA basis vs. project by project. Our strikeout-markup will include such language.

Information Items -

The next scheduled meeting to be held May 23, 2008 in the Pacific Conference Room-10:00 AM.

Handouts:

- o Resolution to promote Low Impact Development in California
- o Draft Tentative Order of the Ventura County Municipal Separate Storm Sewer System Permit (NPDES NO. cas004002) for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities

The following people were in attendance:

- |                      |                     |
|----------------------|---------------------|
| 1. Gerhardt Hubner   | VCWPD               |
| 2. Arne Anselm       | VCWPD               |
| 3. Paul Tantet       | VCPWA               |
| 4. Cheryl Serr       | VCWPD               |
| 5. Xavier Swamikannu | LARWQCB             |
| 6. Tracy Woods       | LARWQCB             |
| 7. Anita Kuhlman     | City of Camarillo   |
| 8. Shawn Kroes       | City of Moorpark    |
| 9. Jon Turner        | City of Santa Paula |
| 10. Kevin Gieschen   | City of Simi Valley |
| 11. Glen Hawks       | City of Ojai        |
| 12. Fred Camarillo   | City of Pt. Hueneme |
| 13. Carrie Mattingly | City of Pt. Hueneme |
| 14. Vicki Musgrove   | City of Ventura     |
| 15. Richard Bradley  | City of Ventura     |
| 16. Mark Pumford     | City of Oxnard      |

17. Nora Reyes  
18. Bert Rapp  
19. Jim Taylor

City of Oxnard  
City of Fillmore  
City of Thousand Oaks



# California Regional Water Quality Control Board

## Los Angeles Region

Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Linda S. Adams  
Agency Secretary

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

Arnold Schwarzenegger  
Governor

### Meeting Attendance Sheet

Meeting Subject: Ventura County draft Tentative Permit			
Meeting Location: LARWQCB 320 W. 4 <sup>th</sup> St., # 200 Los Angeles, CA 90013-2343			
Meeting Date and Time: May 23, 2008 @ 1300			
NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
1. Deb Smith	LA RWQCB	213/576-6609	
2. Carlos Urzuega	LA RWQCB	213/620-2083	
3. Ivan Ridge-way	LA RWQCB	213/620-2150	
4. CALL IN - Xavier Swamikannu	LA RWQCB	213/620-2094	
5. Bart Lounsbury-CALL IN	NRDC		
6. MARK GOLD - CALL IN	Heal The Bay		
7. Kirsten James - CALL IN	Heal The Bay		
8.			
9.			
10.			
11.			

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



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Arnold Schwarzenegger  
Governor

### Meeting Attendance Sheet

Meeting Subject: Ventura County draft Tentative Permit - Construction Issues			
Meeting Location: LARWQCB 320 W. 4 <sup>th</sup> St., # 200 Los Angeles, CA 90013-2343			
Meeting Date and Time: May 22, 2008 @ 1630-1700			
NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
1. TRACY WOODS	LARWQCB	213/620-2575	twoods@waterboards.ca.gov
2. Ivar K. Ridgeway	LARWQCB	(213) 620-2150	iridgeway@waterboards.ca.gov
3. Deb Smith	LARWQCB	213 576 6609	dsmith@waterboards.ca.gov
4. ANDY HENDERSON	BIA/SC	909-396-9993	ahenderson@biarc.org
5. E. So Conon	LARWQCB	213 620 2237	esoconon@waterboards.ca.gov
6. N. Swarnikottu	" "	213 620 2094	nswarnikottu@waterboards.ca.gov
7. H. Schreder	BIA/CAN	818 585 1882	hschreder@biarc.org
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California Environmental Protection Agency

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# Meeting Attendance Sheet

12 May 2008

Location: California Regional Water Quality Control Board  
 Los Angeles Region  
 320 West 4<sup>th</sup> Street, Suite 200, Los Angeles, CA 90013

Subject: Meeting with Charles Abbot and Associates – Ventura County MS4 Draft Permit

	Name	Agency/ Company/ or Resident	Email Address	Telephone
1	CHRIS KUNAGA	CRWQCB-LA	ckunaga@waterboards.ca.gov	213 620 2083
2	ANGIE TAM	CHARLES ABBOTT ASSOCIATES	angietam@caatprofessionals.com	310 257 2012
3	MARY SALIG	" "	MarySalig@caatprofessionals.com	310/257.2005
4	Ivy K Ridgeway	CRWQCB-LA	iridgeway@waterboards.ca.gov	(213) 620-2150
5	TRACY WARD	CRWQCB-LA	Tracy@waterboards.ca.gov	(213) 620-2075
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**From:** "Angie Tam" <angietam@caaprofessionals.com>  
**To:** "Tracy Woods" <twoods@waterboards.ca.gov>  
**CC:** "Mary Salig" <marysalig@caaprofessionals.com>, <currunaga@waterboards.ca...>  
**Date:** 4/28/2008 5:13 PM  
**Subject:** RE: Ventura Draft Permit Questions

Good afternoon Tracy,

I apologize for not getting back to you sooner, I have been trying to coordinate some of the efforts with my colleague. Here is a list of questions that we have regarding the Ventura 3rd Draft Working Permit. We can set up either an in-person meeting or phone meeting at your earliest convenience. Thanks!

Findings Part F [pp.23-24]: establishes Municipal Action Levels (MALs)... MALS are not been calculated as a stand alone measure to protect Beneficial uses of the waters of the State, thus are not water quality standards nor water quality objective. The exceedance(s) of MALs by itself does not constitute violation(s) of waste discharge requirement effluent limitations.."

§ The concept of Municipal Action Levels is confusing because there does not appear to link between those and and TMDL's.

§ It appears to be implied that although there are numerical limitations associated with MALs, they are not by any means a violation of waste discharge requirements effluent limitations.

§ What is the point of having MALs then? As an end-of-pipe measurement, does it require extra monitoring from Permittees?

Part 3.3(a) [p.29-30]: Upon an exceedance(s) of water quality standards or water quality objectives, which may be inferred from the results of the receiving water monitoring program described in Attachment "F", all Permittee(s) upstream of the point of discharge shall notify the Regional Water Board, within 30 days of any such inference of exceedance, and thereafter submit a Receiving Water Limitations (RWL) Compliance Report to the Regional Water Board Executive Officer for approval....

§ Upstream Permittees will have to notify the Regional Board within 30 days after receiving monitoring results. Will there be a system implemented in the Permit that will determine how Permittees will be notified of exceedences? Currently, there is no procedure with how Permittees are notified of exceedences when they occur. There is a current situation in Los Angeles County, where several Permittees are only now being notified of exceedences that occurred in the year 2006.

§ Can the Permit establish a procedure of notifying the responsible party?

§ Clarify language to establish that the RWL would be due 30 days after the Permittee is notified of the exceedence.

Part 5.E.III.1(a): Permittees shall require that all New Development and Redevelopment projects identified in subsection 5.E.II control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces through percolation, infiltration, storage, or evapo-transpiration, by reducing the



percentage of Effective Impervious Area (EIA) to less than 5 percent of total project area.

§ Please be more specific when using the word "pre-development". Does it refer to actual pre-development flow rates or pre-construction flow rates (for re-development)? For some areas, especially those re-development sites, may not have records on pre-development conditions.

Part 5.E.III(a) [p.52]: Each Permittee shall require all New Development and Redevelopment projects identified in subsection 5.E.II to implement hydrologic control measures, to prevent accelerated downstream erosion... This shall be achieved by maintaining the project's pre-development storm water runoff flow rates and durations.

§ Does it refer to actual pre-development flow rates or pre-construction flow rates (for re-development)?

§ Assuming pre-development, how do we determine the pre-development flow rates if the data is not already available?

§ Define "duration".

Part 5.IV.4(c) [p. 58]: A Permittee or a coalition of Permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) for redevelopment projects within Redevelopment Project Areas, in consideration of balancing water quality protection with the needs for adequate housing, population growth, public transportation and management, land recycling, and urban revitalization.

Clarify the conditions where RPAMP is required. Is there any conflict between CEQA and RPAMP? Are the RPAMP requirements in ADDITION to CEQA, or will it be the same..?

§ Please define what RPAMP is and what its requirements are. The draft permit does not do this.

§ Is every project required to submit CEQA checklist documentation for each project? The Permit mentions a Regional plan that may allow for Regional Coverage. How is that supposed to work?

#### Interim Hydromodification Control Criteria

Part 5.F.I.1(a)(1) [p.61]: No grading shall occur between October 1-April 15 (wet season) for construction projects in... areas of high erosivity..

§ Clarify the definition of "grading" during wet season. Does this apply to the grading of re-developed land as well as newly developed land? -1 acre and above.

§ Concern w/ fees paid for Construction permit: Fee is paid by developer to the State. However, it is required that the Permittee conducts inspection (for SWPPP or for the Rain Event Action Plan? Can it be considered an unfunded mandate?

Part 5.G.5(a)(1): Each Permittee shall designate catch basin inlets within its jurisdiction as one of the following:

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

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

ø Priority C: Catch basins that are designated as consistently generating low volumes of trash and debris

§ Is there a criteria for defining "highest", "moderate", and "low" volume of trash generation? These terms used to identify Priority areas are relative terms. Can the Board provide a more concrete definition of "highest", "moderate", and "low". Does the County determine these rates? If so, can these rates of trash generation be defined in the permit?

Part 5.G.5(e)(1) [p. 76]: Each Permittee shall install trash excluder, or equivalent devices on catch basins to prevent the discharge of trash to the storm drain system no later than (365 after Order adoption date) in commercial areas, industrial area, and near educational institutions (i.e. areas subject to high trash generation)

§ Could it possibly be a more efficient use of funds to define the priorities of trash generation (A,B,C) and apply the use of trash excluders based on that prioritization?

§ Can there be clearer guidelines in determining which industries/areas need trash excluders?

Interim TMDLs- explain what those are, what do they apply to.

Angie Tam  
Environmental Services  
Charles Abbott Associates  
2601 Airport Drive, Suite 110  
Torrance, CA 90505  
(310) 257-2012

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From: Tracy Woods [mailto:twoods@waterboards.ca.gov]  
Sent: Thu 4/17/2008 10:26 AM  
To: Angie Tam  
Subject: Re: Ventura Draft Permit Questions

Hello Angie,

If you could forward your question(s) for my review and send some days in early May that you would like to meet, we can set a meeting date.