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Public Works Director

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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

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>MPN WP</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

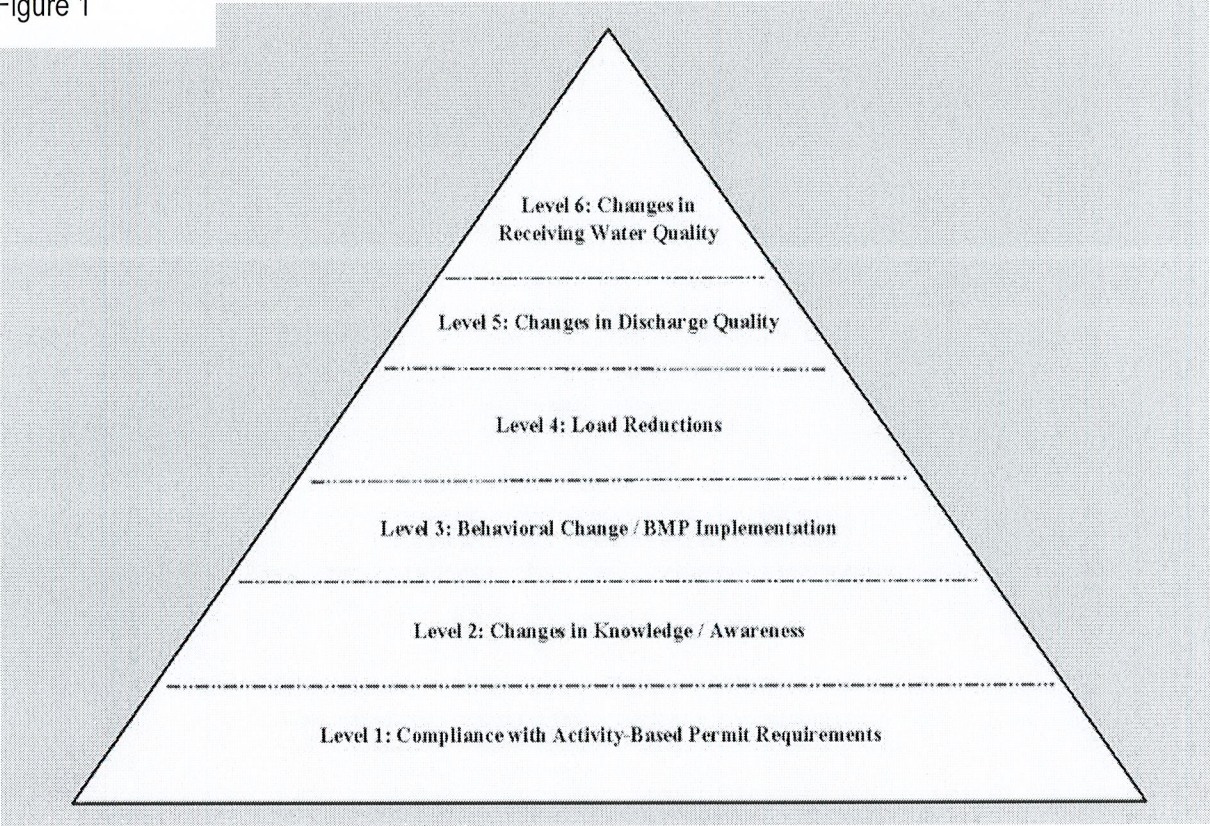


Figure 2

