



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 4th 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

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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.

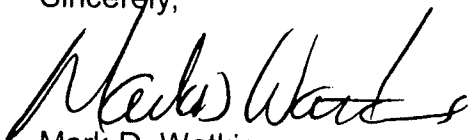
Given the above, the City is dismayed that the draft permit is extremely prescriptive and ignores or requires duplication of much of the work that has been done to date. For example, the draft permit dictates "tributary monitoring" in the Calleguas Creek Watershed and seemingly disregards the fact that 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

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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

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- 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

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- 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), Footnote1:** "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 . . ."

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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.

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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 co-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 (τ_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 "...85th 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 4th 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 includeswimming 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.