

October 15, 2007

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

Transportation Department
Wm. Butch Britt, Director
Central Services Department
Janice E. Turner, Director
Water & Sanitation Department
R. Reddy Pakala, Director
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Engineering Services Department
Alec T. Pringle, Director

SUBJECT: SUPPLEMENTAL COMMENTS ON SECOND ADMINISTRATIVE DRAFT OF THE VENTURA COUNTYWIDE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) STORMWATER PERMIT

Dear Ms. Egoscue:

On behalf of the County of Ventura Stormwater Program (County), we appreciate this opportunity to provide these **supplemental** written comments to our October 12, 2007 letter, concerning the Regional Water Quality Control Board's (Regional Board) second administrative draft of the Ventura County Municipal Separate Storm Sewer System MS4 NPDES Permit (Second Draft Permit). While we acknowledge and thank the Regional Board for responding to a few of the comments submitted by the County in its March 6, 2007, letter, we have *grave concerns with the apparent lack of response to several of our key comments*, and we had hoped to see more substantial changes made in the Second Draft Permit.

Although we understand the Regional Board staff's desire to uphold the requirements of the Second Draft Permit, we must emphasize the importance of duly addressing our comments. We believe it is imperative that our future permit be mutually protective of water quality *and* economically reasonable, while not creating *an undue burden* to the County for potential non-compliance with its provisions. As currently written, the Second Draft Permit does not meet any of these criteria. It is our desire that we work together to ensure this will be the end result.

For instance, we had hoped the Regional Board staff would understand the illogicality of requiring an urban stormwater permit for areas of open space in unincorporated Ventura County. However, on page 8, the Second Draft Permit sustains this requirement, even though the County has clearly pointed out this fact in its previous comments. We are optimistic that this oversight will be remedied prior to issuance of the tentative permit.



In addition, the Second Draft Permit maintains the requirement for installing trash excluders on catch basins in certain areas (industrial, commercial and school areas). As commented by the County, as well as the other Co-permittees, the cost to retrofit hundreds of individual catch basins would be considerable. But, above and beyond the exorbitant cost, the *basic wisdom of implementing this provision must also be considered*. Catch basins must be designed to have large, unobstructed openings to function efficiently during major storm events, such as are common in Ventura County, or storm waters will bypass the inlet and cause local flooding. As such, installation of flow-restrictive trash excluders is often impractical, and in many cases will significantly increase the probability of damage to local properties. Will the RWQCB take liability for this potential flooding hazard? If not, the County may be obliged to compensate private property owners for damage incurred by improperly managed flood waters. It is our anticipation that this comment, as well as a handful others, will be addressed with modified permit language prior to issuance of the tentative draft permit.

In addition, we would like to augment our existing concerns with the following written comments:

- Page 40, Part 5, Section D, Industrial/Commercial Facilities Program, item 1 (3) (B), utilizes the term “hazardous waste treatment, disposal and recovery facilities.” This term now is considered outdated by the CA Health and Safety Code, Chapter 6.5, Section 25117.1. Please replace this language with the term “*hazardous waste facilities for the treatment, storage and disposal of hazardous waste.*”
- Page 49, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, revise (a) to read: “(a) Development projects subject to Permittee conditioning *through the discretionary permit process shall include approval* for the design and implementation of post-construction treatment controls to mitigate storm water pollution prior to completion of project(s) are:” (Comment: Many permits are ministerial and requiring a condition that may not have a nexus to the permit or adding conditions after construction can only be done on discretionary permit action. This clarification needs to be added to the proposed NPDES permit.)
- Page 50, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, (a), revise (10) and (10) (B) to read: “(10) Projects located in or directly adjacent to or discharge directly to an Environmental Sensitive Area (ESA) *as officially recognized by the Permittee*, where the development will:
 - (A) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat
 - (B) Create 2,500 square feet or more of impervious surface area *where the Permittee determines that impervious surface area will drain to and impact a sensitive biological species or habitat.*”

(Comment: Each Permittee has its own requirements and level of emphasis on which areas are environmentally sensitive within their own jurisdictions. To maintain a balance in this effort, please revise the permit to allow for this oversight by the Permittee.)

- Page 50, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, (a), revise (11) (A) (iv) and (v) to read:
“(iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in ~~slope instability~~ **creating an unstable soil condition as determined by a soils engineer or engineering geologist.**
(v) Direct surface flow to vegetated areas before discharge unless the diversion would result in ~~slope instability~~ **creating an unstable soil condition as determined by a soils engineer or engineering geologist.”**
(Comment: Rather than writing in only one exception on slope stability, the Permittee will defer to a soils engineer or engineering geologist on a project to make that determination.)
- Page 51, Part 5, E. Planning & Land Development Program, III. New Development/Redevelopment, 1. (b), revise to read: “(b) **Effective** Impervious ~~surfaces~~ **Areas** may be rendered ~~“ineffective”~~ **increased on the proposed project site being developed** if the storm water runoff is:”
- Page 53, Part 5, E. Planning & Land Development Program, III. New Development/Redevelopment, 3. (a) (1) (E), revise to read: “(E) The Permittees ~~shall~~ **may** participate in the SMC HCS to develop.”
(Comments: requiring all Permittees to participate in a regional study should be optional, not mandated.)
- Page 57, Part 5, E. Planning & Land Development Program, IV. Implementation (2) Post Construction BMPs Tracking, Inspection, and Enforcement, revise this entire section to only read: “(2) **The Permittee shall require through the discretionary permit process that the developer of a project site greater than one acre, provide an annual report prepared by an independent consultant that demonstrates that the Post BMPs have been maintained and are functioning properly. The Permittee shall keep records of such inspections and provide those to the RWQCB upon a written request.**”
(Comment: This is doable to put the requirement on the property owner to have a consultant do this work annually and submit a report to the Permittee for review/approval. It is not doable to require the Permittee to enter the property and perform inspections and make evaluations after a construction project is finalized by the Permittee. There are legal implications and property rights considerations that would prohibit the Permittee from doing this as the proposed permit is written.)

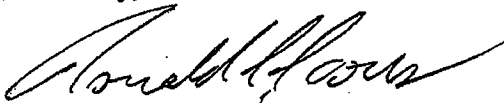
- Page 62, Part 5, F. Development Construction Program, I. 1. Grading Restrictions, add (d) to read: "*(d) The Permittee may allow grading during the rainy season in times of emergency to protect the public, property, life, or limb, and any grading restrictions of this section shall not apply.*"

(Comments: The proposed permit needs exception clauses for emergency work. What if a land mass needs to be stabilized in the winter to protect life and property? This action would be prohibited by the current permit if the slope was steeper than 20% or the work was adjacent to a listed water body or EAS.)

- The County of Ventura is not like a city, nor are many of the County roads like city roads. The County is predominantly the open space between cities, with winding rural roads and sparse housing. There are a few exceptions, such as Oak Park, but this is true for about 90% of the County jurisdiction. These roadways are drained by sheet flow runoff that enters ditches, usually on private property, which then lead to other ditches on private property, which empty into barrancas, also on private property. These ditches go from one city jurisdiction to another. We do not have jurisdiction or authority over these ditches. Therefore, the definition of an MS4 is often-time not appropriate for the County roads jurisdiction. Please remove all references to requirements for street sweeping, debris removal, channel and catch basin cleaning for all areas where the County does not own the drainage facilities.

In conclusion, we acknowledged the efforts of Regional Board staff for the work done thus far. However, we remain concerned with the approach being taken with the Second Draft Permit. We strongly urge Regional Board staff to consider our comments and concerns as voiced herein. Furthermore, we encourage you to continue working with County staff to draft a tentative draft permit that is both mutually protective of water quality, economically reasonable, while not creating an undue burden to the County. Thank you for the opportunity to comment.

Sincerely,



Ronald C. Coons, Director

RCC:rg

cc:

LARWQCB Board Members

Xavier Swamikannu, Storm Water Permitting, Los Angeles Regional Water Quality Control Board

Ventura Countywide Program Permittees

Alec Pringle, Engineering Services Department Director