

**Comments Received on draft Ventura County MS4 Permit
December 27, 2006**

**From: Kenneth C. Farfsing, City Manager, City of Signal Hill
Coalition For Practical Regulation**

To: RWQCB-LA

Date: March 7, 2007



COALITION FOR PRACTICAL REGULATION

"Cities Working on Practical Solutions"

March 7, 2007

Via E-mail and U.S. Mail

Dr. Xavier Swamikannu
Storm Water Permitting
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013-2343

Subject: Draft MS4 NPDES Permit for the Ventura Countywide Stormwater Program

Dear. Dr. Swamikannu and members of the Board:

On behalf of the Coalition for Practical Regulation (CPR), an *ad hoc* group of 43 cities within Los Angeles County that have come together to address water quality issues, I would like to submit the following comments on the Draft MS4 NPDES Permit for the Ventura Countywide Stormwater Program. CPR is interested in the draft Ventura County MS4 permit because it proposes new precedent setting requirements that, in some cases, appear to attempt to set new state policy through the permitting process. An additional problem is that the draft permit is extremely prescriptive and even mandates the use of particular best management practices (BMPs). In addition, it contains short timelines for implementation that reflect a lack of sensitivity to the budgeting and competitive bidding processes followed by local governments in California. CPR will present additional comments at the April 5 workshop; today we want to briefly address a few major policy issues and ask staff to reconsider their recommendations related to these issues before the workshop.

We appreciate the Regional Board's holding a workshop on the draft permit and deferring action to a future meeting. We also support the City of Ventura's request that the Regional Board defer adoption of the Permit and engage in a collaborative process with stakeholders to rewrite sections of the Permit to better match the recommendations of the State Water Board's Blue Ribbon Panel and to make the permit meet the maximum extent practicable (MEP) standard that Congress set for municipalities.

Perhaps the most far reaching and troubling component of the draft permit is the proposal to establish Municipal Action Levels (MALs) as statistically-derived numeric effluent limits in a manner inconsistent with the iterative process in State Water Board Order 99-05. Instead of being

RECEIVED
2007 MAR -9 PM 2:10
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

- ARCADIA
- ARTESIA
- BALDWIN PARK
- BELL
- BELL GARDENS
- BELLFLOWER
- BRADBURY
- CARSON
- CERRITOS
- COMMERCE
- COVINA
- DIAMOND BAR
- DOWNEY
- GARDENA
- HAWAIIAN GARDENS
- INDUSTRY
- IRVINE
- IRVINE DALE
- LA BREA
- LA CAÑADA FLINTRIDGE
- LA MIRADA
- LAKELAND
- LAKELAND
- LAWDALE
- MONROVIA
- MONTEREY PARK
- NORWALK
- PALOS VERDES ESTATES
- PARAMOUNT
- PICO RIVERA
- POMONA
- RANCHO PALOS VERDES
- ROSEMEAD
- SANTA FE SPRINGS
- SAN GABRIEL
- SIERRA MADRE
- SIGNAL HILL
- SOUTH EL MONTE
- SOUTH GATE
- SOUTH PASADENA
- VERNON
- WALNUT
- WEST COVINA
- WHITTIER

designed to assist permitted municipalities with determining when additional measures should be undertaken to improve water quality, the MALs have been designed to facilitate the Regional Board's finding municipalities in violation of the MEP provisions of the Order. The Draft Permit defines MEP as compliance with the statistically defined municipal action levels. As structured in the current draft, the proposed municipal action levels will function as "enforceable numeric effluent criteria for municipal BMPs," which the State's Blue Ribbon Panel found to be "not feasible at this time."

The California Stormwater Quality Association (CASQA) has included action levels in its proposed Progressive Approach for regulating stormwater discharges. This approach has attracted the attention of the regulated community, the environmental community, and regulators, including members of the State Water Board. It is a tiered approach for complying with TMDLs and meeting water quality standards. CPR recommends that the Regional Board work with CASQA and the municipal permittees to develop an alternative municipal action level provision for the draft permit that would build on State Water Board Order 99-05 and provide a permit cycle trial of action levels as tools to improve the stormwater quality program, rather than as tools for punitive action against municipal permittees.

A second major concern that we have with the Draft Ventura Permit is its overly prescriptive and potentially unachievable low impact development component. We agree with the Draft Order's promotion of a land development and redevelopment strategy that considers the water quality and water management benefits associated with smart growth and low impact development. However, we are not sure that it will be practical or even possible to always reduce the percentage of effective impervious area to less than five percent of a project, especially for small redevelopment projects in already developed areas.

More research is needed in developed watersheds with water quantity and water quality best management practices in place before limits on the percentages of effective impervious area are placed in MS4 permits. The implementation of low impact development can be promoted without placing low numeric targets on the percentage of effective impervious area in permits. Furthermore, the use of imperviousness as a predictor of potential impacts of new development and redevelopment on receiving waters is not appropriate in all situations. There will be few hydromodification impacts to concrete flood control channels. Runoff from impervious surfaces will transport pollutants, but that runoff can be filtered, infiltrated, or treated in off-site as well as on-site locations. CPR recommends that the requirement to reduce the percentage of effective impervious area be removed from the draft permit.

A related concern that we have with the draft permit is the numeric hydromodification mitigation criteria. Municipalities are mandated in the Draft Order to require all new development and redevelopment projects to maintain the projects' predevelopment stormwater runoff flow rates and durations. Our cities question whether it is possible to replicate both pre-development flow rates and pre-development flow duration at the same time, especially in redevelopment situations. Furthermore, what are the pre-development

flow rates and duration for re-development projects? If we were to convert an impervious parking lot to an alternative use that was not totally impervious, we would not want to maintain the pre-development runoff flow rate and duration of the impervious parking lot. We will be interested in listening to the engineering analysis and comments on this permit request at the workshop. It appears to us that the proposed requirements are overly complex and may not be achievable.

CPR also is concerned that Finding 7 in the Draft Permit appears to be an attempt to circumvent the City of Burbank Decision by placing many restrictions in the permit that are more stringent than required by Federal Law and asserting that the requirements have been prescribed to be consistent with the Clean Water Act and are necessary to reduce the discharge of pollutants to the maximum extent practicable and to meet water quality standards. This appears to be an attempt to impose costly and restrictive requirements on municipalities without considering economic factors.

Not only does the permit language avoid a serious consideration of economic factors, it is mandating that "the Permittees shall allocate all necessary funds to implement this Order." This language is unworkable based on the demands placed on municipal budgets to provide for safety and other critical services.

The Draft Permit also contains a series of short implementation schedules, including a mandatory 180-day schedule for installation of catch basin debris excluders, or similar devices. This requirement is imposing a schedule that disregards costs as well as municipal budgeting and bidding procedures.

CPR looks forward to the workshop on this permit and will have further comments at that time. We encourage the Regional Board to enter into a collaborative process with stakeholders from both Ventura County and Los Angeles County to make the draft permit more workable and affordable. A wide range of municipalities from both counties should be involved in this process since the Ventura Permit is a likely model for the Los Angeles County permit or permits.

Sincerely,



Kenneth C. Farfsing
City Manager, City of Signal Hill

Cc: CPR Steering Committee
CPR Members