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

From: Stephen R. Maguin and
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County Sanitation Districts of Los Angeles County

To: RWQCB-LA

Date: March 7, 2007

WATER RECLAMATION
SOLID WASTE MANAGEMENT

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File No. 31-370.40.4A

Via electronic and U.S. mail

Mr. Jonathan Bishop, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

ATTN: Mr. Xavier Swamikannu

Dear Mr. Bishop:

Comments on the Proposed Changes to the Waste Discharge Requirements for Municipal Storm Water Discharges within the Ventura County Watershed Protection District (NPDES NO. CAS004002)

The Joint Outfall System[1] and the Santa Clarita Valley Sanitation District of Los Angeles County (Districts) appreciate the opportunity to provide comments on the proposed changes to the Waste Discharge Requirements for Municipal Storm Water Discharges within the Ventura County Watershed Protection District. The Districts are providing comments on two elements of the Draft Order that appear out-of-step with the efforts of the lead agencies across the state, and one item where clarified language is requested.

1. The requirement to develop Watershed Ecological Restoration Plans may be unnecessarily triggered by natural conditions in some areas.

The Draft Order requires Ecological Restoration Plans (ERPs) for all stream segments that have obtained a score of "poor" and "very poor" from Bioassessment Monitoring. This requirement to develop ERPs exclusively in response to low benthic macro-invertebrate index of biological integrity scores (BMI IBI) fails to recognize that habitat conditions are often the driving influence on BMI IBI scores and that in some instances, slow and shallow watercourses may not be able to obtain scores greater than poor. The USEPA and SWRCB recognized this limitation when they supported an approach to evaluate multiple lines of evidence in identifying impairments, known as the "triad" approach. The Districts are supportive of using the triad approach, since it takes into account biological assessments, water chemistry, and toxicity data. It is well documented that areas with wider flood plains and lower gradient portions of rivers, such as the portion of the Santa Clara River from the Los Angeles County Line to the Pacific Ocean, naturally deposit significant amounts of the fine particulates that correlate with a lower BMI IBI scores. Monitoring conducted in natural tributaries to the Santa Clara River (SCR) obtained as part of the SCR Nutrient Study indicate that "poor" to "very poor" might be the natural condition for portions of that system. The requirement to develop an ERP based solely on the bioassessment IBI results, when those results may not be directly linked to water quality or toxicity, is unreasonable and not likely to be successful. It is also known that relatively pristine areas below dam releases consistently score poorly due to the lack of upstream invertebrate recruitment. It is estimated that

[1] Ownership and operation of the Joint Outfall System is proportionally shared among the signatory parties to the amended Joint Outfall Agreement effective July 1, 995. These parties include County Sanitation Districts of Los Angeles County Nos. 1, 2, 3, 5, 8, 15, 16, 17, 18, 19, 21, 22, 23, 29, and 34, and South Bay Cities Sanitation District of Los Angeles County.

it takes several months of consistent flow to establish a mature aquatic invertebrate community, and areas with periodic or intermittent flows in the best of habitats and the highest water quality will never score very high. For these reasons, it would be most appropriate to require development of an ERP only when low BMI IBI scores are correlated with water quality measurements and/or elevated toxicity results. Alternatively, it would also be appropriate to require development of an ERP if BMI IBI scores are lower than those obtained from pre-established background locations in the watershed sharing similar elevation, gradient, flow, and habitat/riparian conditions.

2. The requirement to report sewer spills to California Governor's Office of Emergency Services is unnecessarily beyond what is required and/or desired by the State.

The Draft Order requires notification to the Office of Emergency Services (OES) for every sewer spill that reaches the MS4 system. The requirement is inconsistent with Section 13271 of the Water Code and Title 23, Section 2250, whereby the OES is only required to be notified of sewer spills of 1,000 gallons or more that are, or probably will be discharged to Waters of the State. The proposed requirement is unnecessarily broad and would require calls to OES for very small sewer spills and sewer spills that are fully contained within the MS4 system and are subsequently removed and are thus prevented from reaching Waters of the State. Small sewer spills and sewer spills that are fully contained and removed from the MS4 system do not present a threat to Waters of the State and would be a poor use of the resources at OES, which is tasked with all emergencies statewide, from earthquakes to flu pandemics. Additionally, OES is not likely prepared to handle the increased volume of calls for every spill that reaches the MS4 system. The Statewide Sanitary Sewer Overflow WDRs already require reporting of all sewer spills independent of volume. In addition, publicly owned treatment works (POTWs) within the Los Angeles Regional Board's jurisdiction are already required to notify the local health department within two hours of knowledge of any sewer spill (independent of volume) that may reach Waters of the State.

3. The requirements for BMP substitution are inconsistent and unclear

Part 4.A.2. of the Draft Order states that "The Regional Board Executive Officer may approve any site-specific BMP substitution upon petition by a Permittee(s) and after public notice, if the Permittee can document that [specific conditions provided]...". This requirement appears to be in conflict with Part 4.D.3.(a), which states that "In the event that a Permittee determines that a BMP is infeasible at any site, including those specified in the California Stormwater Industrial and Commercial Handbook (2003), the Permittee shall require implementation of similar BMPs that will achieve the equivalent reduction of pollutants in the storm water discharges. Likewise, for those BMPs that are not adequate to achieve MALs and/or water quality objectives, Permittees may require additional site-specific controls, such as treatment control BMPs". It is requested that the Regional Board clarify that Part 4.A.2. applies only to BMPs to be implemented directly by the Permittees and that the Permittees maintain their authority to approve alternate BMPs for industrial and commercial facilities as stated in Part 4.D.3.(a). Further, requiring Executive Officer approval for BMP substitutions adds administrative steps that could serve to inhibit the use of new or more effective BMPs.

We appreciate your consideration of these comments. If you have any questions concerning this letter, please contact Ms. Kristen Ruffell at (562) 908-4288, extension 2826.

Very truly yours,

Stephen R. Maguin

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RA:KR:PM:drs

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