

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

**From: Judy Corbett, Executive Director  
Local Government Commission**

**To: RWQCB-LA**

**Date: March 1, 2007**



Dr. Xavier Swamikannu  
California Regional Water  
Quality Control Board, Los Angeles Region  
320 West 4<sup>th</sup> Street  
Suite 200  
Los Angeles, California  
90013

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CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD  
LOS ANGELES REGION

RE: The Draft National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) for Ventura County (NPDES No. CAS004002)

Dr. Swamikannu:

The Local Government Commission (LGC) is pleased to have the opportunity to provide comments on the draft National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (MS4) for Ventura County (hereafter referred to as the draft permit). The Local Government Commission is a non-profit organization dedicated to building livable communities. Certainly, the stewardship of clean sustainable water supply and water usage is at the core of our mission to support livable cities.

**I. The Local Government Commission's Comments in Perspective**

The Local Government Commission's mission is to assist local governments in establishing and nurturing a healthier human and natural environment, a more sustainable economy, an actively engaged populace, and an equitable society. Historically, achieving these ends has focused on strategies for building compact, land-efficient communities. While early efforts were built around walkable communities and transportation choice, LGC recognized its efforts to develop alternative land use regulations, better models of community and street design and regional dialogue delivered water benefits as well.

Thus, in 2005, LGC developed the Ahwahnee Water Principles for Resource-Efficient Land Use (Attachment A), and in 2006 the well received handbook "Ahwahnee Water Principles: A Blueprint for Regional Sustainability." The goal of this effort was to provide an integrated approach to aligning local land use planning decisions with sustainable water management practices, including but not limited to stormwater. Note that Ventura County and the cities of Port Hueneme, Santa Paula, and Ventura, have all adopted the Ahwahnee Water Principles.

The handbook, "Ahwahnee Water Principles: A Blueprint for Regional Sustainability," serves to provide an implementation summary for merging land use and water strategies. In summary, LGC's approach to the subject is as follows:

- 1) Growing in a water-wise manner – Ignoring growth is not an option for sustaining water resources. Thus planning for development is among the most important and first management practices to put into place. Thus, LGC's approach to managing water resources looks at the following:
  - a. How to Grow – For watersheds infill and redevelopment on already developed land are powerful strategies. Communities that seek to direct development to these footprints and coordinate with transportation, community and economic development further enhance watershed protection.
  - b. Where to Grow – LGC recognizes that all future growth cannot occur by way of redevelopment and infill. Thus, general plans that identify areas for both

conservation and new growth serve a basis for watershed protection. Land efficient policies for new growth are at the core for delivering successful joint water and land programs.

- 2) Water-Friendly Site Design – Once decisions on where to grow and what to save have been made, communities should look at how to use each and every site in the watershed to improve and protect water resources, improve infiltration and manage runoff.
  - a. Maximize permeability in developed areas
  - b. Water-wise landscaping
  - c. Minimize impervious surface cover
- 3) Stretching Our Water Supplies
  - a. Graywater reuse
  - b. Water recycling
  - c. Water conservation
  - d. Cleaning up groundwater supplies
- 4) Implementing the Ahwahnee Water Principles
  - a. Regional Coordination is Key
  - b. Integrated solutions achieve multiple benefits
  - c. Public involvement and stakeholder collaboration
  - d. Evaluate and adapt

## II. The Opportunities and Challenges

In reading the draft permit, LGC analyzed the draft NPDES requirements and Ahwahnee implementation strategy in parallel.

*The strengths of the permit include:*

- 1) The emphasis on redevelopment as an environmental benefit. Moreover, the Water Board's recognition of the redevelopment district as an environmental operating system cannot be understated.
- 2) The emphasis on flexibility, including the mitigation bank and redevelopment strategies.
- 3) The emphasis on program integration
- 4) The attention to low impact designs for the entire landscape.
- 5) The inclusion of housing as an issue for watershed protection.

*The challenges for LGC members include:*

- 1) By design, compact development is highly impervious at the site scale, but delivers watershed benefits. However, the main tool for implementing NPDES involves land development regulations, which are site- or project specific. Thus, a project in a compact district will rate poorly under a site-based review of impervious cover, even as it absorbs growth demand vertically within the watershed.
- 2) As regulated communities begin to address permit requirements, the application of low impact strategies will rise to the top, because they fit within the existing site level regulatory scheme. While the application of LID is welcome to development and redevelopment projects, there is the very real prospect that the disruptive pattern of development – especially new development - will be left unaddressed. As such, the benefits of low impact strategies will not be realized, and in fact the watershed could be worse off even as we feel good about the low impact approach.

- 3) Addressing connected (effective) impervious surface is a focus of NPDES permitting, however, this poses a challenge since compact, transportation-efficient communities are essentially intense, highly-connected, built landscapes.
- 4) Moreover, much of what delivers land efficient development has not traditionally been associated with watershed protection. The role of mixed use, for example, has been studied as an economic development and transportation issue. While the watershed harm of highly dispersed, single use development is widely acknowledged, accounting for the benefits of the converse situation - mixed use - is completely unexplored.
- 5) There is the development reality that redevelopment and infill are almost universally more difficult to undertake than new development on undeveloped land, even when water regulations are applied to both. Thus, application of the requirements for infill and redevelopment may tip the balance for developers making the business decision of embarking on redevelopment versus new development. The unintended result of permit requirements may see development pressures forced to areas not subject to NPDES protections. Where development leapfrogs into a separate watershed, there is rather a blind eye to the effects, at least within individual permits. *The real challenge of this permit will be to introduce requirements that push the envelope on water protection, but not so hard as to force decisions that unexpectedly undermine overall water quality and flooding.*
- 6) The technology, modeling and mapping needed to assess the watershed benefits of compact, mixed-use communities, infill and redevelopment are largely unavailable, especially for compliance. Although LGC is working on many aspects of tailoring joint water and land use strategies, meeting this challenge will require a much larger scope of stakeholders, technicians, regulatory agencies and input. In fact, this may be, at the national level, one of the highest priorities.

Even with these challenges, LGC believes that this permit represents an opportunity to deliver community, economic and environmental goals. Part of any successful effort will be to partner with groups like LGC to demonstrate that compact, watershed-friendly design is not only doable, but economically advantageous for the entire community.

LGC also appreciates the demands of drafting permits that respond to regulatory and legal decisions, as well as the integration of a growing number of planning efforts across disciplines. Our comments are directed towards improving the permit and its ultimate administration to deliver on those multi-disciplinary goals.

### III. Comments

LGC's comments are tailored to the intersection of land use and water resource planning. LGC recognizes that the Water Board will receive many other comments, and that there are challenges other than the land use/water intersection that its members will face in permit compliance. Our comments are based on the December 27, 2006 draft posted at <http://www.waterboards.ca.gov/losangeles/html/programs/stormwater/venturaMs4.html>

There are three major areas of comment:

#### Public Information and Outreach (page 40)

The small business outreach program is tailored to small commercial operations. LGC suggests small developers as a separate category of small business owners. Because infill and redevelopment sites are typically small, the developers tends to be niche construction firms. However, they often do not have the in-house regulatory and design departments able to respond to the new permit requirements. LGC suggests a target program to assist small-scale developers, in particular for infill and redevelopment.



## Planning and Land Development Program (page 50)

*Effective Impervious Area (EIA)* - LGC recognizes the requirement to reduce the percentage of effective impervious surface to 5 percent or less of the total project area will be among the most contentious of requirements. As noted above, since most smart growth projects, both new development and redevelopment, tend to be highly impervious at the project scale, this will pose considerable challenges. One alternative may be to establish an EIA by district, by proximity to sensitive receiving waters, or have something other than a blanket requirement. Not matter the coverage limit, LGC also recognizes that there is considerable flexibility as the reader continues through the draft permit. LGC's main comments on this section are:

*Support for Flexibility* - A target threshold is appropriate as a starting point as long as the flexibility program is a strong, viable alternative. As written, the flexibility will depend on a partnership with the Water Board, which will review and approve the alternatives. This could pose a heavy workload for the Water Board over time as permittees begin to draw up Redevelopment Project Area Master Plans (RPAMPs). In fact, each permittee may find they need to develop several depending on the proximity to a receiving water, restoration goals for the redevelopment district, the condition of natural features and the like.

*Infill and New Development projects* - More importantly, the flexibility seems to be limited to redevelopment areas. However in Ventura County, there will be considerable growth in undeveloped areas. As such, compact new development falls through the cracks in the permit unless a sizable portion of land is set aside to meet the formula. Thus, LGC suggests that a program similar to the Redevelopment Project Area Master Plan (page 59) be developed for compact **new** development projects, such as town centers, new urbanist designs and master planned areas. LGC recognizes that the label of "mixed use" or "traditional neighborhood" does not guarantee environmental success. These plans should take into account the integration of street connectivity, mix of uses, landscaping, density (i.e. accommodating growth vertically), transportation choice, and the requirements for hydromodification mitigation (page 53). Just because a developer labels a project as "mixed use" or "smart growth" does not guarantee delivery of an environmentally sound product.

*Integrated Approach* – section (f) of "E. Planning and Land Development Program" presents the integrated approach to controls, in an order of preference. As noted above, LGC believes that any integrated approach consider the question of where to preserve and where to grow first. Thus, the list should reflect, the following order:

- (1) Integrated Watershed and General Plans that direct growth and preservation
- (2) Subwatershed or district plans and designs to manage resources
- (3) Low Impact Development Resources
- (4) Multi-benefit Natural Features BMPs
- (5) Prefabricated/Proprietary Treatment Control BMPs.

*Low Impact Development* (page 51) – Given the comments above on "Redevelopment Project Area Master Plans" and an similar effort for new compact districts, the Water Board may want to ensure that there is not only a LID Technical manual, but that LID techniques appropriate to district design are woven into redevelopment plans, manuals for new compact development and other sub-planning efforts. The draft permit limits discussion of LID to individual sites, however, LID's value in replicating the natural hydrology extends beyond individual sites. This is particularly true in highly disturbed subwatersheds.

*Regional and Redevelopment Area Stormwater Mitigation* (page 59) – This section is among the most innovative of any permit, and is welcome. To strengthen this section, LGC recommends:

According to the permit, the RPAMP "may substitute in part or wholly for on-site post-construction requirements." The situation for "in part" or "wholly" will likely be a case by case determination, however, there may be ways to streamline how the determination is made. For example, ambitious planning that directs a high degree of intensity for the purpose of transit has the watershed benefit of stacking development demand underneath one roof. While the intensity is often judged for transit ridership, it should also be evaluated for watershed outcomes.

One of the more complicated tasks will be to judge when a redevelopment district serves "wholly" as a substitution. In a watershed with growth pressures as high as Ventura County's, the intensity and development footprint questions are already on the table for a variety of reasons. LGC may be able to assist the water Board and other stakeholders in developing criteria, on a sliding scale, to assess what level of additional BMPs are needed for redevelopment districts.

Under the list of redevelopment projects in paragraph (b)(1) on page 60, it would be helpful to add corridor design, since much of California's redevelopment is along older transportation corridors.

### **General Comments**

*Planning Efforts* - Throughout the permit, there are references to plans and efforts that regulated cities and counties must develop. The following list includes efforts with a land use and watershed link:

- 1) A Mitigation Bank and a Management Framework (page 60)
- 2) An evaluation of effective "Best Management Practices" (page 20)
- 3) An evaluation (or proactive or reactive) for substituting Best Management Practices should they prove to be ineffective (pages 22, 36)
- 4) Consideration of potential stormwater impacts when making planning decisions (page 22)
- 5) A Stormwater Quality Management Program (page 31)
- 6) Accounting of costs related to stormwater management for development planning (page 34)
- 7) A Public Information and Participation Program (page 37)
- 8) Business Assistance Program (page 40)
- 9) A Hydromodification Control Study (HCS)– Phase II (page 52)
- 10) A Low Impact Development Technical Manual and Guidance Document (page 51)
- 11) Redevelopment Project Area Master Plans (page 59)
- 12) Update to Ventura County Technical Guidance Manual for Stormwater Quality Control Measures (page 61).
- 13) Update to CEQA review documents (page 62)
- 14) A Development Approval Coordination Plan (page 62)
- 15) General Plan Updates to include the new provisions of the final permit (page 63)

- 16) Public Agency Activity Program (page 71)
- 17) Response plans for Sanitary Sewer Overflows and Septic Tank Failures (page 72)
- 18) Ecological Restoration Plans for certain stream segments (page 86)

This list is not exhaustive, but demonstrates the magnitude of work to be completed. LGC wants to emphasize the inclusion and consideration of efforts underway by its members and others. These efforts, which have a great deal of environmental benefit, include: redevelopment, transit oriented development, mix of uses, corridor redevelopment, the SOAR program, "new urban" and traditional neighborhood planning, alternative street design and "road diets," parks and planning, and ties to the LEED program sponsored by the U.S. Green Building Program.

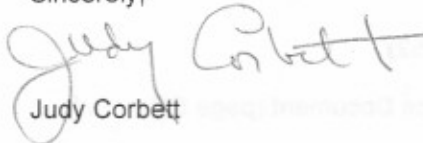
*Modeling* – LGC is well aware that once "smart growth" and redevelopment programs are integrated into permitting programs, there will be tremendous pressure to measure and account for the environmental benefits. The Water Board, Watershed Protection District, permittees and LGC are entering new territory, since the benefits accounting, to date, are conceptual or anecdotal.

As such, LGC emphasizes the need for a large-scale modeling and monitoring effort. This effort will transcend the permit area and needs to be called to the attention of a wider audience. There is no doubt that other States are encountering the same question, since the issue of watershed harm and dispersed development is not isolated to California. As such, LGC poses the following list for discussion:

- 1) What are the watershed benefits of redevelopment and redevelopment districts?
- 2) When a redevelopment district is not built out to the permitted density – where does that development go and what is its "footprint" and stormwater outcomes?
- 3) What would a district-level model need to include?
- 4) What level of rigor is expected within the NPDES permitting system when demonstrating performance of a development or redevelopment system?
- 5) What effect does a mix of uses have related to development footprint?

These questions are intended to stimulate discussion, though it is hardly exhaustive. The Local Government Commission appreciates the opportunity to comment. Please contact me if you have further questions.

Sincerely,



Judy Corbett

Executive Director

Attachment: Ahwahnee Water Principals



# The Ahwahnee Water Principles for Resource-Efficient Land Use

## Preamble

Cities and counties are facing major challenges with water contamination, storm water runoff, flood damage liability, and concerns about whether there will be enough reliable water for current residents as well as for new development. These issues impact city and county budgets and taxpayers. Fortunately there are a number of stewardship actions that cities and counties can take that reduce costs and improve the reliability and quality of our water resources.

The Water Principles below complement the Ahwahnee Principles for Resource-Efficient Communities that were developed in 1991. Many cities and counties are already using them to improve the vitality and prosperity of their communities.

## Community Principles

1. Community design should be compact, mixed use, walkable and transit-oriented so that automobile-generated urban runoff pollutants are minimized and the open lands that absorb water are preserved to the maximum extent possible. (See the Ahwahnee Principles for Resource-Efficient Communities)
2. Natural resources such as wetlands, flood plains, recharge zones, riparian areas, open space, and native habitats should be identified, preserved and restored as valued assets for flood protection, water quality improvement, groundwater recharge, habitat, and overall long-term water resource sustainability.
3. Water holding areas such as creek beds, recessed athletic fields, ponds, cisterns, and other features that serve to recharge groundwater, reduce runoff, improve water quality and decrease flooding should be incorporated into the urban landscape.
4. All aspects of landscaping from the selection of plants to soil preparation and the installation of irrigation systems should be designed to reduce water demand, retain runoff, decrease flooding, and recharge groundwater.
5. Permeable surfaces should be used for hardscape. Impervious surfaces such as driveways, streets, and parking lots should be minimized so that land is available to absorb storm water, reduce polluted urban runoff, recharge groundwater and reduce flooding.
6. Dual plumbing that allows graywater from showers, sinks and washers to be reused for landscape irrigation should be included in the infrastructure of new development.

7. Community design should maximize the use of recycled water for appropriate applications including outdoor irrigation, toilet flushing, and commercial and industrial processes. Purple pipe should be installed in all new construction and remodeled buildings in anticipation of the future availability of recycled water.
8. Urban water conservation technologies such as low-flow toilets, efficient clothes washers, and more efficient water-using industrial equipment should be incorporated in all new construction and retrofitted in remodeled buildings.
9. Ground water treatment and brackish water desalination should be pursued when necessary to maximize locally available, drought-proof water supplies.

## **Implementation Principles**

1. Water supply agencies should be consulted early in the land use decision-making process regarding technology, demographics and growth projections.
2. City and county officials, the watershed council, LAFCO, special districts and other stakeholders sharing watersheds should collaborate to take advantage of the benefits and synergies of water resource planning at a watershed level.
3. The best, multi-benefit and integrated strategies and projects should be identified and implemented before less integrated proposals, unless urgency demands otherwise.
4. From start to finish, projects and programs should involve the public, build relationships, and increase the sharing of and access to information.
5. Plans, programs, projects and policies should be monitored and evaluated to determine if the expected results are achieved and to improve future practices.

Authors:	Celeste Cantu	Martha Davis	Jennifer Hosterman
	Susan Lien Longville	Jeff Loux	John Lowrie
	Jake Mackenzie	Jonas Minton	Mary Nichols
	Virginia Porter	Al Wanger	Robert Wilkinson
	Kevin Wolf		

Editor: Judy Corbett

For more information, contact the LGC Center for  
Livable Communities: 916-448-1198, ext 321.