

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

**From: Desi Alvarez, P.E., Chair
Executive Advisory Committee
Stormwater Program - County of Los Angeles**

To: RWQCB-LA

Date: March 7, 2007

Executive Advisory Committee

Stormwater Program – County of Los Angeles

March 7, 2007

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Subject: Comments on the draft Ventura MS4 Permit (NPDES No. CAS004002)

Dr. Swamikannu:

The Executive Advisory Committee (EAC) has represented the interests of the Los Angeles County Municipal Stormwater Permittees since adoption of the 1996 NPDES and City of Long Beach Municipal Permits. Our meetings occur on the second Wednesday of each month, at the Los Angeles County Department of Public Works Headquarter in Alhambra. These meetings are typically attended by representatives from over half of the 87 municipal agencies identified in the 2001 Municipal Separate Storm Sewer System (MS4) Permit and are exceptional forum for discussion and clarification regarding Regional Water Board initiatives, intentions, and goals.

The EAC members and MS4 permittee representatives would like to support the concerns raised by the Ventura County municipalities in reviewing their permit. Like the recently adopted San Diego MS4 Permit and soon to be considered South Orange County MS4 Permit, the draft document includes many new initiatives that unfairly mandate new programs and litigation risks, along with the significant costs they entail, upon local municipalities. Given that the Regional Water Board has recently felt it necessary to clarify the most basic tenants of its 2001 permit, we encourage you to meet with municipal representatives from both Ventura and Los Angeles Counties to negotiate new permits which are clear and can be implemented by our agencies. The following comments are representative of some of the many concerns EAC member have with the Draft Ventura County Permit, but may not be shared by each EAC member or Permittee.

1. Our initial comment relates to the shear length and complexity of the draft permit. Its intricacies cannot be easily remembered or applied in the field, which is exactly where the first line of water quality defense is located. The municipal staff who will implement this document are neither lawyers nor regulatory experts, but simply local government representatives trying to implement it to the best to their resource limited abilities.
2. Section B.1. Brush or forest fires also appear to have a significant impact on water quality, both directly as runoff and indirectly through aerial deposition of ash.
3. Section B.2. There many sources of bacteria, including soils and sediment. There are many sources of PAHs including natural fires. These findings should either be expanded to include natural and international sources of these water quality constituents, or deleted.

4. Section B.4. The first and last sentences are broad, do not relate to runoff quantity, and should be moved to a water quality related finding to or deleted. Hydromodification by developments is normally addressed through hydrology and hydraulic studies.
5. Section B.5. The EAC recommend that the Regional Board assist with this task, since it is directly involved with day to day "maintenance" of the 303(d) list. The board could simply post a listing of water bodies on its website, followed by the POC for that water body, and what BMPs the Board considers to be effective. This is something the cities would be able to quickly and efficiently refer developers and their consultants to. Currently we have to "educate" each consultant about the many possible potential POC defining documents, including multiple drafts of 303(d) lists, consent decrees, the MS4 Permit itself, CASQA handbooks, and professional experience. The permit should reference this proposed website by hotlink.
6. Section B.7. This section combines the issues of development and ESAs. The latter should be left to the permit requirements related to ESAs and (re)development.
7. Section B.8. The California Stream Bioassessment Procedure is technical assessment that cannot be performed by Permittee staff. This effort should be funded from the SWAMP assessments paid with our Waste Discharge Permits Surcharge.
8. Section B.10. This section refers to degradation with as little as 3% impervious cover. The state should convey this criteria directly to the commercial and residential community so that they may implement this goal into the plans submitted to cities.
9. Section B.11. The Board notes that its GIASP monitoring program indicates those state Permittees "contribute significant quantities of pollutants in storm water runoff." This may explain a significant source of contaminants to the MS4 Permittee discharges. We encourage the state to review the industrial program monitoring results and perform focused inspections, in collaboration with the MS4 Permittees, to eliminate these identified priority discharges from both the GIASP and MS4P programs.
10. Section C.5. The proposed municipal monitoring program is open-ended, expensive and probably ineffective. The cost of this program should be limited to the funds that are already paid by the MS4 Permittees as the SWAMP surcharge on our annual Waste Discharge Permit. Federal and State (Pesticide) Regulatory agencies should be responsible for conducting the Pyrethroid assessment, since they authorized the use of these pesticides for agriculture, commercial and residential applications (note E.23).
11. Section C.6. The intent of this paragraph is unclear and it should either support the Principal Permittee for participating in these efforts, or be deleted as extraneous.
12. Section D.4. Over time, the incorporation of TMDLs into the MS4 Permit will make the document excessive long, complicated unwieldy and ineffective. We should start planning now to cross reference TMDL related documents external from the permit.
13. Section E.4. It should be noted in this paragraph, that Porter-Cologne is not a "water quality at any cost" act. It addresses the need to do CEQA, consider housing, etc. The Board should address assert that this document is fully compliant with Porter-Cologne.

14. Section E.6. Please reference the 2006 303(d) list, which no longer includes many of the impairments originally identified in the consent decree and therefore no longer deserve the resources required in preparing or implementing a TMDL.
15. Section E.9. The MS4 Permittees continue to advocate, based on state monitoring data summaries (see B.9), that GIASP and GCASP sites are significant sources of constituents to the MS4. This paragraph should note the State's duty to discharge acceptable quality from these Permittees, so that municipalities can accurately assess the degree to which our jurisdictions are the source of contaminants and institute resource effective BMPs.
16. Section E.11. This paragraph could be misconstrued to indicate that each of the 20 beneficial uses apply to each watershed. We assume it is not your intent to apply Ocean Sportfishing beneficial use to upper Malibu Creek, for example. The paragraph should be deleted allowing the Basin Plan to stand alone, or at best simply reference the plan.
17. Section E.18 and 19. Appears to be perilously close to suggesting that (re)development projects should be considered under the State's Antidegradation Policy. This is beyond the qualification of most MS4 Permittee staff and would probably require certification by government agencies that are currently resource limited, entailing significant delays.
18. Section F.1. The Regional Board is making judgments in deciding whether and how to move forward in issuing this MS4 Permit. We believe that CEQA should be applied so that the impact on the environment, including Municipal Services, is considered.
19. Section F.2. While the MEP standard is expected to eliminate impairments, it is not a blanket authorization to institute numeric standards. This was reiterated in the November 22, 2002 letter from USEPA headquarters to the Regional offices.
20. Section F.4. This paragraph is overly broad and could be interpreted as suggesting that cities should issue controls on wildlife that discharge bacteria into an impaired water. This paragraph should be limited to 303(d) listed POC or deleted entirely.
21. Section F.7. The word "permit" seems to be missing after the second use of NPDES. We disagree that this draft permit is no more stringent the federal law and note the MEP is an iterative non-numeric standard and TMDLs are daily, not never to be exceeded standards.
22. Section F.9. The previously alluded to use of Antidegradation Policy considerations, LID, and impervious areas, appears to be a potential grievous intrusion in to local land use decision making authority and runs counter to the platitudes stated in this paragraph.
23. Section F.10. There is no reason to use the SIP MLs, when other analytical methods are adequate to detect contaminants near the regulatory standard. This clause is essentially mandating the use of expensive methodologies to track de minimis concentrations.
24. Section F.11. The MEP standard was never intended to be a numeric standard, however that appears to be a defacto result of triangulating two MAL exceedances into an MEP violation. Furthermore, how can a monitoring program be "cost-effective" when agencies are analyzing for total and dissolved fractions, without considering hardness.
25. Section F.14. This section and part 4.G.1 should be deleted as redundant with other state SSO-WDR requirements. It provides no additional benefit and confuses priorities.

Dr. Swamikannu
March 7, 2007
Page 4 of 4

26. Section F.15. This section should explain how limiting impervious portions of a development to 3% of its area (inclusive of streets and other structures) considers the housing needs of an area, especially during redevelopment of highly impervious sites.
27. Section G.3. This date of the scoping meetings and workshop should be referenced.
28. Attachment C. It is impossible for Permittees to meet the identified Coefficient of Variation. It is a characteristic of the samples and analytical methods. Bacterial counts and pH should be deleted from the table, since no MALs are appropriate.

The EAC would like to reiterate our interest in participating in crafting the contents and requirements of the draft Ventura County MS4 Permit, so as to avoid having conflicting requirements in adjacent jurisdictional areas, and reserves the right to provide additional oral or written comments at the planned public workshop. If you wish to further discuss these issues, or seek greater input from the EAC, please feel free to contact me at 562-904-7102.

Sincerely,



Desi Alvarez, P.E.
Chair, Executive Advisory Committee

cc: Ventura County MS4 Permittees
Los Angeles County, Department of Public Works
EAC MS4 Permittee mailing list