April 6, 2009

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

Attention: Tracy Woods

Comments on the Draft Ventura County NPDES permit

Dear Ms. Egoscue:

The City of Paramount has been following the development of the Ventura County NPDES permit for several reasons. First, it is likely that this document will form the basis for the overdue Los Angeles County NPDES permit. Second, each new permit contains added requirements that impact the Local Agencies significantly.

Our staff has had the occasion to review the San Francisco Bay area NPDES permit and support its attempt to acknowledge the Maximum Extent Practicable (MEP) requirements in the Federal Regulations. We believe that the San Francisco Bay area approach is more effective over the Los Angeles Regional Board approach.

Editorial Comments

We believe that the following comments are purely editorial and are not presented to change the intent or the requirements of the draft permit.

1. For consistency purposes we would like to suggest that the format for the paragraphs and subparagraphs be made consistent throughout the permit. For example Part 1 is a relative short section and is organized with A.1.(a).(1).(A) While Part 5 is more complicated and is longer and is

Organized with A.1.(a).(1).(A) or A.I.1.(a).(1).(A) with the second level in the later organization the Roman Numeral character.

2. Part 4.C on page 38 of the draft permit highlights another organization issue. There is (a) but no other subparagraphs at this level. Should there be an (a) or should the wording following the (a) be included in the paragraph 1 above? In a similar manner there is a subparagraph (1) but no other subparagraphs at that level. Should this language be included with the language in paragraph 1 above?
3. On page 46 the Table 3 label is separated from the actual table. This can be corrected by forcing a page break that will place the label with the Table. On Page 47 the same thing happens to the label for table 4.
4. Reference is made to a USEPA guidance document entitled "Managing Wet Weather with Green Infrastructure: Green Streets" in Part 4.II.1.(a).(7) We have spent time on the USEPA website and could not locate the document. Can you provide a link to the document if the Board wants the information available for the Permittees?
5. In Part 5.E.III.1.(b) (page 55) the paragraph ends with the phrase "...surface discharge requirements of 5.E.III.4" In reviewing the permit we cannot find a subparagraph 4 under the "III. New Development/Redevelopment Performance Criteria" of the "E. Planning and Land Development Program" of "Part 5 Special Provisions".
6. In Part 5.E.III.1.(c) the wording is not literate. We believe that it should read "All features constructed to render..." with the word 'structured' deleted to make the requirement read correctly.
7. Part 5.E.III is one of those sections of the permit that needs to be reviewed closely to make sure that the subparagraphs are properly organized. Specifically "2. Hydromodification (Flow/Volume/Duration) control Criteria" needs to be verified.
8. On page 68 the 9 in "Table 9" appears to be struck through. This is likely a format error because this is Table 9 and putting a different number would not make sense.
9. Within Table 9 and several other of the Construction BMP tables the titles of the BMP (i.e. scheduling) are underlined. Is this a formatting error or does the underlines mean something? If it has no purpose it should be deleted otherwise the meaning of the underlining should be explained.
10. On page 74 in Part 5.G.I.1.(c) public projects are required to comply with the BMPs as identified in Tables 5, 9, 10. Since Table 5 is the requirements for Nursery Businesses we believe that the reference should be to Tables 6, 9, and 10. Table 6 being the BMPs for construction that disturbs less than one acre.
11. Part 5.G.I.5.(e) appears to impose an unreasonable deadline on permittees in the Ventura County area. It requires that trash excluders or another equivalent device be installed on all catch basins to prevent trash from entering the catch basin

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Permit Provisions

1. Table 1 that has been added to Part 1 of the permit raises more questions than it solves. We strongly recommend deletion of Table 1. For example, the table, in its attempt to clarify the intent of the exempt discharges, has introduced limit issues that are problematic. Natural Springs and rising ground water is one of the discharges listed. The table adds a Condition under which the discharge is allowed that states "Segregate flow to prevent introduction of pollutants". It's a simple condition until you try to determine what the condition means. Segregation of the flow means simply keeping it separate from other flows. Springs generally have existed for centuries and as Cities need a source of water, they are generally built near the spring so that the water can be delivered with minimum effort to the consumer. As the Public Agency covered by this permit we need to implement this requirement. How do we segregate the spring flow from flows that it has been commingling with for centuries? How far do we have to segregate the flow? If we put the runoff from the spring in a pipe and release it at the City limit have we complied with the segregation requirement of the permit? Are we guilty of taking water rights from a neighbor that has enjoyed the use of the water for years? The segregation is a simple requirement that probably has not been thought out as well as it should. Several other recognized flows contain the same requirement to "segregate". They are air conditioner condensate and reclaimed and potable landscape irrigation runoff.
2. Part 2 of the draft permit "Municipal Action Levels" is a difficult section that will have many comments, so we will only comment on one provision that we see as unreasonable. These NPDES permits are intended to be implemented to the "Maximum Extent Practicable" for several reasons. First and foremost is the economic cost of treating rain water runoff during a capital event. Second, we are dealing with non-point sources and the ability to solve the problems beyond practicable limits is unrealistic. Part 2.7 states that "As additional data becomes available through the MRP or from the Regional Subset of the National Dataset, MALs may be revised annually by the Executive Officer in accordance with an equivalent statistical method as that used to establish the MALs in attachment C of this order with a 90 day notification to the Permittees." Recognizing the intent of the Board for the inclusion of this section the Regional Board should recognize the objections that the Permittees have to this provision. This provision allows the EO to lower or raise the MALs each year during the term of the permit, while it is likely that the implementation of any plan to address the MALs will take the Permittees several years to complete. So, in year one the Permittees begin installing BMPs based on the original MAL. By year two the EO evaluates current data and revises the MAL to 75% of the initial values. To comply the implementation plan must be revised to lower levels to meet the MAL, which may include amending

those BMPs installed during year one. If the review process is repeated in each of the following years it is apparent that Permittees will be facing a moving target with BMPs being adjusted each year to meet the new MAL. Gentlemen as you well know in these economic conditions installing and reinstalling BMPs is a waste of tax monies. Let the MAL stand for the term of the permit.

3. Part 4.A.3 establishes a numeric limit for the performance of BMPs as contained in Attachment C, Table 3. Permittees have reviewed the design of these BMPs against standards for the various systems, but never to meet Numeric limits for the effluent. This table does not consider the design storm or the weather conditions to which the BMP is being exposed. This design standard should be deleted or state as a performance goal rather than a performance limit.
4. Part 4.B.1.(b).(12) needs clarification. It simple states that Permittees shall possess the legal authority to prohibit the discharge of "Trash Container Leachate" to the MS4. There are two questions that need to be clarified. First, on private property, such as a retail center, does the trash area need to be roofed and drained to the sanitary sewer? This is the only way that we know to address all "Leachate" from the trash area. Secondly, must the Permittees have the ability to stop trash truck on the City streets when there is a flow of liquid from the truck? This problem is one that is better addressed by the Health Department or whatever agency regulates the operation of trash trucks. Certainly the Permittees are not able to regulate the operation of trash trucks and still provide its Citizens with reliable and cost effective service.
5. Part 4.B.2.(a) requires the Permittees to possess the legal authority through interagency agreement to control the transfer of pollutants from one agency to another through the MS4. Since these interagency agreements do not exist at this time and the permit implementation deadline is 90-days after adoption it is highly unlikely that all agencies can comply in that short period of time. We suggest that this provision be given two years for the agreements to be created.
6. Part 5.I.1.(e) establishes a new priority for the consideration of BMPs for Priority Projects. While the priority is clear the rationale for dismissing a category of BMPs is not clear. The Board must provide guidance in the permit so that Permittees are not second guessed every time that they allow a lower priority of BMP rather than the first priority of Infiltration. As an example, in hillside communities the Geotechnical profession will be reluctant to allow infiltration or vegetated swale because they will see the introduction of water into the ground leading to site instability. This may or may not be accurate, but the profession does not want to be sued if a landslide occurs and the lawyer for the property owner points to the water quality system as the cause. The Board must provide guidance for the Permittees so that they have the assurance that the Board staff or the

environmental community does not file Notices of Violation against the Permittees over this priority.

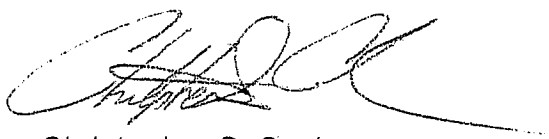
7. Part 5.II.1.(a).(7) Creates an unreasonable level for the implementation of Water Quality improvements for City street projects. The private project will be required to implement Water Quality BMPs because it is captured through one of the other project descriptions, but by imposing this description as a New Development project the bar is set too low for Municipal projects. The 25,000 square foot limit amounts to less than one City block designated for a simple overlay and the City will be required to expand the scope of work to include Water Quality improvements that are not funded by the normal street maintenance funding sources. Thus the City will be forced to delay needed resurfacing until a source of funding can be found. We believe that the trigger for street improvement projects cannot be square feet of resurfacing, but rather the cost of the proposed construction. We believe that if the construction cost was set at $250,000 or larger the Cities could address the needed water quality improvements for a project of that size.
8. Part 5.III.3.(a) set an impossible standard for the permittees to meet. The last sentence of this section states "This shall be accomplished by maintaining the project's pre-project storm water runoff **flow rate and duration.**" The runoff from an undeveloped site is a function of the infiltration capacity of the soil, the steepness of the land and the intensity of the rainfall. Without defining the standard that must be met in great detail, the City cannot be expected to satisfy the Boards expectation. The previous sentence allows for an increase of the discharge from the developed site, while the quoted sentence gives no leeway for an increase of runoff. This conflict and the impossible standard cannot be included in the permit.
9. Part 5.E.V.2.(a) must be clarified. It appears that the amendment of any listed element will trigger a full General Plan Amendment to incorporate water quality and quantity management considerations. If this is in fact the Boards intent, the requirement imposes on the Permittees a significant unanticipated cost. General Plan updates go for anywhere from $200,000 to $500,000 depending on the size of the City. Elements are much more reasonable to amend and the inclusion of Water Quality and Quantity provisions in an element that the Permittee is intending to amend does not significantly add to the cost of the amendment. If this is not the intent the wording must be clarified to ensure that the Permittees and the environmental community both understand the requirement.
10. Part 5.F.5.(a).(1) proposes a double standard that is unreasonable to Permittees. Since the very first State General Construction Activity Permit the State has used the standard that the applicant must file an NOI, pay the permit fee and prepare the SWPPP. The Applicant has never received a written approval for this document. In fact the State General Permit does not require any review of the document. Now the Board is

imposing a requirement **"for the Permittees review and written approval prior to the issuance of grading or construction permit for construction or demolition projects."** For the very same reasons that the State does not review the SWPPP the Permittees object to be required to commit manpower and resources to the approval of these documents. If the State believes that a local SWPPP for a project that disturbs less than an acre of land is more important than the State SWPPP for a project that disturbs 50 acres of land we do not see the logic nor do we believe that the State is sending the right message to the construction industry.

11. Part 5.H.I.2 must be clarified by the Board. It appears that the Board is requiring the Permittees to maintain a hotline for the reporting of IC/ID complaints. What needs to be clarified is if this requirement is met with the County wide Hotline or if each permittee is required to operate and notify the public of the telephone hotline number? If each permittee is required to implement a hotline this will be a significant burden on small cities. This makes no sense since it is unlikely that, based on past history, there will be many call to the Hotline. We believe that the County wide Hotline is the most logic solution to this issue.

Thank you for this opportunity to comment on the Ventura County Draft permit. As stated earlier, this draft permit is being followed to address the future impacts if this permit is edited and submitted as the next Los Angeles County MS4 permit. Please provide a fair hearing for these issues. We realize that too much time and effort has gone into the draft permit, but we believe that the Board Staff should consider following the San Francisco process for writing the MS4 permits.

CITY OF PARAMOUNT



Christopher S. Cash
Director of Public Works

cc: Bill Pagett, City Engineer
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