

# Executive Advisory Committee

## Stormwater Program – County of Los Angeles

April 10, 2009

Tracy Woods, Storm Water Permitting  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

Re: EAC Comments on the Tentative May 7, 2009 Ventura MS4 Permit

Dear Ms. Woods:

We appreciate this opportunity to comment on the subject document; however because of overlapping Water Quality initiatives (Basin Plan Triennial Review Workshop of April 2, 2009 and Los Angeles River Metals TMDL March 26, 2009), we have not yet had the opportunity to complete our review of this very lengthy and complex document. The EAC representatives reserve the opportunity to provide more comments and suggested permit improvements, as a group or individually, at the proposed May 7, 2009 hearing.

Since it is likely that this document will become a template for future MS4 Permits within Southern Los Angeles County, the EAC and MS4 Permittees have been heartened by on-going discussions between Regional Board staff, Non-Governmental Organizations (NGOs), and our professional associates in Ventura County. This is a commendable and welcome Board initiative that will hopefully reduce the misinterpretations and confusion that has plagued implementation of our current 2001 MS4 Permit. We look forward to reviewing the comments of the Ventura County Permittees and hope to endorse their support for the tentative permit by the time of the adoption hearing. We remain concerned by our current interpretation of the following permit issues:

**Lack of an explicit “Safe Harbor” Clause.** During these perilous fiscal times, state and local agencies are pressed to retain current staffing and service levels, while confronted by hiring freezes and even layoffs. The tentative permit requires several new initiatives that will be difficult to fully fund and implement. The draft permit needs to explicitly acknowledge local good faith efforts at compliance, especially given the lack of communication regarding any deficiencies in implementation of our current permits.

**Municipal Action Levels (MALs).** For the full duration of the tentative permit, MALs must remain a prioritization, rather than enforcement, tool. Most MS4 Permittees would assert that both natural and anthropogenic sources of the MAL pollutants have been insufficiently identified. This assertion extends to State General Industrial Stormwater Permittees, within our municipal boundaries. City staff must be given the opportunity to adapt to the analytical and water quality variability that has always characterized urban runoff and has been repeatedly identified as problematic by Board staff.

**Fire Fighting Flows.** The characterization of “pooled water after fire” on page 30 of 121 is too broad and out of the control of municipal Stormwater Coordinators. These events remain emergencies and exceptional events. We do not believe it is the intent of the Board to assert that local agencies can control these discharges any more than the Board can control mud and ash resulting from brush or forest fires on state lands.

**Emphasis on Enforcement over Source Control.** The tentative permit appears to overly emphasize enforcement, or at least its threat, when source identification and control should remain our current emphasis. The State and Regional Board needs to assist local agencies in cooperatively prioritizing the control of pollution sources, while using the “Maximum Extent Practicable” standard to educate all stakeholders when our shared efforts fall short of public goals. As an example, the State Water Board has encouraged synergy with the Air Board for the control of copper, to little effect. Similarly, local agencies following the assertions of the Board are encouraging legislation to control copper in brake pads, but this legislation will become effective long after the term of this permit.

**Unfunded Mandates Findings.** As stated in previous EAC comments, the Permit should remain silent as to whether this program is an unfunded state mandate. We believe it more appropriate for the State Mandates Commission to make this initial determination based on their superior level of professional experience in the matter.

**Addition of New Definitions.** Based on our initial reading of the tentative permit, the Board needs to work with stakeholders to modify several definitions and develop others. As an example, the Redevelopment Project Area Master Plan (RPAMP), requirements for numeric assessment of areas of disconnected impervious areas and overlapping requirements related to the General Construction Permit leads to the need for new definitions related to pre-development, pre-project and re-development conditions.

Once again the EAC appreciates this opportunity and hopes that your continued efforts at negotiating permit terms with the Ventura County Permittees will result in a less contentious local permit adoption effort. If you wish to further discuss these issues, or seek greater input from the EAC, please feel free to contact me at 562-904-7112.

Sincerely,

Original signed by

Gerald E. Greene, DEnv, PE, QEP  
Chair, Executive Advisory Committee

cc: EAC MS4 Permittee mailing list