

**ATTACHMENT A
 SPECIFIC TECHNICAL COMMENTS
 FEBRUARY 24, 2009 VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER
 SYSTEM PERMIT (NPDES NO. CAS004002)
 FOR THE
 VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA,
 AND THE INCORPORATED CITIES**

No.	Page	Citation	Comment	Changed?
1	2	Finding B.2	Suggest the term “trash” be added as common pollutant found in urban runoff, thereby providing the basis for including requirements for trash management.	yes
2	3	Findings B.5	A references for studies is needed: “local and national epidemiological studies indicate there is a causal relationship between adverse health effects and recreational water quality . . .” A 2003 SCCWRP Mission Bay Epidemiological Study found “The risk of illness was uncorrelated with levels of traditional water quality indicators and state water quality thresholds were not predictive of swimming-related illnesses”.	pending
3	4	Findings B.12	References for the studies are needed: “Studies have demonstrated a direct correlation between degree of imperviousness and receiving water degradation.” Also suggest editing the first line to read “. . .runoff from developed areas has the potential to greatly accelerate downstream erosion . . .”; and the last sentence to read “ pervious cover is a reliable <u>one</u> indicator . . .” There is some debate as to whether it’s a reliable indicator, and the primary cause of water quality degradation from new development is the <u>unabated</u> discharge of stormwater. With proper BMPs these discharges can be mitigated. Please include reference and amend finding accordingly.	pending
4	4	Findings B.12	Add clarity: “Significant declines . . . with as little as 3-10 percent conversion from natural to impervious surfaces <u>in a subwatershed</u> ”. As currently worded, the finding implies a 3-10 percent conversion at a lot level is also significant. To avoid confusion and provide clarity, the language should be revised to indicate that significant declines may occur if there are conversions for the entire subwatershed.	yes
5	5	Findings B.13,14,	Please provide references for studies.	pending
6	5	Findings B.16	Environmentally Sensitive Areas (ESA) as described here does not match definition, missing all unimproved 303(d) reaches.	yes
7	6	Findings B.17,19	Please provide references for studies.	pending
8	8	Findings C.6	No trash and debris study is included in the Monitoring and Reporting Program, please delete this reference.	yes
9	8	Finding C.6	Recommend modifying finding to read “This Order requires a monitoring program consisting of mass emission, <u>outfall and special studies</u> , toxicity , to support program evaluation and TMDLs storm water (wet weather) MS4 water quality-based effluent ”	yes

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			limits, TMDL non-storm water (dry weather) MS4 water quality-based effluent limits,... “ The current language is confusing and inconsistent with the intent of the finding.	
10	8	Finding D.1	Recommend modifying the finding to read “The area covered by this Order includes all <u>urbanized</u> areas within Ventura County boundaries...” This permit is for discharges from urbanized areas of the County and does not apply countywide for un-urbanized areas. (See also Letter to Mr. Jonathan A. Bishop, Executive Officer, Los Angeles Regional Water Quality Control Board from Gerhardt Hubner, Chair, Ventura Countywide Stormwater Quality Management Program (March 6, 2007) (March 2007 Letter) at pp. 13-14.)	rejected
11	9	Finding D.6	Recommend modifying the finding to read “The CWA and the California Water Code contain specific provisions on how wastewater discharges <u>of waste</u> from point sources are to be permitted, <u>including urban stormwater and non-storm water</u> . We believe the intent of this finding is to establish the fact that stormwater discharges are regulated under the CWA and CWC.	rejected
12	10	Finding E.4	When referring to the Porter-Cologne Water Quality Control Act (California Water Code), it should be clear that the State and Regional Water Board’s have the authority to regulate the discharge of “wastes that could affect the quality of waters of the state.” Thus, we recommend that the second sentence of the finding be revised as follows: The Porter-Cologne Water Quality Control Act (California Water Code) authorizes the State Water Resources Control Board (State Water Board), through the Regional Water Boards, to regulate and control the discharge of pollutants <u>wastes that could affect the quality of waters into all waters</u> of the State, including waters of the United States, and tributaries thereto.	yes
13	13	Finding E.7	The Permittees disagree with the conclusive statements made in Finding E.7. In general, we do not agree that all requirements contained in the Tentative Order are required by federal law. Many of the provisions may in fact be more stringent than required by federal law and may therefore potentially be considered an unfunded local mandate subject to subvention under Article XIIB, Section (6) of the California Constitution. Additional legal and policy comments on this finding are provided on Attachment C.	See legal response to comments
14	21	Findings E.26 & E.27	The Permittees disagree with the conclusive statements made in findings as some of the requirements contained in the Tentative Order may well exceed the maximum extent practicable (MEP) standard. Additional legal and policy comments on this finding are provided on Attachment X. Furthermore, this finding as drafted is confusing because it blurs the distinction between the effective elimination of non-storm water discharges and	See legal response to comments

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			the reduction of stormwater pollutants to the maximum extent practicable.	
15	23	1.F. 6.	Please clarify not all impervious area is intended to be minimized but rather effective impervious area by adding the word “effective”: “Smart growth techniques include the minimization of <u>effective</u> impervious area”	Yes
16	24	Finding F.9	This finding implies that under the CWA the Permittees are required to “attain water quality objectives from new development and redevelopment activities.” Such a statement is incorrect. We recommend revising the finding accordingly be deleting this part of the sentence.	No, comment noted
17	25	Finding F.12	This finding needs a lead in statement to support the position that the permit has established BMP performance, which are based on the ASCE and USEPA database.	No, paragraph contains requested information
18	27	Finding F.19	This finding claims that the Fact Sheet includes an analyses of the factors required by California Water Code section 13241. We disagree. The Fact Sheet does not include any analysis that is consistent with the statutory factors identified in Water Code section 13241. Thus, we recommend either deleting the finding, or revising the Fact Sheet to appropriately include the analysis identified.	Yes, comment noted, statement removed
19	29 – 32	Footnotes	The footnotes are redundant and should only be stated once. Further, footnotes are not formatted properly.	Comment noted
20	30	Part 1.A.1.(c)	The Tentative Order does not properly explain or describe the purpose of the information contained in Table 1. If the purpose of Table 1 is to identify conditions that apply to the categories of allowed non-storm water discharges identified in Part 1.A.1.(c), it should be explained accordingly. Otherwise, as currently incorporated there is no correlation between the Discharge Prohibition language and the information contained in Table 1.	Yes (Carlos)
21	30	Table	It is unclear of the distinction between the columns labeled: “Conditions under which allowed” and “Required conditions for discharge to occur”. Recommend deleting one and if necessary expanding the explanation in the remaining column. Also it is unclear what is meant by “Permittees shall comply with all conditions in the authorization”, specifically what authorization?	Yes (Carlos)
22	32 & 108	Table 1	Required conditions for discharge from sidewalk rinsing refers to the glossary description of “Sidewalk Rinsing” where it says “any waste generated from the activity must be collected”. Please describe under what circumstance a discharge for sidewalk rinsing be allowed.	Rejected, staff disagrees

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23	32	Part 1.A.2	This provision would require the Permittees to take certain actions if the Regional Water Board's executive officer determined that any of the preceding categories of non-storm water discharges are a source of pollutant that may exceed water quality standards. However, the provision does not specify that the Permittee's obligations occur only after receiving notice of the Executive Officer's determination. To ensure that the Permittee's obligations occur only after proper notice, we recommend that the first sentence be revised as follows: "If the Regional Water Board Executive Officer determines that any of the preceding categories of non-storm water discharges are a source of pollutants that exceed water quality standards, the Permittee(s), <u>upon receiving written notice of the Executive Officer's determination, shall either:....</u> "	rejected
24	33	Part 1.A.3	This provision should be deleted as it is redundant with requirements noted in Table 1.	yes
26	34	Part 2.4	There is a conflict with the timelines given for two of the requirements. More specifically, the statements "Beginning year 3 after adoption" and "first MAL Action Plan due Dec. 15, 2011" conflict because year 1=2009-2010, year 2= 2010-2011, and year 3=2011-2012. By December of 2011, only the first wet season's data (four sites) will be available. To avoid the conflict, we recommend that the first sentence be modified as follows: <u>At the end of Beginning</u> Year 3 after Order adoption date, each Permittee shall submit a MAL Action Plan with the Annual Report (e.g. the first MAL Action Plan would be due with Dec. 15, 2011 the <u>2011/2012</u> Annual Report if the Order is adopted in 2009) to the Executive Officer ...	yes
27	37	4.B.3	There are conflicting timelines for several of the provisions related to adoption and/or revision of municipal codes (i.e. one year to adopt ordinance to enforce all requirements of this order conflicts with 4.B.4, which allows two years for legal counsel statement, and 4.D.1, which allows two years for municipal codes to be consistent with requirements). To avoid the conflict, we recommend revising Part 4.B.3 to allow two years after Order adoption for each permittee to ensure that its Storm Water Quality Ordinance authorizes the Permittee to enforce all requirements of this Order.	yes
28	38	4.C.1.(a).1.(B)	The budget provisions imply that the Program Implementation Activities apply only to storm water related activities. As stated throughout the Tentative Order, it contains requirements with respect to storm related activities as well as non-storm water discharges. Because this may imply that the costs of implementing the program are less than actually required, we recommend revising the phrase "storm water related activities only" permit related activities as it would be more inclusive.	yes
29	39	4.E.1.(e) & (g)	Subsections (e) and (g) appear to be duplicative.	rejected

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30	39	Part 4.E.1.(i)	The District (i.e. Principal Permittee) does not have the same pollutant generating activities, legal authority and land use decision capability as the municipalities (i.e. Permittees) therefore (i) should be deleted.	Yes
31	40	Part 5.B.2	Redundant – this section is repeated in Monitoring Program Attachment H	Delete section?
32	42	Part 5.C.2.(c)(1)(C)	Request 365 days to develop and distribute materials to retail stores. No time frame is currently provided.	yes
33	44	Part 5.D.1.	Laundries are not listed as a Critical Sources under commercial facilities but are listed in attachment “D”. Please clarify if the intent is to include laundries as a Critical Source, and if so a clear definition of size and function of the included business. - - - - wait for Paul’s review of SIC 7200	Comment noted, doesn’t belong to industrial facilities
34	45	Part 5.D.1.(a)(2)	Please provide a definition for Phase II facilities. Phase I facilities are included in the definitions, but Phase II facilities are not.	Comment noted, PII definition in USEPA regulations
35	45	Part 5.D.2.(a)	The sentence that refers to subpart 5.D.2 should be modified to refer to subpart 5.D.1.	Yes
36	46	Part 5.D.2.(a)(2)	The phrase “in cooperation with its appropriate department . . .” is unnecessary as all departments of a permittee are responsible for permit compliance and internal cooperation and communication would be expected.	Yes
37	49	Part 5.D.2.(b)(1)(A) &(B)	Part (A) refers to an “initial inspection” and “second mandatory compliance inspection,” while part (B) refers to both “first mandatory compliance inspection” and “second mandatory compliance inspection.” Please clarify the difference between the initial inspection and the first mandatory compliance inspection. Further, the Permittees continue to be concerned that the inspection requirements for industrial facilities is in fact an unfunded local mandate because determination of compliance with the State’s General Permit is a state function, not a local function. Additional comments on this issue are provided in Attachment C.	Rejected, they are the same
38	50	Part 5.D.2.(b)(2)(B)	The last sentence in this provision, “[t]he Permittees shall require implementation of additional BMPs where the storm water from the MS4 discharges to a CWA 303(d) listed waterbody” is redundant with provisions contained in sub-section D.3.(b).. Thus, this	Yes

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			sentence should be deleted.	
39	50	Part 5.D.3.(a)	The reference to part 5.D.3 should be changed to part 5.D.2.	yes
40	51	Part 5.D.4(c)	This provision seems to be inconsistent with a similar provision in the Construction section (see page 73) regarding investigating complaints received from the Regional Board. The provision should read as follows: Each Permittee shall initiate, within one business day, ¹ investigation of complaints of (other than non-storm water discharges) to the MS4 from facilities within its jurisdiction (other than non-storm water discharges) .	yes
41	52	Part 5.E.(1)	Smart Growth should be included as one of the purposes for this section. We recommend that a new purpose be added as follows: <u>(a) Lessen the water quality impacts of development by using smart growth practices such as compact development, directing development towards existing communities via infill or redevelopment, safeguarding of environmentally sensitive areas, mixing of land uses (e.g., homes, offices, and shops), transit accessibility, and better pedestrian and bicycle amenities.</u>	yes
42	52	Part 5.E.(1).(b)	“Minimize the percentage of impervious area” should be revised as follows: minimize the percentage of <u>effective</u> impervious area.	Yes
43	52	footnote	48 hour drain time is in conflict with table on page 32 calling for 72 hour drain time which is the time most BMPs use in design.	Yes
44	52	Part 5.D.4.(e)	Please clarify, is the Stormwater Task Force the same as the California Association of Stormwater Quality Agencies (CASQA)?	Yes, same
45	53	Part 5.E.II.1.(a)(6)	Please clarify by stating “25 or more <u>exposed</u> parking spacing”	rejected
46	54	Part 5.E.II.2.(a)(3)	The effective date for public projects is more strict than private projects and can create a hardship in costly redesigns of a project. A project is completely designed at the point a governing body approves authorization to bid the project. Requiring compliance with this section of the permit would mean a costly re-design of the project. Language more comparable to the trigger for private projects would be preferable. We suggest: "For Permittee's projects the effective date shall be the date the governing body or their designee approves initiation of the project design."	yes
47	55	Part 5.E.III.1 (b)	The reference in the last sentence should be changed from 5.E.III.4 to 5.E.III.3	Yes
48	55	Part 5.E.III.1 (c) – (e)	We would recommend that these three provisions be combined to read as follows: (c) All features structured constructed to render impervious surfaces “ineffective” as	Yes?

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			described in provision (b), above, shall be properly sized to infiltrate or store for beneficial reuse at least capture the volume of water that meets the criteria in subpart 5.E.III.3 (water quality volume). <u>The hierarchy of BMPs for capturing the water quality volume are: (1) infiltration, harvesting, or evapotranspiration BMPs; and, (2) vegetated BMPs such as bioretention. The water quality volume not captured by BMPs shall be treated consistent with Part 4.A.3 and Attachment C, Table 3.</u>	
49	57	Part 5.E.III.2.(a)(1)(F)	Reference to 5.E.III.3 (a)(2) should be 5.E.III.2. (a) (3) (A)	Yes
50	58	Part 5.E.III.3.(a)	Numbering format needs correction	yes
51	62	Part 5.E.IV.3(b)(3)	To be consistent with the rest of the Effective Impervious Area language please change "less than 5 percent" to "5 percent or less"	yes
52	68	Footnotes	Footnotes 17 and 18 are redundant.	yes
53	69	F I.4. (c)	Delete obligation of Permittees to require project proponents to collect samples in accordance with general construction permit. As indicated previously, any requirement placed upon the Permittees that requires them to implement or enforce the State's General Permit is an unfunded mandate for which subvention funds must be provided.	yes
54	69	Part 5.F.5	The reference to subpart F.5 should be subpart F.4	yes
55	66-69	Tables in Part 5.F	Tables 6 -9 are intended to build on each other. There is no need to repeat the BMPs in every table as the text requires the Discharge to implement appropriate BMPs in addition to the ones already identified in the previous tables. See provision F.2, F.3, or F.4. In general these provision state "Each Permittee shall require the implementation of an effective combination of appropriate erosion and sediment control BMPs from Table 7 <u>in addition</u> to the ones identified in Table 6 to prevent erosion and sediment loss..." (emphasis added).	Rejected, staff disagrees
56	70	Part 5.F.6.	Section is missing punctuation. Please include a footnote defining chance of rain (POP >50%).	yes
57	74	Part 5.G.2.(a)	Table 9 should read Table 10.	yes
58	74	Part 5.G.2.(a)	Please revised the provision as follows: "(a) Each Permittee shall implement the activity specific BMPs listed in Table 10 <u>or related BMPs as listed in the 2003 California Stormwater Municipal BMP Handbook</u> when such activities.."	rejected
59	77	Part	No time frame given for implementing an Integrated Pest Management Program –	yes

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		5.G.(4)(a)	request 365 days	
60		Part 5.G.1.4(a)(7) (C)	Several agencies have been implementing Integrated Pest Management programs for several years and have therefore already made significant reductions in pesticides used by the agencies. By requiring these same proactive agencies to now “demonstrate reductions in pesticide use” will be very difficult because reductions have already occurred. Further, the primary goal and purpose of Integrated Pest Management programs is to address pest issues in a holistic manner using a number of different types of control methods. The implementation of such programs may or may not result in the reduction of the use of pesticides. The need for pesticides even when implementing an Integrated Pest Management program may also vary based on the type of weather year and other circumstances beyond the control of local agencies. As such, we are concerned that a requirement “to demonstrate reductions in pesticide use” may not be feasible in all circumstances. Thus, we recommend revising the language as follows: “Demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.”	rejected
61	79	Part 5.G.(d)(1)	“rainy season” should be replaced with the defined term “wet season”	yes
62	79	Part 5.G.(f)(1)(b)	“storm season” should be replaced with the defined term “wet season”	yes
63	80	Part 5.G.(g)(1)	Section should specify that it pertains to spills by permittee facilities or activities.	yes
64	81	Part 5.G.6.(b)	Redundant because G.1(b) requires compliance with 5.F.6 which is the exact same language.	?
65	83	Part 5.H.1.3(a)(2)	Please include the language that is in the fact sheet noting “this provision is not meant to exclude Permittees from using equally effective alternative methods not listed in the manual.”	yes
66	83	Part 5.H.(1).(b)	Confusing request and time frame. Requirement is to map all known connections to storm drain system in 3 years, but 5.H.(3) give 5 years for pipes 18 – 35 inches in diameter. Could be very problematic if requirement is for all private connections.	Rejected, staff disagrees
67	85	Part 5.I.1	Electronic reporting program submitted 12 months after permit adoption conflicts with Dec. 15 reporting deadline given at Part 2.4. (page 34) and in Attachment H.	Rejected, staff disagrees- ERP can be comported to comply

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				with reporting deadlines given in Part 2.4 and Attachment H
68	85	Part 6.II	Although the regional board corrected the individual TMDLs throughout this section to remove the requirement for a "MS4 effluent quality workplan...", they did not change Part 6.II to add the new language, which should read as follows: "II. Each permittee shall attain the storm water WLAs incorporated into this Order by implementing BMPs in accordance with the TMDL Technical Reports, Implementation Plans or as identified as a result of TMDL specialstudies identified in the Basin Plan Amendment." This is the language used for each identified TMDL under (b) Compliance Monitoring (2).	yes
69	86	Part 6 III.8	The "effective date" of the Harbor Beaches TMDL is December 18, 2008 – not September 23.	yes
70		Definitions	Please add a definition for "Smart Growth" as follows: Development in or near cities intended to lessen or reverse suburban sprawl, decrease the use of automobiles, and shorten daily travel. It uses compact building design to cluster together residential, shopping, and work areas and encourages walking and public transportation. Smart Growth is considered a stormwater BMP in the 2005 EPA publication <i>Using Smart Growth Techniques as Stormwater Best Management Practices</i> , EPA 231-B-05-002	yes
71	F-2	A.I.1.10	Other constituents are properly sampled as grabs (ammonia, conductivity, perchlorate, O&G, TRPH, phenols, cyanide). Suggest stating samples are to be taken according to Standard Methods, or citing EPA methods.	rejected
72	F-3	A.I.15.c	Reference to "J" should be to "K".	yes
73	F-3	A.12	If a constituent is not detected at the MDL then it will not be an "observed occurrence" and so cannot show a concentration greater than the State WQOs or CTR acute criteria. Suggest "If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method it need not be further analyzed. unless the observed occurrence shows concentrations greater than the state water quality objective, and/ or the California Toxics Rule (CTR) for acute criteria. "	rejected
74	F-4	B.1.d	Reference to attachment "H" should be attachment "I"	yes
75	F-5	B.7	Attachment "C" constituents (Tables 1 and 2) don't match constituents listed in B7. Suggest deleting the list of constituents included in B.7.	yes

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76	F-6	B.8	Request to the same language used as A.12 for screening of all constituents (first storm event of the wet season) with same modification to language to eliminate contradictory statement, i.e. "If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method it need not be further analyzed. unless the observed occurrence shows concentrations greater than the state water quality objective, and/ or the California Toxics Rule (CTR) for acute criteria. " because if a constituent is not detected at the MDL then it cannot be an "observed occurrence" and so cannot show a concentration greater than the State WQOs or CTR acute criteria.	rejected
77	F-6	B.11.c	Standard Monitoring Provisions are part "K" (not "J")	yes
78	F-7	B.13	A reference should be added to attachment "A" for "Pollutants of Concern"	rejected
79	F-12	D.14	Add "significant" to first sentence, i.e. "... TIEs for all sites showing <u>significant</u> toxicity." To match language in the trigger for TIE in the same section.	yes
80	F-14	E.1.a,d/e & E.2.a	Inconsistent frequency of pyrethroid monitoring: E.2 "shall monitor 1 sampling event per station per monitoring year" should be deleted or changed to match E.1.a,d/e it is to begin "no later than the second year of this Order" at "at least 2 stations [per watershed]" and is to be "repeated in the fifth year of the permit term" and in	Yes, "shall be repeated every 3 rd year".
81	F-16	G.4.	Please delete there is no text associated with section.	yes
82	F-17	I.1.a.1.A	Suggest clarifying frequency i.e. "Level of effort per watershed <u>per year</u> "	yes
83	F-19	K.6.b	The intercalibration study consists of a small number of constituents (TSS, nutrients, metals, chlorinated hydrocarbons, and pyrethroid pesticides). Request change of language at end of K.6.a and K.6.b to add "where applicable" to allow use of laboratories to test for constituents not included in the intercalibration study (i.e. bacteriological, toxicity, and other chemical analyses).	rejected
84	F.7	B.12	This section requires results from Major outfall stations to be compared to Basin Plan water quality objectives. Comparisons with WQO can be done for informative purposes, however these objectives are set for receiving waters and are not appropriate to determine compliance with the NPDES permit through the quality of discharges from MS4s	No change, comment noted