

# **BIA of Southern California—Greater Los Angeles-Ventura Chapter and Construction Industry Coalition on Water Quality**

**Builder-Contractor Comments on the  
Draft Ventura County MS4 Permit  
September 20, 2007**

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# Planning and Land Development

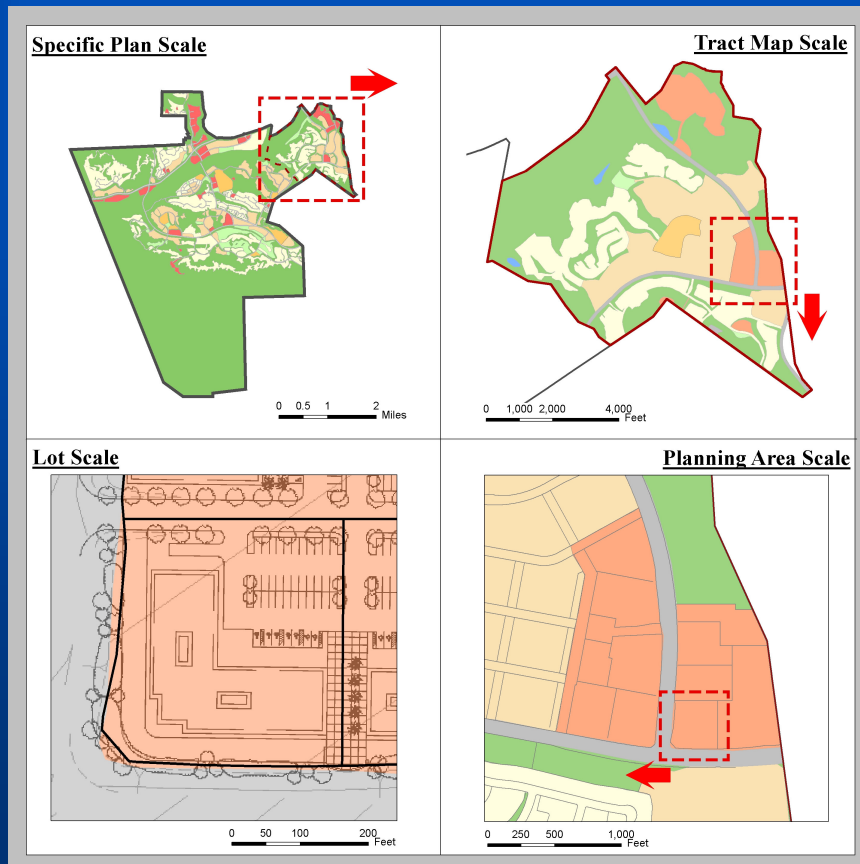
**Issue #1: Effective Impervious Areas set at 5%--no allowance for project scale, location of disconnection or feasibility**

**Draft Permit: Section E-III. Criteria, No. 1., page 51.**

## **Concerns:**

- **Perviousness varies throughout the landscape—infiltration doesn't have to and sometimes should not occur on-site**
- **Points downstream of site/upstream of discharge point can serve to infiltrate runoff up to a point (e.g., low flows or first flush)**
- **As written, will encourage sprawl/discourage optimal siting**
- **Redevelopment and infill sites not within an RPAMP are clearly at a disadvantage in complying with 5% numeric criteria....and with LID and Hydromodification criteria**

# Planning and Land Development: Infiltration, Impervious Surfaces, and Scale



- **Permit must consider project scale—it doesn't**
- **Consider percent imperviousness at all scales—it doesn't**
- **Consider the special needs of infill and redevelopment projects—it doesn't**
- **Infeasibility variance needed when study shows that all available strategies are considered, but is not technically and economically feasible to meet the standard**

# Planning and Land Development

## Issue #2: Implementation of Low Impact Development Site Design Features/Pollutant Removal BMPs

Draft Permit: Section E-III. Criteria, No. 2., page 51.

### Concerns:

- Must have clear language providing permittees with the discretion to approve LID site design features that accommodate local conditions
- Clarify language of the Permit now; no potential for “clarification” letters
- The Permit as well as technical guidance must allow consideration of local constraints and feasibility in setting LID: climate, soils, ground water, and receiving waters
- Clearly define that permittees establish LID “points” scoring criteria based on local conditions and needs—doesn’t change during permit
- Clarify high flows need not be disconnected

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## Issue #3: Hydromodification Permit Language

Draft Permit: Section E-III. Criteria, No. 3., page 52-55

### Concerns:

- Requiring “maintaining” of pre-development runoff is technically infeasible if construed as an “absolute.” There will always be some alteration of the hydrograph due to land development; therefore it should reasonably approximate pre-development conditions
- Need to clearly define when and where waivers will apply
- Clarify that final HCS criteria will replace interim criteria and that LID “points” scoring system achieves hydromodification compliance, i.e., LID and treatment BMPs achieve compliance

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## Issue #4: Effective Date of Order Requirements

Draft Permit: Section E-II, Applicability, No. 3 (a): Effective Date.  
“requirements.....shall apply....to projects that have not received tentative tract map and post construction control approval prior to 90-days after Order adoption...”

### Concerns:

- 90-day period does not match current timing of project approvals in Ventura County
- Current project approvals require 12 to 18-month period to receive necessary approvals
- The permit should read: “requirements.....shall apply...to any projects for which a complete tentative tract map application has been filed prior to 30-days after Order adoption...”

# Planning and Land Development

Issue #5: Seasonal Grading Ban/Forced ATS deployment

Draft Permit: Section F-1. Development Construction Program, page 61.

## Concerns:

- 6-month grading ban is inconsistent with SWRCB direction in assessing site risk and deploying BMPs according to site risk and phase of construction
- Approach in Permit forces use of ATS if a grading ban waiver is sought
- ATS systems can be toxic and would be required to achieve numeric standards in permit....use in ecologically sensitive areas is questionable given history of toxic polymer release
- Any fixed numeric standard would be arbitrary considering the extreme variability of natural sediment concentrations and loads

# Implementation

## Issue #6: New Enforcement Authority

Draft Permit: Section E-IV.3. Development Construction Program, page 58.

- New provision in this draft appears to attempt to create novel, unprecedented, and unauthorized joint liability for non-permittees
- Seems to be designed as a future “gotcha” provision so that Clarification Letters that re-interpret Permit requirements can be easily issued later
- Permit should clearly delineate up front what is required of new development for the entire period of the new permit, and permittees will enforce and developers will implement



# Implementation

## Issue #7: Alternative Post-Construction BMP Programs

Draft Permit: Section E-IV.4 and 5 Development Construction Program, page 58-60.

- Permit should encourage “Specific Plan” level planning for LID, Hydromodification and water quality control BMPs via stormwater mitigation plans, RPAMPs, and regional/subregional facilities
- Current provisions make it harder to create water quality master plans:
  - hold master plan BMPs to higher standards
  - make approval process longer and more difficult
  - includes unnecessary constraints regarding timing of implementation in light of planning scale

# Summary Points

- BIA and CICWQ support the use of LID concepts in land development...but not on a lot-by-lot, one-size fits all basis when larger scale approaches are preferable
- Draft permit must consider scale and local physical conditions when implementing LID and hydromodification approaches
- Avoid vague, absolute permit language and “gotcha” provisions that could be subject to later, prescriptive “clarification” and enforcement measures
- Draft permit must accommodate infill and redevelopment projects that will occur outside a coordinated planning effort, ala RPAMP....provide alternative solutions to site designs
- Provide permit consistency with SWRCB general construction permit; do not impose grading bans
- Encourage water quality master planning

