SAN BERNARDINO COUNTY STORMWATER PROGRAM

A Consortium of Local Agencies

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

RE: Ventura MS4 Draft Tentative Permit Comments

Thank you for the opportunity to provide comments on the draft tentative MS4 NPDES Permit for the Ventura Countywide Stormwater Program (draft Permit). The San Bernardino County Municipal Stormwater Program is providing these comments based on the strong presumption that various elements of the draft Ventura Permit may be incorporated into other MS4 Permits in Southern California, including those in the Santa Ana River Watershed area. Under these circumstances, what happens in the Ventura Permit is likely to very directly affect our Stormwater Program and others statewide. In addition, we strongly support the comments on the draft Permit provided by the California Stormwater Quality Association (CASQA).

Although the draft Ventura Permit contains numerous new and specific requirements, our comments focus on the proposed use of Municipal Action Levels (MALs), and requirements from the Planning and Land Development Program.

1. MALs

We agree with CASQA's comments on the MALs, and wish to further emphasize the following points:

a. The MALs, as proposed in the draft Ventura Permit, are not consistent with the recommendations from the "Blue Ribbon Panel" (BRP) Report. The BRP report recommends "action levels" as a tool to identify so-called "bad actor" watershed areas to be targeted for further actions. However, the MALs, which are proposed in the draft Ventura Permit, are used in part to determine whether a permittee has met the "maximum extent practicable" compliance standard, rather than as a bad actor indicator, and in practice will function as numeric effluent limits for stormwater discharges.

b. The BRP Report also suggested that robust local data sets would be most appropriate for developing the action levels for constituents of concern. However, the MALs proposed in the draft Permit were developed using a so-called "national" dataset, which includes substantial data from non-California regions of the country, with greatly varying rainfall regimes.

Therefore, we conclude that the proposed MALs are being used for an inappropriate purpose, and were developed using an inappropriate dataset. The draft Ventura Permit should be revised accordingly.

2. Planning and Land Development Program Requirements

The draft Ventura Permit has extensive and specific requirements for development projects. The requirements that are most problematic to implement are the 5% EIA (effective impervious area) limitation, and the overly specific approach to implementation of hydromodification mitigation measures.

a. The draft Ventura Permit has not documented a scientific basis to support the use of a 5% EIA limit on a project-by-project approach. Scientific literature provides watershed- or subwatershed-scale evaluations that show a correlation between watershed imperviousness (whether expressed as EIA or total impervious area) and adverse impacts to stream ecology (most notably: Booth & Jackson1997. Urbanization of aquatic systems: degradation thresholds, stormwater detention, and the limits of mitigation. Journal of the American Water Resources Association. 33(5):1077-1090). However, it does not necessarily follow that a site-by-site implementation will have the expected benefits, particularly in fully or partially urbanized watershed areas. It is probable that a substantial implementation burden will be placed on individual projects with little resultant ecological benefit. We recommend that additional "off ramps" from the EIA limit be included in the draft Ventura Permit. For example, project sites with limited infiltration capacity, or where infiltration poses structural safety concerns, should have compliance alternatives in addition to the Redevelopment Project Area Master Plan option. Sites should also be allowed to trade EIA "credits" or provide alternative mitigation to achieve equivalent environmental benefits. The draft Ventura Permit also includes broadly applicable requirements for implementation of low impact development (LID) techniques for development projects. Implementation of LID techniques will achieve the same objectives as the 5% EIA requirement, while providing enough flexibility for successful implementation in most project situations.

We suggest that the 5% EIA requirement is superfluous if LID techniques are already required, and should be removed from the draft Ventura Permit.

b. The draft Ventura Permit does incorporate recent and anticipated findings from research on hydromodification mitigation in California. However, the requirements are overly prescriptive and do not fully link proposed hydromodification criteria to implementation actions. The draft Ventura Permit requires the application of protective approaches developed from studies of stream reaches and watersheds or subwatersheds. These approaches (such as the application of the erosion potential metric) have yet to be validated in field settings. The draft Ventura Permit does not provide justification for applying these stream reach- or watershed-derived metrics at the individual project scale. The conditions of the entire drainage area that contributes runoff to a stream reach should be evaluated when considering the impacts of an individual project, along with immediate and expected future impacts to the reach. Implementation of hydromodification BMPs on a site-by-site basis alone will not result in cessation of stream impacts.

The draft Ventura Permit should acknowledge these uncertainties and limitations by allowing more options for addressing stream impacts from hydromodification.

There are also considerable differences between our inland San Bernardino County and coastal Ventura County that affect the appropriateness of MS4 Permit requirements. For example, Ventura County has MS4 systems that drain directly to ocean, harbors and beach areas, and has different geology and precipitation patterns. These factors influence the development and management of watersheds, which in turn influence the management of urban stormwater programs, and must be considered when developing MS4 Permit requirements and implementation objectives.

If you have questions regarding these comments please contact Matt Yeager at (909) 387-8112.

Sincerely,

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San Bernardino County Flood Control District

cc: Dr. Xavier Swamikannu, Chief-Stormwater Permitting, CRWQCB, Los Angeles Region
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San Bernardino County Stormwater NPDES Coordinators