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April 10, 2009 VIA E-MAIL

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Control Board
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Los Angeles, CA 90013-2343
VenturaMS4Comments041009@waterboards.ca.gov

Subject: Comments on Tentative Order – Ventura County Municipal Separate Storm Sewer System Permit

Dear Ms. Egoscue:

I am writing on behalf of the Coalition for Practical Regulation, an *ad hoc* group of 39 cities in Los Angeles County that have come together to address water quality issues. We thank the Los Angeles Regional Water Quality Control Board for the opportunity to provide these comments regarding the Tentative Ventura County MS4 Permit. Although our member cities are not in Ventura County, we understand that the Ventura Permit is likely to be used as a model for future MS4 permits in the region. As we have stated in comment letters related to previous drafts of the permit, to that end, we are extremely interested in the process of creating a workable draft MS4 permit for Ventura County.

CPR appreciates the efforts of Regional Board staff to continue to improve upon previous drafts of the Ventura County MS4 permit. The two-day Ventura County MS4 Program Permit Reissuance Coordination Meeting held by the Regional Board in February 2008 provided a forum for Permittees and other interested parties to express their views and concerns. Subsequent to the Third Draft Permit, Board staff worked collaboratively with stakeholders to further improve the draft permit. This effort is consistent with the desires expressed by Regional Water Board members at the April 2, 2009 Board Workshop on the Triennial Review. Several Board members expressed a desire to move forward in a transparent, collaborative manner based on sound science and consideration of stakeholder concerns and needs.

The changes in the Permit have greatly reduced implementation costs. Ventura County Permittees have estimated that implementation of the Tentative Order would now cost approximately $60 - $100 per household per year, as opposed to a projected $600 per household per year to implement the previous draft permit. This is a significant

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improvement that will facilitate the ability of municipal permittees to better comply with permit requirements. However, the Tentative Order still contains several requirements that remain problematic in terms of implementation. The use of Municipal Action Levels (MALs), although greatly improved from the Third Draft Permit, will still be costly as proposed. Further, the land development sections are extremely prescriptive, particularly with respect to the restrictions on effective impervious area (EIA) and redevelopment projects. Specifically, we will be commenting on the following:

- The overly prescriptive and restrictive nature of the Tentative Order;
- Permit coverage;
- The appropriate use of Municipal Action Levels (MALs) as true action levels;
- The definition of Maximum Extent Practicable (MEP);
- The need for definitions of "pre-project" and "pre-developed condition;"
- The Redevelopment Project Area Master Plan (RPAMP);
- The inappropriate application of a watershed effective impervious area ratio to individual projects;
- The inclusion of a development construction program that unnecessarily duplicates many elements of the Construction General Permit under development by the State Water Board;
- The lack of emphasis on true source control, especially the sources of atmospheric pollutants;
- The benefits of implementing TMDLs through Memoranda of Understanding;
- The attempts in the Findings to deny that the Draft Permit contains unfunded mandates; and
- The concerns of the Los Angeles Fire Chiefs Association regarding the Tentative Order.

The Tentative Order Is Prescriptive and Overly Restrictive

A general concern of CPR is that the Tentative Ventura County Permit is still too complex, extremely prescriptive and overly restrictive. For instance, Parts 4.G, 5.D, 5.F and 5.G contain several tables telling local agencies which BMPs they should require of others and which BMPs they should use on public projects. The Permittees would be required to petition the Executive Officer for permission to use alternative BMPs. (See Finding F.8 and Special Provision 5.A.2(a).)

The prescriptive nature of the Tentative Order would limit the flexibility of the Permittees to creatively respond to water quality problems as they arise – particularly given the difficulties inherent in raising fees for stormwater services in the post-Proposition 218 regulatory environment. Staff's assertion that "the local agency permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order" indicates that staff is still steadfastly holding to some key misunderstandings regarding the reality of municipal funding options. (See Finding E. 7.) In fact, municipalities throughout the state have recently refrained from initiating Proposition 218 stormwater utility fee votes due to the

perception that it is extremely challenging to gain sufficient public support to pass increased fees. This was the case even prior to the current precipitous economic downturn; it would be difficult to imagine a new or increased fee gaining the support required for passage in the current economic climate. The difficulty faced by municipal permittees in trying to generate revenues to fund stormwater measures was recently illustrated in the City of Long Beach, where Measure I was defeated in November 2008. The measure, which would have provided funding for infrastructure, stormwater measures, and wetlands acquisition and restoration, would have cost $10 per residential unit per month. Passage would have required a 2/3 majority; Measure I received only 52.44 percent of the total votes.

Permit Coverage

CPR commends the Regional Board staff for including Finding D.3, which recognizes that Permittees may lack legal jurisdiction over certain Federal, State, Regional, or local entities. However, the Finding should go further, or there should be a separate Finding recognizing that "...certain activities that generate pollutants present in urban runoff may be beyond the ability of the permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear and leaching of naturally occurring minerals from local geography." The source of this language is Order No. R8-2009-0030, The County of Orange, Orange County Flood Control District, and the Incorporated Cities of Orange County Areawide Urban Storm Water Runoff, scheduled for adoption on April 24 or 25, 2009.

Municipal Action Levels (MALs)

CPR commends Regional Board staff for working with the Permittees to further revise the municipal action levels (MALs) component of the Tentative Order into a workable method of using quantifiable metrics as a tool to identify subwatersheds requiring additional best management practices (BMPs) to reduce pollutant loads. Reducing the number of conventional pollutants and metals for which MALs are established to a core of common stormwater pollutants will assist the permittees to focus their efforts and, as noted in the Fact Sheet, will lead to appropriate control of the majority of stormwater pollutants.

The MALs, as presented in the Tentative Order, are true action levels consistent with the iterative process in State Water Board Order 99-05. As proposed, the MALs trigger enhanced management measures as called for in the iterative process. As proposed in the Third Draft Ventura Permit, the MALs were not action levels as intended by the State Water Board's Blue Ribbon Panel, but were inappropriate precursors to numeric effluent limits, which then would have become actual numeric effluent limits after three years. These limits would have triggered the installation of BMPs that would be required to meet very strict performance standards based on a national database rather than on local conditions.

The MALs in the Tentative Order have become more applicable to Ventura County since they are now derived from a USEPA climate zone 6 subset of the nationwide database previously

used to develop proposed MALs. Although the climate zone 6 subset is not a strictly local database, it is much more appropriate than the nationwide database.

The use of MALs in the Tentative Order is now consistent with the Findings of the Blue Ribbon Panel and could initiate the implementation of a consistent approach to implementing the Blue Ribbon Panel's recommended use of Action Levels across the state. The Blue Ribbon Panel defined the concept of an Action Level as follows:

> "...the approach of setting an 'upset' value, which is clearly above the normal observed variability, may be an interim approach which would allow 'bad actor' catchments to receive additional attention. For the purposes of this document, we are calling this 'upset' value an Action Level because the water quality discharge from such locations are enough of a concern that most all could agree that some actions could be taken..."

However, CPR is concerned about the relationship between MALs and Total Maximum Daily Loads (TMDLs) in the Tentative Order. Part 4.A.5 does contain general authority for the Executive Officer to approve submittals under an applicable TMDL as fulfilling MS4 permit requirements if the TMDL requirements address substantially similar requirements as the MS4 permit. However, CPR believes that the relationship between MALs and TMDLs could and should be clearly established. Part 2 of the Tentative Order should be rewritten to exempt subwatersheds that would otherwise be required to submit a MAL Action Plan from such requirement if the pollutants are being addressed through a TMDL Implementation Plan adopted by the Regional Board for a Regional Board-adopted TMDL or a USEPA-established TMDL.

Maximum Extent Practicable (MEP)

CPR thanks Board staff for removing the attempt to define MEP in terms of Municipal Action Levels that was contained in the Third Draft Permit. The definition in Part 7 of the Tentative Order is a more accurate description of the concept of MEP added to the Clean Water Act in 1987. CPR recommends that the definition of MEP in Part 7 be expanded to include the workable definition of MEP included in a 1993 memo from State Water Board Attorney Elizabeth Jennings and included in multiple MS4 permits across the state.

The Elizabeth Jennings memo was also the basis of a definition of MEP contained in proposed California SB 1342 (2002), which defined MEP as follows:

> "The 'maximum extent practicable' standard means the maximum degree of pollutant reduction achievable through the application of practical, technologically-feasible, and economically achievable best management practices, including but not limited to, pollution control techniques and system design and engineering methods."

Five of the six points in the proposed SB 1342 definition of technologically feasible and economically achievable were derived from the Elizabeth Jennings memo.

> "Technologically feasible and economically achievable best management practices are those practices that satisfy all of the following criteria:
>
> (1) Demonstrate effectiveness in removing pollutants of concern.
>
> (2) Demonstrate compliance with subsection (p) of Section 1342 of Title 33 of the United States Code.
>
> (3) Demonstrate the support and acceptance of the public served by those best management practices.
>
> (4) Demonstrate a reasonable relationship between the cost of the best management practice and the pollution control result to be achieved.
>
> (5) Demonstrate technological feasibility to effect the intended pollutant removals, considering soils, geography, topography, water resources, and such other limiting physical conditions as may exist."

Planning and Development Program Issues

CPR thanks the Board for removing the prohibition on grading activities for 197 days of the year – inclusion of such a requirement would have had far-reaching impacts both for the building industry and the communities included in the Permit. However, we are concerned about several aspects of the Planning and Development Program in the Tentative Order. First, the Tentative Order uses both the terms pre-project and pre-development. However, "pre-project" is an undefined term, and the definition of "pre-developed condition" in the Tentative Order is a carry-over from the Third Draft Permit that is excessive and unworkable. Part 7 of the Tentative Order defines pre-developed condition as:

> "native vegetation and soils that existed at a site prior to first development. The pre-developed condition may be assumed to be an area with the typical vegetation, soil, and storm water runoff characteristics of open space areas in coastal Southern California unless reasonable historic information is provided that the area was atypical."

It appears that staff previously attempted to define a pre-development condition as the condition of an area prior to European settlement in California, and, although the term pre-project was added in the Tentative Order, the term pre-development was retained. Clearly, a regulation based on such a standard would be unrealistic and unattainable. Much of Southern California has been modified by hunting and gathering activities and agricultural activities that

occurred long before urban development and redevelopment. The definition of pre-development should be rewritten to be consistent with the definition used in the State's Draft Construction General Permit, in which pre-development refers to the condition of a site prior to the development of the specific permitted project on the site. If this change were made to the definition of pre-development, the term pre-project would not need to be used or defined.

In addition to the definitional issues related to "pre-project" and "pre-development," CPR is concerned about other aspects of the Planning and Development Program that are both very prescriptive and premature. Redevelopment is different from new development and should be treated differently. However the Redevelopment Project Area Master Plan (RPAMP) is an inappropriate, cumbersome, and potentially costly alternative post-construction stormwater mitigation program. It is a well-intentioned, complex program that should be replaced with increased flexibility in the entire Planning and Development Program. For instance, low impact development (LID) components of the program should recognize that low impact development is an emerging management measure and not restrict implementation of LID to pre-determined measures or categories of measures. Also, the Southern California LID Manual should be recognized as a potential alternative to updating the Technical Ventura County Technical Guidance Manual for Storm Water Quality Control Measures as was done in the Third Draft Permit.

Furthermore, the New Development/Redevelopment Criteria section of the Planning and Land Development Program in the Tentative Order correctly identifies low impact development measures that would reduce runoff volume through percolation, infiltration, storage, and/or evapo-transpiration. However, the section still inappropriately attempts to apply an effective impervious area (EIA) ratio developed through watershed research to individual project areas. This is wrongly applied and should be deleted from the Tentative Order. The EIA component, if it remains in the Tentative Order, should be expressed as a goal for both new development and redevelopment, not as a strict limit.

The research behind Finding B.12 is based on watershed level research – not individual parcel or project research. There is actually more research on the volume capture approach to controlling urban runoff at the parcel or project level. As the California Stormwater Quality Association (CASQA) noted in its comment letter on the Tentative Order, "pollutant loads increase in direct proportion to increase in runoff volume." Therefore, if runoff volume can be mitigated, pollutant loads will be reduced. The critical element is the reduction of urban runoff, as runoff transports pollutants. The importance of reducing the volume of runoff is reflected in the Tentative Order's water quality mitigation criteria for volumetric treatment control BMPs. CPR recommends that the volume capture approach continue to be the basis for regulation of discharges from new development and redevelopment while more experience is gained with implementation of low impact development measures and reduction of effective impervious area in Southern California.

In addition, CPR requests that the Planning and Development Program in the Tentative Program be revised to recognize the continuum of scales at which water quality management

measures can and should be applied. Depending on local conditions, some measures are appropriate at the parcel, neighborhood, or project level. Others are appropriate at the catchment, subwatershed, and watershed level. Other measures may be regional or statewide, especially those that address true source control and cross-media pollution. An effective water quality protection program will include measures at a variety of scales. CPR recommends that a finding be added to recognize this fact and that the permit not over-emphasize parcel and project scales.

The Development Construction Program Unnecessarily Duplicates the Draft Construction General Permit

The Development Construction Program in the Tentative Order still includes detailed instructions that duplicate requirements in the Construction General Permit currently under development by the State Water Board. Furthermore, the requirement for inclusion of local stormwater pollution prevention plans (SWPPPs) could be interpreted as an attempt by the Regional Water Board to transfer some of the responsibility for enforcing the Construction General Permit to local government. Both the requirement for a local SWPPP and the requirement to regulate construction sites less than one acre should be removed from the Tentative Order. Permittees already regulate smaller projects pursuant to their own ordinances. They should not be required through this Order to specifically regulate small construction projects when USEPA and the State have determined that construction projects greater than one acre are the ones that should be regulated.

The Tentative Order Fails to Address True Source Control, Especially the Sources of Atmospheric Deposition Water Pollutants

We would once again like to thank Regional Board staff for continuing to recognize the adverse impacts of aerial deposition on water quality by keeping Finding B.19 in the Tentative Order. Atmospheric deposition and other cross-media problems demand multi-agency planning and policy coordination, and this Finding indicates that staff is aware of that fact. Inclusion of this Finding is a good start; however, we were surprised and disappointed that an important sentence, removed prior to the issuance of the Third Draft Permit, is still missing. This sentence stated, "The Los Angeles Regional Water Board will coordinate with the South Coast Air Quality Management District, the California Air Resources Board, and other governmental agencies to address multimedia sources of pollution that may contribute to pollution of surface waters."

Stormwater permittees are in a difficult position with respect to regulatory requirements and the authority to implement them. As CPR has noted in previous comments, the combination of directly connected impervious areas and atmospheric deposition of pollutants, in effect, produces a "perfect storm" that dramatically impacts water quality control. The Water Boards are charged with regulating permittees, but do not have regulatory control over some of the major pollutant sources, such as the sources of atmospheric deposition. Removing all pollutants at the end of storm drains would be a prohibitive expense on the order of many

billions of dollars for the Region. Together, Permittees and the Water Boards must go after the true sources of the pollutants discharged from the atmosphere onto to our watersheds.

The Water Boards and the regulated community need assistance from the Air Boards to effectively tackle this problem -- we will not be able to achieve clean water until atmospheric deposition of water pollutants is controlled. The Air Boards must acknowledge that water pollution is one of the public welfare effects that need to be addressed in regulating sources of atmospheric pollution. Municipalities would like to work with the Regional Board to develop a strategy to stimulate more action by the Air Boards.

There are regulatory tools available that could be implemented by the Water Boards to compel the assistance of the Air Boards – California Water Code (CWC) Sections 13146 and 13247. These water code sections could be used by the Water Boards to compel state offices, departments, and boards to comply with state policy for water quality and water quality control plans approved or adopted by the State Water Board. The State Board, in its Resolution 2008-0046 (Approving an Amendment to the Water Quality Control Plan for the Los Angeles Region [Basin Plan] to Establish a Total Maximum Daily Load for Metals in the Los Angeles River), discussed the use of CWC Sections 13146 and 13247. In Whereas clause 10 of that Resolution, State Board staff notes,

> "The Los Angeles Water Board and the State Water Board will continue to meet with the SCAQMD and CARB to pursue further studies and to assist in developing appropriate controls."

Whereas clause 11 of the same Resolution states,

> "The State Water Board encourages local municipalities within the urban watersheds in the Los Angeles Region and Los Angeles County also to work with SCAQMD and CARB as appropriate under Water Code sections 13146 and 13247, and all other relevant statutes and regulations."

CPR strongly encourages the Los Angeles Regional Water Board to address the impacts of atmospheric deposition in the Basin Plan and all MS4 Permits to facilitate use of the authorities granted by CWC Sections 13146 and 13247 to compel the assistance of other state offices, departments, and boards in controlling water pollutants.

The permittee-developed atmospheric deposition project related to the Los Angeles River Metals TMDL to which we referred in our letter dated May 29, 2008 is proceeding. It is a two-year project that involves paired measurements of atmospheric deposition and storm flow. Local governments will be contributing an estimated $1.5 million to fund this research project.

Implementation of TMDLs through MOUs

CPR believes that TMDLs should be implemented through enforceable Memoranda of Understanding (MOUs), instead of through MS4 NPDES permits. The implementation of TMDLs through permits as strict numeric "end-of-pipe, never to be exceeded" limits would place municipal permittees in the untenable position of having to defend themselves from third-party litigation should they fail to meet the strict numeric limits proposed in the TMDLs – limits that are not reasonably achievable or practicable.

In a hypothetical scenario, a city that failed to reach an 80% numeric limit by one percent could be exposed to third-party litigation and Regional Board fines. Although the Board would presumably act reasonably, cities have no assurances that citizen litigants would show similar restraint. Further, even the State Water Board's Blue Ribbon Panel of Experts recognizes BMP performance as imprecise at this time. In light of these facts, the MOU approach would be appropriate. An MOU would allow the Regional Water Board and a municipal permittee to focus on the best course of action to correct any BMP deficiencies and implement a BMP approach, rather than a strict numeric limits approach. Such MOUs could include options to install additional BMPs or support BMPs on a regional level, based on high trash generating outfalls.

EPA previously entered into a Memorandum of Understanding (MOU) with the City of Los Angeles and the Los Angeles Regional Water Quality Control Board (Regional Board) for the development of the TMDLs on the Los Angeles River (CREST), and any agreement entered into with the municipalities involved in TMDL implementation could be based on a similar MOU.

Unfunded Mandates Finding

The California Constitution prevents State entities – including the State and Regional Boards – from imposing additional obligations on communities without first providing a funding mechanism to address the mandates. The Tentative Order recognizes the need for funds to meet Permit requirements, but does not provide a funding mechanism.

Finding E.7 of the Tentative Order still includes the inaccurate assertion that the Permit does not contain unfunded mandates. As CPR stated in its comment letter to the Regional Board dated May 29, 2008, Finding E.7 of the Tentative Order is an expansion of Finding E.10 in the Second Draft Permit that asserts that the Order "does not constitute an unfunded local government mandate subject to subvention under Article XIIIB, Section (6) of the California Constitution" because the Order implements "federally mandated requirements" under Section 402 of the Clean Water Act. Finding E.7 should not be adopted as a matter of good public policy and, as CPR has noted in previous comments, is otherwise objectionable on several grounds.

The Regional Board has no regulatory jurisdiction to make this Finding. The issue of whether a mandate is an unfunded state mandate is within the exclusive jurisdiction of the Commission on State Mandates (Government Code § 17551 and §17552. See also *Lucia Mar Unified School District v. Honig* [1988] 830, 837, [the question must be decided by the Commission on State Mandates "in the first instance."]) Since the Finding would legally carry no weight, it is not clear why the Regional Board would include such a Finding, particularly when it has never done so in the past.

In addition, it is not clear why the Regional Board would want to assert such a Finding. In doing so, it seeks to restrict State funding that might otherwise be available to assist municipalities with implementing the water quality management programs in the Tentative Order. More funds make it possible to implement more programs. Contrary to the stance Finding E.7 reflects, the Regional Board should assist the permittees in obtaining funds to implement the Permit's programs - not limit funds. It is not clear why the Regional Board would consider it good policy to adopt a Finding that makes less funding available to permittees to implement the programs called for by the Permit.

Thirdly, as noted in CPR's comments on the Third Draft Permit, the proposed Finding raises the same issue raised unsuccessfully by counsel for the Regional Board in the recent *County of Los Angeles v. Commission on State Mandates* (2007) 150 Cal.App.4th 898. In that case, the Regional Board argued to the Court of Appeals that an MS4 Permit (in that case, the 2001 Los Angeles County MS4 Permit) "is federally required . . . to implement the Clean Water Act's mandates" (150 Cal.App.4th at 916 [citing Attorney General's letter to the court]). The Court of Appeals did not accept this argument, noting that "[w]e are not convinced that the obligations imposed by a permit issued by a Regional Water Board necessarily constitutes federal mandates under all circumstances" and that "the existence of a federal, as contrasted with a state, mandate is not easily ascertainable" (150 Cal.App.4th at 914).

Further, even if the Regional Board were qualified to determine that the Order represented an exclusively federal mandate and thus not subject to article XIIIB, Section 6, the reasoning set forth in Finding E.7 is faulty. None of the cited cases supports the Finding, which states that the provisions of an MS4 permit are an exclusive federal, and not state, mandate. In the only case to attempt to grapple with that question, *County of Los Angeles, supra,* the Court of Appeals declared itself to be "skeptical" with respect to the issue.

Additionally, even if a program were required in response to a federal mandate, a subvention of state funds may be in order. For example, Government Code § 17556(c) provides that if a requirement is mandated by federal law or regulation, but the [state] "statute or executive order mandates costs that exceed the mandate in that federal law or regulation," a subvention of funds is authorized. Also, as held in *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1577-78, even if the costs were mandated to implement a federal program, if the "state freely chose to impose the costs upon the local agency as a means of implementing" that federal program, "the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the federal government."

Finally, Finding E.7 asserts that provisions in the Order that implement TMDLs are also federal mandates. While it is true that the effluent limitations in the TMDL must be reflected in the Order, the manner in which the TMDL is implemented is not a federal mandate, but is left up to the State. For example, the Regional Board could determine that a series of BMPs are sufficient to reach the waste load allocations in the TMDL, or it could impose the waste load allocations as numerical limits that were required to be met. Thus, as CPR has previously noted, implementation of TMDLs is not necessarily a federal mandate, immune from a required subvention of state funds. As a matter of policy, Finding E.7 should not be included in the permit. The Regional Water Board is not the agency that is authorized to address this issue.

Los Angeles Area Fire Chief's Association's Concerns

In addition, CPR shares the concerns expressed by the Los Angeles Area Fire Chiefs Association in its comment letter dated April 7, 2009. Part 1.A.1.(c).(2) of the Tentative Order lists flows from emergency fire fighting activities as an exempt discharge "when they are not the source of pollutants that exceed water quality standards," and notes that "pooled water must be controlled." The condition for discharge further states that discharges "shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediment." Placing these prescriptive requirements on Fire Departments may create a situation in which Fire Chiefs and their crews are forced to choose between safety and regulatory compliance, which would be extremely unfortunate. We support the Los Angeles Area Fire Chiefs' requests to remove the Condition for the treatment of pooled water from a fire emergency, and to allow for the occasional discharge of potable water by fire departments when training for emergency response.

Recommendations and Conclusions

CPR recommends that the Regional Water Board direct staff to make the following changes to the Tentative Order before it is brought to the Board for adoption:

- Eliminate the prescriptive tables in Parts 4G, 5D, 5F, and 5G requiring use of specific BMPs.
- Modify Finding D.3 or add a new Finding recognizing that "certain activities that generate pollution present in urban runoff may be beyond the ability of permittees to eliminate," as noted in Order No. R8-2009-0030 (North Orange County Permit).
- Eliminate the prescriptive elements of the Development Construction Program, the requirement for Local Storm Water Pollution Prevention Plans, requirements to regulate construction sites of less than one acre, and any duplication of requirements that are in the State's Draft Construction General Permit due to be adopted this spring or summer.
- Preserve the Municipal Action Levels as true action levels designed to set 'upset' values, which are clearly above the normal observed variability and would allow 'bad actor' catchments to receive additional attention.

- Rewrite Part 2 of the Tentative Order to exempt watersheds from having to submit an MAL Action Plan if pollutants are already being addressed through a TMDL Implementation Plan for a Regional Board-adopted TMDL or an EPA-established TMDL.
- Expand the definition of MEP to include the workable definition included in a 1993 memo from State Board Attorney Elizabeth Jennings.
- Rewrite the definition of "pre-developed condition" to refer to the condition of a site prior to development of the specific permitted project on the site.
- Within the Planning and Land Development Program, eliminate the application of an EIA ratio developed through watershed research to individual project areas; focus on LID as an emerging management measure and eliminate pre-determined LID measures; add a statement that the Southern California LID Guidance Manual is a potential alternative to updating the Ventura County Technical Guidance Manual for Stormwater Quality Measures.
- Maintain the volume capture approach as the basis for regulation of discharges from new development and redevelopment.
- Revise the Planning and Development Program to recognize the range of scales at which water quality management measures are applied and add a Finding to reflect that an effective program will include measures at a variety of scales.
- Add to Finding B.19 a sentence indicating that your Board "will coordinate with the South Coast Air Quality Management District, the California Air Resources Board, and other governmental agencies to address multimedia sources of pollution that may contribute to pollution of surface waters."
- TMDLs should not be incorporated into the MS4 permit. Instead, they should be implemented through enforceable Memoranda of Understanding (MOU).
- Eliminate Finding E.7.
- Listen to the Fire Chief's Associations' Concerns.

Thank you again for the opportunity to submit these comments on the Tentative Order.

Sincerely,

COALITION FOR PRACTICAL REGULATION

Kenneth C. Farfsing
City Manager, City of Signal Hill