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March 23, 2001

Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
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RE: Monitoring and Reporting Requirements in the Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County Flood Control District, County of Los Angeles and Cities of Los Angeles County

Dear Dr. Swamikannu:

Thank you for the opportunity to comment on the Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County. In general we are concerned that permit requirements are too vague and the TMDL requirements are not incorporated into the permit.

1. Receiving Waters Studies

The requirements for this section are vague and the categories of studies to be conducted are too broad.

A. "Receiving Water Monitoring" should replace "Natural Stream Studies", and should be required in all five major watersheds. We recommend a program similar to that of the San Diego Municipal separate Storm Sewer System NPDES permit (Order No. 2001-01, California Regional Water Quality Control Board, San Diego Region – see attached). Specifically we advocate a bioassessment program which would consist at a minimum of station identification, sampling, monitoring, and data analysis for 20 stations in order to determine the biological and physical integrity of urban receiving waters within Los Angeles County. In addition, three reference bioassessment stations should be sampled. The bioassessment study should meet the following requirements and should be compatible with the Ambient Monitoring Program being developed by the Los Angeles Regional Board:

   i. Each urban stream bioassessment station must

      a) be located within the jurisdiction of a co-permittee;

      b) be representative of urban stream conditions within one of the five watersheds; and

      c) meet the physical criteria of the California Stream Bioassessment Procedure[1], or a modification thereof, approved by the Executive Officer.

   ii. Each urban stream bioassessment station should be monitored twice annually, in May and October. A minimum of three replicate samples should be collected at each sampling station.

[1] California Stream Bioassessment Procedure, California Department of Fish and Game, Aquatic Bioassessment Laboratory, May 1999.

iii. Sampling, laboratory, quality assurance and analysis procedures should follow the procedures in the California Stream Bioassessment Procedure. Results should be reported annually and data should be submitted to the Board electronically, formatted to CDFG Aquatic Bioassessment Laboratory specifications for inclusion in the statewide bioassessment database.

B. For "Benthic Studies", the parameters to be studied and the number and locations of samples must be specified. Benthic studies should occur at the mouths of all five major watersheds.

i. Parameters should include body burdens of 303(d) listed bioaccumulative contaminants in shellfish and fish.

ii. Population and community metrics of benthic epifauna and infauna must be determined.

iii. Sample numbers and locations should depend on the dynamics of the stormwater plume in each receiving water. Some of the sites must be within the zone of impact of the plume. If the zone of impact is not defined for a given plume, then best professional judgment should determine sampling locations. Each year, study results will determine sampling locations in subsequent years.

C. For "BMP Effectiveness Studies" in Santa Monica Bay, the number of structural and source control BMPs to be evaluated each year must be specified. Leaving this as an open ended requirement will result in an outcome similar to the last two permits: no usable information on BMP effectiveness.

2. Toxicity Testing

A. The permit must state the species to be used in water column toxicity testing, including a minimum of one marine and one freshwater species. We recommend requiring *Ceriodaphnia dubia* for freshwater monitoring because it is known to be sensitive to pesticides which are present and may be causing toxicity in stormwater. As you know, pesticides (Diazinon) have been the leading cause of toxicity in bioassays on urban runoff in a number of northern California areas. A recommendation for the marine bioassay is the sea urchin fertilization test. It is cheap to perform and sensitive to metals.

B. The sediment toxicity testing requirements must be clarified and expanded. We understand the purpose of sediment toxicity testing to determine if and where sediment toxicity exists and what the specific causes are. Therefore:

i. Clarify the "receiving waters" requirement. Does this mean in the river, in the estuary, at the fresh/salt water interface, or elsewhere? We recommend in the estuary, beginning at the region of velocity slow-down of the stormwater plume if it is known, and at the mean low tide line if plume dynamics are unknown.

ii. Sampling locations for the three sediment samples must be specified. Sampling locations should depend on the dynamics of the stormwater plume in each receiving water, and should be in areas of deposition of particles from the stormwater plume. If these areas have not been defined for a given plume, then best professional judgment should determine sampling locations in the first year of the study. The results of the first year of sampling will direct sample site selection in the following years; for example, if grain size

analysis and toxicity results indicate no settlement of stormwater particles, the sampling locations must be re-evaluated before the next sample collection.

iii. The three samples should be tested separately, not composited. We recommend spatially separated samples (for example, 100 m apart and oriented either linearly in an offshore direction, or in a fan pattern where particle settlement from the plume occurs; see 2.B.ii.). This will assist detection of toxicity and determination of causes of toxicity.

C. Total organic carbon determination and grain size analysis must accompany each sediment toxicity test.

3. Toxicity Identification and Evaluation (TIE) Studies

The TIE requirements in the draft monitoring program are not acceptable. The draft program requires a TIE when two consecutive dry-weather or three consecutive wet-weather samples show toxicity. However, only two dry-weather and two wet-weather samples are required for toxicity testing each year. This protocol will not trigger a TIE for wet weather samples in a single year. Nor will it provide sufficient information to determine causes of toxicity.

A. Since little is known about the causes of toxicity in stormwater, a TIE should be triggered whenever a single sample shows toxicity, for the life of this permit. Toxicity is indicated by an amphipod survival rate of 70% or less in a single test.

B. We recommend each TIE study utilize more than one species, because of inter-species differences in sensitivities to stormwater contaminants of concern. For example, arthropods are more sensitive indicators of pesticide toxicity while sea urchins are more sensitive indicators of impacts due to metals.

4. Constituents Exempted from Monitoring

Non-detection in 25% of samples does not justify exemption from the monitoring program. We recommend the following protocol: If a constituent is not detected over the life of the permit and MLs are below the CTR limits, then that constituent may be exempted in future permits, except for the first storm sample of the year when all priority pollutants are tested.

5. Tributary/Source Identification Monitoring

A. Are there 20 monitoring stations in total, or 20 stations per contributing watershed? We recommend basing the number of sampling stations on the number of major tributaries in each watershed, i.e. at least one station in each major tributary and the mainstem of Malibu Creek, at least one station in each major tributary and the mainstem of the San Gabriel River, etc.

B. How many samples are required per storm event? We recommend a minimum of five samples per storm if grab samples are taken, and more (duration of the storm) if an automatic sampler is used.

6. TMDL Requirements

This section was not developed. The TMDL monitoring requirements, as well as Waste Load Allocations (WLAs), should be specified in the permit. For example, on the trash TMDLs for the L.A. River and Ballona Creek, the requirement to participate in the baseline monitoring was specified, but there was no mention of the implementation monitoring requirements. We strongly recommend that all of the pertinent monitoring and implementation requirements in the trash TMDLs should be put directly in the stormwater permit.

Also, there is no mention of the other TMDL requirements that will soon kick in. For example: the Santa Monica Bay beaches pathogen TMDL should be approved by the Regional Board by the end of the year and the Malibu Creek nutrient TMDL will be before the Board this year. Both of these critical TMDLs will have implementation and monitoring requirements. The permit must require entities subject to WLAs to implement pertinent baseline implementation monitoring requirements.

7. Terminology

The terms "detection limit (DL)" and "method detection limit (MDL)" should be replaced with "minimum level (ML)" as per the State Implementation Policy (SIP).

8. Reporting Requirements

In addition to written reports, all data should be submitted electronically.

Thank you again for the opportunity to comment on Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County.

Sincerely,

Mark Gold, D. Env.
Executive Director,
Heal The Bay

Shelley Luce
Staff Scientist
Heal The Bay

ATTACHMENT 1.

PART A OF THE RECEIVING WATERS MONITORING PROGRAM, FROM ORDER NO. 2001-01, CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION

II. Receiving Waters Monitoring Program - - Year Round

Utilizing the findings of the "Previous Monitoring and Future Recommendations Report" discussed above, the Copermittees shall collaborate to develop, submit, conduct, and report on a year round countywide or watershed based Receiving Waters Monitoring Program[2]. The goals of both the countywide and watershed based Receiving Waters Monitoring Program shall be clearly stated. The Receiving Waters Monitoring Program goals shall focus on assessing compliance with this Order, achieving water quality objectives, protecting beneficial uses, and assessing the overall health and long-term water quality trends of receiving waters. For purposes of conducting the countywide or watershed based Receiving Waters Monitoring Program, the Copermittees are encouraged to collaborate with other agencies conducting similar monitoring, such as the Southern California Coastal Water Research Project (SCCWRP), the California Department of Fish and Game, or other municipalities in Southern California. Implementation of the countywide or watershed based Receiving Waters Monitoring Program shall begin within **180 days** of adoption of this Order. The countywide or watershed based Receiving Waters Monitoring Program shall include, at a minimum, the following components:

A. Urban Stream Bioassessment Monitoring
B. Long-term Mass Loading Monitoring
C. Coastal Storm Drain Outfall Monitoring
D. Ambient Bay, Lagoon, and Coastal Receiving Water Monitoring
E. Toxic Hot Spots Monitoring in San Diego Bay

A. Urban Stream Bioassessment Monitoring

1. The Copermittees shall collaborate to develop and implement an urban stream bioassessment monitoring program. At a minimum, the program shall consist of station identification, sampling, monitoring, and analysis of data for 20 bioassessment stations in order to determine the biological and physical integrity of urban streams within the County of San Diego. In addition to the urban stream bioassessment stations, three reference bioassessment stations shall be identified, sampled, monitored, and analyzed. The selection, sampling, monitoring, and analysis of bioassessment stations shall meet the following requirements:

   a. Each urban stream bioassessment station shall be selected using the following criteria. Each urban stream bioassessment station shall:
      (1) be located within the jurisdiction of a Copermittee; or
      (2) be located within one of the nine watersheds specified in Section J, Table 4 of this Order; and
      (3) be representative of urban stream conditions within one of the nine watersheds specified in Section J, Table 4 of this Order; and
      (4) meet the physical criteria of the California Stream Bioassessment Procedure[3]; and
      (5) to the extent feasible, coincide with the location of an already existing monitoring station used by the California Department of Fish and Game in the conduct of the SDRWQCB's Ambient Bioassessment Program.

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[2] During the first two years monitoring and reporting will be conducted and reported on a countywide basis. Beginning in the third monitoring period of Order 2001-01, the monitoring and reporting program will shift to a watershed based approach.

[3] California Stream Bioassessment Procedure (Protocol for Biological and Physical/Habitat Assessment in Wadeable Streams), California Department of Fish and Game – Aquatic Bioassessment Laboratory, May 1999.

b. Each bioassessment station shall be monitored twice annually, in May and October of each year, beginning in May 2001. A minimum of three replicate samples shall be collected at each station during each sampling event.

c. Sampling, laboratory, quality assurance, and analysis procedures shall follow the standardized procedures set forth in the California Department of Fish and Game's California Stream Bioassessment Procedure (CSBP). Analysis procedures shall include comparison between station mean values for various biological metrics. Sampling, laboratory, quality assurance, and analytical procedures shall follow the standardized "Non-Point Source Bioassessment Sampling Procedures" for professional bioassessment set forth in the CSBP. In the event that the CSBP "Point-Source Professional Bioassessment Procedure" is performed in place of the "Non Point Source Bioassessment Sampling Procedure," justification and documentation of the procedure shall be submitted with the report. Results of the Urban Stream Bioassessment Monitoring shall be reported annually as part of the overall Receiving Waters Monitoring and Reporting Program for Order No. 2001-01. Reporting of the bioassessment data shall follow the format of the San Diego Regional Water Quality Control Board 1999 Biological Assessment Annual Report[4]. The report shall include:

(1) All physical, chemical and biological data collected in the assessment;
(2) Photographic documentation of assessment and reference stations;
(3) Documentation of quality assurance and control procedures;
(4) Analysis that shall include calculation of the metrics used in both the CSBP and the 1999 Annual Report.
(5) The report shall provide interpretation for comparisons of mean biological and habitat assessment metric values between assessment and reference stations.
(6) Utilize a regional index of biological integrity as part of the analysis.
(7) Electronic data formatted to California Department of Fish and Game Aquatic Bioassessment Laboratory specifications for inclusion in the Statewide Access Bioassessment database.

d. A professional environmental laboratory shall perform all sampling, laboratory, quality assurance, and analytical procedures. While valuable, data collected by volunteer monitoring organizations shall not be submitted in place of professional assessments.

e. Reference stations shall be selected following the recommendations in the 1999 Annual Report, Hughes (1995)[5] and Barbour et. al. (1999)[6]. Reference stations shall be evaluated annually by the Copermittees for suitability and the results included in the annual report. New reference stations will be selected as needed by the Copermittees.

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4 San Diego Regional Water Quality Control Board. 1999 Biological Assessment Annual Report. A Water Quality Inventory Series Biological and Physical-Habitat Assessment of California Water Bodies. California Department of Fish and Game Office of Spill Prevention and Response Water Pollution Control Laboratory. December 1999.

5 Hughes, R. M. (1995) Defining Acceptable Biological Status by Comparing with Reference Conditions in Biological Assessment and Criteria Tools for Water Resource Planning and Decision Making, Wayne S. Davis and Thomas P. Simon eds. Lewis Publishers, Boca Raton, FA.

6 Barbour, M.T., J. Gerritsen, B.D. Snyder, and J.B. Stribling (1999) Rapid Bioassessment Protocols For Use in Streams and Wadeable Rivers: Periphyton, Benthic Macroinvertebrates, and Fish. Second Edition. EPA 841-B-99-002

2. The Copermittees shall design and implement a program to conduct standardized toxicity testing at urban stream bioassessment stations where the bioassessment data indicates significant impairment. When findings indicate the presence of toxicity, a Toxicity Identification Evaluation (TIE) shall be conducted to determine the cause(s) of the toxicity.

B. Long-term Mass Loading Monitoring

For purposes of evaluating long-term trends, the Copermittees shall continue to monitor the five existing long-term mass loading stations as specified in Monitoring and Reporting Program No. 95-76 and amended by Technical Change Order Nos. 1-4. When findings indicate the presence of toxicity, a Toxicity Identification Evaluation (TIE) shall be conducted to determine the cause(s) of the toxicity.

C. Coastal Storm Drain Outfall Monitoring

The Copermittees shall collaborate to develop and implement a monitoring program for discharges of urban runoff from coastal storm drain outfalls. The program shall meet the following requirements:

1. The program shall include rationale and criteria for selection of storm drain outfalls to be monitored.

2. The program shall include collection of samples for analysis of total coliform, fecal coliform, and enterococci, in addition to any other indicators or pathogens identified by the Copermittees.

3. Samples shall be collected at both the storm drain outfall and in the surf zone (at ankle to knee water depths) directly in front of the outfall.

4. Samples shall be collected during both dry and wet weather periods.

5. Exceedances of public health standards for bacteria must be reported to the County Department of Public Health as soon as possible by the Copermittees.

D. Ambient Bay, Lagoon, and Coastal Receiving Water Monitoring

The Copermittees shall collaborate to develop and implement a program to assess the overall health of the receiving water and monitor the impact of urban runoff on ambient receiving water quality. This monitoring shall including San Diego Bay, Mission Bay, Oceanside Harbor, the Pacific Ocean coastline, coastal lagoons and estuaries, and all Clean Water Act section 303(d) water bodies or other environmentally sensitive areas as defined in F.1.b(2)(a)vii of this Order.

E. Toxic Hot Spots Monitoring in San Diego Bay

The Copermittees shall collaborate to develop and implement a program to assess the relative contribution of urban runoff on Toxic Hot Spots in San Diego Bay.

III. Submittal of Receiving Waters Monitoring Program Document

The Principal Permittee shall submit to the SDRWQCB the countywide or watershed based Receiving Waters Monitoring Program within **180 days** of adoption of this Order. The regional or watershed based Receiving Waters Monitoring Program shall describe how the Copermittees will meet the requirements of the components outlined in Section II of this Attachment

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May 16, 2001

Dr. Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 W. 4th Street. Suite 200
Los Angeles, California 90012

Re: Comments on Draft LARWQCB NPDES No. CAS614001 – Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles and the Incorporated Cities , Except for Long Beach and Santa Clarita

Dear Dr. Swamikannu:

On behalf of Heal the Bay, an environmental group with over 10,000 members dedicated to making Santa Monica Bay and Southern California coastal waters safe and healthy again for people and marine life, we have the following comments on the first draft L.A. County storm water NPDES permit. Although the permit is much further along than either the first draft of the 1990 or 1996 permits, we still have numerous comments and concerns about the draft permit. We believe that these and other changes should be made to the draft permit before it is finalized, and we wish to incorporate by reference the comments submitted by the Santa Monica Baykeeper and the Natural Resources Defense Council on the Draft Permit. We also incorporate by enclosure our previously-submitted comments on the Draft Monitoring and Reporting Requirements for this permit, as an addendum to this letter. Further comments on monitoring will follow once a revised monitoring plan is issued by the Regional Board.

The permit fails to truly require a watershed approach to storm water pollution abatement – The draft permit lays out a baseline storm water regulatory approach without additional watershed-specific requirements. All of the watershed groups had to prepare a watershed management area plan (WMAP) as required under the 1996 permit. However, the RWQCB failed to require implementation of these plans in order to achieve receiving water quality objectives. For example: most of the Malibu Creek watershed is listed for nutrients and fecal bacteria on California's S.303d list, yet there are no specific requirements in the permit for BMP implementation to achieve water quality objectives within the watershed. Also, there are no requirements to implement any of the watershed's WMAP. As the permit is currently crafted, achievement of receiving water quality objectives and implementation of WMAPs are unlikely to occur. Please rectify this omission by insuring that requirements for implementing watershed specific BMPs targeting water quality impairments and WMAP identified priorities are included in the permit. Watershed-specific issues were addressed and studied extensively as part of the 1996 permit. It is long overdue to include watershed-specific requirements for each of the watersheds within the storm water permit.

Definition of Environmentally Sensitive Area (ESA) – In findings on page 4 –number 6 and in definitions. Please include Environmentally Sensitive Habitat Areas (ESHAs) with receiving waters in your definition of ESAs. Los Angeles County has an extensive, ongoing

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process using numerous scientific experts to identify and map ESHAs. The State certainly has not undergone such an extensive effort to identify and characterize the areas already included as part of the definition of ESAs. Please make the necessary addition.

The findings should include justification for the use of SIP minimum levels. This issue has been brought up by the County in discussions about monitoring requirements. SIP MLs must be included in the permit because they are the only recently developed MLs that attempt to take into consideration recent improvements in chemical analytical methods. If there were other RWQCB, SWRCB or EPA analytical methods that had more current MLs, then the use of those MLs certainly would be an option for the Board. However, there really are no sensible alternatives to the SIP MLs. Low detection limits are needed to provide information on land-use, tributary and watershed mass loadings. Until recently, PAHs were found at concentrations of concern in sediments in local estuaries, yet PAHs were not detected in runoff because of the high MLs in the analytical methods used. Use of the SIP MLs should go a long way towards eliminating this problem. Also, non-detects can't be used to accurately determine mass loadings. Finally, quantifiable data will allow the RWQCB to better assess water quality and to develop Waste Load Allocations and Load Allocations for TMDLs.

Correction of finding 23 on page 7 – Heal the Bay and the Santa Monica BayKeeper were also plaintiffs in the TMDL lawsuit against the EPA.

Since dam releases are not included in the discharge prohibition section, does that make them illegal? – The discharge prohibition section includes numerous types of dry-weather runoff discharges that are legal under the permit. However, the permit makes no mention of how to categorize occasional dry weather discharges from dams. These discharges can severely alter the natural dry-weather flow regime for a given stream segment. Also, because waters held in reservoirs and lakes behind dams often have siltation, nutrient and fecal bacteria problems, dam releases can lead to exceedances of water quality objectives downstream of the discharge. Dam releases are currently either unregulated or poorly regulated by the RWQCB. Please provide language in the permit to insure that these dry-weather runoff discharges are prohibited except as needed to prevent imminent harm to public health or property.

The draft permit does not include additional requirements for those circumstances where implementation of the revised SQMP fails to result in the abatement of violations of water quality objectives and/or standards – As the permit is written on page 14 - #4, there are no further requirements stated for permittees in the event that implementation of the modified SQMP fails to result in the abatement of violations of water quality standards and objectives. The iterative process laid out in the permit must continue until the violations are abated if the permittee still has the reasonable potential to cause or contribute to these violations. Please modify the permit accordingly.

Please add the following requirement under Part 3 B – All permittees must ensure that residents, businesses and local government properties and employees all comply with the

permittee's local storm water pollution control ordinances. Without strong local compliance assurance and enforcement programs, the ordinances will have little to no impact on storm water pollution.

Delete the MEP language in the Legal authority Section on Page 18 – The Ventura County storm water permit includes the following language: *Co-permittees shall possess the necessary legal authority to prohibit non-storm water discharges and control the contribution of pollutants to the storm drain system from storm drain discharges . . . .* For consistency purposes, the language should be the same as the Ventura County permit. In addition, any inclusion of MEP for issues such as legal authority is a complete misuse of the MEP standard. The bottom line is that the cities must prohibit illegal non-storm water discharges – period.

Also on pg. 18 – add a prohibition of discharge of sediments to the MS4. **Sediment discharges from construction and grading activities can cause major water quality and habitat degradation problems. These discharges must be prohibited.**

More specific requirements in the storm water monitoring reports should be included in the permit pg 20 –J. The annual monitoring reports should include an assessment of BMP efficacy, status and trends results for ongoing monitoring programs, loadings for each watershed, etc.

Modify Public Information and Participation Section - Pg. 21 Part 4. A – Change the third requirement to the following: To measurably change the *waste disposal and polluted runoff generation* behavior of target audiences by encouraging implementation of appropriate solutions.
Pg. 22 1b – Add "*faded or lack of catch basin stencils*" under the list of items to report to the County hotline.
Pg. 22 1c – Insert a sentence after the first sentence: *This message must remain legible during the life of the permit.*
Pg 23d – 1st sentence in the top paragraph – please add *and interested parties* after co-permittees. The public and other agencies (school districts, universities, aquaria, etc.) should be encouraged to participate in this process to strengthen educational efforts.
Also, there should be a requirement to assess program effectiveness for the in-school educational programs. An assessment of students' knowledge of storm water pollution problems and solutions before and after the program should be a permit requirement. Currently, it is difficult to assess how effective educational efforts by the County, City of L.A. and others have been.

Pg 23e – Why were PAHs omitted from the Ballona Creek, Dominguez Channel, and L.A. River target pollutants for outreach? PAHs have been problems in the sediments at the mouths of those creeks and rivers. Also, sediments should be added to the list for the Malibu Creek watershed. Mapping efforts, stream morphology characterization, and biological assessment of the watershed (macroinvertebrate Index of Biological Integrity) have demonstrated that sedimentation and erosion are major problems in the watershed. Finally –

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outreach material should include information on pollutants and sources of concern *and source abatement measures.*

Pg 24 2a – Corporate outreach – Please add the following to the second sentence: *and those businesses that have the reasonable potential to cause or contribute to violations of water quality objectives and/or standards.* This language clarifies additional types of commercial businesses that should be targeted in the corporate outreach program.

Pg. 25 Programs for industrial/commercial inspections must be clarified. The focus of this program must be to educate industries and commercial businesses that are potential sources of storm water pollutants to receiving waters on regulatory requirements and BMPs to reduce storm water pollution. This section should be clarified as compliance assurance and enforcement of existing local ordinances. Currently, the language could be interpreted as requiring permittees to enforce state and federal regulatory requirements over and above what is required in local storm water ordinances. Also, no definition is provided as to what constitutes a commercial facility under the inspection requirement. Other than gas stations, restaurants, and automotive service facilities, only those commercial facilities that have the reasonable potential to cause or contribute violations of water quality objectives and/or standards should be included in the program. This should be clarified on **pg. 27 – 3d** as well.

Pg 27 – 4a BMP implementation clarification needed- please describe the designated minimum BMPs as approved in Resolution No. 98-08. As written, it is difficult to determine which BMPs are required for each type of business.

Pg 27 - 5 – Inspection of Industrial/Commercial sites must focus on compliance with local ordinances – Again, the point of emphasis of the section should be inspections to insure that industrial and pertinent commercial facilities are complying with local storm water ordinances. This is stated separately as a requirement under Section 6, but it should be stated as part of section 5. As part of the inspection requirements, please specify that inspectors must ask to see a SWPPP and NOI form for Phase I industrial facilities.

Pg 29 – C2 – Focus on peak flow control may not prevent down-stream erosion and sedimentation problems. Post development storm flows must mimic pre-existing conditions. Although controlling peak storm runoff discharge rates is critical to protecting stream and wetland habitat, it is by no means the only important hydrologic parameter that needs to be addressed. Maintaining a hydrograph that mimics natural conditions is the best way to prevent sedimentation and erosion. That means that flow controls should take in to account the total volume of runoff discharged from a site and when and at what magnitude the runoff is discharged from the site. Without taking the entire hydrograph into account, one may design and implement BMPs that manage the peak storm flow without abating sedimentation and erosion problems.

Pg 30-31 – The SUSMP provisions need to provide a more complete definition of ESAs. We strongly support the inclusion of ESAs and retail gasoline outlets in the SUSMP

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requirements. As stated previously, the ESA definition must include receiving waters within ESHAs. On a related topic (**also on pg. 47**), why was 200 feet chosen as the distance to define directly adjacent? Clearly storm flows from developed areas can impact receiving waters more than 200 feet from the site.

Pg. 32-33 – 7a – The permit requires development of site-specific mitigation plans without requiring implementation. Implementation requirements need to be added to insure that the plans are implemented and implemented effectively. **Under 7a-7** – please define outdoor animal care. Is it any stable? Commercial stable? A certain size facility? Also, please add golf courses to this list because they use enormous amounts of water, pesticides, herbicides, fungicides, and fertilizers.

Pg. 34 – 10 – The mitigation funding section must be clarified. A definition needs to be provided of a waiver for impracticability. Other than geologic hazard and very high groundwater, what development would merit a waiver? Also, wouldn't the waiver only apply to the infiltration requirement of the SUSMP? One can always provide some level of treatment for runoff coming off site. When a permittee can opt for helping to fund a regional solution and the process by which the funding amount will be determined and the project deemed an acceptable alternative must be clarified in the permit.

Pg. 35 – 14a – Please specify what the RWQCB is requiring in development planning guidelines. Without specific minimum guideline requirements, the development planning guidelines will likely be ineffective.
14b-2 – add *of discharge* after duration.

Pg. 37 – D2 – Programs for Construction sites. **Strike out *that* and replace with *everything* in the first sentence.**
D2d – Add – *sediments shall not be discharged to MS4 or receiving waters.*
D2e – Add *or receiving waters*
D2g – Add – *Grading during the wet season shall be strongly discouraged, limited or prohibited. Justification for the need to grade in the wet season must be provided to the permittee. All erosion-susceptible slopes **must** be covered, netted or planted during the wet season.*

Pg. 39 – D4a – Why is the "one acre or greater" NOI and SWPPP requirements in this section instead of section D2?

Pg. 40 –E2 – In the event of chronic poor beach water quality (high fecal bacteria densities) near a storm drain, what is required of permittees that may have been the source of the contamination? High bacteria densities in storm drains may be due to illegal discharges, illicit connections or leaky sewer lines, so the question is pertinent for this section. When beaches have chronic problems, the permittee must be required to implement a sanitary survey to determine the likely sources of beach contamination. Also, the permittee must

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revise the SQMP and implement appropriate BMPs to abate the water quality problem as soon as possible.

Pg. 42 – E4 – Please add the following prohibitions for landscape and recreational facilities management – *Use of banned pesticides, herbicides, rodenticides and fungicides is prohibited. Disposal of landscape waste in the MS4 and receiving waters is prohibited. The storm water monitoring program must analyze runoff samples for all pesticides, herbicides, rodenticides and fungicides that are used by public agencies.*

Pg. 43 – E5a – Please add the following language - *Catch basin inspection procedures shall include an assessment of the legibility of the catch basin stencil. Illegible stencils must be restenciled within one year of inspection.*
E5e – Please provide greater specificity on the requirements. Do you want the permittees to give you the total annual volume of waste collected from catch basins or do you want the volume by catch basin cleaning route? Or the volume per basin per year? Or the volume per basin per cleaning?
Storm Drain Maintenance – the second E5 needs modifications as well.
E5a – Lack of specificity - All open channels should be visually inspected on at least an annual basis.
E5b – Please clarify.
E5c – Please add a requirement to quantify the annual volume or mass of trash removed per stream segment through the storm drain cleaning program.

Pg. 44 – 6b – The parking lot cleaning and inspection requirements must be clarified. Based on the permit language, it appears as if parking lots may never need to be cleaned. Twice monthly inspections can be performed in lieu of any cleaning. No specificity is provided in the permit on parking lots must be cleaned. (sentence doesn't make sense) Even with inspections, the permit must include a minimum level of parking lot cleaning. For example – *Under no circumstances can parking lots be cleaned less than once per 30 days during the dry season, or less than once per 30 days during dry periods of 30 days or more during the wet season.*

Pg. 44-45 – The program to eliminate illicit connections and discharges does not include quantifiable requirements. All storm drains should be inspected over the life of the permit. We suggest the following monitoring frequency: *All open channels shall be inspected no less than annually. All commercial and industrial storm drains shall be inspected at least once every three years. All problem drains (based on past inspections and historic number of illegal discharges and illicit connections) must be inspected on an annual basis. All remaining drains shall be inspected at least once over the life of the permit.*
As part of the IC/ID program, each permittee should be required to review existing and historic local storm drain connection and or discharge permits given to businesses. The permittee should determine which, if any, non-storm water discharges are authorized under the existing storm water NPDES permit requirement. Those facilities that do not have a valid

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permit for a legal non-storm water discharge must be forced to cease discharge within 30 to 60 days, or obtain an NPDES permit.

Pg 45 F2b – The priority screening section should be strengthened and clarified. Requirements need to be included in the permit section on how prioritization must occur. Should land use be considered? EMCs based on land uses? County mass loadings data? Source identification and/or critical source monitoring? Also, why are the 1994 Northridge quake and the 1992 civil unrest relevant to this permit seven to nine years later?

Pg 46 F2d – Illicit connection termination. Delete the second sentence because it isn't necessary. Clearly, the RWQCB's intent on this section is to insure that illicit connections are eliminated as quickly as possible, not to enforce against a municipality that is making a good faith effort to enforce ordinance requirements to eliminate illicit connections.

Add the TMDL section that is included in the Ventura County Storm Water Permit. The language from the permit was as follows: *The permittee shall modify the Ventura County Stormwater Management Plan to comply with waste load allocations developed and approved pursuant to the process for the designation and implementation of TMDLs for impaired water bodies.*

If you have any questions about our comments, please don't hesitate to call Mark Gold at 310-453-0395 x119.

Sincerely,

Mark Gold
Executive Director

Enclosure: March 23, 2001 letter from Heal the Bay to Xavier Swamikannu.

NRDC
THE EARTH'S BEST DEFENSE

NATURAL RESOURCES DEFENSE COUNCIL

May 16, 2001

Via Facsimile (213-576-6640) and U.S. Mail

2001 MAY 17 P 1:41

Dr. Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90012

Re: Comments on Los Angeles County Municipal Storm Water Permit Draft One

Dear Dr. Swamikannu:

On behalf of over 400,000 NRDC members, including approximately 50,000 who reside in Southern California, the Natural Resources Defense Council appreciates the opportunity to provide comments on the first draft of the 2001 Los Angeles County NPDES Municipal Storm Water Permit ("Draft Permit").

After reviewing the document, there is little question that Regional Board staff have worked hard to produce this Draft Permit. Given the complexity and length of the permit, however, we nevertheless have a number of comments and serious concerns that are addressed below. We believe that these and other changes should be made to the Draft Permit before it is finalized. In this connection, we wish to join in (and thus incorporate by reference) the comments submitted by the Santa Monica BayKeeper and Heal the Bay on the Draft Permit.

Imprecise characterization of Clean Water Act Section 402(p) requirements. Our first comment concerns loose references to the legal requirements imposed by applicable legal authority throughout the Draft Permit. For example, Paragraph 16 on page 6 of the Draft Permit states that the intent of the Draft Permit is to "minimize the discharge of pollutants in storm water." Likewise, the intent of the Draft Permit is

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described (Paragraph 43, Page 10) as assuring that discharges do not "cause" excursions of water quality standards. Furthermore, the Draft Permit mistakenly provides that non-storm water discharges must be prohibited to the maximum extent practicable. Draft Permit at 18. *See also* Draft Permit at 19 (omitting MEP standard); *Id.* at 56 (omitting permittees from the standard provision regarding "Duty to Comply").

While Staff's intent to track Clean Water Act requirements may be inferred from these aspects of the Draft Permit, each of these statements nevertheless fails to convey the exact nature of the legal requirement, often understating them. Legally, the Permit must, among other things, result in a reduction of pollutants in storm water to the maximum extent practical, and assure that discharges neither cause nor contribute to the exceedence of water quality standards, and absolutely prohibit non-storm water discharges. 33 U.S.C. Section 1342; 40 U.S.C. Section 122.26. Given the contentious approach to storm water management taken by some permittees, it is imperative that legal requirements be precisely and plainly stated throughout the Permit. We recommend that staff counsel correct the problems identified above and also thoroughly review the Draft Permit with these concerns in mind. We further believe that these legal requirements must be plainly stated as Permit limitations, and not simply set forth in the definitions or findings.

Incomplete Discussion of Nature of Discharges and Sources of Pollutants. Recent monitoring conducted by the County of Los Angeles, and referenced in the Draft Permit, provides important information on pollutants of concern in local storm water discharges. However, these data are not the only sources of information on pollution sources or impacts caused by Southern California's urban runoff problem. Many other agencies and institutions, ranging from the University of California to the Southern California Coastal Water Research Project, have documented severe receiving water impacts caused by storm water and non-storm water discharges and ranging from toxicity to viral detection in the surf zone. Many of these facts—including storm water's status as the largest source of pollutants to the coastal environment—are documented in NRDC's

Petition to the United States EPA for Correction of Legal Deficiencies or Withdrawal of EPA Approval (2000) ("NRDC Petition"), of which the Board is well aware. We incorporate that information herein by reference and ask that those undisputed facts be added to the section of the Permit entitled "Nature of Discharges and Sources of Pollutants" (Page 3).

In addition, given the fact that storm water is the largest source of many pollutants to local waters, in every instance in which a water body is listed as impaired pursuant to the State of California's 1998 Section 303(d) list, the impairing pollutant must be considered "priority," as that term is used in Finding 2, Page 3 of the Draft Permit. (This is because the finding of impairment constitutes a corollary recognition that the discharge of additional loadings of the impairing constituent presumptively exceeds the carrying capacity of the waterway at issue. This fact assures that additional discharges will cause or contribute to the violation of a water quality standard.)

No Basis for Approval of the SQMP & Delayed Compliance Requirements. We are unsure why the Draft Permit refers to the SQMP as being "acceptable." Draft Permit at 5. There are no findings in the permit to support this statement. Indeed, the Draft Permit would require changes to significant aspects of the SQMP, thereby precluding the possibility that it is now adequate. *Id.* Indeed, given that the Draft Permit appears to be predicated on the assumption that faithful implementation of the SQMP may constitute compliance with the Permit itself, the Permit must justify the consistency of the SQMP with Clean Water Act requirements, including MEP. Presently, we could not find any discussion of this matter, although it is extremely important.

In this connection, the Draft Permit would repeat the seriously flawed approach followed in 1996 by requiring that aspects of the management plan be made adequate after the Permit is issued (generally within 180 days). Not only does staff's experience prove that this date will inevitably slip, as it did routinely with respect to nearly every

requirement imposed as a part of the 1996 permit (*see* NRDC Petition), but this approach does not assure that an adequate storm water program will be implemented concurrent with the issuance of the permit itself. In fact, the Draft Permit only requires permittees to implement the management plan after it is approved by the Executive Officer, sometime after the Permit is itself issued. *See, e.g.*, Draft Permit at 17. In some instances, compliance with extremely basic BMPs is deferred until mid-2003. *See* Draft Permit at 22 (no dumping signs). Given that this is the third iteration of the municipal permit, there is simply no justification for such extraordinary delays especially as applied to the most basic storm water control actions.

The only legal way by which the Board can impose a legal requirement but delay the date of compliance is to issue a time schedule order ("TSO") under the Clean Water Act. Here, however, there is clearly no basis for the issuance of a TSO, especially given the explicit requirement for the Report of Waste Discharge to contain the storm water management plan to be implemented under the permit and the fact that the permittees have been obligated to comply with storm water regulations since 1990. 40 C.F.R. Section 122.26(d)(2)(iv). We know that many permittees are pressuring staff to make these sorts of concessions, but it is now past the time when delays such as these are even arguably appropriate.

Specification of Responsibilities and Loopholes. While it is permissible for a permit covering multiple entities to contain a delineation of responsibilities, we are concerned that the Draft Permit fails to explicitly make each co-permittee responsible for the adequacy of the SQMP. *See* Draft Permit at 15. There is no provision of the Clean Water Act that can deflect the legal responsibility of each permittee to design and inplement a storm water management program that reflects Clean Water Act requirements. We request that the Draft Permit be clarified to underscore that, notwithstanding the complicated administration structure that the permittees have chosen to create (*e.g., EAC and WMIs)*, each permittee bears individual responsibility to assure

program adequacy within its respective jurisdiction. *See* Draft Permit at 14 (describing duties of County of Los Angeles and "EAC"). This includes the duty to assure that the program designed is adequate and that, thereafter, it is fully implemented.

Furthermore, language that now provides that permittees have a duty to implement the Permit "in an efficient and cost-effective manner," and that appears to contain other limitations or exceptions ("a permittee is required to comply with the requirements of this Order applicable to discharges which originate from places within its boundaries over which it has authority to enforce the requirements of this Order") are similarly inconsistent with the Clean Water Act and its implementing regulations. Much of this section of the Draft Permit appears to contain the germs of arguments that some of permittees intend to use in the future to deflect responsibility for complying with the Permit. These sections are unlawful.

In these respects, it is critical to emphasize that the issuance of individual permits to each permittee is a viable alternative that would eliminate the complicated administrative and logistic apparatus that plagues the Draft Permit. These provisions threaten to result in the same foot-dragging that doomed the Regional Board's efforts to implement the 1996 Permit.

Adequacy of Enforcement and Audits. As staff know, due to severe under-funding the Regional Board's enforcement and audit program for municipal entities has been virtually non-existent during the last ten years. This violates the terms the State of California's agreement with the United States Environmental Protection Agency allowing the Regional Board to implement this NPDES permit program—and is also a violation of the Clean Water Act. *See* Storm Water Program Five-Year Work Plan at V-9 (State of California, 1994; NRDC Petition at 22-24.

While recent budget augmentations have significantly improved Regional Board capacity, it is unclear whether the Regional Board can meet its own minimum inspection and audit requirements for each municipal entity during each year of the term of the new Permit. Does the Board intend to meet these requirements and, if so, how will it do so?

It is NRDC's position that the Regional Board's approval of the new permit would be unlawful unless the Board articulates a reasonable basis to believe that it will comply with the annual inspection and audit requirements, including onsite visits to each permittee each year. While the permit will impose obligations on many cities, issuance of the Permit imposes obligations on the Board, including those that arise as a function of California's agreements with EPA. *See* Draft Permit at 7 (Finding 22, discussing delegation of authority by EPA to the State of California and Regional Board.) Based on information compiled in the NRDC Petition, it is clear that the Board has never before met these requirements. If the Board were to approve the Permit without the ability or intent to enforce it, the Board's action—which must comply not only with the substantive provisions of the Clean Water Act but also with the general legal provisions that apply to any agency action—would violate the Clean Water Act and also constitute an abuse of discretion. California Code of Civil Procedure Section 1094.5(b).

Furthermore, unless the Regional Board can demonstrate capacity that will allow it to meet the terms of the State's agreement with EPA regarding implementation of the NPDES program, the EPA would have no choice but to object to and disapprove the Permit. EPA has a responsibility to assure not only that the terms of NPDES permits meet basic Clean Water Act requirements but also that they are administered by state agencies that possess the capacity to meet basic enforcement requirements. As discussed in the NRDC Petition, these requirements are set forth both in EPA regulations and policy and also in state workplans, administrative procedure manuals, and other formal documents on which EPA delegation is based.

SUSMP Requirements. We are pleased to see that the Draft Permit expands the SUSMP to encompass environmentally sensitive areas, gas stations, and ministerial projects. We believe the SUSMP should be further expanded to cover municipally-owned maintenance and other related facilities. There is no reason why municipal governments should not have to assure that these sources of storm water pollution are covered by appropriate structural controls. In addition, site specification mitigation requirements (Draft Permit at 32-33) should also cover parking lots smaller than 25 spaces, for all of the reasons that support inclusion of larger parking lots in the SUSMP numerical treatment/infiltration requirements.

Thank you for the opportunity to provide comments on this important proposed permit. Please feel free to contact me if you have any questions.

Sincerely,

David S. Beckman
Senior Attorney

cc: Ms. Alexis Strauss, Director, Water Division, United States Environmental Protection Agency, Region IX

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FAX TRANSMISSION

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If transmission problems occur, please notify Wendy at (323) 934-6900

DATE: May 16, 2001

TO: Dr. Xavier Swamikannu
Los Angeles Regional Water Quality Control Board

FROM: David Beckman

FAX NUMBER: (213) 576-6640

MESSAGE:

SANTA MONICA
BAYKEEPER
Protecting Our Bay
in cooperation with
The Frank G. Wells
Environmental Law Clinic &
the Water Keeper Alliance

May 15, 2001

Dennis Dickerson
Los Angeles Regional Water Quality Control Board
320 W 4th Street, Suite 200
Los Angeles, CA 90013

Re: Los Angeles County Municipal Storm Water Permit Renewal

Dear Mr. Dickerson:

Santa Monica BayKeeper submits the following comments regarding the draft Municipal Storm Water Permit for Los Angeles County and 83 local cities. We also hereby incorporate by reference those comments submitted by the Natural Resources Defense Council and Heal the Bay on this matter.

THE NATURE OF THE PROBLEM

As this Board is well aware, urban runoff is a significant problem for local surface waters. This information is highlighted in the In Re Petition of Natural Resources Defense Council for Correction of Legal Deficiencies or Withdrawal of Stormwater Program Administered by the Los Angeles Regional Water Quality Control Board, on file with the Board [1]

STORM WATER DISCHARGES CANNOT AND SHOULD NOT CAUSE OR CONTRIBUTE TO EXCEEDANCES OF WATER QUALITY STANDARDS OR WATER QUALITY OBJECTIVES.

BayKeeper agrees that storm water discharges cannot cause or contribute to exceedances of water quality standards. See, e.g. In re the Matter of Environmental Health Coalition, SWRCB Order No. 98-11 (January 22, 1998). Nonetheless, many cities make much of the claim that the Clean Water Act, according to the Ninth Circuit decision in Defenders of Wildlife v. Browner, does not mandate inclusion of numeric effluent limits in municipal storm water permit. Instead, the court found these limits are discretionary with EPA and the states. However, what the cities are missing is the fact that the State already decided that storm water discharges would be subject to certain effluent limits and receiving water objectives (see e.g., LA Basin Plan, CA Ocean Plan). This regional board cannot now ignore these state regulations, as the permittees seem to want.

[1] We hereby incorporate by reference the Petition as well as the referenced materials on water quality impairment.

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May 15, 2001

Dennis Dickerson
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Los Angeles County Municipal Storm Water Permit Renewal

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ALL NEW MUNICIPAL STORM DRAINS SHOULD MEET WATER QUALITY STANDARDS BEFORE INSTALLATION

According to 40 CFR 122.4(i), with limited exception, "No permit may be issued... to a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards." The Regional Board has largely ignored this requirement. Nonetheless, BayKeeper believes at a minimum that this permit should require municipalities to demonstrate that new storm drains will not cause or contribute to exceedances of water quality standards. We believe that this determination should be made before any new drains are allowed. We suggest the following language.

> *Discharges from a new stormwater outfall, constructed after the issuance of this permit, shall not cause or contribute to a violation of applicable water quality objectives. Copermittees shall demonstrate compliance with this requirement before construction of such outfall commences by submitting to the Regional Board, prior to construction, documentation evidencing how compliance will be achieved and any water quality data to support such claims.*
>
> *For purposes of this permit, a new stormwater outfall means an outfall that is constructed at a location where a municipal separate stormwater discharge did not previously exist. For purposes of this permit, the point of compliance for discharges from a new stormwater outfall is in the naturally-occurring or man altered surface water body at the point of discharge.*

We also believe this to be fully consistent with the Regional Board's receiving water approach, although it provides clarity to ensure protection before a pipe is installed.

MEP IS NOT A PROPER LIMITATION ON CONTROLS FOR NON-STORMWATER DISCHARGES

Page 18 of the permit requires permittees to possess the necessary legal authority to prohibit non-stormwater discharges "to the maximum extent practicable." This is inconsistent with the existing MS4 permit (see page 11), the proposed permit (see page 12) and the Clean Water Act. In particular, 33 U.S.C. Section 1342 (p)(3)(B)(ii) requires permits for discharges from municipal storm systems to "include a requirement to effectively prohibit non-stormwater discharges into the storm sewer." There is no mention of MEP in this requirement, as the MEP component of the municipal storm water provision is found in the next subsection, 33 U.S.C. Section 1342 (p)(3)(B)(iii). For this reason we recommend the following language in place of the proposed language.

> *Co-permittees shall possess the necessary legal authority to prohibit non-storm water discharges and control the contribution of pollutants to the storm drain system from storm drain discharges.*

THE SUSMP REQUIREMENTS MUST ABSOLUTELY PROHIBIT DISCHARGES TO AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE.

Under the current proposal, the definition of Environmentally Sensitive Areas (ESAs) includes Areas of Special Biological Significance (ASBS) for regulation under the SUSMP requirements. See Proposed Permit pages 32 and 48. BayKeeper is fully supportive of protecting-ESA's. However, we believe that ASBS discharges are afforded absolute protection from storm water discharges. Indeed, as the Board is fully aware, the Ocean Plan, for nearly three decades, has contained an absolute prohibition on discharges of waste, including stormwater, to ASBSs. See e.g. SWRCB Order No. 2001-08 (April 26, 2001) (Upholding the Ocean Plan discharge prohibition for Caltrans stormwater discharges to an ASBS in Orange County). Thus, the SUSMP provision, as written, could lead to violations of this requirement. For the reasons discussed below, we therefore recommend the following SUSMP language change:

> *Stormwater or dry weather urban runoff discharges to ASBSs are absolutely prohibited.*

The California Ocean Plan ("Ocean Plan" or the "Plan") is a statewide water quality control plan for ocean waters. SWRCB, 1997 California Ocean Plan, Water Quality Control Plan for Ocean Waters of California (July 23, 1997).[2] Fundamentally, it reflects the view of the State Board that the "protection of the quality of the ocean waters for use and enjoyment by the people of the State requires control of the discharge of waste to ocean waters . . . " Id. at 1.

The Ocean Plan was first adopted in 1972 to establish policies for the discharge of waste to the Ocean. The Ocean Plan is authorized by sections 13000 and 13170 of the Porter-Cologne Water Quality Act ("Porter-Cologne Act" or "Water Code"). The Ocean Plan was adopted to comply with section 303 of the federal Clean Water Act, which requires the adoption of water quality standards for all interstate and intrastate navigable waters. 33 U.S.C. § 1313; Cal. Water Code § 13170. Navigable waters, as defined by the Clean Water Act, include the territorial seas. 33 U.S.C. § 1362(7).

Since its inception, the Ocean Plan has applied to most sources of water pollution, including stormwater discharged through pipes and other channels. The first version of the Plan, issued in 1972, contained very limited exceptions for vessel wastes and dredging (and the disposal of dredging spoils). In fact, these are the only exceptions that have ever existed in the Ocean Plan. Thermal control was the subject of a companion water quality control plan, which was adopted on May 18, 1972. SWRCB, Water Quality Control Plan for Ocean Waters of California (July 6, 1972) at 10.

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[2] True and correct copies of source documents (other than cases, statutes and regulations) are attached as exhibits to "Declaration of Heather L. Hoecherl in Support of Response to Petition of Department of Transportation," filed herewith.

In 1978, the State Board updated the Ocean Plan "after an extensive review . . ." SWRCB, Resolution No. 78-2 (January 19, 1978). In the updated Plan, the Board elaborated on the applicability of Ocean Plan requirements by providing that "[t]his Plan is applicable, in its entirety, to point source discharges to the Ocean." SWRCB, Water Quality Control Plan for Ocean Waters of California (1978) (reprinted in February 1981) at 10. The 1978 Ocean Plan further noted that non-point discharges were subject to most of the Plan's provisions, including its Chapter V discharge prohibitions, such as the prohibition applicable to Areas of Special Biological Significance. Id.

The State Board's intent in making this change underscores the broad scope of the Ocean Plan from its earliest versions in the 1970s. CEQA documentation associated with the 1978 update to the Plan states that, because of the limited exceptions contained therein, "it is logical to assume that unless specifically excluded the plan is applicable to non-point sources, including diffuse storm drainage." SWRCB, Initial Study to Describe the Environmental Impact of Proposed Amendments to the "Water Quality Control Plan for Ocean Waters of California" (January 19, 1978) ("1978 Negative Declaration") at 26-27. While the classification of stormwater as a point source was settled once and for all in 1987 by the United States Congress, the use of the phrase "diffuse storm drainage" to elucidate the term "non-point sources" indicates an earlier recognition by the Board that some stormwater discharges, such as those carried through a conveyance, were properly considered a "point source" of pollution. Nonetheless, the Ocean Plan prohibition applies to both point sources and non-point sources.

For this reason, we feel the permit should not include ASBSs in the SUSMP numeric design criteria. Rather, the permit should recognize the long-standing prohibition on discharges to ASBSs.[3]

A PERMIT SHOULD NOT BE ISSUED UNLESS AND UNTIL THE PERMITTEES DEMONSTRATE THEY CAN AND WILL FULLY ENFORCE LOCAL ORDINANCES AGAINST INDUSTRIAL FACILITIES.

A number of cities have raised concerns about the provisions for industrial and commercial inspection and enforcement programs contained at pages 25-28 of the proposed permit. Some cities have gone so far as to state that they do not have the legal ability to do what is requested of them under this section. BayKeeper is very troubled by these statements, particularly given the fact that these municipalities have had nearly 10 years to address these sources of pollution and have done little.

Meanwhile, the federal regulations make very specific legal authority requirements in the stormwater permit *application process*. In particular, the federal regulations, at 40 CFR 122.26 (d)(2), state

[3] We hereby incorporate by reference the comments provided to the state board in *******

(2) "Part 2. Part 2 of the application shall consist of:

(i) Adequate legal authority. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance, or series of contract which authorizes or enables the applicant at a minimum to:

(A) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by stormwater discharges associated with industrial activity and the quality of stormwater discharged from sites of industrial activity.

(B) Prohibit through ordinance, order or similar means, illicit discharges to the municipal storm sewer;

(C) Control through ordinance, order or similar means, the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than stormwaters;

(D) Control through interagency agreements among co-applicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

(E) Require compliance with conditions in ordinances, permits, contracts or orders; and

(F) Carry out all inspections, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer." (Emphasis added)

In addition, federal regulations also require as part of the application process, "[a] description of a program to monitor and control pollutants in storm water discharges to municipal systems from ...industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system." 40 CFR 122.26(d)(2)(iv)(C) (Emphasis added). Similar provisions exist for construction inspection and enforcement programs. See e.g. 40 CFR 122.26(d)(2)(iv)(D).

Clearly, the regulations never intended to allow continued and ongoing programs to focus exclusively on education, as the permittees seem to desire. Instead, the only logical conclusion is that the municipalities must cooperate in enforcing industrial stormwater programs, through their local ordinance authority. For them to suggest that they do not have that authority simply demonstrates that they have not complied with the Part 2 application process.

Moreover, if the cities' argument is that the Regional Board does not have the authority to issue a permit with new conditions requiring inspection, then to a certain extent we would agree. However, we do so because of the fact that no permit at all can be issued where the city does not demonstrate that they have the authority in the first place. It is not the responsibility of the Regional Board to include such a provision in the permit. Rather, it is

the responsibility of the cities, should they desire a permit to discharge to Waters of the United States, to demonstrate -- in advance of the issuance of a permit -- that they have the legal authority necessary under the federal regulations in order to receive a permit. The cities have clearly failed to do so and thus a permit should not be issued until such assurances are provided.

THE PERMIT SHOULD INCLUDE RETAIL GASOLINE OUTLETS UNDER THE STANDARD URBAN STORM WATER MITIGATION PLAN.

BayKeeper is very supportive of including Retail Gasoline Outlets (RGOs) in the SUSMP numeric design provisions. We agree with staff findings Number 11 and 12 that "studies indicate that facilities with paved surface subject to frequent motor vehicle traffic (such as parking lots and fast food restaurants) or facilities which perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of pollutants of concern in stormwater." (citation omitted).

Moreover, we remain unconvinced by many of the arguments presented to the State Water Board last year by WSPA regarding potential hazards from treatment or infiltration devices at RGOs.[4]

In particular, representatives of WSPA claimed, among other things, that there would be a "risk of explosive gases building up in an underground vault" and thus SUSMP numeric design provisions should not apply to RGOs. Mr. Welch, an attorney for WSPA stated that "if you had a leak that gets in there and a car drives up, you could have an explosion." Transcript of SWRCB Proceedings at 214 (June 7, 2000). In addition, Mr. Timothy Simpson, a consultant for WSPA, testified that "from a practical perspective, any device that's going to collect run-off is also going to collect any spilled product, which can create a significant explosion hazard and make it much more difficult to clean up spills when they do occur." Transcript of Proceedings at 234. Moreover, Mr. Wilkness testified "by not requiring a treatment device that has an underground structure, you don't have this problem." Transcript of Proceedings at 218.

In light of this testimony BayKeeper conducted a general survey of RGOs in the region to identify if in fact the RGO industry as a whole has addressed these types of concerns in the design and construction of their own facilities.

As part of this survey, BayKeeper identified over 100 RGOs in the area with storm drain inlets or other open-air underground drainage structures on RGO properties. Attached hereto as Exhibit I are several hundred true and correct color photographs identifying the location of such stations as well as the actual storm drain inlets on the RGO property itself. This information directly contradicts the testimony of WSPA's representatives at

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[4] We hereby incorporate by reference the entire administrative record in the SUSMP proceedings, including the numerous comment letters provided by the environmental community as well as the testimony at the various regional and state board hearings.

the State Board hearing. Moreover, WSPA's testimony is astonishing given the fact that BayKeeper investigators identified underground drainage inlets immediately under some RGO canopies, exactly where cars are fueling. (See e.g. photographs for stations at pages 5, 8, 9,10, 25).

At a minimum, this information makes it clear that subterranean drainage systems are common at RGOs and that some types of structural treatment BMPs (such as storm drain inlet filters) are safe for RGOs. At best, it obliterates WSPAs entire argument about the risks of underground structures at RGOs. It also seems clear that WSPA representatives conceded the fact that some structural BMPs may not cause risk of explosion is point during cross examination of Mr. Wilkness by Mr. Helperin:

"Q. (by Mr. Helperin): All I'm trying to establish is that the two types of BMPs that you discussed as being problematic [sand filters and compost filters], those problems don't necessarily apply to many of the other types of BMPs that are available to an RGO, is that right?"

A. (by Mr. Wilkness): Those particular problems, yes."

See Transcript of Proceeding at 97. (June 8, 2000).

Finally, the SUSMP continues to have a provision to protect groundwater quality for other types of infiltration BMPs. We see no reason whatsoever to exempt RGOs from the numeric design requirements.

THE ILLICIT CONNECTION AND DISCHARGE PROGRAM SHOULD BE STRENGTHENED.

BayKeeper recently learned that the City of Los Angeles, and potentially many other cities, issued permits for stormwater or other discharges to the MS4 for several decades. In the City of LA, thousands of permits were issued before and after the MS4 NPDES program came into existence. In light of this, BayKeeper believes all cities should undertake similar efforts to the City of LA to ensure that these types of discharges do not violation the discharge prohibitions of the permit. This should include a review of all past city permits authorizing any discharges to the MS4. If the discharge is not categorically exempt under the MS4 permit, then the discharge must immediately cease or the discharger must obtain an individual NPDES permit from the Regional Board

THE PERMIT SHOULD HAVE IMPLEMENTING LANGUAGE FOR TMDLS.

While we believe that all present and future TMDL requirements are applicable to stormwater discharges as point sources, we feel it would be helpful to include express provision to TMDL compliance in this permit. We suggest the following additional language

The permittees shall comply with applicable waste load allocations developed and approved for TMDLs for impaired water bodies.

THE ECONOMICS OF STORM WATER POLLUTION WARRANT STRONG WATER QUALITY PROTECTION

If dischargers are going to insist on economic considerations for NPDES permits (a position that BayKeeper believes is contrary to federal and state law, but one that the board regularly seems to consider), we request that you consider prior economic conclusions that demonstrate the enormous economic importance of clean water. These documents include, among the others, evidence from EPA as set forth in the 305(b) Report to Congress (Chapter 9) - http://www.epa.gov/305b/98report/toc.html, EPA's Liquid Assets 2000 (chapters: Executive Summary and "The Business of Clean Water," - http://www.epa.gov/ow/liquidassets/), and the economic considerations from the California Toxics Rule, Federal Register: May 18, 2000 (Volume 65, Number 97)Page 31705

WE SUPPORT GENERAL PLAN UPDATES

BayKeeper is very supportive of requiring general plan updates to reflect storm water requirements. For too long, many of these plans have not included a comprehensive discussion of water quality, let alone provision to comply with water quality requirements. With the upcoming County and City of LA revisions, now is the time to address these issues.

THE PERMIT SHOULD CONTAIN SOME ADDITIONAL FINDINGS.

BayKeeper believes that evidence in the record supports inclusion of the following in the "Findings" portion of the proposed permit:

- Urban Runoff is a waste and a point source discharge of pollutants: Urban runoff is a waste, as defined in the California Water Code, that contains pollutants and adversely affects the quality of the waters of the State. The discharge of urban runoff from an MS4 is a "discharge of pollutants from a points source" into waters of the United States as defined in the Clean Water Act. (Language identical to San Diego Municipal Storm Water Permit, SDRWQCB Order No. 2001-01 at p. 1).

- Urban Development Increases Pollutant Load, Volume, and Velocity of Development: During Urban Development two important changes occur. First, natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing a very effective natural purification process. Because pavement and concrete can neither absorb water nor remove pollutants, the natural purification characteristics of the land are lost. Secondly, urban development creates

new pollution sources as human population density increases and brings with it proportionally higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc. which can either be washed or directly dumped into the MS4. (Language identical to San Diego Municipal Storm Water Permit, SDRWQCB Order No. 2001-01 at p.2).

Thank you for the opportunity to comment on this draft permit. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Steve Fleischli
Executive Director

SANTA MONICA BAYKEEPER

SUSMP INVESTIGATION FOR

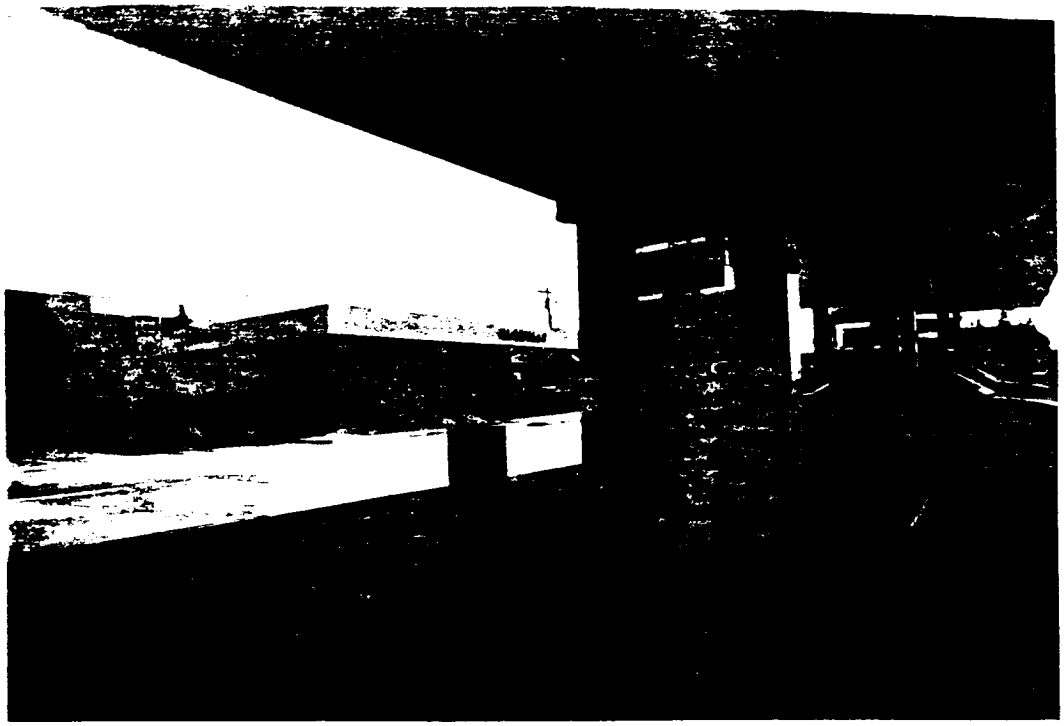
RETAIL GASOLINE OUTLETS

LOS ANGELES COUNTY MUNICIPAL STORMWATER PERMIT 2001

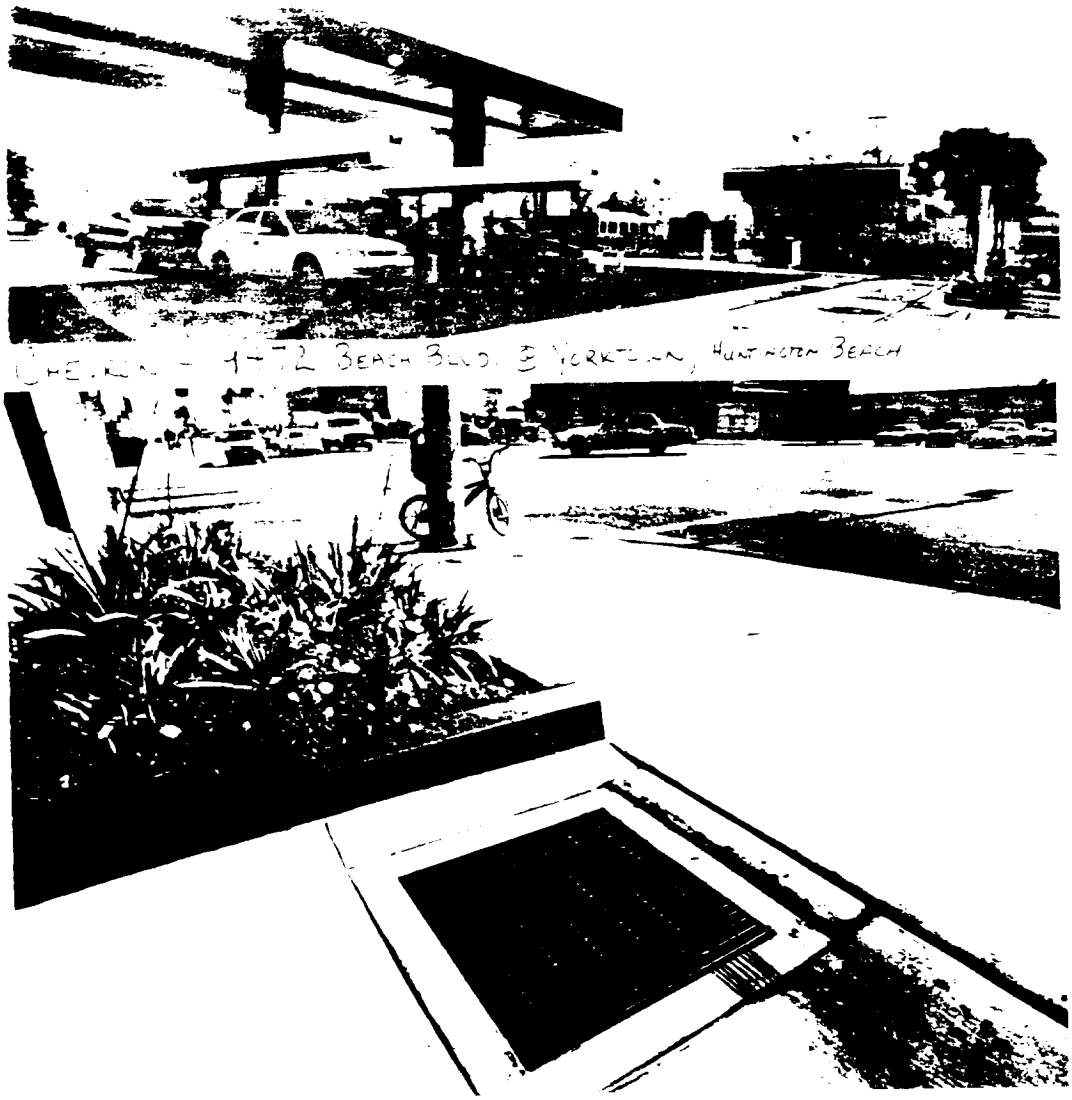
ARCO 9511 VALLEY VIEW @ ORANGE AVE., CYPRESS 90630

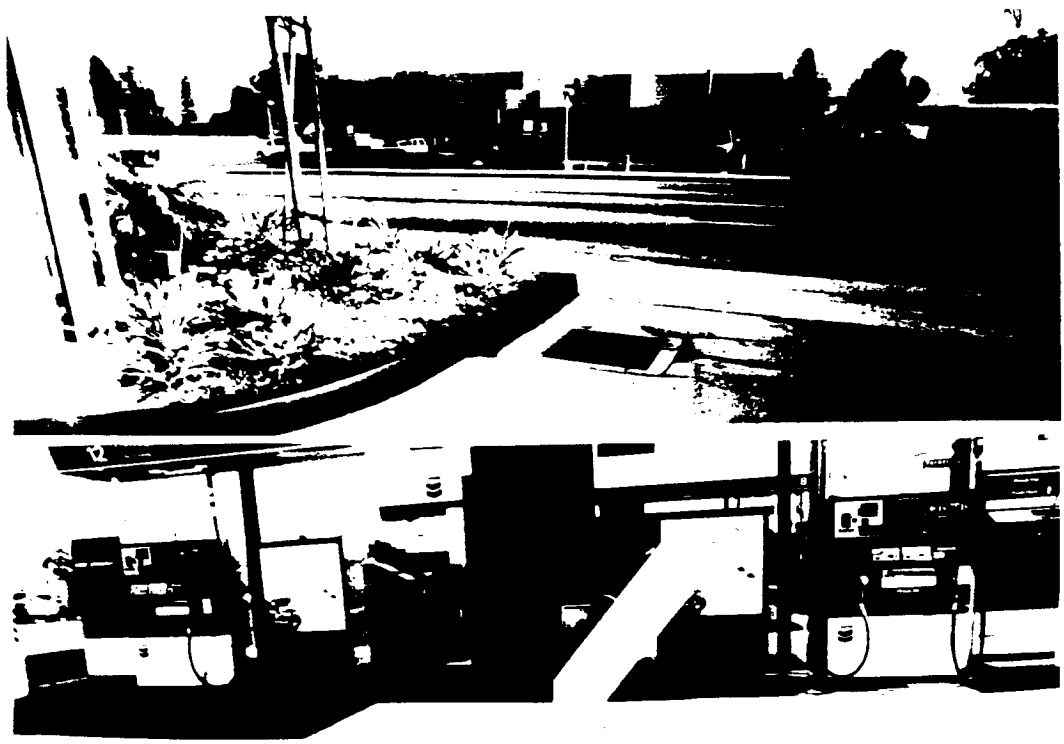
MOBIL - 20002 BEACH BLVD @ ADAMS, HUNTINGTON BEACH

CHEVRON 17980 MAGNOLIA AVE. @ TALBERT, FOUNTAIN VALLEY

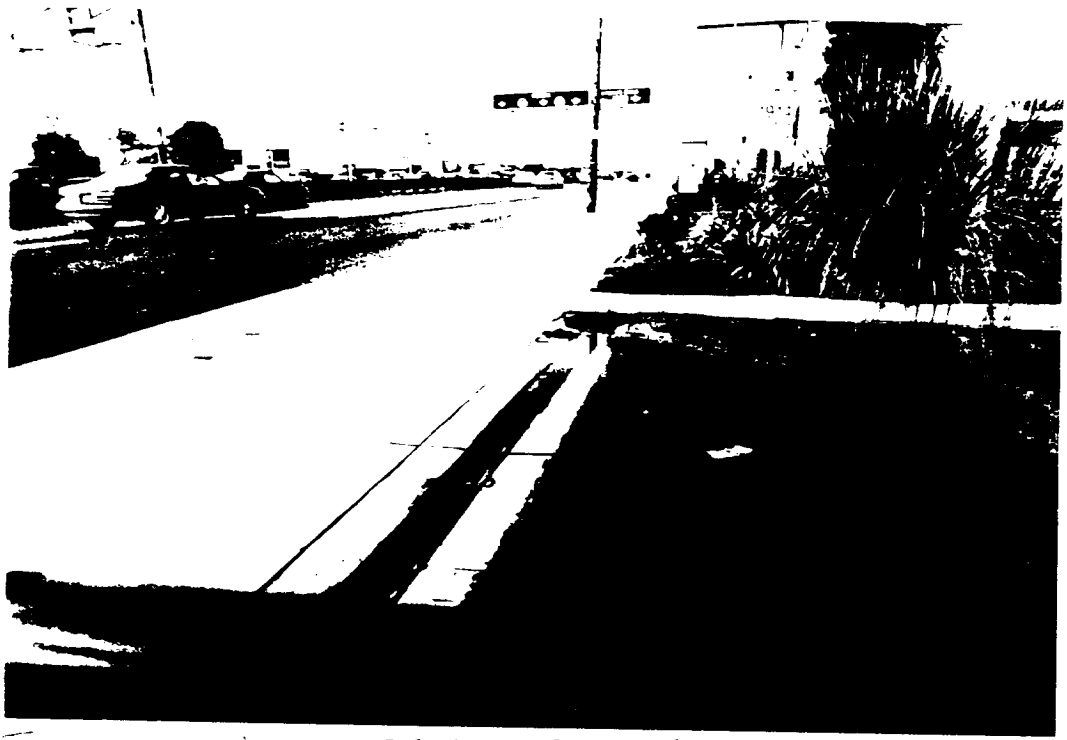


MOBIL - 9024 WARNER AVE @ MAGNOLIA, FOUNTAIN VALLEY, 92649

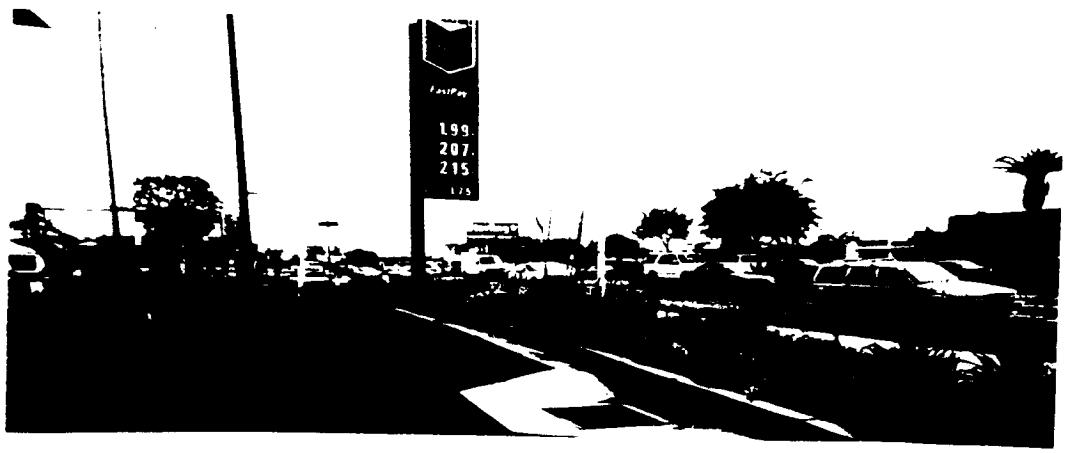

1-72 BEACH BLVD. & YORKTOWN, HUNTINGTON BEACH



[illegible] - 900 Newport Blvd @ 4th St, Costa Mesa



This location also includes a full service carwash. The runoff in [illegible] is from the car wash operations

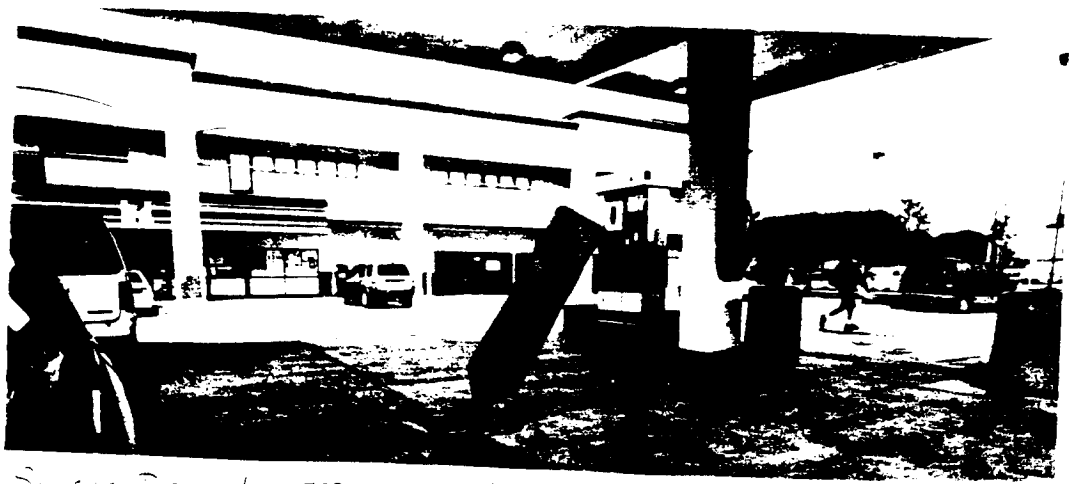

199
207
215

CHEVRON – 9960 WARNER AVE @ MAGNOLIA HUNTINGTON BEACH

MULTIPLE DRAINS LOCATED UNDER THE CANOPY WITHIN THE FUEL ISLAND AREA

1 OF 3

CITGO 7-11 204 E. 17TH ST. & ORANGE, COSTA MESA



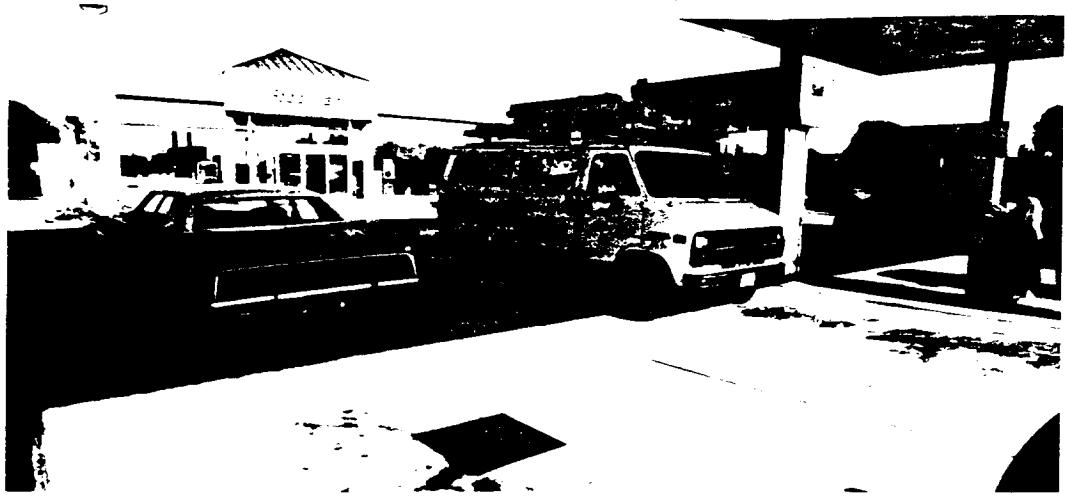
2 OF 3

SINGLE DRAIN LOCATED IN THE CENTER OF THE FUELING PAD, UNDER THE CANOPY.

3 OF 3

1 OF 3

CHEVRON – 10020 WARNER AVE @ BROOKHURST, FOUNTAIN VALLEY



2 OF 3

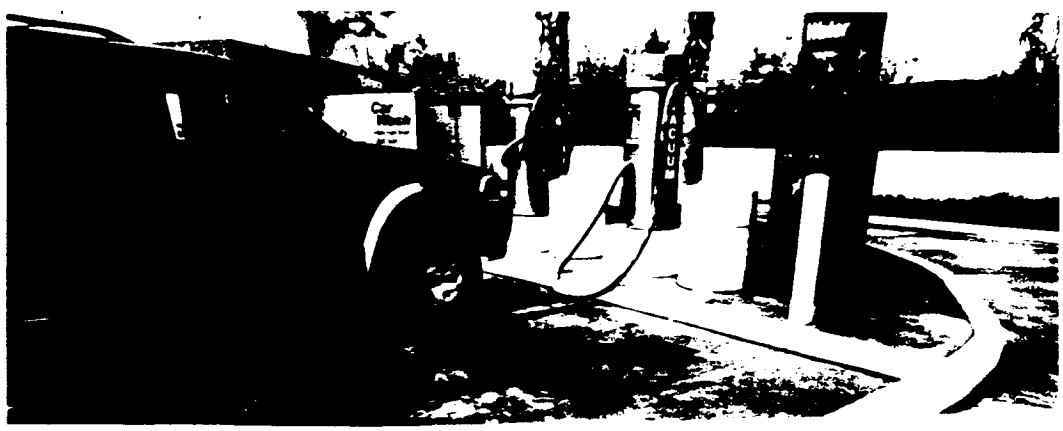
MULTIPLE DRAINS LOCATED ON PROPERTY. 3 DRAINS LIKE THE ONE IN PHOTO # 2 EXIST UNDER THE CANOPY WITHIN THE FUELING AREA.

3 OF 3

1 of 4

SHELL FULLERTON RD. & 60 FREEWAY CITY OF INDUSTRY

2 of 4



3 of 4

4 of 4

1 OF 3

UNOCAL 76 - LA TIJERA BLVD @ 405 FREEWAY, WESTCHESTER 90045

2 OF 3

3 OF 3

CHEVRON — 6TH ST & SIERRA AVE, NORCO OFF OF 15 FREEWAY

MOBIL- DEL AMO BLVD @ LONG BEACH BLVD, LONG BEACH

ARCO 1201 IMPERIAL HIGHWAY @ ROSE DRIVE, BREA

DRAIN COMPLETELY CLOGGED W/ SEDIMENT AND DEBRIS

1 OF 2

SHELL - IMPERIAL HIGHWAY & CENTRAL AVE., L.A. 90059

2 OF 2

1 of 2

UNOCAL 76 – 1000 VERMONT @ OLYMPIC, L.A.

2 of 2

SHELL - 4404 S. WESTERN @ VERNON, L.A.


159
168
178

TEXACO - 3201 WILSHIRE @ VERMONT

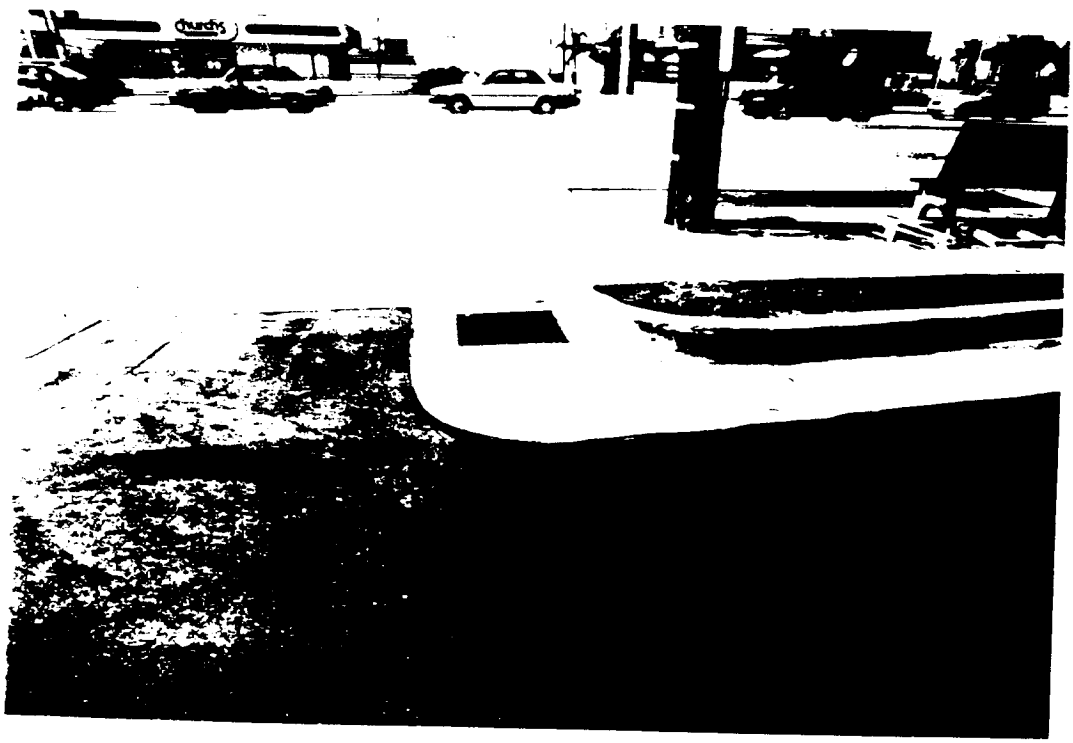
1 OF 4

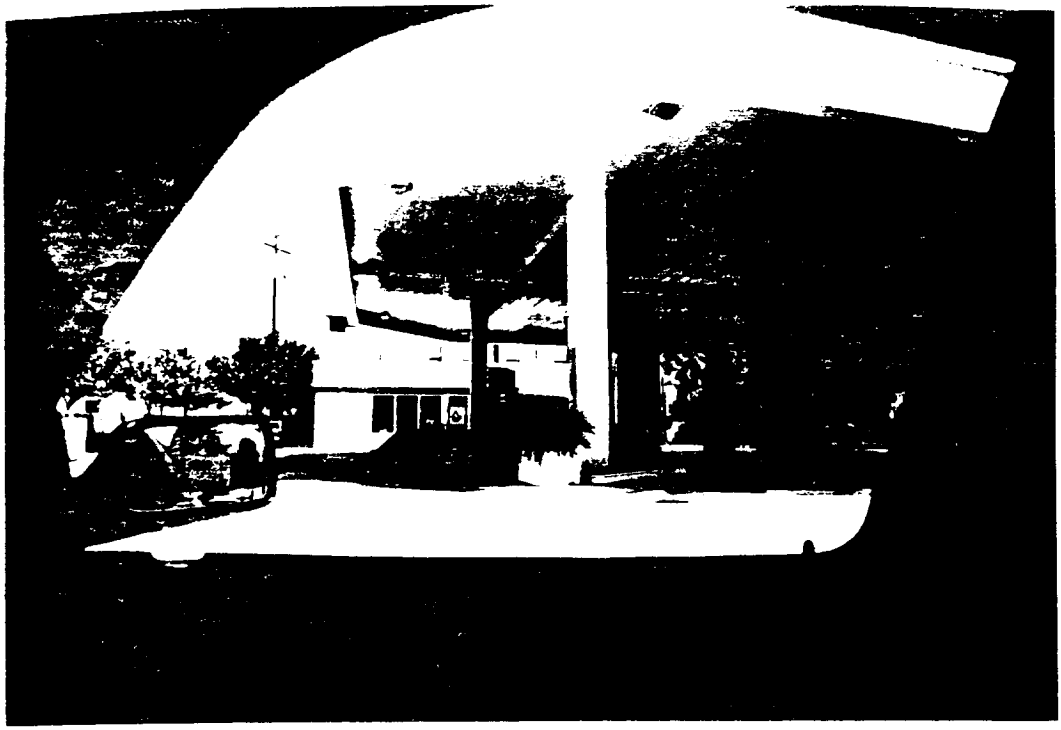
SHELL 306 W. SLAUSON @ BROADWAY, L.A.

2 OF 4


35

MOBIL - 1769 W. IMPERIAL HIGHWAY @ WESTERN



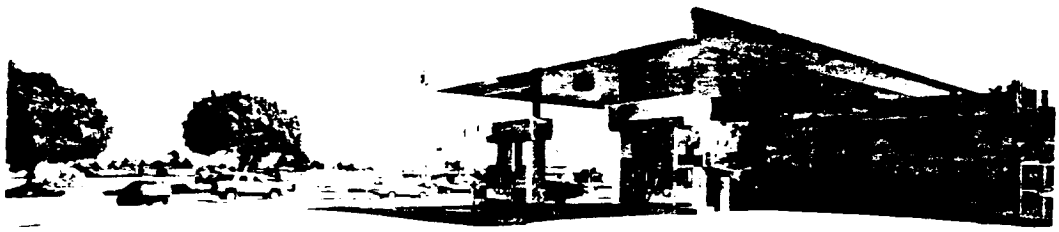


OF 3

MOBIL - 1243 LAMBERT BREA

2 - DRAINS LOCATED ON PROPERTY

2 OF 3



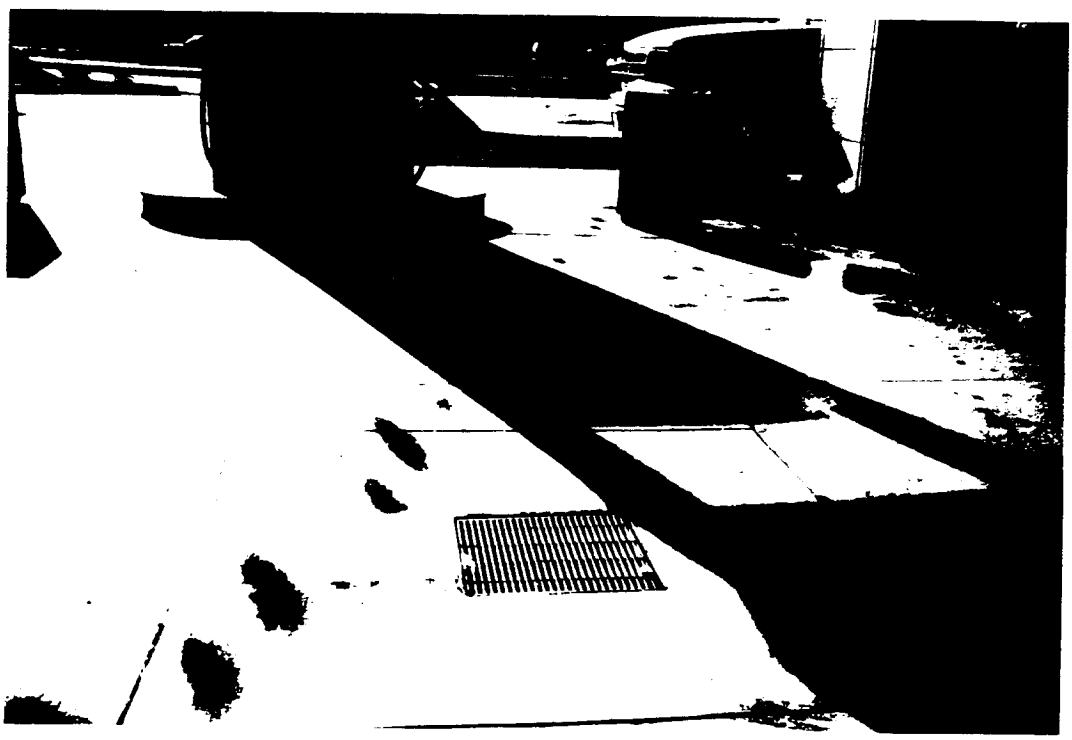
CHEVRON - 11971 VALLEY VIEW @ CHAPMAN, GARDEN GROVE

3 OF 4

4 OF 4

1 OF 4

ARCO - 8032 GARDEN GROVE BLVD. @ BEACH BLVD.
GARDEN GROVE / WESTMINSTER



2 OF 4

DRAIN LOCATED IN CENTER OF FUELING AREA UNDER THE CANOPY.

3 of 4

STORM DRAIN INLET LOCATED W/IN CONFINES OF THE PROPERTY

4 of 4

1 of 3

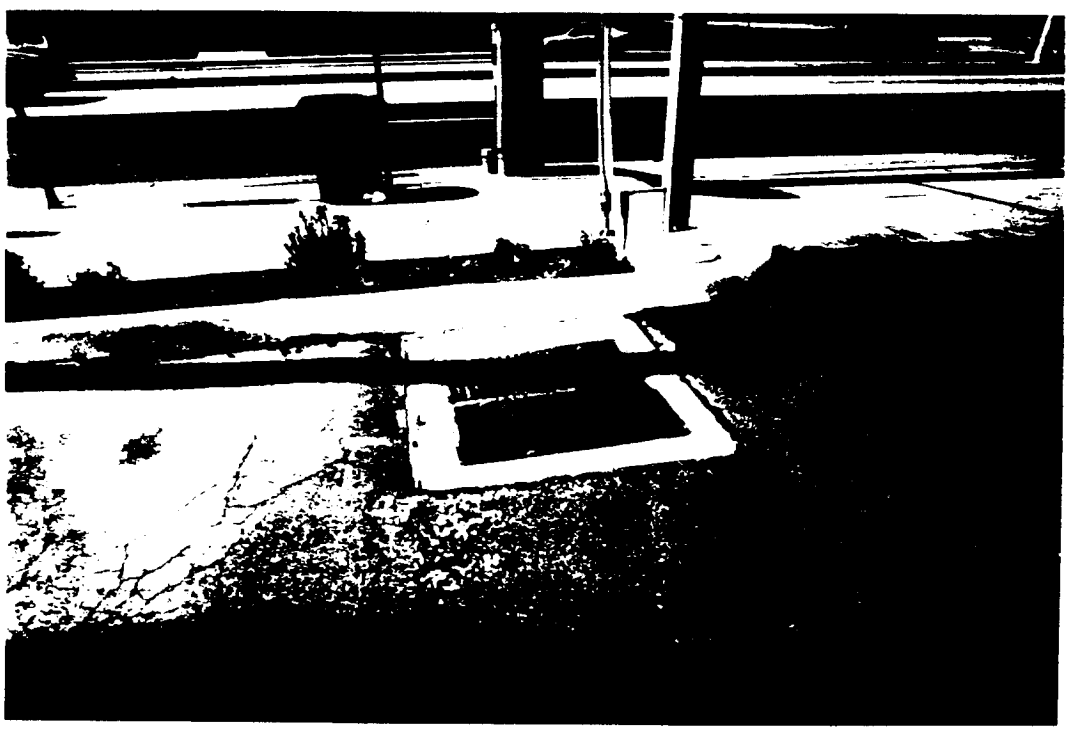
MOBIL 8991 ORANGETHORPE @ MAGNOLIA, BUENA PARK 90621

2 of 3

3 of 3

1 OF 3

SHELL - 4770 LINCOLN @ FIJI WAY, MARINA DEL REY

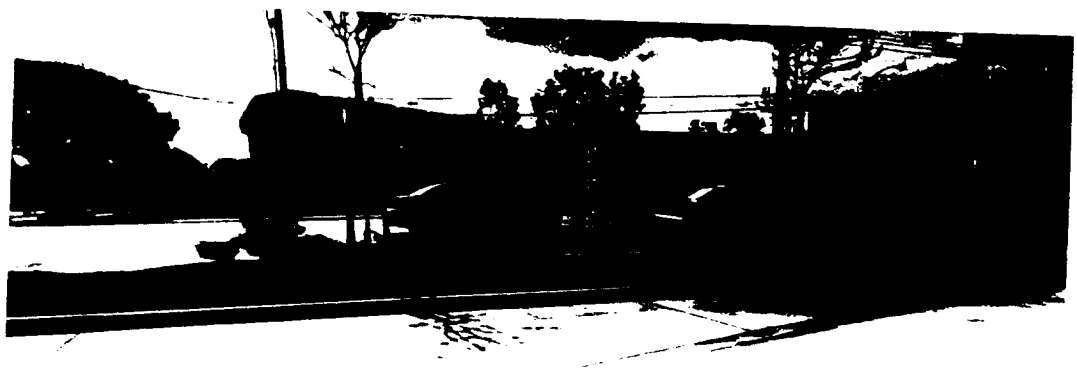


2 OF 3

3 OF 3

loc 4

CHEVRON 5999 VALLEY VIEW @ CERRITOS
CYPRESS, CA. 90630



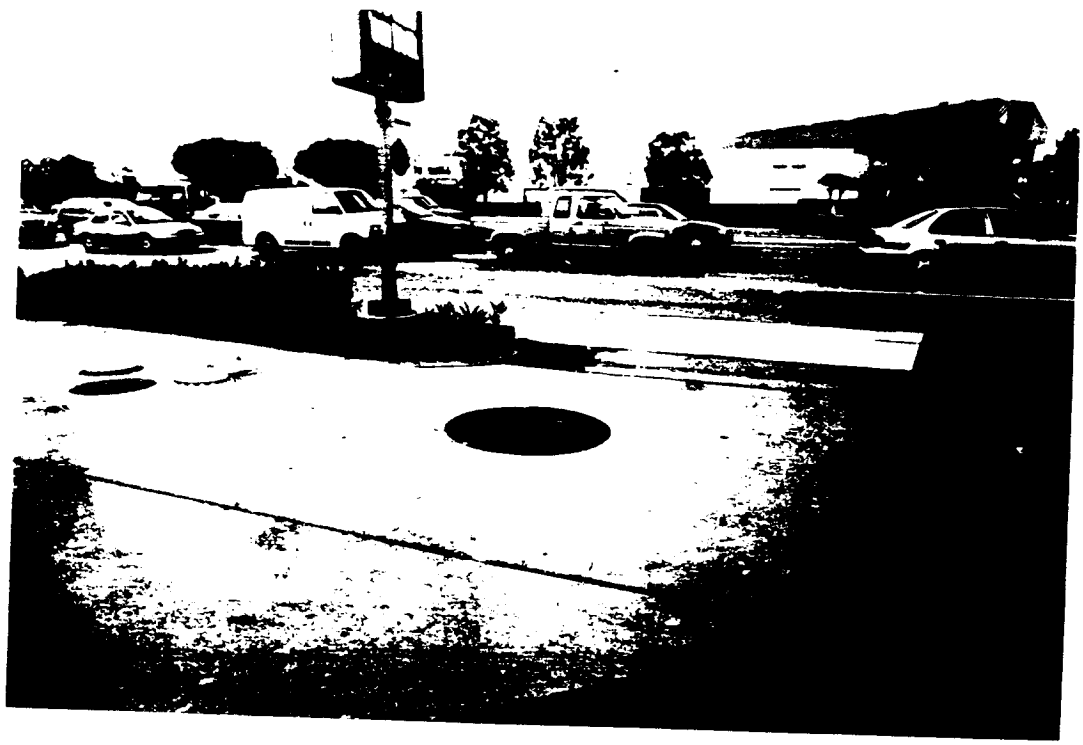
2 OF 4

3 of 4

4 of 4

1 of 2

TEXACO 6000 CERRITOS AVE. @ VALLEY VIEW
CYPRESS, CA. 90630



2 of 2

1 OF 3

CHEVRON 1790 LONG BEACH BLVD @ P.C.H
LONG BEACH, CA 90813

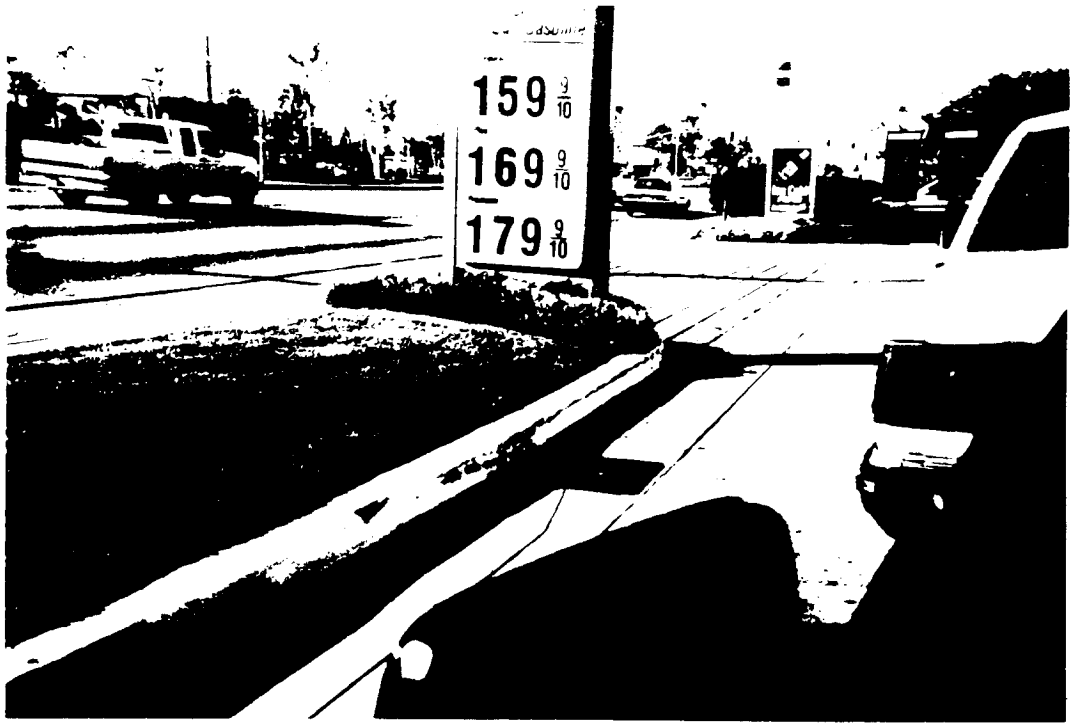
2 of 3

3 of 3

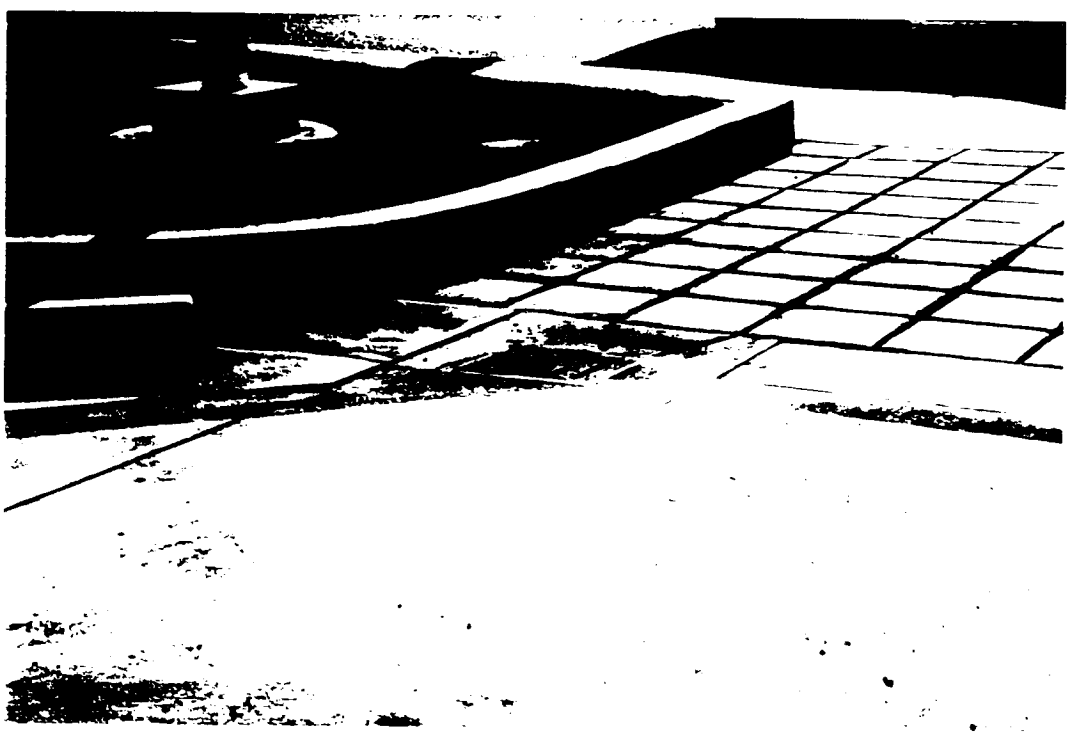
1 OF 4

SHELL 12950 BEACH BLVD @ GARDEN GROVE BLVD.
GARDEN GROVE / WESTMINSTER

2 OF 4



3 OF 4



4 OF 4

1 of 4

MOBIL 12240 LOS ALAMITOS/SEAL BEACH BLVD. @ ROSSMOOR CTR
ROSSMOOR, 90720

2 of 4

3 OF 4

4 OF 4

1) 

CHEVRON 12541 SEAL BEACH BLVD. @ ST. CLOUD
ROSSMOOR, CA. 90720

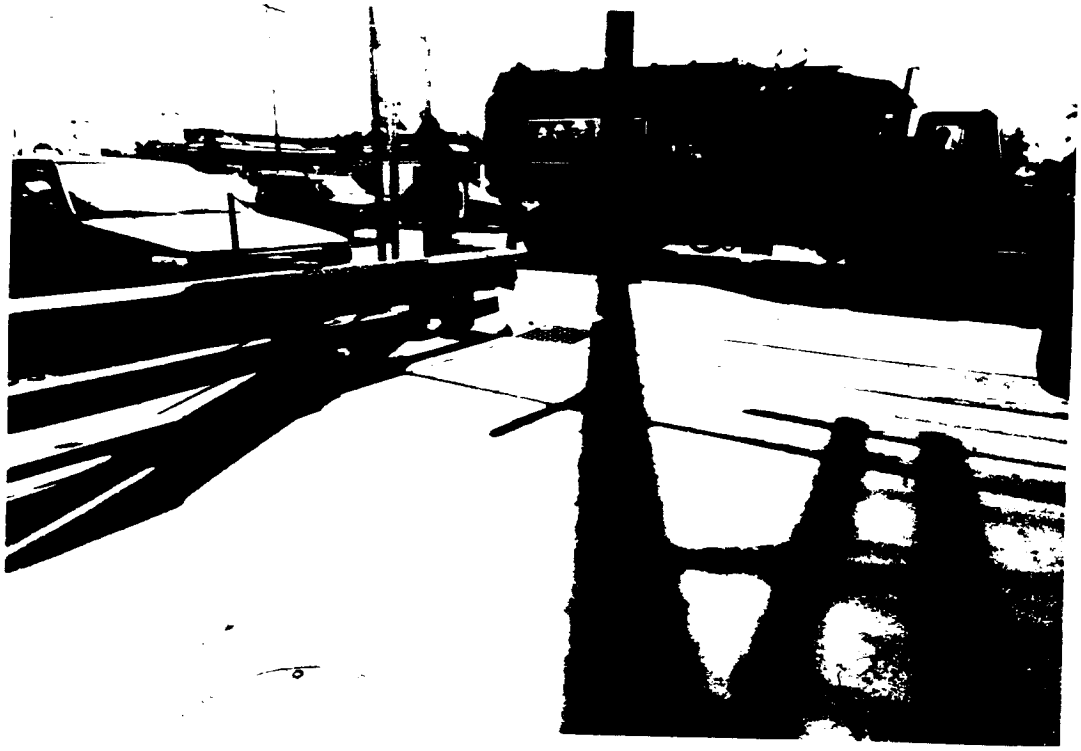
2) 

3)

1 of 4

CHEVRON 2400 VENICE BLVD @ LINCOLN, LA. 90291

2 of 4



3 OF 4

4 OF 4

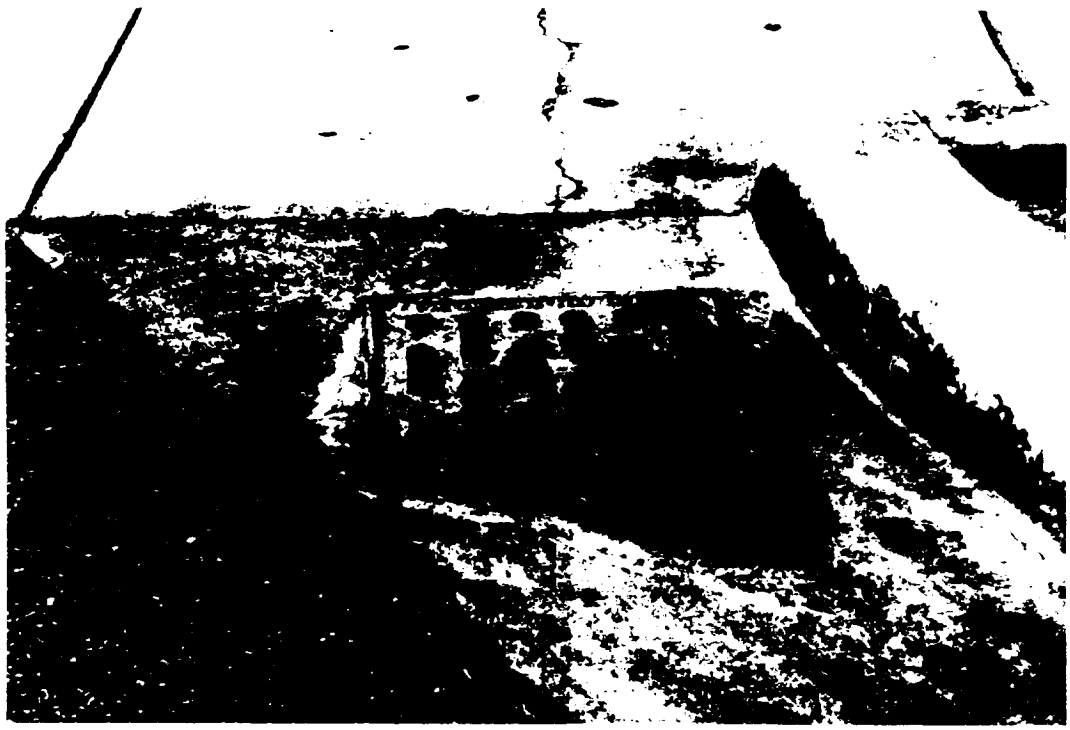
1 OF 3

ARCO 5102 LINCOLN @ BLOOMFIELD

CYPRESS, CA 90630

2 OF 3

DRAIN COMPLETELY CLOGGED BY SEDIMENT AND DEBRIS



3 OF 3

1 of 3

ARCO 4900 N. PALO VERDE @ DEL AMO BLVD.
LAKEWOOD

2 of 3

3 of 3

1 of 4

UNOCAL 76 3001 YORBA LINDA BLVD. @ PLACENTIA AVE.

FULLERTON

2 of 4

3 of 4

4 of 4

1 of 4

MOBIL 901 PLACENTIA AVE. @ PRIMROSE
PLACENTIA

2 of 4

3 of 4

4 of 4

1 OF 4

CHEVRON 17499 YORBA LINDA BLVD. @ VALLEY VIEW
YORBA LINDA

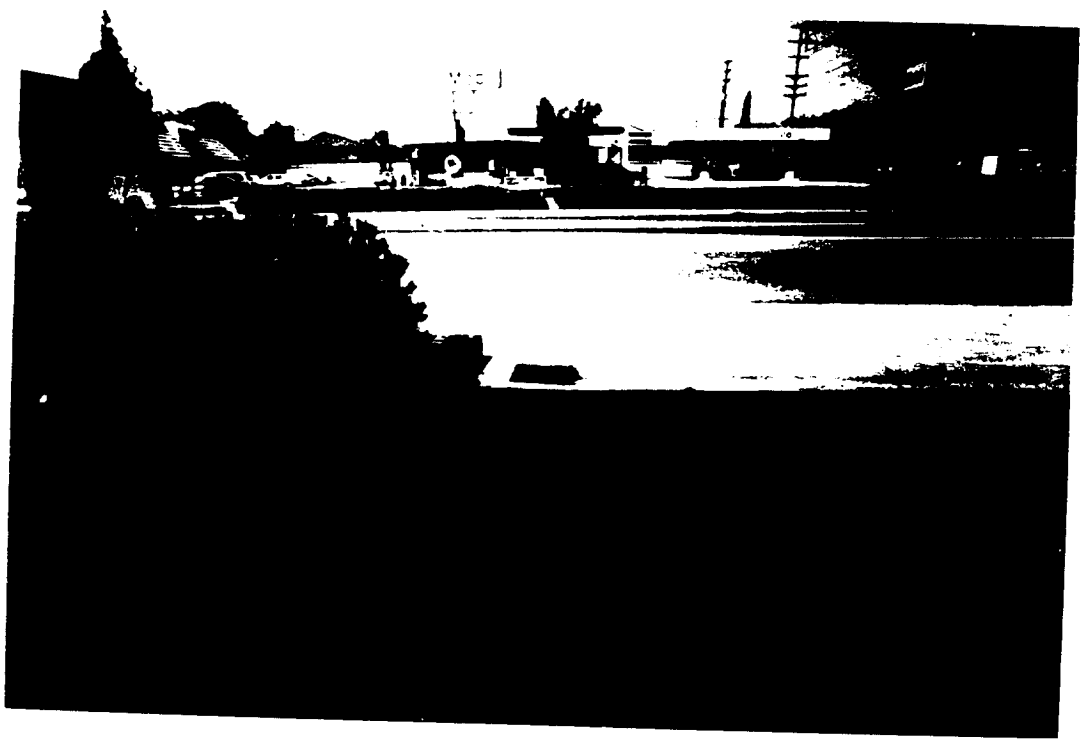
2 OF 4

3 of 4

4 of 4

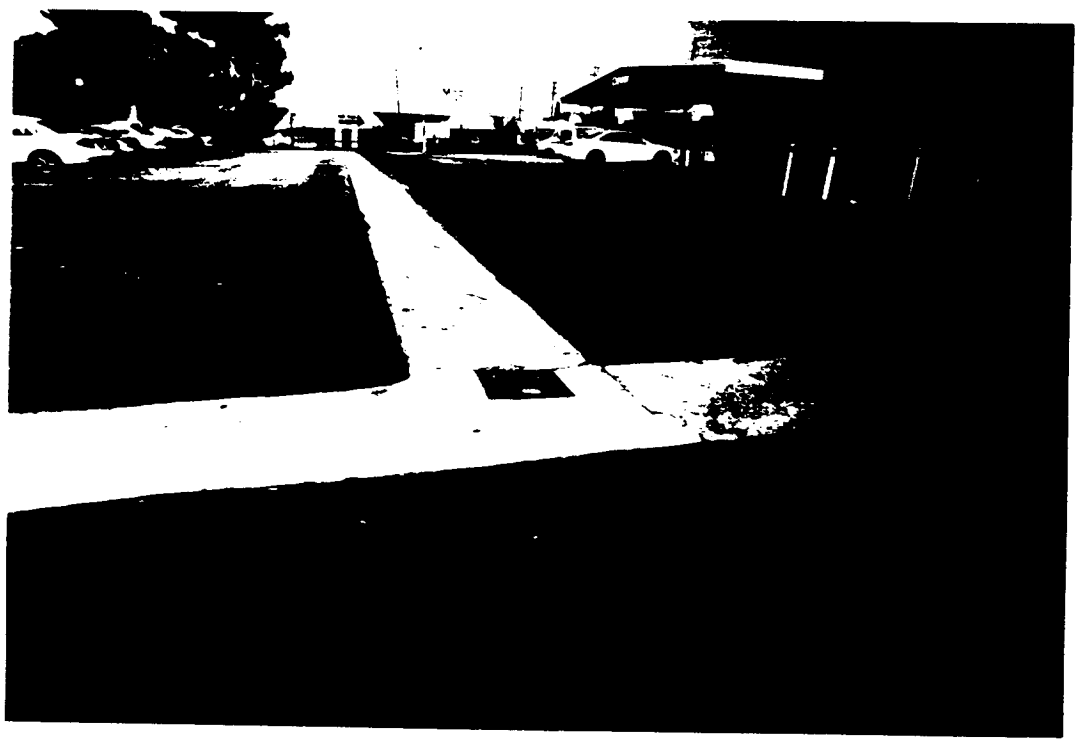
1 OF 4

CHEVRON 2950 NUTWOOD AVE. @ PLACENTIA AVE.
PLACENTIA



2 OF 4

3 OF 4



4 OF 4

1 OF 3

TEXACO - 1107 HACIENDA BLVD. @ GALE, HACIENDA HEIGHTS 91745

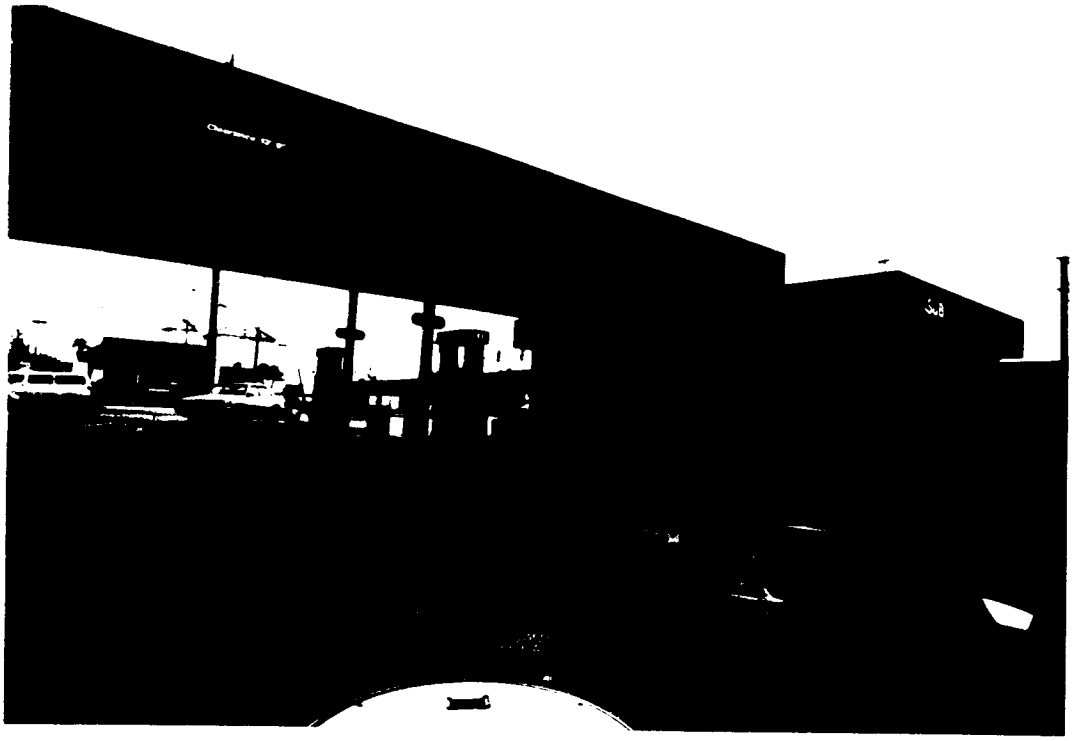
2 OF 3

3 of 3

1 OF 2

SHELL 12810 CRENSHAW @ EL SEGUNDO BLVD., GARDENA

2 OF 2



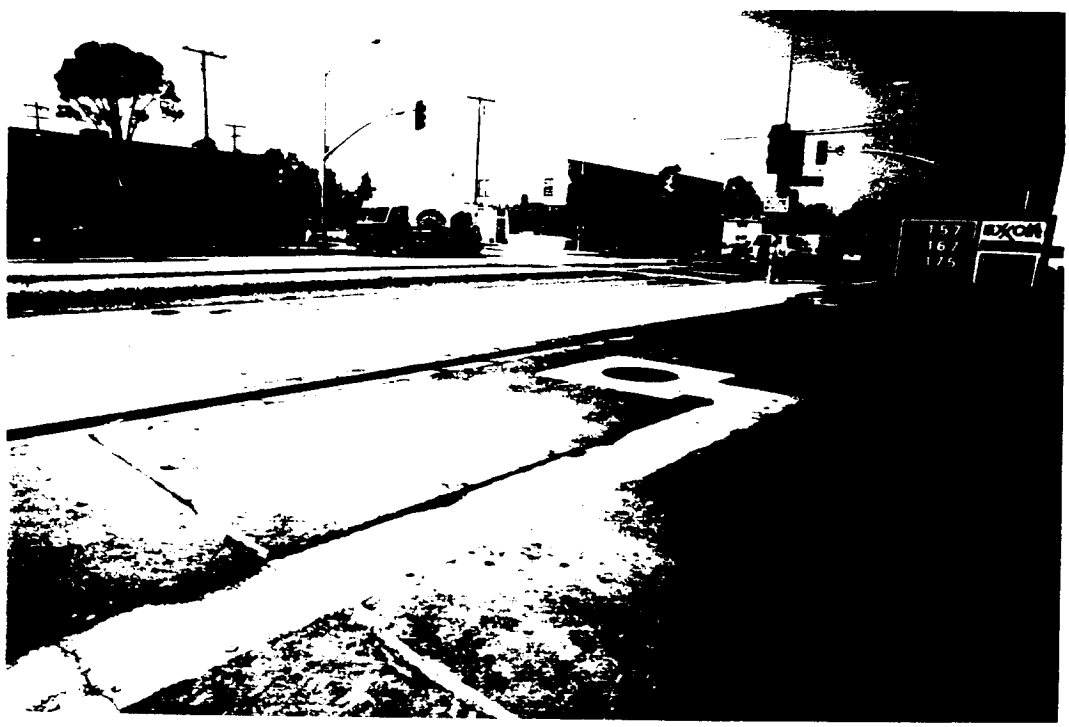
1 of 2

TEXACO – 9915 BROADWAY @ CENTURY, L.A. 90247

2 of 2

1 of 2

EXXON 1801 LINCOLN @ MICHIGAN, SANTA MONICA



2 of 2

1 of 2

CHEVRON 3190 HARBOR BLVD. @ GISLER, COSTA MESA

2 of 2

1 of 4

TEXACO - 1990 DEL AMO BLVD. @ CHERRY, LONG BEACH

2 of 4

3 of 4

4 of 4

1 OF 4

CHEVRON - 4086 LINCOLN @ MINDINAO, MARINA DEL REY

2 OF 4

3 of 4

4 of 4

1 OF 4

UNOCAL 76 7501 WESTERN @ KATELLA, STANTON

2 OF 4

3 of 4

4 of 4

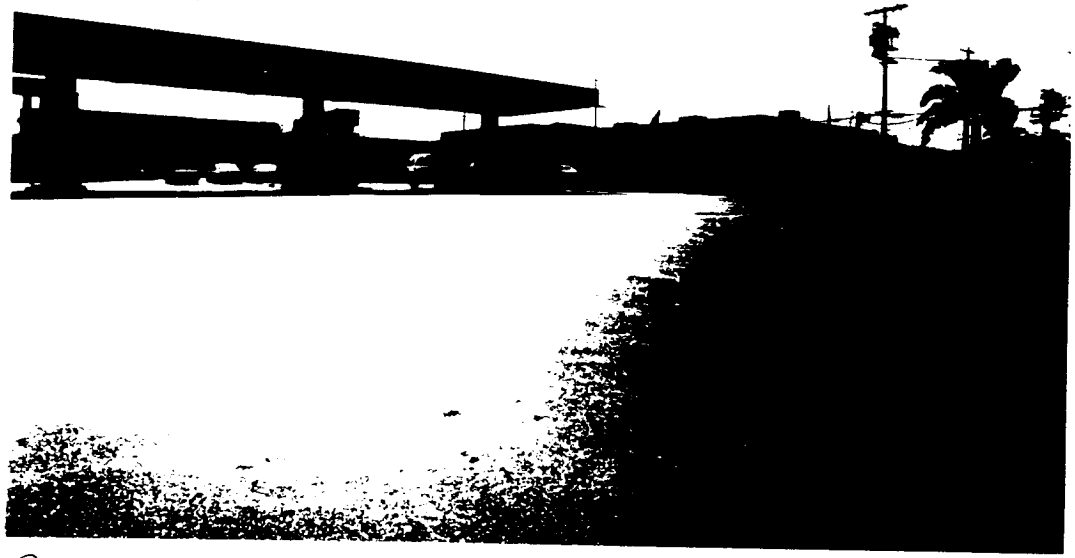
1 of 4

TEXACO 1790 PALOS VERDE @ ATHERTON, LONG BEACH

2 of 4

3 OF 4

4 OF 4



1 OF 3

SHELL 8611 WESTERN @ MANCHESTER, LOS ANGELES

2 OF 3

SHELL

3 of 3

1 of 3

MOBIL - 1803 MANCHESTER @ WESTERN

2 of 3

3 of 3

1 OF 3

TEXACO 19008 NORMANDIE BLVD. @ 190TH, TORRANCE

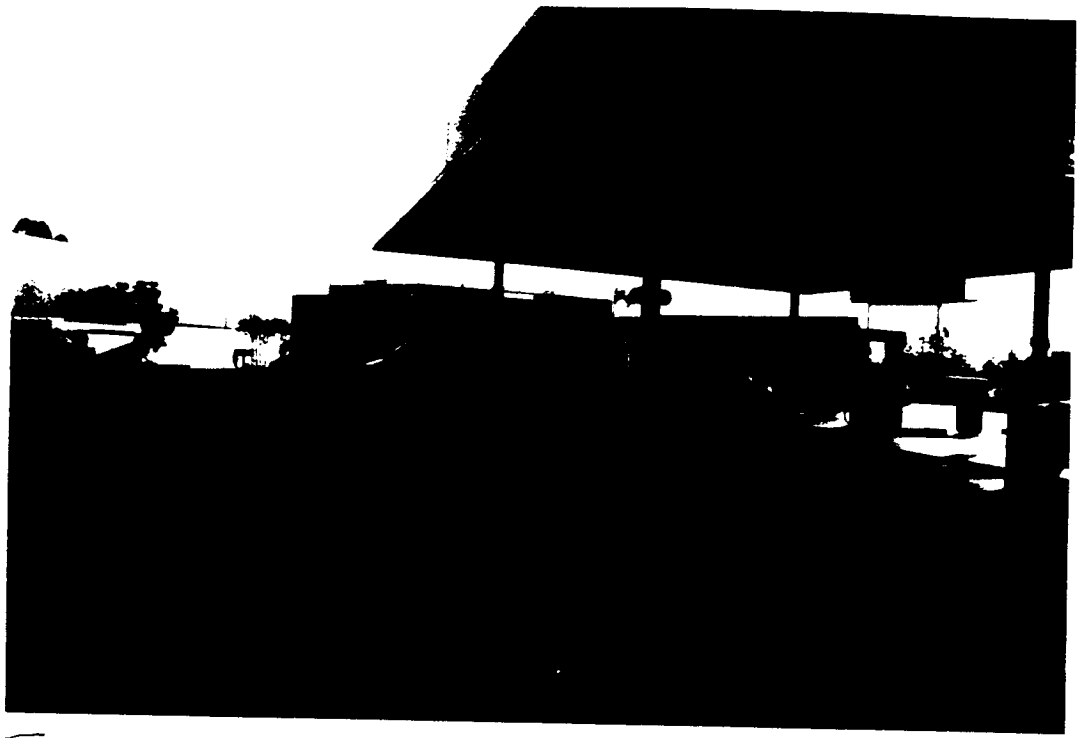
2 OF 3

3 of 3

1 OF 2

CHEVRON - 3085 E. LA PALMA @ KRAEMER, ANAHEIM

2 OF 2



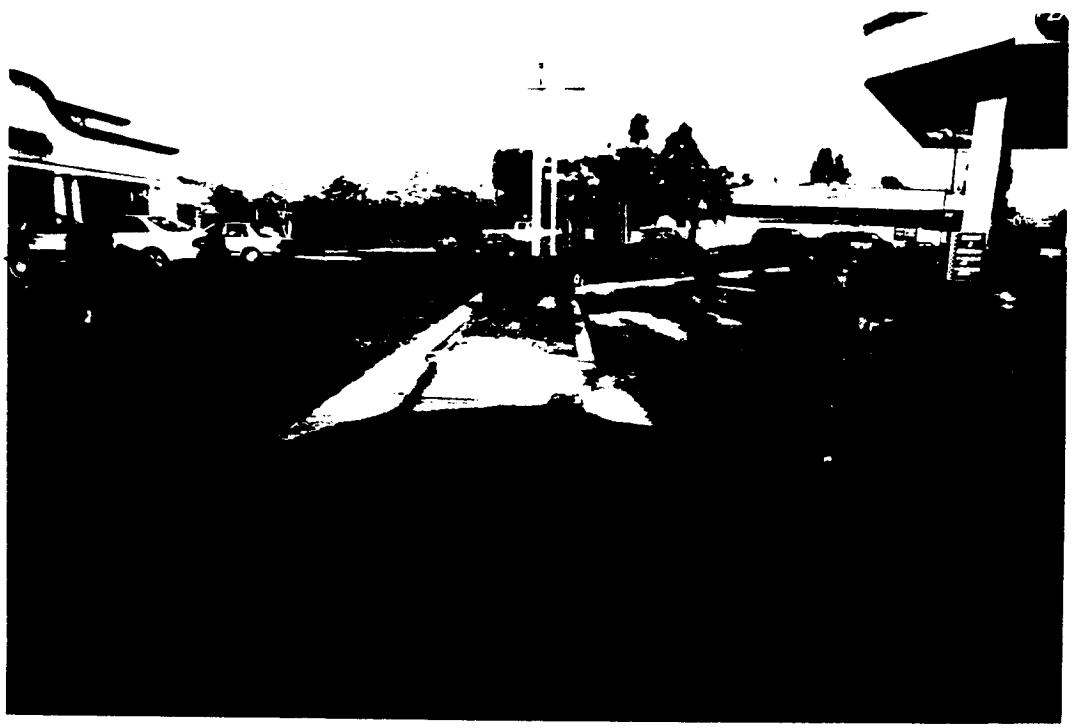
1 OF 2

TEXACO - 3080 E. LA PALMA @ KRAEMER, ANAHEIM

2 OF 2

1 of 2

UNOCAL 76 1801 E. ORANGETHORPE @ RICHFIELD, PLACENTIA



2 of 2

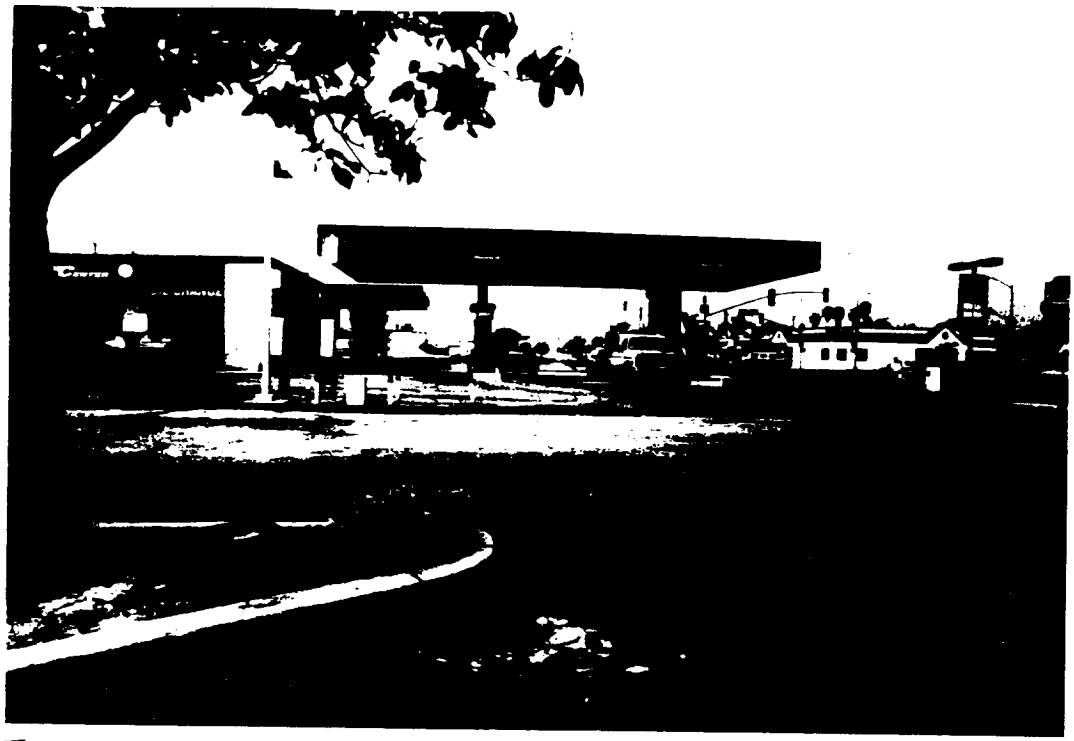
CHEVRON – 9402 ARTESIA BLVD @ CLARK AVE., BELLFLOWER

3 OF 3

DRAIN DEPICTED IS LOCATED AT CORNER OF [redacted] ARTESIA AND CLARK ADJACENT TO RETAIL MARQUIS

ARCO : 10159 ALONDRA BLVD. @ WOODRUFF AVE., BELLFLOWER


1.99



1 of 4

TEXACO: 9800 ALONDRA BLVD @ BELLFLOWER BLVD., BELLFLOWER

2 of 4

DEPICTED DRAIN LOCATED SOUTH/WEST END OF PROPERTY ON BELLFLOWER BLVD.

1 OF 4

MOBIL: 5500 E. SOUTH ST. @ BELLFLOWER BLVD., LAKEWOOD

3 DRAINS LOCATED ON PROPERTY

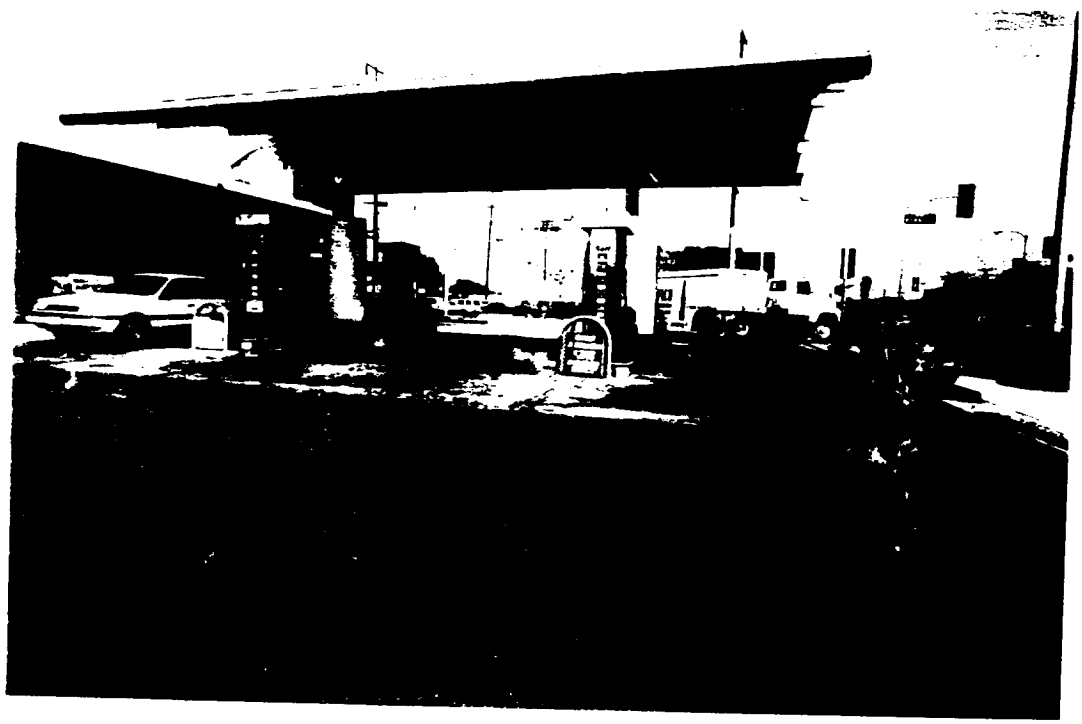
2 OF 4

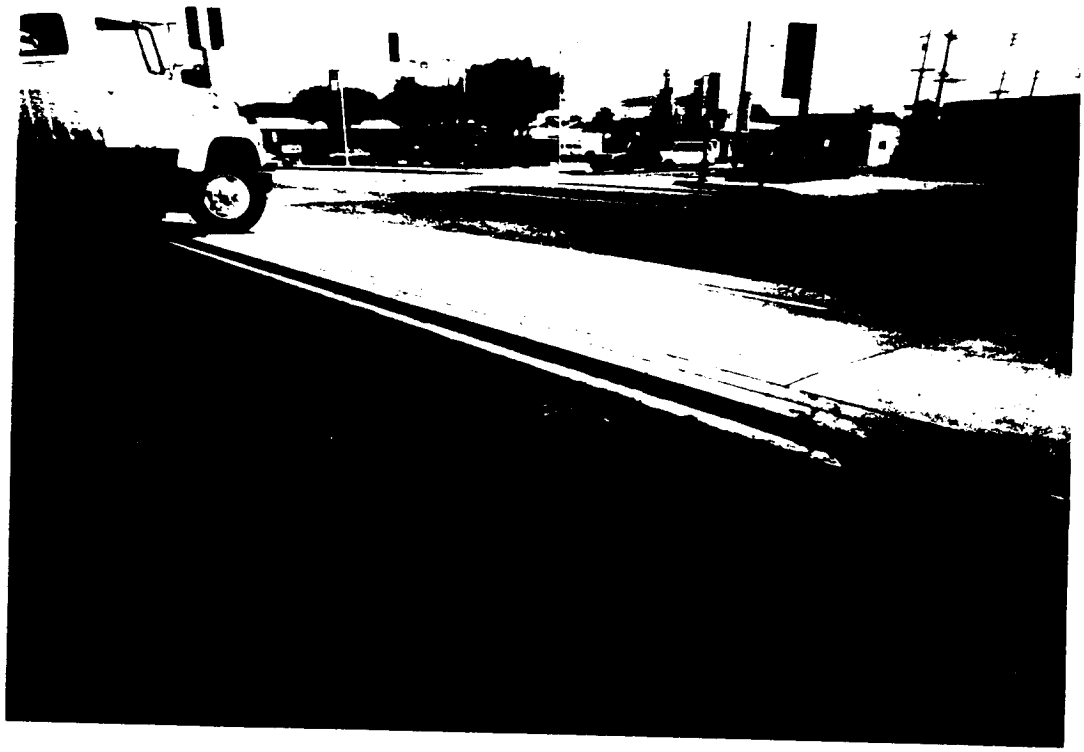
(2) DEPICTED DRAIN LOCATED ON SOUTH/WEST END OF PROPERTY ON BELLFLOWER BLVD.

DEPICTED DRAIN LOCATED AT CORNER OF SOUTH ST. AND BELLFLOWER BLVD. ADJACENT TO RETAIL MARQUIS.

DEPICTED DRAIN LOCATED AT EAST END OF PROPERTY ON SOUTH ST.

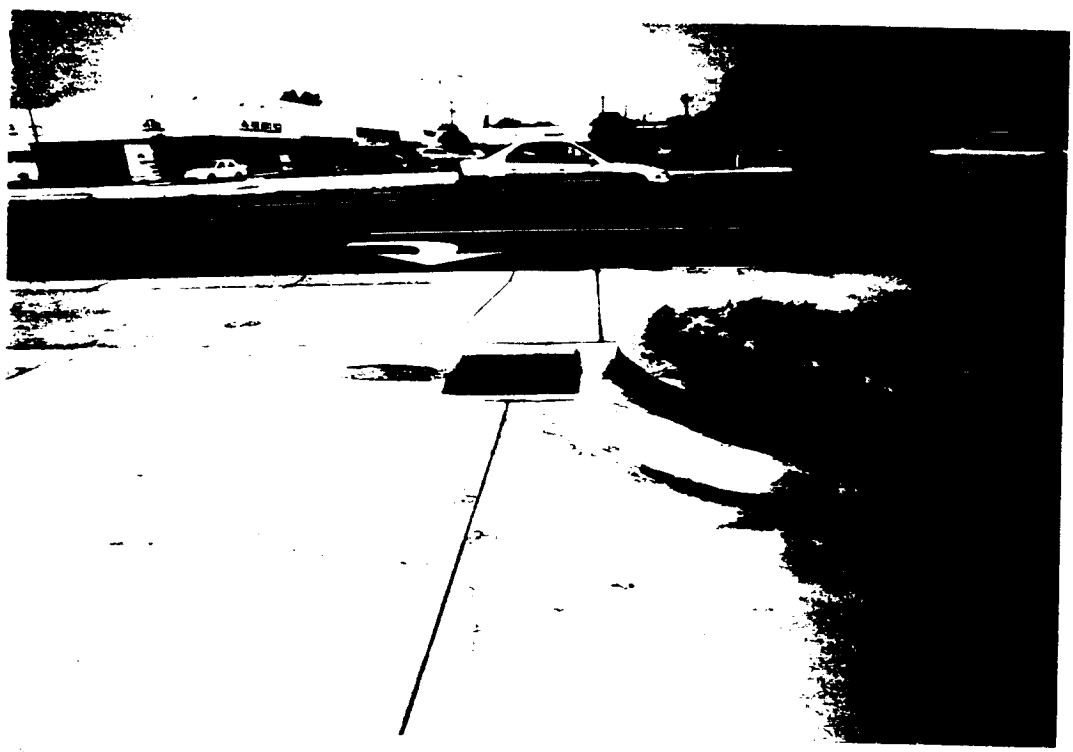
UNOCAL 76 17101 BELLFLOWER BLVD. @ PARK ST., BELLFLOWER





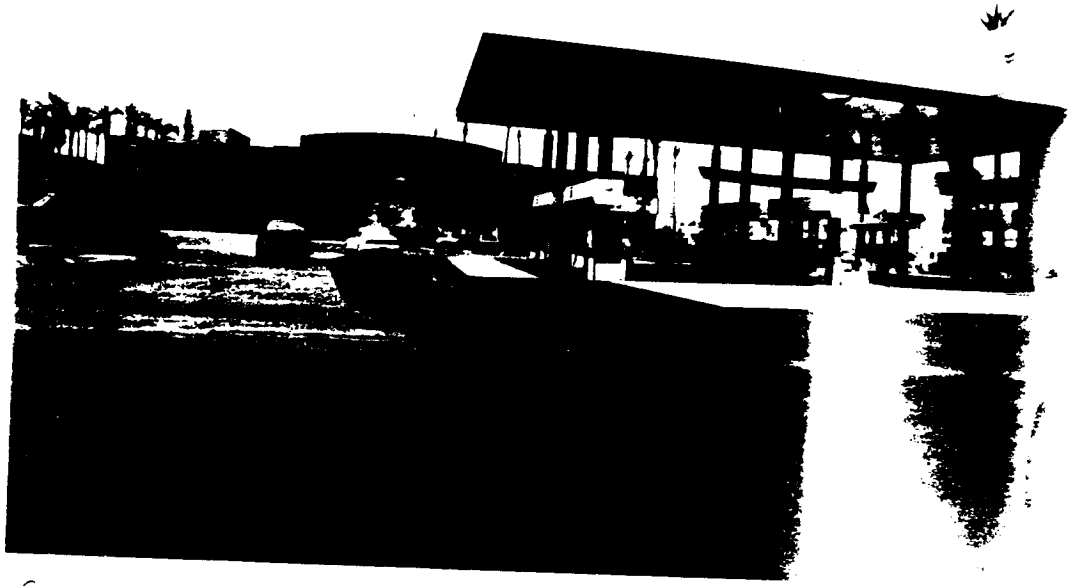
CHEVRON: 5769 BELLFLOWER BLVD. @ SOUTH ST.

LAKEWOOD



CHEVRON: 5769 BELLFLOWER BLVD @ SOUTH ST., LAKEWOOD

DEPICTED DRAIN LOCATED ON SOUTH ST. ENTRANCE.



CHEVRON: 7861 CARSON @ 605 FREEWAY

SINGLE LARGE DIAMETER DRAIN LOCATED BETWEEN STORE AND FUELING PAD

SHELL: CARSON ST. AND PIONEER @ 605 FREEWAY

R0002660

UNOCAL 76: 4870 BELLFLOWER BLVD. @ DEL AMO BLVD.
LAKEWOOD 90713

SHELL: 4905 BELLFLOWER @ DEL AMO BLVD.
LAKEWOOD 90713

CHEVRON: 1730 W. ORANGETHORPE @ BROOKHURST

FULLERTON

SHELL 1800 BROOKHURST @ ORANGETHORPE
FULLERTON

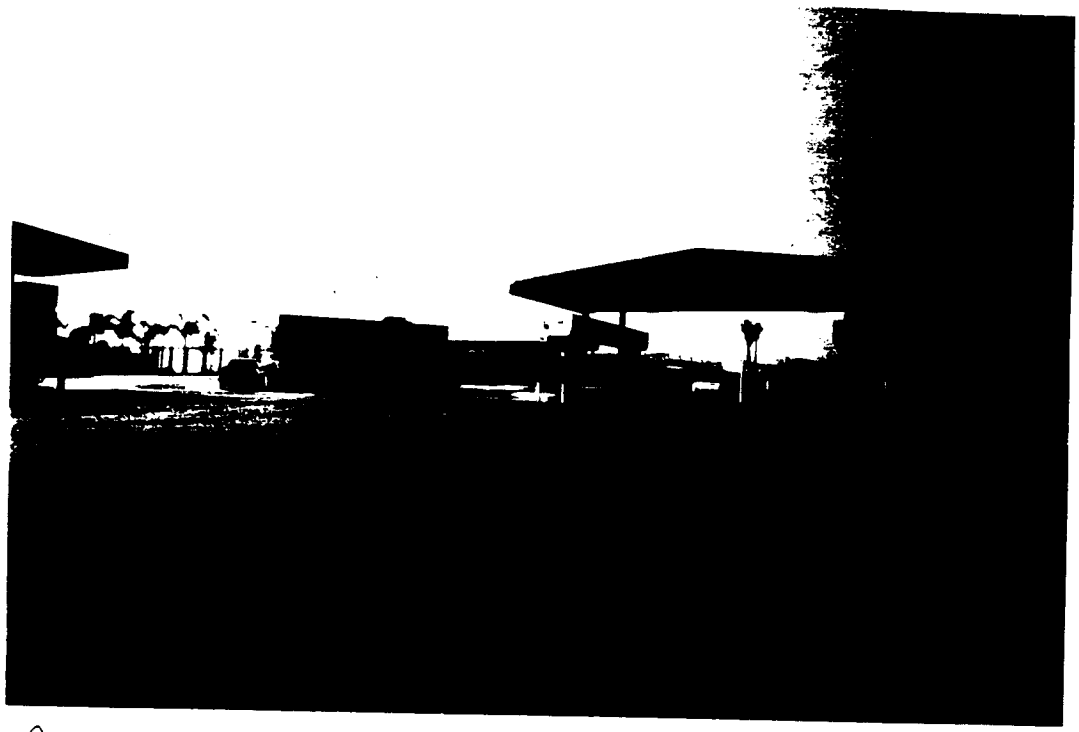
1 of 5

2 of 5

3 of 5

4 of 5

5 of 5



1 OF 4

CHEVRON - 1151 S. HARBOR BLVD @ IMPERIAL HIGHWAY, LA HABRA 90631

2 OF 4

3 of 4

4 of 4

1 OF 3

CHEVRON 101 E. LAMBERT @ EUCLID, LA HABRA

2 OF 3

CHEVRON - 101 E. LAMBERT & EUCLID, LA HABRA

3 OF 3

1 OF 5

CHEVRON – 1950 W. IMPERIAL HIGHWAY @ BEACH BLVD, LA HABRA

2 OF 5

3 of 5

DRAIN DEPICTED BY ARROW IN PHOTO # 3

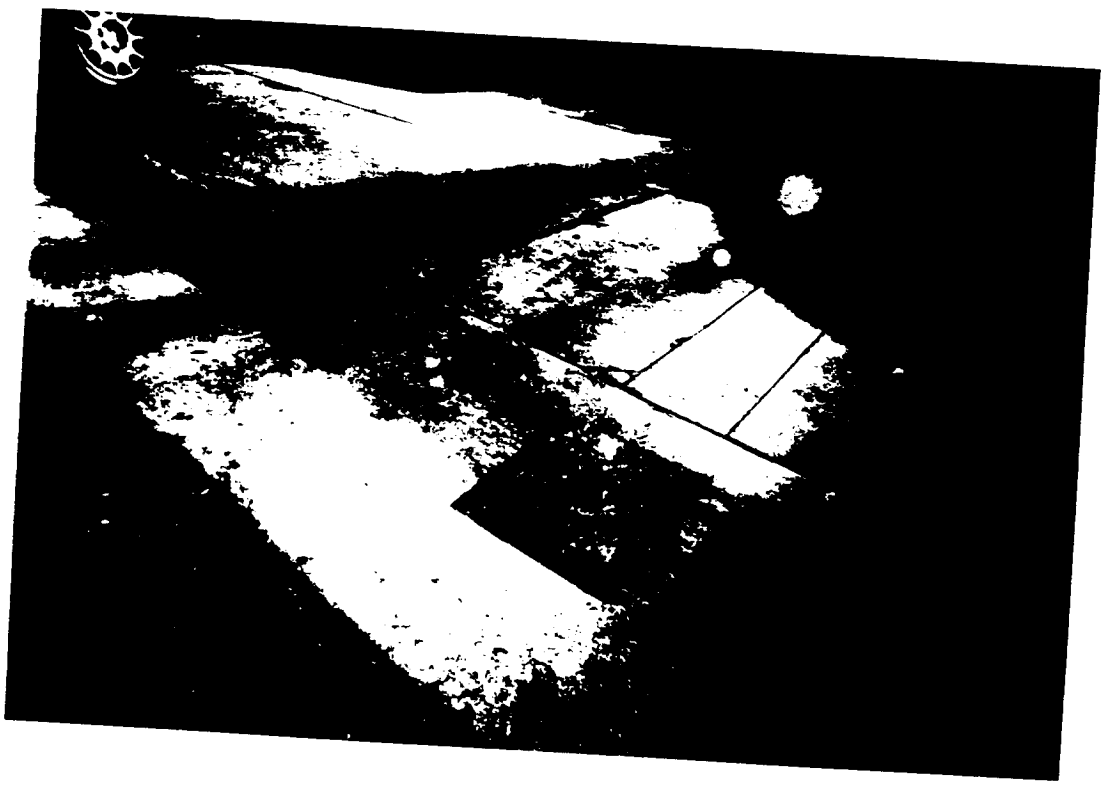
4 of 5

5 of 5

MOBIL – 506 STATE COLLEGE BLVD. @ CHAPMAN AVE., FULLERTON

1 of 4

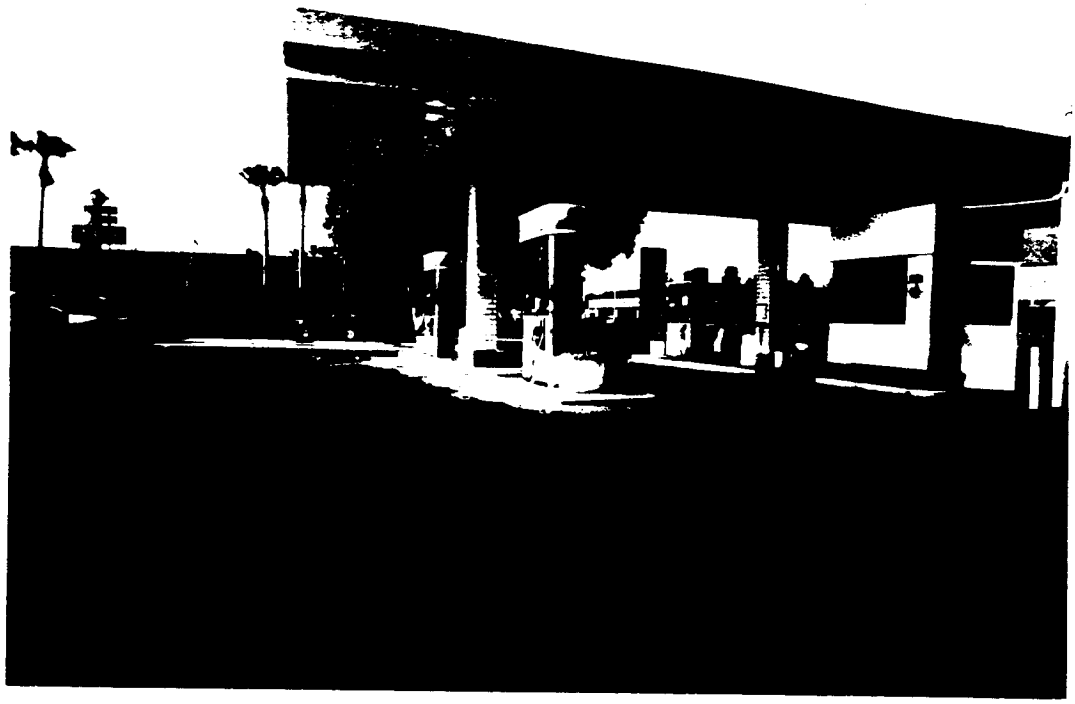
ARCO - 1202 E. ORANGETHORPE AVE. @ RAYMOND, FULLERTON 92831



2 of 4

3 OF 4

4 OF 4

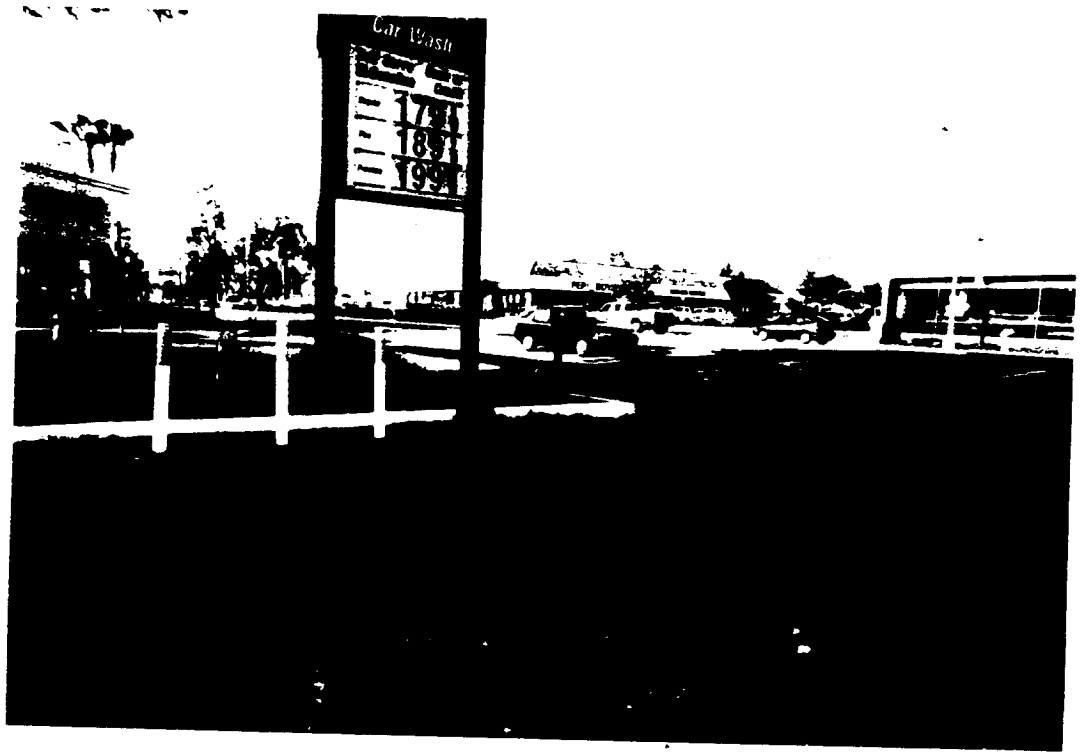


1 OF 3

SHELL - 1625 S. HARBOR BLVD. @ HOUSTON AVE., FULLERTON

2 - DRAINS LOCATED ON PROPERTY

2 OF 3



3 of 3

CHEVRON - 2175 W. LA PALMA AVE. @ BROOKHURST, ANAHEIM

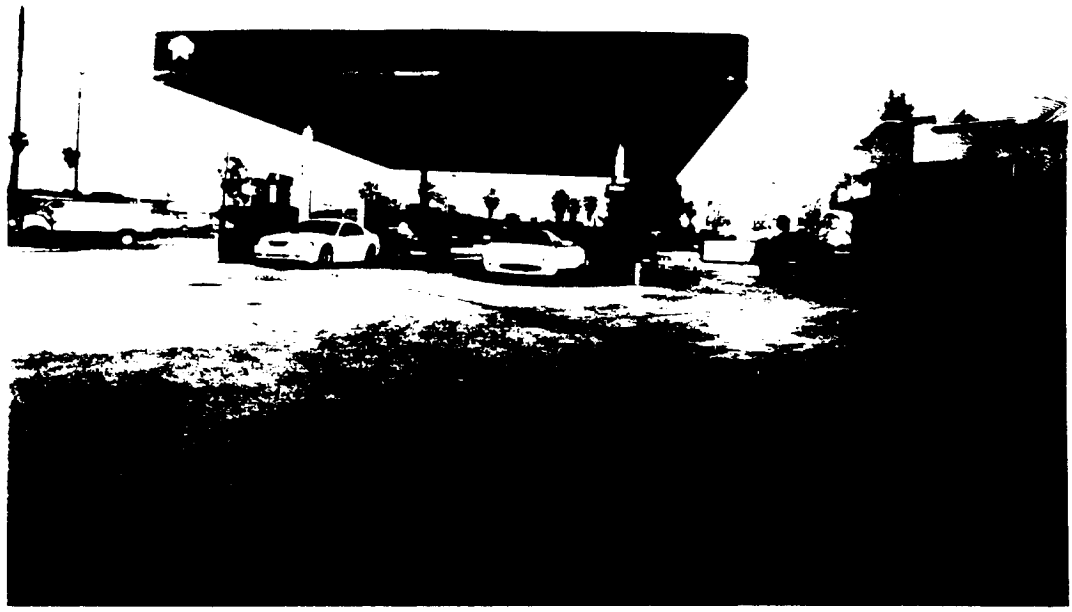
1- DRAIN LOCATED ON PROPERTY

CHEVRON – 17241 TUSTIN @ CARROLL WAY, TUSTIN

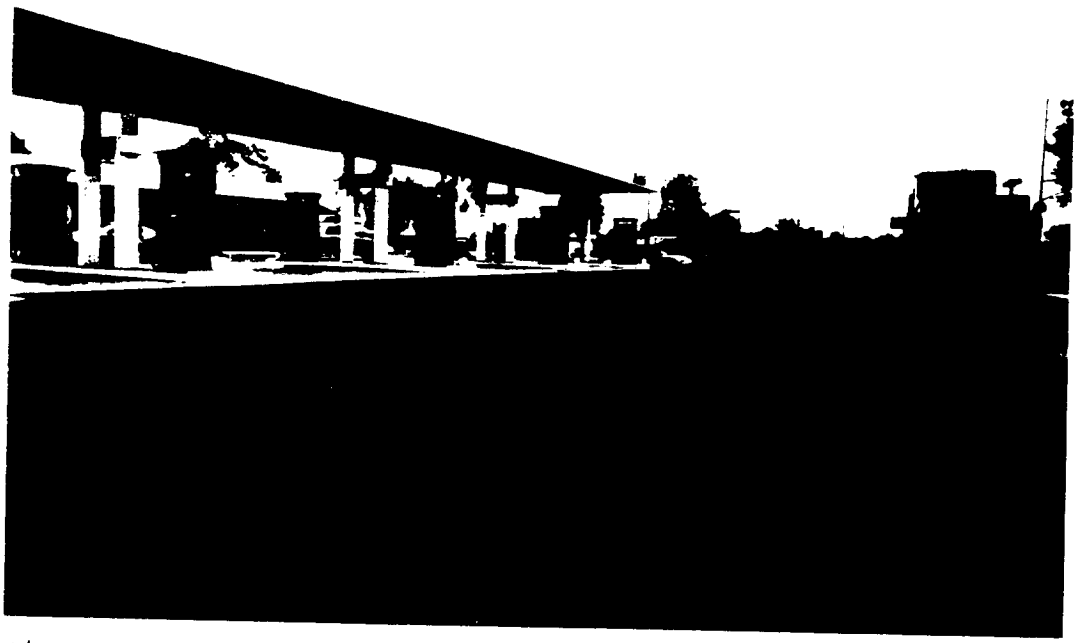
loc 3

2 OF 3

3 OF 3



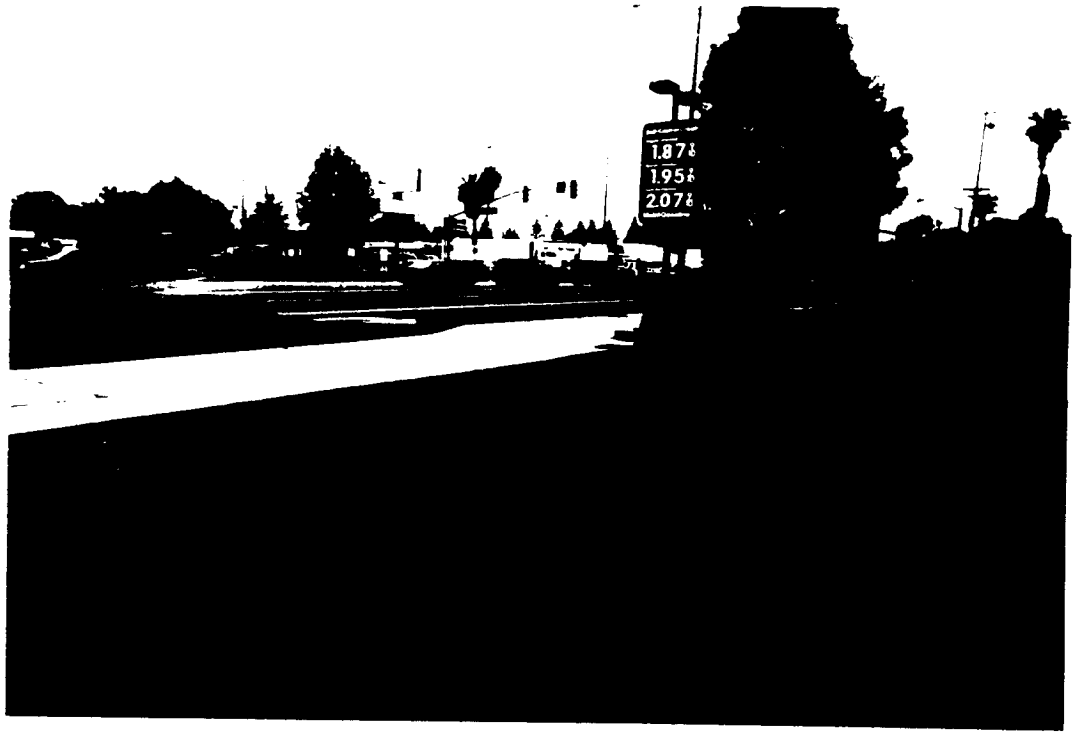
TEXACO - 5650 E. LA PALMA @ IMPERIAL HIGHWAY, ANAHEIM



1 of 4

MOBIL - 4311 SOUTH ST. @ LAKEWOOD BLVD., LAKEWOOD

2 of 4



3 of 4

4 of 4

1 OF 3

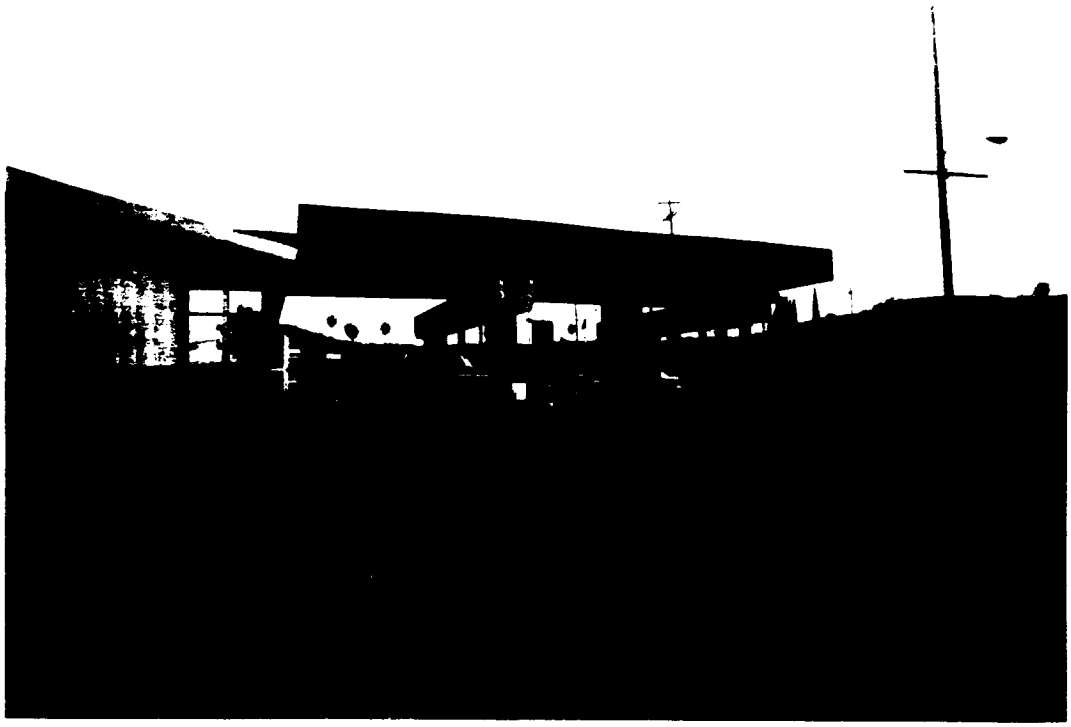
CHEVRON - 4910 LAKEWOOD BLVD. @ DEL AMO, LAKEWOOD

3 - DRAINS LOCATED ON PROPERTY

2 OF 3

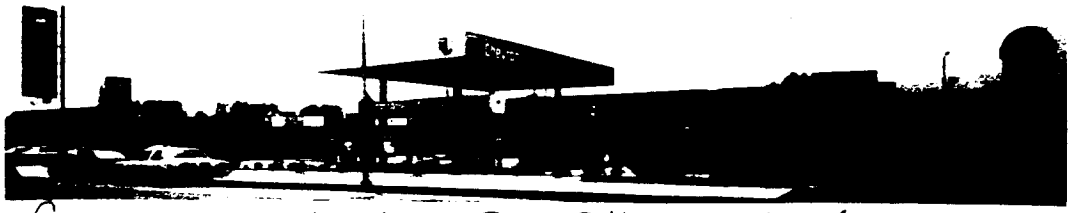
3 of 3

UNOCAL 76 750 HARBOR BLVD. @ WHITTIER BLVD., LA HABRA



CHEVRON – 2356 FULLERTON RD. @ MESCAL, LA HABRA HEIGHTS

1 OF 4



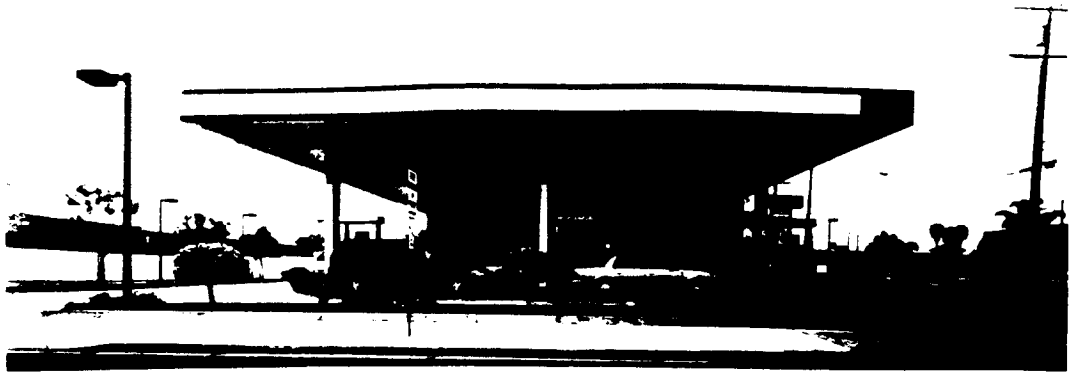
CHEVRON – 11031 LOS ALAMITOS BLVD. @ KATELLA, LOS ALAMITOS

2 OF 4

3 OF 4

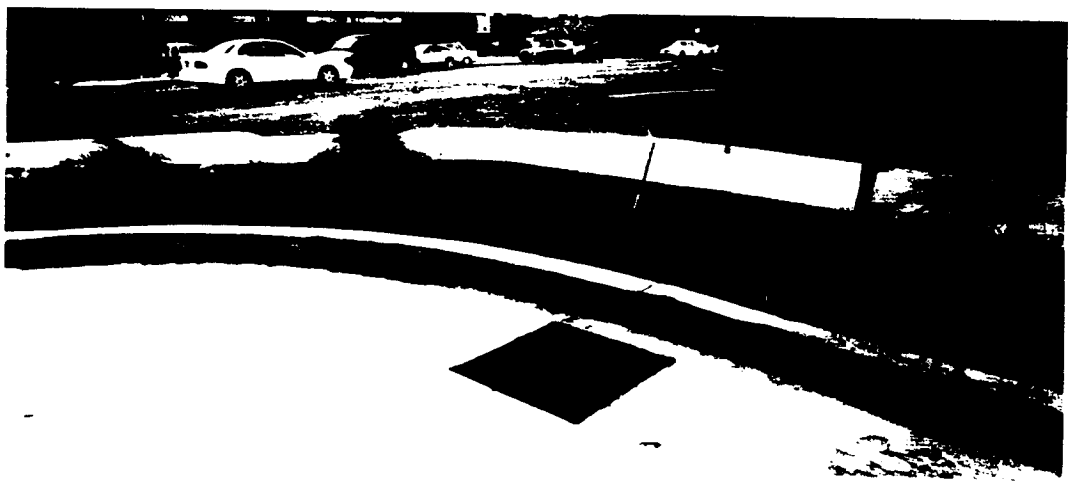
THIS LOCATION INCLUDES A FULL SERVICE CAR WASH

4 OF 4



1 OF 3

ARCO - 11171 LOS ALAMITOS BLVD. @ HEDWIG, LOS ALAMITOS



2 OF 3

2 DRAINS LOCATED ON PROPERTY

3 OF 3

1 OF 5

UNOCAL 76 – 12071 SEAL BEACH BLVD. @ BRADBURY RD.
SEAL BEACH/ROSSMOOR 90740

2 OF 5

3 OF 5

4 OF 5

5 OF 5

CHEVRON - 700 E. IMPERIAL HIGHWAY @ LAUREL, BREA

1 OF 3

CHEVRON - 19751 YORBA LINDA BLVD. @ FAIRMONT, YORBA LINDA

2 OF 3

3 OF 3

1 of 3

CHEVRON – 18121 YORBA LINDA BLVD, YORBA LINDA

2 of 3

3 OF 3

UNOCAL 76 - 2405 IMPERIAL HIGHWAY @ BREA UNION PLAZA SHOPPING CENTER
BREA 3 - DRAINS ON PROPERTY

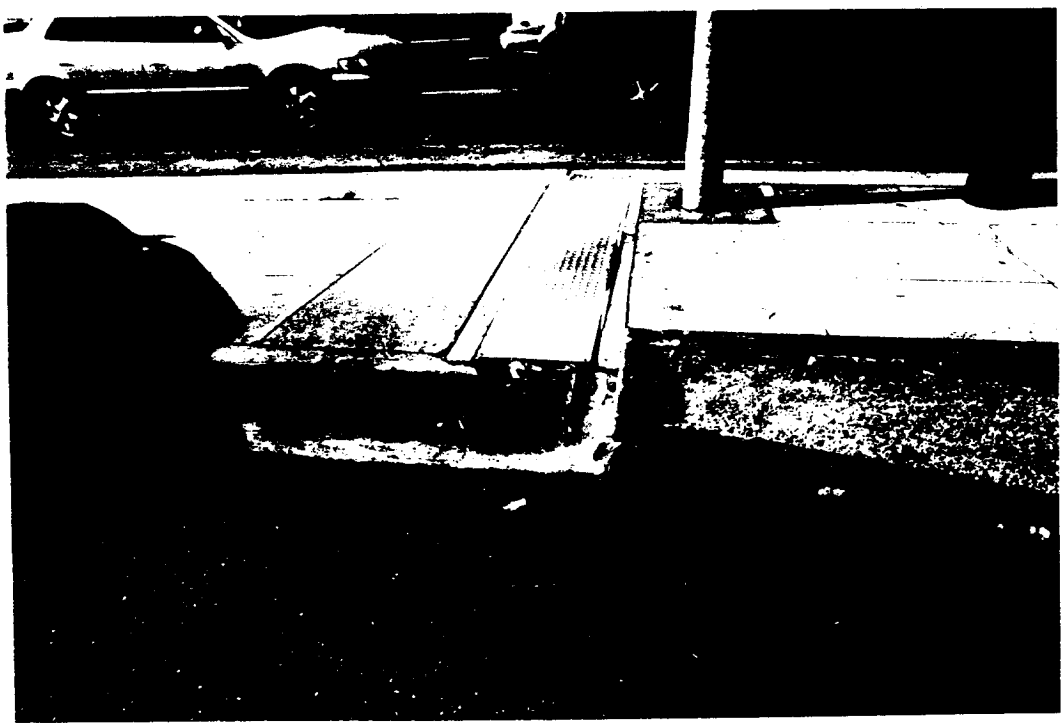
UNOCAL 76 – 2405 IMPERIAL HIGHWAY, BREA

1 OF 4

ARCO – 2840 E. IMPERIAL HIGHWAY @ ASSOCIATED ROAD, FULLERTON

2 OF 4

3 of 4



4 of 4

1 OF 4

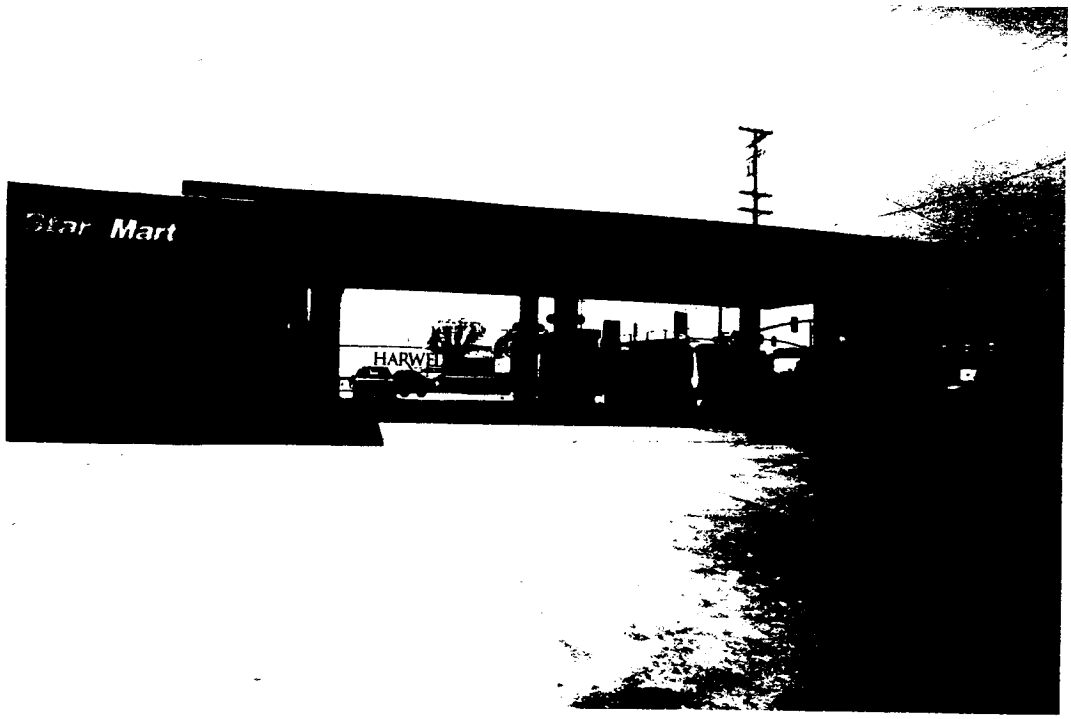
MOBIL – 2800 E. IMPERIAL HIGHWAY @ ASSOCIATED ROAD, FULLERTON

2 OF 4

3 OF 4

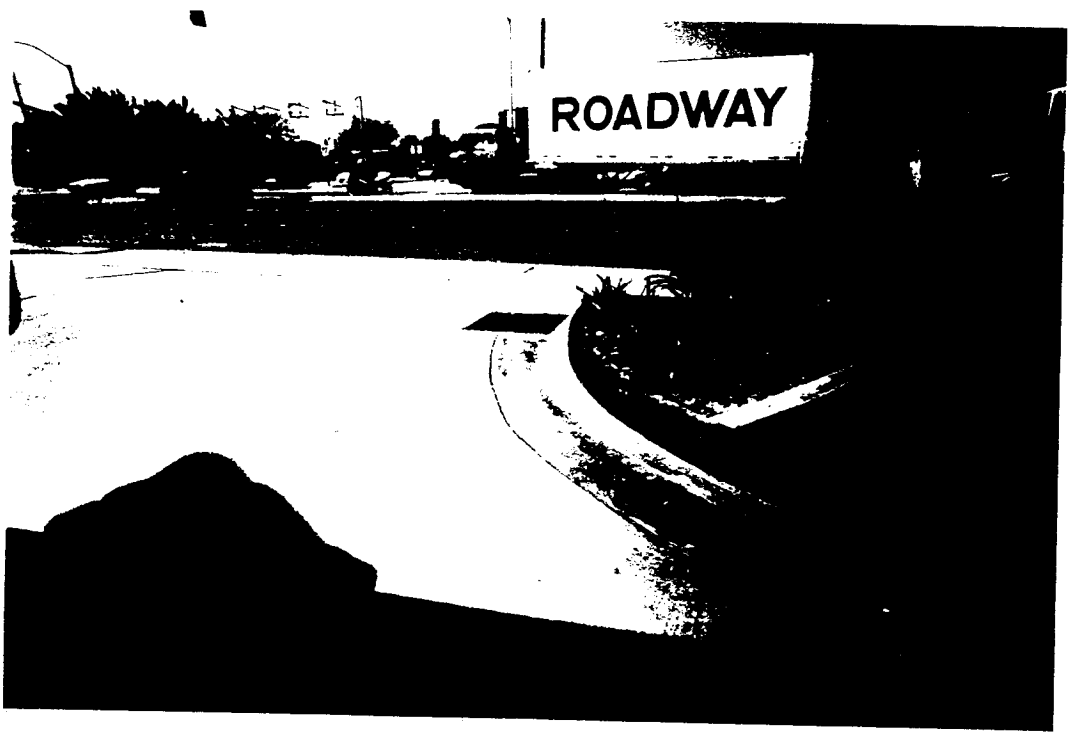
4 OF 4

THRIFTY GAS - 16515 HAWTHORNE BLVD. @ 166TH, LAWNDALE



1 of 4

TEXACO – 10710 ALONDRA @ PIUMA, NORWALK 90650



2 of 4

3 OF 4

TEXACO 10710 ALONDRA @ PIUMA, NORWALK 90650

4 OF 4

SHELL – 10644 ALONDRA @ PIUMA, NORWALK 90650

CHEVRON – 4991 DEL AMO @ LONG BEACH BLVD., LONG BEACH

1 OF 3

ARCO – 16518 HAWTHORNE BLVD. @ 166TH ST., LAWNDALE

2 OF 3

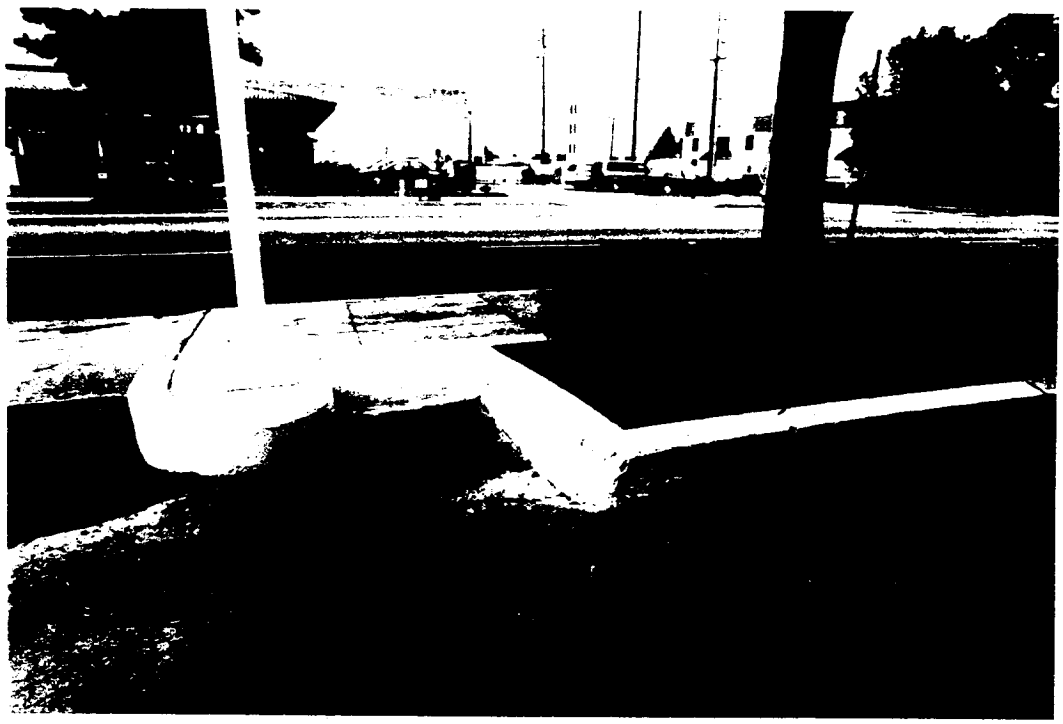
R0002713

1 of 3

SHELL - 242 LEMON @ COMMONWEALTH AVE., FULLERTON

2 of 3

SHELL - 242 LEMON @ COMMONWEALTH AVE., FULLERTON



3 of 3

1 OF 5

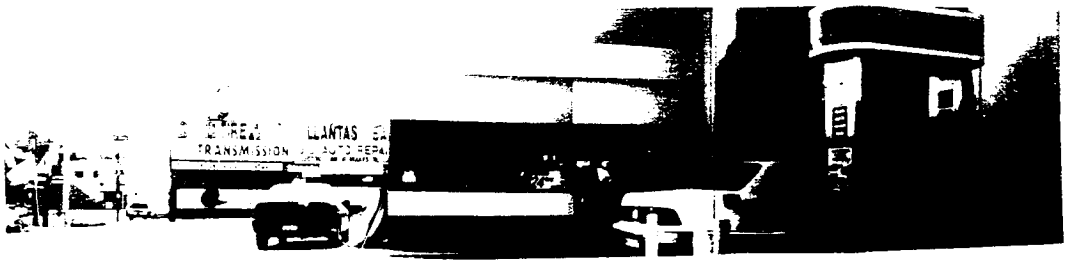
CHEVRON - 313 ORANGETHORPE AVE. @ TAFOLLA ST., PLACENTIA

2 OF 5

3 OF 5

4 OF 5

5 OF 5



1 OF 5

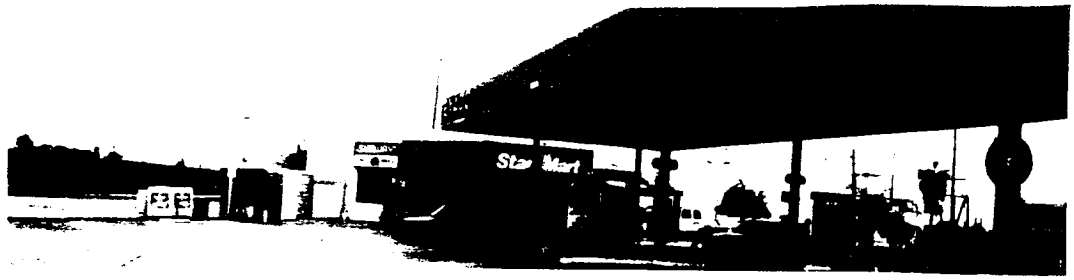
SHELL - 1303 S. WESTERN @ PICO, LOS ANGELES

2 OF 5

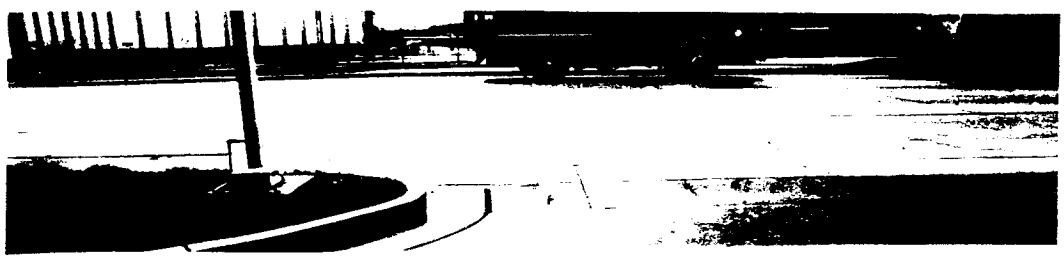
3 OF 5

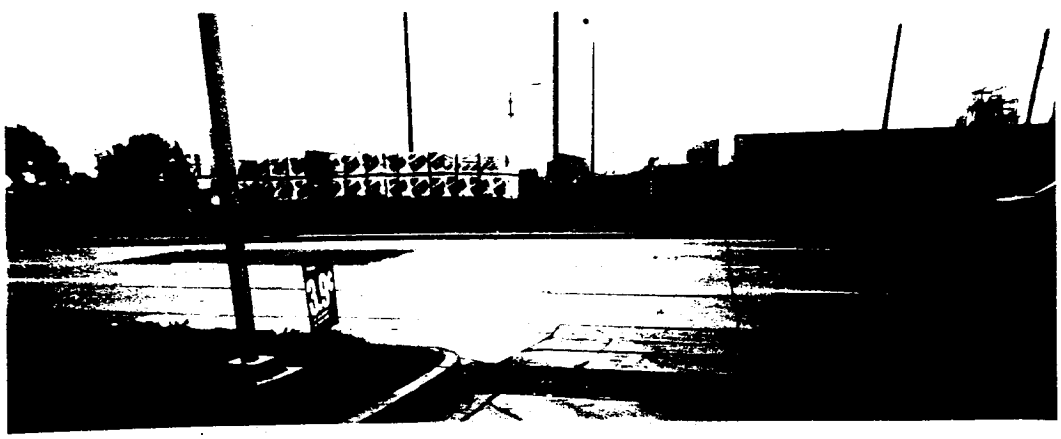
4 OF 5

5 OF 5



TEXACO – 22232 S. WILMINGTON AVE. @ 223RD, CARSON 90745





CHEVRON - 2961 YORBA LINDA BLVD. @ PLACENTIA AVE., FULLERTON

WSPA
Western States Petroleum Association
Western States Petroleum Association
Credible Solutions • Responsive Service • Since 1907

2001 JUN 15 P 3:15

June 15, 2001

Mr. Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

RE: WSPA Comments on the April Draft NPDES Stormwater Permit for Los Angeles County (NPDES No. CAS614001)

Dear Mr. Swamikannu:

The Western States Petroleum Association ("WSPA") appreciates the opportunity to submit comments on the Regional Board's April 13, 2001 Draft Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges in Los Angeles County (NPDES No. CAS614001) (the "Draft Permit"). WSPA is a trade association representing approximately thirty companies engaged in all aspects of the exploration for, production, refining, transportation and marketing of petroleum and petroleum products in the Western United States. WSPA is concerned that the requirements affecting retail gasoline outlets (RGOs) in the Draft Permit will impose significant unnecessary costs and expenses on WSPA members, will not result in a demonstrable environmental benefit, and may, in fact, cause unintended harm to the environment.

Due to WSPA's prior involvement with the Los Angeles Standard Urban Stormwater Mitigation Plan (SUSMP), we were surprised that WSPA was not provided any notice of the April workshop or of the May 16, 2001 comment deadline until after the fact. On June 8, 2001, Wendy Phillips of your office apologized for this oversight. She invited us to submit comments on the Draft Permit by June 15 and promised that such comments would be included in the administrative record. We appreciate Ms. Phillips' offer to accept WSPA's comments and include them as part of the record in this proceeding.

In addition, on June 12, 2001 we received a "Technical Report" prepared jointly by staff of the Los Angeles and San Diego Regional Boards which discusses the proposed design standards for RGOs. We understand that any comments on the Technical Report must be submitted by August 6, 2001 to be included in the administrative record. We intend to provide additional comments concerning that document at a later date and reserve the right to supplement or amend these comments based upon our review of the Technical Report.

COMMENTS

1. **Stormwater Pollution at RGOs is Best Controlled By Implementation of the Task Force BMPs.**

WSPA is convinced that the best means to control any stormwater pollution at retail gasoline outlets is through the implementation of the best management practices (BMPs) for retail gasoline outlets published by the California Stormwater Quality Task Force in March 1997 (the "Task Force BMPs"). The Task Force BMPs were developed specifically for retail gasoline outlets by the California Stormwater Quality Task Force, an advisory body comprised of stormwater regulatory agencies. The Task Force BMPs are available on the Internet at the California Stormwater Quality Task Force's website www.stormwatertaskforce.org. The stated purpose of the Task Force BMPs is to assist municipal agencies and retail gasoline outlets in attaining compliance with storm water regulations. By controlling potential sources of stormwater pollution from retail gasoline outlets at their source, the Task Force BMPs will prevent and/or reduce pollution in a safer, more cost-effective and effective manner than the structural treatment controls required by the Draft Permit.

There is no evidence in the record that retail gasoline outlets present a storm water pollution problem that cannot be managed by implementation of the Task Force BMPs. The Task Force BMPs are primarily a list of source control BMPs. The Draft Permit explains that source control BMPs "aim to prevent storm water pollution by reducing the potential for contamination at the source of the pollution." Draft Permit, Part 5, p. 52. Such source control BMPs are required through SUSMPs and WSPA does not object to making retail gasoline outlets subject to appropriate source control BMPs such as those identified in the Task Force BMPs.

WSPA notes that on June 30, 1999, the Regional Board required that discharge of storm water runoff in retail gasoline outlet developments be managed in accordance with the Task Force BMPs by specific reference in Part 4.D.12. of the Municipal Storm Water Permit for the City of Long Beach. (Order No. 99-060, NPDES No. CAS004003, p. 18). The Long Beach permit did not include the numeric design standard contained in the Draft Permit. In adopting the Long Beach permit, the Regional Board found that the permit was acceptable and "when fully implemented, is expected to be consistent with the statutory standard of Maximum Extent Practicable (MEP)." Id. at 2, ¶ 7. WSPA does not understand what benefit additional structural treatment devices would provide over and above the benefits of implementing the Task Force BMPs. WSPA is not aware of any evidence in the record to show that retail gasoline outlets present a storm water pollution problem that cannot be managed by implementation of the Task Force BMPs.[1]

[1] Although WSPA intends to submit detailed comments concerning the June 2001 Technical Report at a later date, WSPA notes that the Technical Report completely fails to recognize, address or discuss the Task Force BMPs. The glaring omission of any discussion or analysis of the Task Force BMPs in the Technical Report shows that the Regional Board has not adequately considered all of the relevant guidance in California on this subject.

WSPA urges the Regional Board to exclude retail gasoline outlets from the application of the numerical design criteria and instead mandate the implementation of the best management practices described in the Task Force BMPs for retail gasoline outlets.

2. **There Is No Justification For Requiring RGOs To Build Structural Treatment Devices.**

Subsection Part 4.C.5.e of the Draft Permit would require retail gasoline outlets to build structural treatment devices. This requirement is not justified. According to the State Board's Order WQ 2000-11 (the "Order") any future mandate of numeric design standards for structural treatment at retail gasoline outlets must be supported by "proper justification." By failing to provide adequate justification for making RGOs subject to design standards, the Los Angeles Draft Permit violates the precedent of the Order.

In the Order, the State Board concluded that any future attempt to subject retail gasoline outlets to numeric design standards must be supported with proper justification. Order WQ 2000-11, p. 23. The Order stated:

> We conclude that because RGOs are already heavily regulated and may be limited in their ability to construct infiltration facilities or to perform treatment, they should not be subject to the BMP design standards at this time, and recommend that the Regional Water Board undertake further consideration of a threshold relative to the size of the RGO, number of fueling nozzles, or some other relevant factor. This Order should not be construed to preclude inclusion of RGOs in the SUSMP design standards, with proper justification, when the permit is reissued.

Id (emphasis added).

The implementation of the Task Force BMPs would render structural treatment devices and numeric sizing criteria superfluous and lacking in benefit. No evidence has been presented, let alone "proper justification," to show that the Task Force BMPs are inadequate to prevent water quality impacts from stormwater runoff from retail gasoline outlets.[2]

3. **The Draft Permit Requirements Applicable to Retail Gasoline Outlets Exceed the "Maximum Extent Practicable" Standard of the Clean Water Act.**

The Clean Water Act only requires that storm water control measures be implemented to the "maximum extent practicable." 33 U.S.C. § 1342(p)(3)(B). As the record shows, the Task Force BMPs meet this standard for retail gasoline outlets. The Draft Permit structural treatment requirements and use of numeric design criteria, however, are neither effective nor practical for retail gasoline outlets.

[2] To the extent that the Regional Board intends to rely upon the Technical Report as an after-the-fact justification for applying structural treatment controls, WSPA believes the Technical Report is inadequate and will address the many defects of the Technical Report in detail in WSPA's subsequent comments on the Technical Report.

Retail gasoline outlets should not be required to apply the Draft Permit's "belt and suspenders" approach in light of the unique practical problems of implementing structural treatment controls at retail gasoline outlets.

First, infiltration is not an appropriate method of treatment for a retail gasoline outlet. Infiltration provides a direct pathway for liquid runoff to soak into the soil and could lead to groundwater contamination from accidental spills of gasoline since infiltration mechanisms do not distinguish between gasoline and stormwater runoff. Accidental spillage is caused by events which are beyond the control of the station owner/operator (e.g. motorist carelessness during refueling, the motorist driving off with the hose/nozzle still in the fuel tank fill neck, and accidental spillage during gasoline deliveries). Such events are recognized and incorporated into the Task Force BMPs.

The problems with infiltration at an RGO were recently recognized by the San Diego Regional Board in their adoption of San Diego's NPDES permit. In the Response to Comments prepared by the San Diego Regional Board in the proceeding, the San Diego Regional Board stated: "SDRWQCB staff agree that infiltration BMPs should not be employed at RGOs." Response to Comments, p. 189.

There is insufficient evidence in the record to show that catch-basin inserts and oil/water separators are effective for controlling stormwater pollutants at retail gasoline outlets. In fact, a recent study shows that the effectiveness of such devices has not been proven. See "Investigation of Structural Control Measures for New Development" by Larry Walker Associates, Inc. (November 1999); Task Force BMP Guide, p. 5.

The Rouge River study cited by the Regional Board does not impugn this conclusion since it did not evaluate the impact on water quality, test how the pollutant concentrations in stormwater runoff changed as a result of the use of filters or examine how implementing source control practices might have achieved better results. According to a principal author of the Rouge River study, the facilities chosen for the study did not use source control measures (i.e. BMPs) and were instructed not to do so during the study period.

Other types of treatment devices which might be used to meet the Draft Permit requirements (such as oil/water separators, sand filters, and compost filters) would require that an additional subterranean structure be built beneath the retail gasoline outlet. Such enclosed spaces can allow gasoline and gasoline vapors to mix with air, resulting in a potentially hazardous situation and result in public safety concerns.

Based on the record, there is no evidence to justify requiring retail gasoline outlets to build structural treatment controls and to meet numeric design standards as required by the Draft Permit. By imposing additional controls on retail gasoline stations beyond those that are practicable, the Regional Board exceeds its authority under the Clean Water Act.

4. **The Draft Permit Fails to Incorporate Certain Task Force BMP Provisions Required By The State Board's Order WQ 2000-11.**

In its Order WQ 2000-11, the State Board required the implementation of specific source control best management practices (BMPs) for RGOs such as those recommended in the Task Force BMPs. Order WQ 2000-11, p. 23 n.50. The Order stated:

> The mandatory BMPs that are included in the SUSMPs may be adequate to achieve MEP at RGOs, but the Regional Water Board should add additional mandatory BMPs, such as use of dry cleanup methods (e.g. sweeping) for removal of litter and debris, use of rags and absorbents for leaks and spills, restricting the practice of washing down hard surfaces unless the wash water is collected and disposed of properly, annual training of employees on proper spill cleanup and waste disposal methods, and the inclusion of BMPs to address trash receptacle areas and air/water supply areas.

Id. at pp. 22-23.

While Part 4.C.3.b.5. of the Draft Permit requires the implementation of a model SUSMP which would affect retail gasoline outlets, the Draft Permit fails to implement the specific source control best management practices required by the State Board. The Draft Permit should reference the Task Force BMPs to ensure that the specific source control BMPs discussed by the State Board in its Order are included in the SUSMPs for RGOs.

5. **The Threshold For Application Of the Numeric Standards to RGOs Is Overly Broad.**

To the extent that the Regional Board persists in attempting to mandate structural treatment controls for RGOs, the Regional Board must make a closer examination of an appropriate threshold for such regulation. The Draft Permit suggests the following criteria: "projected gasoline output of 25,000 gallons per month or more; or with four or more fueling dispensers, or with 24 or more dispensing meters or projected average daily traffic of 100 cars or more or 5,000 square feet or more of surface area" Draft Permit, p. 32. Use of these criteria in the alternative would cover virtually every RGO in Los Angeles county which will be constructed or remodeled.

These proposed criteria in the Draft Permit conflict with the recent Technical Report, which suggest application of the following two thresholds in conjunction: "(i) creates 5,000 square feet or more of impervious surface; and (ii) has a projected trip generation of 100 or more motor vehicles ADT." Technical Report, p. 9. The Regional Board appears to take these criteria from regulations in Washington and Oregon without any further analysis or justification. To the extent that the Regional Board intends to apply a threshold to RGOs, such a threshold must be chosen based on independent justification and analysis, rather than simply parroting language used in a different regulation of another state.

While WSPA will address the proposed threshold levels in more detail in its later comments concerning the Technical Report, WSPA objects to the threshold as proposed in the Draft Permit, since the threshold levels are so overbroad that they would include almost every RGO in Los

Angeles County. WSPA is unaware of any analysis of the average daily traffic at RGOs in Los Angeles undertaken by the Regional Board or any studies which show that stormwater runoff at large-volume stations requires additional treatment beyond application of the Task Force BMPs.

As discussed earlier, WSPA recommends that RGOs be excluded from application of the numeric standards entirely and instead regulated by application of the Task Force BMPs. To the extent that the Regional Board intends to apply a threshold, the Regional Board is obligated to undertake a thorough analysis of appropriate criteria and provide independent justification which has not been done here.

6. **The Regional Board Did Not Adequately Evaluate Economic Considerations.**

The Regional Board performed no meaningful analysis to determine whether any of the specified numerical design standards would be economically achievable or reasonable if applied to retail gasoline outlets. Porter-Cologne requires the Regional Board to evaluate "economic considerations" when establishing waste discharge requirements and water quality standards. Porter-Cologne, Water Code Sections 13241(d) and 13263(a). Substantial evidence before the Regional Board shows that such numeric standards are unnecessary, expensive and would provide little or no environmental benefit. In fact, such standards could result in an environmental detriment, public safety issues, or both. As one example, infiltration at retail gasoline outlets will likely cause subsurface contamination as accidental spillage of gasoline is directed into the soil because infiltration mechanisms do not distinguish between gasoline and stormwater runoff

Constructing structural treatment devices at RGOs will require significant design, construction and maintenance costs. In particular, to comply with the Draft Permit requirements, expensive pump stations may be required to operate underground stormwater treatment devices in some locations. Because the Regional Board has no reasonable basis to show that the numerical design standards in the Draft Permit are economically reasonable or practicable for RGOs, the Regional Board's application of such requirements to retail gasoline outlets is arbitrary, capricious and contrary to its authority.

7. **The Draft Permit Violates Section 13360 of the Water Code By Requiring RGOs to Construct Structural Treatment Devices.**

The Regional Board is prohibited from specifying the "design, location, type of construction, or particular manner" for compliance with a waste discharge requirement or other Regional Board order. Porter-Cologne, Water Code § 13360(a). For RGOs, the Draft Permit would mandate construction of structural treatment devices rather than allowing use of BMPs. By requiring implementation of specified numeric design requirements to mitigate storm water runoff at RGOs, the Draft Permit violates Section 13360 of the Water Code.

8. **The Regional Board Did Not Satisfy CEQA Requirements.**

The Regional Board's action will have a significant impact on the environment because it would require many new construction projects to implement specific post-construction controls, which, in the case of retail gasoline outlets at least, could have potentially significant adverse effects on groundwater. Since the proposed numerical design standards are not federally required and they

will significantly affect the environment, the Regional Board must follow CEQA requirements if it wishes to adopt such standards. Among other requirements, CEQA requires an environmental assessment of the reasonably foreseeable methods by which compliance will be achieved including an analysis of alternative means of compliance. See 14 C.C.R. § 15187.[3] To WSPA's knowledge, the Regional Board has not complied with such CEQA requirements in adopting the Draft Permit.

9. **The Regional Board Did Not Comply with the Administrative Procedure Act.**

The Regional Board did not follow the requirements of the California Administrative Procedure Act (APA). The APA applies because the Draft Permit requirements for retail gasoline outlets are a standard of general application which meets the APA definition of a regulation. See Government Code Section 11342. Government Code Section 11352(b) does not exempt the Draft Permit from the APA because this provision only exempts required "waste discharge requirements and permits" and, as described above, the Draft Permit requirements exceed what is required by the Clean Water Act. Therefore, the Regional Board's adoption of the numeric design standards is a quasi-legislative action and the APA applies.

10. **The Numeric Design Standards Are An Unfunded Mandate.**

The Draft Permit's numeric design standards also constitute an unfunded mandate prohibited by the California Constitution. See Cal. Constitution Art. 13B § 6. Since the Draft Permit requirements exceed what is required by federal law, such limits are not "costs mandated by the federal government." Government Code Section 17513. Consequently, since the numeric design standards do not qualify as a federal mandate, the Regional Board's order is invalid because it does not provide for appropriate funding.

In conclusion, the Draft Permit's imposition of unnecessary and potentially harmful standards on retail gasoline outlets beyond what is practicable under the Clean Water Act is improper. WSPA respectfully urges the Board to modify the Draft Permit by exempting retail gasoline outlets from the structural treatment controls and the numeric design standards, and, instead, to mandate the effective and appropriate BMPs contained in the Task Force BMP Guide. Finally, as we stated at the beginning of the letter, WSPA will be providing more detailed comments concerning the Technical Report and the Draft Permit in the near future.

Sincerely,

Ronald Wilkniss

[3] While the Regional Board may contend that the Draft Permit is exempt from CEQA by reason of Water Code Section 13389, that section only exempts the adoption of federally-mandated waste discharge requirements and permits. See Water Code § 13372; Committee for a Progressive Gilroy v. State Water Resources Control Bd., 192 Cal. App. 3d 847 (1987). As discussed above, the Clean Water Act only requires stormwater controls to the "maximum extent practicable" and the imposition of impracticable controls such as the numeric sizing criteria and structural treatment requirements for retail gasoline outlets are not federally required. Since the Draft Permit requirements imposed on retail gasoline outlets are not federally-mandated and could cause environmental degradation, CEQA review is required.

Ballona Creek /Santa Monica Bay Watershed

May 15, 2001

Mr. Dennis Dickerson, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, California 90013-1105

2001 MAY 18 P 2:09

Dear Mr. Dickerson,

As per your request, the following are comments regarding the first draft of the upcoming NPDES Permit for the municipalities in LA County. These comments have been discussed at the watershed meeting by the member cities (listed below) and are herby submitted to you on their behalf. Your serious consideration in incorporating these comments is highly appreciated. Please call me at 562-802-7880 extension 29 if you have any questions.

Sincerely,

Sheila Kennedy
Chair

Specific comments are:

FINDINGS

***Item 10*: Storm Water Management Plan is acceptable**

This item states that the proposed Storm Water Management Plan submitted by the County was acceptable. If this is the case, then there appears to be no reason for the changes in structure and requirements in the proposed permit.

The Model Programs (or SWMP, or SQMP) in the previous permit

were generally in continuous development, up until the approval of the SUSMP program in late 2000. Why are they now being changed again?

Item 39: Enforcement Authority

The draft permit requires the permittees to perform some enforcement actions for the State Permit, but specifically states in this finding that the enforcement authority for NPDES permits belongs to the Regional Board.

Typographical Error - This section should read "...in the Los Angeles Region for the two statewide..."

Part 1 – Discharge Prohibitions

Section 2

The procedure for permittees to petition for exemption of a discharge has been removed with no explanation, and the authority for adding or removing items from the list given to only the Executive Officer.

Part 2 – Receiving Water Limitations

Section 2.3.a

The procedure does not make sense. The Permittees are not responsible for water quality monitoring, so how will they know when they are exceeding water quality standards?

Section 2.A

This section exempts the County (the Principal Permittee) from ensuring the compliance of any of the co-permittees, but does not do the reverse (exempt the co-permittees from ensuring the compliance of the County).

Section 2.A.1

This section states that the Principal Permittee will negotiate NPDES requirements with the Board. The permit should not be written to give the impression that the Co-permittees are giving up their right to negotiate the permit with the board directly, if the EAC or County hold a contrary position.

Section B.2 and B.6

The coordination and facilitation elements of these two items are effectively duplicates. They should be combined, or one removed.

Part 3 – SQMP Implementation, Monitoring and Reporting

Section 3.C

This section requires the WMC to do several things, with no real guidelines (i.e. prioritize pollution control efforts, develop-update-monitor adequate implementation, etc.). It seems as if the Board

wants to set up the WMC as a middle oversight body rather than as an information exchange body.

Another difficulty is that several "prioritization" items are assigned to the WMC, but there is no requirement that an individual permittee comply with anything from the WMC. Either the WMC should be given enforcement authority over the permittees, or the "prioritization" should be left up to the individual permittees, since they are ultimately responsible, not the WMC.

Section 3.D

There are no requirements for any actions by the EAC, although there are actions referred to in other sections. These responsibilities should be consolidated here.

Section 3.E.1

This appears to in essence be a duplicate of Part 3, B.5. It also implies that there would be elements of the SQMP that are NOT consistent with the terms of this permit. This should be reworded or removed as unnecessary.

Section 3.F

There should be a consistent method referenced for modification of the SQMP. In various areas this is noted as both the responsibility of the permittees and the principal permittee. As the SQMP is a "county wide" document and part of the permit itself, isn't it true that any change should involve all the permittees? If the change is only to an individual permittees program, then the permit should state that, and not use the SQMP terminology.

Section 3.G

This section covers the legal authority of the Permittees. Is this area intended for the permittees to constantly be revising their ordinances? Is there a way to write a general ordinance, and just change the implementation policy every time the SQMP is changed?

Section 3.G.1.m and 3.G.1.n

This requires that the City control discharges from sites under the GIASP and GCSP. This seems to result in either a) a duplicate enforcement process, or b) the City being the enforcing body for the State requirements. Neither is acceptable, since in the first case this is basically unnecessary duplication, and in the second not the City's responsibility to enforce the state permit.

Section 3.G.1.p

The permit requires an ordinance "effective immediately upon the adoption of this Order." Is it even legally possible to write an ordinance adopting permit requirements that have not yet been

finalized?

Section 3.H

This section requires copies of "...any proposed changes to the SQMP and its components...". Per Part 3 Section F, changes to the SQMP must be either approved by the Board or done at the request of the Board. Why include additional copies of something they already have?

Section 3.I

The budget reporting system should be revised based on the difficulties encountered so far. There should be a consistent way of determining which budget line items to report, and the submittal date should be based on the City's fiscal year.

Section 3.K

This item should be included in Part 3 Section F.3

Part 4 – Special Provisions

Part 4.A – Public Information

Section A.1.c

The permit does not state who will be responsible for the new signage, the city that the "designated access point" is in, or the owner of the channel?

Part 4.B – Industrial Commercial Inspections

Section 4.B

As this program has been changed in focus from education to inspection and enforcement, it should be moved to the ICID program for ease of reference.

Part 4.B – Industrial Commercial Inspections

Section 4.B.1

This sentence is unclear. Permittee shall require use of what by businesses. It appears to mean require use of the program itself, but that is not possible.

Part 4.B – Industrial Commercial Inspections

Section 4.B.2

On it's face, this requirement appears to include every industrial or commercial business in the City. This is contradictory to the existing permit, which required visits based on the type of business and the potential for exposure. Under the older program, there was always the opportunity and requirement to add businesses that were found to be potential polluters.

Part 4.B – Industrial Commercial Inspections

Section 4.B.3.c

This item should be clarified to indicate who is required to do the inspections. Is this intended for the County Health Department to take over storm water inspections at restaurants? If so, who is considered responsible if exceedances occur?

Part 4.B – Industrial Commercial Inspections

This table can be significantly simplified by just stating that any business shall be inspected every 24 months, not less than twice

Section 4.B.5.b

during the permit (since all inspection requirements are identical).

Part 4.B – Industrial Commercial Inspections

Section 4.B.5.d

How is the permittee to determine if the board has made an inspection or not? This is indeed an irrelevant section, since even if the Board HAS inspected the site, that will not eliminate the potential liability if something were to occur and the City had NOT inspected it, therefore it would be in the Cities best interest to inspect it anyway.

Part 4.B – Industrial Commercial Inspections

Section 4.B.6.a

Please specify what sanctions would satisfy this requirement (financial, criminal, etc.).

Part 4.B – Industrial Commercial Inspections

Section 4.B.7.a

This notification requirement is burdensome and confusing. If there is a violation of a City ordinance, the City is the enforcing agency. Such a broad definition of "non-compliance" would result in a very large number of "violations" being referred to the board, which would normally be handled by the City in an educational manner (educational materials, follow up letter, one or two informal follow up inspections). These are normally single incidents, either accidental or by someone who hadn't been adequately educated at the time, and are typically not repeated once the situation is explained to them. What the Board would do with this information is unclear, since a violation of a City ordinance may not be a violation of a Board order that they could enforce, and such incidents are reported in the Annual Report.

Additionally, if there is a violation of a State requirement, the State is the enforcing agency (see Item 39) and has not delegated that responsibility formally to the Cities. Although the City may be able to review information that a business submits to the State (an SWPPP for example) to ensure that it also meets City standards, the City does not have the authority to determine whether or not a given SWPPP is in compliance with State requirements. The City cannot perform the State's job function in this manner.

And, as was discussed at length during the previous permit, the Cities do not have the authority to require a given business to obtain a State permit, since it is solely the States responsibility to determine whether or not an NPDES permit is necessary for a given site. A City can require that a business provide proof that they are complying with state requirements (such as an NOI), but do they now keep duplicate records listing all the businesses that have been determined NOT to require a permit? (i.e. Category 11

	dischargers with no exposure)
Part 4.C – Development Planning ***Section 4.C.3.c***	SUSMPs have been developed for each of the other types of projects (listed in section C.3.b), but no equivalent standard for projects in Environmentally Sensitive Areas (ESA) has been developed. Since projects in these areas could take any number of forms, it is unlikely that a "standard" plan could be effectively developed. Also, as of this draft of the permit, a list of these "ESA"s has not been provided for review.
Part 4.C – Development Planning ***Section 4.C.9***	It is unclear what authority the City has to regulate property transfers between two private parties. Is the City now to keep track of each property transfer and maintain records on who is responsible for maintenance of a site?
Part 4.C – Development Planning ***Section 4.C.10***	This section is completely unclear as to its intent and specifics.
Part 4.C – Development Planning ***Section 4.C.12***	Most cities are on a set schedule to update general plans (5 years or so), as such the 540 day deadline should be changed to the next scheduled general plan revision.
Part 4.C – Development Planning ***Section 4.C.14***	This should be assigned to the Principal Permittee, since it is intended to be a countywide consistent document.
Part 4.D – Development Construction ***Section 4.D.1.a***	This should be clarified further. Is it intended that City personnel attend all such meetings or workshops, or merely to provide information for voluntary distribution during such meetings?
Part 4.D – Development Construction ***Section 4.D.1.c***	Several of the items listed in the "minimum BMPs" are not actually BMPs. If a minimum list is envisioned, it should be spelled out here.
Part 4.D – Development Construction ***Section 4.D.2***	The statement that a Local SWPPP can replace a State SWPPP should be removed, as it is not relevant to the Local SWPPP requirements.
Part 4.D – Development Construction ***Section 4.D.3***	Permittee inspectors additional actions must be limited to local ordinances and codes, since they do not have the authority to enforce state laws in this case.

	The phrase "...if non-compliance continues..." is vague, a set method and rational for referring sites to the Board should be determined to avoid confusion.
Part 4.D – Development Construction ***Section 4.D.4.b***	Without additional rationale, the requirement of an "electronic system" is not justified. Smaller cities may not have a number of grading permits that would justify the expense of installing a new tracking system. Does the Board intend to eventually require electronic submittal of all grading permits? If so, a standardized format should be developed now for ease of future integration.
Part 4.E – Public Agency Activities ***Section 4.E.1***	Details for the sections on Parking Facilities Management, Public Industrial Activities, and Dry Weather Diversions have been omitted from this draft.
Part 4.E – Public Agency Activities ***Section 4.E.2***	Does the Board intend for the CMOM provisions to take the place of the Sewer section of the Public Agency program? If so, this should be specified.
Part 4.E – Public Agency Activities ***Section 4.E.4.f***	A blanket requirement to reduce use, storage and handling is not useful, some guidelines (i.e. reduction from what amounts?) must be provided.
Part 4.E – Public Agency Activities ***Section 4.E.5***	There is a numbering inconsistency in this section, and duplication of at least one item.
Part 4.E – Public Agency Activities ***Section 4.E.6.a***	No definition of "high" and "moderate" volumes of trash was provided. In addition, the TMDL also does not contain definitions of "high" and "moderate" volumes of trash. Section IV.A of the L.A. River Trash TMDL states that if the Cities rely on the Default Baseline Waste Load Allocation, *"The final Default Baseline Waste Load Allocation, as described in compressed volume and/or dry weight, will be specified in the stormwater permit."* This definition also appears to have been omitted.
Part 4.E – Public Agency Activities ***Section 4.E.7***	A section should be inserted stating that the Permittees shall not be held responsible under the permit for discharges in excess of numerical limits that occur as a result of such emergency situations. For instance, a sewer break and overflow resulting from an earthquake would likely exceed bacteria discharge limits. If BMPs (such as containment) are delayed because of the emergency,

	the Permittees should not be held liable for the discharge that occurred between the earthquake and the implementation of the BMP.
Part 4.F – ICID Program *Section 4.F.1.a*	The permittee should be given the option to adopt the ICID section of the SQMP as written, to avoid the additional paperwork of creating an unnecessary document.
Part 4.F – ICID Program *Section 4.F.1.b*	The tracking system should be developed by the Principal Permittee, since the goal is to have a consistent and countywide system controlled by the Principal Permittee.
Part 4.F – ICID Program *Section 4.F.2.b*	What is the rational for specifying that the Permittees specifically consider the 1994 Northridge quake and the "civil unrest"?

Members;
Beverly Hills, Culver City, El Segundo, Hermosa Beach, Los Angeles, Manhattan Beach, Palos Verdes Estates, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Santa Monica, West Hollywood, Caltrans, LACPW

HK 5/07/01

From: Xavier Swamikannu
To: Dan Radulescu
Date: 5/15/01 12:04PM
Subject: Fwd: Fw: New Permit comments

Electronic comments - Ballona Creek Watershed

NEST Environmental Services

1040 Grant Road, Suite 155-325
Mountain View CA, 94040-3296
Tel: 650-938-3012
Fax: 650-968-6633

Fax Cover Page 5-16-01

To: Xavier Swamikannu, Chief LA Long Beach Storm Water Unit

From: NEST Environmental Services, Don Reh, tel: 530-823-1842

Consists of this page plus 2 pages. Call 530-823-1842 if not received.

Subject: First Draft - LA County Municipal Storm Water NPDES Permit.

Xavier, please see my comments below.

Distribution List - Consultants, NEST Environmental Services: currently blank! add Don Reh as contact.

Fact Sheet/Staff Report:

Part II

Recommend putting in an LA County map that shows by rectangles and labels the six six watersheds mentioned in Part II

Part III

Isn't there a Phase that covers currently unpermitted industries and activities such as auto body shops and mall/strip parking lots? Shouldn't that be included, since they, esp. parking lots contribute so much to the polluted runoff?

Part V

Finally, someone acknowledging from group monitoring data that heavy metals, copper and zinc, are major polluting issues in storm water runoff.

Part VI

A. Add (PIPP) after Public Information and Part... Program to clarify the acronym PIPP in Background p.8

Justification: p.11 Spell out SQMP and TMDL. Maybe everyone doesn't know those acronyms.

2. Programs for Business, p.11. Isn't it time to add auto body and repair shops and shopping mall/strip parking lots as part of the target?

B. Industrial/Commercial Inspection Program, p. 14. 2nd set of bullets, Inspect and monitor industrial facilities.. add "to ensure" that ...

p.16 under the bullet "For all". Not clear to me what the phrase "Automotive services" includes: I think it should specifically identify what it includes: gas stations, auto body repairs, vehicle dismanters etc., or maybe reference the Part 5 Definiitions of the Draft Permit.

E. Public Agency Activities. p.23, 2nd bullet: Permittee-owned parking lots shall be... Why can't you spell out this same level of performance for shopping map/strip and emloyee parking lots elsewhere in this permit?
same page 5th bullet. "designated areas" is too vague. NEST deals with 16 ready mix concrete manufacturers and they use impervious rather than "designated" washout areas in which the water either evaporates or gets recycled back into process water. I think this "impervious" standard should be the same for public agency concrete businesses.

F. New development and Significant Redevelopment, last para. p.24., 8th line, should be ("vehicle" vs the existing "auto" salvage yards.

p.27, 3rd line down. New sentence starts: The State of Maryland - then text ends. Something missing?
p. 27, 1st para, it is not clear to me what the difference between highest pollution concentration and pollutant load. The terminology pollution concentration in terms of mg/L I understand; is pollutant load something else?

A. Mass Emissions Monitoring. • New Requirement. Acronyms MDL and CTR. Spell out which MDL - the maximum daily load or the method detection limit? Spell out CTR for thoise not familiar with it.

p32. talks about TSS sampling. Are Group.Phase I storm water sampling parameters going to change to reflect SSC analytic methods for the season 2001-2002?

Page 3
DRAFT LA RWQCB Order

Refers to Appendix A in various places. Appendix A not labeled or found.

Part 4 Special Provisions,

A. Public Information and Participation Program. Add (PIPP) after header.

B. Programs for Industrial/Commercial Inspections. Which Agency, the MS4 or the RWB has the last say in conflicts over whether an industrial site is implementing adequate BMPs. For example if the RWB Inspector inspects and facility and accepts the site implemented BMPs and later, the MS4 Inspector inspects and says that a certain additional BMPs area required. Or a RWB inspector comes after a MS4 Inspector and says that a particlular BMP is not necessary. Who has the final say? Do industrial facility operators have the right to appeal a MS4 determination of non-compliance with the RWB?

Part 6

E. Inspection and Entry. Should this also specifically include Permittee authorized representatives since they are not part of the Regional Board or USEPA?

Attachment 2

Malibu Creek Lakes and Tributaries. Is there a consent decree date associated with this TMDL?

Will the Phase I industrial permittees also have to send copies of their monitoring results (visual and Storm water sample) and Annual Report to the Permittee (city) in which their business operates?

End of Comments/Questions----

FAX

DATE: Wednesday, May 16, 2001

TO: Xavier Swamikannu

FAX: 213 576-6640

FROM: NEST

PAGES: 4

MEMO

Please send to Xavier Swamikannu
Three pages follow

COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY

1955 Workman Mill Road, Whittier, CA 90601-1400
Mailing Address: P.O. Box 4998 Whittier, CA 90607-4998
Telephone: (562) 699-7411 FAX: (562) 699-5422
www.lacsd.org

JAMES F. STAHL
Chief Engineer and General Manager

May 15, 2001
File No.: 31-370.10

2001 MAY 17 P 2:42

Mr. Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, Ca 90013

Dear Mr. Dickerson:

Draft Order No. 01-XXX (NPDES No. CAS614001)
Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles and the Incorporated Cities, except for the Cities of Long Beach and Santa Clarita

The County Sanitation Districts of Los Angeles County (Districts) have reviewed the April 13, 2001 *Draft Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles and the Incorporated Cities, Except for the Cities of Long Beach and Santa Clarita* (Draft Permit). After reviewing the proposed waste discharge requirements, we have several comments/concerns which are discussed in detail below.

Numerical Design Criteria for Post-Construction Treatment Control BMP's

The Regional Board proposes to add new numerical mitigation criteria for flow-based structural and treatment control BMPs. At present, the Standard Urban Storm Water Mitigation Plan (SUSMP) already includes numerical design criteria for volumetric structural and treatment control BMPs; the proposed criteria are unjustified and may also result in detriments that should be considered. For example, the Districts are concerned that the proposed flow-based design criteria will result in more requests for diversion projects of storm weather flow to treatment plants rather than the implementation of practical structural and treatment control BMPs. Also, the high cost of real estate and shortage of available open space land in Los Angeles County does not provide incentive for installing post-construction treatment control BMPs that require large areas. As such, the Districts do not feel that this is the result that the Regional Board intended with the proposed criteria.

Dry Weather Diversions

The Draft Permit requires each Permittee to implement a Public Agency program to minimize storm water pollution impacts from public agency activities. The proposed program includes, among other

components, dry weather diversions. The Districts support the implementation of programs to minimize storm water pollution impacts and dry weather diversion projects for appropriate specific cases; however, the Draft Permit does not provide guidance with regard to selection of storm drains for diversion projects. For example, if a receiving water is determined to violate state bacteria standards during wet weather events; the Regional Board should review its designated use(s) to make sure that the standards were correctly set. The problem often arises because standards are primarily based on dry weather data designed to allow primary contact recreation to occur; these standards should not apply during wet weather when contact recreation does not take place. If people in a particular community do not use a receiving water to swim in during storm events, a refined use (one that excludes primary contact recreation) or refined water quality objectives (i.e., perhaps seasonal) should be established. This will avoid unnecessary actions such as an impaired waters listing, the development of a TMDL for bacteria, storm water control requirements, and the need for diversion. Furthermore, the Draft Permit should also include proper guidance with respect to dry weather diversion projects to minimize the risks of excessive accidental storm flows and/or spills of pollutants reaching POTWs and causing pass-through of pollutants to receiving waters.

Location of Monitoring Stations

The Districts agree with the Regional Board that a comprehensive monitoring program can supply a wealth of data that can be used in a wide range of applications for improving water quality. However, we also believe that the storm water monitoring program should avoid duplicative or unproductive monitoring and should ensure that the data collected are useful. Specifically, we are concerned about the location of monitoring stations close to the Districts' treatment plants. Because the Districts' NPDES permits for the treatment plants include requirements for monitoring of receiving waters, the Districts possess a large database containing water quality data on receiving water stations close to the Districts' plants. Coordinating the placement of monitoring sites (using a regional watershed approach) between all direct dischargers and the municipalities will reduce monitoring costs and result in saving existing resources. The Draft Permit provides no guidance or detail on how this coordination will happen.

Mass Emission Monitoring

The Draft Permit requires that a sample be obtained during the first storm event and analyzed for all constituents listed in Attachment 1, which includes more than 230 parameters. Even though the Draft Permit allows for reduction of parameters to be analyzed, the entire list is required for the first storm of each season. The Districts believe that this requirement is excessive, in that if a constituents has not been detected in a receiving water over consecutive periods, there is no reason to continue analyzing for that parameter. The resources would be better used for other purposes. In addition, the Districts suggest that the Regional Board address safety concerns for receiving water sampling during storm events. It makes sense to obtain a receiving water sample only when it is safe to do so.

Use of Collected Data

The Districts request that the Regional Board be more specific and include details in the Permit on how monitoring data will be used in assessing the effectiveness of an urban runoff management program. The Districts believe that some of the monitoring requirements are excessive, such as river toxicity studies. The primary goal of collecting monitoring data should be to determine the performance or effectiveness of the BMPs. The Districts are concerned that the Draft Permit fails to include appropriate "safe harbor" language particularly for alleged exceedences of water quality objectives. Thus, even if appropriate BMPs were implemented to control pollutants "to the maximum extent practicable," cities may still be subject to enforcement actions and/or fines.

The Districts appreciate the opportunity to comment on the Draft Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles and the Incorporated Cities, except the Cities of Long Beach and Santa Clarita. If you have any questions or concerns regarding the information, please contact June Nguyen at (562) 699-7411, extension 2830.

Very truly yours,

James F. Stahl

Victoria O. Conway

Victoria O. Conway
Head, Monitoring Section
Technical Services Department

VOC:JN:drm

L:\NGUYEN\stormwater\municipal permit\050301.wpd:01.05.15

INDEPENDENT CITIES ASSOCIATION
Post Office Box 750, Palmdale, CA 93590-1750 • (877) 906-0941 • FAX (661) 285-0481

VIA FACSIMILE - 3 Pages

May 16, 2001

Mr. Dennis Dickerson
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

Re: Joint Request For Los Angeles Storm Water Permit Facilitated Negotiation Process

Dear Mr. Dickerson:

The Independent Cities Association (ICA), which is comprised of fifty-one cities in the Southern California area, supports a consensus building process to address concerns regarding the proposed Los Angeles Municipal Storm Water NPDES Permit (Permit). The process proposed in the attached letter from The Coalition For Practical Regulation is generally supported by ICA.

The Independent Cities Association stands ready to assist you in formulating an NPDES Permit that makes sense for Los Angeles County.

Thank you for considering the position of the Independent Cities Association.

Sincerely,

Mary Cammarano

Mary Cammarano, Chair
ICA Major Issues, Water
& Legislation Committee

ds
Attachment

May 18, 2001

Mr. Dennis Dickerson
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

JOINT REQUEST FOR LOS ANGELES STORM WATER PERMIT FACILITATED NEGOTIATION PROCESS

Dear Mr. Dickerson:

This letter is to request that you join the undersigned in supporting a facilitated negotiation process to help you, your staff, the public and your Board solicit and expeditiously address concerns from various stakeholders regarding the proposed Los Angeles Municipal Storm Water NPDES Permit (Permit). The process proposed herein is designed to encourage consensus and resolution of issues involving the proposed Permit, through a forum that allows for the thoughtful exchange of concerns, ideas and issues, on a real time basis, thereby reducing the development time for a final Permit and resulting in a Permit that has broad support at all levels. This process could and probably should employ a facilitator to bring regulatory, municipal, business and environmental stakeholders together with the common goal of determining the most practical and effective measures to include in the Permit to improve our water quality.

Since it is all of our desires to address water quality concerns in a timely manner, we believe this process should begin no later than July and be completed in 60 days, and that it will result in an NPDES Permit that will avoid continuing legal debates and disputes. This time period is consistent with the time period you and your Board are proposing for Permit adoption, and in the long run hopefully avoid ongoing challenges to the Permit terms, as it will decrease the likelihood of administrative appeals and lawsuits and increase the effectiveness of the policies adopted.

The facilitator for this process should be selected based on input from the various stakeholders and would not require any funding from the Regional Water Quality Control Board. It should be understood that this process would at best result in a draft permit, to be subject to further review by the general public, and by the Regional Board itself for its ultimate approval. Moreover, the information developed in the process should prove to be invaluable in compiling a consensus approach to clean water, and should spill over into agreement on other issues such as the TMDL process itself.

Please join us in bringing stakeholders together during the development process of the Permit, rather than waiting until adoption before your Board and help us help you formulate an NPDES Permit that makes sense for Los Angeles County.

Organizations which have been identified for participation include:

The Building Industry Association, The California Restaurant Association, The City of Los Angeles, The Coalition for Practical Regulation, The County of Los Angeles, The Economic Development Council, The Executive Advisor Committee, Heal the Bay, The NRDC, The Santa Monica Baykeeper, The Storm Water Quality Task Force, and The Western States Petroleum Association.

Sincerely,

cc. Art Baggett, State Water Resources Control Board
David Nahai, Los Angeles Regional Water Quality Control Board
Listed Organizations

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100

JAMES A. NOYES, Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

May 17, 2001

IN REPLY PLEASE REFER TO FILE: WM-9

Mr. Dennis A. Dickerson, Executive Officer
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

WITHDRAWAL OF THE REPORT OF WASTE DISCHARGE FOR SANTA CLARA RIVER WATERSHED

As discussed between Mustafa Ariki and Xavier Swamikannu, the purpose of this letter is to rescind the Santa Clara River Watershed's Report of Waste Discharge (ROWD) application, submitted to your office on January 31, 2001, and to add the Watershed as part of the Los Angeles Basin' ROWD application. In our comments to your Los Angeles Basin's National Pollutant Discharge Elimination System First Draft Permit, submitted to you on May 16, 2001, we included the necessary changes for the addition of the Santa Clara Watershed to the Los Angeles Basin's ROWD application.

If you have any questions, please contact Mr. Mustafa Ariki at (626) 458-5948, Monday through Thursday, 7:30 a.m. to 6 p.m.

Very truly yours,

JAMES A. NOYES
Director of Public Works

Rod H Kubomoto

ROD H. KUBOMOTO
Assistant Deputy Director
Watershed Management Division

MA:kk
A:\SANTA CLARA_WS.WPD

cc: All Permittees
City of Santa Clarita

Winston H. Hickox
Secretary for Environmental Protection

California Regional Water Quality Control Board

Los Angeles Region

(50 Years Serving Coastal Los Angeles and Ventura Counties)

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640
Internet Address: http://www.swrcb.ca.gov/rwqcb4

Gray Davis
Governor

May 18, 2001

Mr. David Fike, Director
Department of Public Works
City of Monrovia
415 South Ivy Avenue
Monrovia, CA 91016-2888

LOS ANGELES COUNTY MUNICIPAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER PERMIT RENEWAL – NPDES PERMIT No. CAS614001, CI 6948

Dear Mr. Fike:

Thank you for your letter dated April 18, 2001 expressing your to your concerns with the workshop of April 24, 2001 and the public review schedule established for the Los Angeles County Municipal Storm Water NPDES permit. I appreciate that you took the time to relay your concerns and I value your perspective.

The primary purpose of the public workshop held April 24, 2001 (eleven days following release of the draft permit) was for Regional Board staff to explain the proposed changes in the draft permit to facilitate subsequent public review and comment. The intent, in this case, was to begin the review and comment process. Our sense was that this could be best initiated by holding a workshop to allow Regional Board staff to explain the basis on which elements of the draft permit were developed. By so doing, interested parties preparing comments would have the benefit of this perspective to assist them in developing their comments on the draft permit. Secondarily, the workshop was an opportunity for interested parties to offer preliminary comments on the draft, if they were prepared to do so, and as appropriate, exchange information during the public forum. In this sense, the workshop was very well attended and successful. I should note that during the public forum, Mr. Luis Salaya of the City of Monrovia did provide comments to our staff.

Public comments on the draft were due May 16, 2001. This gave interested parties over 30 days to comment on the first draft alone. Regional Board staff are carefully reviewing the comments and will make changes as necessary to the draft. We also plan to send out a response to comments with the second draft of the permit (tentative permit). At that time, interested parties will have an additional month to provide written comments on the tentative permit.

Please note that the Regional Board will conduct a workshop where our Board members will ask questions of staff and the public and hear comments from the public on the second draft of the permit. This workshop is scheduled to take place on July 26, 2001. We will advise all interested parties regarding the final location and time for the workshop.

Once again, thank you very much for your letter. If you have any questions please feel free to call me directly at (213) 576-6605 or, please have your staff call Carlos Urrunaga at (213) 576-6655.

Sincerely,

Dennis A. Dickerson
Executive Officer

cc: H. David Nahai, Chairman, Regional Board
Mr. Desi Alvarez, Chairman, Executive Advisory Committee
Mr. Don Wolfe, Los Angeles County Department of Public Works

From: Megan Fisher
To: tjkim@dpw.co.la.ca.us
Date: 5/23/01 4:44PM
Subject: Monitoring Changes

TJ,

Attached is a summary of the changes to the monitoring program that we discussed earlier today. If you send me your fax number, I will send over the Workplan for Wet Weather Modeling that I referred to. If you are not familiar with the Source ID Monitoring section, ask Bill, I think you all are already participating.

We would still like you to present the analysis of land use data at next Wednesday's meeting.

I will be sending a preliminary second draft soon (hopefully tomorrow). If not, the main points of discussion for the meeting are on the attached outline.

Let me know if you have any questions.

Megan

CC: bdepoto@dpw.co.la.ca.us; ctrevizo@dpw.co.la.ca.us; Dan Radulescu; ghowe@dpw.co.la.ca.us; mariki@dpw.co.la.ca.us; Megan Fisher; Xavier Swamikannu

Outline of Significant Changes to Monitoring Program (5-22-01)

Mass Emissions:
Purpose: The purpose of mass emission monitoring is to estimate the mass emissions from the MS4, detect trends, and compare data to existing standards.

- First storm of each year shall be monitored for SIP minimum levels, if a constituent is not detected, the current MDLs may be used for the rest of the year. If SIP levels are detected, the lower MDLs (listed in Attachment 2 of draft) shall continue to be used. This change is for cost-saving purposes.
- Due to the high variability of storm water, sampling all large storms would be the most accurate way to determine an average mass emission load. However, since this is cost-prohibitive, TSS data can be used as a load indicator (most constituents correlate with TSS). Therefore, the Principal Permittee shall analyze all additional storms greater than .25 inch (in addition to the original requirement) for TSS.

Estuary Monitoring:
Purpose: Sample estuaries to determine the spatial extent of sediment fate from storm water, and the magnitude of its effects. Produce a map of each estuary depicting the areas of degraded sediment.

- Sample 25 sites in each estuary once during the permit cycle. One estuary can be sampled each year, or they can be done concurrently.
- Analyze samples for sediment toxicity, chemistry and benthic community
- The resulting map and data will help determine appropriate locations for monitoring trends in sediment deposition and composition associated with storm water (possibly in next permit)
- Stations outside of direct outfalls should also be monitored to assess cumulative effects
- This effort should be undertaken in parallel to the Regional Monitoring (Bight-wide 03), so it can be compared to other areas of Southern California to determine regional patterns of distribution and fate of pollutants in storm water

Source ID Monitoring:
Purpose: This requirement has been changed to support an on-going effort by the County, the Regional Board, SCCWRP, etc... to develop a dynamic wet weather runoff model. As an immediate purpose, the data collected will help determine what proportion of the cumulative runoff load of various constituents is generated from specific land uses (critical sources), sub-watersheds, or municipal entities. The ultimate goal is to develop a model that can be regionally applied to target locations or sources that contribute pollutants, prioritize locations that need management actions, and assign load and waste load allocations for TMDLs. Overall, this Source ID monitoring will more efficiently achieve the goal of locating sources and needed management actions, and it will

be more widely applicable than the tributary monitoring as it was written in the draft.

As part of the existing modeling effort, 21 specific land uses have been identified (Table 1 of the General Workplan for Wet Weather Modeling of the Los Angeles River). Water quality data collected to date consists largely of event mean concentrations, but a dynamic model needs information throughout the course of a storm. Therefore, time-concentration series should be obtained for the specific land uses. Due to storm variability, time concentration information should be collected during multiple storm events.

- Monitor 10 site events, this could be from 10 different critical sources, or 2 events from 5 critical sources (effort of participation consistent with that of the Regional Board)
- Each site event includes 10 time-paced samples, to cover the entire range of the storm. For example, samples should be taken every hour for a 10 hour storm.
- Each site sample should be analyzed for constituents that exceed standards at the respective mass emission station, TSS, bacteria, nutrients, trace metals, organophosphorus pesticides, and PAHs
- Sampling and site selection should be consistent with the existing effort
- County may reconfigure existing land use and/or critical source stations, if appropriate

Bioassessment

Considering the status of bioassessment development in Southern California, it may be more appropriate to focus this requirement on the need to develop a bioassessment tool and Index of Biological Integrity (IBI) for this region. Instead of the monitoring in the first draft, the County should focus on jointly developing reference conditions, natural variability in this region, and an IBI with the Southern California Stormwater Research/Monitoring Program, or other existing regional efforts.

Coalition for Practical Regulation

Arcadia
Artesia
Bellflower
Bell Gardens
Burbank
Cerritos
Commerce
Compton
Diamond Bar
Downey
Hawaiian Gardens
Industry
Irwindale
La Mirada
Lakewood
Lawndale
Monrovia
Montebello
Norwalk
Palos Verdes Estates
Paramount
Pico Rivera
Pomona
Rancho Palos Verdes
Rosemead
Santa Fe Springs
San Gabriel
Sierra Madre
Signal Hill
South Gate
Temple City
Vernon
Walnut
Whittier

May 23, 2001

Mr. Dennis Dickerson
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

2001 MAY 24 P 2:45

SUBJECT: Joint Request For Los Angeles Storm Water Permit Facilitator

Dear Mr. Dickerson:

This letter is to request that you join the undersigned in supporting a facilitated review or consensus building process to help you, your staff, the public and your Board solicit and expeditiously address concerns from various stakeholders regarding the proposed Los Angeles Municipal Storm Water NPDES Permit (Permit). We acknowledge that your staffing and resources are stretched and divided between many priorities. The Permit process also places great demands on the Board. The goal of the facilitated review process is to assist all of the stakeholders, the staff and the Board in understanding the issues and reaching consensus on the Draft Permit.

The proposed facilitation is designed to encourage consensus and resolution of issues through a forum that allows for the thoughtful exchange of concerns, ideas and issues, all on a real time basis. The proposed process will reduce the development time for a final Permit and will result in a Permit that presumably has broad support at all levels. The facilitator will bring regulatory, municipal, business and environmental stakeholders together with the common goal of determining the most practical and effective measures to include in the Permit to improve our water quality.

Since it is all of our desires to address water quality concerns in a timely manner, we believe the facilitated review process should begin no later than July and be completed in 60 days, and that it will result in an NPDES Permit that will avoid continuing debates and disputes.

2175 Cherry Avenue ♦ Signal Hill, CA 90806 ♦ (562) 989-7302 ♦ (562) 989-7393 Fax

This time period is consistent with the time period you and your Board are proposing for Permit adoption, and we believe that the process, in the long run will hopefully avoid ongoing challenges to the Permit terms, as it will decrease the likelihood of administrative appeals and litigation, and increase the effectiveness of the policies adopted.

The facilitator should be selected based on input from the various participating stakeholders and would not require any funding from the Regional Water Quality Control Board. The Coalition and other stakeholders have volunteered to provide the financial support for the facilitator. It would then be our hope that the results of the facilitated review process would be placed into the Final Permit, which would be subject to further review by the general public, and by the Regional Board itself for its ultimate approval. Moreover, the information and methods utilized and developed in the process should prove to be invaluable in developing a similar consensus building approach in other related storm water runoff issues, such as the TMDL process.

Please join us in bringing interested stakeholders together to develop a more effective and efficient review process for the MS4 NPDES Permit for Los Angeles County. We believe that a facilitated review process will ultimately help you and the Board in formulating an NPDES Permit that makes sense for Los Angeles County.

By our forwarding a copy of this request to the following organizations, the Coalition for Practical Regulation hereby invites all of these organizations to participate in this proposed facilitated review process:

The Building Industry Association of Southern Califorina, the California Restaurant Association, the City of Los Angeles, the County of Los Angeles, the Economic Development Council, the Executive Advisor Committee, Heal the Bay, the NRDC, the Santa Monica Baykeeper, the Storm Water Quality Task Force, and the Western States Petroleum Association.

Sincerely,

Larry Forester
Mayor
City of Signal Hill
CPR Steering Committee

cc. Art Baggett, State Water Resources Control Board
David Nahai, Los Angeles Regional Water Quality Control Board
California Storm Water Quality Task Force
Southern California Coastal Water Research Project
Listed Organizations

The Building Industry Association of Southern California ☐ will ☐ will not participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of the Building Industry Association of Southern California

The California Restaurant Association will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of the California Restaurant Association

The City of Los Angeles will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of the City of Los Angeles

The County of Los Angeles will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of the County of Los Angeles

The Economic Development Council will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of the Economic Development Council

The Executive Advisory Committee will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of the Executive Advisory Committee

Heal the Bay will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of Heal the Bay

The NRDC will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of NRDC

Santa Monica Baykeeper will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of Santa Monica Baykeeper

The Storm Water Quality Task Force will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of the Storm Water Quality Task Force

The Western State Petroleum Association will ☐ will not ☐ participate in a facilitated review process.

Dated: May _____, 2001

By: _____
Representative of the Western State Petroleum Association

California Regional Water Quality Control Board

Los Angeles Region

(51 Years Serving Coastal Los Angeles and Ventura Counties)

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640
Internet Address: http://www.swrcb.ca.gov/rwqcb4

Winston H. Hickox
Secretary for Environmental Protection

Gray Davis
Governor

May 24, 2001

Ms. Ann E. Wessel
Stormwater Permit Manager
Water Quality Program
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Dear Ms. Wessel:

REQUEST FOR INFORMATION ON RETAIL GASOLINE OUTLETS OR FUEL DISPENSING FACILITIES ADDRESSED BY THE MUNICIPAL STORM WATER PERMIT IN THE STATE OF WASHINGTON AND CITY OF SEATTLE

I am writing to request your assistance in providing information on the new development requirements to treat storm water runoff from retail gasoline outlets (RGOs) or fuel dispensing facilities in Western Washington State and the City of Seattle.

The California Regional Water Quality Control Board, Los Angeles Region is the responsible State Agency to issue National Pollutant Discharge Elimination System (NPDES) permits in the Los Angeles Region. We are in the process of renewing the Municipal Separate Storm Sewer System (MS4) permit for Los Angeles County and the incorporated cities.

We will greatly value your response to the following questions.

1. Why are RGOs specified as a development category that must treat storm water runoff?

2. What was the justification and basis for the categorization of RGOs as a priority category or in other way as a contributor or potential contributor of pollutants in the storm water runoff?

3. What are the pollutants of concern in untreated storm water runoff from RGOs in your opinion?

4. Is there a minimum size or area threshold for RGOs to be subject to the new development requirements for storm water controls?

5. Do you use alternative thresholds (such as traffic volume, fuel dispensing volume, number of nozzles etc) to trigger the requirement of storm water control measures at RGOs (existing or new development)?

6. What types of storm water controls or treatment BMPs do RGOs most often select to mitigate storm water pollution?

7. Do you have different treatment requirements for storm water from the vehicle fueling areas as opposed to the vehicle access areas? If so what are they?

8. What is the estimated economic cost of implementing storm water controls at RGOs relative to project cost?

9. What percent approximately of the RGO area is taken up by treatment control BMPs?

10. When (year) did RGOs first become subject to new development requirements for storm water treatment in your jurisdiction?

11. Has the implementation of treatment control BMPs at RGOs improved the quality of storm water discharges in your jurisdiction?

12. What mechanism do you use to ensure that the treatment BMPs are properly maintained?

We appreciate your time and effort in responding to our questions. Please include any additional materials (such as codes, guidelines, etc.) to supplement your response. Your response will greatly assist us in our development of requirements and justification for the control of storm water runoff from RGOs and gas stations. It would be most helpful if you send your response to reach us on or before June 15.

If you have any questions, please do no hesitate to contact me at (213) 576-6668. Thank you very much for your assistance in this matter.

Sincerely,

Dan Radulescu
Water Resources Control Engineer

R0002758

Winston H. Hickox
Secretary for Environmental Protection

California Regional Water Quality Control Board

Los Angeles Region

(51 Years Serving Coastal Los Angeles and Ventura Counties)

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640
Internet Address: http://www.swrcb.ca.gov/rwqcb4

Gray Davis
Governor

May 24, 2001

Mr. Kelly Hendrix
Water Pollution Control Lab, City of Portland
6543 North Burlington Avenue
Portland, OR 97203

Dear Mr. Hendrix:

REQUEST FOR INFORMATION ON RETAIL GASOLINE OUTLETS OR FUEL DISPENSING FACILITIES ADDRESSED BY THE MUNICIPAL STORM WATER PERMIT IN THE STATE OF OREGON AND CITY OF PORTLAND

I am writing to request your assistance in providing information on the new development requirements to treat storm water runoff from retail gasoline outlets (RGOs) or fuel dispensing facilities in the State of Oregon and the City of Portland.

The California Regional Water Quality Control Board, Los Angeles Region is the responsible State Agency to issue National Pollutant Discharge Elimination System (NPDES) permits in the Los Angeles Region. We are in the process of renewing the Municipal Separate Storm Sewer System (MS4) permit for Los Angeles County and the incorporated cities.

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R0002759

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8. What is the estimated economic cost of implementing storm water controls at RGOs relative to project cost?

9. What percent approximately of the RGO area is taken up by treatment control BMPs?

10. When (year) did RGOs first become subject to new development requirements for storm water treatment in your jurisdiction?

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Sincerely,

Dan Radulescu
Water Resources Control Engineer

California Regional Water Quality Control Board

Los Angeles Region

(51 Years Serving Coastal Los Angeles and Ventura Counties)

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640
Internet Address: http://www.swrcb.ca.gov/rwqcb4

Winston H. Hickox
Secretary for Environmental Protection

Gray Davis
Governor

2001 JUN 22 P 2:20

May 24, 2001

Mr. Kelly Hendrix
Water Pollution Control Lab, City of Portland
6543 North Burlington Avenue
Portland, OR 97203

Dear Mr. Hendrix:

REQUEST FOR INFORMATION ON RETAIL GASOLINE OUTLETS OR FUEL DISPENSING FACILITIES ADDRESSED BY THE MUNICIPAL STORM WATER PERMIT IN THE STATE OF OREGON AND CITY OF PORTLAND

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6. What types of storm water controls or treatment BMPs do RGOs most often select to mitigate storm water pollution?

R0002761

7. Do you have different treatment requirements for storm water from the vehicle fueling areas as opposed to the vehicle access areas? If so what are they?

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9. What percent approximately of the RGO area is taken up by treatment control BMPs?

10. When (year) did RGOs first become subject to new development requirements for storm water treatment in your jurisdiction?

11. Has the implementation of treatment control BMPs at RGOs improved the quality of storm water discharges in your jurisdiction?

12. What mechanism do you use to ensure that the treatment BMPs are properly maintained?

We appreciate your time and effort in responding to our questions. Please include any additional materials (such as codes, guidelines, etc.) to supplement your response. Your response will greatly assist us in our development of requirements and justification for the control of storm water runoff from RGOs and gas stations. It would be most helpful if you send your response to reach us on or before June 15.

If you have any questions, please do no hesitate to contact me at (213) 576-6668. Thank you very much for your assistance in this matter.

Sincerely,

Dan Radulescu
Water Resources Control Engineer

R0002762

California Regional Water Quality Control Board, Los Angeles Region

Thursday 24
~~[illegible]~~ May ~~21~~, 2001

LA County Municipal SW Permit

The signing of this form is voluntary. Any person may attend this meeting whether they sign this form or not.

****** *PLEASE PRINT LEGIBLY* ******

NAME	ADDRESS	ORGANIZATION (IF ANY)	TELEPHONE	FAX	E-MAIL
Carlos Urrunaga		RWQCB-LA	213 576-6655		
Tim Piasky		BIA/SC	909 396-9993		
Xavier Swamikannu		RWQCB-LA	213 576-6654		

R0002763

Please Note: Sign-in sheets are public information and may be released under the Public Records Act.

Meeting w/ BIA

24 May 2001

Pg. 14 RECEIVING WATERS LIMITATIONS.
1, 2, 3 WQO 99-05

Says the RWL would make permittees be immediately in non-compliance. We should

Says we need to define Env. sensitive areas. Too over-reaching

Development Planning - Clearing of vegetation → Is this a prohibition?
NO. We should probably call our phasing projects to discourage clearing of vegetation. We are looking to limit soil exposure and, if soil is disturbed, erosion controls be implemented.

Peak Flow Control
Unit for Ventura County

Minimize/Maximize language should be avoided. good comment.

California Regional Water Quality Control Board
Los Angeles Region

Winston H. Hickox
Secretary for Environmental Protection

320 W. 4th Street, Suite 200, Los Angeles, CA 90013
Phone (213) 576-6600 FAX (213) 576-6640

Gray Davis
Governor

TO: Dennis Dasker, Wendy Phillips, Xavier Swamikannu, Melinda Becker, Megan Fisher

CC: Deborah Smith, Jon Bishop, Mark Pumford

FROM: Tracy Patterson

DATE: May 24, 2001

SUBJECT: BIOASSESSMENT IN THE LA COUNTY STORM WATER PERMIT

Unfortunately, I will not be able to attend the meeting scheduled for May 30, 2001, to discuss the monitoring requirements of the LA County Stormwater Permit because I will be attending a conference on bioassessment in Tahoe. Therefore, I am providing this as the basis for the critical incorporation of a bioassessment monitoring program in the County's permit.

Legal Requirement of the Clean Water Act

First, biological monitoring is required under the Clean Water Act, which states the primary goal is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." This mandate cannot be carried out without some measure of the biological integrity of the State's/Nation's waters. One of the ways in which the Regional Boards control water quality and protect beneficial uses is through the NPDES permit. In this permit, the Regional Board requires the discharger to monitor the receiving waters of the discharge using various methods that will prove that the discharge is not degrading the chemical, physical, and biological integrity of the receiving waters (Harrington & Born, 1999-2000). Therefore, the municipal stormwater permit is an appropriate place to require a biological assessment (bioassessment) monitoring program. Section 303(c)(2)(B) of the Clean Water Act states that "States shall adopt criteria based on biological monitoring or assessment methods" and Section 304(a)(1) states that "States shall develop and publish criteria for water quality accurately reflecting the latest scientific knowledge... on the effects of pollutants on biological community diversity, productivity and stability" (Gibson, 1996 as referenced by Harrington & Born, 1999-2000). The Clean Water Act goes further than protecting human health as many chemical analyses are designed to do, by providing a mandate to protect aquatic life of the rivers and streams. Bioassessment is the only appropriate tool to use to monitor biological conditions of a waterway.

Historically, the biological component of monitoring has been overlooked, yet it seems that one of the fundamental and critical goals of the Clean Water Act is to protect the biological integrity of our streams and rivers. Yoder and Rankin believe "This narrow focus leads to an incomplete foundation in water resource policy and legislation (e.g., an emphasis on point sources and toxics) (1998)." Additionally, factors other than chemicals are now becoming responsible for the various listings of our Nations waters on the 303(d) list. These factors can include modification

or destruction of riparian and aquatic habitats, heavy sedimentation of the streambeds and benthic substrates, increased concentrations of nutrients, and the alteration of the natural stream flows, none of which can be clearly assessed through traditional chemistry tests. Bioassessment provides a tool by which to measure the health of the communities living within the stream by looking at population diversity, population composition (% taxa pollution tolerant, % taxa pollution intolerant), and other metrics that give us measures of the health and integrity of the population. The process of conducting Bioassessment also includes a physical habitat assessment, another component of stream health evaluation which is also overlooked in traditional water chemistry and toxicity monitoring.

Uses of Bioassessment in a Regulatory Framework

A Bioassessment program conducted by trained individuals is an unparalleled tool which provides crucial information about the biological conditions of a water body. Historically and mostly in Eastern States, the triad approach has been used and is still used today in assessing water quality. In this approach, water chemistry, physical habitat, and biological integrity are measured to give a true picture of the health condition of a water body. Chemistry alone, while valuable under some circumstances, is not adequate in measuring habitat or biological condition degradation. In a regulatory framework, the Aquatic Life Use Designation Workgroup of the US EPA, is working towards, and urging States, towards the development of biocriteria and the designation of stream health based solely on whether the stream has biological integrity or not. States such as Ohio have implemented this regulatory framework. Whether the state of California follows suite or not, bioassessment should be a necessary requirement of major NPDES permits.

The ultimate goal in developing statewide use of bioassessment is the development of biocriteria, and must be the direction our State is heading in. The development of biocriteria begins with the gathering of data, standardized classification of streams, and with regional geology, hydrology, etc. taken into consideration. The ideal methodology includes the identification of reference condition sites. In some cases, such as in the Los Angeles region, these reference condition sites may be rare or very isolated. In such cases the development of an Index of Biological Integrity (IBI) involves collecting and compiling data from all classifications of streams and then building a dose response curve to identify what the reference condition should look like. Although agencies such as the State Water Resources Control Board or California Department of Fish and Game would be the developers of IBIs, the data collected by other entities needs to be considered. State programs such as the Surface Water Ambient Monitoring Program will collect some data, but essentially, biological monitoring data collected as part of NPDES permits would provide essential supplemental data.

Other Uses Beneficial to the Permittee

In light of trying to assess each and every chemical component of stormwater runoff, a daunting task, bioassessment can also provide benefits to the permittee. Interpretation of the metrics discussed above can lend to trend analysis of the community. Many traits of the population can be inferred from the composition of the community. Rather than looking at individual test

results, inferences could be made from trend analysis to ~~can~~ determine if the situation is getting better or worse. This is very important as the Antidegradation Policy protects surface and ground waters from degradation. If surface waters of the State are continuing to be degraded, this must be documented.

Bioassessment provides a useful and cost effective tool to show that actions such as implemented Best Management Practices are working. Bioassessment can document an improvement of the biological integrity of the stream based on historical data and data collected after the implementation of a BMP. There are various ways bioassessment can be used as an adaptive management tool, including where to direct management dollars and identifying whether management dollars are being spent effectively.

Use of Bioassessment Statewide

Many NPDES permits, both POTWs and MS4s, are incorporating bioassessment monitoring into their water quality monitoring programs. The San Diego Region implemented a region-wide program under a contract with Fish and Game and has, as NPDES permits came up for renewal, incorporated responsibility for these stations into the permits. Bioassessment-specific language can be found in many permits state-wide, such as the San Diego and Santa Rosa municipal storm water permits, which contain very strong and elaborate bioassessment monitoring programs. The Ventura County permit also has a bioassessment component existing of 14-16 stations just in the Ventura River Watershed. This is an appropriate and legally justified requirement for the LA County storm water permit.

In Conclusion

Bioassessment is legally required by the Clean Water Act, although it has not been widely implemented. It can provide useful trend and baseline information during the period in which biocriteria are being developed, while being in itself, a crucial part of biocriteria development. While we cannot go back in time and gather historical data, we can, and should, gather data beginning this permit cycle and avoid delaying this process. Time is not on our side, as more and more waterways become degraded and pre-degradation data is lost forever. California has an opportunity to join other states that have already embarked in holistic assessment of water body conditions.

Some of the momentum has already been provided as a final cooperative agreement to establish a Southern California Stormwater Research/Monitoring Program has been executed between the City of Long Beach, Los Angeles County of Public Works, San Diego, Santa Ana and Los Angeles Regional Water Quality Control Boards, Ventura County Flood Control District, Southern California Coastal Water Research Project, San Diego County Stormwater Management Program, San Bernardino County Flood Control District, Riverside County Flood Control and Water Conservation District, and the County of Orange. Although I am encouraged to know the Scope of Work includes examining if biological indicators can be used to assess

the health of inland surface and coastal waters in Southern California and if biocriteria can be developed, these issues have already been examined and answered. The next step would be to require participation in a bioassessment program as a condition of the municipal stormwater permit.

References

Biological Criteria: Technical Guidance for Streams and Small Rivers (EPA 822-B-96-001). 1996. Gibson, G.R. U.S. Environmental Protection Agency, Office of Water, Washington D.C.

Measuring the Health of California Streams and Rivers, A Methods Manual for: Water Resource Professionals, Citizen Monitors, and Natural Resources Students. 1999-2000.Harrington, J. and M. Born. Sustainable Land Stewardship International Institute, Sacramento, CA.

The Clean Water Act – Updated For 1997. 1997. Water Environment Federation. Alexandria, VA.

The Role of Biological Indicators in a State Water Quality Management Process. 1998. Yoder, C.O. and E.T. Rankin. Environmental Monitoring and Assessment 51: 61-88.

From: Mark Gold <mgold@healthebay.org>
To: "'Megan Fisher'" <Mfisher@rb4.swrcb.ca.gov>, Melinda Becker <mbecker@rb4.swrcb.ca.gov>, Tracy Patterson <tpatters@rb4.swrcb.ca.gov>, Xavier Swamikannu <XSWAMI@rb4.swrcb.ca.gov>
Date: 5/31/01 10:31PM
Subject: RE: 6-4 Monitoring Meeting Agenda

HtB definitely has some major issues with the latest draft. We TOTALLY disagree with the elimination of the tributary monitoring program and the gutting of the biomonitoring requirements. Just what we need, another model when no one ever field verified the county's model. As for the IBI effort - the original monitoring language will get you there to help that effort. We need to start biomonitoring in this region. We have other concerns as well. On the benthic and sediment monitirng, we're ok with the concept but the spatial distribution recommendation (every 0.5 Km is too big and 25 sites is probably too many. Also, benthic monitoring needs to occur more than once every five years. The tox. language and the TIE/TRE requirements seem inconsistent with the mass emission station monitoring frequency (only one dry weather sample per year). Should we meet at 9 or 9:30 on Monday or do you just want to wing it?

-----Original Message-----
From: Megan Fisher [mailto:Mfisher@rb4.swrcb.ca.gov]
Sent: Wednesday, May 30, 2001 4:46 PM
To: BDEPOTO@dpw.co.la.ca.us; bhua@dpw.co.la.ca.us; CTREVIZO@dpw.co.la.ca.us; ghowe@dpw.co.la.ca.us; mariki@dpw.co.la.ca.us; nwaiso@dpw.co.la.ca.us; TJKIM@dpw.co.la.ca.us; mgold@healthebay.org; sluce@healthebay.org; Guangyu Wang; LB Nye; Melinda Becker; Michael Lyons; Tracy Patterson; Xavier Swamikannu; jdorsey@san.lacity.org; mmullin@san.lacity.org; kens@SCCWRP.ORG
Cc: Dan Radulescu; Megan Fisher
Subject: 6-4 Monitoring Meeting Agenda

The draft agenda for Monday's meeting is attached. Let me know if anything needs to be added.

Megan Fisher
Environmental Specialist III
Storm Water Section
Los Angeles Regional Water Quality Control Board
(213) 576-6790

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COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100

JAMES A. NOYES, Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

June 4, 2001

IN REPLY PLEASE
REFER TO FILE: WM-9

Mr. Dennis A. Dickerson, Executive Officer
California Regional Water Quality
Control Board--Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

RESPONSE TO PROPOSED ADDITION OF SHORELINE MONITORING PROGRAM TO THE MUNICIPAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER PERMIT

This is in response to Ms. Judith A. Wilson's letter (copy enclosed) regarding the City of Los Angeles' proposal to shift the Water Quality Shoreline Monitoring Program from the Hyperion National Pollutant Discharge Elimination System (NPDES) Discharge Permit to the Municipal NPDES Stormwater Permit. The County of Los Angeles is supportive of this proposal provided data collection and analyses and monitoring costs continue to be the sole responsibility of the City of Los Angeles as a condition of the Permit.

If you have any additional questions, please contact Mr. Mustafa Ariki at (626) 458-5948, Monday through Thursday, 7:30 a.m. to 6 p.m.

Very truly yours,

JAMES A. NOYES
Director of Public Works

DONALD L. WOLFE
Assistant Director

CT:kk
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Enc.

cc: City of Los Angeles (Judith A. Wilson, Gary Lee Moore)

2001 JUN -7 P 1:56

R0002770

433 SOUTH SPRING ST., SUITE 400
LOS ANGELES, CA 90013
(213) 473-7999
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TTY: (213) 473-7978

Mr. Dennis Dickerson
California Regional Water Quality control Board
Los Angeles Region
320 W. 4th St., Suite 200
Los Angeles, CA 90013

Attention: Dr. Swamikanmu:

Enclosed is a proposal to shift the water quality shoreline monitoring program from the Hyperion NPDES discharge permit to the NPDES Municipal Stormwater permit now being written by your staff. This request was discussed and tentatively agreed upon during meetings on April 25th and 27th, 2001, with staff from the County of Los Angeles, City of Los Angeles, the RWQCB, and Heal The Bay.

If you have any questions, please contact Dr. John Dorsey of our staff at (213) 847-6347.

Sincerely,

James F. Langley for

Judith A. Wilson, Director
Bureau of Sanitation

cc: Don Wolfe, County of Los Angeles
Gary Lee Moore, City of Los Angeles

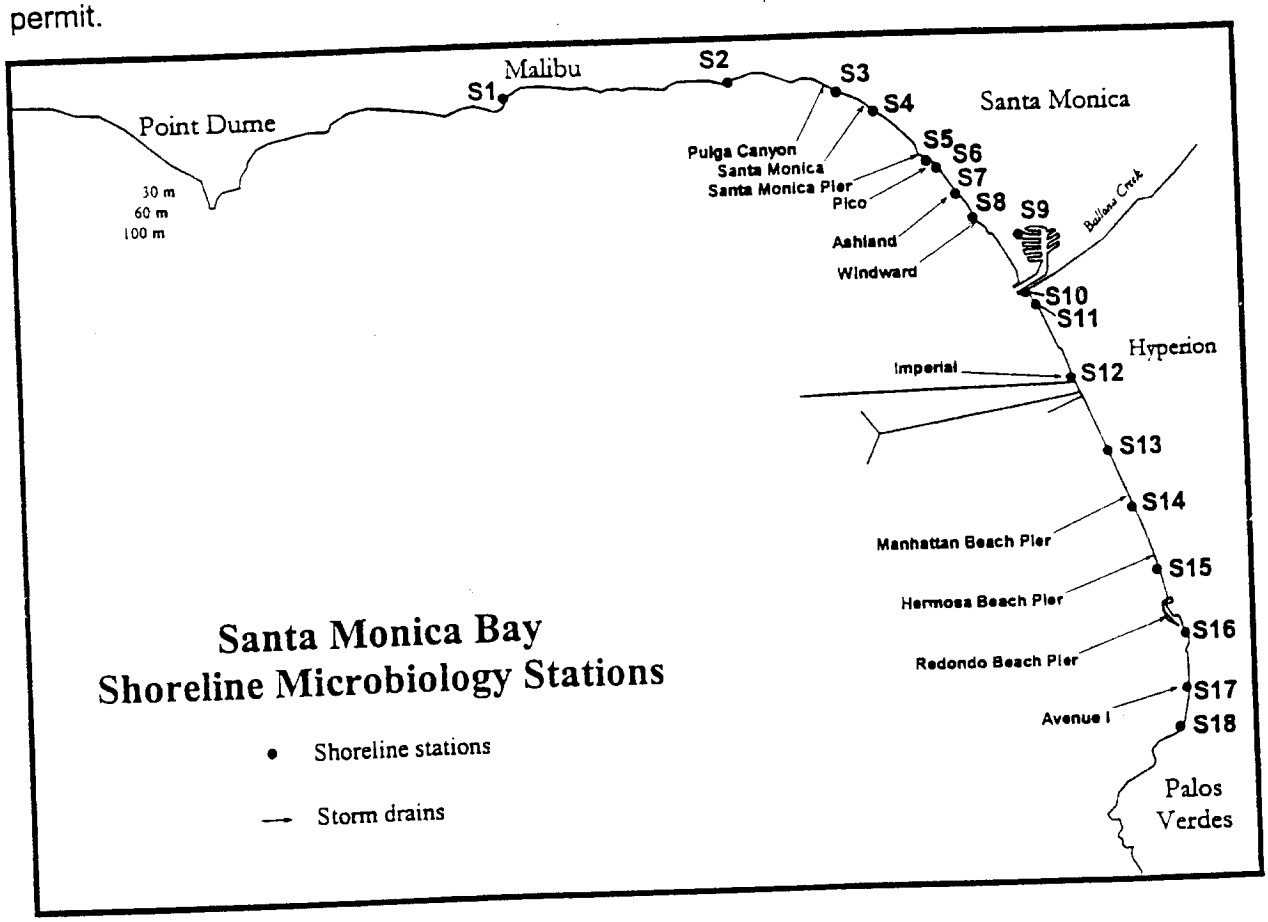
R0002771

PROPOSAL TO SHIFT LOS ANGELES CITY SHORELINE MONITORING FROM HYPERION TO MUNICIPAL NPDES STORMWATER PROGRAM

BACKGROUND

The City of Los Angeles presently conducts daily water quality monitoring at 18 stations along the Santa Monica Bay shoreline see (map-figure). Samples are tested for total and fecal coliforms, and enterococci bacteria. This monitoring is required as part of the receiving water program for the Hyperion Treatment Plant, and was implemented decades ago to warn of effluent plumes reaching shoreline recreational waters.

Extensive shoreline and nearshore water quality monitoring since the 1960's demonstrated that effluent from Hyperion's 5-Mile Outfall does not impinge the shoreline. Rather, elevated bacterial counts are associated with runoff from storm drains, and discharges from piers. This situation was acknowledged by the RWQCB, EPA, and Heal The Bay when, in 1994, all agencies agreed to change the location of Hyperion's shoreline stations to implement a bay-wide, shoreline monitoring program under the auspices of the Santa Monica Bay Restoration Project. These stations, shown on the map below, continue to be monitored today under Hyperion's NPDES permit.



The shoreline monitoring conducted today is a program associated with storm drain runoff and geographically covers beaches in six municipalities – the cities of Malibu, Los Angeles, Manhattan Beach, Hermosa Beach, Redondo Beach, and Palos Verdes Estates, and the County of Los Angeles. As such, it rightfully belongs as a monitoring program element in the Municipal Stormwater Permit now being developed for the County of Los Angeles and Co-permittees.

PROPOSAL

We propose shifting the Santa Monica Bay shoreline monitoring program, now performed under the City of Los Angeles' NPDES permit for the Hyperion Treatment Plant (Permit No. CA0109991), to the municipal NPDES stormwater monitoring program now being developed by the RWQCB. The City of Los Angeles would continue performing the following monitoring, testing, and data transferring actions as part of the SMBRP regional program for the Bay:

- collect daily water samples at 18 stations,
- test samples for total and fecal coliforms, and enterococci bacteria,
- transfer data electronically to the Los Angeles County Department of Health Services (daily) and Heal The Bay (weekly), and
- provide County Public Works with an analysis of the data in electronic form for insertion into the Annual Stormwater Monitoring Report.

In the spirit of regional monitoring, the County will pursue cost-sharing arrangements for this program with the City and other municipalities on whose beaches monitoring is done.

LANGUAGE

We propose that the following language be inserted into the draft Municipal Stormwater permit to add a regional shoreline monitoring component. This language is similar to that used in the Hyperion permit.

A. Shoreline water quality monitoring for Santa Monica Bay.

A water quality monitoring program will be established along the shoreline of Santa Monica Bay to determine compliance with the State of California's bathing water standards for public beaches and ocean water-contact sport areas. These regulations were developed by the California Department of Health Services in response to requirements of Health and Safety Code §115880 (Assembly Bill 411, Statutes of 1997, Chapter 765).

1. *Eighteen shoreline water quality stations shall be established along the shoreline of the Pacific Ocean within Santa Monica Bay. The stations shall be designated and located as follows:*

Station	Location[1]	Latitude	Longitude
S1	Surfrider Beach, Malibu, 50 yds E. of breech	34.03500	118.67833
S2	Topanga Point, Malibu, seaward of lifeguard station	34.03833	118.58083
S3	Pulga storm drain, Pacific Palisades, 50 yds E. of drain	34.03361	118.53417
S4	Santa Monica Canyon storm drain, Pacific Palisades, 50 yds E. of drain	34.02639	118.51861
S5	Santa Monica Pier, Santa Monica, 50 yds S. of pier	34.00833	118.49667
S6	Pico-Kenter storm drain, Santa Monica, 50 yds S. of drain	34.00583	118.49250
S7	Ashland storm drain, Santa Monica, 50 yds S. of drain	33.99639	118.48472
S8	Windward storm drain, Los Angeles, 50 yds S. of drain	33.98778	118.47750
S9	Marina Del Rey Beach, Marina Del Rey, at lifeguard tower.	33.98139	118.45833
S10	Ballona Creek, Playa Del Rey, 50 yds S. of south jetty	33.96083	118.45611
S11	Culver Blvd., extended, Playa Del Rey, N side of Culver storm drain	33.95639	118.45167
S12	Imperial Hwy. Storm drain, Playa Del Rey, 50 yds S. of drain	33.93028	118.43722
S13	El Porto, Manhattan Beach, 40th St. extended	33.90389	118.42250
S14	Manhattan Beach Pier, Manhattan Beach, 50 yds S. of pier	33.88360	118.41278
S15	Hermosa Beach Pier, Hermosa Beach, 50 yds S. of pier	33.86111	118.40278
S16	Redondo Pier, Redondo Beach, 50 yds S. of pier	33.83833	118.39111
S17	Ave. I storm drain, Redondo Beach, Ave. I extended, 50 yds S. of drain	33.81889	118.39111
S18	Malaga Cove, Palos Verdes Estates, Arroyo Circle extended	33.80500	118.39467

[1] Station locations from *Ocean Water Regulatory & Monitoring Protocol*, County of Los Angeles, Department of Health Services, May 5, 1999.

2. Type and Frequency of Sampling

The following tests will be performed on surface water collected at ankle depth from each location:

Parameter	Units	Sample Frequency
Total coliforms	CFU or MPN/100 ml	Daily
Fecal coliforms	CFU or MPN/100 ml	Daily
Enterococcus	CFU or MPN/100 ml	5 times/month[1]

[1] Samples shall be taken at least once per week.

Shoreline sampling stations shall be occupied at the specified frequency during daylight hours. These samples can be omitted in the event of stormy weather that makes sampling hazardous.

3. Data assessment

Data collected shall be transmitted daily to the Los Angeles County Department of Health Services. Data shall be assessed annually and presented in the Annual Stormwater Monitoring Report produced by the Principal Permittee.

LA MS4 Monitoring Agenda
Pacific Ocean Room
Monday, June 4, 2001 10-noon

1. Discuss Significant Changes from First Draft (Justifications and Questions)

   a) Mass Emissions

      i.) SIP minimum levels for 1st storm of year
      ii.) Sample all storms (>.25 inch) for TSS
      iii.) 2 stations in Santa Clara

   b) Sediment Monitoring

      i.) Discuss objective: determine sediment fate and effect, allows for more accurate monitoring in future
      ii.) Discuss fit with regional monitoring - Bight-wide study components and objectives (Ken Schiff)

   c) Source ID Monitoring

      i.) Replaced Tributary Monitoring because it is an on-going effort that more clearly meets the objective of locating sources throughout the region

   d) Bioassessment

      i.) Justify change: need for index and reference conditions before data can be used to meet the objectives of the storm water monitoring program
      ii.) Explain development of regional effort - So. Cal. SW Research/Monitoring Program (Ken Schiff)
      iii.) Discuss index development (Ken Schiff)

LA COUNTY MS4 MONITORING PROGRAM MEETING 6-04-01

NAME	ORGANIZATION	PHONE	EMAIL
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JOHN DORSEY	City LA / Stormwater	213-847-6347	jdorsey@san.lacity.org
Mike Mullin	" "	213-847-8691	mmullin@san.lacity.org
LB Nye	LA RWQCB	213 576-6793	lnye@rb4.swrcb.ca.gov
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Xavier Swamikanna	RWQCB-LA	213-576-6654	xswami@rb4.swrcb.ca.gov
Megan Fisher	RWQCB	213-576-6790	
Wendy Phillips			

Workplan for Pollutant Source Identification

Objectives

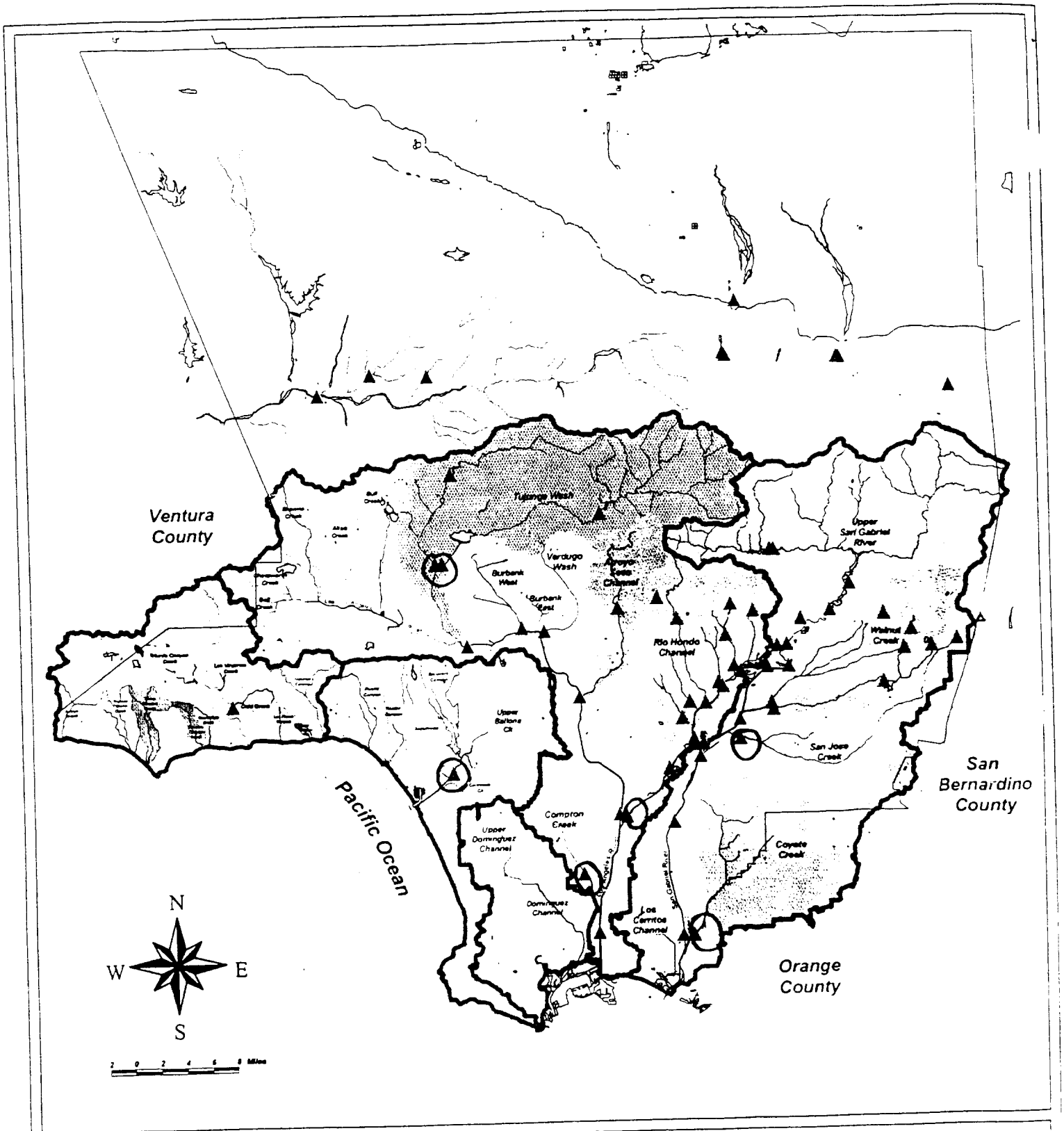
1. Identify pollutant source locations.
2. Prioritize locations that need management actions.
3. Provide baseline information for TMDL development.
4. Allocate pollutant loads for TMDL.

Approach

1. Identify tributary areas that drain into a major stream in each watershed.
2. Compute pollutant loads in each tributary area using the land use model, water quality and rainfall data.
3. Rank tributary areas by total loads and total loads per acre and select locations for the monitoring.
4. Monitor flow rate and water quality in selected tributary areas.
5. Calibrate the model using tributary flow and water quality data, then validate it with Mass Emission data.
6. Prepare pollutographs that show the pollutant loads on a seasonal and/or daily basis at each tributary area to provide necessary information for TMDL development.
7. Allocate pollutant loads among tributary areas.

Achievements

1. Computed total loads of metals in Ballona Ck., LA River, and SG River for 1994-2000.
2. Prioritized tributary areas by total loads and total loads per acre.
3. Selected 6 sampling locations that have high priority and flow measurement device.
4. Created a monitoring program. (6 stations (two of them are ME stations) + 5 storm events + 5 storm seasons = $600,000)
5. Performed source identification study and identified that three land use types produced approximately 60% loads. (Light Industrial: 26%, Retail/Commercial and Educational: 32%)



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Major Sub-Watersheds

in Los Angeles County

May 1, 2001

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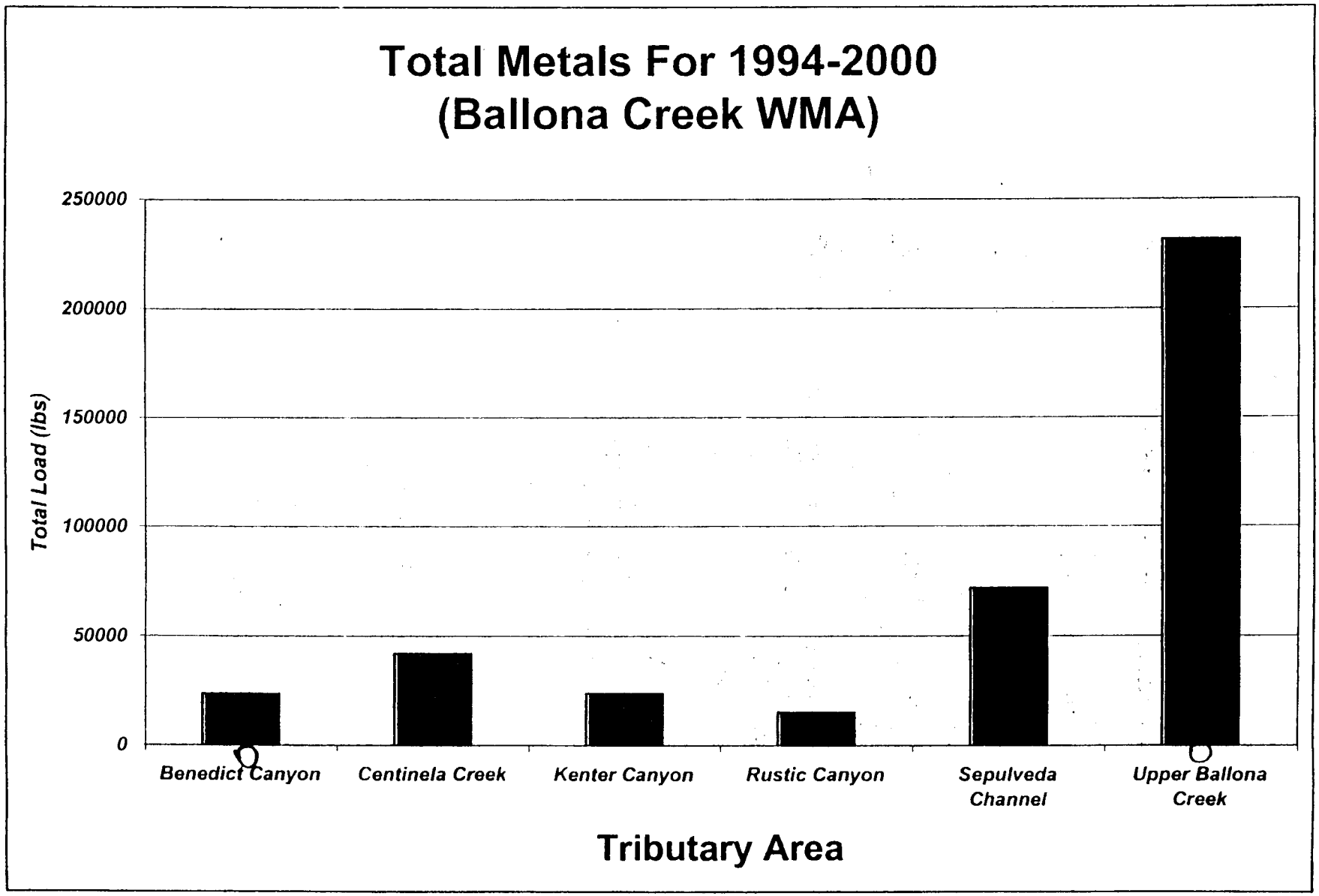
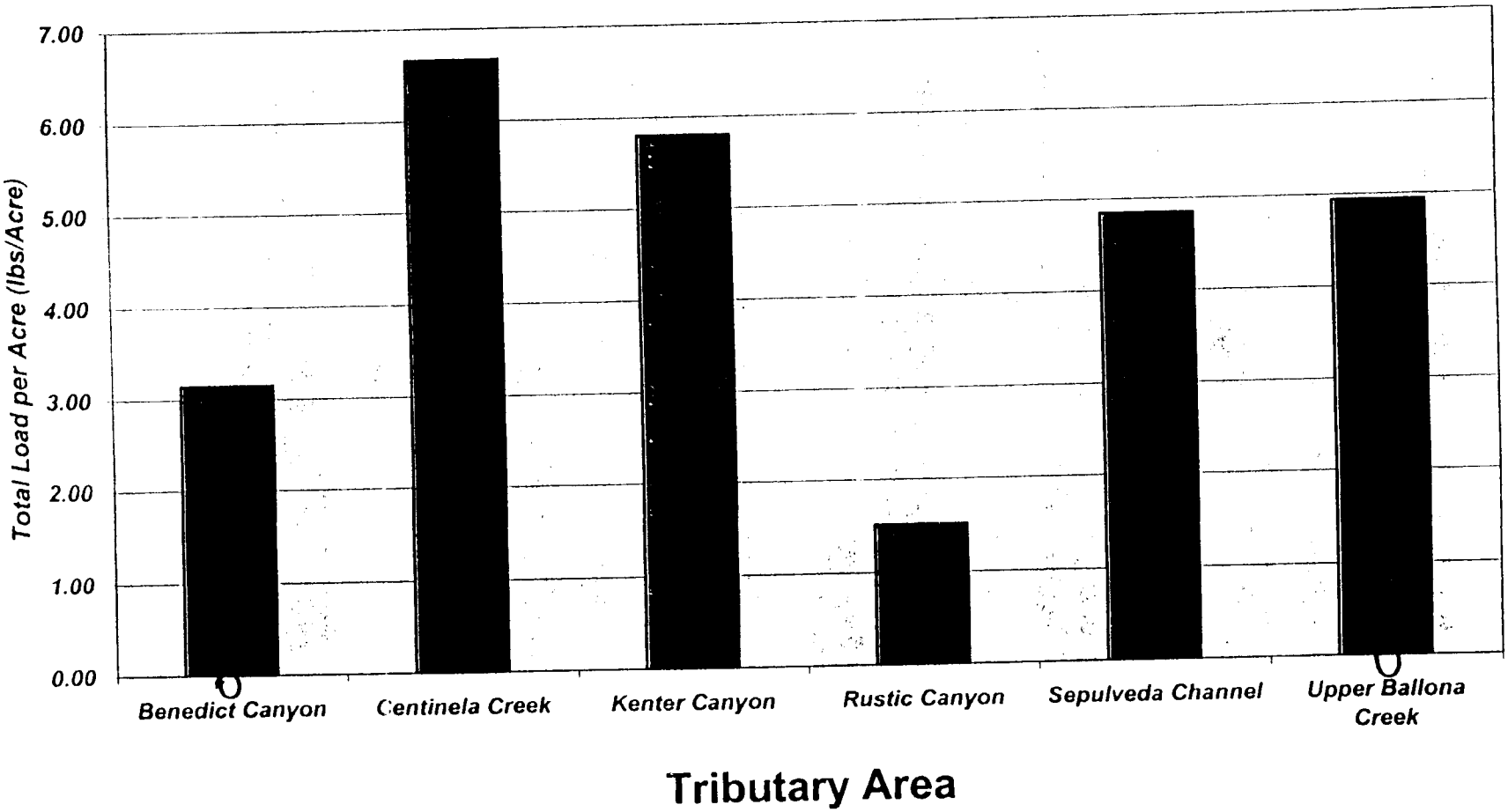
R0002779

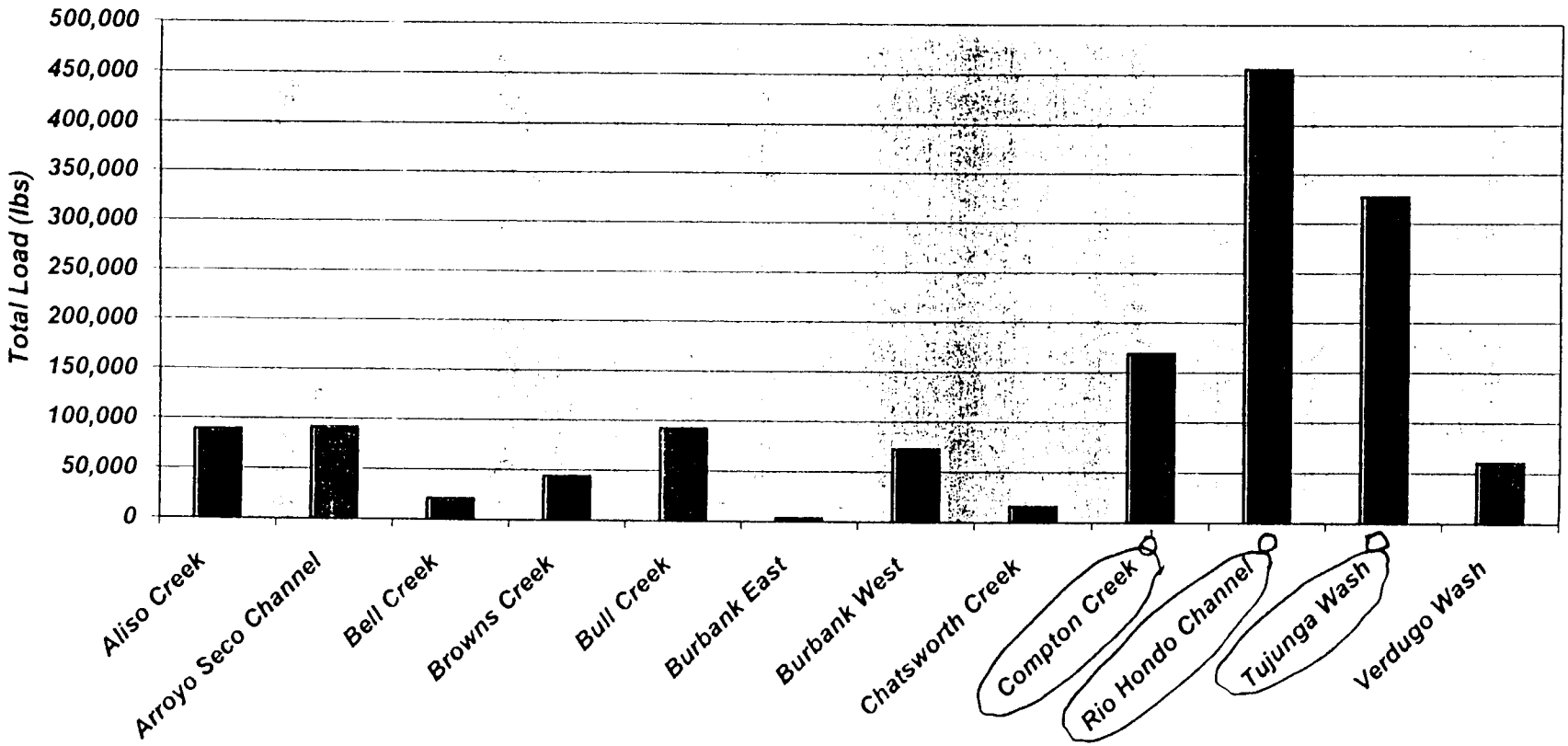

Total Metals For 1994-2000
(Ballona Creek WMA)
250000
200000
150000
100000
50000
0
Total Load (lbs)
Benedict Canyon
Centinela Creek
Kenter Canyon
Rustic Canyon
Sepulveda Channel
Upper Ballona Creek
Tributary Area

R0002780

Total Metals Per Acre For 1994-2000 (Ballona Creek WMA)



Total Metals for 1994-2000
(Los Angeles River WMA)



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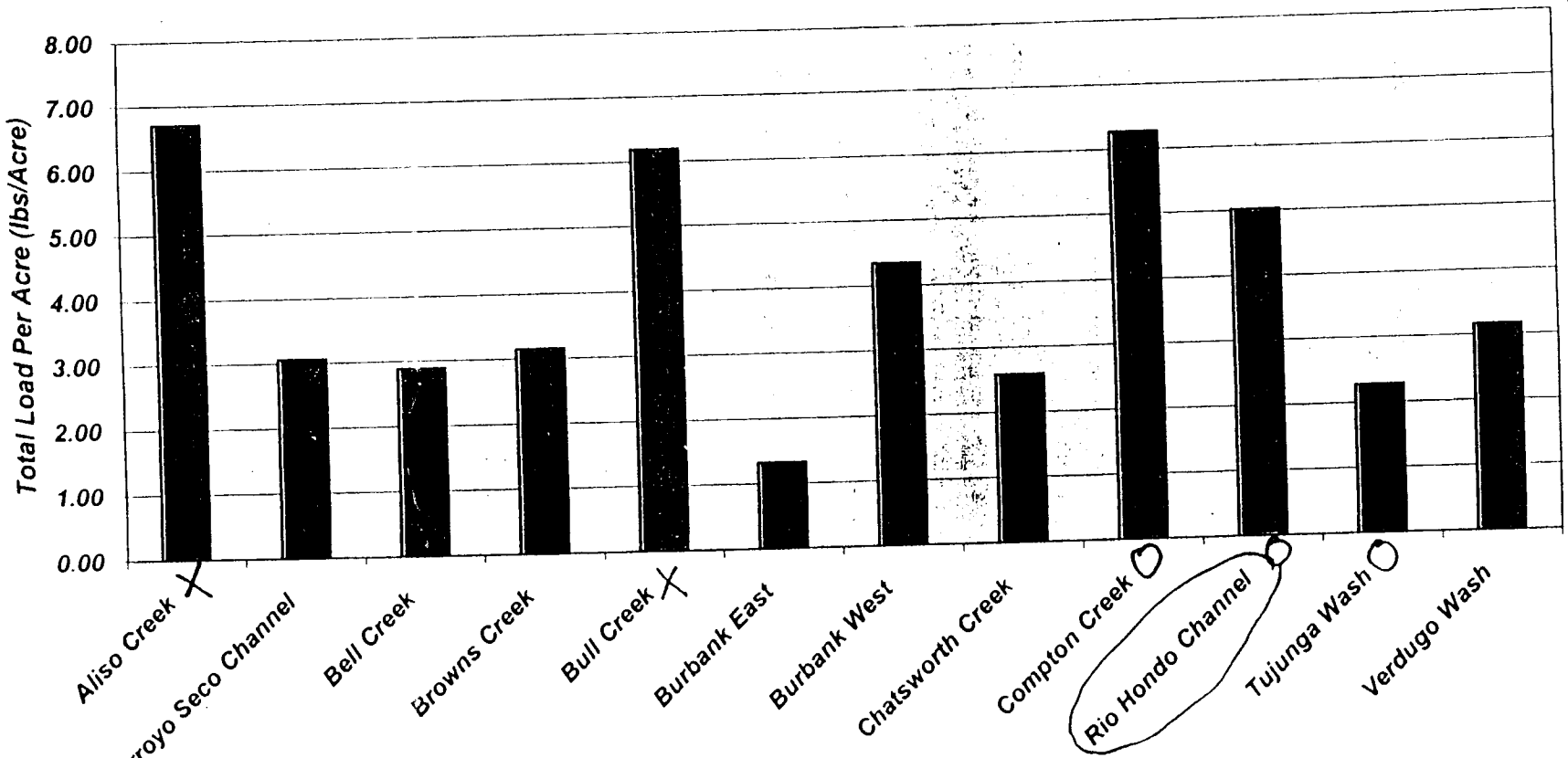
Total Metals Per Acre For 1994-2000
(Los Angeles River WMA)



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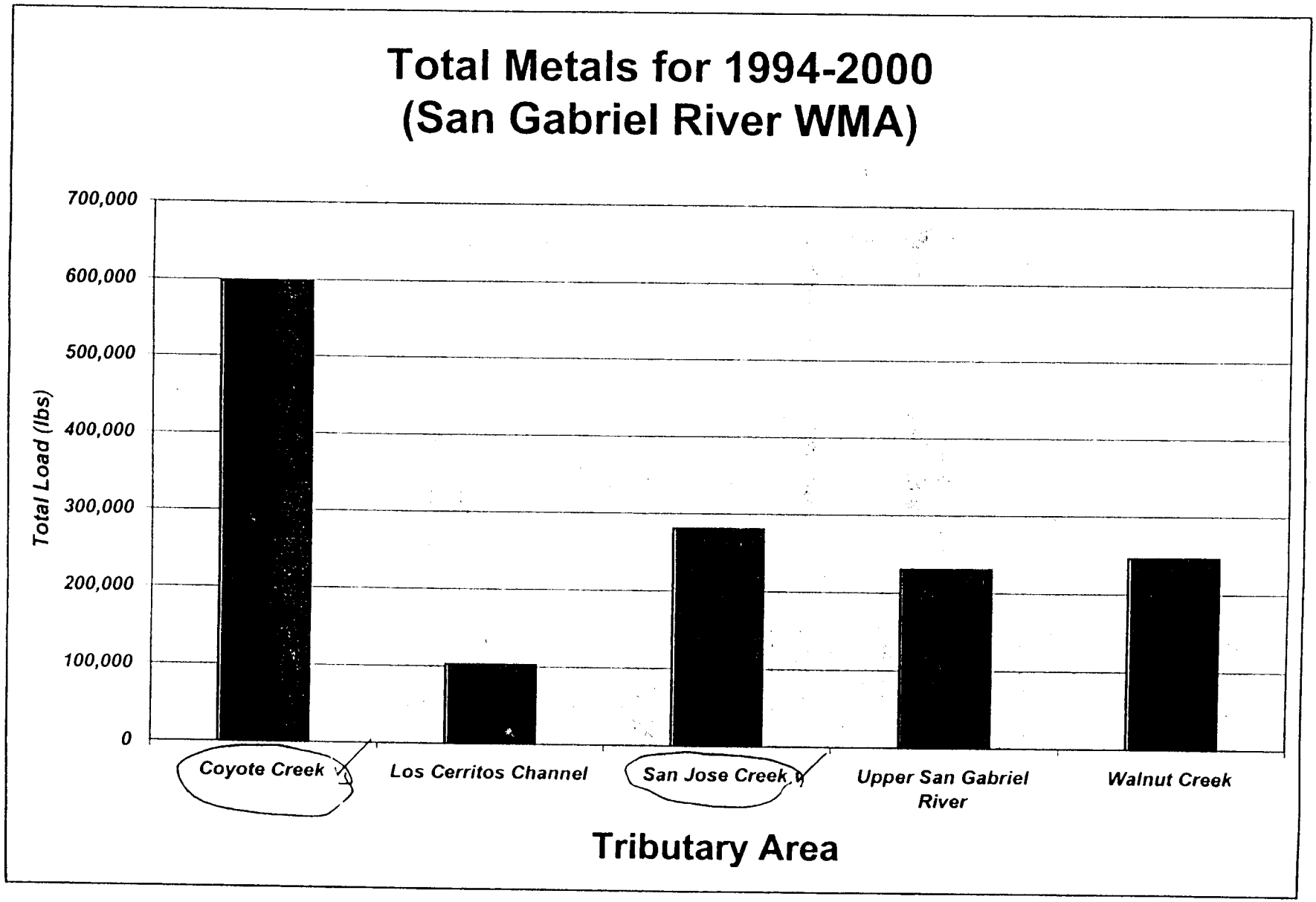
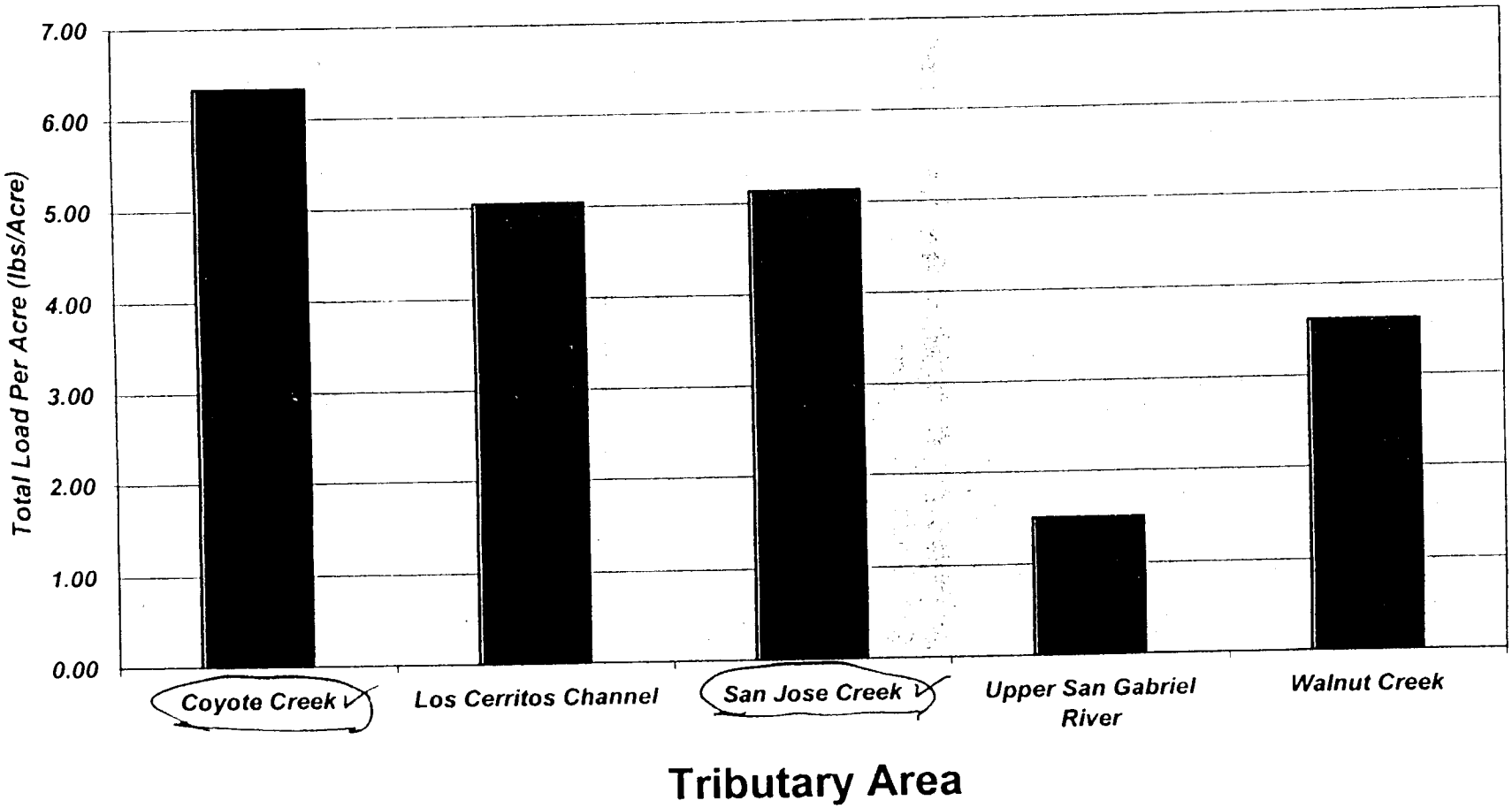

Total Metals for 1994-2000
(San Gabriel River WMA)
700,000
600,000
500,000
400,000
300,000
200,000
100,000
0
Total Load (lbs)
Coyote Creek
Los Cerritos Channel
San Jose Creek
Upper San Gabriel River
Walnut Creek
Tributary Area

R0002784

Total Metals Per Acre For 1994-2000 (San Gabriel River WMA)



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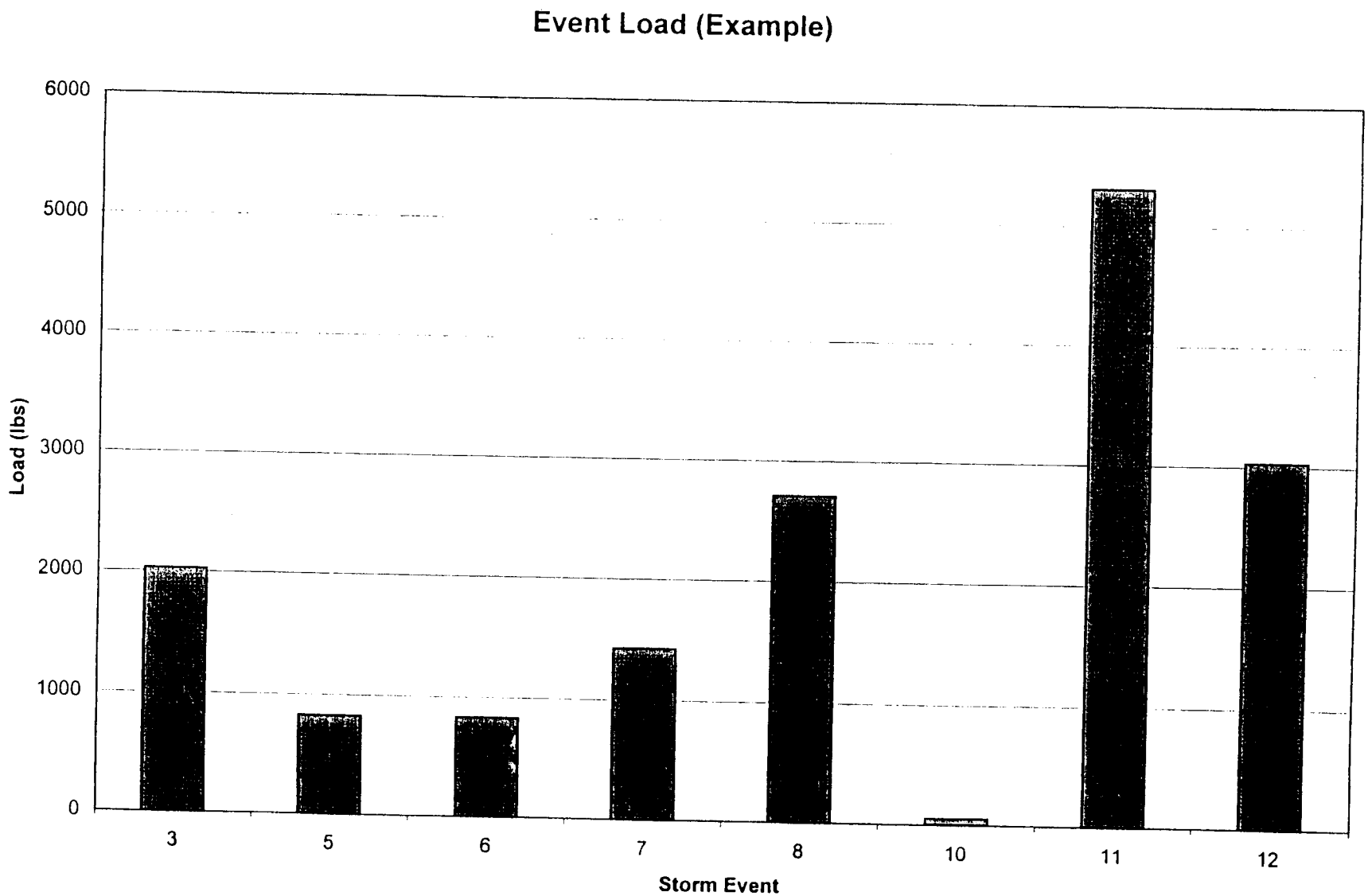
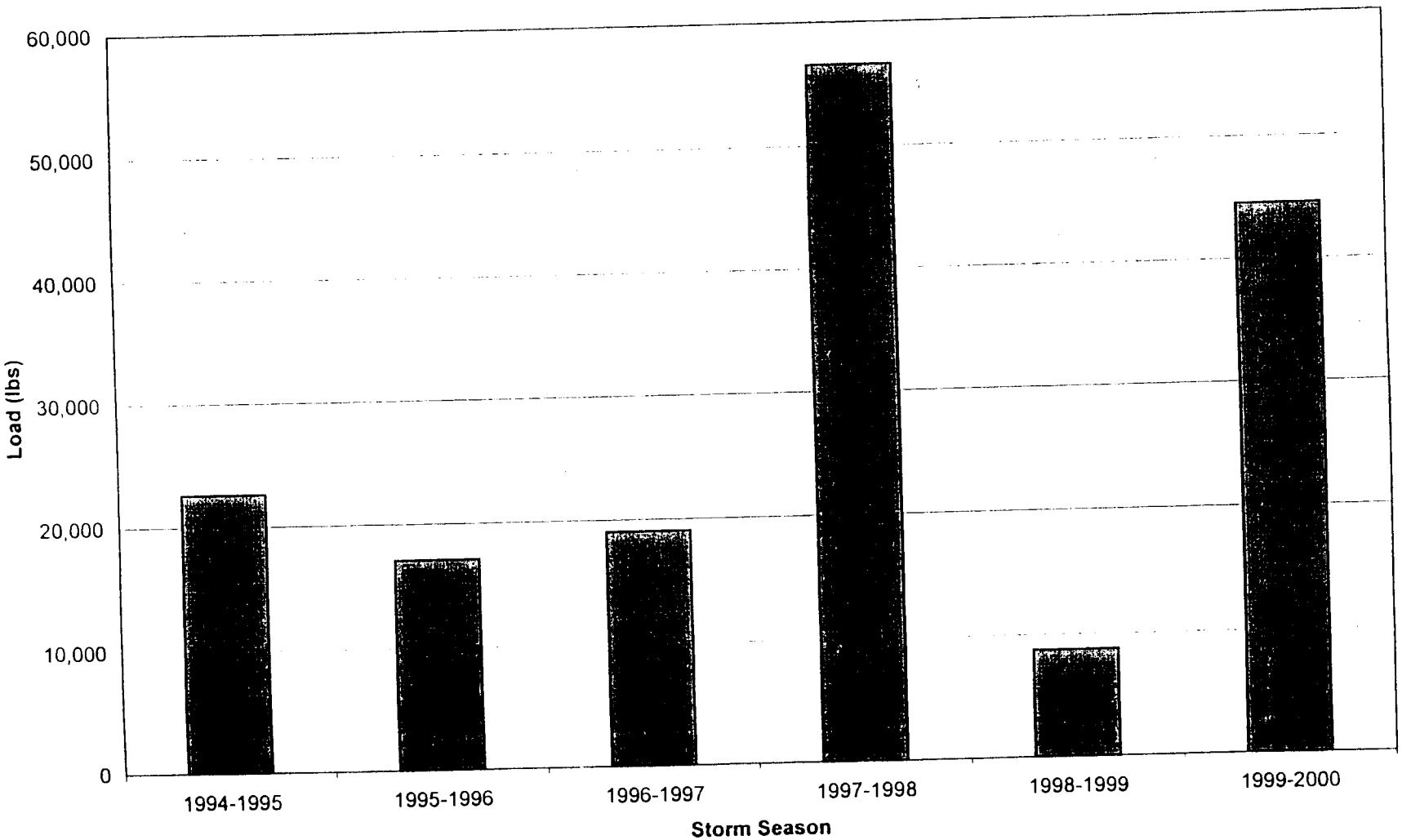

Event Load (Example)
6000
5000
4000
3000
2000
1000
0
Load (lbs)
3
5
6
7
8
10
11
12
Storm Event

Seasonal Load of Metals (Example)



R0002787

GENERAL WORKPLAN FOR WET WEATHER MODELING OF THE LOS ANGELES RIVER AND SANTA MONICA BAY WATERSHEDS

INTRODUCTION

The goal of this study is to develop a dynamic wet weather runoff model for the Los Angeles River and Santa Monica Bay watersheds. The objective of developing the wet weather runoff model is two-fold. The first objective is to evaluate what proportion of the cumulative runoff load of various constituents is generated from specific land uses, sub-watersheds, or municipal entities. This is important for prioritizing which locations may need management actions, targeting locations or sources that contribute sediments or sediment contaminants that impair dredging activities, or for assigning load and waste load allocations for total maximum daily loads (TMDLs). The second objective for developing a dynamic water quality model is to create a more sophisticated tool for assessing the effectiveness of different management actions.

Existing wet weather models in the Los Angeles region are static, which are too inflexible to assess the effects of potential management actions. Static models assume steady-state conditions and are most effective for estimating runoff loads on an annual or seasonal basis. However, flow and water quality during storm events is far from steady state and concentrations often range orders of magnitude within a single event. Dynamic models are time-variable and can incorporate these changes in water quality and flow over the course of a single storm event enabling a more accurate estimate of runoff mass emissions. Dynamic models use this time-variable interaction to assess complex processes and evaluate within storm management actions such as on-site stormwater retention strategies (e.g. SUSMPs).

A dynamic wet weather model uses rainfall, watershed hydrography, and runoff water quality data to predict the concentrations and loads of pollutants that runoff at the mouth of a sub-watershed. Both calibration and validation data need to be collected to develop the wet weather model. Three different types of calibration data are necessary: (1) physical data (i.e. elevation, storm drain piping, land use and soil type); (2) rainfall and flow data; and (3) water quality data. Of these, the water quality data is the biggest missing piece of information. Water quality data collected to date consists largely of event mean concentrations whereas a dynamic model needs information throughout the course of the storm. Time-concentration series are needed to show how constituents are mobilized from different urban surfaces and transported to receiving waters. Hence, the time-concentration series may vary from land use to land use and, depending upon local critical sources, may vary within land use types. Verification data, including flow and water quality, will be collected from selected sites along the mainstem of the river/creek and compared to the modeled estimates.

APPROACH

This document is meant to briefly outline the approach and data needed to develop the dynamic wet weather model. Since water quality data is the one piece of information most needed to develop the wet weather model, this document focuses on the strategy for obtaining time-concentration series at a variety of land use types.

Physical Data

Physical data are required to describe the model domain and set boundaries, route flow during storm events, and estimate runoff volumes. Elevation data and storm drain maps are used to define the watershed boundaries. Land use and soil data are used to help estimate the runoff volumes. Different land uses and soil types have different levels of imperviousness, which directly affect the amount of rain that will runoff into storm drain channels. GIS data layers for elevation, storm drain maps, soil type, and land use already exists and will be used for this portion of the model. The watershed boundaries will be compared to existing estimates of watershed boundaries used by other agencies.

Rainfall and Flow Data

Rainfall is the forcing function in the wet weather model. Fortunately, a relatively good array of rain gages exists in the Los Angeles region. There are over 70 rain gages (12 automatic) in the Los Angeles River watershed and more than 30 rain gages (3 automatic) in the Santa Monica Bay watershed. Two types of flow data are needed. The first type of flow data is from smaller areas of homogeneous land uses. Land use flow data will be used to generate runoff coefficients. Much of this data already exists and has been used to generate realistic runoff coefficients for this area. The second type of flow data is along the main stem of large rivers and creeks that represent the cumulative runoff from large, multiple land use areas. Much of this information has also been collected and used to verify runoff coefficients. However, the time-steps for rainfall and flow calibration have always been on a per-storm or per-wet year basis. The current dynamic model development will require rainfall, runoff, and flow at much finer time-steps (i.e. 15 min). Model calibration and validation for flow and volume will utilize existing data, but will model the rainfall-runoff relationships at the increased time step frequency.

Water Quality

Similar to flow, water quality will be collected at two different types of sites. The first are land use sites and the second are mainstem sites. Two mainstem sites already exist (LA River at Wardlow and Ballona Ck at Sawtelle) and we intend to collect time-concentration series at these historical sites. Land use sites are more numerous and most are not currently established.

Selection of Land Use Sampling Sites

There are eight basic land use types that need to be characterized for model development (Table 1). These include high density residential, low density residential, commercial, industrial, agriculture, transportation, recreational, and open lands. However, the concentrations of pollutants that are generated from each land use are a function of the critical sources within that land use. Therefore, we have adapted a sampling design that evaluates time-concentration series at replicate land use sites, which represents a range of sources within land use categories (Table 1). The range in time- concentration series will be used for model sensitivity analysis.

There are likely many factors that will influence a time-concentration series at a single site. This may include antecedent rainfall, intensity, and duration of rainfall, etc. Therefore, at a selected subset of sites we will be collecting time-concentration series during multiple storm events (Table 1). The range in time- concentration series during multiple storms will be used for model calibration.

Criteria for Site Selection

There are three categories of criteria that will be used for site selection. The first category focuses on sampling safety of field crew and includes access, protection from flooding, free from dangers such as traffic, enclosed space, and height. The second category of selection criteria focuses on flow measurements. Each site must have a well-defined drainage area and be hydrologically rateable for flow, which means that some flow control structure or device exists or can be deployed (i.e. cement lined open channel, pipe, weir, flume, etc.). The third category of criteria focuses on representativeness. Representativeness varies by site type. Mixed land uses will be considered representative if the plot size is greater than 10 acres and consists of more than 60% of the targeted land use within the drainage area. For critical source sites, no minimum size is designated since this will vary from source to source, but more than 90% of the drainage area must consist of the targeted land use. Where possible, use of existing monitoring locations is preferred.

Sample Collection

Ten time-paced samples are targeted at each site per storm event that should cover the entire range of a storm. For example, samples should be taken every hour for a 10 hr storm. It is recognized that rainfall and subsequent runoff flows are inherently unpredictable. Therefore, sample timing may not be precise and decisions in the field may be necessary. Flow measurements should be collected more frequently, preferably at 15 min intervals.

Target Constituents

The list of target constituents includes suspended solids, bacteria, nutrients, trace metals, organophosphorus pesticides, and polynuclear aromatic hydrocarbons (Table 2).

MODEL SELECTION

The Hydraulic Simulation Program – Fortran (HSPF) runoff model is the preferred model to dynamically simulate stormwater runoff. This model was chosen because of its complex time-variable rainfall-flow capabilities. This will enable varying stream flows and pollutant concentrations/loads during an event allowing evaluation of within storm management actions (e.g. stormwater retention). HSPF was originally developed by the US Geological Survey and has been widely tested in other watersheds. For example, HSPF is the runoff model that supports EPA's BASINS program. HSPF can also be linked with other receiving water fate and transport models. For example, HSPF can be easily linked to the Effluent Fluid Dynamics CODE (EFDC) that is being developed for the mainstem of the Los Angeles River and in Santa Monica Bay. HSPF supports the rapid time-variable steps used by EFDC.

PRODUCTS

A dynamic wet weather model will be used to create three different products for both the Los Angeles River and Santa Monica Bay watersheds. The first product will be a modeled estimate of cumulative mass emissions of suspended solids, bacteria, trace metals, organophosphorous pesticides, and polynuclear aromatic hydrocarbons for the various subwatersheds defined in the model. The proportion of the cumulative mass emissions from each of the eight different land use categories by subwatershed will also be generated. The second product will be a model sensitivity analysis based on the ranges in water quality information. The ranges of water quality information will be generated from the monitoring of different critical sources during this project. The third product will be an evaluation of three separate management actions. All three management actions will focus on stormwater retention strategies; on site retention of the first 0.25 in rain, the first 0.50 in rain, the first 0.75 in rain from all land uses. The differences in loads will be illustrated. Alternative management strategies, once designed, can be included in the model runs.

TABLE 1. List of land uses for sampling.

Land Use Category	Critical Sources Within Land Use	Number of Site-Events
High Density Residential	mixed	2
	high pet density	1
Low Density Residential	sewered	2
	unsewered	1
Commercial	mixed, homeless absent	2
	mixed, homeless present	1
	restaurant, homeless absent	1
	shopping mall, homeless absent	1
Industrial	mixed	2
	food industry	1
	auto salvage	1
	metal plating	1
	oil extraction	1
Agriculture	mixed	2
	nursery	1
Recreational	golf course	1
	horse stable	2
Transportation	freeway	1
	parking lot	1
	gas station	1
Open Space	open	2
TOTAL	21	28

- site to site variation
- Build-up wash off
Degree/stage of events
RB paying for 10 sites

require 10 site events
10-15,000 / site event
reconfigure existing sites-critical sour

TABLE 2. Target analytes.

Total Suspended Solids

Bacteria
- Total Coliform
- Fecal Coliform or *E. Coli*
- Enterococcus

Nutrients
- Nitrate + Nitrite
- Ammonia
- Total Kjedhal Nitrogen
- Total Phosphorus
- Phosphate

Trace Metals
- Arsenic
- Cadmium
- Chromium
- Copper
- Iron
- Lead
- Nickel
- Silver
- Zinc

OP Pesticides
- Chlorpyrifos
- Diazinon

Polynuclear Aromatic Hydrocarbons
- 1-Methylnaphthalene
- 1-Methylphenanthrene
- 2,6-DimethylNaphthalene
- 2,3,5-Trimethylnaphthalene
- 2-Methylphenanthrene
- Acenaphthene
- Acenaphthylene
- Anthracene
- Benz[a]anthracene
- Benzo[a]pyrene
- Benzo[g,h,i]perylene
- Benzo[k]fluoranthene
- Biphenyl
- Biphenyl
- Chrysene
- Dibenz[a,h]anthracene
- Fluoranthene
- Fluorene
- Methylanthracene
- Indeno[1,2,3-c,d]pyrene
- Naphthalene
- Perylene
- Phenanthrene
- Pyrene

I. Monitoring Requirements

The primary objectives of the Los Angeles County Storm Water Quality Monitoring Program include, but are not limited to: 1) assessing compliance with this Order; 2) measuring and improving the effectiveness of the SQMPs; 3) assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff; 4) characterization of storm water discharges; 5) identifying sources of pollutants; and 6) assessing the overall health and evaluating long-term trends in receiving water quality. Ultimately, the results of the monitoring requirements outlined below should be used to refine the SQMPs for the reduction of pollutant loadings and the protection and enhancement of the beneficial uses of the receiving waters in Los Angeles County.

The Principal Permittee shall implement the Countywide Storm Water Monitoring Program as follows:

A. Mass Emissions

The Principal Permittee shall monitor mass emissions to accomplish the following objectives: 1) estimate the mass emissions from the MS4; 2) assess trends in the mass emissions over time; and 3) determine if the MS4 is contributing to exceedances of water quality objectives by comparing results to objectives in the Basin Plan, Ocean Plan, and with emissions from other dischargers.

1. The Principal Permittee shall monitor mass emissions from the following eight mass emission stations: Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, Coyote Creek, Dominguez Channel, the two stations in the Santa Clara River (one immediately upstream from the Ventura County line, and one upstream of the confluence with Castaic Creek. The Principal Permittee shall monitor the first storm event and a minimum of 3 additional storm events for each season. One dry weather sample per year at each mass emission station shall also be analyzed.

2. Samples for mass emission station monitoring may be taken with the same type of automatic sampler used under Order 96-054. Grab samples shall be taken for pathogen indicators and oil and grease. The samplers shall be set to monitor storms totaling 0.25 inches or greater of rainfall. Samples taken at mass emission stations during the first storm event should be analyzed for all constituents listed in Attachment 1. The Principal Permittee may elect not to sample Volatile Organic Compounds from the list of constituents for mass emission stations.

3. For the first storm of each year, method detection limits (MDLs) lower than or equal to the minimum levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000 (SIP) shall be used. These levels are listed in column A in Attachment 1. Where SIP minimum levels are detected, those

MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment 1, the higher MDLs may be used for the remaining sampling events of that year. If a constituent has been detected in 100 percent of samples during the last 2 years of monitoring, the Principal Permittee may continue to use the MDLs listed in column B until the constituent is not detected, afterwhich, the method detection limits shall be lowered to those in column A.

4. If a constituent is not detected at the method detection limit for its respective test method listed in Attachment 1 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it need not be further analyzed, with the exception of the first storm of each season, unless the observed occurrences show high concentrations and are cause for concern.

5. All storms, in addition to those required above, totaling at least 0.25 inches of rainfall shall be sampled and analyzed for TSS. Results shall be used to assess the variability of storm water constituents (metals and PAHs are positively correlated with TSS).

B. Water Column Toxicity Monitoring

The Principal Permittee shall analyze mass emission samples for toxicity to evaluate the extent and causes of toxicity in receiving waters and to modify and utilize the SQMP to implement practices that eliminate or reduce sources of toxicity in storm water.

1.

The Principal Permittee shall analyze two wet weather samples and two dry weather samples from each mass emission station for toxicity per year. A minimum of one freshwater and one marine species shall be used for toxicity testing. Specifically, Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization shall be used. If toxicity is not detected in either of the dry weather samples for any given mass emission station, the Principal Permittee may reduce dry weather toxicity testing to one sample per year at that station. If toxicity is not detected in either of the wet weather samples for any given mass emission station, wet weather toxicity testing may be reduced to one sample from the first storm of the wet season per year at that station.

2. Toxicity Identification Evaluations (TIE)

The Principal Permittee shall conduct Phase I TIEs on wet weather samples when two consecutive samples from the same monitoring station show toxicity and on dry weather samples when two consecutive dry weather samples from the same monitoring station show toxicity.

3. Toxicity Reduction Evaluations (TRE)

The Principal Permittee shall perform a TRE for each pollutant or pollutant class that is identified as toxic. TREs shall include procedures for investigating the causes and identifying corrective actions to eliminate toxicity. Specifically, the following activities shall be included in each TRE:

- Identify the causative agents of toxicity (accomplished with the TIE)
- Isolate the sources of toxicity
- Evaluate the effectiveness of toxicity control options
- Implement effective toxicity control options
- Confirm the reduction in toxicity

If applicable, the Principal Permittee may use the same TRE for the same toxic pollutant or pollutant class in different watersheds.

After the Principal Permittee has isolated the sources of toxicity and identified appropriate BMPs, each Permittee shall be responsible for implementing the appropriate BMPs to reduce toxicity. The Principal Permittee shall submit an implementation plan for each TRE to the Regional Board Executive Officer for approval.

During TRE development and implementation, the Principal Permittee shall continue monitoring the first storm and one dry weather event per year for toxicity at the subject station. Two years after BMPs have been implemented, , the Principal Permittee shall analyze two wet weather and two dry weather samples for toxicity to evaluate the effectiveness of the TRE.

The Principal Permittee shall conduct a maximum of two TREs per year. TRE performance shall be prioritized according to the TMDL schedule[1] and the level of toxicity present.

The Principal Permittee may use sampling data from previous storm water toxicity monitoring, however, all stations must conduct regular toxicity tests on the freshwater species Ceriodaphnia dubia where it was not previously conducted. For example, toxicity monitoring activities during the 2001-2002 permit year shall occur according to Table 1.

Table 1. Toxicity Monitoring Activities for 2001-2002

[1] Current TMDL schedule can be found on the Regional Board website at www.swrcb.ca.gov/rwqcb4/docs/table7_wmi_appdx.pdf

Monitoring Station	*Toxicity Monitoring Activities*
Ballona Creek	Zinc TRE, Copper TRE, toxicity testing on Ceriodaphnia dubia
Malibu Creek	Toxicity testing on Ceriodaphnia dubia, reduced testing on sea urchins
Los Angeles River	Wet and dry weather TIEs, toxicity testing on Ceriodaphnia dubia
San Gabriel River	Wet weather TIE, toxicity testing on Ceriodaphnia dubia
Dominguez Channel	Toxicity monitoring (2 wet and 2 dry weather on both species)
Coyote Creek	Toxicity monitoring (2 wet and 2 dry weather on both species)

The Principal Permittee shall report on the development, implementation, and results for each TRE in the Annual Reports, beginning the year following the identification of each pollutant or pollutant class causing toxicity.

C. Sediment Monitoring

The Principal Permittee shall monitor estuaries for sediment chemistry, sediment toxicity, and benthic macroinvertibrate communitiy to determine the spatial extent of sediment fate from storm water, and the magnitude of its effects. A map of each estuary depicting the impacted areas shall be produced.

1. The Principal Permittee shall sample 25 sites in each estuary/mouth (Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, and Dominguez Channel) once during the permit cycle. Sediment samples shall be taken at each station by means of a 0.1m2 (1.1 ft 2) modified Van Veen sediment grab sampler. Sample sites shall be placed at approximately 1/2 kilometer intervals.

2. The Principal Permittee shall also sample 25 sites outside of each direct outfall to assess cumulative effects.

3. All samples shall be analyzed for the following:

   a) Sediment Chemistry (priority pollutants)

   b) Total Organic Carbon (TOC)

   c) Grain size

   d) Sediment Toxicity

      (1) Amphipod survival bioassays shall be conducted on each sediment sample. Toxicity shall be indicated by an amphipod survival rate of 70% or less in a single test.

      (2) Phase I TIEs of interstitial water, using Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization, shall be conducted for samples from stations identified to be toxic in a single amphipod survival bioassay.

e) Benthic Macroinvertibrates

(1) All sediment samples shall be passed through a 1.0mm (0.039 in) screen to retrieve the benthic organisms. Benthic epifauna and infauna shall be analyzed to determine the structure of the benthic community.

(2) The Principal Permittee shall identify all organisms to lowest possible taxon.

(3) The Principal Permittee shall determine the Total Biomass of:

(i) Mollusks
(ii) Echinoderms
(iii) Annelids/polychaetes
(iv) Crustaceans
(v) All other macroinvertebrates

(4) The Principal Permittee shall determine the community structure analysis , including wet weight of each taxonomic group (listed above), number of species, number of individuals per species, total numerical abundance, species abundance per grab, species richness, species diversity, species evenness and dominance, similarity analysis, cluster analyses, or other appropriate multivariate statistical techniques approved by the Regional Board Executive Officer, and the Infaunal Index[2].

4. The Principal Permittee shall create a map of each estuary depicting degraded areas and the spatial distribution of sediment from storm water. The Principal Permittee is encouraged to undertake this requirement in parallel with the Regional Monitoring (Bight-wide 03 study, conducted by SCCWRP).

D. Source Identification Monitoring

The Principal Permittee shall participate in an on-going effort[3] to develop a dynamic wet weather runoff model using time-concentration series. The immediate goal of the monitoring is to determine the proportion of the cumulative runoff load of various constituents generated from specific land uses (critical sources), sub-watersheds, or municipal entities. The ultimate goal is to jointly develop a model that can be regionally applied to

[2] Benthic Response Index for Assessing Infaunal Communities on the Mainland Shelf of Southern California, the Southern California Coastal Water Research Project
[3] General Workplan for Wet Weather Modeling of the Los Angeles River and Santa Monica Bay Watersheds, DPW, SCCWRP, Regional Board

target locations or sources that contribute pollutants, prioritize locations that need management actions, and assign loads and waste load allocations for TMDLs

1. The Principal Permittee shall develop and implement a source identification monitoring program that will provide data for the development of the dynamic wet weather runoff model. Specific land use or critical source sites shall be chosen consistent with those listed in Table 1 of the General Workplan for Wet Weather Modeling of the Los Angeles River (Attachment 4?). Site selection shall be coordinated with the existing effort. The Principal Permittee may reconfigure existing land use and/or critical source stations for use, where appropriate.

2. The Principal Permittee shall monitor a minimum of any 10 site events. For example, 1 event from 10 different critical source sites, or 5 events from 2 different sources may be monitored. Each site event shall include10 time-paced samples to cover the entire range of the storm. For example, samples should be taken every hour for a 10 hour storm.

3. Each sample shall be analyzed for constituents that exceed standards at the respective mass emission station, TSS, bacteria, nutrients, trace metals, organophosphorus pesticides, and PAHs

4. The Principal Permittee shall submit the data to the appropriate agency for use in development of the model. Data, results, and analysis shall also be submitted to the Regional Board Executive Officer with Annual Reports.

E. Shoreline Monitoring

The Principal Permittee shall monitor shoreline stations to evaluate the impacts to coastal receiving waters and the loss of recreational beneficial uses resulting from urban runoff. This component should be integrated and coordinated with similar monitoring programs in the region.

1. The City of Los Angeles shall monitor eighteen water quality sampling stations along the shoreline of the Pacific Ocean within the Santa Monica Bay to determine compliance with the State of California's bathing water standards for public beaches and ocean water-contact sport areas[4], and the related impacts of discharges from storm drains and piers. The shoreline monitoring program shall be implemented as follows:

   a) The eighteen established shoreline water quality stations listed in Attachment 2 shall be monitored;

   b) Monitoring shall include the following types and frequencies of sampling:

Parameter	Units	Sample Frequency
Total coliforms	CFU or MPN/100 ml	Daily
Fecal coliforms	CFU or MPN/100 ml	Daily
Enterococcus	CFU or MPN/100 ml	5 times/month

   c) Shoreline monitoring shall occur during daylight hours. Samples may be omitted in the event of hazardous weather;

   d) Shoreline monitoring frequencies at certain stations may be modified based on the use of the adjacent beaches, as approved by the Los Angeles County Department of Health Services (DHS).

   e) Data collected shall be transmitted daily to the Los Angeles County DHS. Data shall be assessed annually and presented in the Annual Report;

   f) When exceedances of public health standards for bacteria occur, the Principal Permittee shall notify the appropriate Permittees. Permittees shall initiate an investigation to determine the source, as required in the Program to Eliminate Illicit Connections and Discharges (Part 4.F.2.c.).

   g) The City of Los Angeles will continue to conduct all monitoring, testing, and data transferring actions as part of the Santa Monica Bay Restoration Project regional program for the Santa Monica Bay.

F. Regional Monitoring

The Principal Permittee shall participate on Regional Monitoring committees to help establish on-going regional programs that address public health concerns, monitor trends in natural resources and nearshore habitats, and assess regional impacts from all pollutant sources.

[4] California Department of Health Services, Health and Safety Code §115880 (Assembly Bill 411, Statutes of 1997, Chapter 765

The Southern California Coastal Waters Research Project (SCCWRP), in conjunction with the USEPA, the State Board, three Regional Boards, and participating dischargers, has organized an effort to implement a regional monitoring program for the Southern California Bight. Previous studies (in 1994 and 1998) included microbiology, water quality, sediment chemistry, sediment toxicity testing, benthic infauna, demersal fish, and bioaccumulation. Many of these components correspond to parameters required to be measured under this Order. A similar Bight-wide monitoring effort is planned to be conducted in 2003. The Principal Permittee shall participate on the Steering Committee for this Bight-wide monitoring project. The sampling and analytical efforts and data collected may be substituted for equivalent requirements of this Monitoring Program for that year, such as the sediment mapping (Section C.4).

G. Bioassessment

The Principal Permittee shall participate in a regional effort to develop an Index of Biological Integrity (IBI) for Southern California streams, including determining reference conditions and natural variability in this region. The Regional Board anticipates that the Southern California Stormwater Research/Monitoring Program (coordinated by SCCWRP) will organize a regional effort to evaluate the biological index approach for Southern California and to design a research project for developing an IBI by 2003. The ultimate goal is to have a bioassessment tool sufficiently developed so that data can be used to measure stream health, identify biological responses to pollution and probable causes of impairment by the end of this Order.

H. Trash Monitoring

The Principal Permittee and the Permittees listed in Attachement 3 shall develop and implement a trash monitoring program for the Los Angeles River and Ballona Creek watersheds. At a minimum, Permittees shall determine the annual trash load in cubic feet per year. The Principal Permittee is encouraged to implement the program in the watersheds that are not presently listed on the 303(d) list for impairment for trash.

I. Peak Discharge Impact Study

The Principal Permittee shall participate in a study to evaluate peak storm water discharge rate (PDR) control and to determine numeric criteria to prevent or minimize erosion of natural stream channels and banks caused by urbanization (Part 4.C.2.). The Principal Permittee may partner with the Ventura County Flood Control District to extend their stream erosion study to a watershed in Los Angeles County that contains primarily natural drainage systems, specifically the Santa Clara River.

J. BMP Effectiveness Study

The Principal Permittee shall conduct or participate in studies to evaluate the effectiveness of structural and treatment control storm water best management practices. The objectives of this study shall include the following:

- Monitor the reduction of pollutants of concern in storm water (including, but not limited to: trash, suspended sediment, pathogen indicators, nutrients, heavy metals, and oil and grease) from five or more different types of BMPs that have been properly installed within the year preceding monitoring. Monitoring shall be continued until the effectiveness of the BMP can be determined.
- Evaluate the requirements, feasibility and cost of maintenance for each BMP.
- Develop recommendations for appropriate BMPs for the reduction of pollutants of concern in storm water in Los Angeles County.

The Principal Permittee may participate in the Santa Monica Bay Restoration Foundation's proposed study, "Performance Evaluation of Structural BMPs for Storm water Pollution Control in the Santa Monica Bay Watershed" to meet this requirement. Participation includes collaboration and resource contribution to expand the scope of the proposed study.

K. Standard Monitoring Provisions

1. The Principal Permittee shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.

   Records of monitoring information shall include:

a) The date, exact place, and time of sampling or measurements;

b) The individual(s) who performed the sampling or measurements;

c) The date(s) analyses were performed;

d) The individual(s) who performed the analyses;

e) The analytical techniques or methods used; and,

f) The results of such analyses.

2. All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order.

3. All chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency.

4. If no flow occurred during the reporting period, the monitoring report shall so state.

5. For any analyses performed for which no procedure is specified in the EPA guidelines or in this Monitoring and Reporting Program, the constituent or parameter analyzed and the method or procedure used must be specified in the monitoring report.

6. Whenever feasible, all MDLs shall be less than or equal to the Minimum Levels in the State Water Resources Control Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000. If this is not feasible, the Principal Permittee shall use analytical methods with the lowest MDL.

7. The Regional Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring and Reporting Program, after providing the opportunity for public comment, either:

a) By petition of the Principal Permittee or by petition of interested parties after the submittal of the Annual Monitoring Program Report. Such petition shall be filed not later than 60 days after the Annual Monitoring Program Report submittal date, or

b) As deemed necessary by the Regional Board Executive Officer following notice to the Principal Permittee.

ATTACHMENT 1
LIST OF CONSTITUENTS IN MONITORING PROGRAM
AND ASSOCIATED METHOD DETECTION LIMITS (MDLs)

CONSTITUENTS	USEPA METHOD	MDL A[5]	MDL B[6]
Conventional Pollutants		**mg/L**	**mg/L**
Oil and Grease	413.2	1	1
Total Phenols	420.1	0.1	0.1
Cyanide	335.2	0.01	0.01
pH	150.1	0 - 14	0 - 14
Temperature		None	None
Dissolved Oxygen		Sensitivity to 5 mg/L	Sensitivity to 5 mg/L
Bacteria			
Total Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Streptococcus	9221B	<20mpn/100ml	<20mpn/100ml
General		**mg/L**	**mg/l**
Dissolved Phosphorus	300	0.05	0.05
Total Phosphorus	300	0.05	0.05
Turbidity	180.1	0.1NTU	0.1NTU
Total Suspended Solids	160.2	2	2
Total Dissolved Solids	160.1	2	2
Volatile Suspended Solids	160.4	2	2
Total Organic Carbon	415.1	1	1
Total Petroleum Hydrocarbon	418.1	1	1
Biochemical Oxygen Demand	405.1	2	2
Chemical Oxygen Demand	410.4	20-900	20-900
Total Ammonia-Nitrogen	350.2	0.1	0.1
Total Kjeldahl Nitrogen	351.2	0.1	0.1
Nitrate-Nitrite	4110	0.1	0.1
Alkalinity	310.1	2	2
Specific Conductance	120.1	1umho/cm	1umho/cm
Total Hardness	130.2	2	2
MBAS	425.1	<0.5	<0.5
Chloride	4110	2	2
Fluoride	4110	0.1	0.1
Sulfate	4110	2	2

[5] Detection limits lower than or equal to the Minimum Levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California
[6] Detection limits from Order 96-054

Metals		µg/L	µg/L
Aluminum	202.1	100	100
Antimony	204.2	**0.5**	10
Arsenic	206.2	**1**	10
Barium	208.2	100	100
Beryllium	210.2	**0.5**	5
Boron	212.3	250	250
Cadnium	213.2	**0.25**	10
Calcium	215.2	200	200
Chromium	218.2	**0.5**	10
Copper	219.2	**0.5**	10
Hex. Chromium	7196	**5**	<10
Iron	236.2	100	100
Lead	239.2	0.5	10
Magnesium	242.1	200	200
Manganese	243.2	30	30
Mercury	245.1	**0.2**	1
Nickel	249.2	**1**	10
Potassium	258.1	100	100
Selenium	270.2	**1**	5
Silver	272.2	**0.25**	10
Sodium	273.1	50	50
Thallium	279.2	**1**	10
Zinc	289.2	**1**	50
Semivolatile Organic Compounds		µg/L	µg/L
Acids	**8250**		
Benzoic Acid	8250	<5	<5
Benzyl Alcohol	8250	<5	<5
2-Chlorophenol	8250	<2	<2
2, 4-Dichlorophenol	8250	**1**	<2
2, 6-Dichlorophenol	8250	<2	<2
4-Dimetylphenol	8250	<2	<2
4, 6-Dinitro-2-metylphenol	8250	<3	<3
2, 4-Dinitrophenol	8250	<3	<3
2-Methylphenol	8250	<3	<3
4-Methylphenol	8250	<3	<3
2-Nitrophenol	8250	<3	<3
4-Nitrophenol	8250	<3	<3
4-Chloro-3-methylphenol	8250	**1**	<3
Pentachlorophenol	8250	**1**	<2
Phenol	8250	<1	<1
2,3,4,6-Tetrachlorophenol	8250	<1	<1
2,4,5-Trichlorophenol	8250	<1	<1

2,4,6-Trichlorophenol	8250	<1	<1
Base/Neutral	**8250**	**µg/L**	**µg/L**
Acenapthene		<0.5	<0.5
Acenapthylene		**0.2**	<0.5
Acetophenone-		<3	<3
Aniline		<3	<3
Anthracene		2.0	<0.5
4-Aminobiphenyl		<3	<3
Benzidine		<3	<3
Benzo(a)anthracene		<1	<1
4-Chloroaniline		<1	<1
1-Chloronapthalene		<1	<1
p-Dimethylaminoazobenzene		<3	<3
7,12-Dimethylbenz(a)-anthracene		<1	<1
a-,a-Dimethylphenethylamine		<3	<3
Benzo(a)pyrene		<1	<1
Benzo(b)flouranthene		<1	<1
Benzo(k)flouranthene		<1	<1
Chlordane		<1	<1
Bis(2-chloroethoxy)methane		<1	<1
Bis(2-chlorisopropyl)ether		<1	<1
Bis(2-chloroethyl)ether		<1	<1
Bis(2-ethylhexl)phtalate		<3	<3
4-Bromophenyl phenyl ether		<1	<1
Butyl benzyl phthalate		<3	<3
2-Chloronapthalene		<1	<1
4-Chlorophenyl phenyl ether		<1	<1
Chrysene		<1	<1
Dibenz(a,j)acridine		<3	<3
Dibenz(a,h)anthracene		**0.1**	<1
1,3-Dichlorobenzene		<0.5	<0.5
1,4-Dichlorobenzene		<0.5	<0.5
1,2-Dichlorobenzene		<0.5	<0.5
3,3-Dichlorobenzidine		<3	<3
Diethylphthalate		<0.5	<0.5
Dimethylphthalate		<0.5	<0.5
Di-n-butylphthalate		<3	<3
2,4-Dinitrotoluene		<0.5	<0.5
2,6-Dinitrotoluene		<0.5	<0.5
Diphenylamine		<3	<3
1,2-Diphenylhydrazine		**1**	<3
Di-n-octylphtalate		<3	<3
Ethyl methanesulfonate		<3	<3
Fluoranthene		**0.05**	<1
Fluorene		**0.1**	<1
Hexachlorobenzene		<0.5	<0.5
Hexachlorobutadiene		<1	<1

Hexochlorocyclopentadiene		<3	<3
Hexochloroethane		<1	<1
Indeno(1,2,3-cd)pyrene		**0.05**	<1
Isophorone		<0.5	<0.5
3-Methylcholanthrene		<3	<3
Methyl methanesesulfonate		<3	<3
Napthalene		**0.2**	<0.5
1-Napthylamine		<3	<3
2-Napthalamine		<3	<3
2-Nitroaniline		<3	<3
3-Nitroaniline		<3	<3
4-Nitroaniline		<3	<3
Nitrobenzene		<0.5	<0.5
N-Nitroso-di-n-butylamine		<3	<3
N-Nitrosodimethylamine		<3	<3
N-Nitrosodiphenylamine		**1**	<3
N-Nitroso-di-N-propylamine		<1	<1
N-Nitrosopiperidine		<3	<3
Pentachlorobenzene		<3	<3
Phenacitin		<3	<3
Phenanthrene		**0.05**	<0.5
2-Picoline		<3	<3
Pronamide		<5	<5
Pyrene		**0.05**	<0.5
5-Tetrachlorobenzene		<3	<3
1,2,4-Trichlorobenzene		<0.5	<0.5
Pesticides	**608**	**µg/L**	**µg/L**
Aldrin	608	**0.005**	0.05
alpha-BHC	608	0.05	0.05
beta-BHC	608	0.05	0.05
delta-BHC	608	0.05	0.05
gamma-BHC (lindane	608	0.05	0.05
Carbofuran	531.1	<5	<5
Chlordane	608	0.05	0.05
4,4'-DDD	608	**0.05**	<0.1
4,4'-DDE	608	**0.05**	<0.1
4,4'-DDT	608	**0.01**	<0.1
Benzaton	515.1	<2	<2
Dieldron	608	**0.01**	<0.1
Endosulfan I	608	<0.1	<0.1
Endosulfan II	608	<0.1	<0.1
Endosulfan sulfate	608	**0.05**	<0.1
Endrin	608	**0.01**	<0.1
Endrin aldehyde	608	**0.01**	<0.1
Glyphosate	547	<0.5	<0.5
Heptachlor	608	**0.01**	0.05
Heptachlor epoxide	608	**0.01**	0.05

Methoxychlor	608	<0.5	<0.5
Toxaphene	608	**0.5**	<1.0
2,4-D	515.1	<0.02	<0.02
2,4,5-TP-SILVEX	515.1	<0.2	<0.2
Polychlorinated Biphenyls	**608**	µg/L	µg/L
Aroclor-1016	608	**0.5**	<1
Aroclor-1221	608	**0.5**	<1
Aroclor-1232	608	**0.5**	<1
Aroclor-1242	608	**0.5**	<1
Aroclor-1248	608	**0.5**	<1
Aroclor-1254	608	**0.5**	<1
Aroclor-1260	608	**0.5**	<1
Herbicides		µg/L	µg/L
Diazinon		**0.01**	0.01
Chlorpyrifos		**0.05**	0.05
Diuron		**1**	1
Malathion		**1**	1
Prometryn	507	**2**	2
Atrazine	507	**2**	2
Simazine	507	<2	<2
Cyanazine	507	**2**	2
Molinate	507	<0.01	<0.01
Thiobencarb	507	<0.1	<0.1
Volatile Organic Compounds	**8240A**	µg/L	µg/L
Acetonitrile		10.0	10.0
Acrolein		**2**	10.0
Acrylonitrile		0.5	0.5
Benzene		0.5	0.5
Bromoform		0.5	0.5
2-Butanone		10.0	10.0
Carbon Disulfide		10.0	10.0
Carbon Tetrachloride		0.5	0.5
Chlorobenzene		0.5	0.5
Chlorodibronmethane		0.5	0.5
Chloroethane		0.5	0.5
2-Chloroethyl vinyl ether		1.0	1.0
Chloroform		0.5	0.5
Dibromomethane		0.5	0.5
1,2-Dibromo-3Chloropropane		<0.01	<0.01
1,4-Dichloro-2-butene		10.0	10.0
Dichlorobromomethane		0.5	0.5
Dichlorodifluoromethane		0.5	0.5
1,1-Dichloroethane		0.5	0.5

1,2-Dichloroethane		0.5	0.5
1,1-Dichloroethene		0.5	0.5
trans-1,2-Dichloroethene		0.5	0.5
1,2-Dichloropropane		0.5	0.5
cis-1,3-Dichloropropene		0.5	0.5
Trans-1,3-Dichloropropene		0.5	0.5
Ethanol		10.0	10.0
Ethylbenzene		**0.5**	1.0
Ethylene Dibromide		<0.01	<0.01
Ethylene Oxide		10.0	10.0
Ethyl Metcrylate		0.5	0.5
2-Hexanone		5.0	5.0
Iodomethane		0.5	0.5
Methyl Bromide		5.0	5.0
Methyl Chloride		5.0	5.0
Methylene Chloride		1.0	1.0
4-Methyl-2-pentanone		5.0	5.0
Styrene		0.5	0.5
1,1,2,2-Tetrachloroethane		0.5	0.5
Tetrachloroethane		0.5	0.5
Toluene		**0.5**	1.0
Trichlorofluoromethane		1.0	1.0
1,2,3-Trichloropropane		0.5	0.5
Trichloroethene		0.5	0.5
1,1,1-Trichloroethane		1.0	1.0
1,1,2-Trichloroethane		1.0	1.0
1,2,2-Trifluoroethane		<0.5	<0.5
Vinyl acetate		5.0	5.0
Vinyl chloride		0.5	0.5
Xylene (Total)		0.5	0.5

ATTACHMENT 2
SHORELINE MONITORING STATIONS

Station	Location[1]	Latitude	Longitude
S1	Surfrider Beach, Malibu, 50 yds E. of breech	34.03500	118.67833
S2	Topanga Point, Malibu, seaward of lifeguard station	34.03833	118.58083
S3	Pulga storm drain, Pacific Palisades, 50 yds E. of drain	34.03361	118.53417
S4	Santa Monica Canyon storm drain, Pacific Palisades, 50 yds E. of drain	34.02639	118.51861
S5	Santa Monica Pier, Santa Monica, 50 yds S. of pier	34.00833	118.49667
S6	Pico-Kenter storm drain, Santa Monica, 50 yds S. of drain	34.00583	118.49250
S7	Ashland storm drain, Santa Monica, 50 yds S. of drain	33.99639	118.48472
S8	Windward storm drain, Los Angeles, 50 yds S. of drain	33.98778	118.47750
S9	Marina Del Rey Beach, Marina Del Rey, at lifeguard tower.	33.98139	118.45833
S10	Ballona Creek, Playa Del Rey, 50 yds S. of south jetty	33.96083	118.45611
S11	Culver Blvd., extended, Playa Del Rey, N side of Culver storm drain	33.95639	118.45167
S12	Imperial Hwy. Storm drain, Playa Del Rey, 50 yds S. of drain	33.93028	118.43722
S13	El Porto, Manhattan Beach, 40th St. extended	33.90389	118.42250
S14	Manhattan Beach Pier, Manhattan Beach, 50 yds S. of pier	33.88360	118.41278
S15	Hermosa Beach Pier, Hermosa Beach, 50 yds S. of pier	33.86111	118.40278
S16	Redondo Pier, Redondo Beach, 50 yds S. of pier	33.83833	118.39111
S17	Ave. I storm drain, Redondo Beach, Ave. I extended, 50 yds S. of drain	33.81889	118.39111
S18	Malaga Cove, Palos Verdes Estates, Arroyo Circle extended	33.80500	118.39467

[1] Station locations from *Ocean Water Regulatory & Monitoring Protocol*, County of Los Angeles, Department of Health Services, May 5, 1999.

SWQTF
California Stormwater Quality Task Force
5469 E. Olive Avenue Fresno, CA 93727
Ph (559) 456-3292 Fax (559) 456-3194
www.stormwatertaskforce.org

File 510.1415

June 4, 2001

2001 JUN -7 P 1:51

Mr. Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Dear Mr. Dickerson,

Support for Stakeholder Consensus-Building Process, Los Angeles County Permit

The California Storm Water Quality Task Force is writing this letter to support the County of Los Angeles and municipal co-permittees' request to develop a census-building process to efficiently address concerns surrounding the proposed Los Angeles municipal storm water National Pollutant Discharge Elimination System permit.

The Storm Water Quality Task Force was formed in 1989 to provide guidance to the State Water Resources Control Board on the development of NPDES permit and related regulatory guidelines for storm water discharges. In this capacity, we have assisted the State Board in the development and implementation of the storm water permitting process. Our membership is primarily composed of storm water quality managers from cities, counties, and special districts throughout California. We have representation from public agencies that serve approximately 22 million people in California.

The Task Force believes forming a consensus-building format will not only assist the Regional Board staff, the public, environmental groups and your Board in addressing contested and

competing concerns within the community, but also assist the stakeholders in understanding all the issues and concerns, of all the stakeholders.

A professional process facilitator should create a forum that will bring together regulatory, municipal, business and environmental stakeholders with a common goal of finalizing a Storm Water Quality Management Program and permit for the area to reduce pollutants in urban storm water to the maximum extent practicable. The Task Force views this as an opportunity to create a model approach in resolving the complicated issues presented in developing municipal storm water permits and other related regulatory initiatives, such as Total Maximum Daily Load implementation plans.

We have an interest in the proposed process and outcome of the Los Angeles County municipal storm water permit to the extent it may provide a model or precedent for the development and content of future permits in other areas. At the Regional Board's request, the Task Force will identify a representative from the proposed permit area, or from another region, to represent the Task Force and provide a broader perspective of professional, municipal storm water quality managers.

The Task Force believes that the proposed process will allow for openly and fairly resolving complicated and far-reaching storm water permit issues. Storm water managers and regulators must bring together all the stakeholders and work toward sensible solutions that will achieve tangible storm water pollution reductions.

We would appreciate being kept apprised of progress in this matter and the time and location of scheduled consensus-development sessions. Adequate lead-time will permit us to fully participate. If you have any questions, please call me at (559) 456-3292.

Respectfully,

Melinda Marks
Chair

MM/sgb

c: Larry Forester, Mayor, City of Signal Hill
Coalition for Practical Regulation
Mustafa Ariki, County of Los Angeles Public Works
Storm Water Quality Task Force Executive Committee

From: "John Dorsey" <JDorsey@SAN.LACITY.ORG>
To: <Mfisher@rb4.swrcb.ca.gov>
Date: 6/5/01 1:23PM
Subject: Re: shoreline monitoring

Hi Megan: Mark told me that EMD would be willing to measure Enterococcus daily provided they would be allowed to use test kits in lieu of membrane filtration. I'm checking with Ing-Yih Cheng about this. As soon as I verify this info with him, I'll let you know.

John

>>> "Megan Fisher" <Mfisher@rb4.swrcb.ca.gov> 06/05/01 10:40AM >>>
Hi John,

At yesterday's meeting, Mark Gold made the comment that enterococcus needs to be monitored daily. I think you mentioned that the City usually does it daily, anyway. Are you ok with "daily" instead of "5 times/month" in the permit?

Thanks,
Megan

The NPDES Municipal Storm Water Permit – What's Next

Presentation to the
City and County Engineers Meeting

June 7, 2001
Monterey Park

by Wendy Phillips
Chief, Storm Water Section
Los Angeles Regional Board
320 West 4th Street, Suite 200
Los Angeles, California 90013

(213) 576-6618
wphillip@rb4.swrc.bca.gov

for copies of documents, you may download from the Storm Water Home Page:
www.swrcb.ca.gov/rwqcb4/html/programs/Stormwater/renewal.html

or call or email Weindy Abarquez (Storm Water secretary) at (213) 576-6802
wabarque@rb4.swrcb.ca.gov

Significant Permit Changes - draft dated May 29, 2001

	Existing Permit	Proposed Permit
Receiving Water Limit	Limit set at MEP (maximum extent practicable).	Limit set at MEP (maximum extent practicable). Should quality of receiving water fail to meet Basin Plan objectives, Permittees must revise their Storm Water Quality Management Plan.
Structure	Enforcement: Includes 'NTMC' provision TMDLs: No requirement Implementation deadlines: vary	Enforcement: NTMC provision deleted TMDLs: Must implement, without reopening the permit Implementation: Must implement most new program requirements within 180 days (will consider exceptions, given just cause)
Monitoring	Mass emissions (5 stations) Land uses Receiving water studies in Ballona and Malibu Creeks Critical source identification	Add 3 mass emissions stations; lower detection limits for comparison with CTR standards (first storm of each year only, assuming no problems). Wet weather source Identification monitoring (to validate land use and source model) Add TSS sampling of 8 stations (every storm, to measure variability). Participate in biomonitoring (a regional study, led by SCCCRP); also participate in Southern CA bight, led by SCCWRP. Shift shoreline monitoring from the Hyperion permit to this permit – City of LA will be responsible Trash monitoring

	Existing Permit	Proposed Permit
Special Provisions		
--Public Info	Relies on site visits to heavy and light industrial facilities and to RGOs (retail gasoline outlets) and restaurants.	Replaced by corporate outreach (RGOs) and small business assistance
--Inspections	Not required.	[Under review]
--Land Development	New SUSMP requirement, with a 100,000 ft^2 threshold.	Lower SUSMP threshold to 1 acre in 2003 (consistent with Phase 2) CEQA: Expand requirement to review discretionary projects to also include ministerial projects Add new categories: ■ RGOs ■ ESAs
--Construction	Local SWPPPs for sites 2 to 5 acres Inspections – not required	Local SWPPPs required for sites 1 acre and above Wet weather inspections required for sites 1 acre and greater.
--Public Agency Activities	Except for street sweeping, performance measures tend to be vague.	Reduce trash through specified requirements for catch basin cleanout (40%), open channel cleanout (100%), street sweeping (2x/month, but increasing to 4x/month in high priority areas). LA and Ballona watersheds must also meet TMDL requirements to reduce trash to zero. Cities' industrial and construction projects will no longer be covered under the MS4; rather, such projects must obtain coverage under the State's general permits.
--IC/ID Elimination	Passive inspection program. Not sure what or how much of the storm drain system has been screened.	Prioritize problem areas, and implement an active screening program to eliminate illicit connections and discharges.

LA County MS4

Proposed Renewal Schedule * (Revised on May 29, 2001)

Thursday, April 12th	Issue first draft of permit/staff report (containing technical basis)
Tuesday, April 24th	Conduct workshop at Los Angeles Central Library Auditorium, 630 W. 5th St., Los Angeles, from 9:30 - 12:30 • Workshop Notice • Workshop Agenda
Wednesday, May 16th	Comments due on first draft
Friday, June 29th	Issue second draft, staff report, and Response to Comments
Thursday, July 26th	Workshop at Board Meeting (location TBA)
Monday, August 6th	Written comments on second draft due
Thursday, Sept 6th	Issue Tentative draft and Response to Comments
Friday, Sept 28th	Written comments on final draft due
Friday, Oct 11th	Issue Response to Comments
Thursday, Oct 25th	Propose adoption at Board Meeting (location TBA)

>>Storm Water Home<<

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For questions or comments, please contact Webmaster

From: Megan Fisher
To: ctrevizo@dpw.co.la.ca.us
Date: 6/7/01 1:56PM
Subject: Santa Clara station

Hi Carolina,

At our meeting yesterday, we discussed the need for further information about the Santa Clara River. Here's what I've found out so far:

First, the Saugus Water Reclamation Plant discharges upstream from Bouquet Canyon. They monitor the Santa Clara River above and below the discharge point, the downstream station appears to be at, or just above, the confluence with Bouquet Canyon. Their monitoring is independent of rain events, but they monitor some constituents daily and weekly so some of the data could be useful. However, the station location is too far upstream to represent mass emissions. I'm still unclear on what the monitoring at the upstream station consists of, but depending on the state of development up there, it could possibly provide some baseline data (flow, if nothing else). I need to more thoroughly look at their monitoring report.

Second, I have a call in to Newhall, but from what I know so far, most of the area near the County line won't be developed for many years. Therefore, it may not be necessary to install a station as far downstream as the County line to capture mass emissions. But we would want to make sure it would be representative of mass emissions for long enough that it would be worth installation. Evidently, the USGS will be installing a new gauging station near the 5 and Hwy 99. It sounds like an accessible place, but we need to check into current and projected development to determine if it would be far enough downstream. According to the Ventura County FCD, there is an abandoned gauge near the County line, and there is a pretty new USGS gauge installed on a bridge near Piru, in Ventura County. The bridge is on the Newhall property. I don't know what your constraints are regarding private property, but this location would ideal for characterizing mass emissions from LA County. I have the location, so we can check it out in the field.

That's all for now. Let me know if you have any questions. Also let me know if anyone there is planning a site visit. If it's next week, Monday and Thursday are best for me.

Thanks,
Megan

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption
***For a list of simple ways to reduce demand and cut your energy costs, see the tips at: http://www.swrcb.ca.gov/news/echallenge.html ***

CC: Carlos Urrunaga; Dan Radulescu; mariki@dpw.co.la.ca.us; Megan Fisher; Wendy Phillips; Xavier Swamikannu

From: Megan Fisher
To: ctrevizo@dpw.co.la.ca.us; ghowe@dpw.co.la.ca.us; mariki@dpw.co.la.ca.us; tjkim@dpw.co.la.ca.us
Date: 6/8/01 3:35PM
Subject: 6-8 Monitoring Draft

The latest draft of the monitoring program is attached. We would like to meet (RB and County only) to discuss the draft prior to the issuance of the second draft of the permit, on June 29. Please respond with a possible meeting date for the week of the 18th. June 18 or 19th are the most open for Xavier and I.

Please do not distribute the attached draft outside of your office.

Thank you,
Megan Fisher
Environmental Specialist III
Storm Water Section
Los Angeles Regional Water Quality Control Board
(213) 576-6790

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption
***For a list of simple ways to reduce demand and cut your energy costs, see the tips at: http://www.swrcb.ca.gov/news/echallenge.html ***

CC: Dan Radulescu; Megan Fisher; Wendy Phillips; Xavier Swamikannu

I. Monitoring Program

The primary objectives of the Los Angeles County Storm Water Quality Monitoring Program include, but are not limited to: 1) assessing compliance with this Order; 2) measuring and improving the effectiveness of the SQMPs; 3) assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff; 4) characterization of storm water discharges; 5) identifying sources of pollutants; and 6) assessing the overall health and evaluating long-term trends in receiving water quality. Ultimately, the results of the monitoring requirements outlined below should be used to refine the SQMPs for the reduction of pollutant loadings and the protection and enhancement of the beneficial uses of the receiving waters in Los Angeles County.

The Principal Permittee shall implement the Countywide Storm Water Monitoring Program as follows:

CORE MONITORING

A. Mass Emissions

The Principal Permittee shall monitor mass emissions to accomplish the following objectives: 1) estimate the mass emissions from the MS4; 2) assess trends in the mass emissions over time; and 3) determine if the MS4 is contributing to exceedances of water quality objectives by comparing results to objectives in the Basin Plan, Ocean Plan, and with emissions from other dischargers.

1. The Principal Permittee shall monitor mass emissions from the following eight mass emission stations: Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, Coyote Creek, Dominguez Channel, and two stations in the Santa Clara River (one as close to the Ventura County line as practicable, and one near the confluence with Mint Canyon). The Principal Permittee shall monitor the first storm event and a minimum of 2 additional storm events for each season. A minimum of two dry weather samples per year at each mass emission station shall also be analyzed.

2. Samples for mass emission station monitoring may be taken with the same type of automatic sampler used under Order 96-054. Grab samples shall be taken for pathogen indicators and oil and grease. The samplers shall be set to monitor storms totaling 0.25 inches or greater of rainfall. Samples taken at mass emission stations during the first storm event should be analyzed for all constituents listed in Attachment 1. The Principal Permittee may elect not to sample Volatile Organic Compounds from the list of constituents for mass emission stations.

3. For the first storm of each year, method detection limits (MDLs) lower than or equal to the minimum levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000 (SIP) shall be used. These levels are listed in column A in Attachment 1. Where SIP minimum levels are

detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment 1, the higher MDLs may be used for the remaining sampling events of that year. If a constituent has been detected in 100 percent of samples during the last 2 years of monitoring, the Principal Permittee may continue to use the MDLs listed in column B until the constituent is not detected, afterwhich, the method detection limits shall be lowered to those in column A.

4. If a constituent is not detected at the method detection limit for its respective test method listed in Attachment 1 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it need not be further analyzed, with the exception of the first storm of each season, unless the observed occurrences show high concentrations and are cause for concern.

5. All storms, in addition to those required above, totaling at least 0.25 inches of rainfall shall be sampled and analyzed for TSS. Results shall be used to assess the variability of storm water constituents and provide a more accurate estimate of median mass emissions (metals and PAHs are positively correlated with TSS).

B. Water Column Toxicity Monitoring

The Principal Permittee shall analyze mass emission samples for toxicity to evaluate the extent and causes of toxicity in receiving waters and to modify and utilize the SQMP to implement practices that eliminate or reduce sources of toxicity in storm water.

1. The Principal Permittee shall analyze two wet weather samples and two dry weather samples from each mass emission station, except for the reference station in the Santa Clara River, for toxicity per year. A minimum of one freshwater and one marine species shall be used for toxicity testing. Specifically, Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization shall be used. Only Ceriodaphnia dubia shall be used for toxicity testing of samples from the Santa Clara mass emission station. If toxicity is not detected in either of the dry weather samples for any given mass emission station, the Principal Permittee may reduce dry weather toxicity testing to one sample per year at that station. If toxicity is not detected in either of the wet weather samples for any given mass emission station, wet weather toxicity testing may be reduced to one sample from the first storm of the wet season per year at that station.

2. Toxicity Identification Evaluations (TIE)

The Principal Permittee shall conduct Phase I TIEs on wet weather samples when two consecutive samples from the same monitoring station show toxicity and on dry weather samples when two consecutive dry weather samples from the same monitoring station show toxicity.

3. Toxicity Reduction Evaluations (TRE)

The Principal Permittee shall perform a TRE for each pollutant or pollutant class that is identified as toxic. TREs shall include procedures for investigating the causes and identifying corrective actions to eliminate toxicity. Specifically, the following activities shall be included in each TRE:

Identify the causative agents of toxicity (accomplished with the TIE)
Isolate the sources of toxicity
Evaluate the effectiveness of toxicity control options
Implement effective toxicity control options
Confirm the reduction in toxicity

If applicable, the Principal Permittee may use the same TRE for the same toxic pollutant or pollutant class in different watersheds.

After the Principal Permittee has isolated the sources of toxicity and identified appropriate BMPs, each Permittee shall be responsible for implementing the appropriate BMPs to reduce toxicity. The Principal Permittee shall submit an implementation plan for each TRE to the Regional Board Executive Officer for approval.

During TRE development and implementation, the Principal Permittee shall continue monitoring the first storm and one dry weather event per year for toxicity at the subject station. Two years after BMPs have been implemented, , the Principal Permittee shall analyze two wet weather and two dry weather samples for toxicity to evaluate the effectiveness of the TRE.

The Principal Permittee shall conduct a maximum of two TREs per year. TRE performance shall be prioritized according to the TMDL schedule[1] and the level of toxicity present.

The Principal Permittee may use sampling data from previous storm water toxicity monitoring, however, all stations must conduct regular toxicity tests on the freshwater species Ceriodaphnia dubia where it was not previously conducted. For example, toxicity monitoring activities during the 2001-2002 permit year shall occur according to Table 1.

Table 1. Toxicity Monitoring Activities for 2001-2002

Monitoring Station	***Toxicity Monitoring Activities***
Santa Clara River	Toxicity Monitoring (Ceriodaphnia dubia)
Ballona Creek	Zinc TRE, Copper TRE, toxicity testing on Ceriodaphnia dubia
Malibu Creek	Toxicity testing on Ceriodaphnia dubia, reduced testing on sea urchins

[1] Current TMDL schedule can be found on the Regional Board website at www.swrcb.ca.gov/rwqcb4/docs/table7_wmi_appdx.pdf

Los Angeles River	Wet and dry weather TIEs, toxicity testing on Ceriodaphnia dubia
San Gabriel River	Wet weather TIE, toxicity testing on Ceriodaphnia dubia
Dominguez Channel	Toxicity monitoring (2 wet and 2 dry weather on both species)
Coyote Creek	Toxicity monitoring (2 wet and 2 dry weather on both species)

The Principal Permittee shall report on the development, implementation, and results for each TRE in the Annual Reports, beginning the year following the identification of each pollutant or pollutant class causing toxicity.

C. Tributary/Source Identification Monitoring

The Principal Permittee shall monitor select tributaries to identify sources of pollutants in subwatersheds, prioritize locations that need management actions, provide baseline information for TMDL development and allocate pollutant loads for TMDL development. A second purpose of this monitoring is to validate the Land Use Model.

1. The Principal Permittee shall develop and implement a tributary/source identification monitoring program, focusing on metals in the Los Angeles River, San Gabriel River, and Ballona Creek Watersheds. The following tributaries which have been identified as contributing the greatest loads of metals per acre in each subwatershed (based on the last four years of data for land use type, area, and rainfall) shall be monitored:

   a) Centinela Creek (Ballona Creek WMA)
   b) Kenter Canyon (Ballona Creek WMA)
   c) Aliso Creek (Los Angeles River WMA)
   d) Bull Creek (Los Angeles River WMA)
   e) Compton Creek (Los Angeles River WMA)
   f) Los Cerritos Channel (San Gabriel River WMA)
   g) San Jose Creek (San Gabriel River WMA)
   h) Coyote Creek (San Gabriel River WMA)[2]

2. The Principal Permittee shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

3. All samples for tributary stations may be taken as grab samples or with an automatic sampler. Samples shall be taken just upstream of the tributary's confluence with the mainstem. For each storm event, a minimum of 5 samples, during the first 3 hours, shall be composited. Constituents to be analyzed for each location shall include the following:

   a) pH, dissolved oxygen, temperature, conductivity, and total suspended solids

[2] Mass emission data from Coyote Creek station can be used

b) Metals: aluminum, arsenic, beryllium, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

c) Flow

4. For the first storm of each year, method detection limits (MDLs) lower than or equal to the minimum levels identified in the SIP shall be used. These levels are listed in column A in Attachment 1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment 1, the higher MDLs may be used for the remaining sampling events of that year.

5. The Principal Permittee shall submit a report identifying sources and/or source areas of pollutants within each watershed and priority management actions as part of the fourth Annual Report, to be submitted in 2005. The SQMP shall be modified to reflect the identified priority management actions.

D. Shoreline Monitoring

The City of Los Angeles shall monitor shoreline stations to evaluate the impacts to coastal receiving waters and the loss of recreational beneficial uses resulting from urban runoff. This component should be integrated and coordinated with similar monitoring programs in the region.

1. The City of Los Angeles shall monitor eighteen water quality sampling stations along the shoreline of the Pacific Ocean within the Santa Monica Bay to determine compliance with the State of California's bathing water standards for public beaches and ocean water-contact sport areas[3], and the related impacts of discharges from storm drains and piers. The shoreline monitoring program shall be implemented as follows:

a) The eighteen established shoreline water quality stations listed in Attachment 2 shall be monitored;

b) Monitoring shall include the following types and frequencies of sampling:

Parameter	Units	Sample Frequency
Total coliforms	CFU or MPN/100 ml	Daily
Fecal coliforms	CFU or MPN/100 ml	Daily
Enterococcus	CFU or MPN/100 ml	Daily

c) Shoreline monitoring shall occur during daylight hours. Samples may be omitted in the event of hazardous weather;

d) Shoreline monitoring frequencies at certain stations may be modified based on the use of the adjacent beaches, as approved by the Los Angeles County Department of Health Services (DHS).

e) Data collected shall be transmitted daily to the Los Angeles County DHS.

[3] California Department of Health Services, Health and Safety Code §115880 (Assembly Bill 411, Statutes of 1997, Chapter 765

Data shall be assessed annually and presented in the Annual Report;

f) When exceedances of public health standards for bacteria occur, the Principal Permittee shall notify the appropriate Permittees. Permittees shall initiate an investigation to determine the source, as required in the Program to Eliminate Illicit Connections and Discharges (Part 4.F.2.c.).

g) The City of Los Angeles will continue to conduct all monitoring, testing, and data transferring actions as part of the Santa Monica Bay Restoration Project regional program for the Santa Monica Bay.

E. Trash Monitoring

The Principal Permittee and the Permittees listed in Attachment 3 shall develop and implement a trash monitoring program for the Los Angeles River and Ballona Creek watersheds.The Principal Permittee is encouraged to implement the program in the watersheds that are not presently listed on the 303(d) list for impairment for trash.

REGIONAL MONITORING

F. Regional Monitoring

The Principal Permittee shall participate on Regional Monitoring committees to help establish on-going regional programs that address public health concerns, monitor trends in natural resources and nearshore habitats, and assess regional impacts from all pollutant sources.

The Southern California Coastal Waters Research Project (SCCWRP), in conjunction with the USEPA, the State Board, three Regional Boards, and participating dischargers, has organized an effort to implement a regional monitoring program for the Southern California Bight. Previous studies (in 1994 and 1998) included microbiology, water quality, sediment chemistry, sediment toxicity testing, benthic infauna, demersal fish, and bioaccumulation. A similar Bight-wide monitoring effort is planned to be conducted in 2003. The Principal Permittee shall participate on the Steering Committee for this Bight-wide monitoring project. The sampling and analytical efforts and data collected may be used to complete the estuary sampling requirement described below in Section G.

The Principal Permittee shall also continue participation on the Southern California Stormwater Research/Monitoring Program committee (coordinated by SCCWRP). The Regional board anticipates that this program will organize an effort to evaluate the biological index approach for Southern California and to design a research project for developing an Index of Biological Integrity (IBI) for this region by 2003. The Principal Permittee shall participate in this regional effort to complete the bioassessment monitoring requirement described below in Section F.

G. Estuary Sampling

The Principal Permittee shall sample estuaries for sediment chemistry, sediment toxicity, and benthic macroinvertibrate communitiy to determine the spatial extent of sediment fate from storm water, and the magnitude of its effects. A map of each estuary which depicts the impacted areas shall be produced. The maps shall provide the information necessary to conduct effective sediment monitoring to determine trends and accumulation, as a future permit requirement.

1. The Principal Permittee shall sample a maximum of 25 sites in each estuary/mouth (Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, and Dominguez Channel) once during the permit cycle. Sediment samples shall be taken at each station by means of a $0.1m^2$ ($1.1\ ft^2$) modified Van Veen sediment grab sampler.

2. The Principal Permittee shall also sample a total of 25 sites outside of the direct outfalls to assess cumulative effects.

3. All samples shall be analyzed for the following:
   a) Sediment Chemistry (priority pollutants)
   b) Total Organic Carbon (TOC)
   c) Grain size
   d) Sediment Toxicity
      (1) Amphipod survival bioassays shall be conducted on each sediment sample. Toxicity shall be indicated by an amphipod survival rate of 70% or less in a single test.
      (2) Phase I TIEs of interstitial water, using Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization, shall be conducted for samples from stations identified to be toxic in a single amphipod survival bioassay.
   e) Benthic Macroinvertibrates
      (1) All sediment samples shall be passed through a 1.0mm (0.039 in) screen to retrieve the benthic organisms. Benthic epifauna and infauna shall be analyzed to determine the structure of the benthic community.
      (2) The Principal Permittee shall identify all organisms to lowest possible taxon.
      (3) The Principal Permittee shall determine the Total Biomass of:
         (i) Mollusks
         (ii) Echinoderms
         (iii) Annelids/polychaetes
         (iv) Crustaceans
         (v) All other macroinvertebrates
      (4) The Principal Permittee shall determine the community structure analysis , including wet weight of each taxonomic group (listed above), number of species, number of individuals

per species, total numerical abundance, species abundance per grab, species richness, species diversity, species evenness and dominance, similarity analysis, cluster analyses, or other appropriate multivariate statistical techniques approved by the Regional Board Executive Officer, and the Infaunal Index[4].

4. The Principal Permittee shall create a map of each estuary depicting degraded areas and the spatial distribution of sediment from storm water. The Principal Permittee is encouraged to undertake this requirement in parallel with the Regional Monitoring (Bight-wide 03 study, conducted by SCCWRP).

H. Bioassessment

The Principal Permittee shall participate in a regional bioassessment effort, including conducting bioassessment monitoring. The purpose of this requirement is to detect biological trends in receiving waters and to collect data for the development of an IBI for Southern California. The ultimate goals of bioassessment are to assess the biological integrity of receiving waters, to detect biological responses to pollution, and identify probable causes of impairment not detected by chemical and physical water quality analysis.

1. The Principal Permittee shall coordinate with regional efforts and with the Surface Water Ambient Monitoring Program (SWAMP) being developed by the Regional Board to identify a total of 20 bioassessment stations within Los Angeles County.

2. Station selection shall be complete within one year from the date this Order is adopted, and sampling shall begin in October of 2003.

3. Each bioassessment station shall be monitored annually, in October of each year, beginning in October 2003. A minimum of three replicate samples shall be collected at each station during each sampling event.

4. Sampling, laboratory, quality assurance, and analysis procedures shall follow the standardized "Non-point Source Bioassessment Sampling Procedures" for professional bioassessment as set forth in the California Department of Fish and Game California Stream Bioassessment Procedure (CSBP)[5]. Results of the Bioassessment Monitoring shall be reported annually as part of the Annual Report. Results shall include:

   a) All physical, chemical and biological data collected in the assessment;

   b) Photographic documentation of assessment and reference stations;

   c) Documentation of quality assurance and control procedures;

[4] Benthic Response Index for Assessing Infaunal Communities on the Mainland Shelf of Southern California, the Southern California Coastal Water Research Project

[5] California Stream Bioassessment Procedure (Protocol Brief for Biological and Physical/Habitat Assessment in Wadeable Streams), California Department of Fish and Game - Aquatic Bioassessment Laboratory, May 1999. Located at www.dfg.ca.gov/cabw/protocols.html.

d) Analysis that shall include calculation of the metrics used in the CSBP;

e) Comparison of mean biological and habitat assessment metric values between stations and year-to-year trends;

f) Electronic data formatted to the California Department of Fish and Game Aquatic Bioassessment Laboratory for inclusion in the Statewide Access Bioassessment Database.

5. A professional environmental laboratory shall perform all sampling, laboratory, quality assurance, and analytical procedures.

SPECIAL STUDIES

I. New Development Impacts Study in the Santa Clara Watershed

The Principal Permittee and the City of Santa Clarita shall monitor tributaries in the Santa Clara watershed to determine impacts from new development and to compare storm water quality between subwatersheds with and without SUSMPs.

1. The Principal Permittee and the City of Santa Clarita shall select one station that is representative of a subwatershed in which the majority of development has occurred without SUSMP implementation, and one station (SUSMP station) in a subwatershed in which the majority of the development has/will include SUSMP implementation. Other inputs to runoff, such as septic systems, in the two subwatersheds should be similar. The upstream mass emission station may serve as the SUSMP station, if it is appropriate based on development projections in the Santa Clara watershed.

2. The Principal Permittee and the City of Santa Clarita shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

3. All samples may be taken as grab samples or with an automatic sampler. For each storm event, a minimum of 5 samples, during the first 3 hours, shall be composited. Constituents to be analyzed for each location shall include the following:

a) pH, dissolved oxygen, temperature, conductivity, chloride, nitrogen, and TSS

b) Metals: aluminum, arsenic, beryllium, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

c) Pathogen Indicators (Coliform)

4. For the first storm of each year, method detection limits (MDLs) lower than or

equal to the minimum levels identified in the SIP shall be used. These levels are listed in column A in Attachment 1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment 1, the higher MDLs may be used for the remaining sampling events of that year.

5. The Principal Permittee and the City of Santa Clarita shall submit an analysis of the data, including a description of each watershed, year-to-year changes compared to the amount of development that occurred in each, comparisons between stations, and an analysis of SUSMP effectiveness, with the fifth year annual report.

J. Peak Discharge Impact Study

The Principal Permittee shall participate in a study to evaluate peak storm water discharge rate (PDR) control and to determine numeric criteria to prevent or minimize erosion of natural stream channels and banks caused by urbanization (Part 4.C.2.). The Principal Permittee may partner with the Ventura County Flood Control District to extend their stream erosion study to a watershed in Los Angeles County that contains primarily natural drainage systems, specifically the Santa Clara River.

K. BMP Effectiveness Study

The Principal Permittee shall conduct or participate in studies to evaluate the effectiveness of structural and treatment control storm water best management practices. The objectives of this study shall include the following:

Monitor the reduction of pollutants of concern in storm water (including, but not limited to: trash, suspended sediment, pathogen indicators, nutrients, heavy metals, and oil and grease) from five or more different types of BMPs that have been properly installed within the year preceding monitoring. Monitoring shall be continued until the effectiveness of the BMP can be determined.

Evaluate the requirements, feasibility and cost of maintenance for each BMP.

Develop recommendations for appropriate BMPs for the reduction of pollutants of concern in storm water in Los Angeles County.

The Principal Permittee may participate in the Santa Monica Bay Restoration Foundation's proposed study, "Performance Evaluation of Structural BMPs for Storm water Pollution Control in the Santa Monica Bay Watershed" to meet this requirement. Participation includes collaboration and resource contribution to expand the scope of the proposed study.

L. Standard Monitoring Provisions

1. The Principal Permittee shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used

to complete the Report of Waste Discharge and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.

Records of monitoring information shall include:

a) The date, exact place, and time of sampling or measurements;

b) The individual(s) who performed the sampling or measurements;

c) The date(s) analyses were performed;

d) The individual(s) who performed the analyses;

e) The analytical techniques or methods used; and,

f) The results of such analyses.

2. All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order.

3. All chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency.

4. If no flow occurred during the reporting period, the monitoring report shall so state.

5. For any analyses performed for which no procedure is specified in the EPA guidelines or in this Monitoring and Reporting Program, the constituent or parameter analyzed and the method or procedure used must be specified in the monitoring report.

6. Whenever feasible, all MDLs shall be less than or equal to the Minimum Levels in the State Water Resources Control Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000. If this is not feasible, the Principal Permittee shall use analytical methods with the lowest MDL.

7. The Regional Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring and Reporting Program, after providing the opportunity for public comment, either:

   a) By petition of the Principal Permittee or by petition of interested parties after the submittal of the Annual Monitoring Program Report. Such petition shall be filed not later than 60 days after the Annual Monitoring Program Report submittal date, or

   b) As deemed necessary by the Regional Board Executive Officer following notice to the Principal Permittee.

ATTACHMENT 1
LIST OF CONSTITUENTS IN MONITORING PROGRAM
AND ASSOCIATED METHOD DETECTION LIMITS (MDLs)

CONSTITUENTS	USEPA METHOD	MDL A[1]	MDL B[2]
Conventional Pollutants		**mg/L**	**mg/L**
Oil and Grease	413.2	1	1
Total Phenols	420.1	0.1	0.1
Cyanide	335.2	0.01	0.01
pH	150.1	0 - 14	0 - 14
Temperature		None	None
Dissolved Oxygen		Sensitivity to 5 mg/L	Sensitivity to 5 mg/L
Bacteria			
Total Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Streptococcus	9221B	<20mpn/100ml	<20mpn/100ml
General		**mg/L**	**mg/l**
Dissolved Phosphorus	300	0.05	0.05
Total Phosphorus	300	0.05	0.05
Turbidity	180.1	0.1NTU	0.1NTU
Total Suspended Solids	160.2	2	2
Total Dissolved Solids	160.1	2	2
Volatile Suspended Solids	160.4	2	2
Total Organic Carbon	415.1	1	1
Total Petroleum Hydrocarbon	418.1	1	1
Biochemical Oxygen Demand	405.1	2	2
Chemical Oxygen Demand	410.4	20-900	20-900
Total Ammonia-Nitrogen	350.2	0.1	0.1
Total Kjeldahl Nitrogen	351.2	0.1	0.1
Nitrate-Nitrite	4110	0.1	0.1
Alkalinity	310.1	2	2
Specific Conductance	120.1	1umho/cm	1umho/cm
Total Hardness	130.2	2	2
MBAS	425.1	<0.5	<0.5
Chloride	4110	2	2
Fluoride	4110	0.1	0.1
Sulfate	4110	2	2

[1] Detection limits lower than or equal to the Minimum Levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California
[2] Detection limits from Order 96-054

Metals		µg/L	µg/L
Aluminum	202.1	100	100
Antimony	204.2	**0.5**	10
Arsenic	206.2	**1**	10
Barium	208.2	100	100
Beryllium	210.2	**0.5**	5
Boron	212.3	250	250
Cadnium	213.2	**0.25**	10
Calcium	215.2	200	200
Chromium	218.2	**0.5**	10
Copper	219.2	**0.5**	10
Hex. Chromium	7196	**5**	<10
Iron	236.2	100	100
Lead	239.2	0.5	10
Magnesium	242.1	200	200
Manganese	243.2	30	30
Mercury	245.1	**0.2**	1
Nickel	249.2	**1**	10
Potassium	258.1	100	100
Selenium	270.2	**1**	5
Silver	272.2	**0.25**	10
Sodium	273.1	50	50
Thallium	279.2	**1**	10
Zinc	289.2	**1**	50
Semivolatile Organic Compounds		µg/L	µg/L
Acids	**8250**		
Benzoic Acid	8250	<5	<5
Benzyl Alcohol	8250	<5	<5
2-Chlorophenol	8250	<2	<2
2, 4-Dichlorophenol	8250	**1**	<2
2, 6-Dichlorophenol	8250	<2	<2
4-Dimetylphenol	8250	<2	<2
4, 6-Dinitro-2-metylphenol	8250	<3	<3
2, 4-Dinitrophenol	8250	<3	<3
2-Methylphenol	8250	<3	<3
4-Methylphenol	8250	<3	<3
2-Nitrophenol	8250	<3	<3
4-Nitrophenol	8250	<3	<3
4-Chloro-3-methylphenol	8250	**1**	<3
Pentachlorophenol	8250	**1**	<2
Phenol	8250	<1	<1
2,3,4,6-Tetrachlorophenol	8250	<1	<1
2,4,5-Trichlorophenol	8250	<1	<1

2,4,6-Trichlorophenol	8250	<1	<1
Base/Neutral	**8250**	**µg/L**	**µg/L**
Acenapthene		<0.5	<0.5
Acenapthylene		**0.2**	<0.5
Acetophenone-		<3	<3
Aniline		<3	<3
Anthracene		2.0	<0.5
4-Aminobiphenyl		<3	<3
Benzidine		<3	<3
Benzo(a)anthracene		<1	<1
4-Chloroaniline		<1	<1
1-Chloronapthalene		<1	<1
p-Dimethylaminoazobenzene		<3	<3
7,12-Dimethylbenz(a)-anthracene		<1	<1
a-,a-Dimethylphenethylamine		<3	<3
Benzo(a)pyrene		<1	<1
Benzo(b)flouranthene		<1	<1
Benzo(k)flouranthene		<1	<1
Chlordane		<1	<1
Bis(2-chloroethoxy)methane		<1	<1
Bis(2-chlorisopropyl)ether		<1	<1
Bis(2-chloroethyl)ether		<1	<1
Bis(2-ethylhexl)phtalate		<3	<3
4-Bromophenyl phenyl ether		<1	<1
Butyl benzyl phthalate		<3	<3
2-Chloronapthalene		<1	<1
4-Chlorophenyl phenyl ether		<1	<1
Chrysene		<1	<1
Dibenz(a,j)acridine		<3	<3
Dibenz(a,h)anthracene		**0.1**	<1
1,3-Dichlorobenzene		<0.5	<0.5
1,4-Dichlorobenzene		<0.5	<0.5
1,2-Dichlorobenzene		<0.5	<0.5
3,3-Dichlorobenzidine		<3	<3
Diethylphthalate		<0.5	<0.5
Dimethylphthalate		<0.5	<0.5
Di-n-butylphthalate		<3	<3
2,4-Dinitrotoluene		<0.5	<0.5
2,6-Dinitrotoluene		<0.5	<0.5
Diphenylamine		<3	<3
1,2-Diphenylhydrazine		1	<3
Di-n-octylphtalate		<3	<3
Ethyl methanesulfonate		<3	<3
Fluoranthene		**0.05**	<1
Fluorene		**0.1**	<1
Hexachlorobenzene		<0.5	<0.5

Hexachlorobutadiene		<1	<1
Hexochlorocyclopentadiene		<3	<3
Hexochloroethane		<1	<1
Indeno(1,2,3-cd)pyrene		**0.05**	<1
Isophorone		<0.5	<0.5
3-Methylcholanthrene		<3	<3
Methyl methanesesulfonate		<3	<3
Napthalene		**0.2**	<0.5
1-Napthylamine		<3	<3
2-Napthalamine		<3	<3
2-Nitroaniline		<3	<3
3-Nitroaniline		<3	<3
4-Nitroaniline		<3	<3
Nitrobenzene		<0.5	<0.5
N-Nitroso-di-n-butylamine		<3	<3
N-Nitrosodimethylamine		<3	<3
N-Nitrosodiphenylamine		**1**	<3
N-Nitroso-di-N-propylamine		<1	<1
N-Nitrosopiperidine		<3	<3
Pentachlorobenzene		<3	<3
Phenacitin		<3	<3
Phenanthrene		**0.05**	<0.5
2-Picoline		<3	<3
Pronamide		<5	<5
Pyrene		**0.05**	<0.5
5-Tetrachlorobenzene		<3	<3
1,2,4-Trichlorobenzene		<0.5	<0.5
Pesticides	**608**	**µg/L**	**µg/L**
Aldrin	608	**0.005**	0.05
alpha-BHC	608	0.05	0.05
beta-BHC	608	0.05	0.05
delta-BHC	608	0.05	0.05
gamma-BHC (lindane	608	0.05	0.05
Carbofuran	531.1	<5	<5
Chlordane	608	0.05	0.05
4,4'-DDD	608	**0.05**	<0.1
4,4'-DDE	608	**0.05**	<0.1
4,4'-DDT	608	**0.01**	<0.1
Benzaton	515.1	<2	<2
Dieldron	608	**0.01**	<0.1
Endosulfan I	608	<0.1	<0.1
Endosulfan II	608	<0.1	<0.1
Endosulfan sulfate	608	**0.05**	<0.1
Endrin	608	**0.01**	<0.1
Endrin aldehyde	608	**0.01**	<0.1
Glyphosate	547	<0.5	<0.5

Heptachlor	608	**0.01**	0.05
Heptachlor epoxide	608	**0.01**	0.05
Methoxychlor	608	<0.5	<0.5
Toxaphene	608	**0.5**	<1.0
2,4-D	515.1	<0.02	<0.02
2,4,5-TP-SILVEX	515.1	<0.2	<0.2
Polychlorinated Biphenyls	**608**	**µg/L**	**µg/L**
Aroclor-1016	608	**0.5**	<1
Aroclor-1221	608	**0.5**	<1
Aroclor-1232	608	**0.5**	<1
Aroclor-1242	608	**0.5**	<1
Aroclor-1248	608	**0.5**	<1
Aroclor-1254	608	**0.5**	<1
Aroclor-1260	608	**0.5**	<1
Herbicides		**µg/L**	**µg/L**
Diazinon		**0.01**	0.01
Chlorpyrifos		**0.05**	0.05
Diuron		**1**	1
Malathion		**1**	1
Prometryn	507	**2**	2
Atrazine	507	**2**	2
Simazine	507	<2	<2
Cyanazine	507	**2**	2
Molinate	507	<0.01	<0.01
Thiobencarb	507	<0.1	<0.1
Volatile Organic Compounds	**8240A**	**µg/L**	**µg/L**
Acetonitrile		10.0	10.0
Acrolein		**2**	10.0
Acrylonitrile		0.5	0.5
Benzene		0.5	0.5
Bromoform		0.5	0.5
2-Butanone		10.0	10.0
Carbon Disulfide		10.0	10.0
Carbon Tetrachloride		0.5	0.5
Chlorobenzene		0.5	0.5
Chlorodibronmethane		0.5	0.5
Chloroethane		0.5	0.5
2-Chloroethyl vinyl ether		1.0	1.0
Chloroform		0.5	0.5
Dibromomethane		0.5	0.5
1,2-Dibromo-3Chloropropane		<0.01	<0.01
1,4-Dichloro-2-butene		10.0	10.0

Dichlorobromomethane		0.5	0.5
Dichlorodifluoromethane		0.5	0.5
1,1-Dichloroethane		0.5	0.5
1,2-Dichloroethane		0.5	0.5
1,1-Dichloroethene		0.5	0.5
trans-1,2-Dichloroethene		0.5	0.5
1,2-Dichloropropane		0.5	0.5
cis-1,3-Dichloropropene		0.5	0.5
Trans-1,3-Dichloropropene		0.5	0.5
Ethanol		10.0	10.0
Ethylbenzene		**0.5**	1.0
Ethylene Dibromide		<0.01	<0.01
Ethylene Oxide		10.0	10.0
Ethyl Metcrylate		0.5	0.5
2-Hexanone		5.0	5.0
Iodomethane		0.5	0.5
Methyl Bromide		5.0	5.0
Methyl Chloride		5.0	5.0
Methylene Chloride		1.0	1.0
4-Methyl-2-pentanone		5.0	5.0
Styrene		0.5	0.5
1,1,2,2-Tetrachloroethane		0.5	0.5
Tetrachloroethane		0.5	0.5
Toluene		**0.5**	1.0
Trichlorofluoromethane		1.0	1.0
1,2,3-Trichloropropane		0.5	0.5
Trichloroethene		0.5	0.5
1,1,1-Trichloroethane		1.0	1.0
1,1,2-Trichloroethane		1.0	1.0
1,2,2-Trifluoroethane		<0.5	<0.5
Vinyl acetate		5.0	5.0
Vinyl chloride		0.5	0.5
Xylene (Total)		0.5	0.5

ATTACHMENT 2
SHORELINE MONITORING STATIONS

Station	Location[1]	Latitude	Longitude
S1	Surfrider Beach, Malibu, 50 yds E. of breech	34.03500	118.67833
S2	Topanga Point, Malibu, seaward of lifeguard station	34.03833	118.58083
S3	Pulga storm drain, Pacific Palisades, 50 yds E. of drain	34.03361	118.53417
S4	Santa Monica Canyon storm drain, Pacific Palisades, 50 yds E. of drain	34.02639	118.51861
S5	Santa Monica Pier, Santa Monica, 50 yds S. of pier	34.00833	118.49667
S6	Pico-Kenter storm drain, Santa Monica, 50 yds S. of drain	34.00583	118.49250
S7	Ashland storm drain, Santa Monica, 50 yds S. of drain	33.99639	118.48472
S8	Windward storm drain, Los Angeles, 50 yds S. of drain	33.98778	118.47750
S9	Marina Del Rey Beach, Marina Del Rey, at lifeguard tower.	33.98139	118.45833
S10	Ballona Creek, Playa Del Rey, 50 yds S. of south jetty	33.96083	118.45611
S11	Culver Blvd., extended, Playa Del Rey, N side of Culver storm drain	33.95639	118.45167
S12	Imperial Hwy. Storm drain, Playa Del Rey, 50 yds S. of drain	33.93028	118.43722
S13	El Porto, Manhattan Beach, 40th St. extended	33.90389	118.42250
S14	Manhattan Beach Pier, Manhattan Beach, 50 yds S. of pier	33.88360	118.41278
S15	Hermosa Beach Pier, Hermosa Beach, 50 yds S. of pier	33.86111	118.40278
S16	Redondo Pier, Redondo Beach, 50 yds S. of pier	33.83833	118.39111
S17	Ave. I storm drain, Redondo Beach, Ave. I extended, 50 yds S. of drain	33.81889	118.39111
S18	Malaga Cove, Palos Verdes Estates, Arroyo Circle extended	33.80500	118.39467

[1] Station locations from *Ocean Water Regulatory & Monitoring Protocol*, County of Los Angeles, Department of Health Services, May 5, 1999.

ATTACHMENT 3

PERMITTEES IN THE LOS ANGELES RIVER WATERSHED

Alhambra, Arcadia, Bell, Bell Gardens, Bradbury, Calabasas, Carson, Commerce, Compton, Cudahy, Downey, Duarte, El Monte, Glendale, Hidden Hills, Huntington Park, Irwindale, La Canada Flintridge, Lakewood, Long Beach, Los Angeles, Lynwood, Maywood, Monrovia, Montebello, Monterey Park, Paramount, Pasadena, Pico Rivera, Rosemead, San Fernando, San Gabriel, San Marino, Santa Clarita, Sierra Madre, Signal Hill, Simi Valley, South El Monte, South Gate , South Pasadena, Temple City, Vernon

PERMITTEES IN THE BALLONA CREEK WATERSHED

Beverly Hills, Culver City, Inglewood, Los Angeles, Los Angeles County, Santa Monica, West Hollywood

Coalition for Practical Regulation

Arcadia
Artesia
Bellflower
Bell Gardens
Burbank
Cerritos
Commerce
Compton
Diamond Bar
Downey
Hawaiian Gardens
Industry
Irwindale
La Mirada
Lakewood
Lawndale
Monrovia
Montebello
Norwalk
Palos Verdes Estates
Paramount
Pico Rivera
Pomona
Rancho Palos Verdes
Rosemead
Santa Fe Springs
San Gabriel
Sierra Madre
Signal Hill
South Gate
Temple City
Vernon
Walnut
Whittier

June 11, 2001

2001 JUN 13 P 2:02

Mr. Dennis Dickerson
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Request for Facilitative Review Process

Dear Mr. Dickerson:

We have received your correspondence of May 30, 2001, explaining your reasons for not accepting our joint request for a Los Angeles Storm Water Permit Facilitator. For your information, we have received positive responses regarding participating in the facilitative review process from the following organizations:

The County of Los Angeles
The California Stormwater Quality Task Force
The Executive Advisory Committee
The Building Industry Association of Southern California.

Copies of letters confirming some of these organizations' desire to participate in the proposed process are enclosed. Also, please note, the Coalition has yet to receive a negative response to the proposal.

We were surprised that you were not receptive to the concept described in our letter, especially in light of the dialogue at the recent Board meeting over the lack of State resources needed to complete the Board's program in a timely manner and even more so given the support our proposal has received in such a short period of time. In light of this, we would ask that you reconsider your position and put it in abeyance until a majority of the parties have had sufficient opportunity to consider the concept. We do not see the logic of holding numerous separate "sessions" with interested stakeholders, as opposed to group sessions with an agreed-upon facilitator, if a majority of the interested stakeholders support the proposal.

2175 Cherry Avenue ♦ Signal Hill, CA 90806 ♦ (562) 989-7302 ♦ (562) 989-7393 Fax

Your letter also indicated that a "significant number of public comments" had been received on the Municipal NPDES Permit. Given this, the added workload would lend itself to assistance. Our hope is that the facilitator would assist both you and the Board in the NPDES Permit process.

Your letter indicated that the Second Draft of the Permit will be released on June 29th and that the draft should resolve "many" of the current issues. We would only hope this would be the case, but history has led us to believe that your staff does not place a priority on resolving the issues of importance to the cities and other members of the regulated community. A good example of what we view as the "anti city" bias in the current process is the draft permit requirement that cities implement an expensive GIS computer mapping system for illicit discharges. We had two meetings with your staff to explain the high costs of implementing the GIS system and to put forward viable alternatives, but found that the GIS requirement is still contained in the latest draft permit.

Your letter stated that you intend to "participate in as many sessions" as possible with the cities and other interested parties during the first three weeks in July. Your desire is to "discuss any remaining areas where consensus has not been achieved." The Coalition certainly appreciates efforts that will result in solving the problems and reaching consensus. However, again, we would ask that you reconsider having a series of "sessions" with individual stakeholders in favor of having several facilitated group sessions. In addition, we have three concerns with the "sessions" as outlined in your letter. The first is the limited amount of time devoted to these "sessions." You only have two weeks to physically meet with all interested parties, since many individuals plan vacations around the July 4th Holiday and the holiday falls midweek this year. This leaves a very limited amount of time to reach consensus on the number of comments received prior to the Board Workshop.

Our second concern is who will be participating in these "sessions." Typically you have met ***individually*** with the various groups, with no opportunity for any of the interest groups to come together to understand each other's concerns and to dialogue toward solutions. In the past, this was the case because the environmental groups, for unknown reasons, refused to meet with other interested stakeholders. Recall, that it was this very approach that led to the petition on the SUSMP and the hearing before the State Board. At that time, in the course of the hearing before the State Board, there was no reasonable explanation given for the "shuttle diplomacy" you engaged in, and the Coalition believes there should be nothing to hide and no reason to not have the issues discussed openly in group facilitated sessions. We are willing to meet with the

environmental groups and Regional Board staff, and would hope the environmental groups are willing to do the same. If not, we would like an explanation as to why the environmental groups are unwilling to meet jointly, in order to avoid the same problems and questions that arose in connection with the SUSMP.

Furthermore, often times in the past, we did not receive feedback on the concerns from other stakeholders from your individual sessions. Further, the feedback we do receive was "second" and "third hand", perhaps not expressing the exact concerns of the individual parties. Again, we believe it is important to avoid miscommunication and to resolve the issues ahead of time, rather than subsequently through litigation. Also, we would like to obtain a copy of your proposed session schedule for calendaring purposes.

The third concern is the nature of staff "participation". We have found in past meetings that there is limited staff dialogue and discussion, and that there is no consideration of the "pros" and "cons" of the permit requirements. For example, the Draft Permit includes a series of staff recommended "enhancements" to the current permit. Yet, there have been nine meetings to discuss our concerns with these "enhancements" already, and the cities spent countless hours reviewing the merits and problems of these "enhancements" with your staff. In ***every*** case, your staff decided to include these enhancements in the Draft Permit. There was no dialogue or explanation of why these enhancements were necessary. If we do not reach consensus on the issues, the next goal of your sessions should be that all parties come away with a mutual understanding of each party's positions. Mutual understanding can only be forged with honest and frank discussions, which the Coalition is committed to.

The Coalition hopes that your personal commitment and involvement will make a difference on this permit. We feel the need to be honest and forthright about our past concerns, so that the problems of the past can help guide the deliberations into the future. The Coalition extends our facilitation offer to help you and the Board throughout this permit process and over the next several months. We look forward to working with you in this process, and to hearing from you on the above.

Sincerely,

Larry Forester
Mayor
CPR Steering Committee

cc: Arthur C. Baggett Jr., Chairman, SWRCB
Richard Katz, Board Member, SWRCB
Peter S. Silva, Board Member, SWRCB
H. David Nahai, Chairman, LARWQCB
CPR Steering Committee
CPR Members
Heal the Bay
Natural Resources Defense Council
Santa Monica Baykeeper
California Storm Water Quality Task Force
California Restaurant Association
Los Angeles County Economic Development Council
Southern California Building Industry Association
California Building Industry Association
Southern California Rock Products Association
Western States Petroleum Association
Alliance for Water Quality
Desi Alvarez, Executive Advisory Committee
Mary Cammarano, Independent Cities Association
Joseph Esquivel, Contract Cities Association
Chris McKenzie, League of California Cities
Individual Permittees

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100

JAMES A. NOYES, Director

ADDRESS ALL CORRESPONDENCE TO
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE A-0

May 23, 2001

Mr. Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Dear Mr. Dickerson:

REQUEST FOR NPDES PERMIT FACILITATOR

The Coalition for Practical Regulations is proposing a facilitated consensus building process in developing the final draft of the 2001 Los Angeles Municipal Storm Water Permit. The Los Angeles County Flood Control District as Principal Permittee and the County of Los Angeles as Permittee support that request.

The District and the County strongly support the Regional Board's goal of a permit which will result in great strides being made to restore the beneficial uses of our water bodies. We believe that, for the permit to be effective, it must have the full support of all the stakeholders. Appeals, lawsuits and lack of support, whether it is by municipalities, interest groups or regulators, will only delay our efforts to implement on a comprehensive basis.

Should you agree to the Coalitions request, we will participate fully with the intent to resolve all issues/concerns with the draft permit in a timely manner that does not delay implementation.

Your consideration is appreciated. You may contact me at (626) 458-4014.

Very truly yours,

JAMES A. NOYES
Director of Public Works

Donald L. Wolfe

DONALD L. WOLFE
Assistant Director

DLW:gl
C:\MYFILES\NPDES PERMIT FACILITATOR

SWQTF
California Stormwater Quality Task Force
5469 E. Olive Avenue Fresno, CA 93727
Ph (559) 456-3292 Fax (559) 456-3194
www.stormwatertaskforce.org

File 510.1415

June 4, 2001

Mr. Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Dear Mr. Dickerson,

Support for Stakeholder Consensus-Building Process, Los Angeles County Permit

The California Storm Water Quality Task Force is writing this letter to support the County of Los Angeles and municipal co-permittees' request to develop a census-building process to efficiently address concerns surrounding the proposed Los Angeles municipal storm water National Pollutant Discharge Elimination System permit.

The Storm Water Quality Task Force was formed in 1989 to provide guidance to the State Water Resources Control Board on the development of NPDES permit and related regulatory guidelines for storm water discharges. In this capacity, we have assisted the State Board in the development and implementation of the storm water permitting process. Our membership is primarily composed of storm water quality managers from cities, counties, and special districts throughout California. We have representation from public agencies that serve approximately 22 million people in California.

The Task Force believes forming a consensus-building format will not only assist the Regional Board staff, the public, environmental groups and your Board in addressing contested and

competing concerns within the community, but also assist the stakeholders in understanding all the issues and concerns of all the stakeholders.

A professional process facilitator should create a forum that will bring together regulatory, municipal, business and environmental stakeholders with a common goal of finalizing a Storm Water Quality Management Program and permit for the area to reduce pollutants in urban storm water to the maximum extent practicable. The Task Force views this as an opportunity to create a model approach in resolving the complicated issues presented in developing municipal storm water permits and other related regulatory initiatives, such as Total Maximum Daily Load implementation plans.

We have an interest in the proposed process and outcome of the Los Angeles County municipal storm water permit to the extent it may provide a model or precedent for the development and content of future permits in other areas. At the Regional Board's request, the Task Force will identify a representative from the proposed permit area, or from another region, to represent the Task Force and provide a broader perspective of professional, municipal storm water quality managers.

The Task Force believes that the proposed process will allow for openly and fairly resolving complicated and far-reaching storm water permit issues. Storm water managers and regulators must bring together all the stakeholders and work toward sensible solutions that will achieve tangible storm water pollution reductions.

We would appreciate being kept apprised of progress in this matter and the time and location of scheduled consensus-development sessions. Adequate lead-time will permit us to fully participate. If you have any questions, please call me at (559) 456-3292.

Respectfully,

Melinda Marks
Chair

MM/sgb

c: Larry Forester, Mayor, City of Signal Hill
Coalition for Practical Regulation
Mustafa Ariki, County of Los Angeles Public Works
Storm Water Quality Task Force Executive Committee

sgb-melinda m\storm water quality\2001\dickerson-ltr

Executive Advisory Committee

Storm Water Program – Los Angeles County

June 11, 2001

Mr. Dennis Dickerson
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

REQUEST FOR LOS ANGELES STORM WATER PERMIT

Dear Mr. Dickerson:

This letter is to request that you approve a facilitation process to help the Reginal Water Quality Control Board solicit and address concerns from various stakeholders regarding the proposed Los Angeles Municipal Storm Water Permit (Permit). This facilitation process will bring regulatory, municipal, business and environmental stakeholders together with the common goal of determining the most effective measures to include in the Permit to address the region's storm water quality concerns.

The facilitator for this process should be selected based on input from the various stakeholders and would not require any funding from the Regional Water Quality Control Board. It is also understood that this facilitation process will not necessarily be binding. Your Board will still maintain all rulemaking authority. However, the information developed in the process should prove to be invaluable in compiling a consensus permit.

We trust that you will look favorably on this proposal to bring stakeholders together during Permit development. The facilitation process will accomplish bringing stakeholders together earlier in the process resulting in a shorter, less contentious Permit adoption at the Board meeting.

Sincerely,

Desi Alvarez
Chairman
Executive Advisory Committee

c. Art Baggett, State Water Resources Control Board
David Nahai, Los Angeles Regional Water Quality Control Board

From: Megan Fisher
To: ctrevizo@dpw.co.la.ca.us; mariki@dpw.co.la.ca.us; tjkim@dpw.co.la.ca.us
Date: 6/12/01 12:30PM
Subject: June 25 Monitoring meeting

The meeting to discuss all outstanding issues regarding the monitoring program prior to the issuance of the second draft has been scheduled for Monday, June 25 at 2pm, here in the Pacific Ocean Room.

Mustafa, Xavier has requested that we invite Don Wolfe, to make sure that all outstanding issues are resolved.

Please let me know if you have any questions, or problems with the schedule. Also, feel free to propose an agenda with the specific issues you'd like to discuss.

By the way, we have not invited other parties to this meeting.

Thanks,
Megan Fisher
Environmental Specialist III
Storm Water Section
Los Angeles Regional Water Quality Control Board
(213) 576-6790

CC: Dan Radulescu; Megan Fisher; Wendy Phillips; Xavier Swamikannu

ATTACHMENT 3

PERMITTEES IN THE LOS ANGELES RIVER WATERSHED

Alhambra, Arcadia, Bell, Bell Gardens, Bradbury, Calabasas, Carson, Commerce, Compton, Cudahy, Downey, Duarte, El Monte, Glendale, Hidden Hills, Huntington Park, Irwindale, La Canada Flintridge, Lakewood, Long Beach, Los Angeles, Lynwood, Maywood, Monrovia, Montebello, Monterey Park, Paramount, Pasadena, Pico Rivera, Rosemead, San Fernando, San Gabriel, San Marino, Santa Clarita, Sierra Madre, Signal Hill, Simi Valley, South El Monte, South Gate , South Pasadena, Temple City, Vernon

PERMITTEES IN THE BALLONA CREEK WATERSHED

Beverly Hills, Culver City, Inglewood, Los Angeles, Los Angeles County, Santa Monica, West Hollywood

Southern California
Association of Governments

fax transmittal

To: XAVIER S.

Location: SWRCB

Fax Number: (213) 576-6660

Subject: % of Land Use in L.A. County

Number of Pages (including this page): 5

Date: 6/13/01 Time Sent: 5:00

From: PABLO GUTIERREZ

Note: if you do not receive all the pages, please call PABLO. at (213) 236-1924

Southern California **Association of Governments**
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Legal & Government Decision Making	(213) 236-196
Performance & Accountability	(213) 236-196
Planning and Policy	(213) 236-196
Information Services	(213) 236-180

Satellite Office Fax Numbers

Inland Empire	(909) 784-392
Ventura	(805) 650-884
Palmdale	(805) 273-503
Deployment & Partnership (SCEP)	(909) 396-575

Table 1-1

EXISTING LAND USE
1990

Land Use (Acres)	Arroyo Verdugo		CVAG		Los Angeles City		North LA County		Orange County		SANBAG		San Gabriel Valley	
	Area	%	Area	%	Area	%	Area	%	Area	%	Area	%	Area	%
Non-Urban Residential		0		0		0		0		0		0		0
Low Density Residential	28,251	44	20,966	1	133,315	32	42,318	3	112,370	22	184,261	1	78,965	39
Medium to High Density Residential	4,393	7	11,192	0	29,611	7	2,437	0	31,534	6	13,429	0	10,129	5
Commercial	3,957	6	3,679	0	20,670	5	2,360	0	24,948	5	13,756	0	10,794	5
Industrial	2,148	3	1,295	0	18,126	4	2,596	0	18,718	4	18,209	0	10,880	5
Extraction	59	0	1,260	0	2,568	1	4,538	0	7,018	1	8,683	0	2,724	1
Public Facilities & Institutions	2,142	3	1,463	0	13,060	3	55,519	4	25,957	5	29,212	0	9,242	5
Transportation & Utilities	3,418	5	18,098	1	21,783	5	23,030	1	15,371	3	39,487	0	9,672	5
Open Space & Recreation	1,821	3	11,150	0	10,205	2	3,635	0	14,344	3	9,620	0	6,330	3
Agriculture	174	0	72,426	2	2,740	1	62,925	4	20,119	4	62,098	0	3,626	2
Water & Floodways	12	0	21,031	1	1,880	0	7,425	0	4,498	1	6,753	0	1,202	1
Vacant	16,969	27	574,029	18	157,827	38	1,355,681	86	222,358	44	2,182,867	17	55,163	28
STUDY AREA	63,345	100	736,589	23	411,785	99	1,562,464	100	497,234	97	2,568,373	20	198,727	99
REMAINDER OF SUBREGION	200	0	2,402,724	77	2,866	1	7,052	0	13,847	3	10,292,429	80	1,288	1
SUBREGIONAL TOTAL	63,545	100	3,139,313	100	414,651	100	1,569,515	100	511,081	100	12,860,803	100	200,015	100

1. Projected land uses as indicated on the general plans of city and county governments. In many instances, these figures may reflect local build-out assumptions extending beyond the SCAG RCP year 2010 horizon. Therefore, they should be considered illustrative and not indicative of RCP goals and policies.

2. "Non-Urban" uses include residential densities of less that one unit per gross acre.

3. "Transportation & Utilities" generally includes freeways, other major roads and power lines, equipment storage yards, power plants, airports, harbors, etc. Generally, it does not include local streets and arterial boulevards.

4. Santa Clarita is not a separate subregion; it is part of the VCOG subregion.

Note: Existing 1990 land use and local general plan categories are not directly comparable. See explanation under Subregional Patterns on page 1-2, SCAG State of the Region Report, Land Use Chapter.

Table 1-1

EXISTING LAND USE
(Continue)

Land Use (Acres)	SELAC		South Bay Cities		Westside Summit		WRCOG		VCOG		Santa Clarita[4]	
	Area	%	Area	%	Area	%	Area	%	Area	%	Area	%
Non-Urban Residential[1]		0		0		0		0		0		0
Low Density Residential	64,653	41	30,354	25	7,043	39	105,198	7	51,441	4	6,808	26
Medium to High Density Residential	13,400	9	8,553	7	3,215	18	11,419	1	7,174	1	6,931	27
Commercial	12,362	8	6,490	5	2,383	13	8,180	1	5,987	1	813	3
Industrial	21,500	14	10,449	9	721	4	7,788	1	5,518	0	840	3
Extraction	2,712	2	394	0	978	5	4,594	0	11,097	1	722	3
Public Facilities & Institutions	10,023	6	3,661	3	1,003	6	13,453	1	11,290	1	692	3
Transportation & Utilities[2]	13,409	9	3,120	3	567	3	17,577	1	10,963	1	1,288	5
Open Space & Recreation	6,828	4	3,117	3	882	5	10,475	1	6,722	1	535	2
Agriculture	1,811	1	845	1		0	170,039	11	118,847	10	611	2
Water & Floodways	1,726	1	321	0	399	2	11,694	1	5,050	0	8	0
Vacant	7,182	5	6,472	5	956	5	787,894	51	944,689	80	11,725	45
STUDY AREA	155,605	100	73,776	60	18,147	100	1,148,312	75	1,178,778	100	30,974	120
REMAINDER OF SUBREGION	364	0	48,636	40	38	0	384,500	25	3,613	0	-5,074	-20
SUBREGIONAL TOTAL	155,969	100	122,411	100	18,184	100	1,532,812	100	1,182,391	100	25,899	100

1. Projected land uses as indicated on the general plans of city and county governments. In many instances, these figures may reflect local build-out assumptions extending beyond the SCAG RCP year 2010 horizon. Therefore, they should be considered illustrative and not indicative of RCP goals and policies.

2. "Non-Urban" uses include residential densities of less that one unit per gross acre.

3. "Transportation & Utilities" generally includes freeways, other major roads and power lines, equipment storage yards, power plants, airports, harbors, etc. Generally, it does not include local streets and arterial boulevards.

4. Santa Clarita is not a separate subregion; it is part of the VCOG subregion.

Note: Existing 1990 land use and local general plan categories are not directly comparable. See explanation under Subregional Patterns on page 1-2, SCAG State of the Region Report, Land Use Chapter.

Table 1-2

LOCAL GENERAL PLAN LAND USE

General Plan (Acres)	Arroyo Verdugo		CVAG		Los Angeles City		North LA County		Orange County		SANBAG		San Gabriel Valley	
	Area	%	Area	%	Area	%	Area	%	Area	%	Area	%	Area	%
Non-Urban Residential [2]		0	538,725	17	46,500	11	68,161	4	18,208	4	301,726	2		0
Low Density Residential	30,681	48	113,458	4	148,642	36	584,731	37	149,193	29	232,003	2	93,225	47
Medium to High Density Residential	4,864	8	12,032	0	41,940	10	4,783	0	35,595	7	45,486	0	16,141	8
Commercial	4,848	8	14,209	0	17,900	4	7,392	0	23,509	5	57,176	0	12,888	6
Industrial	3,811	6	15,337	0	24,810	6	8,768	1	30,179	6	63,806	0	20,762	10
Extraction		0		0		0		0		0	3,994	0		0
Public Facilities & Institutions	2,353	4	9,482	0	52,086	13	5,587	0	41,049	8	43,682	0	13,634	7
Transportation & Utilities [3]		0	4,729	0	4,054	1	39,676	3	2,551	0	4,219	0	1,419	1
Open Space & Recreation	16,758	26	443,227	14	75,547	18	828,330	53	192,318	38	278,101	2	37,150	19
Agriculture	230	0	91,874	3		0	7,667	0	1,883	0	43,137	0	790	0
Water & Floodways		0	62,423	2		0	14,032	1		0	28,462	0		0
Specific Plan		0		0		0		0	12,073	2	17,549	0		0
STUDY AREA	63,545	100	1,305,496	42	411,479	99	1,569,127	100	506,558	99	1,119,341	9	196,009	98
REMAINDER OF SUBREGION	0	0	1,833,817	58	3,172	1	388	0	4,523	1	11,741,462	91	4,006	2
SUBREGIONAL TOTAL	63,545	100	3,139,313	100	414,651	100	1,569,515	100	511,081	100	12,860,803	100	200,015	100

1. Projected land uses as indicated on the general plans of city and county governments. In many instances, these figures may reflect local build-out assumptions extending beyond the SCAG RCP year 2010 horizon. Therefore, they should be considered illustrative and not indicative of RCP goals and policies.

2. "Non-Urban" uses include residential densities of less that one unit per gross acre.

3. "Transportation & Utilities" generally includes freeways, other major roads and power lines, equipment storage yards, power plants, airports, harbors, etc. Generally, it does not include local streets and arterial boulevards.

4. Santa Clarita is not a separate subregion; it is part of the VCOG subregion.

Note: Existing 1990 land use and local general plan categories are not directly comparable. See explanation under Subregional Patterns on page 1-2, SCAG State of the Region Report, Land Use Chapter.

Table 1-2

LOCAL GENERAL PLAN LAND USE
(Continued)

General Plan (Acres)	SELAC Area	%	South Bay Cities Area	%	Westside Summit Area	%	WRCOG Area	%	VCOG Area	%	Santa Clarita [4] Area	%
Non-Urban Residential[2]		0		0		0	218,998	14	6,648	1		0
Low Density Residential	61,239	39	34,583	28	8,207	45	277,773	18	70,043	6	14,352	55
Medium to High Density Residential	22,546	14	8,657	7	3,817	21	18,662	1	12,421	1	422	2
Commercial	12,244	8	7,344	6	2,577	14	28,954	2	8,584	1	2,301	9
Industrial	29,089	19	13,819	11	937	5	40,780	3	16,838	1	1,162	4
Extraction		0		0		0		0		0		0
Public Facilities & Institutions	11,979	8	5,514	5	1,222	7	24,705	2	16,030	1	661	3
Transportation & Utilities[3]	976	1	26	0	261	1	5,642	0	2,844	0		0
Open Space & Recreation	12,562	8	3,795	3	790	4	444,719	29	949,014	80	6,950	27
Agriculture	250	0	366	0		0	90,873	6	97,431	8		0
Water & Floodways		0		0	373	2	15,918	1	1,270	0	52	0
Specific Plan	1,629	1	98	0		0		0	1,782	0		0
STUDY AREA	152,514	98	74,202	61	18,184	100	1,167,024	76	1,182,905	100	25,900	100
REMAINDER OF SUBREGION	3,455	2	48,210	39	0	0	365,788	24	-514	0	-1	0
SUBREGIONAL TOTAL	155,969	100	122,411	100	18,184	100	1,532,812	100	1,182,391	100	25,899	100

1. Projected land uses as indicated on the general plans of city and county governments. In many instances, these figures may reflect local build-out assumptions extending beyond the SCAG RCP year 2010 horizon. Therefore, they should be considered illustrative and not indicative of RCP goals and policies.

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Heal the Bay

3220 Nebraska Avenue
Santa Monica CA 90404

ph 310 453 0395
fax 310 453 7927

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www.healthebay.org

2001 JUN 15 P 1:55

June 13, 2001

Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

RE: Preliminary Revised Draft of the Monitoring and Reporting Requirements of the Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County Flood Control District, County of Los Angeles and Cities of Los Angeles County

Dear Dr. Swamikannu:

Thank you for the opportunity to further comment on the Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County. Our major concerns at this point are with the estuary monitoring program, toxicity monitoring requirements and tributary monitoring requirements.

1. Toxicity Monitoring at Mass Emissions Stations and TIEs

Table 1 is confusing. How can a TIE be conducted on water that was found to be toxic three years ago? We recommend deleting Table 1 and requiring regular toxicity monitoring with both test species for all watersheds, unless there is a TRE currently underway.

Lack of toxicity at a site for two sampling events in one year does not justify reduced testing at that site. Stormwater discharge is highly variable, and two samples per year may miss some toxic discharges. The program should not therefore be reduced to even fewer samples per year. Furthermore the draft monitoring program requires a TIE when two consecutive dry-weather or two consecutive wet-weather samples show toxicity, but only one dry-weather and one wet-weather sample may be required for toxicity testing after the first year. Even if this protocol detects toxicity at a site, it may not trigger a TIE for a given site in a single year. Nor will it provide sufficient information to determine causes of toxicity. We recommend:

A. two storm samples and two dry-weather samples must be tested for toxicity every year;

B. since little is known about the causes of toxicity in stormwater, a TIE should be triggered whenever a single sample shows toxicity, for the life of this permit. Toxicity is indicated by an amphipod survival rate of 70% or less in a single test.

By the end of the permit cycle, the County and the Regional Board will have a great deal more information on the causes of toxicity in the watersheds with mass emissions sites.

2. Estuary Monitoring

We recommend annual sediment toxicity testing and benthic community analysis at five sites in estuaries of at least the Los Angeles River, Ballona Creek and the Dominguez Channel. Once in the life of this permit may be sufficient for the Malibu Creek and San Gabriel River estuaries because these receiving waters are not listed for impacts to benthic communities or sediment contamination. Fewer sites may be used in the estuary mapping studies (e.g. 15 sites instead of 25) to make annual

Heal the Bay

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monitoring feasible. During the year that the Principal Permittee participates in the Bight Wide Study, annual sediment toxicity and benthic community analyses need not occur.

3. Tributary Monitoring

Tributary monitoring should not focus only on metals. No rationale is provided for this. L.A. County watersheds are impaired for metals and a variety of other constituents. Since the primary purposes of this monitoring are to identify sources of pollutants in subwatersheds, prioritize locations that need management actions, and provide baseline information for TMDL development, tributary monitoring should include all constituents for which the waterbody is impaired. We recognize that economic concerns are the rationale for excluding Dominguez Channel and Malibu Creek, but these two watersheds must be included in the tributary monitoring program somehow. The Permittee should be required by this permit to obtain tributary monitoring data for these watersheds through their involvement in ongoing watershed assessment efforts, such as the Dominguez Channel Watershed Advisory Council and the Malibu Creek Watershed Committee. We recommend tributary monitoring for all listed constituents be required in the San Gabriel River, Los Angeles River and Ballona Creek, and that this permit specify similar data be obtained for Dominguez Channel and Malibu Creek.

4. Reporting Requirements

In addition to written reports, all data must be submitted electronically in a format that can be easily managed by the Regional Board.

Thank you again for the opportunity to comment on Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County.

Sincerely,

Mark Gold

Mark Gold, D. Env.
Executive Director,
Heal The Bay

Shelley Luce

Shelley Luce
Staff Scientist
Heal The Bay

California Regional Water Quality Control Board

Los Angeles Region

(50 Years Serving Coastal Los Angeles and Ventura Counties)

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640
Internet Address: http://www.swrcb.ca.gov/rwqcb4

Winston H. Hickox
Secretary for Environmental Protection

Gray Davis
Governor

D2

June 15, 2001

Mr. Donald L. Wolfe
Assistant Director
County of Los Angeles Department of Public Works
900 South Fremont Avenue, 11th Floor
Alhambra, California 91803-1331

Dear Mr. Wolfe:

Our staff has recently approached your staff to initiate discussions on an opportunity to fund local agencies in assisting the State to ensure compliance with the State's *General Permit for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities* (Order No. 97-03-DWQ; NPDES No. CAS000001; hereafter General Permit). The purpose of this letter is to propose conceptual terms for a contract, or Memorandum of Agreement (MOA), to work with local agencies to address storm water issues at industrial facilities in the County of Los Angeles. As you are aware, facilities in industrial sectors specified by the US Environmental Protection Agency are subject to requirements of the State's General Permit.

Our objectives for this proposal are to: (1) ensure that permittees enrolled under the General Permit are in compliance with permit requirements and other local storm water requirements, and (2) identify industrial facilities that have failed to enroll under the General Permit. To accomplish this, we have roughly outlined terms of a proposal with the County, as summarized below.

Objective 1: Ensure Compliance – We envision that the key tasks under this objective will include:

Task 1A: Compliance Inspections – There are approximately 2,600 permittees in the County, whom we want to inspect on an annual basis for the purpose of ensuring compliance with our General Permit. Please note that, by ensuring the Permittees comply with the State's General Permit, we also would be ensuring compliance with local storm water ordinances and with local agencies' model programs.

Task 1B: Sampling – This task would be a logical sequence to the critical source monitoring that the County has already completed, to compare the quality of runoff in five high risk industrial sectors. There are other sectors in need of such an evaluation. Moreover, sampling is important to determine the effectiveness of permittees' best management practices. Accordingly, we would like to set aside contract funds to sample runoff.

Task 1C: Referrals – Based on the results of compliance inspections and the sampling program(s), the County would refer violations to the Regional Board for informal and formal enforcement action. As Regional Board staff develop enforcement cases, the County would assist the Regional Board's enforcement efforts through various supporting activities, including but not limited, to: searches for current owners, operators, and lessees, appearances as witnesses in Regional Board enforcement hearings, and participating in joint inspections when requested by Regional Board staff.

Objective 2: Identify Non-filers – We envision that the key tasks to accomplish this objective will include:

Task 2A: Data Review – The existing and draft municipal storm water permits require local agencies to help identify non-filers. We would like the County to review the data compiled to date, and develop an inspection strategy to confirm that the identified facilities are subject to the General Permit requirements.

Task 2B: Non-filer Field Checking – We would like the County to field-check each facility identified by Task 2A above, to confirm industrial activities and to provide warning to the facility owner/operator of the filing requirements required by the General Permit.

Task 2C: Referrals – Based on the results of referrals in Task 2B above, the County would refer non-filer violations to the Regional Board for informal and formal enforcement action. As Regional Board staff develop enforcement cases, the County would assist the Regional Board's enforcement efforts through various supporting activities, including but not limited, to: searches for current owners, operators, and lessees, appearances as witnesses in Regional Board enforcement hearings, and participating in joint inspections when requested by Regional Board staff.

We have not yet had opportunity to discuss in sufficient detail the structure of a contract or MOA, and the level of funding. Regarding the structure of an MOA, to date we have talked only briefly about the Regional Board contracting with the County, and with the County then subcontracting with the Cities of Los Angeles and Long Beach. Regarding the inspection authority of local agencies, we believe that the MOA could be structured to allow delegation of our inspection authority to local agencies. Regarding the cost, your staff indicated that they could develop some estimates of cost-per-inspection based upon the level of inspection – for this reason, we are enclosing a copy of our compliance inspection checklist. Also, you explained that the County would want to be reimbursed on an hourly basis, as opposed to a per inspection, or

flexibility in this regard, and I have requested Mr. John Youngerman at the State Board to assist us on this issue.

We are excited about this opportunity to work with local agencies to enhance our storm efforts and work toward our long-term goal of changing the behavior and practices on the part of industry. We would be pleased to meet with you and your staff to address details of this conceptual proposal. Please do not hesitate to contact me (213-576-6605), Wendy Phillips, Chief of our Storm Water Section (213-576-6618) or Xavier Swamikannu, Chief of our LA Coastal Storm Water Unit (213-576-6654).

Sincerely,

Dennis A. Dickerson
Executive Officer

enclosure

c: Laura Gentile, US EPA, Region IX
John Youngerman, Storm Water Section, State Water Resources Control Board
Mustafa Ariki, Watershed Management Division, County of Los Angeles Department of Public Works
Carl W. Sjoberg, Industrial Waste Planning and Control, County of Los Angeles
Gary Lee Moore, Storm Water Management Division, City of Los Angeles
Tom Leary, City of Long Beach

State of California - Environmental Protection Agency
California Regional Water Quality Control Board - Los Angeles
320 West 4th Street, Suite 200, Los Angeles, CA 90013, (213) 576-6600

INDUSTRIAL
STORM WATER INSPECTION REPORT

WDID NUMBER: _____ INSPECTOR(S): _____

INSPECTION DATE: _____ REPORT DATE: _____ WEATHER CONDITION: _____

ARRIVAL TIME:_____ DEPARTURE TIME:_____PHOTOGRAPHS ATTACHED: ☐ Yes ☐ No

FACILITY REPRESENTATIVE PRESENT DURING INSPECTION: _____ _____ PHONE #: _____

_____ _____
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE — OWNER CONTACT NAME AND PHONE #

_____ _____
FACILITY NAME (IF DIFFERENT FROM OWNER) — FACILITY CONTACT NAME AND PHONE #

_____ _____ _____
FACILITY STREET ADDRESS — FACILITY CITY AND STATE — SIC Code

PURPOSE OF INSPECTION

___ 1. Compliance inspection in which samples are taken.
___ 2. Compliance inspection nonsampling.
___ 3. Follow-up-Inspection made to verify correction of a previously identified violation.
___ 4. Inspection made in response to a complaint.
___ 5. Pre-requirement- Inspection made to gather info relative to preparing, modifying, or rescinding requirements.
___ 6. Sampling reduction or exemption request- verification that there is no exposure of industrial activities to storm water.
___ 7. Notice of Termination application- verification that the facility is not subject to permit requirements.
___ 8. Other- Explain _____.

RESULTS OF INSPECTION

A. Storm Water Pollution Prevention Plan	YES	NO	NA	UN	COMMENTS
1. SWPPP developed [Section A.1. and A.2.]					
2. SWPPP on-site available for inspection [Section A.10.a. to f.]					
3. SWPPP certification [Section C.9.]					
4. Identification of responsible persons and responsibilities [Section A.3.]					

R0002859

NA= Not Applicable; UN= Undetermined

Version 3.0 10/2000 ™Dan R

	YES	NO	NA	UN	COMMENTS
5. Site Map [Section A.4.]					
6. List of significant materials [Section A.5.]					
7. Description of potential pollutant sources [Section A.6.]					
8. Summary of activities, pollutant sources, pollutants [Section A.7.]					
9. BMPs implemented [Section A.8.]					
10. Employee training and recordkeeping [Section A.8.]					
11. Annual Comprehensive Site Compliance Evaluation [Section A.9.]					
12. Monitoring Program					
13. Monitoring Program Developed [Section B.1. and B.2.]					
14. Describe Non-storm Water Discharge Visual Observation Schedule [Section B.3.]					
15. Describe Storm Water Discharge Visual Observations Schedule [Section B.4.]					
16. Describe Sampling and Analysis Methodology [Section B.5.]					
. . Sample two storm events [Section B.5.a.] If no, explanation given					
18. Sample for additional parameters [Section B.5.c.iii.] If no, explanation given					
19. Facility Subject to Federal Storm Water Effluent Limitations Guidelines [Section B.6.]					
20. Sample ALL Storm Water Discharge Locations [Section B.7.] If no, explanation given					
21. Visual Observations and Sample Collection Exemption [Section B.8.]					
22. Describe Monitoring Methods [Section B.10.]					
23. Laboratory Analysis available, done at certified lab [Section B.10.b.]					
24. Applied for Sampling and Analysis Exemption or Reduction [Section B.12.]					
25. Annual Report and Certification [Section B.14. and C.9.]					
C. Vehicle/Equipment					
1. Were the vehicle/equipment maintenance areas inspected?					
? Are vehicle/machinery leaks and drips properly managed?					
.s vehicle/equipment washing done in a designated area so that wash water can be properly managed?					

R0002860

	YES	NO	NA	UN	COMMENTS
4. Was the vehicle fueling area inspected?					
5. Are vehicle maintenance activities kept indoors?					
6. Were the vehicle/equipment storage areas inspected?					
7. Are current BMPs in vehicle/equipment/fueling areas adequate?					
D. Waste Management					
1. Are containers for temporary storage of wastes labeled?					
2. Are waste materials recycled?					
3. Are hazardous wastes properly handled and disposed of?					
4. Is process debris removed regularly?					
5. Is there secondary containment for liquid wastes?					
6. Are current waste management BMPs adequate?					
E. Material Storage					
1. Are there appropriate BMPs for outdoor storage of raw materials, products, and byproducts?					
2. Are containers for chemical substances labeled?					
3. Is there secondary containment for liquid storage?					
4. Are current BMPs in the material storage areas adequate?					
F. Spill Control					
1. Are there procedures for spill response and cleanup?					
2. Are appropriate spill containment and cleanup materials kept on-site and in convenient locations?					
3. Are used absorbent materials removed and disposed in a timely manner?					
4. Are current spill control BMPs adequate?					
G. Erosion					
1. Are unpaved outdoor areas protected from water/wind erosion?					
2. Are drainage ditches or the areas around the outfalls free of erosion?					
3. Do implemented BMPs appear effective in controlling erosion?					
H. Dust/Particulate					
1. Were dust/particulate generating areas inspected?					
2. Is facility clear of excessive dust/particulate from industrial operations?					
3. Are current BMPs adequately controlling dust/particulate?					
I. Non-Storm Water Management					
1. Have all unauthorized non-storm water discharges been eliminated or permitted?					
2. Are BMPs for authorized non-storm water discharges properly implemented?					
3. Are current BMPs adequate for management of authorized non-storm water discharges?					
					R0002861

CONCLUSION

☐ In compliance on the date of inspection.

inor violation(s) determined.

☐ Major violation(s) or discharge(s) noted.

☐ Compliance undetermined.

RECOMMENDATION

Issue Notice to Comply:_____

Issue Notice of Violation:_____

er:_____

INSPECTION REPORT PREPARED BY: _____ REVISIT SCHEDULED FOR: _____

SIGNATURE : _____ DATE: _____

FOR INTERNAL USE ONLY - THIS REPORT REVIEWED BY STORM WATER UNIT CHIEF:

NAME: _____

R0002862

!ATURE: _____ DATE: _____

From: "Wessel, Ann" <awes461@ECY.WA.GOV>
To: "'Dan Radulescu'" <DRADULES@rb4.swrcb.ca.gov>
Date: 6/18/01 11:40AM
Subject: FW: BMPs for gas stations

Dan - Sorry this response is late, we are barely keeping up with our work load here and have little time to spare. I'm forwarding a response Ed O'Brien sent to Phil Hammer that covers questions similar to yours.

I'll try to add answers to questions that aren't covered in Ed's e-mail. (Stan - Could you please try to add in answers to questions 2 and 3 below, thanks. Also any other questions you have more info about, thanks again.)

1. Why are Retail Gas Outlets specified as a development category that must treat stormwater? - All new development is required to treat stormwater.

2. What was the justification and basis for the categorization of RGOs as a priority category or in other way as a contributor or potential contributor of pollutants in the stormwater runoff? STAN - In there anything in the new manual identifying gas stations as a priority????

3. What are the pollutants of concern in untreated stormwater runoff from RGOs in your opinion?
STAN - Could you please answer this.

Questions 4 - 7 covered by Ed - for more detail see 1992 and draft 2000 Ecology stormwater manuals.

8. Estimated cost of stormwater controls at RGOs - We don't have any information on this.

9. What percent approximately of the RGO area is taken up by treatment control BMPs? This will depend on the type of BMPs used.

10. When did RGOs first become subject to new development requirements for stormwater treatment? The first Ecology stormwater manual was published in 1992, many jurisdictions began to enforce it shortly after publication. In July 1995 we issued municipal stormwater permits to phase 1 municipalities that included a requirement to apply the provisions in the manual.

11. Has the implementation of treatment control BMPs at RGOs improved the quality of stormwater discharges in your jurisdiction?
We don't have monitoring data designed to answer that question.

12. What mechanism do you use to ensure that the treatment BMPs are properly maintained? The municipal stormwater permits require that the permittee maintain all publicly owned stormwater treatment and flow control BMPs, which would include fueling stations at public motor pools, etc. Also, permittees are required to adopt and implement an ordinance (and in the upcoming permit an inspection program) to ensure maintenance of all privately-owned stormwater treatment and flow control BMPs.

-----Original Message-----
From: Phil Hammer [mailto:hammp@rb9.swrcb.ca.gov]
Sent: Monday, April 09, 2001 9:41 AM

To: O'Brien, Ed
Subject: RE: BMPs for gas stations

Ed,
I'm not sure if I ever replied to your response, but I wanted to make sure to thank you for your help. Your response to my question was extensive and helpful in many ways. We have recently passed a municipal NPDES storm water permit which requires new gas stations to implement structural BMPs. The permit's requirements for new gas stations are similar to those in your manual. The Western States Petroleum Association has appealed the permit, stating that structural BMP implementation is infeasible at new gas stations. Its interesting they never mentioned in their appeal that they already meet similar requirements in many places within the State of Washington. So much for their argument of infeasibility. Thanks again for your help.
-Phil

>>> "O'Brien, Ed" <eobr461@ECY.WA.GOV> 03/27/01 12:44PM >>>
Phil,

I will explain the requirements to you. First, I want to make sure you understand their applicability and regulatory context.

Our stormwater manual requirements apply to new development and redevelopment, not necessarily to existing gas stations that are not undergoing substantial redevelopment.

1. Municipalities covered under the Phase I municipal stormwater NPDES permits must adopt a manual equivalent to the State's stormwater manual. So new and redeveloped gas stations in those areas must meet our manual requirements.

2. Municipalities that do not have an NPDES municipal stormwater permit, and are in the Puget Sound Basin, are supposed to adopt an equivalent manual as required by the Puget Sound Water Quality Management Plan. However, that plan does not have an enforcement or penalty mechanism, so some municipalities do not comply, and therefore do not require gas stations to meet our manual requirements.

3. Municipalities outside Puget Sound are encouraged to use the manual, but are not required to use it.

Because gas stations are not required to get an NPDES permit for their stormwater runoff, the state does not review building permit applications for gas stations. So, we do not know the extent to which local governments are implementing the manual for gas stations. We do know that over 50% say that they are applying the manual.

OK, now what does the manual require?

The 1992 manual would require a new or redeveloped gas station to meet all of the minimum requirements. The most significant ones are:

Erosion and sediment control during construction (15 erosion and sediment control requirements)

Source Control BMPs for the developed site (BMP S1.10 - includes details for fuel island construction, covering the island, preventing stormwater run-on to the island, and the ability to trap spills. I can fax it to you if you don't have it.)

Treatment BMPs for the developed site. The gas station would probably have to apply an oil/water separator and a conventional BMP for solids removal. See Volume I pages I-4- 9 and -10. The treatment BMPs are sized to handle the runoff from a 6-month, 24-hour storm, which can be estimated as 65% of a 2-year, 24-hour storm. The runoff is primarily coming from areas outside of the covered fuel island and the roof.

Flow control BMPs for the developed site. If the runoff from a gas station goes to a stream directly or indirectly (e.g., by discharging to a municipal storm drain that leads to a stream), the discharge must be controlled to the level required by Minimum Requirement #5.

The proposed 2001 manual would require a new or redeveloped gas station to meet all of the new minimum requirements. The most significant ones are:

Erosion and sediment control during construction (12 erosion and sediment control elements) requirements.

Source Control BMPs for the developed site (BMP S1.10 has been updated)

Treatment BMPs for the developed site. The gas station would have to apply an oil control BMP off of our Oil Control Menu in Volume V, and at least a Basic Treatment BMP from our Basic Menu in Volume V. If the discharge was directly or indirectly (as explained above) to a surface water other than what we refer to as a "major receiving water body," a BMP or BMP's from our Enhanced Treatment Menu would have to be selected. The BMPs would be sized to handle the 6-month, 24-hour storm which is now estimated to be 72% of the 2-year, 24-hour storm. However, because roof runoff is not considered a pollution generating surface, it would not have to be directed into the treatment BMPs.

Flow Control BMPs for the developed site. The gas station would have to meet Minimum Requirement #7 - Flow control. The flow control requirement is significantly more stringent than the '92 manual requirement.

The only item left to discuss is what is required of existing gas stations that are not undergoing redevelopment. Currently, there aren't any programmatic approaches to require all gas stations to do anything. However, there are two possible legal vehicles to use to make progress on pollution control at existing gas stations. First, we are drafting a reissued Phase I municipal stormwater permit that would require local governments to inspect industrial/commercial operations with a certain frequency. Where they see a pollution problem, we want them to have the authority to require application of structural source control BMPs, as well as treatment BMPs. The use of BMPs at these sites may also be dictated by a stormwater basin plan that recommends actions to solve pollution and

hydrologic problems for a particular receiving water.

Secondly, the Dept. of Ecology has to develop Wasteload Allocations and Load Allocations as part of the TMDL process for solving pollution problems in 303(d) listed waterbodies. Where gas stations are a source of a pollutant that is causing a water quality standards violation, they may be required to retrofit source control and/or treatment BMPs.

We have not encountered any specific opposition to these requirements by the gas station industry. We have had the structural source control requirement since 1992. We are adding a minimum requirement for mobile fueling operations that generated a lot of discussion with local fire departments and the fueling industry. But that seemed to work out ok.

The proposed Volume I of the 2001 manual is available on our website at www.ecy.wa.gov/biblio/9911.html. Volumes II - V are at 9912.html through 9915.html respectively. Volume IV has the detail for the proposed update to BMPS 1.10 that details structural source controls for gas stations.

That's about what I can think of at the moment, Phil. I hope I didn't forget anything. Good luck!

Ed

-----Original Message-----
From: Phil Hammer [mailto:hammp@rb9.swrcb.ca.gov]
Sent: Wednesday, March 21, 2001 11:33 AM
To: O'Brien, Ed
Subject: BMPs for gas stations

Mr. O'Brien,
I work for the California Regional Water Quality Control Board in San Diego. About a month ago, I talked with you about the State of Washington's regulations for flow impacts to wetlands resulting from new development. You were very helpful in providing me with information on the issue.

I have another brief question for you regarding Washington's requirements for structural BMPs at gas stations. As I understand it from your Volume I, most gas stations would be required to meet minimum requirements 1-10, including implementation of structural BMPs. Is this correct? If so, have you received opposition from gas station interest groups on these requirements? Also, what type of structural BMPs do you see implemented at gas stations?

We are trying to impose similar requirements on gas stations and have received strong opposition from them. I am trying to get an understanding of what other areas are doing to address them. Any information you may have would be greatly appreciated.

Thanks,
-Phil Hammer

CC: "Ciuba, Stan" <sciu461@ECY.WA.GOV>

City of Portland
Bureau of
Environmental
Services

Memo

To: Dan Radulescu

From: Water Pollution Control Lab, City of Portland

CC:

Date: 06/18/01

Re: Information on retail gasoline outlets or fuel dispensing facilities

---

Enclosed is a copy of the City of Portland stormwater management manual (chapter 9) that address retail gasoline outlets or fuel dispensing facilities.

If you have any questions, please contact Kelly Hendryx at (503) 823-7585

2001 JUN 22 P 2:19

9.2 FUEL DISPENSING FACILITIES

9.2.1 Applicability

The requirements in this section apply to all development where vehicles or equipment are refueled on the premises—whether a large-sized gas station or a single-pump maintenance yard. They do not apply to propane tanks.

A fuel dispensing facility is defined as the area where fuel is transferred from bulk storage tanks to vehicles, equipment, and/or mobile containers (including fuel islands, above-ground fuel tanks, fuel pumps, and the surrounding pad).

Applicants subject to these requirements shall prepare a **Form SPC** located at the end of this chapter) that fulfills the requirements of Section 9.2.3, below, and include it in their submittal package.

NOTE: Mobile fueling operations require authorization by BES's Industrial Stormwater Permitting Section and may have specific SPC requirements not identified in this chapter. These types of operations are typically used for construction activities or other limited-duration projects.

9.2.2 Issue

Fuel dispensing facilities are a potential source of chronic loading and acute releases of pollutants to the environment. Stormwater runoff from fuel dispensing facilities may contain oil and grease, toxic hydrocarbons, heavy metals, and other pollutants.

9.2.3 Requirements

The following SPCs are required for fuel dispensing operations, unless an equivalent alternative is requested on Form SPC and approved by BES.

1) COVER

The fuel dispensing area shall be covered with a permanent canopy, roof, or awning so precipitation cannot come in contact with the fueling area. Precipitation shall be directed from the cover to a stormwater disposal system that meets all applicable code requirements.

- **Covers 10 feet high or less** shall have a minimum overhang of 3 feet on each side. The overhang shall be measured relative to the perimeter of the hydraulically isolated fueling area it is to cover.

- **Covers higher than 10 feet** shall have a minimum overhang of 5 feet on each side. The overhang shall be measured relative to the perimeter of the hydraulically isolated fueling area it is to cover.

This SPC should be implemented in conjunction with prevention of stormwater run-on into the covered area.

2) PAVEMENT

A paved fueling pad shall be placed under and around the fueling activity. The pad shall be sized to adequately cover the activity area, including placement of the vehicle or piece of equipment to be fueled.

Gasoline and other materials can react with asphalt pavement, causing the release of toxic oils from the pavement. It is therefore preferable to pave the area with Portland cement concrete. If the area is already paved with asphalt, an asphalt sealant shall be applied to the pavement surface. Whichever paving material is used, the paved surface shall be properly maintained to prevent gaps and cracks.

3) DRAINAGE

The paved area beneath the cover shall be hydraulically isolated through grading, berms, or drains. This will prevent uncontaminated stormwater from running onto the area and carrying pollutants away. Drainage from the hydraulically isolated area shall be directed to an approved City sanitary sewer, an approved on-site industrial wastewater treatment facility, or other approved on-site temporary storage facility or containment device/structure.

Note: An on-site temporary storage facility or containment device/structure shall be used only as a last resort and only for temporary storage of the wastewater or contaminated stormwater (*see Appendix 9-B*).

If a water pollution control facility permit (WPCF) is required by DEQ and results in changes to the facility, Source control must be given copies of these changes.

4) SIGNAGE

Signage shall be provided at the fuel dispensing area and shall be plainly visible from all fueling activity areas (*see section 9.1.7).*

The following language shall be added to the building plan set, as a general note on the site and/or utility plan:

> "Signage will be provided at the fuel dispensing area that is plainly visible and water resistant, and includes the following information:
>
> - Safety precautions
> - Immediate spill response procedures
> - Emergency contacts and telephone numbers"

5) SEDIMENTATION MANHOLE

A sedimentation manhole shall be installed on the discharge line of the fueling pad (before the domestic waste line tie-in). The manhole shall be located on property. For more information about sedimentation manholes, refer to the City's *Standard Construction Specifications Book,* detail 4-11.

The requirement for a sedimentation manhole prior to sanitary discharge is to help achieve local discharge limitations applicable to the City's sanitary sewer. (See *Appendix 9-A* for more information about sanitary sewer discharge limits.)

Design Retrofit of Sedimentation Manhole: The outlet of the manhole will need to be revised to reflect a tee installation, with a removable watertight cap for cleaning. The tee must extend downward approximately 18 inches. This feature is to help capture oils and greases.

6) SHUT-OFF VALVE

A shut-off valve shall be installed downstream of the sedimentation manhole, before the domestic waste line tie-in. The shut-off valve must be located on property. For more information about shut-off valves and associated valve boxes, contact the City's Commercial Plumbing Department at 503-823-7302.

This requirement is to comply with City Code, Chapter 17.34.090, requiring spills that occur within the activity area to be effectively contained for appropriate clean-up and disposal. (The emergency contacts and responders identified on the required signage shall determine the appropriate clean-up and disposal of a spill.)

7) ADDITIONAL REQUIREMENTS

Please carefully review the following additional requirements. These requirements are not applicable to all development projects. If they do apply, however, and are not addressed in the project design, revisions will be required. This could delay issuance of related building permits.

A) **Above-ground fuel tanks** are subject to additional requirements (*see Section 9.3*).

B) **Additional oil controls** may be required for vehicle traffic, parking, and storage areas if the facility is defined as a higher-use or higher-risk site (*see Section 9.8*).

C) **Bulk fuel terminals** require an additional review process to determine regulatory authority and requirements.

8) EXCEPTIONS

A) The requirement to cover the fuel dispensing area can be waived if the fuel dispensing area is generally used to service oversized equipment (e.g., cranes) that cannot maneuver under a roof or canopy.

City Code (Chapter 17.32.080 and 17.32.090) prohibits stormwater from being discharged to a City separated sanitary sewer, with limited exceptions allowed by the Chief Engineer. If approval is granted and a cover is not installed because of oversized equipment, Chapter 17.36 of the City Code allows the City of Portland to bill a facility for the disposal of stormwater into the City separated sanitary sewer. Charges are determined by either calculated volumes (based on the average annual rainfall and the square footage of impervious area drained) or by meter readings from a City-approved discharge meter.

A written **stormwater volume charge request** will be required as part of the approval process for this exception. The written request shall document the property owner's acknowledgement of the City's right to charge the facility sanitary sewer rates for the volume of stormwater discharged to the sanitary sewer system. The application shall be signed by the property owner and notarized.

B) Propane tanks are exempt from requirements #1 through 5 in 7.2.3. Traffic protection crash posts shall be placed at a maximum spacing of 5 feet on all sides of the AST where traffic patterns may exist and a containment wall is not present.

(back to top)

9.8 VEHICLE AND EQUIPMENT TRAFFIC AREAS, PARKING, AND STORAGE

9.8.1 Applicability

The requirements of this section apply to all types of parking lots (commercial, public, and private), retail store parking lots, fleet vehicle lots and yards (including rental car lots and car dealerships), equipment sale and rental lots, and access roads with any of the following **higher-use** or **higher-risk** conditions:

- A commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area.
- A commercial or industrial site subject to use, storage, or maintenance of a fleet of 25 or more vehicles or equipment (trucks, buses, heavy equipment, etc.).
- A commercial or industrial area identified for the specific use and traffic from vehicles or equipment that are over 10 tons gross weight (trucks, trains, heavy equipment, etc.).
- A commercial or industrial site subject to the storage of wrecked or impounded vehicles.
- Sites with a high likelihood of oil and grease releases (e.g., vehicle repair, vehicle sales, vehicle parts sales, vehicle fueling services).

The requirements of this section do not apply to single-family and duplex residential sites.

Applicants subject to the requirements of this section shall prepare **Form SPC,** located at the end of this chapter. Form SPC shall be included in the submittal package.

Notes:

The traffic threshold focuses on vehicle turnover per square foot of building area (trip generation) rather than ADT alone. This is because oil leakage is greatest when engines are idling or cooling. In general, all-day parking areas are not intended to be captured by these thresholds. The petroleum storage and transfer stipulation is intended to address regular transfer operations such as service stations, not occasional filling of heating oil tanks. Traffic thresholds are researched and compiled by the Institute of Transportation Engineers (ITE).

Parking lots that do not have the above higher-use or higher-risk conditions must use required landscaping within the project area for stormwater (*See Chapter 1.0, Section 1.6.*)

9.8.2 Issue

Stormwater runoff from higher-use or higher-risk sites can contain toxic materials and other organic compounds, oil and grease, heavy metals, nutrients, and suspended solids. Pollutants of concern are primarily generated by vehicle washing and maintenance activities, road oils, and vehicle drips/leaks. These pollutant loads may not be adequately addressed when no water quality facility is required or when volumes exceed the capacity of any required facilities. In such cases, additional pollution reduction facilities or activities may be required. BES will identify additional pollutant prevention or removal needs during SPC application review.

9.8.3 Requirements

1) PAVEMENT

Because of the potential for soil and groundwater contamination, all high-use or high-risk sites shall be paved.

Gasoline and other materials can react with asphalt pavement, causing the release of toxic oils from the pavement. It is therefore preferable to pave the area with Portland cement concrete. If the area is already paved with asphalt, an asphalt sealant shall be applied to the pavement surface. Whichever paving material is used, the paved surface shall be properly maintained to prevent gaps and cracks.

2) DRAINAGE

Drainage from these areas shall be directed to a stormwater disposal system that meets all water quality requirements of this manual and any other applicable codes.

The Oregon Department of Environmental Quality has identified drywells and/or sumps as "Class V Injection Wells" under the federal Underground Injection Control (UIC) Program. Since the UIC Program states that these types of wells have a direct impact on groundwater, stormwater pollution controls will apply. More information about the UIC program can be found on the DEQ web site.

3) OIL CONTROL

City code prohibits the discharge of stormwater with a visible sheen to the City's storm sewer system The following oil control options are designed to capture and detain oil and associated pollutants.

Oil/Water Separators

Oil/water separators rely on passive mechanisms that take advantage of oil being lighter than water. Oil rises to the surface and can be periodically removed. The two types of oil/water separators used for stormwater treatment are the baffle type or API (American Petroleum Institute) oil/water separator and the coalescing plate oil/water separator.

- **Baffle oil/water separators** use vaults that have multiple cells separated by baffles extending down from the top of the vault. The baffles block oil flow out of the vault. Baffles are also commonly installed at the bottom of the vault to trap solids and sludge that accumulate over time. In many situations, simple floating or more sophisticated mechanical oil skimmers are installed to remove the oil once it has separated from the water.

- **Coalescing plate separators** are manufactured units consisting of a baffled vault containing several inclined corrugated plates stacked and bundled together. The plates are equally spaced and are made of a variety of materials, most commonly fiberglass and polypropylene. Efficient separation results because the plates reduce the vertical distance oil droplets must rise in order to separate from the stormwater. Once they reach the plate, oil droplets form a film on the plate surface. The film builds up over time until it becomes thick enough to migrate upward under the influence of gravity along the inclined plate. When the film reaches the edge of the plate, oil is released as large droplets that rise rapidly to the surface, where the oil accumulates until the unit is maintained. Because the plate pack significantly

increases treatment effectiveness, coalescing plate separators can achieve a specified treatment level with a smaller vault size than a simple baffle separator.

Design Criteria and Requirements for Oil/Water Separators when Not Discharged to a Sanitary Sewer: Research has shown that baffle oil/water separators are not as effective for stormwater management as those with coalescing plate separators and cannot be guaranteed to meet the City's prohibited discharge requirements. For this reason, the sizing of oil/water separators with baffles reflects a factor of safety to ensure that they meet the benchmarks. The following design criteria are established to treat the first flush of a storm event, not the complete storm.

- Characteristics of the runoff shall be assumed to be:
  - Specific gravity (SG) of oil is .9
  - Temperature of stormwater runoff is 50°F to 60°F
  - Oil droplet size is 50 microns.

- Baffled separators shall be able to handle a water quality (WQ) design flow equal to two-thirds of a 2- year storm event, in a 24-hour period.

- Coalescing plate separators shall have a WQ design flow equal to one-third of a 2-year storm event, in a 24-hour period.

- Flow calculation shall be based on the impervious area before mitigation has been credited; however, the roof area shall be excluded from the total.

- Oil/water separators shall be installed off-line, bypassing flows greater than the WQ design flow.

- The separator shall precede other water quality treatment facilities when open surface approaches (e.g. swales, infiltration basins) are used. When other types of treatment facilities are used (e.g., manufactured subsurface facilities), the separator may be downstream of those treatment facilities. The separator may be positioned either upstream or downstream of detention facilities, since there are both advantages and disadvantages with either placement.

- If the oil/water separator is discharging to an open-surface water quality facility, the flows shall not exceed three feet per second, per water quality requirements as identified in Chapter 5.0.

- To maintain efficiencies and reduce size, all roof drainage shall enter the stormwater system downstream of the oil/water separator.

- Any pumping devices shall be installed downstream of the separator to prevent oil emulsification in stormwater.

- Engineered calculations shall be required, using the Santa Barbara Unit Hydrograph (SBUH), to verify appropriate sizing of the oil/water separator.

Note: Additional design considerations are required for a baffled oil/water separator is installed. Design requirements are twice the standard water quality requirement for other water quality facilities in this manual, and flow management will need to be engineered. A possible solution may be a flow splitter upstream of the separator and another flow splitter downstream of the separator (but upstream of the water quality facility design).

Design Criteria and Requirements for Oil/Water Separators Discharged to a Sanitary Sewer: Since the discharge limits for the sanitary sewer are not as restrictive as the storm sewers, the design criteria are not as complicated:

- The characteristics of the runoff shall be assumed to be the same as stated above.

- Baffled separators shall retain maximum flows of a system for 45 minutes.

- Coalescing plate separators shall retain maximum flows of a system for 15 minutes.

- Engineered calculations shall be required to verify appropriate sizing of the oil/water separator.

Note: For high-use or high-risk sites located within a larger commercial center, only the impervious surface associated with the high-use or high-risk portion of the site is subject to treatment requirements. If common parking for multiple businesses is provided, treatment shall be applied to the number of parking stalls required for the high-use or high-risk business only. However, if the treatment collection area also receives runoff from other areas, the treatment facility must be sized to treat all water passing through it.

Linear Sand Filters

Linear sand filters have proven effective in meeting standard water quality requirements (*see Chapter 4.0*). Because design criteria are still being established to ensure these facilities can also effectively control oil and grease, their proposed use will require an additional review process for approval. This may delay issuance of related building permits. For more information on the use of linear sand filters to remove oil and grease, contact BES's Industrial Source Control Division at 503-823-7122.

Other Options

There may be other acceptable oil controls not listed above. In many cases landscaping alternatives may be equally or more effective. Applicants may propose an oil control option that would be as effective as those listed. However, proposal of a new oil control will require an additional review process for approval, which may delay issuance of related building permits.

5) ADDITIONAL REQUIREMENTS

Please carefully review the following additional requirements. These requirements are not applicable to all development projects. If they do apply, however, and are not addressed in the project design, revisions will be required. This could delay issuance of related building permits.

Hazardous materials that are toxic, carcinogenic, or halogenated solvents (located in designated groundwater protection areas) are subject to additional requirements, as identified in Section 9.5: Storage, Use, and Transportation of Hazardous/Toxic Materials in Designated Groundwater Resource Protection Areas.

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9.9 COVERED VEHICLE PARKING AREAS

9.9.1 Applicability

The requirements in this section apply to all development with a covered vehicle parking area, except single-family and duplex residential sites. Existing parking structures are not required to retrofit unless the structure is being redeveloped. New parking structures are required to meet these requirements.

Applicants subject to these requirements shall prepare **Form SPC** , located at the end of this chapter, fulfills the requirements of Section 9.9.3. Form SPC shall be included in the submittal package.

9.9.2 Issue

Run-off from covered vehicle parking areas can be contaminated with toxic substances, organic compounds, oil and grease, heavy metals, and suspended solids.

From: "John Dorsey" <JDorsey@SAN.LACITY.ORG>
To: <mfisher@rb4.swrcb.ca.gov>
Date: 6/19/01 9:31AM
Subject: Shoreline comments

Hi Megan: Attached are my comments regarding the draft shoreline monitoring program. Please give me a call at 213-847-6347 if you have any questions.

John

CC: "Gary Lee Moore" <GMoore@SAN.LACITY.ORG>, "Ing-Yih CHENG" <IYC@SAN.LACITY.ORG>, "James F. Langley" <JFLangle@SAN.LACITY.ORG>, "Michael Mullin" <MMullin@SAN.LACITY.ORG>, "Steven Nikaido" <Snikaido@SAN.LACITY.ORG>, "Vince J. Varsh" <VJVarsh@SAN.LACITY.ORG>

COMMENTS ON THE DRAFT STORMWATER MONITORING PROGRAM

John H. Dorsey
City of Los Angeles, Stormwater Management Division
June 18, 2001

These comments focus on Section D (Shoreline Monitoring) of the draft permit issued June 8th, 2001.

Requirements for the shoreline program stated in the draft call for daily monitoring of the Enterococcus bacterial indicator group. This requirement represents an increase in testing frequency of this indicator over its present requirement (5 times/month). We agree with the need for more frequent testing of this indicator group, but we also are striving to keep changes to our monitoring cost neutral. We can achieve this goal by switching to the use of test kits (discussed below) and adjusting the frequency of testing. Also, to provide some flexibility in the 5-year program, we suggest that a provision be made to enable the location of sampling stations to be adjusted if deemed necessary by local public health officials and scientists.

We offer the following recommended changes to the draft based information from regional shoreline monitoring studies coordinated by the Southern California Coastal Water Research Project[1], and discussions with Heal The Bay. They are:

1. **Section D.1.a): Station locations – add a footnote indicating that the station positions could be adjusted during the course of the permit based on recommendations from the Santa Monica Bay Restoration Project and approval from the Executive Officer.**

[1] Noble, Rachel T., J.H. Dorsey, M. Leecaster, V. Orozco-Borbon, D.Reid, K.Schiff, S.B. Weisberg. 2000. A regional survey of the microbiological water quality along the shoreline of the Southern California Bight. *Environmental Monitoring and Assessment* 64: 435-447.

Noble, Rachel T., Dorsey, J., Leecaster, M., Mazur, M., McGee, C., Moore, D., Victoria, O., Reid, D., Schiff, K., Vainik P., Weisberg, S. 2000. Southern California Bight 1998 Regional Monitoring Program, Vol II: Winter shoreline microbiology. Southern California Coastal Water Research Project, Westminster, CA.

Charles D. McGee, Molly K. Leecaster, Patricia M. Vainik, Rachel T. Noble, Kathy O. Walker, and Stephen B. Weisbreg Comparison of Bacterial Indicator Measurements Among Southern California Marine Monitoring . 1997-98 Annual Report. Southern California Coastal Water Research Project, Westminster, CA.

2. **Section D.1.b): Test for three indicator groups (Total coliforms, *E. coli*, and Enterococcus) using either membrane filtration, multiple tube fermentation, or chromogenic substrate test kits. Add a sentence to read "*E. coli* may be substituted for Fecal coliforms if chromogenic substrate test kits are used."**

   We presently test for Total coliforms, Fecal Coliforms and Enterococcus using membrane filtration techniques. By adding some flexibility to testing methods, we can increase our testing frequency for Enterococcus provided we switch to the use of chromogenic substrate test kits like those successfully used during the regional shoreline studies. This switch in methods will also result in testing directly for *E. coli* rather than the more ubiquitous Fecal Coliform group. Unpublished data from Orange County Sanitation District indicate that about 80% of the Fecal Coliform group is represented by *E. coli*, and regional monitoring studies demonstrated that results between the test kits and membrane filtration were comparable.

3. **Section D.1.b): Conduct shoreline testing 6 days/week (Mon-Sat), but include Sunday sampling if a holiday falls on a Monday. In the text-table under "Sample Frequency", insert "6 times/wk (Monday-Saturday)" in lieu of "Daily". Add a footnote to read "Sunday sampling will be conducted in the event that a holiday falls on a Monday."**

   This frequency will provide good coverage, especially for weekend and Monday holidays, while helping to keep the overall program cost neutral for the City.

4. **Section D.1.d): Modify sentence to read "...as recommended by the Santa Monica Bay Restoration Project's Technical Advisory Committee and the Los Angeles County DHS."**

   Stations were shifted in 1994 to their present configuration based on recommendations from a special bacteriological monitoring committee of the SMBRP. Representatives from the County's DHS sat on the committee. Should the need arise to relocate some stations, then such a recommendation should once again be channeled through this body of local experts of which Los Angeles County DHS is a member.

LA MS4 Monitoring Meeting
Tentative Agenda
Pacific Ocean Room
June 25, 2001 at 2:00

Purpose: To discuss questions regarding the June 8 Monitoring Program preliminary draft and to finalize requirements prior to issuance of second draft on June 29.

1. Mass Emission Monitoring
   - Discuss rational for TSS analysis - correlation with storm water pollutants (SCCWRP studies)

2. Toxicity
   - Trigger mechanism - discuss TJs questions
   - Timeframe for useable data - should we start over with regular toxicity monitoring for all stations since previous data is at least 3 years old?
   - Feasibility of TRE - discuss TJs questions

3. Tributary Monitoring
   - Are stations appropriate for model validation?
   - Locations in draft are based on highest load/acre, discuss changing these to locations where stations exist for cost purposes (like county proposal).
   - Discuss analyzing all constituents that the water body is impaired for and pollutants identified as toxic in that watershed (part of TRE) in addition to metals. This is most efficient use of trib sampling.

4. Santa Clara
   - Automatic station installation not very feasible - discuss possibility of manual mass emission sampling at one station in Santa Clara, possibly off of bridge (depending on USGS data and Newhall)
   - Explain rationale for not needing reference station in Santa Clara - TJ
   - Discuss feasibility of trib monitoring for SUSMP comparison, and possibility of accomplishing this as part of the Peak Discharge Impact study.

5. Any other questions and issues the County would like to discuss

LA COUNTY MS4 MONITORING PROGRAM MEETING 6-25-01

NAME	ORGANIZATION	PHONE	EMAIL
[illegible]	[illegible]	[illegible]	[illegible]
Glenn Howe	LACoDPW	626-458-5703	ghowe@dpw.co.la.ca.us
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R0002883

Monitoring Program Review

Element	Board Draft	Comments
Mass Emission	1. Monitor mass emissions from the following eight mass emission stations: Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, Coyote Creek, Dominguez Channel, and two stations in the Santa Clara River.	1. The County and Regional Board investigated the SC WMA and found that installation of automatic station is not feasible.
	2. Method detection limits (MDLs) A. First storm --> SIP MDLs B. Constituents not detected or detected higher than current MDLs --> current MDLs C. Constituents detected last 2 years (100%) --> current MDLs	
	3. All storms shall be analyzed for Total Suspended Solids. (Metals and PAHs are positively correlated with TSS.)	3. Need to discuss rationale for TSS analysis (SCCWRP studies)
	4. Min. estimated cost (one SIP MDLs/season): $573,000 (6 automatic sta.) + $94,000 (SC grab) + extra sampling labor (SC) + TSS test = $667,000 + α	4. Max. estimated cost: (5 SIP MDLs/season): $889,000 (6 automatic sta.) + $147,000 (SC grab) + extra labor (SC) + TSS test = $1,036,000 + α
Toxicity	1. Water Column Toxicity Monitoring : analyze two wet weather samples and two dry weather samples from each mass emission station for toxicity per year.	
	2. Start over with regular toxicity monitoring for all stations since previous data is at least 3 years old.	2. The County pointed out that some toxicity studies on sea urchins were done for Malibu Ck, Ballona Ck, LA River and SG River in a previous meeting. (Sampling and analyses were conducted over 95/96 to 97/98.)
	3. Test the SC WMA for Ceriodaphnia dubia. 4. Estimated cost: $98,000.	
TIEs	1. Toxicity Identification Evaluations (TIE) : conduct TIEs on wet weather samples when two consecutive samples from the same monitoring station show toxicity and on dry weather samples when two consecutive dry weather samples from the same monitoring station show toxicity. 2. Estimated cost: $33,000.	1. The trigger mechanism for TIEs was determined arbitrarily. Need to find a standard mechanism based on science.
TREs	1. Toxicity Reduction Evaluations (TRE) : perform a TRE for each toxic pollutant. TREs shall include procedures for investigating the causes and identifying corrective actions for toxicity problem.	1. TREs can be another form of TMDLs based on biology.
	2. After the Principle Permittee has isolated the sources of toxicity and identified appropriate BMPs, Each permittee shall be resposible for implementing the appropriate BMPs to reduce toxicity.	2. This process is almost equivalent to source identification, load allocations between cities and BMP implementation of TMDLs. Each permittee should review TREs and think of consequence of implementation of TREs
	3. During TRE development and implementation, continue monitoring the first storm and one dry weather event per year for toxicity at the subject station. Two years after the TRE has been approved, analyze two wet weather and two dry weather samples for toxicity to evaluate the effectiveness of the TRE.	
	4. Maximum contributory amount: $300,000 [toxicity monitoring + TRE development)]	

Tributary	1. Develop and implement a tributary/source identification monitoring program. 2. Min. estimated cost (6 stations, one SIP MDLs/season, all constituents) : $467,000	1. 6 high priority tributary areas were identified as potential sampling locations using the Pollutant Loading model (Tujunga Wash, Compton Ck, Rio Hondo Ch, San Jose Ck, Ballona Ck and Coyote Ck) 2. Max. estimated cost (6 stations, four SIP MDLs/season, all constituents) : $704,000
Trash	1. Develop and implement a trash monitoring program for Los Angeles River and Ballona Creek watersheds. 2. Estimated cost: $10,000,000 ($2,000,000/yr * 5yrs)	1. Trash monitoring should not be a monitoring requirement.
Regional Monitoring	1. Participate on Regional Monitoring Committee (Bight-wide monitoring in 2003). 2. Paticipate on the So. Ca. Stormwater Research/Monitoring Program Committee (Development of an Index of Biological Integrity (IBI)). 3. Estimated Cost: ???	2. The development of an index was bioassessment requirement in the previous draft. The Regional Board shifted it to Regional Monitoring and added a new requirement for bioassessment (see bioassessment below).
Estuary Sampling	1. Sample 25 sites in each estuary/mouth for sediment chemistry, sediment toxicity, and BMI community. 2. Produce a map of each estuary which depicts the impacted areas for sediment monitoring. 3. Estimated Cost: $625,000 (from Megan)	
Bioassessment	1. Identify 20 bioassessment stations and monitor the stations annually, beginning in October 2003. (20 stations and 3 seasons) 2. Estimated cost: $78,000	1. Need to monitor each station twice annually to investigate seasonal patterns. If monitoring twice a year is not possible, monitoring annully in May of each year is more appropriate to detect biological responses to storm water pollution.
Trib SC	1. Monitor trib in the SC WMA to determine impacts of new development and to evaluate effectiveness of SUSMPs. 2. Min estimate cost (2 stations, one SIP MDLs/season, all constituents, all grab) : $156,000	1. The County and Regional Board investigated tributary areas in SC WMA and found that they are not appropriate for the trib monitoring. 2. Max. estimated cost (2 stations, four SIP MDLs/season, all constituents, all grab) : $235,000
Peak Discharge	1. Participate in a study to evaluate peak storm water discharge rate control and to determine numeric criteria to prevent erosion. 2. Maximum contributory amount: $230,000.	
BMP	1. Participate in studies to evaluate the effectiveness of structural and treatment control best management practices. 2. Test the effectiveness of 5 structural BMPs for 5 storm events. (Estimated cost is $87,000, assuming that 2 samples are taken for each structural BMP.) 3. Max. contributary amount : $387,000 (Our own BMP tests + Fund for BMP task force)	1. We participate in BMP Task Force.
Report	1. Estimated cost: $125,000	
Cost	1. Min. total cost: $3,166,000 + $10,000,000 (Trash) + extra labor (SCR) + TSS test + Bight monitoring + Bio index + TREs (?)	1. Max. total cost: $3,851,000 + $10,000,000 (Trash) + extra labor (SCR) + TSS test + Bight monitoring + Bio index + TREs (?)

County's Proposal for Monitoring Program

1. **Monitoring Objectives Identified by the Board**

- Measure and improve the effectiveness of the SQMPs
- Assess the impacts of urban runoff to receiving waters
- Characterize storm water discharges
- Identify sources of pollutants
- Assess the overall health and evaluate long-term trends in receiving water quality

2. **Applications of Monitoring Results**

- Refine the SQMPs to reduce of pollutant loadings
- Protect beneficial uses of receiving waters (designated in the Basin plan)

3. **Goals for Monitoring Requirements of 2001 NPDES Permit (County)**

- Evaluate effectiveness, feasibility, and cost of maintenance of structural and/or non-structural BMPs
- Provide useful information and data for the update of 303(d) list of impaired waters and 305(b) water quality assessment, and development of TMDLs.

4. **Pollutant Loading model → Regional Application**

- Objectives
  a) Identify pollutant sources based on land use information
  b) Prioritize locations that need management actions (BMPs)
  c) Provide information for TMDL development
  d) Generate pollutant loading information
- Model Calibrations and Validations
  a) Determine land use specific runoff coefficients using land use flow data (runoff from homogeneous land use)
  b) Verify runoff coefficients using mass emission flow data (cumulative runoff from large, multiple land use areas)
  c) Obtain water quality data from small areas of uniform hydrologic condition during multiple storms (tributary monitoring)
  d) Investigate impacts of hydrologic parameters (antecedent rainfall, intensity, duration of rainfall, etc.) on event mean concentrations using tributary monitoring data
  e) Compare modeled estimates to observed pollutant loadings at mass emission stations
- Required Monitoring
  a) Mass emission monitoring from 6 stations (3 storm events/year) for model validation → $633,000
  b) Land use monitoring from 8 stations (3 storm events/year) to fill in the gaps in water quality data (bacteria, some metals, pesticides and SVOCs) → $851,000
  c) Tributary monitoring from 3 stations (3 storm events/year) → $264,000
  d) Total monitoring cost: **$1,748,000**

5. **BMP Effectiveness Study**

- We plan to test the effectiveness of 5 structural BMPs for 5 storm events. Two samples need to be taken at upstream and downstream of each BMP.
- We participate in BMP task force.

- Maximum contributory amount: **$500,000** (Our own BMP tests + Fund for BMP task force)

6. **Peak Discharge**
- Participate in a study to evaluate peak storm water discharge rate control and to determine numeric criteria to prevent erosion.
- Maximum contributory amount: **$230,000**.

7. **Toxicity Monitoring**
- Conduct monitoring to complete previous studies
- Estimated cost of Water Column Toxicity Monitoring: **$60,000**.
- Estimated cost of Toxicity Identification Evaluations (TIEs): **$33,000**.

8. **Regional Monitoring**

- Participate in Bightwide03 Regional Monitoring (Sediment task force?).
- Participate in the development of an Index of Biological Integrity (IBI)
- Maximum contributory amount: ???.

9. **Bioassessment**
- Identify **10** bioassessment stations and monitor the stations **twice** annually to investigate seasonal patterns, beginning in 2003. (10 stations and 3 seasons)
- Estimated cost: **$78,000**.

10. **Estuary Sampling**
- Sample 25 sites in each estuary/mouth for sediment chemistry, toxicity, and BMI community.
- Estimated cost: **$625,000**.

11. **Monitoring reports**
- Estimated cost: **$125,000**.

12. **Total cost of the monitoring program: $3,399,000 + Regional Monitoring + Model Validation & Calibration**

E. TOXICITY REQUIREMENTS:

1. ACUTE TOXICITY LIMITATION AND REQUIREMENTS FOR EFFLUENT

a. The acute toxicity of the effluent shall be such that: (i) the average survival in the undiluted effluent for any three (3) consecutive 96-hour static or continuous flow bioassay tests shall be at least 90%, and (ii) no single test producing less than 70 % survival.

b. If either of the above requirements I.E.1.a.i. or I.E.1.a.ii. is not met, the Discharger shall conduct six additional tests over a six-week period. The Discharger shall ensure that they receive results of a failing acute toxicity test within 24 hours of the close of the test and the additional tests shall begin within 3 business days of the receipt of the result. If the additional tests indicate compliance with acute toxicity limitation, the Discharger may resume regular testing. However, if the results of any two of the six accelerated tests are less than 90% survival, then the Discharger shall begin a Toxicity Identification Evaluation (TIE). The TIE shall include all reasonable steps to identify the sources of toxicity. Once the sources are identified, the Discharger shall take all reasonable steps to reduce toxicity to meet objective.

c. If the initial test and any of the additional six acute toxicity bioassay tests result in less than 70 % survival the Discharger shall immediately implement the Initial Investigation Toxicity Reduction Evaluation (TRE) Workplan.

d. The Discharger shall conduct acute toxicity monitoring as specified in Monitoring and Reporting Program No. 4245 (Attachment T).

2. CHRONIC TOXICITY REQUIREMENTS FOR EFFLUENT

a. The chronic toxicity of the effluent shall be expressed and reported in toxic units, where:

$$TU_c = \frac{100}{NOEC}$$

The No Observable Effect Concentration (NOEC) is expressed as the maximum percent effluent concentration that causes no observable effect on test organisms, as determined by the results of a critical life stage toxicity test.

b. Chronic toxicity of 100% effluent shall not exceed a monthly median of 1.0 TU_c or a daily maximum of 2.0 TU_c in a critical life stage test.

c. If the chronic toxicity of the effluent exceeds the monthly median of 1.0 TU_c, the Discharger shall immediately implement an accelerated chronic

toxicity testing program according to Monitoring and Reporting Program No. 4245, Item VII.3.b. If any three out of the initial test and the six accelerated tests exceed 1.0 TU_c, the Discharger shall initiate a TIE and implement the Initial Investigation TRE Workplan (see 4., below).

d. The Discharger shall conduct chronic toxicity monitoring as specified in Monitoring and Reporting Program No. 4245 (Attachment T).

3. CHRONIC TOXICITY REQUIREMENTS FOR RECEIVING WATER

a. There shall be no chronic toxicity in ambient waters as a result of wastes discharged.

b. Receiving water and effluent toxicity testing shall be performed on the same day as close to concurrently as possible.

c. If the chronic toxicity in the receiving water downstream at a monitoring station, immediately downstream of the discharge, R4, exceeds 1.0 TU_c in a critical life stage test and the toxicity cannot be attributed to upstream toxicity assessed by the Discharger, then the Discharger shall immediately implement an accelerated chronic toxicity testing according to Monitoring and Reporting Program 4245, Item VII.3.b. If two of the six tests exceed 1.0 TU_c, the Discharger shall initiate a TIE and implement the Initial Investigation TRE Workplan (see 4., below).

d. If the results of the chronic toxicity testing upstream is greater than the results of the testing downstream, and the TU_c of the effluent chronic toxicity test is less than 1 TU_c, then accelerated monitoring does not need to be implemented.

4. PREPARATION OF AN INITIAL INVESTIGATION TRE WORKPLAN

a. The Discharger shall submit a copy of the Discharger's Initial Investigation Toxicity Reduction Evaluation (TRE) Workplan (1-2 pages) to the Executive Officer of the Regional Board for approval within 90 days of the effective date of this permit. If the Regional Board Executive Officer does not disapprove the Workplan within 60 days, the Workplan shall become effective. The Discharger shall use EPA manuals EPA/600/2-88/070 (industrial) or EPA/833B-99/002 (municipal) as guidance. This Workplan shall describe the steps the Discharger intends to follow
if toxicity is detected, and should include, at a minimum:

i. A description of the investigation and evaluation techniques that would be used to identify potential causes and sources of toxicity, effluent variability, and treatment system efficiency;

ii. A description of the facility's methods of maximizing in-house treatment efficiency and good housekeeping practices, and

a list of all chemicals used in operation of the facility; and,

iii. If a toxicity identification evaluation (TIE) is necessary, an indication of the person who would conduct the TIEs (i.e., an in-house expert or an outside contractor) (See MRP Section VII.3.c.iii. for guidance manuals).

VIII. TOXICITY MONITORING REQUIREMENTS

1. ACUTE TOXICITY EFFLUENT MONITORING PROGRAM

a. The Discharger shall conduct acute toxicity tests on 100 % effluent grab samples by methods specified in 40 CFR Part 136 which cites USEPA's *Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms*, August, 1991 (EPA/600/4-90/027) or a more recent edition to ensure compliance.

b. The fathead minnow, *Pimephales promelas*, shall be used as the test species for fresh water discharges and the topsmelt, *Atherinops affinis*, shall be used as the test species for brackish discharges. The method for topsmelt is found in USEPA's *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms*, First Edition, August 1995 (EPA/600/4-95/136).

c. In lieu of conducting the standard acute toxicity testing with the fathead minnow, the Discharger may elect to report the results or endpoint from the first 48 hours of the chronic toxicity test as the results of the acute toxicity test, but only if the Discharger uses USEPA's August 1993 protocol (EPA/600/4-90/027F) to conduct the chronic toxicity test.

2. CHRONIC TOXICITY EFFLUENT/RECEIVING WATER MONITORING PROGRAM

a. The Discharger shall conduct critical life stage chronic toxicity tests on 24-hour composite 100 % effluent samples or receiving water samples in accordance with EPA's *Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, July 1994 (EPA/600/4-91/002) or EPA's *Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms*, August 1995, (EPA/600/R-95/136).

b. Effluent samples shall be collected after all treatment processes and before discharge to the receiving water. Receiving water samples shall be collected in accordance with the conditions specified in this MRP (Cl-

4245). Receiving water samples shall be collected at mid-depth.

c. Test Species and Methods:

i. Freshwater

1. The Discharger shall conduct short-term tests with the cladoceran, water flea (*Ceriodaphnia dubia* - survival and reproduction test), the fathead minnow (*Pimephales promelas* - larval survival and growth test), and the green alga (*Selenastrum capricornutum* - growth test) as an initial screening process for a minimum of three, but not to exceed five, suites of tests to account for potential variability of the effluent / receiving water. After this screening period, monitoring shall be conducted using the most sensitive species.

2. Re-screening is required every 15 months. The Discharger shall re-screen with the three species listed above and continue to monitor with the most sensitive species. If the first suite of re-screening tests demonstrates that the same species is the most sensitive then the re-screening does not need to include more than one suite of tests. If a different species is the most sensitive or if there is ambiguity, then the Discharger shall proceed with suites of screening tests for a minimum of three, but not to exceed five suites.

3. The presence of chronic toxicity shall be estimated as specified in EPA's *Short-Term Methods for Estimating the Chronic Toxicity of*

Effluents and Receiving Water to Freshwater Organisms, Third Edition, July 1994 (EPA/600/4-91/002).

3. **ADDITIONAL REQUIREMENTS FOR ACUTE AND CHRONIC TOXICITY MONITORING PROGRAMS**

d. Quality Assurance

i. Concurrent testing with a reference toxicant shall be conducted. Reference toxicant tests shall be conducted using the same test conditions as the effluent toxicity tests (e.g., same test duration, etc).

ii. If either the reference toxicant test or effluent test does not meet all test acceptability criteria (TAC) as specified in the test methods manuals (EPA/600/4-91/002 and EPA/600/R-95/136), then the Discharger must re-sample and re-test within 14 days.

iii. Control and dilution water should be receiving water or laboratory water, as appropriate, as described in the manual. If the dilution water used is different from the culture water, a second control using culture water shall be used.

e. Accelerated Monitoring

i. If toxicity is detected as defined in Order No. 01-XXX, Sections I.E.1.a, I.E.2.b., or I.E.3.a., then the Discharger shall conduct six additional tests, approximately every 7 days, over a six-week period. The samples shall be collected and the tests initiated no less than 7 days apart. The Discharger shall ensure that they receive results of a failing acute toxicity test within 24 hours of the completion of the test and the additional tests shall begin within 3 business days of the receipt of the result.

ii. If any three out of the initial test and the six additional tests results exceed 1.0 TU_c, the Discharger shall immediately implement the Initial Investigation of the TRE Workplan.

iii. If implementation of the initial investigation TRE Workplan indicates the source of toxicity (e.g., a temporary plant upset, etc.), then the Discharger shall return to the normal sampling frequency required in Sections IV.C and VI.B. of this MRP.

iv. If toxicity is not detected in any of the six additional tests required above, then the Discharger may return to the normal sampling frequency required in Sections IV.C and VI.B. of this MRP.

v. If a TRE/TIE is initiated prior to completion of the accelerated testing schedule required by Section 3.b.i. of this MRP, then the accelerated testing schedule may be terminated, or used as necessary in performing the TRE/TIE, as determined by the

Executive Officer.

vi. The Discharger shall obtain six (6) consecutive chronic toxicity results less than or equal to 1 TU_c in order to return to the normal sampling frequency required in Sections IV.C and VI.B. of this MRP.

f. Steps in Toxicity Reduction Evaluation (TRE) and Toxicity Identification Evaluation (TIE)

i. Following a TRE trigger, the Discharger shall initiate a TRE in accordance with the facility's initial investigation TRE Workplan. At a minimum, the Discharger shall use EPA manuals EPA/600/2-88/070 (industrial) or EPA/833B-99/002 (municipal) as guidance. The Discharger shall expeditiously develop a more detailed TRE Workplan for submittal to the Executive Officer within 15 days of the trigger, that will include, but not be limited to:

1. Further actions to investigate and identify the cause of toxicity;

2. Actions the Discharger will take to mitigate the impact of the discharge and prevent the recurrence of toxicity;

3. Standards the Discharger will apply to consider the TRE complete and for the return to normal sampling frequency; and,

4. A schedule for these actions.

ii. The following is a stepwise approach in conducting the TRE:

1. Step 1 includes basic data collection. Data collected as part of the accelerated monitoring required may be used to conduct the TRE;

2. Step 2 evaluates optimization of the treatment system operation, facility housekeeping, and the selection and use of in-plant process chemicals;

3. If Steps 1 and 2 are unsuccessful, Step 3 implements a Toxicity Identification Evaluation (TIE) employing all reasonable efforts, and using currently available TIE methodologies. The objective of the TIE is to identify the substance or combination of substances causing the observed toxicity;

4. Assuming successful identification or characterization of the toxicant(s), Step 4 evaluates final effluent treatment options;

5. Step 5 evaluates within plant treatment options; and,

6. Step 6 consists of confirmation once a toxicity control method has been implemented.

   Many recommended TRE elements parallel source control, pollution prevention, and storm water control program best management practices (BMPs). To prevent duplication of efforts, evidence of implementation of these control measures may be sufficient to comply with TRE requirements. By requiring the first steps of a TRE to be accelerated testing, a TRE may be ended in its early stages. All reasonable steps shall be taken to reduce toxicity to the required level. The TRE may be ended at any stage if monitoring finds there is no longer toxicity (or six consecutive chronic toxicity results less than or equal to 1 TU_c).

iii. The Discharger may initiate a TIE as part of the TRE process to identify the cause(s) of toxicity. The Discharger shall use the EPA acute and chronic manuals, EPA/600/6-91/005F (Phase I)/EPA/600/R-96-054 (for marine), EPA/600/R-92/080 (Phase II), and EPA-600/R-92/081 (Phase III) as guidance.

iv. If a TRE/TIE is initiated prior to completion of the accelerated testing schedule required by VI.3.b.i of this MRP, then the accelerated testing schedule may be terminated, or used as necessary in performing the TRE/TIE, as determined by the Executive Officer.

v. Toxicity tests conducted as part of a TRE/TIE may also be used for compliance, if appropriate.

vi. The Board recognizes that toxicity may be episodic and identification of causes of and reduction of sources of toxicity may not be successful in all cases. Consideration of enforcement action by the Board will be based in part on the Discharger's actions and efforts to identify and control or reduce sources of consistent toxicity.

g. Reporting

i. The Discharger shall submit a full report of the toxicity test results, including any accelerated testing conducted during the month as required by Sections I.E.1.a., I.E.2.b., and I.E.3.a. of this MRP. Test results shall be reported in Toxicity Units (percent survival or TU_c) with the discharge monitoring reports (DMR) for the month in which the test is conducted.

   If an initial investigation indicates the source of toxicity and accelerated testing is unnecessary, pursuant to Section VI.3.b.iii.,

then those results also shall be submitted with the DMR for the period in which the Investigation occurred.

ii. The full report shall be submitted by the end of the month in which the DMR is submitted.

iii. The full report shall consist of (1) the results; (2) the dates of sample collection, initiation, and completion of each toxicity test; and (3) the acute toxicity average limit or chronic toxicity limit or trigger as described in Sections I.E.1.a., I.E.2.b., and I.E.3.b. of Order No. 01-XXX.

iv. Test results for toxicity tests also shall be reported according to the appropriate manual chapter on Report Preparation and shall be attached
to the DMR. Routine reporting shall include, at a minimum, as applicable, for each test:

1. sample date(s);
2. test initiation date;
3. test species;
4. end point values for each dilution (e.g. number of young, growth rate, percent survival);
5. NOEC value(s) in percent effluent;
6. IC_{15}, IC_{25}, IC_{40}, and IC_{50} values in percent effluent;
7. TU_c values $\left(TU_c = \frac{100}{NOEC} \right)$;
8. Mean percent mortality (±standard deviation) after 96 hours in 100% effluent (if applicable);
9. NOEC and LOEC values for reference toxicant test(s);
10. IC25 value for reference toxicant test(s);
11. Any applicable control charts; and,
12. Available water quality measurements for each test (e.g., pH, D.O., temperature, conductivity, hardness, salinity, ammonia).

v. The Discharger shall provide a compliance summary which includes a summary table of toxicity data from at least eleven of

the most recent samples.

vi. The Discharger shall notify, by telephone or electronically, this Regional Board of any toxicity exceedance of a limit or trigger within 24 hours of receipt of the results followed by a written report within 14 days of receipt of the result. The verbal or electronic notification shall include the exceedance and the plan the Discharger will pursue. The written report shall describe actions the Discharger has taken or will take to investigate and correct the cause(s) of toxicity. It may also include a status report on any actions required by the permit, with a schedule for actions not yet completed. If no actions have been taken, the reasons shall be given.

-----Original Message-----
From: Kim, TJ
Sent: Tuesday, June 26, 2001 8:39 AM
To: 'Megan Fisher'
Subject: RE: yesterday's meeting

Good morning Megan,
Attached is my proposal. Please keep in mind that we will still do the trib monitoring at 3 sites. If you want more trib monitoring we can change it to 4 sites (+2 mass emissions) as I originally proposed. Only difference is land use monitoring. PAHs and pesticides TMDLs are coming and there is no data available; therefore, the land use monitoring information will be used to provide useful data for TMDL development and source identification in the near future. I believe it has very high priority. Please let me know what Xavier and you think. Thanks!

-----Original Message-----
From: Megan Fisher [mailto:Mfisher@rb4.swrcb.ca.gov]
Sent: Tuesday, June 26, 2001 8:25 AM
To: Kim, TJ
Subject: yesterday's meeting

Hi TJ,

Do you think you could email me a copy of that handout that you brought yesterday? Not the Monitoring Program Review chart, but the other one with the land use and trib monitoring proposal on it. I think I gave the only copy to Xavier.

Thanks!
Megan

County's Proposal for Monitoring Program

1. **Monitoring Objectives Identified by the Board**

- Measure and improve the effectiveness of the SQMPs
- Assess the impacts of urban runoff to receiving waters
- Characterize storm water discharges
- Identify sources of pollutants
- Assess the overall health and evaluate long-term trends in receiving water quality

2. **Applications of Monitoring Results**

- Refine the SQMPs to reduce of pollutant loadings
- Protect beneficial uses of receiving waters (designated in the Basin plan)

3. **Goals for Monitoring Requirements of 2001 NPDES Permit (County)**

- Evaluate effectiveness, feasibility, and cost of maintenance of structural and/or non-structural BMPs
- Provide useful information and data for the update of 303(d) list of impaired waters and 305(b) water quality assessment, and development of TMDLs.

4. **Pollutant Loading model → Regional Application**

- Objectives
  a) Identify pollutant sources based on land use information
  b) Prioritize locations that need management actions (BMPs)
  c) Provide information for TMDL development
  d) Generate pollutant loading information
- Model Calibrations and Validations
  a) Determine land use specific runoff coefficients using land use flow data (runoff from homogeneous land use)
  b) Verify runoff coefficients using mass emission flow data (cumulative runoff from large, multiple land use areas)
  c) Obtain water quality data from small areas of uniform hydrologic condition during multiple storms (tributary monitoring)
  d) Investigate impacts of hydrologic parameters (antecedent rainfall, intensity, duration of rainfall, etc.) on event mean concentrations using tributary monitoring data
  e) Compare modeled estimates to observed pollutant loadings at mass emission stations
- Required Monitoring
  a) Mass emission monitoring from 6 stations (3 storm events/year) for model validation → $633,000
  b) Land use monitoring from 8 stations (3 storm events/year) to fill in the gaps in water quality data (bacteria, some metals, pesticides and SVOCs) → $851,000
  c) Tributary monitoring from 3 stations (3 storm events/year) → $264,000
  d) Total monitoring cost: **$1,748,000**

5. **BMP Effectiveness Study**

- We plan to test the effectiveness of 5 structural BMPs for 5 storm events. Two samples need to be taken at upstream and downstream of each BMP.
- We participate in BMP task force.

- Maximum contributory amount: **$500,000** (Our own BMP tests + Fund for BMP task force)

6. **Peak Discharge**
- Participate in a study to evaluate peak storm water discharge rate control and to determine numeric criteria to prevent erosion.
- Maximum contributory amount: **$230,000**.

7. **Toxicity Monitoring**
- Conduct monitoring to complete previous studies
- Estimated cost of Water Column Toxicity Monitoring: **$60,000**.
- Estimated cost of Toxicity Identification Evaluations (TIEs): **$33,000**.

8. **Regional Monitoring**

- Participate in Bightwide03 Regional Monitoring (Sediment task force?).
- Participate in the development of an Index of Biological Integrity (IBI)
- Maximum contributory amount: ???.

9. **Bioassessment**
- Identify **10** bioassessment stations and monitor the stations **twice** annually to investigate seasonal patterns, beginning in 2003. (10 stations and 3 seasons)
- Estimated cost: **$78,000**.

10. **Estuary Sampling**
- Sample 25 sites in each estuary/mouth for sediment chemistry, toxicity, and BMI community.
- Estimated cost: **$625,000**.

11. **Monitoring reports**
- Estimated cost: **$125,000**.

12. **Total cost of the monitoring program: $3,399,000 + Regional Monitoring + Model Validation & Calibration**

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, CA 90013
Phone (213) 576-6600 FAX (213) 576-6640

Winston H. Hickox
Secretary for Environmental Protection

Gray Davis
Governor

TO: Interested Parties (see attached distribution list), including:
Permittees – Count of Los Angeles Municipal Storm Water Permit;
Resource and Regulatory Agencies; Water Districts;
Environmental Organizations; Consultants; Other Local Agencies;
and Other Interested Parties

FROM: Dennis A. Dickerson
Executive Officer

DATE: June 29, 2001

SUBJECT: **Announcement of a Storm Water Workshop, and Transmittal of the Second Draft – County of Los Angeles Municipal Storm Water NPDES Permit**

ATTACHMENTS: Distribution List
Second Draft – Permit
Second Draft – Staff Report

The Regional Water Quality Control Board (Regional Board) will conduct a workshop before the Board during a public meeting on:

Thursday, July 26, 2001, starting at 9:00 a.m.
at the Metropolitan Water District (MWD) Building, Board Meeting Room
700 North Alameda, Los Angeles

The purpose of the workshop is for Regional Board staff to provide background and a brief overview of a proposed draft permit. A tentative agenda for this workshop will be posted on our web site by July 15, 2001. The public will have opportunity to orally comment on this draft before the Board on July 26, 2001.

By way of background, the County and Cities in Los Angeles County discharge storm water under a municipal storm water permit (Board Order No. 96-054), which expires on July 30, 2001. Following the workshop on July 26, 2001, and after consideration of the public input received, the Regional Board will consider adoption of a renewed permit at a public meeting on October 25, 2001. As part of the renewal process, we are pleased to transmit a second draft of the proposed new permit – the Municipal Storm Water NPDES Permit for the County of Los Angeles and incorporated cities (except for the City of Long Beach, which is covered under a separate permit). We are also enclosing a draft staff report, containing technical justifications for changes from the existing permit. Please submit your comments on this second draft in writing, to this office by August 6, 2001, to the attention of Xavier Swamikannu. Your submittal by this date will provide us sufficient time to evaluate and consider the comments prior to the issuance of the third draft, which we plan to issue by September 6, 2001.

R0002900

Thank you for your attention to renewal of this important permit. We appreciate the comments received to date, and look forward to the publics' oral comments at our workshop on July 26th, and written comments due August 6th. In the meantime, should you have questions regarding specific areas of the second draft, please feel free to contact the appropriate staff person, as listed below.

Findings and Discharge Prohibitions	Dan Radulescu (213) 576-6668 e-mail address - dradules@rb4.swrcb.ca.gov
Receiving Water Limitations	Wendy Phillips (213) 576-6618 e-mail address - wphillip@rb4.swrcb.ca.gov
Management Plan Implementation	Wendy Phillips (213) 576-6618 e-mail address - wphillip@rb4.swrcb.ca.gov
Public Information/Participation Program	Megan Fisher (213) 576-6790 e-mail address - mfisher@rb4.swrcb.ca.gov
Industrial/Commercial Facilities Program	Dan Radulescu (213) 576-6668 e-mail address - dradules@rb4.swrcb.ca.gov
Development Planning (SUSMPs)	Dr. Xavier Swamikannu (213) 576-6654 e-mail address - xswami@rb4.swrcb.ca.gov
Construction Development Program	Carlos Urrunaga (213) 576-6655 e-mail address - currunag@rb4.swrcb.ca.gov
Public Agency Activities Program	Carlos Urrunaga (213) 576-6655 e-mail address - currunag@rb4.swrcb.ca.gov
Illicit Connections/Discharges Program	Wendy Phillips (213) 576-6618 e-mail address - wphillip@rb4.swrcb.ca.gov
Definitions and Monitoring and Reporting Program	Megan Fisher (213) 576-6790 e-mail address - mfisher@rb4.swrcb.ca.gov

COUNTY OF LOS ANGELES
MUNICIPAL STORM WATER NPDES PERMIT
DISTRIBUTION LIST

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County of Los Angeles, DPW	Mustafa Ariki	Watershed Manager
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City of Alhambra	James Funk	City Engineer
City of Arcadia	Terry Hagen	City Engineer
City of Artesia	Maria Dadian	City Engineer
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	Charles Mink	Interim City Manager
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	Vince Brar	City Engineer/Director of Public Works
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	Andrea Harrington	
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City of El Monte	Kev Tcharkhoutian	City Engineer
City of El Segundo	Bellur Davaraj	City Engineer
City of Gardena	Woody Natsuhara	City Engineer
City of Glendale	Jake Amar	Sr. Environmental Engineer
	Lou LeBlanc	City Engineer
	Carlos Santos	NPDES Storm Water Specialist
City of Glendora	Richard Cantwell	City Engineer/Director of Public Works
City of Hawaiian Gardens	Dan Heil	City Engineer
City of Hawthorne	Charles Herbertson	City Engineer/Director of Public Works
City of Hermosa Beach	Stephen Burrell	City Manager
City of Hidden Hills	Bob Draper	City Engineer
City of Huntington Park	Pat Fu	City Engineer
City of Industry	John Ballas	City Engineer
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	LeAnne Hamilton	Asst. Engineer, Dept. of Public Works
	Gary Sloan	City Manager
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City of La Verne	Martin Lomeli	City Manager
City of Lakewood	Scott Pomrehn	Sr. Mgmt. Analyst
City of Lawndale	Vangie Schock	City Manager
City of Lomita	Dawn Tomita	City Clerk
City of Los Angeles	Gary Moore	Div. Stormwater Manager
City of Lynwood	Ralph Davis III	Interim City Manager
City of Malibu	Rick Morgan	City Engineer
City of Manhattan Beach	Dana Greenwood	City Engineer
	Neil Miller	Director of Public Works
	Aven Yam	Dept. of Public Works
City of Maywood	Bill Pagett	City Engineer
	David Mango	
City of Monrovia	David Fike	
	Louis Celaya, Jr.	Mgmt. Analyst
	Don Hopper	City Manager
City of Montebello	Richard Chen	City Engineer
	Jose Loera	
	Ted Spaseff	Director of Public Works
City of Monterey Park	Laura Channell	Principal Mgmt. Analyst
	Ronald Merry	City Engineer/Director of Public Works
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	Jerry Stock	City Engineer
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City of Pasadena	Dan Rix	City Engineer
	Jim Valentine	Principal Engineer, DPW
City of Pico Rivera	Enrique Acevedo	City Engineer
	Michael Moore	Administrative Analyst
City of Pomona	Darren Madkin	
	Yvette Mullenaux	Dept. of Public Works
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	Les Evans	City Manager
	Marilyn Lyon	Mayor
City of Redondo Beach	Steve Huang	City Engineer
	Michael Shay	Civil Engineer
City of Rolling Hills	Craig Nealis	City Manager/City Clerk
City of Rolling Hills Estate	Douglas Prichard	City Manager/City Clerk
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	Ken Rukavina	City Engineer
City of San Dimas	Eric Beilstein	
	John Garcia	City Engineer/Director of Public Works
	Kym O'Leary	
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City of San Gabriel	Bruce Mattern	City Engineer
	P. Michael Paules	City Manager
City of San Marino	Carlos Alvarado	City Engineer
City of Santa Clarita	George Caravalho	City Manager
	Jill Fosselman	Environmental Services Manager
	Travis Lange	Environmental Analyst
City of Santa Fe Springs	John Price	City Engineer/Director of Public Works
City of Santa Monica	Anthony Antich	City Engineer
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City of South Pasadena	Jim Winkle	City Engineer/Director of Public Works
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City of West Hollywood	Sharon Perlstein	City Engineer
City of Westlake Village	John Knipe	City Engineer
City of Whittier	Stephen Helvey	City Manager
	David Mochizuki	Director of Public Works

REGULATORY AND RESOURCE AGENCIES

US Coast Guard	Jake Holson
US Army Corps of Engineer	Dr. Richard J.Schubel
US EPA Region IX	Eugene Bromley, CWA Standards and Permits Off.
	Steve Fuller, CWA Standards and Permits Off.
	Laura Gentile, CWA Compliance
	Tom Huetteman, Chief of CWA Compliance
	Elizabeth Janes, Ground Water Office
	Terry Oda, Permitting
	Alexis Strauss, Director Water Division
US Fish and Wildlife Services	Louise Lampara, Dept. of Interior
	Kirk Wain, Dept. of Interior
USDA Forest Service	Terry C. Ellis, District Ranger
National Marine Fisheries Services (NOAA)	Mark Helvey, Dept. of Commerce
Cal/EPA	Nancy Sutley
State Water Resources Control Board	Jorge Leon, Office of the Chief of Counsel
	John Youngerman, Storm Water Section
	Bruce Fujimoto, Storm Water Section
California Coastal Commission	Pam Emerson
California Dept. of Fish and Game	Marvin Hee, Regional Patrol Chief
	Chris Long
	Bill Paznokas
	Jerry Spansiel
	Larry Stevens
South Coast Air Quality Management	Barry Wallerstein, Executive Director
	Bill Tippets
California Dept. of Health Services	Heather Collins
	Vera Melynk –Vecchio, Drinking Water Field Oper.
	Jeffrey Stone, Recycled Water Coordinator
	Gary Yamamoto, Drinking Water Field Operations
California Air Resources Board	Darrell Hawkins
California Dept. of Transportation	Paul Baranick
California Dept. of Water Resources	Charles White
County of Los Angeles, Dept. of Health Services	Jack Petralia
County of Los Angeles Fire Dept.	George Ghebranious
	James Holdrige, Asst. Fire Chief
	Gary Brougher, Health Hazmat Division

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MUNICIPAL STORM WATER NPDES PERMIT
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WATER DISTRICTS

Association of Ground Water Agencies (AGWA)	William Mills
Metropolitan Water District of Southern California	Mark Beuhler
	John Clark
	Joyce Clark
Main San Gabriel Basin Water Master	Rick Sase
	Carol Williams, Executive Officer
Upper Los Angeles River Area Watermaster	Melvin Blevins, Watermaster
	Mark Mackowski, Asst. Watermaster
Water Replenishment Dist. of Southern California	Richard Nagler

ENVIRONMENTAL ORGANIZATIONS

American Oceans Campaign	Kelly McGee
California Environmental Group	
Environment Now	Terry Tamminen
Friends of Santa Clara River	Ron Bottorf
Friends of the LA River	Melanie Winter
Friends of the San Gabriel River	Jacqueline Lambrichts
Heal the Bay	Mark Gold
	Shelley Luce
	Leslie Mintz
	Mitzy Taggart
LA and San Gabriel River Watershed Council	Dorothy Green
Natural Resources Defense Council	David Beckman
Santa Monica Baykeeper	Steve Fleischli
SCOPE	Lynn Plambeck
Surfrider Foundation	Frank Angel
	Patrick Rogan
Tree People	Andy Lipkis

CONSULTANTS

Avanti Environmental, Inc.	Paul Dumas
B/S Systems Inc.	Arthur Cuse
Bay Area Stormwater Management Agencies	Geoff Brosseau
Best Management Technologies	Rod Butler
Blymyer Engineers, Inc.	Danielle Ormsby
Brash Industries	Marvin Sachse
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Center for Environmental Decisions	John Whitescarver
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DH Civil Engineering, Inc.	Aileen Dao
Dodson & Associates	Debbi Dodson
Downstream Services	Rick Lewis
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Environmental Compliance Options Consulting	Sarah Yount
Environmental Resources Management	ErikRosenfeldt
Environmental Science & Engineers, Inc.	Ernest Miyashita
Federal Express Corp. Environmental Management	Barbara Hodick

Geomatrix	Timothy Simpson
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Metal Finishing Association of Southern Cali.	Daniel Cunningham
Montgomery Watson	Gary Friedman
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Psomas	Ross Barker
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Second Draft (June 29, 2001)

LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

ORDER No. 01-XXX
(NPDES No. CAS004001)

WASTE DISCHARGE REQUIREMENTS

FOR

MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES

WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)

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STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 01-xxx
NPDES PERMIT NO. CAS004001
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES THEREIN, EXCEPT THE CITY OF LONG BEACH

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter referred to as the Regional Board) finds:

A. Existing Permit and Report of Waste Discharge

The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District (see Attachment A, List of Permittees), hereinafter referred to separately as Permittees and jointly as the Discharger, discharge or contribute to discharges of storm water and urban runoff from municipal separate storm sewer systems (MS4s), also called storm drain systems. The discharges flow to water courses within the Los Angeles County Flood Control District and into receiving waters of the Los Angeles region. These discharges are covered under countywide waste discharge requirements contained in Order No. 96-054 adopted by this Regional Board on July 15, 1996, and which replaced Order No. 90-079 adopted by this Regional Board on June 18, 1990. Order No. 96-054 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.

B. Nature of Discharges and Sources of Pollutant

1. Storm water discharges consist of surface runoff generated from various land uses in all the hydrologic drainage basins that discharge into water bodies of the State. The quality of these discharges varies considerably and is affected by the hydrology, geology, land use, season, and sequence and duration of hydrologic events. The primary constituents of concern currently identified by the Los Angeles County Flood Control District 1994-2000 Integrated Receiving Water Impacts Report are cyanide, indicator bacteria, total dissolved solids, turbidity, total suspended solids, nutrients, total aluminum, dissolved cadmium, copper, lead, total mercury, nickel, zinc, bis(2-ethylhexyl)phthalate, polycyclic aromatic hydrocarbons (PAHs), diazinon, and chlorpyrifos.

2. Certain pollutants present in storm water and/or urban runoff may be derived from extraneous sources that Permittees have no or limited

jurisdiction over. Examples of such pollutants and their respective sources are: PAHs which are products of internal combustion engine operation, nitrates from atmospheric deposition, heavy metals, lead from fuels, copper from brake pad wear, zinc from tire wear, dioxins as products of combustion, and bis (2-ethylhexyl) phthalate and mercury as resulting from atmospheric deposition, and natural-occurring minerals from local geology. However, the implementation of the measures set forth in this Order are intended to and will contribute to reduced entry of these pollutants into storm water and their discharge to receiving waters.

3. These compounds can have damaging effects on both human health and aquatic ecosystems. In addition, the high volumes of storm water discharged from MS4s in areas of urbanization can significantly impact aquatic ecosystems due to physical modifications such as bank erosion and widening of channels. It is anticipated that, due to the nature of storm water events (i.e., large volumes of water and high velocities) that there may be short-term, reversible impacts to beneficial uses that are not directly related to water quality.

4. Water quality assessments conducted by the Regional Board identified impairment, or threatened impairment, of beneficial uses of water bodies in the Los Angeles Region. The causes of impairments include pollutants of concern identified by the County of Los Angeles in the Integrated Receiving Water Impacts Report (1994-2000).

5. Studies and research conducted by other Regional agencies, academic institutions, and universities have also identified storm water and urban runoff as significant sources of pollutants to surface waters in Southern California., [*Surface Runoff to the Southern California Bight*, Southern California Coastal Water Research Project, (1992); *Impacts of Urban Runoff on Santa Monica Bay and Surrounding Ocean Waters* (Gersberg, R.M., 1995); *State of the Bay 1998*, Santa Monica Bay Restoration Project; *Storm Water Impact*, In, Southern California Environmental Report Card 1999, Institute of the Environment, University of California, Los Angeles (Stenstrom, M.S., 1999); *Distribution of Anthropogenic and Natural Debris on the Mainland Shelf of Southern California Bight,* Shelly L. Moore and M. James Allen (1999); *The Health Effects of Swimming in Ocean Water Contaminated by Storm Drain Runoff*, Haile, R.W. et al. (1999); *Huntington Beach Closure Investigation: Technical Review* (University of Southern California, 2000); *A Regional Survey of the Microbiological Water Quality Along the Shoreline of the Southern California Bight,* Rachel T. Noble et al. (2001).

6. Development and urbanization increase pollutant load, volume, and discharge velocity. First natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification process. In contrast, pavement and concrete can neither absorb water

nor remove pollutants, and thus the natural purification characteristics are lost. Second, urban development creates new pollution sources as the density of human population brings with it proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage waste, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants. Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. These environmentally sensitive areas include Areas of Special Biological Significance, water bodies designated with a RARE beneficial use, Significant Natural Areas, and Significant Ecological Areas.

7. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development. (*Impervious Cover as An Urban Stream Indicator and a Watershed Management Tool*, Schueler, T. and R. Claytor, In, Effects of Water Development and Management on Aquatic Ecosystems (1995), ASCE, New York.)

8. The County of Los Angeles has identified as the five highest priority potential priority industrial and commercial critical source types, (I) wholesale trade (scrap recycling, auto dismantling); (ii) automotive repair/ parking; (iii) fabricated metal products; (iv) motor freight; and (v) chemical and allied products (*Critical Source Selection and Monitoring Report*, Los Angeles County Department of Public Works (Sept 1996). Monitoring conducted by Los Angeles County demonstrates that the priority industrial sectors and auto repair facilities (the only commercial sector) on the list, contribute significant concentrations of heavy metals to storm water (*Los Angeles County 1999-2000 Storm Water Monitoring Report*, Los Angeles County Department of Public Works (July 2000)).

9. A review of industrial waste/ pretreatment records performed in 1995 in the County of Los Angeles on illicit discharges indicates that automotive service facilities and food service facilities sometimes discharge polluted washwaters to the MS4. The pollutants of concern in such washwaters include food waste, oil and grease, and toxic chemicals. Other storm water/industrial waste programs in California have reported similar observations. Illicit discharges from automotive service facilities and food service facilities have been identified elsewhere as a major cause of widespread contamination and water quality problems (Washtenaw

County Statutory Drainage Board. 1987. Huron River Pollution Abatement Program)

C. Permit Background

1. The essential components of the Storm Water Management Program, as established by federal regulations [40 CFR 122.26(d)] are: (i) adequate legal authority, (ii) fiscal resources, (iii) SQMP - (Public Information and Participation Program, Industrial/Commercial Facilities Program, Development Planning Program, Development Construction Program, Public Agency Activities Program, Illicit Connection and Illicit Discharges Elimination Program), and (iv) monitoring and reporting program.

2. The Permittees have filed a Report of Waste Discharge (ROWD), dated February 1, 2001, and applied for renewal of their waste discharge requirements and a proposed NPDES permit to discharge wastes to surface waters. The ROWD includes a proposed Storm Water Quality Management Plan (SQMP) and a Monitoring Program. The proposed SQMP contains programs previously approved under Board Order No. 96-054 in the following areas:

   Public Information and Participation
   Development Planning
   Development Construction
   Public Agency Activities
   Illicit Connection/Illicit Discharge Elimination Program

   These programs are revised pursuant to the provisions of this Order after adoption.

3. The County of Los Angeles has previously conducted source identification and pollutant characterization consistent with 40 CFR 122.26(d)(1)(ii) and (iii) under its storm water monitoring program. The Monitoring Program submitted with the ROWD proposes to advance the assessment of receiving water impacts, identification of sources of pollution, evaluation of Best Management Practices (BMPs), and measurement of long term trends in mass emissions.

4. The Regional Board has reviewed the ROWD and has determined it to be complete under the reapplication policy of MS4s issued by the USEPA (61 *Fed. Reg.* 41697). The Regional Board finds that the Permittees' proposed Storm Water Management Plan, incorporating the additional provisions contained in this Order would meet the minimum requirements of federal regulations.

5. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as parking lots and fast food restaurants), or facilities that perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of pollutants of concern in storm

water. [References: Pitt *et al.*, *Urban Storm Water Toxic Pollutants: Assessment, Sources, and Treatability*, Water Environment Res., 67, 260 (1995); *Results of Retail Gas Outlet and Commercial Parking Lot Storm Water Runoff Study*, Western States Petroleum Association and American Petroleum Institute, (1994); *Action Plan Demonstration Project, Demonstration of Gasoline Fueling Station Best Management Practices*, Final Report, County of Sacramento (1993).]

6. Retail gasoline outlets are points of convergence for vehicular traffic and are similar to parking lots and urban roads. Studies indicate that storm water discharges from retail gasoline outlets have high concentrations of hydrocarbons and heavy metals. [*Schueler and Shepp* (1992)]. Pilot studies indicate that treatment control best management practices installed at retail gasoline stations are effective in removing pollutants, reasonable in capital cost, easy to operate, and do not present safety risks [*Rouge River National Wet Weather Demonstration Project, Task Product Memorandum – Evaluation of On-line Media Filters RPO-NPS-TPM59.00*, Wayne County, MI, March 1999]. The LA Regional Board and the San Diego Regional Board have jointly prepared a Technical Report on the applicability of new development BMP design criteria for retail gasoline outlets, (*Retail Gasoline Outlets: New Development Design Standards for Mitigation of Storm Water Impacts*, (June 2001)). Retail Gasoline Outlets in Western U.S. States (such as Washington and Oregon) are already subject to numerical BMP design criteria under the MS4 program, as well in other U.S. States.

7. The City of Los Angeles has conducted shoreline and nearshore water quality monitoring off the Santa Monica Bay since the 1950s under the monitoring program for the Hyperion Waste Water Treatment Plant (NPDES No. CA0109991). The monitoring results indicate that effluent from Hyperion's 5-Mile Outfall does not impinge the shoreline, and that elevated bacterial counts are associated with runoff from storm drains and discharges from piers. In 1994, the Regional Board approved the relocation of Hyperion's shoreline stations to implement a bay-wide, regional shoreline-monitoring program associated with storm drain outfalls in the Santa Monica Bay. The City of Los Angeles requested that the shoreline-monitoring requirement be incorporated in this Order. The shoreline pathogen monitoring requirements are outlined in the Monitoring Program for this Order.

D. Permit Coverage

1. The requirements in this Order cover all areas within the boundaries of the Permittee municipalities (see Attachment A) over which they have regulatory jurisdiction as well as unincorporated areas in Los Angeles County Flood Control District within the jurisdiction of the Regional Board. The Permittees serve a population of about 9.5 million [Reference: *2000 Census of Population and Housing*, Bureau of the Census, U.S.

Department of Commerce (2001)] in an area of approximately 3,100 square miles. Attachment B shows the map of the permitted area in Los Angeles County Flood Control District.

2. Federal, state, regional or local entities within the Permittees' boundaries or in jurisdictions outside the Los Angeles County Flood Control District, and not currently named in this Order, may operate storm drain facilities and/or discharge storm water to storm drains and watercourses covered by this Order. The Permittees may lack legal jurisdiction over these entities under state and federal constitutions. Consequently, the Regional Board recognizes that the Permittees will not be held responsible for such facilities and/or discharges. The Regional Board will coordinate with these facilities to implement programs that are consistent with the requirements of this Order. Regional Board will consider such facilities for coverage in 2003 under its NPDES permitting scheme pursuant to USEPA Phase II storm water regulations.

3. Sources of discharges into receiving waters in the County of Los Angeles but in jurisdictions outside its boundary include the following:

   About 34 square miles of unincorporated area in Ventura County, which drain into Malibu Creek and thence to Santa Monica Bay,

   About 9 square miles of the City of Thousand Oaks, which also drain into Malibu Creek and thence to Santa Monica Bay, and

   About 86 square miles of area in Orange County, which drain into Coyote Creek and thence into the San Gabriel River.

   The Regional Board will ensure that storm water management programs for the areas in Ventura County and the City of Thousand Oaks that drain into Santa Monica Bay are consistent with the requirements of this Order. The Regional Board will coordinate with the Santa Ana Regional Board so that storm water management programs for the areas in Orange County that drain into Coyote Creek are consistent with the requirements of this Order.

4. This permit is intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to control the discharge of pollutants in storm water to the maximum extent practicable (MEP) from the permitted areas in the County of Los Angeles to the waters of the United States.

5. Permittees have expressed their intention to work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system. Permittees may control the contribution of pollutants to the municipal separate storm sewer system from non-permittee dischargers such as Caltrans, the U.S. Department of Defense, and other state and federal facilities, through interagency agreements.

E. Federal, State, and Regional Regulations

1. The Water Quality Act of 1987 added Section 402(p) to the federal Clean Water Act (CWA) (33 U.S.C Section 1251-1387). This section requires the U.S. Environmental Protection Agency (USEPA) to establish regulations setting forth NPDES requirements for storm water discharges in two phases.

   - The USEPA Phase I storm water regulations were directed at municipal separate storm sewer systems (MS4) serving a population of 100,000 or more, including interconnected systems and storm water discharges associated with industrial activities, including construction activities. The Phase I Final Rule was published on November 16, 1990 (55 *Fed Reg.* 47990).

   - The USEPA Phase II storm water regulations are directed at storm water discharges not covered in Phase I, including small municipal MS4s (serving a population of less than 100,000), small construction projects (one to five acres), municipal facilities with delayed coverage under the Intermodal Surface Transportation Efficiency Act of 1991, and other discharges for which the USEPA Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard, or is a significant contributor of pollutants to waters of the United States. The Phase II Final Rule was published on December 8, 1999 (64 *Fed Reg.* 68722).

2. The USEPA published an 'Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits' on August 26, 1996 (61 Fed. Reg. 43761). This policy discusses the appropriate kinds of water quality based effluent limitations to be included in NPDES storm water permits to provide for the attainment of water quality standards.

3. The USEPA published an 'Interpretative Policy Memorandum on Reapplication Requirements' for MS4 permits on August 9, 1996 (61 *Fed. Reg.* 41697). This policy requires that MS4 reapplication for reissuance for a subsequent five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.

4. The USEPA has entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for enhancing coordination regarding the protection of endangered and threatened species under Section 7 of the Endangered Species Act (ESA) and the CWA's Water Quality Standards and NPDES programs. Among other actions, the MOA establishes a framework for coordination of actions by the USEPA, the Services, and CWA delegated States on CWA permit issuance under Section 402 of the CWA [66 Fed. Reg., 11202 – 11217].

5. USEPA regulations at 40 CFR 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that Permittees implement a program to

monitor and control pollutants in discharges to the municipal system from industrial and commercial facilities that contribute a substantial pollutant load to the MS4. The regulations require that Permittees establish priorities and procedures for inspection of industrial facilities and priority commercial establishments. This permit, consistent with the USEPA policy, incorporates a cooperative partnership, including the specifications of minimum expectations, between the Regional Board and the Permittees for the inspection of industrial facilities and priority commercial establishments to control pollutants in storm water discharges (58 *Fed. Reg.* 61157).

6. Section 402 (p) of the Clean Water Act (33 U.S.C. Section 1342(p) provides that MS4 permits must "require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design engineering method and such other provisions as the [EPA] Administrator or the State determines appropriate for the control of such pollutants." The State Board Office of Chief Counsel has issued a memorandum interpreting the meaning of MEP to include technical feasibility, cost, and benefit derived with the burden being on the municipality to demonstrate compliance (dated February 11, 1999).

7. Section 122.2 of the CWA authorizes the USEPA to delegate its NPDES permitting authority to states with an approved environmental regulatory program. The State of California is a delegated State. The Porter-Cologne Water Quality Control Act (California Water Code) authorized the State Water Resources Control Board (State Board), through the Regional Boards, to regulate and control the discharge of pollutants into waters of the State and tributaries thereto. The State Board entered into a Memorandum of Agreement [MOA] with the USEPA, on 22 September 1989, to administer the NPDES Program.

8. Section 303(d) of the CWA requires that the State identify a list of impaired water-bodies and develop and implement Total Maximum Daily Loads (TMDLs) for these waterbodies. A TMDL specifies the maximum amount of a pollutant that a water-body can receive and still protect beneficial uses. The USEPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This permit incorporates a provision to implement and enforce approved load allocations for municipal storm water discharges and require changes to the Storm Water Quality Management Plan after pollutants loads have been allocated and approved.

9. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. CZARA (16 U.S.C. Sections 1451-1465), amends the Coastal Zone Management Act of 1972, to address five sources of non-point pollution: agriculture, silviculture, urban,

marinas, and hydromodification. This NPDES permit addresses the management measures required for the urban category, with the exception of septic systems. The Regional Board addresses septic systems through the administration of other programs.

10. On May 18, 2000, the USEPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule) 65 *Fed. Reg.* 31682, for the protection of human health and aquatic life. These apply as ambient water quality criteria for inland surface waters, and enclosed bays and estuaries. The State Board adopted the, *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California – 2000*) on March 2, 2000, for implementation of the California Toxics Rule (State Board Resolution No. 2000-15 as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL derived load allocations as soon as possible but no later than 20 years from the effective date of the policy. This Policy also establishes reporting protocols for the results on analytical determinations of chemical constituents and reporting levels (Minimum Level) in wastewater and storm water discharges.

11. The State Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) on July 23, 1997. The Ocean Plan contains water quality objectives for the coastal waters of California.

12. The State Board In Re: California Department of Transportation (State Board Order WQ 2001-08), determined that the discharge of storm water to Areas of Special Biological Significance (ASBS) are subject to the prohibition in the Ocean Plan against the discharge of wastes to an ASBS.

13. The Regional Board adopted an updated Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994, *'Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*, (1994).' The Basin Plan, and amendments thereto, which are incorporated in this Order by reference, designates beneficial uses of receiving waters and specifies both narrative and numerical water quality objectives for the receiving waters in Los Angeles County.

14. The Regional Board on April 13, 1998, approved best management practices for sidewalk washing to minimize the discharge of wash waters to the storm drain system (Resolution No. 98-08). By the same Resolution, the Regional Board prohibited the discharge of municipal street wash waters to the storm drain system.

15. The Regional Board on April 13, 1998, approved recommended best management practices for industrial/ commercial facilities (Resolution No. 98-08).

16. The Regional Board on April 22, 1999, approved a list of best management practices for use in development planning and development construction (Resolution No. 99-03)

17. The Regional Board adopted and approved requirements for new development and significant redevelopment projects in Los Angeles County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000. The State Board in large part affirmed the Regional Board action and SUSMPs in State Board Order No. WQ 2000-11 issued on October 5, 2000.

- The State Board's Chief Counsel has issued a statewide policy memorandum (dated December 26, 2000,) which interprets the Order to provide broad discretion to Regional Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in environmentally sensitive areas, and water quality design criteria for retail gasoline outlets.

- The State Board's Chief Counsel interprets the Order to encourage regional solutions and endorses a mitigation fund or "bank" that may be funded by developers who obtain waivers from the numerical design standards for new development and significant redevelopment.

18. The Regional Board has determined that the creation of structural or treatment control BMPs for storm water mitigation in waters of the U.S. is not permissible. 40 CFR Part 131.10(a) prohibits states from designating waste transport or waste assimilation as a use for any waters of the U.S. Authorizing the construction of a storm water/ urban runoff treatment facility in a jurisdictional water body would tantamount to accepting waste assimilation as an appropriate use for that water body. Furthermore, the construction and operation of a pollution control facility in a water body can impact the physical, chemical and biological integrity as well as the beneficial uses of the water body. Therefore, storm water treatment and/or mitigation in accordance with SUSMPs and any other requirements of this Order must occur prior to the discharge of storm water into a water of the U.S.

19. The Regional Board supports a Watershed Management Approach to address water quality protection in the region. The objective of the Watershed Management Approach should be to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It

emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources.

20. To promote a watershed management approach, the County of Los Angeles is divided into five Watershed Management Areas (WMAs) as follows:

Malibu Creek and Rural Santa Monica Bay WMA
Ballona Creek and Urban Santa Monica Bay WMA
Los Angeles River WMA
San Gabriel River WMA
Dominguez Channel/Los Angeles Harbor WMA
Santa Clara River WMA

Attachment A shows the list of Permittees under each WMA and some Permittees have expressed an intent to form sub-watershed groups within the WMA to promote regional solutions for the mitigation of storm water discharge pollution.

21. To facilitate compliance with federal regulation, the State Board has issued two statewide general NPDES permits: one for storm water from industrial sites [NPDES No. CAS000001, General Industrial Activity Storm Water Permit (GIASP)] and the other for storm water from construction sites [NPDES No. CAS000002, General Construction Activity Storm Water Permit (GCASP)]. The GCASP was reissued on August 19, 1999. The GIASP was reissued on April 17, 1997. Facilities discharging storm water associated with industrial activities and construction projects with a disturbed area of five acres or more are required to obtain individual NPDES permits for storm water discharges, or be covered by these statewide general permits by completing and filing a Notice of Intent (NOI) with the State Board. The USEPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.

The Regional Board is the enforcing authority in the Los Angeles Region for the two statewide general permits regulating discharges from industrial facilities and construction sites, and all NPDES storm water and non-storm water permits issued by the Regional Board. These industrial and construction sites and discharges are also regulated under local laws and regulations.

22. The State Board, on October 28, 1968, adopted Resolution No. 68-16, "Maintaining High Quality Water" which established an anti-degradation policy for State and Regional Boards. This Policy restricts the degradation of surface waters and protects waterbodies where existing water quality is higher than is necessary for the protection of beneficial uses.

23. The State Board, on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitations language to be included in all municipal storm water permits issued by the State and Regional Boards. The receiving water limitations included herein are consistent with the State Board Order, USEPA Policy, and the U.S. Appellate court decision in, *Defenders of Wildlife v. Browner* (9th. Cir, 1999). The State Board Office of Chief Counsel has determined that the federal court decision did not conflict with State Board Order No. WQ 99-05 (memorandum dated October 14, 1999)

24. California Water Code (CWC) Section 13263(a) requires that waste discharge requirements issued by the Regional Board shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; the need to prevent nuisance, and provisions of CWC Section 13241.

25. California Water Code Section 13370 *et seq.* requires that waste discharge requirements issued by the Regional Boards be consistent with provisions of the Federal Clean Water Act and its amendments.

F. Implementation

1. Permittees established an Executive Advisory Committee (EAC) to facilitate permit compliance and enhance consistency in program implementation. The EAC is formally incorporated within this permit as a representative committee of the Permittees.

2. The California Environmental Quality Act (CEQA) (Cal Pub Resources Code Section 21000 *et seq.*) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary and does not apply to ministerial projects, which involve the use of established standards or objective measurements. A ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion . In the alternative, standards and objective criteria may be established administratively for storm water mitigation for ministerial projects. For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements.

3. On March 12, 2001, the United States Court of Appeals ruled that it is necessary to obtain a NPDES permit for application of aquatic pesticides to waterways. (*Headwaters, Inc. vs. Talent Irrigation District, 9th Cir.)* This decision is controlling in California for nonagricultural applications of pesticides to waterways.

4. The objective of this Order is to protect the beneficial uses of receiving waters in Los Angeles County. To meet this objective, this Order requires that the SQMP specify BMPs that will be implemented to control the discharge of pollutants in storm water to the maximum extent practicable. Further, Permittees are to assure that storm water discharges from the MS4 shall neither cause or contribute to the exceedance of water quality standards and objectives nor create conditions of nuisance in the receiving waters, and that the discharge of non-storm water to the MS4 has been effectively prohibited.

5. The SQMP required in this Order builds upon the programs established in Order No. 90-079, and No. 96-054, consists of the components recommended in the USEPA guidance manual, and was developed with the cooperation of representatives from the regulated community and environmental groups. The SQMP includes provisions that promote customized initiatives, both on a countywide and watershed basis, in developing and implementing cost-effective measures to minimize discharge of pollutants to the receiving water. The various components of the SQMP, taken as a whole rather than individually, are expected to reduce pollutants in storm water and urban runoff to the maximum extent practicable. Provisions of the SQMP are fully enforceable under provisions of this Order.

6. The emphasis of the SQMP is pollution prevention through education, public outreach, planning, and implementation as source control BMPs first and then structural and treatment control BMPs next. Successful implementation of the provisions of the SQMP will require cooperation

and coordination of all public agencies in each Permittee's organization, among Permittees, and the regulated community.

7. The implementation of a Public Information and Participation Program is a critical component of a storm water management program. An informed and knowledgeable community is critical to the success of a storm water management program since it helps insure the following: (i) greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, and (ii) greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters.

8. This Order provides flexibility for Permittees to petition the Regional Board Executive Officer to substitute a BMP or requirement under the SQMP with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

9. This Order contemplates that the Permittees are responsible for considering potential storm water impacts when making planning decisions. This Order or any of its requirements are not intended to restrict or control local land use decision-making authority.

G. Public Process

1. The Regional Board has notified the Permittees and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to submit their written view and recommendations.

2. The Regional Board, in a public hearing, heard and considered all comments pertaining to the discharge and to the tentative requirements.

3. The Regional Board has conducted public workshops to discuss the draft permit.

4. The Los Angeles County Flood Control District, the County of Los Angeles and the other municipalities are Co-permittees as defined in 40 CFR 122.26 (b)(1). Los Angeles County Flood Control District will coordinate with the other municipalities and facilitate program implementation. Each Permittee is only responsible for discharge for which it is the operator.

5. This Order shall serve as a National Pollutant Discharge Elimination System (NPDES) Permit, pursuant to Section 402 of the Federal Clean Water Act, or amendments thereto, and shall take effect 50 days from Order adoption provided the Regional Administrator of the USEPA has no objections.

6. The action to adopt an NPDES permit is exempt from the provisions of Chapter 3 of CEQA (Cal Pub. Resources Code Section 21100 et seq.), in accordance with California Water Code Section 13389.

7. Pursuant to California Water Code Section 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board. A petition must be sent to the State Water Resources Control Board, P.O. Box 100, Sacramento, California, 95812, within 30 days of adoption of the Order by the Regional Board.

8. This Order may be modified or alternatively revoked or reissued prior to its expiration date, in accordance with the procedural requirements of the federal NPDES program, and the California Water Code for the issuance of waste discharge requirements.

IT IS HEREBY ORDERED that the Los Angeles County Flood Control District, Los Angeles County, and the Cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bell, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Cañada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act, as amended, and regulations and guidelines adopted thereunder, shall comply with the following:

Part 1. DISCHARGE PROHIBITIONS

Each Permittee shall effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are:

1. covered by a separate individual or general NPDES permit for non-storm water discharges; or

2. within one of the categories below, and meet all conditions specified by the Regional Board Executive Officer:

   a) Category A - Natural flow:

      (1) Natural springs and rising ground water;

      (2) Flows from riparian habitats or wetlands;

      (3) Stream diversions, permitted by the State Board; and

      (4) Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)].

b) Category B - Flows from emergency fire fighting activity.

c) Category C - Flows incidental to urban activities, all of which are subject to conditions that shall be approved by the Regional Board Executive Officer:

(1) Reclaimed and potable landscape irrigation runoff;

(2) Water line flushing of potable water distribution systems;

(3) Drains for foundations, footings, and crawl spaces;

(4) Air conditioning condensate;

(5) Dechlorinated swimming pool discharges;

(6) Dewatering of lakes and decorative fountains;

(7) Non-commercial car washing by residents or by non-profit organizations; and

(8) Sidewalk rinsing.

The Regional Board Executive Officer may add or remove categories of non-storm water discharges above. Furthermore, in the event that any of the above categories of non-storm water discharges are determined to be a source of pollutants by the Regional Board Executive Officer, the discharge will no longer be exempt from this prohibition unless the Permittee implements conditions approved by the Regional Board Executive Officer to ensure that the discharge is not a source of pollutants. Notwithstanding the above, the Regional Board Executive Officer may impose additional prohibitions of non-storm water discharges in consideration of anti-degradation policies.

Part 2. RECEIVING WATER LIMITATIONS

1. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.

2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible for, shall not cause or contribute to a condition of nuisance.

3. The Permittee shall comply with Part 2.1. and 2.2. through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SQMP and its components and other requirements of this Order including any modifications. The SQMP and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of water quality objectives or water quality standards (collectively, water quality standards) persist, notwithstanding implementation of the SQMP and its components and other requirements of this permit, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance of an applicable water quality standard, the Permittee shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of water quality standards. This report may be incorporated in the annual update of the SQMP and its components unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the Report.

b) Submit any modifications to the report required by the Regional Board within 30 days of notification.

c) Within 30 days following the approval of the report, the Permittee shall revise the SQMP and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.

d) Implement the revised SQMP and its components and monitoring program according to the approved schedule.

4. So long as the Permittee has complied with the procedures set forth above and is implementing the revised SQMP and its components, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

Part 3. STORM WATER QUALITY MANAGEMENT PLAN (SQMP) IMPLEMENTATION

A. General Requirements

1. Each Permittee shall, at a minimum, implement the SQMP. The SQMP is an enforceable element of this Order.

2. The SQMP shall, at a minimum, comply with the applicable storm water program requirements of 40 CFR 122.26(d)(2). The SQMP and its components shall be implemented so as to reduce the discharges of pollutants in storm water to the maximum extent practicable.

3. Each Permittee may develop a SQMP, incorporating the countywide SQMP, which identifies additional provisions intended to reduce the discharges of pollutants in storm water to the maximum extent practicable.

B. Best Management Practice Implementation

The Permittees shall require implementation of the most effective BMPs for storm water/urban runoff pollution control benefits. When implemented, BMPs shall

result in the reduction of pollutants in storm water to the maximum extent practicable.

C. Modification of the Storm Water Quality Management Plan

The Permittees shall modify the SQMP, at the direction of the Regional Board Executive Officer, to incorporate additional provisions. Such provisions may include regional, watershed specific requirements, and/or waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Daily Maximum Loads (TMDLs) for impaired water bodies.

D. Designation and Responsibilities of the Principal Permittee

The Los Angeles County Flood Control District is hereby designated as the Principal Permittee. As such, The Principal Permittee shall:

1. Coordinate and facilitate activities necessary to comply with the requirements of this Order, but is not responsible for ensuring compliance of any individual Permittee.

1. Coordinate permit activities among Permittees and act as liaison between Permittees and the Regional Board on permitting issues.

2. Provide personnel and fiscal resources for compilation, evaluation and submittal of all reports required under this Order and updates of the SQMP and its components;

3. Provide technical and administrative support for committees that will be organized to implement the SQMP and its components;

4. Convene the Watershed Management Committees (WMCs) constituted pursuant to Part F, below, upon designation of representatives;

5. Implement the Countywide Monitoring Program required under this Order and evaluate, assess and synthesize the results of the monitoring program;

6. Provide personnel and fiscal resources for the preparation and submittal to the Regional Board of annual reports and summaries of other reports required under the SQMP; and

7. Comply with the "Responsibilities of the Permittees" in Part 3.E., below.

E. Responsibilities of the Permittees

Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries, and not for the implementation of the provisions applicable to the Principal Permittee or other Permittees. Each Permittee shall, within its geographic jurisdiction:

1. Comply with the requirements of the SQMP and any modifications thereto;

2. Coordinate among its internal departments and agencies, as appropriate, to facilitate the implementation of the requirements of the SQMP applicable to such Permittee in an efficient and cost-effective manner;

3. Designate a technically knowledgeable representative to the appropriate WMC; and

4. Participate in intra-agency coordination (e.g. Fire Department, Building and Safety, Code Enforcement, etc.)necessary to successfully implement the provisions of this Order and SQMP.

5. Prepare an annual summary of expenditures applied to the storm water management program. This summary of budget expenditures shall identify the storm water budget for the following year, using estimated percentages and written explanations where necessary, for the specific categories noted below:

    a) Program management

        (1) Administrative costs

        (2) Capital costs

    b) Illicit connection/illicit discharge

    c) Developrnent planning

    d) Development construction

    e) Industrial/Commercial inspection/site visit activities

    f) Construction inspection activities

    g) Public Agency Activities

        (1) Maintenance of structural BMPs and treatment control BMPs

        (2) Municipal Street Sweeping

        (3) Catch basin clean-up

        (4) Trash collection

    h) Public Information and Participation

    i) Monitoring Program

    j) Miscellaneous Expenditures

6. Each Permittee, in addition to the budget summary, shall report any supplemental dedicated budgets, if any, for the same categories.

F. Watershed Management Committees (WMCs)

1. Each WMC shall be comprised of a voting representative from each Permittee in the Watershed Management Area (WMA).

2. The WMC's chair and secretary shall be chosen by the WMC upon Order adoption and on an annual basis, thereafter. In the absence of volunteer Permittee(s) for the positions, the Principal Permittee shall assume those roles until the WMC chooses members of the committee for the positions.

3. Each WMC shall:

   a) Facilitate cooperation and exchange of information among Permittees;

   b) Establish additional goals and objectives and associated deadlines for the WMA, as the program implementation progresses;

   c) Prioritize pollution control efforts based on beneficial use impairment(s), watershed characteristics and analysis of results from studies and the monitoring program;

   d) Develop and/or update and monitor the adequate implementation, on an annual basis, of the tasks identified for the WMA;

   e) Assess the effectiveness of, prepare revisions for, and recommend appropriate changes to the SQMP and its components;

   f) Continue to prioritize the Industrial/Commercial critical sources for investigation, outreach and follow-up.

   g) Conduct joint WMC meetings four times per year and, as necessary.

G. Executive Advisory Committee (EAC)

1. The EAC shall be composed of one representative from the Malibu Creek WMA, two representatives from each of the other WMAs, one representative from the City of Los Angeles, and one representative from the Los Angeles County Flood Control District.

2. The EAC shall facilitate program compliance in each watershed and enhance consistency among Permittees.

3. The EAC shall conduct its meetings in compliance with the Cal. Gov. Code § 54950 et seq.

H. Legal Authority

1. Permittees shall possess the necessary legal authority to prohibit non-storm water discharges, to the maximum extent practicable, to the storm drain system, including, but not limited to:

a) Prohibit illicit discharges and illicit connections and a requirement for removal of illicit connections;

b) Prohibit the discharge of wash waters to the MS4 from the cleaning of gas stations, auto repair garages, or other types of automotive service facilities;

c) Prohibit the discharge of runoff to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;

d) Prohibit the discharge of runoff to the MS4 from areas where repair of machinery and equipment which are visibly leaking oil, fluid or antifreeze, is undertaken;

e) Prohibit the discharge of runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;

f) Prohibit the discharge of chlorinated swimming pool water and filter backwash to the MS4;

g) Prohibit the discharge of runoff from the washing of toxic materials from paved or unpaved areas to the MS4;

h) Prohibit washing impervious surfaces in industrial/commercial areas that results in a discharge of runoff to the MS4; and

i) Prohibit the discharge of concrete or concrete laden wash water from concrete trucks, pumps, tools, and equipment to the MS4.

j) Prohibit spills, dumping, or disposal of materials into the MS4, other than storm water, such as:

(1) Litter, landscape debris and construction debris;

(2) Any state or federally banned pesticide, fungicide or herbicide;

(3) Food wastes; and

(4) Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials that have potential adverse impacts on water quality.

k) Comply with conditions in Permittees ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows);

l) Utilize enforcement mechanisms to require compliance with Permittees ordinances, permits, contracts, or orders;

m) Control of pollutants (including potential contribution) in discharges of storm water runoff associated with industrial

activities (including construction activities) to its MS4 and control the quality of storm water runoff from industrial sites (including construction sites). This requirement applies to source control, treatment control, and structural control BMPs; and,

n) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions, including the prohibition of illicit discharges to the MS4. Permittees must possess authority to enter, sample, inspect, review and copy records, and require regular reports from industrial facilities discharging polluted or potentially polluted storm water runoff into its MS4 (including construction sites).

o) Require the use of best management practices (BMPs) to prevent or reduce the discharge of pollutants to MS4s to the maximum extent practicable.

p) On or before July 1, 2002, if necessary, amend and adopt a Permittee-specific storm water and urban runoff ordinance to enforce all requirements of this permit.

2. The Principal Permittee shall, on or before July 1, 2002, amend the Los Angeles County Public Health Code to require inspections at restaurants that will address:

a) Oil and Grease residue to verify that it is not poured onto a parking lot, street or adjacent catch basin.

b) Dumpster areas to verify that the dumpster area is clean, dumpster lid closed, not filled with liquid or washed out.

c) Parking lot, alley, sidewalk and street areas to verify that floormats, filters and garbage containers are not washed in those areas and that no washwater is poured in those areas.

d) Parking lot area to verify that it is cleaned by sweeping and not by hosing down and that the facility operator uses dry methods for spill cleanup.

3. Each Permittee shall submit no later than July 31, 2002, a statement by the legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications.

Part 4. SPECIAL PROVISIONS

A. Best Management Practice Substitution

The Regional Board Executive Officer may approve any Best Management Practice (BMP) substitution upon petition by the Permittee(s), if the Permittee can document that:

1. The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of storm water pollutants; or

2. The fiscal burden of the original BMP or program is substantially greater than the proposed alternative and does not achieve a substantially greater improvement in storm water quality; and,

3. The proposed alternative BMP or program will be implemented within a similar period of time.

B. Public Information and Participation Program (PIPP)

The Principal Permittee shall implement a PIPP that incorporates the components of the five-year education plan and the provisions of this section.

Permittees shall work collaboratively to implement a comprehensive education/outreach program with the following objectives:

a) To measurably increase the knowledge of the target audiences regarding the MS4, the impacts of storm water pollution on receiving waters, and potential solutions to mitigate the problems caused;

b) To measurably change the behavior of target audiences by encouraging implementation of appropriate solutions;

c) To involve and engage all socio-economic and ethnic groups in Los Angeles County to participate in mitigating the impacts of storm water pollution.

The Principal Permittee shall submit the PIPP to the Regional Board Executive Officer for review and approval on or before December 31, 2001, and annually thereafter.

1. PIPP - Residential Program

a) The Principal Permittee shall implement the Public Education Program as outlined in the SQMP, including the continuation of the following activities:

Advertising
Media Relations
Public Service Announcements
"How To" Instructional Material Distributed in a Targeted and Activity-Related Manner
Corporate, Community Association, Environmental Organization and Entertainment Industry Tie-Ins
1-888-CLEAN-LA and 888CleanLA.com
Events Targeted to Specific Activities and Population Sub-groups

b) "No Dumping" Message

Each Permittee shall mark all storm drain inlets that they own with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping must be posted at designated public access points to creeks, other relevant water bodies, and channels by October 25, 2003. Legible signage and storm drain messages shall be maintained as necessary.

c) Countywide Hotline

The 888-CLEAN-LA hotline will serve as the general public reporting contact for reporting clogged catch basin inlets and illicit discharges/dumping, faded or lack of catch basin stencils, and general storm water management information. Each Permittee may establish its own hotline if preferred. Permittees shall include this information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed/published.

d) Outreach and Education

(1) The Principal Permittee shall implement the second Five-Year Education Plan as detailed in the SQMP.

(2) Each Permittee shall conduct educational activities within its jurisdiction and participate in countywide events.

(3) The Principal Permittee shall organize Public Outreach Strategy meetings with all Permittees on a quarterly basis. The Principal Permittee shall provide guidance for Permittees to augment the countywide outreach and education program. Permittees shall coordinate regional and local outreach and education to reduce duplication of efforts.

(4) The Principal Permittee shall ensure that a minimum of 35 million impressions per year are made on the general public about storm water quality via print, local TV access, local radio, or other appropriate media.

(5) The Principal Permittee in cooperation with the Permittees shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, and other media necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution. Permittees shall provide the contact information for their appropriate storm water staff to the Principal Permittee on November 25, 2001. Cooperative efforts with other agencies may also be used to accomplish this requirement.

e) Pollutant-Specific Outreach

Permittees shall coordinate to develop outreach programs that target the watershed-specific pollutants listed in Table 1on or before October 25, 2002. Metals may be appropriately addressed through the businesses program. Region-wide pollutants may be included in the Principal Permittee's mass media efforts. Programs shall focus on the anthropogenic sources of each pollutant.

Table 1.	
Watershed	***Target Pollutants for Outreach***
Ballona Creek	Trash, Indicator Bacteria, Metals, PAHs
Malibu Creek	Trash, Nutrients (Nitrogen), Indicator Bacteria, Sediments
Los Angeles River	Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals, Pesticides, PAHs
San Gabriel River	Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals
Santa Clara River	*Reserved*
Dominguez Channel	Trash, Indicator Bacteria, PAHs

Each Permittee shall make outreach materials available to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate public counters and events. Outreach material shall include information on pollutants, sources of concern, and source abatement measures.

2. Businesses Program

a) Corporate Outreach

The Principal Permittee shall develop and implement a Corporate Outreach program to educate and inform corporate environmental management about storm water regulations. The program shall target retail gasoline outlet and restaurant chains. At a minimum, this program shall include:

(1) Conferring with corporate environmental management to explain storm water regulations;

(2) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide environmental managers with suggestions to facilitate employee compliance with storm water regulations.

Corporate Outreach for all retail gasoline outlet and restaurant chain corporations shall occur once every 2 years, but not less than twice during the permit term.

b) Business Assistance Program

(1) The Principal Permittee and Permittees with the available resources, including but not limited to the City of Los Angeles, may implement a Business Assistance Program to provide confidential, technical resource assistance to small businesses to advise them in BMPs implementation to reduce the discharge of pollutants in storm water runoff. At a minimum, programs may include:

(i) On-site technical assistance or consultation via telephone to identify and implement storm water pollution prevention methods and best management practices; and

(ii) Availability, distribution, and discussion of applicable BMP and educational materials.

C. Industrial/Commercial Facilities Program

Each Permittee shall implement an Industrial and Commercial Program with the objective of controlling and reducing pollutants in storm water runoff from Phase I, Automotive, RGOs and Restaurants to the maximum extent practicable. At a minimum, the Program shall include the following requirements:

1. Restaurants

The Principal Permittee shall inspect all restaurants to determine that each restaurant is effectively implementing storm water BMPs.

a) Frequency: The Principal Permittee shall inspect each restaurant once every 24 months.

b) Level of inspection: The Principal Permittee shall confirm that BMPs are effectively implemented in accordance with County ordinances, Regional Board Resolution 98-08, and the SQMP.

2. Retail Gasoline Outlets

The Principal Permittee shall communicate appropriate BMPs to each RGO to help ensure that RGOs are effectively implementing BMPs in accordance with the SQMP and Regional Board Resolution 98-08.

3. Automotive Service Facilities

Each Permittee shall inspect all Automotive Service Facilities within its jurisdiction, to confirm that such facilities are effectively implementing storm water BMPs.

a) Frequency: Each automotive service facility shall be inspected once every 24 months. If an inspection shows non-compliance with the SQMP and local storm water ordinances (including failure

to implement pollution prevention BMPs), the facility shall be re-inspected within 90 days.

b) Level of inspection: The Permittees shall determine that BMPs are effectively implemented, in accordance with the SQMP, Regional Board Resolution 98-08, and storm water ordinances. As necessary, Permittees shall advise owners/operators of Automotive Service Facilities to implement additional BMPs, necessary to reduce the discharge of pollutants in storm water to the maximum extent practicable.

4. **USEPA Phase I Facilities**

a) Database for Source Identification: Each Permittee shall annually update a watershed-based inventory of all USEPA Phase I facilities, Retail Gasoline Outlets, Automotive Service Facilities, and Restaurants within its jurisdiction, regardless of whether or not the facility is subject to the GIASP or other individual or general NPDES permits. The update of the database may be accomplished through the collection of new information obtained through field activities or through other readily available intra-agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits). The inventory shall include the following minimum fields of information for each industrial and commercial facility:

(1) Name of facility and name of owner/operator;

(2) address;

(3) coverage under the GIASP or other individual or general NPDES permits; and

(4) a narrative description including SIC codes that best reflects the principal products or activities performed by each facility.

The use of an automated database system, such as Geographical Information System (GIS) or web-based system is highly recommended, but not required. The Permittees may add other fields of information, as necessary (e.g. to point out discrepancies between SIC Code designation and type of activities actually performed on-site, exposure of activities and/or materials to storm water, etc.).

b) Site Visits to USEPA Phase 1 Facilities: Based on the inventory developed under 4.a) above, each Permittee shall visit facilities that appear to be subject to requirements of USEPA Phase I storm water regulations, as specified below.

(1) Frequency: Each Permittee shall visit all facilities within 24 months from the Order adoption date.

(2) Level of visit: Each Permittee shall confirm that each owner/operator: (a) filed a Notice of Intent, and that a Storm Water Pollution Prevention Plan is available on-site, and (b) is in compliance with model programs for industrial and commercial facilities, with Permittees' storm water ordinances, and with Regional Board Resolution 98-08.

(3) Enforcement Referral: For any facility not enrolled under the GIASP (i.e. a non-filer), Permittees shall advise the owner/operator of such facility of its requirement to enroll in the GIASP, and shall document this action. On a quarterly basis, Permittees shall provide the Regional Board a copy of their records to identify non-filers.

c) Each Permittee shall develop a program to conduct spot checks of USEPA Phase I facilities, excluding those previously determined to pose no risk of exposure, in each year subsequent to the completion of the first inventory of USEPA Phase I facilities (i.e., first 24 months), but not less than 20% of the total number in each year. Facilities determined at no risk of exposure will be so identified in the inventory database.

d) In the event that particular minimum BMPs are infeasible at any site, Permittees shall require implementation of other equivalent BMPs. Furthermore, Permittees may require additional site-specific BMPs as necessary to comply with this Order, including BMPs that are more stringent than those required under the statewide GIASP. For industrial and specified commercial sites tributary to Clean Water Act section 303(d) impaired water bodies (where a site discharges pollutants for which the water body is impaired), Permittees may require implementation of additional controls as necessary to comply with this Order. For industrial and specified commercial sites within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas, Permittees may require implementation of additional controls as necessary to comply with this Order.

e) Nothing in this section precludes Permittees from performing additional activities to control storm water runoff from industrial and commercial facilities to their MS4, as they deem necessary, or through an already existing program. Also, nothing in this section precludes Permittees from enforcing their own municipal ordinances as they pertain to discharges of storm water runoff from industrial and commercial sites within their jurisdiction.

5. Interagency Coordination

In response to any complaint related to storm water or non-storm water discharges or a specific request by the Regional Board, a Permittee shall visit any facility, to determine if the facility is effectively complying with the SQMP and municipal storm water ordinances. In addition, Permittees

shall provide compliance assistance to the Regional Board through various supporting activities, including but not limited to: referrals of complaints, assisting in searches for current owners, operators, and leasees in conjunction with activities performed at any facility within its jurisdiction, appearing as witnesses in Regional Board enforcement hearings, and participating in joint inspections when requested by Regional Board staff.

Copies of the inspection/site visit report and any follow-up documentation performed as required in this section shall be provided to the Regional Board Executive Officer upon request.

D. Development Planning Program

1. The Permittees shall implement a development-planning program that will require all planning priority development and redevelopment projects to:

   a) Minimize impacts from storm water and urban runoff on the biological integrity of natural drainage systems and water bodies in accordance with requirements under CEQA, Section 404 of the CWA, local ordinances and other legal authorities;

   b) Maximize the percentage of permeable surfaces to allow more percolation of storm water into the ground;

   c) Minimize the quantity of storm water directed to impermeable surfaces and the MS4;

   d) Minimize pollution emanating from parking lots through the use of appropriate treatment control BMPs and good housekeeping practices;

   e) Provide for appropriate permanent measures to reduce storm water pollutant loads in storm water from the development site.

2. Peak Flow Control

   The Permittees shall develop and implement numerical criteria on or before October 31, 2002, to control the post-development peak storm runoff discharge rates in natural drainage systems to maintain or reduce pre-development peak discharge rates to prevent down-stream erosion, and to protect stream habitat. Natural drainage systems include the following:

   a) Malibu Creek

   b) Topanga Canyon Creek

   c) Upper Los Angeles River

   d) Upper San Gabriel River

   e) Santa Clara River

f) Named and unnamed coastal drainages

3. Standard Urban Storm Water Mitigation Plans

a) Each Permittee shall require that single-family hillside home developments:

(1) Conserve natural areas

(2) Protect slopes and channels

(3) Provide storm drain system stenciling and signage

(4) Divert roof runoff to vegetated areas before discharge

(5) Direct surface flow to vegetated areas before discharge

b) Each Permittee shall require that a Standard Urban Storm Water Mitigation Plan as approved by the Regional Board in Board Resolution No. R 00-02 be implemented for the following categories of developments with immediate effect:

(1) Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)

(2) A 100,000 or more square feet industrial/ commercial development

(3) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539)

(4) Retail gasoline outlets

(5) Restaurants (SIC 5812)

(6) Parking lots 5,000 square feet or more or with 25 or more parking spaces

c) The Permittees shall require the implementation of SUSMPs provisions for all projects located in or directly adjacent to or discharging directly to an environmentally sensitive area, where, the development will:

(1) create 2,500 square feet or more of impervious area, or

(2) alter the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and

(3) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat

4. Numerical Design Criteria

The Permittees shall require that post-construction treatment control BMPs incorporate, at a minimum, the following design criteria to mitigate (infiltrate, filter or treat) storm water runoff:

a) Volumetric Structural or Treatment Control BMP

(1) the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)*, or

(2) the volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in *California Stormwater Best Management Practices Handbook – Industrial/ Commercial,* (1993), or

(3) the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or

(4) the volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event,

and/or

b) Flow Based Structural or Treatment Control BMP

(1) the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity, or

(2) the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County

(3) the flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above,

5. Applicability of Numerical Design Criteria

The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment and structural controls to mitigate storm water pollution:

a) Single-family hillside residential developments of one acre or more

b) Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of one acre or more.

c) A 100,000 square feet or more industrial/ commercial development

d) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more]

e) Retail gasoline outlets [5,000 square feet or more and with projected Average Daily Traffic (ADT) of 100 or more vehicles]

f) Restaurants (SIC 5812) [5,000 square feet or more]

g) Parking lots 5,000 square feet or more or with 25 or more parking spaces

h) Projects located in, adjacent to or discharging directly to environmentally sensitive areas that meet threshold conditions identified above in 3.c.

6. Not later than March 9, 2003, each Permittee shall require the implementation of SUSMP and post-construction control requirements for the industrial/commercial category to projects one acre and greater to conform to USEPA Phase II storm water regulations.

7. Site Specific Mitigation

a) Each Permittee shall require the implementation of a site-specific plan to mitigate post-development storm water for developments not requiring a SUSMP but which may potentially have adverse impacts on post-development storm water quality, where the following project characteristics exist:

(1) Vehicle or equipment fueling areas;

(2) Vehicle or equipment maintenance areas, including washing and repair

(3) Commercial or industrial waste handling or storage

(4) Outdoor handling or storage of hazardous materials;

(5) Outdoor manufacturing areas

(6) Outdoor food handling or processing

(7) Outdoor animal care, confinement, or slaughter

(8) Outdoor horticulture activities

8. Redevelopment Projects

The Permittees shall apply the SUSMP, or site specific requirements including post-construction storm water mitigation to all planning priority projects that undergo significant redevelopment in their respective categories. Significant redevelopment means land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Where

significant redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.

9. Maintenance Agreement and Transfer

Each Permittee shall require that all developments subject to SUSMP and site specific plan requirements provide verification of maintenance provisions for structural and treatment control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and or conditional use permits. Verification at a minimum shall include:

a) The developers signed statement accepting responsibility for maintenance until the responsibility is legally transferred, and either

b) A signed statement from the public entity assuming responsibility for structural or treatment control BMP maintenance and that it meets all local agency design standards, or

c) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year, or

d) Written text in project conditions, covenants and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the structural and treatment control BMPs; or

e) Any other legally enforceable agreement that assigns responsibility for the maintenance of post-construction structural or treatment control BMPs

10. Regional Storm Water Mitigation Program

A Permittee or Permittee group may apply to the Regional Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly SUSMP requirements for new development. Upon review and a determination by the Regional Board Executive Officer that the proposal is technically valid and appropriate, the Regional Board may consider for approval such a program if its implementation will result in equivalent or improved storm water quality and protect stream habitat.

11. Mitigation Funding

The Permittees may propose a management framework, for endorsement by the Regional Board Executive Officer, to support regional or sub-regional solutions to storm water pollution, where the following situations occur:

a) A waiver for impracticability is granted

b) Legislative funds become available

c) Off-site mitigation is required because of loss of environmental habitat

d) An approved watershed management plan exists that incorporates an equivalent or improved strategy for storm water mitigation for new development

12. California Environmental Quality Act (CEQA) Document Update

Each Permittee shall modify planning procedures for preparing and reviewing CEQA documents to consider potential storm water quality impacts and provide for appropriate mitigation, with immediate effect. The CEQA guidelines shall require consideration of the following:

a) Potential Impact of project construction on storm water runoff

b) Potential Impact of projects post-construction activity on storm water runoff.

c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.

d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit

e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies

f) Potential for significant changes in the flow velocity or volume of storm water runoff that can cause environmental harm

g) Potential for significant increases in erosion of the project site or surrounding areas

13. General Plan Update

a) Each Permittee shall amend, revise or update its General Plans to include watershed and storm water quality and quantity management considerations and policies when the following General Plans elements are updated or amended: (i) Land Use, (ii) Housing, (iii) Conservation, (iv) Open Space.

b) Each Permittee shall provide the Regional Board with the draft amendment or revision when a listed General Plan element or the

General Plan is noticed for comment in accordance with Govt. Code § 65350 et seq.

14. Targeted Employee Training

Each Permittee shall train its employees in targeted positions (whose jobs or activities are engaged in development planning) regarding the requirements of the development planning on an annual basis beginning no later than March 31, 2002, and more frequently if necessary.

15. Developer Technical Guidance and Information

a) Each Permittee shall develop and make available to developer development planning guidelines immediately.

b) The Principal Permittee in partnership with Permittees shall issue no later than March 31, 2003, a technical manual for the siting and design of BMPs for the development community in Los Angeles County. The technical manual may be adapted from the revised California Storm Water Quality Task Force Best Management Practices Handbooks scheduled for publication in September 2002. The technical manual shall at a minimum include:

(1) Specifications for treatment control BMPs based on flow-based and volumetric water quality design criteria for the purposes of countywide consistency,

(2) Criteria for control of peak discharge rates, velocities and duration,

(3) Expected pollutant removal performance ranges

(4) Maintenance considerations

(5) Cost considerations

E. Development Construction Program

Each Permittee shall implement a program to control runoff from construction activity at all construction sites within its jurisdiction. The program shall ensure the following minimum requirements are effectively implemented at all construction sites:

a) Sediments shall not be discharged to the MS4 or receiving waters. Sediments generated on the project site shall be retained using adequate structural drainage controls;

b) No construction-related materials, wastes, spills, or residues shall be discharged from the project site to streets, drainage facilities, receiving waters, or adjacent properties by wind or runoff;

c) Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at the project site; and

d) Erosion from slopes and channels will be prevented by implementing BMPs including, but not limited to: limiting of grading scheduled during the wet season; inspecting graded areas during rain events; planting and maintenance of vegetation on slopes; and covering erosion susceptible slopes; and

e) Discourage grading during the wet season. Proper justification for the need to grade during the wet season shall be provided to the Permittee. All erosion susceptible slopes shall be covered, netted, planted, or protected in any way that prevents sediment discharge from the site.

1. In addition, for construction sites one acre and greater, each Permittee shall require compliance with all conditions in section E. above and:

a) Shall require the preparation, submittal, and implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP), prior to issuance of a grading permit for construction projects, that meets one or more of the following criteria:

(1) Will result in soil disturbance of one acre or more in size;

(2) Is within, directly adjacent to, or is discharging directly to an environmentally sensitive area; or

(3) Is located in a hillside area.

The Local SWPPP shall include appropriate construction site BMPs and maintenance schedules. (A State required SWPPP may be substituted by a Local SWPPP if the Local SWPPP is at least as inclusive as the requirements for a State SWPPP). The Local SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

"As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

The landowner shall sign a statement to the effect:

"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for

gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/or adequately implement the Local SWPPP may result in revocation of grading and/or other permits or other sanctions provided by law."

The Local SWPPP certification shall be signed by the landowner as follows, for a corporation: by a responsible corporate officer which means (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; for a partnership or sole proprietorship: by a general partner or the proprietor; or for a municipality or other public agency: by an elected official, a ranking management official (e.g., County Administrative Officer, City Manager, Director of Public Works, City Engineer, District Manager), or the manager of the construction activity if authority to sign Local SWPPPs has been assigned or delegated to the manager in accordance with established agency policy.

b) Shall inspect all construction sites with Local SWPPPs for storm water quality requirements during routine inspections a minimum of once during the wet season. The Local SWPPP shall be reviewed for compliance with local codes, ordinances, and permits. For inspected sites that have not adequately implemented their Local SWPPP, a follow-up inspection to ensure compliance will take place within 2 weeks. If compliance has not been attained, the Permittee will take additional actions to achieve compliance (as specified in municipal codes). If compliance has not been achieved, and the site is covered under the State General Construction Activity Storm Water Permit, each Permittee shall enforce their local ordinance requirements, and if non-compliance continues the Regional Board shall be notified for further joint enforcement actions.

c) Commencing March 10, 2003, shall require, prior to issuing a grading permit for all projects requiring coverage under the state general permit, proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a certification that a SWPPP has been prepared by the project developer. The prepared SWPPP may satisfy the requirement under E.1. (in-lieu of Local SWPPP).

2. In addition, for sites five acres and greater, each Permittee shall:

a) Require, prior to issuing a grading permit for all projects requiring coverage under the state general permit, proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a certification that a SWPPP has been prepared by the project developer. The prepared SWPPP may satisfy the requirement under E.1. (in-lieu of Local SWPPP).

b) Each Permittee shall require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

c) Each Permittee shall use an effective system to track grading permits issued by each Permittee. A database or GIS system is encouraged, but not required, to be used to satisfy this requirement.

3. Each Permittee shall train employees in targeted positions (whose jobs or activities are engaged in construction activities including construction inspection staff) regarding the requirements of the storm water management program no later than March 31, 2002, and annually thereafter. A list of trained employees shall be maintained by each Permittee.

F. Public Agency Activities Program

1. Each Permittee shall implement a Public Agency program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:

Sewage Systems Operations
Public Construction Activities
Vehicle Maintenance/Material Storage Facilities Management
Landscape and Recreational Facilities Management
Storm Drain Operation and Management
Streets and Roads Maintenance
Parking Facilities Management
Public Industrial Activities
Emergency Procedures
Dry Weather Diversions

2. Each Permittee shall conduct an assessment of measures that can be implemented to reduce and/or prevent trash from entering the MS4 system. The Assessment and a schedule for implementation shall be submitted to the Regional Board Executive Officer for review by July 1, 2003.

3. Sewage System Operations

Each Permittee shall implement a response plan for overflows of the sanitary sewer system within their respective jurisdictions which shall consist at a minimum of the following:

a) Investigation of any complaints received;

b) Immediate response to overflows by containment; and

c) Notification to appropriate sewer and public health agencies when a sewer overflows to the MS4.

In addition to 3.a, 3.b, and 3.c above, for those Permittees which own and/or operate a sanitary sewer system, each Permittee shall also implement the following requirements (until such time that the proposed Capacity, Management, Operation and Maintenance Regulations (CMOM) are promulgated by the USEPA. After which, the CMOM regulations shall be enforceable under this Order until such time they are added into an individual NPDES permit):

d) A program to prevent sewage spills or leaks from sewage facilities from entering the MS4; and

e) Identify, repair, and remediate sanitary sewer blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4.

4. Public Construction Activities Management

a) Each Permittee shall implement a program to control runoff from construction activity at all construction sites. To accomplish this, the Permittees shall revise their Development Construction Program in the SQMP no later than March 31, 2002. The revisions shall specify a schedule for implementation by each Permittee, and must contain the following minimum elements, including performance measures, schedules for implementation, and shall include the following categories of construction:

(1) Less than one acre;

(2) Between one and five acres; and

(3) Five or more acres.

b) Each Permittee shall comply with requirements in section E. and with the following conditions, at all public construction sites:

(1) Design and construction of public facilities shall be consistent with the requirements and dates specified for private development in Part 4.D.;

(2) Prepare and retain site-specific SWPPPs for municipal construction sites;

(3) Implement construction and post-construction storm water controls as required of private construction projects, including numerical mitigation criteria for post-construction BMPs;

(4) Implement a program to ensure that SWPPPs and BMPs implemented are effective;

(5) Inspect public construction sites and implement changes as necessary to maintain or replace ineffective BMPs in order to protect water quality; and

(6) Each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction sites for sites 5 acres or greater (or part of a larger area of development, etc...) except that a municipality under 100,000 in population need not obtain coverage under a separate permit until March 10, 2003.

c) No later than March 9, 2003, each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction sites for sites one acre or greater.

5. Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management

a) Each Permittee shall implement pollution prevention plans for public vehicle maintenance facilities and material storage facilities which have the potential to discharge pollutants into storm water.

b) Each Permittee shall implement BMPs to minimize pollutant discharges in storm water including but not be limited to:

(1) Good housekeeping practices;

(2) Material storage control;

(3) Vehicle leaks and spill control; and

(4) Illicit discharge control;

c) Each Permittee shall require that all vehicle/equipment wash areas be self-contained or covered, or equipped with a clarifier, or other pretreatment device, and properly connected to the sanitary sewer to prevent the discharge of pollutants to the MS4 for new facilities or during redevelopment of existing sites.

6. Landscape and Recreational Facilities Management

Each Permittee shall implement the following requirements:

a) A standardized protocol for the routine and non-routine application of pesticides, herbicides (including pre-emergents), and fertilizers;

b) Ensure no application of pesticides or fertilizers immediately before, during, or immediately after a rain event or when water is flowing off the area to be applied;

c) Ensure that no banned pesticides, herbicides, fungicides, or rodenticides are stored or applied;

d) Ensure that staff applying pesticides are certified by the California Department of Food and Agriculture, or are under the direct supervision of a certified pesticide applicator;

e) Implement procedures to encourage retention and planting of native vegetation and to reduce water, fertilizer, and pesticide needs;

f) Store fertilizers and pesticides indoors or under cover on paved surfaces or use secondary containment;

g) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills; and

h) Regularly inspect storage areas.

7. Storm Drain Operation and Management

Each Permittee shall:

a) designate catch basin inlets within its jurisdiction as one of the following:

Priority A – catch basins that are designated as consistently generating the highest volumes and trash and/or litter.

Priority B - catch basins that are designated as consistently generating moderate volumes and trash and/or litter

Priority C – catch basins that are designated as generating low volumes of trash and/or litter.

b) Clean catch basins according to the following schedule:

Priority A –at least once per month during the wet season.

Priority B - Between the effective date of this Order and July 1, 2003, each Permittee shall ensure that each catch basin is cleaned whenever the catch basin reaches 40% full during the wet season. From July 1, 2003 to the date this Order is renewed, each Permittee shall ensure that each catch basin is cleaned whenever the catch basin reaches 25% full during the wet season.

Priority C – as necessary but at least once per year.

c) For any special event that can be reasonably expected to generate quantities of trash and litter, the Permittee shall, as a condition of the special use permit issued for that event, include provisions that provide for the proper management of trash and litter generated from the event. At a minimum, the Permittee shall arrange for either temporary screens to be placed on catch basins or for catch basins in that area to be cleaned out subsequent to the event and prior to any rain.

d) For each Permittee subject to a trash TMDL, the Permittee may implement a program which maximizes trash removal by using an effective combination of street sweeping, catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve waste load allocations).

e) Each Permittee shall:

(1) Keep record of catch basins cleaned;

(2) Record the quantity of catch basin waste collected [The data shall be reported in a single unit of measure that is reproducible and measures the amount of trash, irrespective of water content (e.g., compacted volume based on a standardized compaction rate, dry weight, etc.). The Permittees may select the unit, but all Permittees shall use the same unit of measure.];

(3) Inspect the legibility of the catch basin stencil or label nearest the inlet. Illegible stencils shall be recorded and re-stenciled or re-labeled within 180 days of inspection; and

(4) Submit a record (preferably but not required, as a GIS layer) of all catch basins in a municipality and identify which are city-owned/county-owned, and which to note priority for more frequent cleaning.

f) Each Permittee shall implement BMPs for Storm Drain Maintenance that shall include:

(1) A program to visually monitor open channel storm drains for debris at least annually and identify and prioritize problem areas of illicit discharge for regular inspection;

(2) A review of current maintenance activities to assure that appropriate storm water BMPs are being utilized to protect water quality;

(3) Removal of trash and debris from open channel storm drains shall occur a minimum of once per year before the storm season;

(4) Minimize the discharge of contaminants during MS4 maintenance and clean outs;

(5) Record the quantity of open channel waste collected by stream or channel segment [The data shall be reported in a single unit of measure that is reproducible and measures the amount of trash, irrespective of water content (e.g., compacted volume based on a standardized compaction rate, dry weight, etc.). The Permittees may select the unit, but all Permittees shall use the same unit of measure.]; and

(6) Proper disposal of material removed.

8. Streets and Roads Maintenance

a) Each Permittee shall designate streets and/or street segments within its jurisdiction as one of the following:

Priority A – streets and/or street segments that are designated as consistently generating the highest volumes and trash and/or litter.

Priority B - streets and/or street segments that are designated as consistently generating moderate volumes and trash and/or litter.

Priority C – streets and/or street segments that are designated as generating low volumes of trash and/or litter.

b) Each Permittee shall perform street cleaning according to the following schedule:

Priority A – These streets and/or street segments shall be swept at least two times per month.

Priority B - Between the effective date of this Order and July 1, 2003, each Permittee shall ensure that each streets and/or street segments is cleaned at least once per month.

Priority C – These streets and/or street segments shall be cleaned as necessary but in no case less than once per year.

c) Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that in no case shall waste be left on a roadway or allowed to enter the storm drain.

d) Concrete and other street and road maintenance materials and wastes shall be managed to prevent pollutant discharges; and

e) The washout of concrete trucks and chutes shall only occur in designated areas and never into storm drains, open ditches, streets, or catch basins leading to the storm drain system.

f) Each Permittee shall implement a program which maximizes trash removal by using an effective combination of street sweeping,

catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve TMDL waste load allocations.

g) Each Permittee shall train their employees in targeted positions (whose interactions, jobs, and activities affect storm water quality) regarding the requirements of the storm water management program to:

(1) Promote a clear understanding of the potential for maintenance activities to pollute storm water; and

(2) Identify and select appropriate BMPs.

9. Parking Facilities Management

Permittee-owned parking lots shall be kept clear of debris and oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.

10. Public Industrial Activities

Each Permittee shall, for any municipal activity considered an industrial activity covered under USEPA Phase I storm water regulations, obtain separate coverage under the State of California General Industrial Activities Storm Water Discharge Permit no later than November 25, 2001, except that a municipality under 100,000 in population need not file the NOI until March 10, 2003.

11. Emergency Procedures

Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as: earthquakes; fires; floods; landslides; or windstorms. BMPs shall be implemented to the extent that measures do not compromise public health and safety. After initial emergency response or emergency repair activities have been completed, each Permittee shall implement BMPs as required under this Order.

12. Dry Weather Diversions

a) Each Permittee shall prioritize drains for possible diversion of dry weather flows from areas within their jurisdiction that flow to areas where the public may be impacted (for public health and safety and/or environmental reasons). The Permittees shall collectively review their individual prioritized lists and create a watershed based priority list of possible drains for diversion no later than March 31, 2002 and submit a listing of priority diversions to the Regional Board Executive Officer. The Permittees shall immediately begin a feasibility study and discussions with the appropriate sewer agency for diversion of selected dry weather

flows to the sanitary sewer for treatment, subject to approvals of the Regional Board and the appropriate sewer agency.

b) The Permittees shall investigate and determine the location of potential dry weather urban runoff treatment devices for strategic placements in areas of the watersheds where most appropriate. This information shall be submitted to the Regional Board Executive Officer no later than March 31, 2002.

G. Illicit Connections and Illicit Discharges Elimination Program

Permittees shall eliminate all illicit connections and illicit discharges to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.

1. General

a) Implementation: Each Permittee must develop an Implementation Program which specifies how each Permittee is implementing revisions to the IC/ID Program. This Implementation Program must be documented, and available for review and approval by the Regional Board Executive Officer, upon request.

b) Tracking: All Permittees shall develop and maintain a baseline map of their storm drain system, showing all storm drain connections permitted by the Permittee, at a scale and in a format specified by the Lead Permittee. On an annual basis, all Permittees shall map all illicit connections and discharges on their baseline maps, and shall transmit this information to, and in a format specified by, the Principal Permittee. No later than October 25, 2002, the Principal Permittee shall use this information as well as results of baseline and priority screening for illicit connections (as set forth in subsection 2 below) to start an annual evaluation of patterns and trends of illicit connections and illicit discharges, with the objectives of identifying priority areas for elimination of illicit connections and illicit discharges, and making recommendations for corrective action.

c) Training: All Permittees shall train all targeted employees who are responsible for identification, investigation, termination, cleanup, and reporting of illicit connections and discharges. For Permittees with a population of less than 250,000, training shall be completed no later than March 31, 2002. For Permittees with a population of 250,000 or more, training shall be completed no later than October 25, 2002. Furthermore, all Permittees shall conduct refresher training on an annual basis thereafter.

d) Documentation and Reporting: Document and report all illicit connections, illicit discharges, and hazardous substances that

"Anti-degradation policies" means the *Statement of Policy with Respect to Maintaining High Quality Water in California* (State Board Resolution No. 68-16) which protects surface and ground waters from degradation. In particular, this policy protects waterbodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water.

"Applicable Standards and Limitations" means all State, interstate, and federal standards and limitations to which a "discharge" or a related activity is subject under the CWA, including "effluent limitations, "water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403 and 404 of CWA.

"Authorized Discharge" means any discharge that is authorized pursuant to an NPDES permit or meets the conditions set forth in this Order.

"Automotive Service Facilities" means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 5511, 7532-7534, or 7536-7539.

"BAT/BCT Criteria" means treatment-based standards for reducing the discharge of pollutants, as defined in 40 CFR subchapter N, for specific categories of industrial facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards. Effluent limitations have been defined in 40 CFR for the reduction of toxic pollutants using Best Available Technology Economically Achievable (BAT) and for the reduction of conventional pollutants using Best Conventional Pollutant Control Technology (BCT).

"Basin Plan" means the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Board on June 13, 1994 and subsequent amendments.

"Beneficial Uses" means the existing or potential uses of receiving waters in the permit area as designated by the Regional Board in the Basin Plan.

"Best Management Practices (BMPs)" are methods, measures, or practices designed and selected to reduce or eliminate the discharge of pollutants to surface waters from point and nonpoint source discharges including storm water. BMPs include structural and nonstructural controls, and operation and maintenance procedures, which can be applied before, during, and/or after pollution producing activities.

"Commercial Development" means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, multi-apartment buildings, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

"Construction" means constructing, clearing, grading, or excavation that results in soil disturbance. Construction includes structure teardown. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it

enter the storm drain, within times specified in subsections 2 and 3 below.

2. Illicit Connections

a) Baseline Screening: All Permittees shall continue to screen the storm drain system for illicit connections during scheduled infrastructure maintenance. On an annual basis, Permittees shall report, to the Lead Permittee, on the location and length of open channels or closed storm drains that have been screened, and on the status of suspected, confirmed, and terminated illicit connections.

b) Priority Screening: In addition to the baseline screening that will occur during regularly scheduled maintenance, Permittees shall design and implement a plan on or before October 31, 2002, subject to Regional Board Executive Officer approval, for proactive storm drain screening of priority areas that are, or are suspected to be a source of non-storm water discharges.

c) Investigation: Upon discovery through either baseline or priority screening, or upon receiving a report of a suspected illicit connection, Permittees shall initiate an investigation within 21 days, to determine the source of the connection, the nature and volume of discharge through the connection, and the responsible party for the connection.

d) Termination: Upon confirmation of the illicit nature of a storm drain connection, Permittees shall ensure termination of the connection within 180 days, using enforcement authority as needed. For those cases of illicit connections that require more than 180 days to eliminate due to lengthy court proceedings, the Regional Board Executive Officer may grant time extensions on a case by case basis.

3. Illicit Discharges

a) Abatement and Cleanup: Respond, within 72 hours of discovery or a report of a suspected illicit discharge, with activities to abate, contain, and clean up all illicit discharges, including hazardous substances.

b) Investigation: As soon as practicable, during or immediately following containment and cleanup activities, take enforcement action as appropriate.

Part 5. DEFINITIONS

The following are definitions for terms applicable to this Order:

"Adverse Impact" means a detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants.

include emergency construction activities required to immediately protect public health and safety.

"Control" means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

"Dechlorinated Swimming Pool Discharge" means swimming pool discharges which have no measurable chlorine and do not contain any detergents, wastes, or additional chemicals not typically found in swimming pool water. The term does not include swimming pool filter backwash.

"Development" shall mean any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction.

"Directly Adjacent" means situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

"Director" shall mean the Director of Public Works of the County and Person(s) designated by and under the Director's instruction and supervision.

"Directly Discharging" means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

"Discharge" when used without qualification means the "discharge of a pollutant."

"Discharge of a Pollutant" means: Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source" or, Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect Discharger."

"Disturbed Area" means an area that is altered as a result of clearing, grading, and/or excavation.

"Effluent limitation" means any restriction imposed by the Regional Board on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

"Environmentally Sensitive Areas" means an area "in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments" (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are: areas designated as Significant Ecological Areas by the County of

Los Angeles (*Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976)* and amendments); an area designated as a Significant Natural Area by the California Department of Fish and Game, Significant Natural Areas Program; an area listed in the Regional Board Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" beneficial use; or an area identified by the Permittees as environmentally sensitive for water quality purposes[1]. See Attachment B for details of each listing.

"Executive Advisory Committee" means the committee composed of representatives of the Los Angeles County Flood Control District, the City of Los Angeles, and the five Watershed Management Areas.

"General Construction Activities Storm Water Permit (GCASP)" is the general NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water from construction activities under certain conditions.

"General Industrial Activities Storm Water Permit (GIASP)" is the general NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water from certain industrial activities under certain conditions.

"Hillside" means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25% or greater and where grading contemplates cut or fill slopes.

"Illicit Connection" shall mean any man-made conveyance that is connected to the storm drain system without a permit, excluding roof drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

"Illicit Discharge" means any discharge to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non storm-water discharges except discharges pursuant to an NPDES permit, discharges that are identified in Part 1 of this order, and discharges authorized by the Regional Board Executive Officer.

"Illicit Disposal" means any disposal, either intentionally or unintentionally, of material(s) or waste(s) that can pollute storm water.

"Industrial/Commercial Facility" means any facility involved and/or used in either the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. This category of facilities includes, but is not limited to, any facility defined by the Standard Industrial Classifications (SIC). Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

"Infiltration" means the downward entry of water into the surface of the soil.

"Large Municipal Separate Storm Sewer System (MS4)" means all MS4s that serve a population greater than 250,000. The complete definition is contained in 40 CFR Section 122.26 (b)(4). The Regional Board designated Los Angeles County as a large MS4 in 1990,

[1] Regional Board is currently working with the City of Rancho Palos Verdes to recognize their identified local conservation areas

based on: (i) the U.S. Census Bureau 1990 population estimate of 8.9 million, and (ii) the interconnectivity of the MS4s in the incorporated and unincorporated areas within the County.

"Local SWPPP" means the Storm Water Pollution Prevention Plan required by the local agency if the project is not subject to the Statewide Construction Activities General Permit.

"Maximum Extent Practicable (MEP)" means the standard for implementation of storm water management programs to reduce pollutants in storm water. It is the maximum extent possible taking into account equitable consideration and competing facts, including, but not limited to: the gravity of the problem, public health risk, societal concern, environmental benefits, pollutant removal effectiveness, regulatory compliance, public acceptance, implementability, cost and technical feasibility. Section 402(p)(3)(B)(iii) of the CWA requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"Method Detection Limit (MDL)" is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR 136, Appendix B.

"Minimum Level (ML)" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

"Municipal Separate Storm Sewer System (MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned by a State, city, county, town or other public body, that is designed or used for collecting or conveying storm water, which is not a combined sewer, and which is not part of a publicly owned treatment works, and which discharges to Waters of the United States.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program."

"New Development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

"Non-Storm Water Discharge" means any discharge to a storm drain that is not composed entirely of storm water.

"Nuisance" means anything that meets all of the following requirements: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent

of the annoyance or damage inflicted upon individuals may be unequal; (3) occurs during, or as a result of, the treatment or disposal of wastes.

"Parking Lot" means land area or facility for the parking or storage of motor vehicles used personally, for businesses or for commerce with a lot size of 5,000 square feet or more, or with 25 or more parking spaces.

"Permit" means an authorization, license, or equivalent control document issued by USEPA or an "approve State" to implement the requirements of 40 CFR Parts 122, 123, and 124. "Permit" includes an NPDES "general permit" (§ 122.28). Permit does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

"Permittee(s)" means Co-Permittees and any agency named in this Order as being responsible for permit conditions within its jurisdiction. Permittees to this Order include the Los Angeles County Flood Control District, Los Angeles County, and the cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Canada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier.

"Pollutants" means those "pollutants" defined in Section 502(6) of the federal Clean Water Act (33.U.S.C.§1362(6)), or incorporated into California Water Code §13373. Examples of pollutants include, but are not limited to the following:

- Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
- Metals such as cadmium, lead, zinc, copper, silver, nickel, chromium, and non-metals such as phosphorus and arsenic;
- Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease)
- Excessive eroded soils, sediment, and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the State;
- Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities);
- Substances having characteristics such as pH less than 6 or greater than 9, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;

The term "pollutant" shall not include uncontaminated storm water, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

The term "pollutant" also shall not include any substance identified in this definition, if through compliance with the best management practices available, the discharge of such substance has been eliminated to the maximum extent practicable. In an enforcement action, the burden shall

be on the person who is the subject of such action to establish the elimination of the discharge to the maximum extent practicable through compliance with the best management practices available.

"Potable Water Distribution Systems" means sources of flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, well development, pump testing fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and wells.

"Priority Pollutants" are those constituents referred to in 40 CFR 401.15 and listed in the USEPA NPDES Application Form 2C, pp. V-3 through V-9.

"Project" means all development and land disturbing activities. The term is not limited to "Project" as defined under California Environmental Quality Act (Pub Resources Code Section 21065).

"Rain Event" means any rain event greater than 0.1 inch in 24 hours.

"Receiving Waters" means all surface water bodies within the permit area that are identified in the Basin Plan.

"Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces. Where redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated. Where redevelopment results in an increase in less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the addition must be mitigated, and not the entire development.

"Regional Administrator" means the Regional Administrator of the Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

"Restaurant" means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812).

"Retail Gasoline Outlet" means any facility engaged in selling gasoline and lubricating oils.

"Runoff" means any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of many base flow components either contaminated with pollutants or uncontaminated.

"Side Walk Rinsing" means pressure washing of paved pedestrian walkways with average water usage of 0.006 gallons per square foot, with no cleaning agents, and properly disposing of all debris collected, as authorized under Regional Board Resolution No. 98-08.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Source Control BMP" means any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

"SQMP" shall mean the Los Angeles Countywide Stormwater Quality Management Program.

"Storm Water Pollution Prevention Plan (SWPPP)" shall mean a plan, as required by a State General Permit, identifying potential pollutant sources and describing the design, placement and implementation of BMPs, to effectively prevent non-stormwater Discharges and reduce Pollutants in Stormwater Discharges during activities covered by the General Permit.

"Storm Water" shall mean storm water runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater Quality Management Program" shall mean the Los Angeles Countywide Stormwater Quality Management Program, which includes descriptions of programs, collectively developed by the Permittees in accordance with provisions of the NPDES Permit, to comply with applicable federal and state law, as the same is amended from time to time.

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g. canopy, structural enclosure). The category may include both treatment control BMPs and source control BMPs.

"SUSMP" means the Los Angeles Countywide Standard Urban Stormwater Mitigation Plan. The SUSMP shall address conditions and requirements of new development.

"Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background.

"Toxicity Identification Evaluation" means a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.

"Toxicity Reduction Evaluation" is a study conducted in a step-wise process to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity.

"Treatment" means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

"Treatment Control BMP" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

"USEPA Phase I Facilities" are facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR 122.26(c). These categories include:

i. facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards (40 CFR N)
ii. manufacturing facilities
iii. oil and gas/mining facilities
iv. hazardous waste treatment, storage, or disposal facilities
v. landfills, land application sites, and open dumps
vi. recycling facilities
vii. steam electric power generating facilities
viii. transportation facilities
ix. sewage of wastewater treatment works
x. light manufacturing facilities

"Water Column Toxicity" means a 70 percent survival rate for a single test or an average of 90 percent survival for three consecutive tests.

"Water Quality Standards and Water Quality Objectives" applicable to the Permittee include those contained in the Los Angeles Regional Water Quality Control Plan (Basin Plan), the California Ocean Plan, the National Toxics Rule, the California Toxics Rule, and other state or federally approved surface water quality plans. Such plans are used by the Regional Board to regulate all discharges, including storm water discharges.

"Waters of the State" means any surface water or groundwater, including saline waters, within boundaries of the state.

"Waters of the United States" or "Waters of the U.S." means:

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
b. All interstate waters, including interstate "wetlands";
c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
    1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
    2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
    3. Which are used or could be used for industrial purposes by industries in interstate commerce;
d. All impoundments of waters otherwise defined as waters of the United States under this definition;

e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
f. The territorial sea; and
g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraph (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.22(m), which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with US EPA.

"Wet Season" means the calendar period beginning October 1 through April 15.

"Whole Effluent Toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

Part 6. STANDARD PROVISIONS

A. Standard Requirements

1. The Permittees shall comply with all provisions and requirements of this permit.

2. Should the Permittees discover a failure to submit any relevant facts or that it submitted incorrect information in a report, it shall promptly submit the missing or correct information.

3. The Permittees shall report all instances of non-compliance not otherwise reported at the time monitoring reports are submitted.

4. This Order includes the attached Monitoring and Reporting Program, and Standard Urban Storm Water Mitigation Plan, which are a part of the permit and must be complied with in the same manner as with the rest of the requirements in the permit.

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B. Regional Board Review

1. Any formal determination or approval made by the Regional Board Executive Officer pursuant to the provisions of this Order may be reviewed by the Regional Board. Such review may be requested upon

petition by a Permittee(s) or a member of the public within 30 days of the effective date of the notification of such decision to the Permittee(s).

C. Public Review

1. All documents submitted to the Regional Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. Section 552 (as amended) and the Public Records Act (California Government Code Section 6250 *et seq.*).

2. All documents submitted to the Regional Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

D. Duty to Comply

1. The Principal Permittee must comply with all of the terms, requirements, and conditions of this Order. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance; or a combination thereof [40 CFR 122.41(a), CWC Section 13261, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350].

2. A copy of these waste discharge specifications shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees and members of the public.

3. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

E. Duty to Mitigate [40 CFR 122.41 (d)]

The Permittees shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

F. Inspection and Entry [40 CFR 122.41(i), CWC Section 13267]

The Regional Board, USEPA, and other authorized representatives shall be allowed:

1. Entry upon premises where a regulated facility is located or conducted, or where records are kept under conditions of this Order;

2. Access to copy any records that are kept under the conditions of this Order;

3. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and,

4. To photograph, sample, and monitor for the purpose of assuring compliance with this Order, or as otherwise authorized by the Clean Water Act and the California Water Code.

G. Proper Operation and Maintenance [40 CFR 122.41 (e), CWC Section 13263(f)]

The Permittees shall at all times properly operate and maintain all facilities and systems of treatment and (and related appurtenances) that are installed or used by the Permittees to achieve compliance with this Order. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar system that are installed by a Permittee only when necessary to achieve compliance with the conditions of this Order.

H. Signatory Requirements [40 CFR 122.41(k)]

Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Board shall be signed by the Director of Public Works, City Engineer, or authorized designee under penalty of perjury.

I. Reopener and Modification [40 CFR 122.41(f)]

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Board, in accordance with the procedural requirements of the Water Code and Title 23 of the California Code of Regulations for the issuance of waste discharge requirements, and upon prior notice and hearing, to:

   a) Address changed conditions identified in the required reports or other sources deemed significant by the Regional Board;

   b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan;

c) Comply with any applicable requirements, guidelines, and/or regulations issued or approved pursuant to CWA Section 402(p); and/or,

d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.

2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

a) Violation of any term or condition contained in this Order;

b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts; or,

c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

3. This Order may be modified, revoked and reissued, or terminated for cause.

4. The filing of a request by the Principal Permittee for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

5. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR Part 122.63, if processed as a minor modification. Minor modifications may only:

a) Correct typographical errors, or

b) Require more frequent monitoring or reporting by the Permittee.

J. Severability

The provisions of this permit are severable; and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected.

K. Duty to Provide Information [40 CFR 122.41(h)]

The Permittees shall furnish, within a reasonable time, any information the Regional Board or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Permittees shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.

L. Twenty-four Hour Reporting [40 CFR 122.41(l)(6)][2]

1. The Permittees shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time any Permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. The Regional Board may waive the required written report on a case-by-case basis.

M. Bypass [40 CFR 122.41(m)][3]

Bypass (the intentional diversion of waste streams from any portion of a treatment facility) is prohibited. The Regional Board may take enforcement action against Permittees for bypass unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.);

2. There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that could occur during normal periods of equipment downtime or preventive maintenance;

3. The Permittee submitted a notice at least ten days in advance of the need for a bypass to the Regional Board; or,

4. Permittees may allow a bypass to occur that does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to

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[2] This provision applies to incidents where effluent limitations (numerical or narrative) as provided in this Order or in the Los Angeles County SQMP are exceeded, and which endanger public health or the environment.

[3] This provision applies to the operation and maintenance of storm water controls and BMPs as provided in this Order or in the SQMP.

assure efficient operation. In such a case, the above bypass conditions are not applicable. The Permittee shall submit notice of an unanticipated bypass as required.

N. Upset [40 CFR 122.41(n)][4]

1. A Permittee that wishes to establish the affirmative defense of an upset in an action brought for non compliance shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a) An upset occurred and that the Permittee can identify the cause(s) of the upset;

   b) The permitted facility was being properly operated by the time of the upset;

   c) The Permittee submitted notice of the upset as required; and,

   d) The Permittee complied with any remedial measures required.

2. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.

3. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

O. Property Rights [40 CFR 122.41(g)]

This Order does not convey any property rights of any sort, or any exclusive privilege.

P. Enforcement

1. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The Clean Water Act provides the following:

   a) Criminal Penalties for:

      (1) Negligent Violations:

      The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

[4] *Supra*. See footnote number 2.

(2) Knowing Violations:

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment:

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement:

The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed of required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309(c)(4) of the Clean Water Act.)

b) Civil Penalties

The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation.

2. The California Water Code provides that any person who violates a waste discharge requirement provision of the California Water Code is subject to civil penalties of up to $5,000 per day, $10,000 per day, or $25,000 per day of violation; or when the violation involves the discharge of pollutants, is subject to civil penalties of up to $10 per gallon per day or $25 per gallon per day of violation; or some combination thereof, depending on the violation or combination violations.

Q. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41(c)]

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

R. Modifications to this Order

This Order may be modified, revoked, or reissued, prior to the expiration date as follows:

1. To address changed conditions identified in the required technical reports or other sources deemed significant by the Regional Board;

2. To incorporate applicable requirements or statewide water quality control plans adopted by the State Board, or amendments to the Basin Plan;

3. To comply with any applicable requirements, guidelines, or regulations issued or approved under Section 402(p) of the CWA, if the requirement, guideline, or regulation so issued or approved contains different conditions or additional requirements not provided for in this Order. The Order as modified or reissued under this paragraph shall also contain any other requirements of the CWA then applicable; or,

4. Any amendments under the Clean Water Act.

S. Rescission

Regional Board Order No. 96-054 is hereby rescinded.

T. Expiration

This Order expires on [October 25, 2006]. The Principal Permittee must submit a Storm Water Quality Management Plan in accordance with Title 23, California Code of Regulation, not later than 180 days in advance of such date as application for reissuance of waste discharge requirements.

I, Dennis A. Dickerson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on October 25, 2001.

_____

Dennis A. Dickerson
Executive Officer

ATTACHMENT A
LIST OF PERMITTEES
BY
WATERSHED MANAGEMENT AREAS

Santa Monica Bay

Malibu Creek and Other Rural
Agoura Hills
*Calabasas
Los Angeles County Flood Control
Los Angeles County
Malibu
Westlake Village

Ballona Creek and Other Urban
Beverly Hills
Culver City
El Segundo
Hermosa Beach
Los Angeles
Los Angeles County Flood Control
Los Angeles County
Manhattan Beach
Palos Verdes Estates
Rancho Palos Verdes
Redondo Beach
Rolling Hills
Rolling Hills Estates

*Santa Monica
West Hollywood

Dominguez Channel/ Los Angeles Harbor Drainage

Carson
Gardena
Hawthorne
Inglewood
Lawndale
Lomita
Los Angeles
Los Angeles County Flood Control
Los Angeles County
*Torrance

Los Angeles River

Alhambra
Arcadia
Bell
Bell Gardens
Burbank
Commerce
Compton
Cudahy
El Monte
*Glendale
Hidden Hills
Huntington Park
La Canada Flintridge
Los Angeles
Los Angeles County Flood Control
Los Angeles County
Lynwood
Maywood
Monrovia
Montebello
Monterey Park
Paramount
Pasadena

Rosemead
San Fernando
San Gabriel
San Marino
Sierra Madre
Signal Hill
South El Monte
South Gate
South Pasadena
Temple City
Vernon

San Gabriel River

Artesia
Azusa
Baldwin Park

Bellflower
Bradbury
Cerritos
Claremont
Covina
Diamond Bar
Downey
Duarte
Glendora
Hawaiian Gardens

Industry
Irwindale
La Habra Heights
La Mirada
La Puente
La Verne
Lakewood
Los Angeles County Flood Control
Los Angeles County
Norwalk
Pomona
Pico Rivera
San Dimas
Santa Fe Springs
Walnut
West Covina
Whittier

Santa Clara River

*Santa Clarita
Los Angeles County Flood Control
Los Angeles County

*Italicized agencies are present in more than one Watershed Management Area. *Indicates City with the largest watershed population other than County of Los Angeles and the City of Los Angeles.*

R0002973

ATTACHMENT B

DESCRIPTIONS OF ENVIRONMENTALLY SENSITIVE AREAS

Significant Ecological Areas (Table B-1, Figure B-1)

Definition: Significant Ecological Areas (SEAs) are defined and delineated in conjunction with the Land Use and Open Space Elements of the Los Angeles County General Plan. An area qualifies for recognition as an SEA if it possesses one or more of the following features, or classes:

1. The habitat of core populations of endangered or threatened plant or animal species.
2. On a regional basis, biotic communities, vegetative associations, and habitat of plant or animal species that are either unique or are restricted in distribution.
3. Biotic communities, vegetative associations, or habitat of plant or animal species that are either unique or are restricted in distribution.
4. Habitat that at some point in the life cycle of a species or group of species, serves as a concentrated breeding, feeding, resting, migrating grounds and is limited in availability either regionally or within Los Angeles County.
5. Biotic resources that are of scientific interest because they are either an extreme in physical/geographical limitations, or represent an unusual variation in a population or community.
6. Areas that would provide for the preservation of relatively undisturbed examples of the original natural biotic communities in Los Angeles County.

Description: Current SEAs are listed in Table B-1[1]. Los Angeles County has conducted a study to update the SEA designations. Proposed boundaries of SEAs are shown on Figure B-1[2]. When the proposed SEAs included in the SEA Update Study 2000 are finalized, they will replace the current SEAs. The SEA Update Study 2000, and individual reports for each SEA are posted on the Los Angeles County Department of Regional Planning website at http://planning.co.la.ca.us/drp_revw.html#SEA

Rare, Threatened, or Endangered Species (Table B-2)

Definition: Rare, Threatened, or Endangered Species (RARE) is a beneficial use for waterbodies in the Los Angeles Region that support habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened, or endangered.

Description: Specific waterbody reaches that support the RARE beneficial use are listed in Table B-2[3]. The accompanying maps depict reach areas in each watershed.

[1] Same as Table 1-1 from the Regional Board Basin Plan
[2] Map from the Los Angeles County SEA Update Study
[3] Same as Table 2-1, Beneficial uses of Inland Surface Waters from the Regional Board Basin Plan

Significant Natural Areas (Figure B-2)

Definition: Significant Natural Areas (SNAs), defined by the Department of Fish and Game (DFG), Significant Natural Areas Program, are areas that contain important examples of California's biological diversity. These areas are identified using the following biological criteria only, irrespective of any administrative or jurisdictional considerations:

1. Areas supporting extremely rare species or habitats.
2. Areas supporting associations or concentrations of rare species or habitats.
3. Areas exhibiting the best examples of rare species and habitats in the state.

These criteria are strictly biological and do not account for levels of protection or threat. Sites may or may not be well protected. Detailed information on site protection, quality, and conservation needs is most readily available at the local level. The DFG Significant Natural Areas Program states that the purpose of identifying these areas is to draw the attention of planners and managers to these areas. The identification of SNAs does not imply any additional authority by the DFG.

Description: See Figure B-2 for a map of SNAs in Los Angeles County. Detailed descriptions of each area are attached. SNA maps, reports, and shape files can be downloaded from the DFG website at ftp://maphost.dfg.ca.gov/outgoing/whdab/sna/.

TABLE B-1

Significant Ecological Areas (SEAs) in Los Angeles County.[1]

No.	Significant Ecological Area (SEA)	No.	Significant Ecological Area (SEA)
1	Malibu Coastline	33	Terminal Island
2	Point Dume	34	Palos Verdes Peninsula Coastline
3	Zuma Canyon	35	Harbor Lake Regional Park
4	Upper Sierra Canyon	36	Madrona Marsh
5	Malibu Canyon and Lagoon	37	Griffith Park
6	Las Virgenes	38	Baldwin Hills[2]
7	Hepatic Gulch	39	Encino Reservoir
8	Malibu Creek State Park Buffer Area	40	Verdugo Mountains
9	Cold Creek	41	Rio Hondo Spreading Grounds[2]
10	Tuna Canyon	42	Whittier Narrows Dam County Recreation Area
11	Temescal–Rustic–Sullivan Canyons	43	Rio Hondo College Wildlife Sanctuary
12	Palo Comado Canyon	44	Sycamore and Tumbull Canyons
13	Chatsworth Reservoir	45	*Dudleya densiflora* Population
14	Simi Hills	46	Tujunga Spreading Grounds[2]
15	Tonner Canyon/Chino Hills	47*	Edwards Air Force Base
16	Buzzard Peak/San Jose Hills	48*	Big Rock Wash
17	Powder Canyon/Puente Hills	49*	Little Rock Wash
18	Way Hill	50*	Rosamond Lake
19	San Francisquito Canyon	51*	Saddleback Butte State Park
20	Santa Susana Mountains	52*	Alpine Butte
21	Santa Susana Pass	53*	Lovejoy Butte
22	Santa Fe Dam Floodplain	54*	Piute Butte
23	Santa Clara River	55*	Desert-Montane Transect
24	Tujunga Valley/Hansen Dam	56*	Ritter Ridge
25	San Dimas Canyon	57*	Fairmont and Antelope Buttes
26	San Antonio Canyon Mouth	58*	Portal Ridge/Liebre Mountain
27	Portuguese Bend Landslide	59*	Tehachapi Foothills
28	El Segundo Dunes	60*	Joshua Tree Woodland Habitat
29	Ballona Creek	61*	Kentucky Springs[2]
30	Alamitos Bay	62*	Galium grande Population
31	Rolling Hills Canyons	63	Lyon Canyon
32	Agua Amarga Canyon	64	Oak Savannah

1 Descriptions of these areas can be found in the Los Angeles County General Plan (1976)
2 These are also designated as open spaces.
* Outside of the Los Angeles Region

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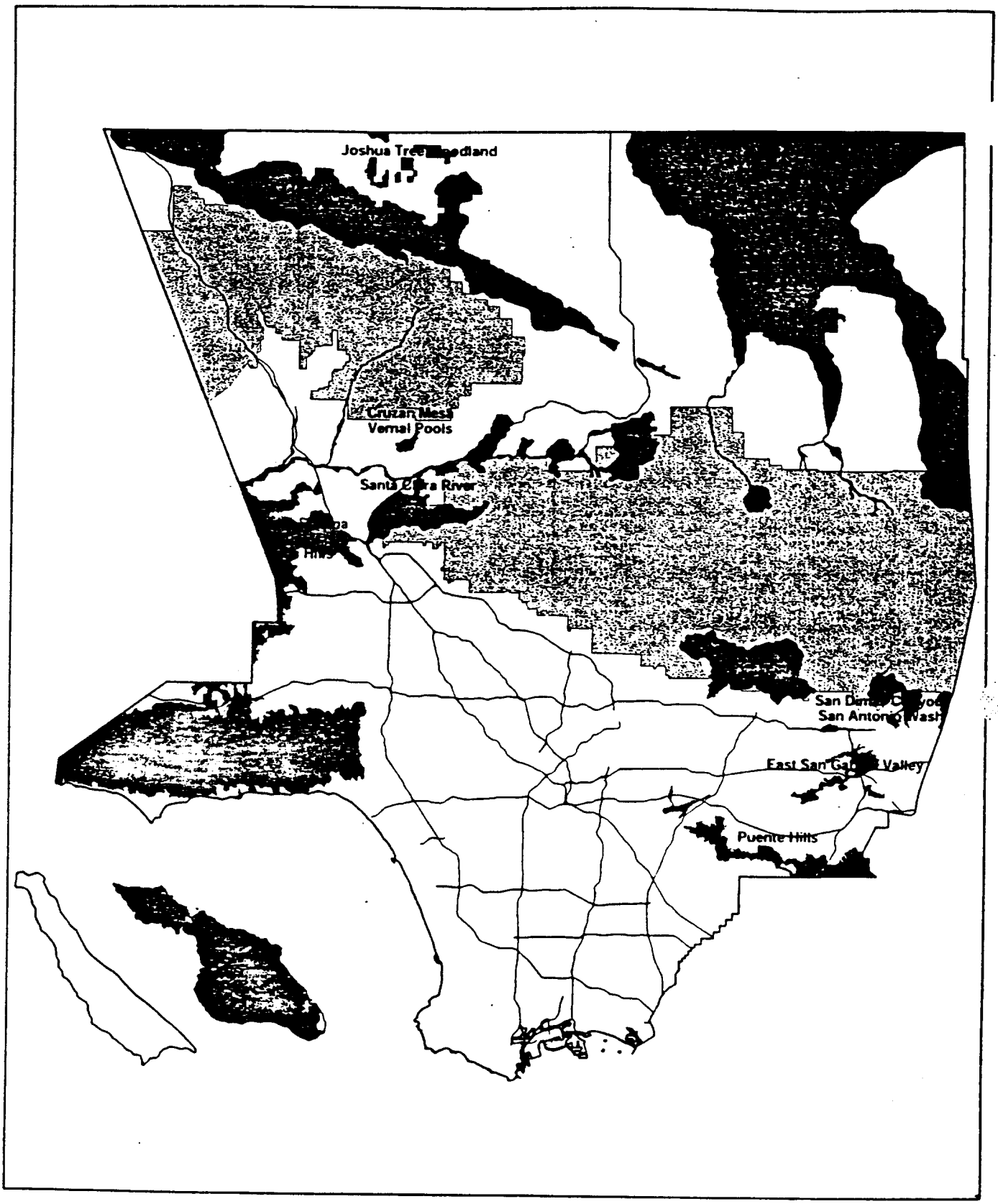
FIGURE B-1



Proposed Significant Ecological Areas
Angeles National Forest

Significant Ecological Areas
Update Study 2000
Proposed Boundaries

0 55000
Feet

N

FORMA Systems
09/07/00

R0002977

TABLE B-2

Tat .1. Beneficial Uses of Inland Surface Waters. Los Angeles R .nal Water Quality Control Board

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
VENTURA COUNTY COASTAL STREAMS																									
Los Sauces Creek	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Poverty Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Medrano Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Javon Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		E
Padre Juan Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		E
McGrath Lake c	403.11									Ed	Ed	P					E		E		Ee	P	P		E
Big Sycamore Canyon Creek	404.47	P*				I				I	I				E				E			P	P		E
Little Sycamore Canyon Creek	404.45	P*								I	I			I					E		E		p		
VENTURA RIVER WATERSHED												E													
Ventura River Estuary o	402.10							E		E	E	E		E	E		E	E	E		Ee	E	E	E	E
Ventura River	402.10	P*	E		E	E	E			E	E			E	E				E		E	E	E		E
Ventura River	402.20	E	E	E	E	E	E			E	E			E	E				E		Eg	E	E		E
Cañada Larga	402.10	P*		I	I	I	I			I	I			I	I				E			I	I		E
Lake Casitas	402.20	E	E	E	E	P	P		P	Ph	E								E		E				
Lake Casitas tributaries	402.20	E*			P	E				E	E			E	E				E			E	E		E
Coyote Creek below dam	402.20	P*				E				P				E	E				E		P	E	E		E
San Antonio Creek	402.20	E	E	E	E	E				E	E			E	E				E			E	E		E
San Antonio Creek	402.32	E	E	E	E	E	E			E	E			E	E				E			E	E		E
Lion Creek	402.31	I*	I	I	I					I	I			I	I				E			E	E		E
Reeves Creek	402.32	I*	I	I	I	I				I	I			I	I				E			I	I		
Mirror Lake	402.20	P*				E				P	E			E					E			I	I		
Ojai Wetland	402.20	P*								P	E			E	E				E						E
Matilija Creek	402.20	P*				E				E	E				E				E			E	E		E
Murietta Canyon Creek	402.20	P*				E				E	E				E				E			E	E		E
North Fork Matilija Creek	402.20	E*	E	E	E	E	E	E		E	E			E	E				E		E	E	E	E	E
Matilija Reservoir	402.20	E*	E	E	E	E	E	E		E	E			E	E				E		E	E	E	E	E
SANTA CLARA RIVER WATERSHED																									
Santa Clara River Estuary c	403.11							E		E	E	E		E	E		E	E	E		Ee	E	E		E
Santa Clara River	403.11	P*	E	E	E	E	E			E	E			E	E				E		E	E	E		E
Santa Clara River	403.21	P*	E	E	E	E	E			E	E			E	E				E		E	E	E		E
Santa Clara River	403.31	P*	E	E	E	E	E			Ed	E			E	E				E		E	E	E		E
Santa Clara River	403.41	P*	E	E	E	E	E			Ed	E			E	E				E		E	E	E		E
Santa Clara River (Lwr)	403.51	P*	E	E	E	E	E			E	E			E	E				E		E	E	E		E
Santa Clara River (Soledad Cyn)	403.55	E*	E	E	E	E	E			E	E			E	E				E		E	E	E		E
Santa Paula Creek	403.21	P	E	E	E	E	E			E	E			E	E				E		E	E	E		E
										E	E			E	E				E		E	E	E		E

E Existing beneficial use
P Potential beneficial use
I Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea bounderies. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.

c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).

d Limited public access precludes full utilization.

e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.

f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.

g Condor refuge.

h Water contact recreational activities prohibited by Casitas MWD

i Soledad Canyon is the habitat of the Unarmored Three-Spine Stickleback.

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
SANTA CLARA RIVER WATERSHED (CONT)																									
Sisar Creek	403.21	P	E	P	E	E				E	E			E	E				E		Eg		E		E
Sisar Creek	403.22	P	E	P	E	E				E	E			E	E				E		Eg		E		E
Sespe Creek	403.31	P	E	P	E	E				E	E			E	E				E		Eg		E		E
Sespe Creek	403.32	P	E	P	E	E				E	E			E	E				E		Eg		E		E
Timber Creek	403.32	P*				E				E	E			E	E				E	E	E	E	E		E
Bear Canyon	403.32	P*				E				E	E			E	E				E	E	E	E	E		E
Trout Creek	403.32	P*				E				E	E			E	P				E	E	E	E	E		E
Piedra Blanca Creek	403.32	P*				E				E	E			E	E				E	E	E	E	E		E
Lion Canyon	403.32	P*				E				E	E				E				E		E	E	E		E
Rose Valley Creek	403.32	P*				E				E	E			E	E				E		E	E	E		E
Howard Creek	403.32	P*				E				E	E			E	E				E			E	E		E
Tule Creek	403.32	P*				E				P	E				P				E	E	E	E	E		E
Potrero John Creek	403.32	P*				E				E	E				P				E		E	E	E		E
Hopper Creek	403.41	P*	E		E	E	E			E	E			E	E				E		E	E	E		E
Piru Creek	403.41	P	E	P	E	E	E			E	E			E	E				E		E	E	E		E
Piru Creek	403.42	P	E	E	E	E	E			E	E			E	E				E		Eg		E		E
Lake Piru	403.41	P	E	E	E	E	P			E	E			E	E				E		Eg		E		E
Lake Piru	403.42	P	E	E	E	E	P		P	E	E			E	E				E		E		E		
Pyramid Lake	403.42	P	E	E	E	E	P		P	E	E			E	E				E		E		E		
Cañada de los Alamos	403.43	I*			I	I	I			I	I			I	I				E		E				
Gorman Creek	403.43	I*			I	I				I	I			I					E		P				
Lockwood Creek	403.42	I																	E						
Lockwood Creek	403.44	I																	E						
Tapo Canyon	403.41	P*			P					P	E			E					E						
Castaic Creek	403.51	I	I	I	I	I	I			I	E			I					E		E				
Castaic Lagoon	403.51	E	E	E	E	E	E			E	E			E					E						
Castaic Lake	403.51	E	E	E	E	E	E			E	E			E					E		E				
Elderberry Forebay	403.51	E	E	E	E	E	E		E	Ek	E			E					E						
Elizabeth Lake Canyon	403.51	I	I	I	I	I	I			I	E			I					E		E		E		
San Francisquito Canyon	403.51																		E						
South Fork (Santa Clara River)	403.51																		E		E				E
Drinkwater Reservoir	403.51	P*				E				Pk	E			P					E						E
Bouquet Canyon	403.51	E I	EI	PI	P I	E	P			Em	E			E	E				E		E				E
Bouquet Canyon	403.52	P	P	P	E	E	P			Em	E			E	E				E				P		E
Dry Canyon Creek	403.51																		E		E				E
Dry Canyon Reservoir	403.51	E	E	E	E	P	P		P	Pk	E			E					E						
Bouquet Reservoir	403.52	E	E	E	E	E	E		P	Pk	E			E					E						

E. Existing beneficial use
P. Potential beneficial use
I. Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.

g Condor refuge.

I Out of service

k Public access to reservoir and its surrounding watershed is prohibited by Los Angeles County Department of Public Works

l The majority of the reach is intermittent, there is a small area of rising ground water creating perennial flow

m Access prohibited by Los Angeles County Department of Public Works in the concrete-channelized areas.

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
SANTA CLARA RIVER WATERSHED (CONT)																									
Mint Canyon Creek	403.51	I	I	I	I	I	I			Im	I			I					E						
Mint Canyon Creek	403.53	I	I	I	I	I	I			Im	I			I					E						
Agua Dulce Canyon Creek	403.54	I	I	I	I	I	I			I	I			I					E						
Agua Dulce Canyon Creek	403.55	I*			I	I	I			I	I			I					E						
Aliso Canyon Creek	403.55	P*			P	E				E	E			E					E						E
Lake Hughes	403.51	P	P	P	P	P	P			E	E			E					E						
Munz Lake	403.51	P	P	P	P	E	P			E	E			E					E						
Lake Elizabeth	403.51	P	P	P	P	P	P			E	E			E					E		E				
CALLEGUAS-CONEJO CREEK WATERSHED																									
Mugu Lagoon c	403.11							E		Pn	E	Ed					E	E	Eo	E	Ee,p	Ef	Ef	Ed	E
Calleguas Creek Estuary c	403.11							P		Pn	E	E					E		E		Ee,p	Ef	Ef		E
Calleguas Creek	403.11	P*			E	E	E			E	E			E	E				E		Ep				E
Calleguas Creek	403.12	P*			E	E	E			Eq	E			E					E						
Revolon Slough	403.11	P*	P		E	E				Eq	E			E					E						E
Beardsley Wash	403.61	P*					E			E	E			E					E						
Conejo Creek	403.12	P*	E	E	E	E				Eq	E			E					E						
Conejo Creek	403.63	P*																	E						
Arroyo Conejo	403.64	P*				I	I			I	I			I					E		E				
Arroyo Conejo	403.68	P*				I	I			I	I			I					E						
Arroyo Santa Rosa	403.63	P*				I	I			I	I			I					E						
Arroyo Santa Rosa	403.65	P*																	E						
North Fork Arroyo Conejo	403.64	P*			E	E				E	E			E					E				E		
Arroyo Las Posas	403.12	P*	P	P	P	E				E	E			E	P				E						
Arroyo Las Posas	403.62	P*	P	P	P	E	E			E	E			E	P				E						
Arroyo Simi	403.62	P*																	E						
Arroyo Simi	403.67	I*	I			I	I			I	I			I					E						
Tapo Canyon Creek	403.66	I*		P	P	I				I	I			I					E						
Tapo Canyon Creek	403.67	I*		P	P	I				I	I			I					E						
Gillibrand Canyon Creek	403.66	I*				I				I	I			I					E						
Gillibrand Canyon Creek	403.67	P*				I				I	I			I					E						
Lake Bard (Wood Ranch Reservoir)	403.67	E	E	E	E	P				Pr	Er			E					E						
LOS ANGELES COUNTY COASTAL STREAMS																									
Arroyo Sequit	404.44	P*				I				E	E			E	E				E		E	E	E		E
San Nicholas Canyon Creek	404.43	P*																	E						

E. Existing beneficial use.
P. Potential beneficial use.
I. Intermittent beneficial use.
E, P, and I shall be protected as required.
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date (see pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
d Limited public access precludes full utilization.
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
m Access prohibited by Los Angeles County DPW in the concrete-channelized areas.
n Area is currently under control of the Navy; swimming is prohibited.
o Marine habitats of the Channel Islands and Mugu Lagoon serve as pinniped haul-out areas for one or more species (i.e., sea lions).
p Habitat of the Clapper Rail.
q Whenever flow conditions are suitable.
r Public access prohibited by Calleguas MWD.

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued)

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
LA COUNTY COASTAL STREAMS (CONT)																									
Los Alisos Canyon Creek	404.42	P*								I	I			I					E		E				
Laguna Canyon Creek	404.42	P*								I	I			I					E		E				
Frijoles Canyon Creek	404.41	P*								I	I			I					E		E				
Trancas Canyon Creek	404.37	E*								Em	E			E					E		E				
Dume Lagoon c	404.36							E		E	E	E			E		E		E		E	Pf	Pf		E
Dume Creek (Zuma Canyon)	404.36	E*								E	E			E					E		Ee	P	P		
Ramirez Canyon Creek	404.36	P*								E	E			E	E				E		E				
Escondido Canyon Creek	404.34	I*								I	I			I					E		E				
Latigo Canyon Creek	404.33	I*								I	I			I					E		E				
Solstice Canyon Creek	404.32	E*								I	I			I					E		E				
Puerco Canyon Creek	404.31	P*								E	E			E					E		E				
Corral Canyon Creek	404.31	I*								I	I			I					E		E				
Carbon Canyon Creek	404.16	P*								I	I			I					E		E				
Las Flores Canyon Creek	404.15	P*								I	I			I					E		E				
Piedra Gorda Canyon Creek	404.14	P*								I	I			I					E		E				
Pena Canyon Creek	404.13	P*								I	I			I					E		E				
Tuna Canyon Creek	404.12	P*								I	I			I	E				E		E				
Topanga Lagoon c	404.11	P*						E		E	E	E		E	E		E		E		Ee	Ef	Ef		E
Topanga Canyon Creek	404.11	P*								I	E			E					E		E				
Santa Ynez Canyon	405.13	P*								I	E			E					E		E				
Santa Ynez Lake (Lake Shrine)	405.13	P*								Pk	E			E					E		E				
Santa Monica Canyon Channel	405.13	P*								Ps	I			P					P						
Rustic Canyon Creek	405.13	P*								I	I			I					E		E				
Sullivan Canyon Creek	405.13	P*								I	I			I					E		E				
Mandeville Canyon Creek	405.13	P*								I	I			I					E		E				
Coastal Streams of Palos Verdes	405.12	P*								I	I			I					E		E				
Canyon Streams trib to Coastal Streams of Palos Verdes	405.12	P*								I	I			I					E		E				
Bixby Slough and Harbor Lake	405.12	P*				I				I	I			I					E		E				
Los Cerritos Wetland c	405.16	P*								E	E			E					E		Et				E
Los Cerritos Channel Estuary c	405.15	P*					E	E		E	E	E		E			E		E		E	Pf	Pf	E	E
Sims Pond	405.15	P*								E	E								Ee		Ee				
Los Cerritos Channel to Estuary	405.16	P*								P	E			P					E						
Colorado Lagoon c	405.12	P*								P	I			I					E						E
Madrona Marsh	405.12	P*								E	E	E		P					E						
Stone Canyon Reservoir	405.13	E*	E	E		P				Pk	E			P					E						
Hollywood Reservoir	405.14	E*	E	E		P				Pk	E			E					E						
Franklin Canyon Reservoir	405.14	E*	E	E		P				Pk	E			E					E						
Upper Franklin Canyon Reservoir	405.14	E*	E	E		P				Pku	E			Pu					E						

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterisked MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed seperately.

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.

c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4)

e One or more rare species utilize all ocean, bays, esturaries, and coastal wetlands for foraging and/or nesting

f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.

k Public access to reservoir and its surrounding watershed is prohibited by the Los Angeles Department of Water and Power.

m Access prohibited by Los Angeles County DPW in the concrete-channelized areas

s Access prohibited by Los Angeles County DPW

t Rare applies only to Agua Magna Canyon & Sepulveda Canyon areas.

u These reservoirs are covered and thus inaccessible.

Table 2-1. Benefical Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
MALIBU CREEK WATERSHED																									
Malibu Lagoon c	404.21							E		E	E						E	E	E		Ee	Ef	Ef		E
Malibu Creek	404.21	P*								E	E			E	E				E		E	E	E		E
Cold Creek	404.21	P*								E	E			E	E				E		E	E	E		E
Las Virgenes Creek	404.22	P*								Em	E			E	P				E		E	P	P		E
Century Reservoir	404.21	P*								E	E			E					E						E
Malibou Lake	404.24	P*						E		E	E			E					E		E				E
Medea Creek	404.23	P*								E	E			E	P				E		E				E
Medea Creek	404.24	I*				I				Em	E			E					E						E
Lindero Creek	404.23	P*								I	I			I					E						E
Triunfo Creek	404.24	P*								Im									E						E
Triunfo Creek	404.26	P*																	E						
Westlake Lake	404.25	P*						E		E	E			E					E						
Potrero Valley Creek	404.25	P*				I				I	I			P					E						
Lake Eleanor Creek	404.25	P*				I				I	I			I					E						
Lake Eleanor	404.26	P*				E				E	E			E					E						
Las Virgenes (Westlake) Reservoir	404.25	E	E	E	E					Pk,v	E			P					E						
Hidden Valley Creek	404.26	I*				I				I	I			I					E						
Lake Sherwood	404.26	P*				E		E		E	E			E					E						E
BALLONA CREEK WATERSHED																									
Ballona Creek Estuary c,w	405.13							E		E	E	E					E	E	E		Ee	Ef	Ef	E	
Ballona Lagoon/ Venice Canals c	405.13							E		E	E	E					E	E	E		Ee	Ef	Ef	E	E
Ballona Wetlands c,v	405.13									E	E	E					E		E		Ee	Ef	Ef	E	E
Del Rey Lagoon c	405.13							E		E	E	E					E		E		Ee	Ef	Ef		E
Ballona Creek to Estuary	405.13	P*								Ps	E			P					P						
Ballona Creek	405.15	P*								Ps	E			P					E						
DOMINGUEZ CHANNEL WATERSHED																									
Dominguez Channel Estuary c,w	405.12							P		Es	E	E					E	E	E		Ee	Ef	Ef		
Dominguez Channel to Estuary	405.12	P*								Ps	E			P					P						
LOS ANGELES RIVER WATERSHED																									
Los Angeles River Estuary c,w	405.12		E					E		E	E	E					E	E	E		Ee	Ef	Ef	P	E
Los Angeles River to Estuary	405.12	P*	P	P	P	E				Es	E			E			E	E	E		E	P	P	Pe	
Los Angeles River	405.21	P*	P			E				E	E			E					E						E
Compton Creek	405.15	P*				E				Es	E			E					E						E

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterized MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See per for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.

c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).

e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting

f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by v inputs.

k Public access to reservoir and its surrounding watershed is prohibited by LADWP

m Access prohibited by Los Angeles County DPW in the concrete-channelized areas

v Public water supply reservoir. Owner prohibits public entry.

w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionally equivalent to estuaries

s Access prohibited by Los Angeles County D

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
LA RIVER WATERSHED (CONTINUED)																									
Rio Hondo below Spreading Grounds	405.15	P*				I				Pm	E			P					I						
Rio Hondo to Spreading Grounds	405.13	P*				I				Im	E			P					I						
Rio Hondo	405.41	P*				I				Im	E			P					I						
Alhambra Wash	405.41	P*				I				Pm	I			P					P		E				
Rubio Wash	405.41	P*				I				Im	I			P					P		E				
Rubio Canyon	405.33	P*				E				I				I					E		E				
Eaton Wash	405.41	P*				I				I				I					E		E				
Eaton Wash (below dam)	405.31	P*				I				Im	I			I					E		E				
Eaton Wash (above dam)	405.31	P*				I				I				I					E						
Eaton Dam and Reservoir	405.31	P*				I				P	Id			I					E						
Eaton Canyon Creek	405.31	P*				E				E	E			E					E						
Arcadia Wash (lower)	405.41	P*				I				Pm	I			P					P						
Arcadia Wash (upper)	405.33	P*				I				Pm	I			P					P						
Santa Anita Wash (lower)	405.41	P*				I				Pm	E			P					P		E				
Santa Anita Wash (upper)	405.33	P*				E				Em	E			P					P		E				
Little Santa Anita Canyon Creek	405.33	P*				I				I	I			E					E						
Big Santa Anita Reservoir	405.33	P*				E				Px	E			E	E				E						
Santa Anita Canyon Creek	405.33	E				E				E	E			E	E				E		E		E	E	E
Winter Creek	405.33	P*				I				I	I			I					E						
East Fork Santa Anita Canyon	405.33	P*				E				E	E			E	E				E						
Sawpit Wash	405.41	I				I				Im	I			I					E		E		E	E	E
Sawpit Canyon Creek	405.41	P*				I				I	I			I					E						
Sawpit Dam And Reservoir	405.41	P*				I				Pm	I			I					E		E				
Monrovia Canyon Creek	405.41	I				I				I	I			I					E						
Arroyo Seco S. Of Devil's Gates. (L)	405.15	P*				I				I	I			P					E						E
Arroyo Seco S. Of Devil's Gates (U)	405.31	P*				I				Im	I			P					P		E				
Devil's Gate Reservoir (lower)	405.31	P*				I				Im	I			P					P		E				
Devil's Gate Reservoir (upper)	405.32	I*				I				I	I			I					E						
Arroyo Seco	405.32	E	E	E		E				Em	E			E	E				E						E
Millard Canyon Creek	405.32	E	E	E		E				E	E			E					E		E				
El Prado Canyon Creek	405.32	P*				I				I	I			I					E						
Little Bear Canyon Creek	405.32	P*				I				I	I			I					E						
Verdugo Wash	405.24	P*				I				Pm	I			P					E						E
Halls Canyon Channel	405.24	P*				I				Im	I			P					E						
Sopver Canyon	405.32	I*				I				Im	I			I					E						
Pickens Canyon	405.24	I*				I				Im	I			I					E						
Shields Canyon	405.24	I	I	I		I				Im	I			I					E						

E Existing beneficial use
P Potential beneficial use
I Intermittent beneficial use
E, P, and I shall be protected as required
* Asterized MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.
a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries
Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody.
Any regulatory action would require a detailed analysis of the area.
m Access prohibited by Los Angeles County DPW in concrete-channelized areas.
x Owner prohibits entry.

Table 2-1. Benefical Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
LA RIVER WATERSHED (CONT)																									
Dunsmore Canyon Creek	405.24	I	I	I		I				I	I			I					E						
Burbank Western Channel	405.21	P*								Pm	I			P					P						
La Tuna Canyon Creek	405.21	P*				I				Im	I			I					E						
Tujunga Wash	405.21	P*				I				Pm	I			P	P				P						
Hansen Flood Control Basin & Lakes	405.23	P*				E				E	E			E	E				E		E				
Lopez Canyon Creek	405.21	P*				I				Im	I			I					E						
Little Tujunga Canyon Creek	405.21	P*				I				Im	E			I					E						
Kagel Canyon Creek	405.23	P*				I				Im	I			I					E						
Big Tujunga Canyon Creek	405.23	P*				E				E	E			E	E				E		E		E		E
Upper Big Tujunga Canyon Creek	405.23	P*				E				E	E			I	P				E						E
Haines Canyon Creek	405.23	P*				I				Im	I			I					E						
Vasquez Creek	405.23	P*				E				E	E			P	P				E						E
Clear Creek	405.23	P*				E				E	E			E	E				E						E
Big Tujunga Reservoir	406.23	P*				E				Pk	E			E	P				E				E		
Mill Creek	405.23	P*				E				E	E			E	E				E						E
Pacoima Wash	405.21	P*				E				Pm	E			E					E		E				
Pacoima Reservoir	405.22	P*				E				E	E			E					E						
Pacoima Canyon Creek	405.22	P*				E				E	E			E	E				E		E		E		E
Stetson Canyon Creek	405.22	P*				I				Pm	E			P					P						
Wilson Canyon Creek	405.22	P*				I				Em	E			I					E						
May Canyon Creek	405.22	P*				I				I	E			I					E						
Sepulveda Flood Control Basin	405.21	P*				E				E	E			E					E						E
Bull Creek	405.21	P*				I				Im	I			I					E						
Los Angeles Reservoir	405.21	E	E	E		P				Pk	E			E					E		E				
Lower Van Norman Reservoir	405.21	E*	E	E		E				E	E			E					E		E				
Solano Reservoir	405.21	E*								Pk,u				Pu					E						
Caballero Creek	405.21	P*				I				Im	I			I					E						
Aliso Canyon Wash and Creek	405.21	P*				I				Im	I			I					E						
Limekiln Canyon Wash	405.21	P*				I				Im	I			I					E						
Browns Canyon Wash and Creek	405.21	P*				I				Im	I			I					E						
Arroyo Calabasas	405.21	P*				I				Pm	I			P					P						
McCoy Canyon Creek	405.21	P*				I				I	I			I					E						
Dry Canyon Creek	405.21	P*				I				Im	I			I					E						
Bell Creek	405.21	P*				I				Im	I			I					E						
Chatsworth Reservoir	405.21	E	E	E		E				P,u	E			E					E						
Dayton Canyon Creek	405.21	P*				I				I	I			I					E						

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for ex at a later date. (See page nore details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea bounderies
Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody.
Any regulatory action would require a detailed analysis of the area.

k Public access to reservoir and its surrounding watershed is prohibited by Los Angeles Department of Water and Power.

m Access prohibited by Los Angeles County DPW in concrete-channelized areas.

u This reservoir is covered and thus inaccessible.

y Currently dry and no plans for restoration.

Tab 1. Beneficial Uses of Inland Surface Waters (Continued). Los Angeles Regional Water Quality Control Board

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET
LOS ANGELES RIVER WATERSHED (CONT)																									
ISOLATED LAKES AND RESERVOIRS:																									
Eagle Rock Reservoir	405.26	E*								Pk	E			P					E						
Echo Lake	405.15	P*								P	E			P					E						
El Dorado Lakes	405.15	P*								E	E			P					E						E
Elysian Reservoir	405.15	E*	E	E						Pk	E			P					E						
Encino Reservoir	405.21	E*	E	E						Pk	E			P					E						
Ivanhoe Reservoir	405.16	E*	E	E						P	E			P					E						
Lincoln Park Lake	405.15	P*								P	E			P					E						
Silver Lake Reservoir	405.15	E*	E	E						P	E			P					E						
Toluca Lake	405.2	P*								Pk	E			P					E						
SAN GABRIEL RIVER WATERSHED																									
San Gabriel River Estuary[c,w]	405.16	E*	E	E			E			E	E	E				E	E	E	E		Es	El	El	P	
San Gabriel River, Firestone Blvd-Estuary	405.15	P*	P	P		I				Em	E			P					E		E				
San Gabriel River: Whittier N-Firestone	405.15	P*	P	P		I				Em	E			P					E		E				
San Gabriel River	405.41	P*				I				Im	I			I					E						
San Gabriel River	405.42	E*	E	E	E	E				E	E			E	E				E		E				
San Gabriel River, Main Stem[z]	405.43	E*	E	E	E	E				E	E			E	E				E		E				
North Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below																							
West Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below																							
East Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below																							
Coyote Creek to Estuary	405.15	P*	P	P						Pm	I			P					P		E				
Whittier Narrows Flood Control Basin	405.41	P*				E				E	E			E					E		P				E
Legg Lake	405.41	P*				E				E	E			E	E				E						
San Jose Creek	405.41	P*				I				Pm	I			I					E						
San Jose Creek	405.511	P*				I				Pm	I			I					E						
Puente Creek	405.41	P*				I				P	I			P					P						
Thompson Wash	405.52	P*				I				Im	I			I					E						
Thompson Creek	405.53	P*				I				Pm	I			I					E		E				
Thompson Creek Dam & Reservoir	405.63	P*				I				P	I			I					E						
Walnut Creek Wash	405.41	P*				I				Im	I			I					E						E
Big Dalton Wash	405.41	P*				I				Pm	I			I					E						
Big Dalton Canyon Creek	405.41	P*				I				P	I			I					E						
Mystic Canyon	405.41	P*				I				P	I			I					E						
Big Dalton Dam & Reservoir	405.41	P*				E				Px	E			E					E						

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
k Public access to reservoir and its surrounding watershed is prohibited by the Los Angeles Department of Water and Power.
w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionally equivalent to estuaries
m Access prohibited by Los Angeles County DPW in concrete-channelized areas
x Owner prohibits entry
u This reservoir is covered and thus inaccessible
z Listed twice in this table (see next page)

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
SAN GABRIEL RIVER WATERSHED (CONT)																									
Bell Canyon Creek	405.41	P*				I				I	I			I					E						
Little Dalton Wash	405.41	P*				I				Pm	I			P					P						
Little Dalton Canyon Creek	405.41	P*				E				E	E			E	E				E						E
San Dimas Wash (lower)	405.41	P*				I				Im	I			I					E		E				
San Dimas Wash (upper)	405.44	P*				E				Im	I			I					E						
San Dimas Dam and Reservoir	405.44	E*				E				Px	E			E	E				E						
San Dimas Canyon Creek	405.44	E*				E				E	E			E	E				E						E
West Fork San Dimas Canyon	405.44	E*				E				E	E			E	P				E						E
Wolfskill Canyon	405.44	E*				E				E	E			E	P				E		E				E
Puddingstone Dam and Reservoir	405.52	E*			E	E				E	E			E	E				E		E				
Puddingstone Wash	405.41	E*				I				Im	I			I					E						
Marshall Creek and Wash	405.41	E*				I				Im	I			I					E						
Marshall Creek and Wash	405.53	E*				I	I			Im	I			I					E		E				E
Live Oak Wash	405.62	E*				I	I			I	I			I					E						
Live Oak Creek And Wash	405.53	E*				E	E			E	E			E					E						
Emerald Creek And Wash	405.53	E*				I	I			Im	I			I					E						
Santa Fe Flood Control Basin	405.41	P*				I				P	I			I					E						E
Bradbury Canyon Creek	405.41	P*				I				P	I			I					E						
Spinks Canyon Creek	405.41	P*				I				I	I			I					E						
Maddock Canyon Creek	405.43	P*				I				I	I			I					E						
Van Tassel Canyon	405.43	P*				I				I	I			I					E		E				
Fish Canyon Creek	405.43	P*				E				E	E			E					E		E		E		E
Roberts Canyon Creek	405.43	P*				I				I	I			I					E		E				E
Morris Reservoir	405.43	E	E	E	E	E			E	P	E			E	E				E				E		
San Gabriel Reservoir	405.43	E	E	E	E	E			E	E	E			E	E				E						
UPPER SAN GABRIEL RIVER TRIBUTARIES																									
San Gabriel River: Main Stem z	405.43	E	E	E	E	E				E	E			E	E				E						E
Cattle Canyon Creek	405.43	P*				E				E	E			E	E				E		E		E		E
Coldwater Canyon Creek	405.43	P*				E				E	E			E	E				E		E		E		E
Cow Canyon Creek	405.43	P*				E				E	E			E	E				E		E		E		E
East Fork San Gabriel River	405.43	P*				E				E	E			E	E				E		E		E		E
Allison Gulch	405.43	P*				E				E	E			E	E				E				E		E
Fish Fork	405.43	P*				E				E	E			E	E				E				E		E

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterisked MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemption at a later date. (See pages more details).

Footnotes are consistent on all beneficial use tables.
a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
m Access prohibited by Los Angeles County DPW in concrete channelized areas.
x Owner prohibits entry.
z Also listed on previous page.

Tab. . Beneficial Uses of Inland Surface Waters (Continued). Los Angeles R. . .ar Water Quality Control Board

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
SAN GABRIEL RIVER WATERSHED (CONT)																									
North Fork San Gabriel River	405.43	P*				E				E	E			E	E				E		E		E		E
Bichota Canyon	405.43	P*				E				E	E			E	E				E		E		E		E
Coldbrook Creek	405.43	P*				E				E	E			E	E				E		E		E		E
Cedar Creek	405.43	P*								I	I			I											
Crystal Lake	405.43	P*				E				E	E			E	E				E		E		E		E
Soldier Creek	405.43	P*								E	E			E	E				E		E		E		E
West Fork San Gabriel River	405.43	P*								I	I			I					E				E		
Bear Creek	405.43	P*				E				E	E			E	E				E		E		E		E
Cogswell Reservoir	405.43	P*				E				E	E			E	E				E		E		E		E
Devils Canyon Creek	405.43	P*				E				E	E			E	E				E		E		E		E
ISLAND WATERCOURSES																									
Anacapa Island	406.10	P*								P				P					E		E				
San Nicolas Island	406.20	P*								P				P					E		Eaa				
Santa Barbara Island	406.30	P*								E	E			P					E		E				
Santa Catalina Island	406.40	E*				E				E	E			P					E		E				
Middle Ranch System	406.40	P*				E				E	E			E					E		E				
San Clemente Island	406.50	E*				E				E	E			E					E		E				
SAN ANTONIO CREEK WATERSHED ab																									
San Antonio Dam And Reservoir	481.23	E		E	E	E			E	E	E			E	E				E				E		
San Antonio Canyon Creek	481.23	E		E	E	E			E	E	E			E	E				E				E		

E Existing beneficial use
P Potential beneficial use
I Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 88-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.
a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed seperately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
aa Habitat of the Channel Island Fox.
ab This watershed is also in Region 8 (801.23).

Table 2-2. Beneficial Uses of Ground Waters.[ac]

DWR [ed] Basin No.	BASIN	MUN	IND	PROC	AGR	AQUA
	PITAS POINT AREA [ae]	E	E	P	E	
4-1	OJAI VALLEY [af]					
	Upper Ojai Valley					
	West of Sulfur Mountain Road	E	E	E	E	
	Central area	E	E	E	E	
	Sisar area	E	E	E	E	
4-2	Lower Ojai Valley					
	West of San Antonio--Senior Canyon Creeks	E	E	E	E	
	East of San Antonio--Senior Canyon Creeks	E	E	E	E	
4-3	VENTURA RIVER VALLEY					
	Upper Ventura	E	E	E	E	
	San Antonio Creek area	E	E	E	E	
	Lower Ventura	P	E	P	E	
	VENTURA CENTRAL [af]					
4-4	Santa Clara--Piru Creek area					
	Upper area (above Lake Piru)	P	E	E	E	
	Lower area east of Piru Creek	E	E	E	E	
	Lower area west of Piru Creek	E	E	E	E	
	Santa Clara--Sespe Creek area					
	Topa Topa (upper Sespe) area	P	E	P	E	
	Fillmore area					
	Pole Creek Fan area	E	E	E	E	
	South side of Santa Clara River	E	E	E	E	
	Remaining Fillmore area	E	E	E	E	E
	Santa Clara--Santa Paula area					
	East of Peck Road	E	E	E	E	
	West of Peck Road	E	E	E	E	
	Oxnard Plain					
	Oxnard Forebay	E	E	E	E	
	Confined aquifers	E	E	E	E	
	Unconfined and perched aquifers	E	P		E	

DWR [ed] Basin No.	BASIN	MUN	IND	PROC	AGR	AQUA
	VENTURA CENTRAL (CONT.)					
4-6	Pleasant Valley					
	Confined aquifers	E	E	E	E	
	Unconfined and perched aquifers	P	E	E	E	
4-7	Arroyo Santa Rosa	E	E	E	E	
4-8	Las Posas Valley					
	South Las Posas area					
	NW of Grimes Cyn Rd. and LA Ave. & Somis Rd	E	E	E	E	
	E of Grimes Cyn Rd and Hitch Blvd	E	E	E	E	
	S of LA Ave between Somis Rd and Hitch Blvd	E	E	E	E	
	Grimes Canyon Rd. and Broadway area	E	E	E	E	
	North Las Posas area	E	E	E	E	
4-5	UPPER SANTA CLARA					
	Acton Valley	E	E	E	E	
	Sierra Pelona Valley (Agua Dulce)	E	E		E	
	Upper Mint Canyon	E	E	E	E	
	Upper Bouquet Canyon	E	P	P	E	
	Green Valley	E	P	P	E	
	Lake Elizabeth-Lake Hughes area	E	P	P	E	
4-4.07	EASTERN SANTA CLARA					
	Santa Clara-Mint Canyon	E	E	E	E	
	South Fork	E	E	E	E	
	Placerita Canyon	E	E	E	E	
	Santa Clara-Bouquet and San Francisquito Canyons	E	E	E	E	
	Castaic Valley	E	E	E	E	
	Saugus Aquifer	E				
4-9	SIMI VALLEY					
	Simi Valley Basin					
	Confined aquifers	E	E	E	E	
	Unconfined aquifers	E	E	E	E	
	Gillibrand Basin	E	E	P	E	
4-10	CONEJO VALLEY	E	E	E	E	

E: Existing beneficial use
P: Potential beneficial use
See pages 2-1 to 2-3 for descriptions of beneficial uses.

Footnotes are consistent for all beneficial use tables.

ac Beneficial uses for ground waters outside of the major basins listed on this table and outlined in Fig. 1-8 have not been specifically listed. However, ground waters outside of the major basins are, in many cases, significant sources of water. Furthermore, ground waters outside of the major basins are either potential or existing sources of water for downgradient basins, and as such, beneficial uses in the downgradient basins shall apply to these areas.

ed Basins are numbered according to California Department of Water Resources (DWR) Bulletin No. 118-80 (DWR, 1980).

ae Ground waters in the Pitas Point area (between the lower Ventura River and Rincon Point) are not considered to comprise a major basin and, accordingly, have not been designated a basin number by the DWR or outlined on Fig. 1-8.

af The Santa Clara River Valley (4-4), Pleasant Valley (4-6), Arroyo Santa Rosa Valley (4-7), and Las Posas Valley (4-8) Ground Water Basins have been combined and designated as the Ventura Central Basin (DWR, 1980).

Table 2-2. Beneficial Uses of Ground Waters (Continued). ac Los Angeles Regional Water Quality Control Board

Table Page 2

DWR ad Basin No.	BASIN	MUN	IND	PROC	AGR	AQUA
4-11	LOS ANGELES COASTAL PLAIN					
	Central Basin	E	E	E	E	E
	West Coast Basin	E	E	E	E	E
	Hollywood Basin	E	E	E	E	
	Santa Monica Basin	E	E	E	E	
4-12	SAN FERNANDO VALLEY	E	E	E	E	E
	Sylmar Basin	E	E	E	E	
	Verdugo Basin	E	E	E	E	E
	San Fernandp Basin					
	West of Highway 405	E	E	E	E	
	East of Highway 405 (overall)	E	E	E	E	E
	Sunland-Tujunga area eg	E	E	E	E	
	Foothill area ag	E	E	E	E	
	Area encompassing RT-Tujunga-Erwin-Crystal Springs-Headworks-Glendale-Burbank Well Fields	E	E	E	E	
	Narrows area (below confluence of Verdugo	E	E	E	E	
	Eagle Rock Basin	E	E	E	E	
4-13	SAN GABRIEL VALLEY	E	E	E	E	E
	Raymond Basin	E	E	E	E	E
	Monk Hill sub-basin	E	E	E	E	
	Santa Anita area	E	E	E	E	
	Pasadena area	E	E	E	E	E
	Main San Gabriel Basin					
	Western area al	E	E	E	E	
	Eastern area	E	E	E	E	E
	Puente Basin	E	E	E	E	

DWR ad Basin No.	BASIN	MUN	IND	PROC	AGR	AQUA
4-14	UPPER SANTA ANA VALLEY					
8-2aj	Live Oak area	E	E	E	E	E
	Claremont Heights area	E	E	E	E	E
	Pomona area	E	E	E	E	
	Chino area	E	E	E	E	
	Spadra area	E	E	E	E	
4-15	TIERRA REJADA	E	P	P	E	
4-16	HIDDEN VALLEY	E	P		E	
4-17	LOCKWOOD VALLEY	E	E		E	
4-18	HUNGRY VALLEY AND PEACE VALLEY	E	P	E	E	
4-19	THOUSAND OAKS AREA	E	E	E	E	
4-20	RUSSELL VALLEY	E	P		E	
	Russell Valley	E	P		E	
	Triunfo Canyon area	P	P		E	
	Lindero Canyon area	P	P		E	
	Las Virgenes Canyon area	E	P		E	
4-21	CONEJO-TIERRA REJADA VOLCANIC AREA ak	E			E	
	SANTA MONICA MOUNTAINS, SOUTHERN SLOPES	E	P		E	
	Camarillo area	E	P		E	
	Point Dume area	E	P		E	
4-22	Malibu Valley	P	P		E	
	Topanga Canyon area	E	P		E	
	SAN PEDRO CHANNEL ISLANDS am					
	Anacapa Island	P	P			
	San Nicolas Island	E	P		E	
	Santa Catalina Island	E	P		E	
	San Clemente Island	P	P			
	Santa Barbara Island	P	P			

E Existing beneficial use
P Potential beneficial use
See pages 2-1 to 2-3 for descriptions of beneficial uses.

Footnotes are consistent for all beneficial use tables.

ac Beneficial uses for ground waters outside of the major basins listed on this table and outlined in Fig. 1-9 have not been specifically listed. However, ground waters outside of the major basins are, in many cases, significant sources of water. Furthermore, ground waters outside of the major basins are either potential or existing sources of water for downgradient basins, and as such, beneficial uses in the downgradient basins shall apply to these areas.

ad Basins are numbered according to DWR Bulletin No. 118-80 (DWR, 1980).

ag The category for the Foothill Wells area in the old Basin Plan incorrectly grouped ground water in the Foothill area with ground water in the Sunland-Tujunga area. Accordingly, the new categories, Foothill area and Sunland-Tujunga area, replace the Foothill Wells area.

ah Nitrite pollution in the groundwater of the Sunland-Tujunga area currently precludes direct MUN uses. Since the ground water in this area can be treated or blended (or both), it retains the MUN designation.

al All of the ground water in the Main San Gabriel Basin is covered by the beneficial uses listed under Main San Gabriel Basin-eastern area and western area. Walnut Creek, Big Dalton Wash and Little Dalton Wash separate the eastern area from the western area (see dashed line on Fig. 2-17). Any ground water upgradient of these areas is subject to downgradient beneficial uses and objectives, as explained in Footnote ac.

aj The border between Regions 4 and 8 crosses the Upper Santa Ana Valley Ground Water Basin.

ak Ground water in the Conejo-Tierra Rejada Volcanic Area occurs primarily in fractured volcanic rocks in the western Santa Monica Mountains and Conejo Mountain areas. These areas have not been delineated on Fig. 1-9 have not been designated a basin number by DWR or outlined on Fig. 1-9.

am DWR has not designated basins for ground waters on the San Pedro Channel Islands.

2-17

B-14

R0002989

Table 2-3. Benefical Uses of Coastal Features.

COASTAL FEATURE [a]	Hydro. Unit No.	MUN	IND	PROC	NAV	POW	REC1	REC2	COMM	WARM	COLD	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET [b]
VENTURA COUNTY COASTAL																				
Nearshore Zone *					E		E	E	E				E	E		Ee	E	E	E	
Offshore Zone					E		E	E	E				E	E		Ee	E	E	E	
Rincon Beach	401.00				E		E	E	E				E	E			E		E	
Ventura River Estuary c	402.00				E		E	E	E	E		E	E	E		Ee	E	E	E	E
Ventura Keys (Marina)	403.11				E		E	E	E			E	E	E			E	E	E	E
Ventura Marina	403.11		E		E		E	E	E				E	E					E	
Santa Clara River Estuary c	403.11				E		E	E	E			E	E	E		Ee	Ef	Ef		E
Mandalay Beach	403.11				E		E	E	E				E	E		Ee			E	
McGrath Lake c	403.11						Ed	Ed	P			E		E		Ee				E
Edison Canal Estuary	403.11		E				Eao	E					E	E		Ee				
Channel Islands Harbor	403.11		E		E		Eap	E	E				E	E						
Mandalay Bay (Marina)	403.11				E		E	E	E				E	E					E	
Port Hueneme (Harbor)	403.11				E		E	E	E				E	E					E	
Ormond Beach	403.11		E		E	E	E	E	E				E	E		Ee		P	E	
Ormond Beach Wetlands c	403.11						E	E				E		E		Ee				E
Mugu Lagoon c	403.11				E		Ep	E	E			E	E	Eo		Ee,p	E	E	Ed	E
Calleguas Creek Estuary c	403.11				P		Ep	E	E			E	E	E		Ee,p	E	E	E	E
LOS ANGELES COUNTY COASTAL																				
Nearshore Zone *					E		E	E	E				E	E	En	Ed	E	E	E	
Offshore Zone					E		E	E	E				E	E		Ee	Ef	Ef	E	
Nicholas Canyon Beach	404.43				E		E	E	E				E	E				P	E	
Trancas Beach	404.38				E		E	E	E				E	E				P	E	
Zuma County (Westward) Beach	404.38				E		E	E	E				E	E				P	E	
Dume State Beach	404.36				E		E	E	E				E	E				P	E	
Dume Lagoon c	404.36				E		E	E	E			E		E		Ee	Ef	Pf		E
Escondido Beach	404.36				E		E	E	E				E	E				P	E	
Dan Blocker Memorial (County) Beach	404.36				E		E	E	E				E	E				P	E	

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Nearshore is defined as the zone bounded by the shoreline and a line 1000 feet from the shoreline or the 30-foot depth contours, whichever is further from the shore line. Longshore extent is from Rincon Creek to the San Gabriel River Estuary.

Footnotes are consistent for all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed seperately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Inland Surface Waters Table (2-1) or in Wetlands Table (2-4).
d Limited public access precludes full utilization.
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
n Area is currently under control of the Navy; swimming is prohibited.
o Marine Habitats of the Channel Islands and Mugu Lagoon serve as pinniped haul-out areas for one or more species (i.e., sea lions).
p Habitat of the Clapper Rail
en Areas of Special Biological Significance (along coast from Latigo Point to Laguna Point) and Big Sycamore Canyon and Abalone Cove Ecological Reserves and Point Fermin Marine Life Refuge.
eo Water contact recreation activities are prohibited by the Southern California Edison Co.
ep Water contact recreational activities are limited to the beach area at the harbor by Marina Authorities.
eq Water contact recreational activities are limited by City of Oxnard to within the easement area of each home.
er Areas exhibiting large shellfish populations include Mal[illegible] Dume, Point Fermin, White Point and Zuma Beach.

Table 2-3. Beneficial Uses of Coastal Features (Continued).

COASTAL FEATURE [a]	Hydro. Unit No.	MUN	IND	PROC	NAV	POW	REC1	REC2	COMM	WARM	COLD	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET [b]
LOS ANGELES COUNTY COASTAL (CONT)																				
Puerco Beach	404.21				E		E	E	E				E	E				P	E	
Amarillo Beach	404.21				E		E	E	E				E	E				P	E	
Malibu Beach	404.21				E		E	E	E				E	E			E	Eas	Ear	
Malibu Lagoon c	404.21				E		E	E				E	E	E		Ee	Ef	Ef		E
Carbon Beach	404.16				E		E	E	E				E	E				P	E	
La Costa Beach	404.16				E		E	E	E				E	E				P	E	
Las Flores Beach	404.15				E		E	E	E				E	E				P	E	
Las Tunas Beach	404.12				E		E	E	E				E	E				P	E	
Topanga Beach	404.11				E		E	E	E				E	E				P	E	
Topanga Lagoon c	404.11				E		E	E	E			E	E	E		Ee	Ef	Ef	E	E
Will Rogers State Beach	405.13				E		E	E	E				E	E				P	E	
Santa Monica Beach	405.13				E		E	E	E				E	E			E	Eas	E	
Venice Beach	405.13				E		E	E	E				E	E		E	E	Eas	E	
Marina Del Rey	405.13				E		E	E	E				E	E					E	
Harbor	405.13				E		E	E	E				E	E					E	
Public Beach Areas	405.13				E		E	E	E				E	E		E				
All other Areas	405.13				E		E	E	E			E	E	E		Ee	Ef	Ef	E	E
Entrance Channel	405.13				E		E	E	E			E	E	E		Ee	Ef	Ef	E	E
Ballona Creek Estuary c,w	405.13				E		E	E	E				E	E		Ee	Ef	Ef	E	
Ballona Lagoon/Venice Canals c	405.13				E		E	E	E			E	E	E		Ee	Ef	Ef	E	E
Ballona Wetlands c	405.13				E		E	E	E			E	E	E		Ee	Ef	Ef	E	E
Del Rey Lagoon c	405.13				E		E	E	E			E	E	E		Ee	Ef	Ef	E	E
Dockweiler Beach	405.12		E		E		E	E	E				E	E				P		
Manhattan Beach	405.12				E		E	E	E				E	E				P	E	
Hermosa Beach	405.12				E		E	E	E				E	E				P	E	
King Harbor	405.12		E		E		E	E	E				E	E		E	E	Eas	E	
Redondo Beach	405.12		E		E		E	E	E				E	E		E	E	Eas	E	
Torrance Beach	405.12				E		E	E	E				E	E		E	E	Eas	E	
Point Vicente Beach	405.12				E		E	E	E				E	E		E	E	Eas	E	
Boyer Palms Beach	405.12				E		E	E	E				E	E		E	E	Eas	E	

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required

Footnotes are consistent for all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries
Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed seperately.

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody
Any regulatory action would require a detailed analysis of the area.

c Coastal waterbodies which are also listed in Inland Surface Waters Table (2-1) or in Wetlands Table (2-4).

e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting

f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development.
This may include migration into areas which are heavily influenced by freshwater inputs.

er Areas exhibiting large shellfish populations include Malibu, Point Dume, Point Fermin, White Point and Zuma Beach

es Most frequently used grunion spawning beaches. Other beaches may be used as well

w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionally equivalent to estuaries.

Table 2-3. Benefical Uses of Coastal Features (Continued).

COASTAL FEATURE [a]	Hydro. Unit No.	MUN	IND	PROC	NAV	POW	REC1	REC2	COMM	WARM	COLD	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET [b]
LOS ANGELES COUNTY COASTAL (CONT)																				
Whites Point County Beach	405.12				E		E	E	E				E	E				P	E	
Cabrillo Beach	405.12				E		E	E	E				E	E			E	Eas	E	
Los Angeles-Long Beach Harbor																				
Outer Harbor	405.12				E		E	E	E				E			E			P	
Marinas	405.12		E		E		E	E	E				E			E			P	
Public Beach Areas	405.12				E		E	E	E				E	E		E		P	E	
All Other Inner Areas	405.12		E		E		P	E	E				E			Ee			P	
Dominguez Channel Estuary c,w	405.12				P		E	E	E			E	E	E		Ee	Ef	Ef		
Los Angeles River Estuary c,w	405.12				E		E	E	E			E	E	E		Ee	Ef	Ef	E	E
Alamitos Bay	405.12				E		E	E	E			E	E	E		E			E	E
Los Cerritos Wetlands c	405.15				E		E	E	E			E		E		Ee	Pf	Pf	E	E
Los Cerritos Channel Estuary c	405.12		E		E		E	E	E			E	E	E		Ee	Ef	Ef	E	
San Gabriel River Estuary c,w	405.11				E		E	E	E			E	E	E		Ee	Ef	Ef	E	
Long Beach Marina	405.12				E		E	E	E				E			E		P		
Public Beach Areas	405.12				E		E	E	E				E			E			P	
All other Areas	405.12						P	E	E				E			E			P	
Marine Stadium	405.12				E		E	E	E				E	E		E	E	Eas	E	
Long Beach	405.12				E		E	E	E				E	E		E	E	Eas	E	
ISLANDS: NEARSHORE ZONES+																				
Anacapa Island	406.10				E		E	E	E				E	Eo	Eat	E		P	E	
San Nicolas Island	406.20				E		E	E	E				E	Eo	Eat	E		P	E	
Begg Rock Nearshore Zone	406.20						E	E	E				E	Eo	Eat	E		P	E	
Santa Barbara Island	406.30				E		E	E	E				E	Eo	Eat	E		P	E	
Santa Catalina Island	409.30				E		E	E	E				E	Eo	Eat	E		P	E	
San Clemente Island	409.30				E		E	E	E				E	Eo	Eat	E		P	E	

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterbred MUN designations are designated under SB 88-63 and RB-03 Some designations may be considered for exemptions at a later date (See pages 2-3 and 2-4 for more details).
+ Nearshore is defined as the zone bounded by the shoreline and a line 1000 feet from the shoreline or the 30-feet depth contours, whichever is further from the shore line.

Footnotes are consistent for all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Inland Surface Waters Table (2-1) or in Wetlands Table (2-4).
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
o Marine Habitats of the Channel Islands and Mugu Lagoon serve as pinniped haul-out areas for one or more species (i.e., sea lions).
w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionally equivalent to estuaries.
se Most frequently used grunion spawning beaches. Other beaches may be used as well.
st Areas of Special Biological Significance or ecological reserves.

Table . . Beneficial Uses of Significant Coastal Wetlands *.

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
Ventura River Estuary c	402.10							E		E	E	E		E			E	E	E		Ee	Ef	Ef	E	E
Santa Clara River Estuary c	403.11							E		E	E	E					E	E	E		Ee	Ef	Ef		E
McGrath Lake c	403.11									Ed	Ed	P					E		E		Ee				E
Ormond Beach Wetlands c	403.11									E	E						E		E		Ee				E
Mugu Lagoon c	403.11							E		Pn	E	Ed					E	E	Eo	E	Ee,p	Ef	Ef	Ed	E
Oume Lagoon c	403.36							E		E	E	E					E		E		Ee	Pf	Pf		E
Malibu Lagoon c	404.21							E		E	E						E	E	E		Ee	Ef	Ef		E
Topanga Lagoon c	404.11							E		E	E	E					E		E		Ee	Ef	Ef		E
Ballona Lagoon/Venice Canals c	405.13							E		E	E	E					E	E	E		Ee	Ef	Ef	E	E
Ballona Wetlands c	405.13									E	E						E		E		Ee	Ef	Ef		E
Del Rey Lagoon c	405.12							E		E	E	E					E		E		Ee	Ef	Ef		E
Los Cerritos Wetlands c	405.15							E		E	E	E					E		E		Ee	Ef	Ef		E

* This list may not be all inclusive. More areas may be added as information becomes available.

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required

Footnotes are consistent for all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Inland Surface Waters Table (2-1) or in Coastal Features Table (2-3).
d Limited public access precludes full utilization.
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
n Area is currently under control of the Navy: swimming is prohibited.
o Marine Habitats of the Channel Islands and Mugu Lagoon serve as pinniped haul-out areas for one or more species (i.e., sea lions).
p Habitat of the Clapper Rail.

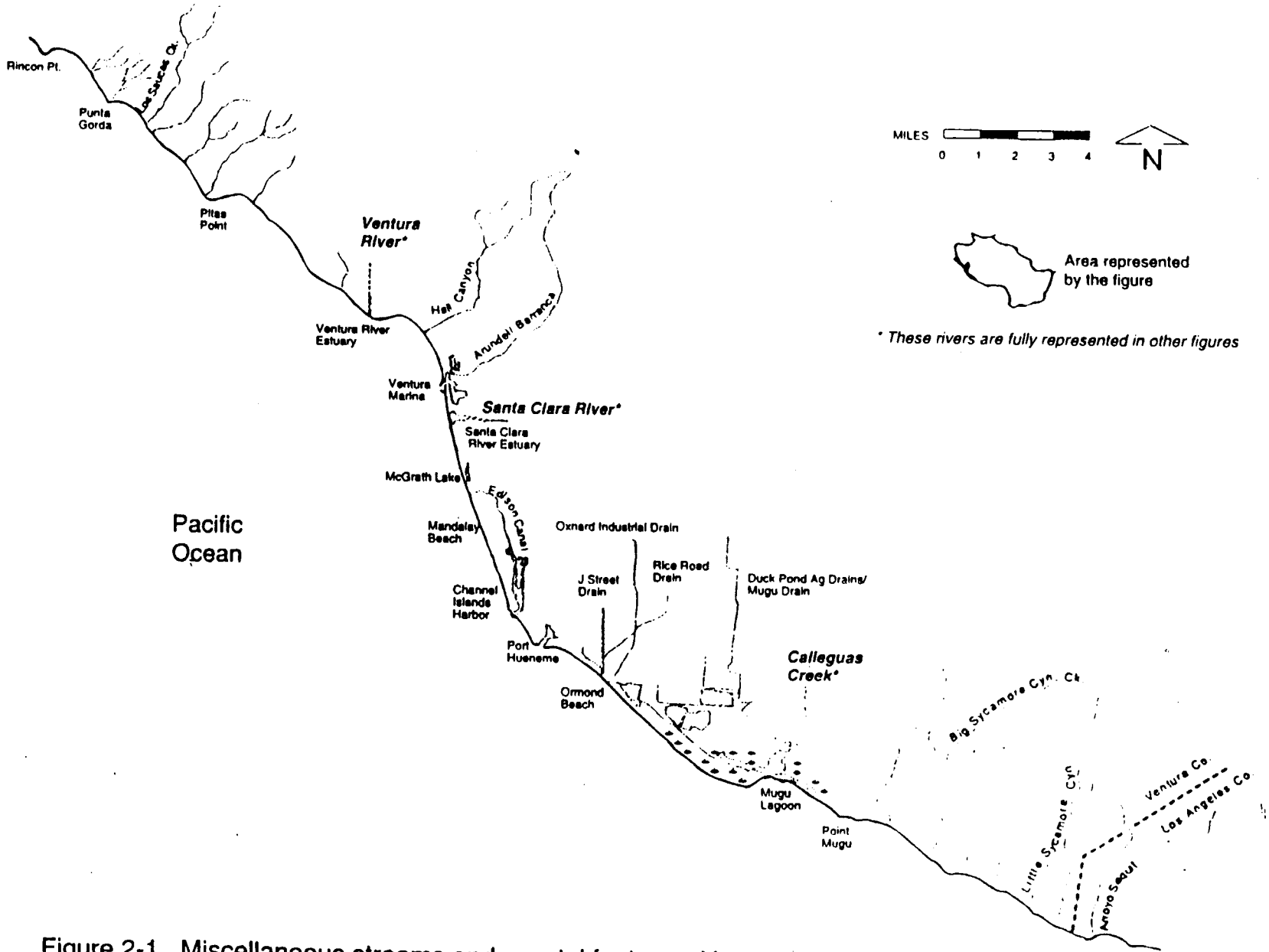


Figure 2-1. Miscellaneous streams and coastal features, Ventura County.

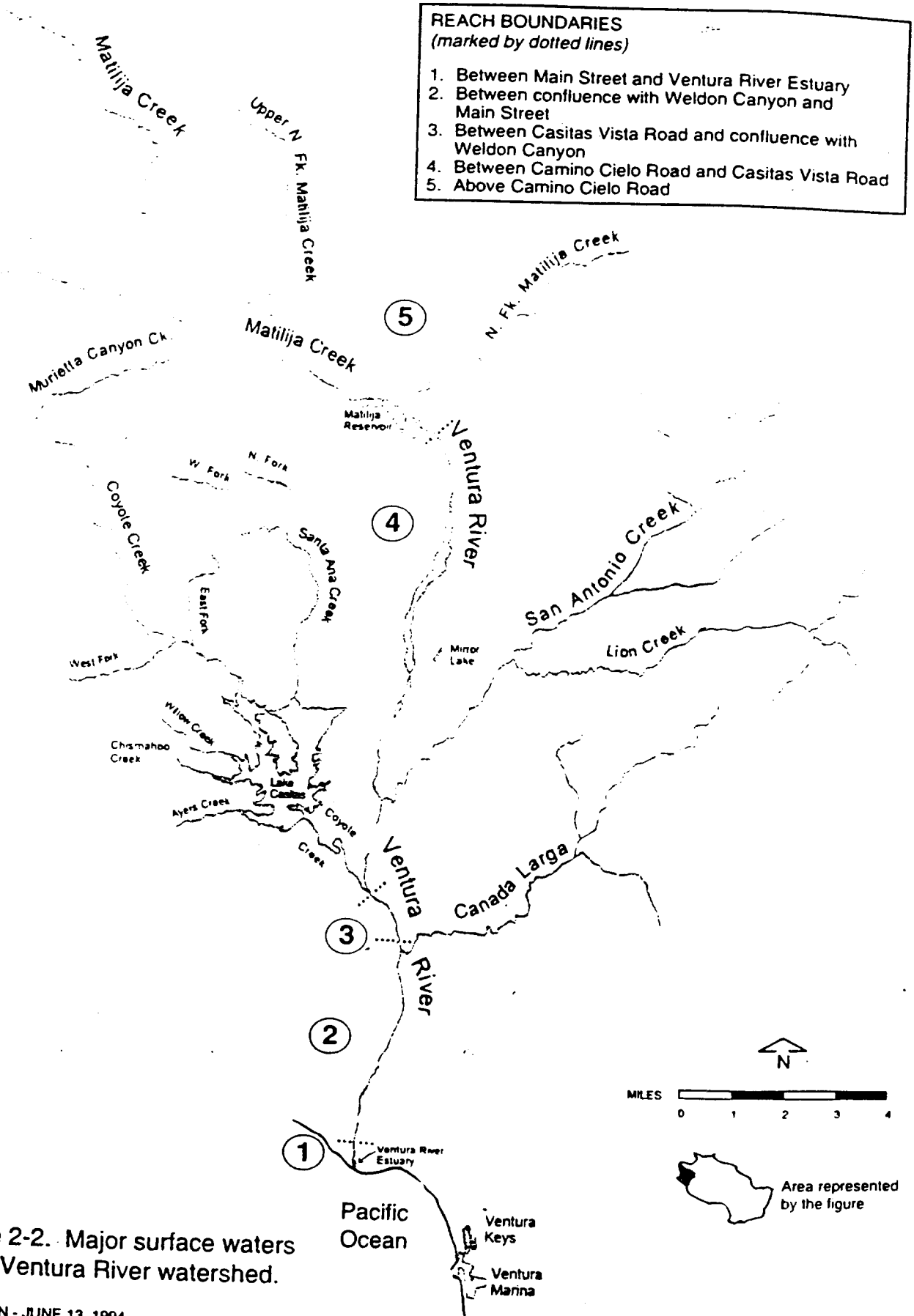
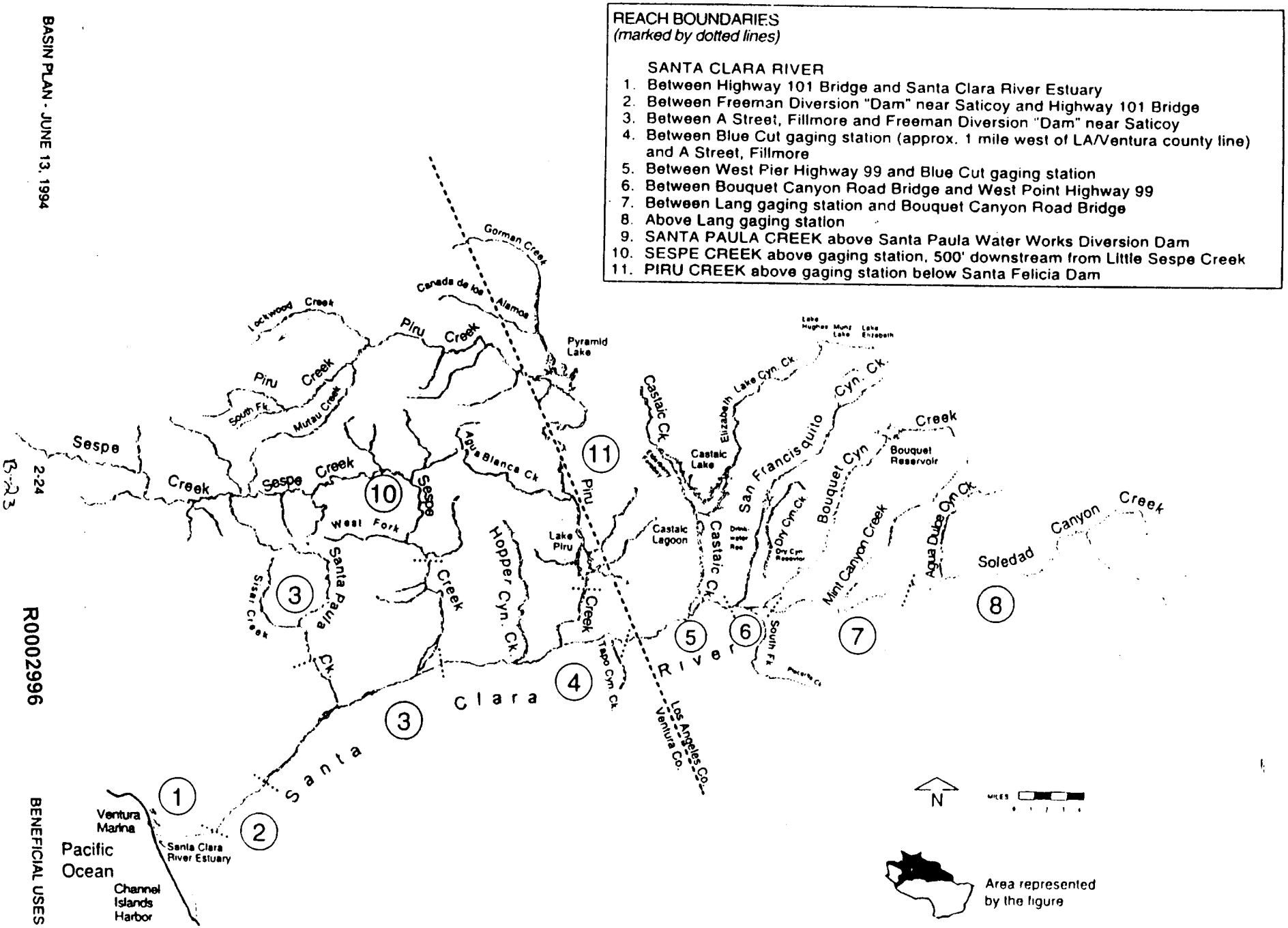
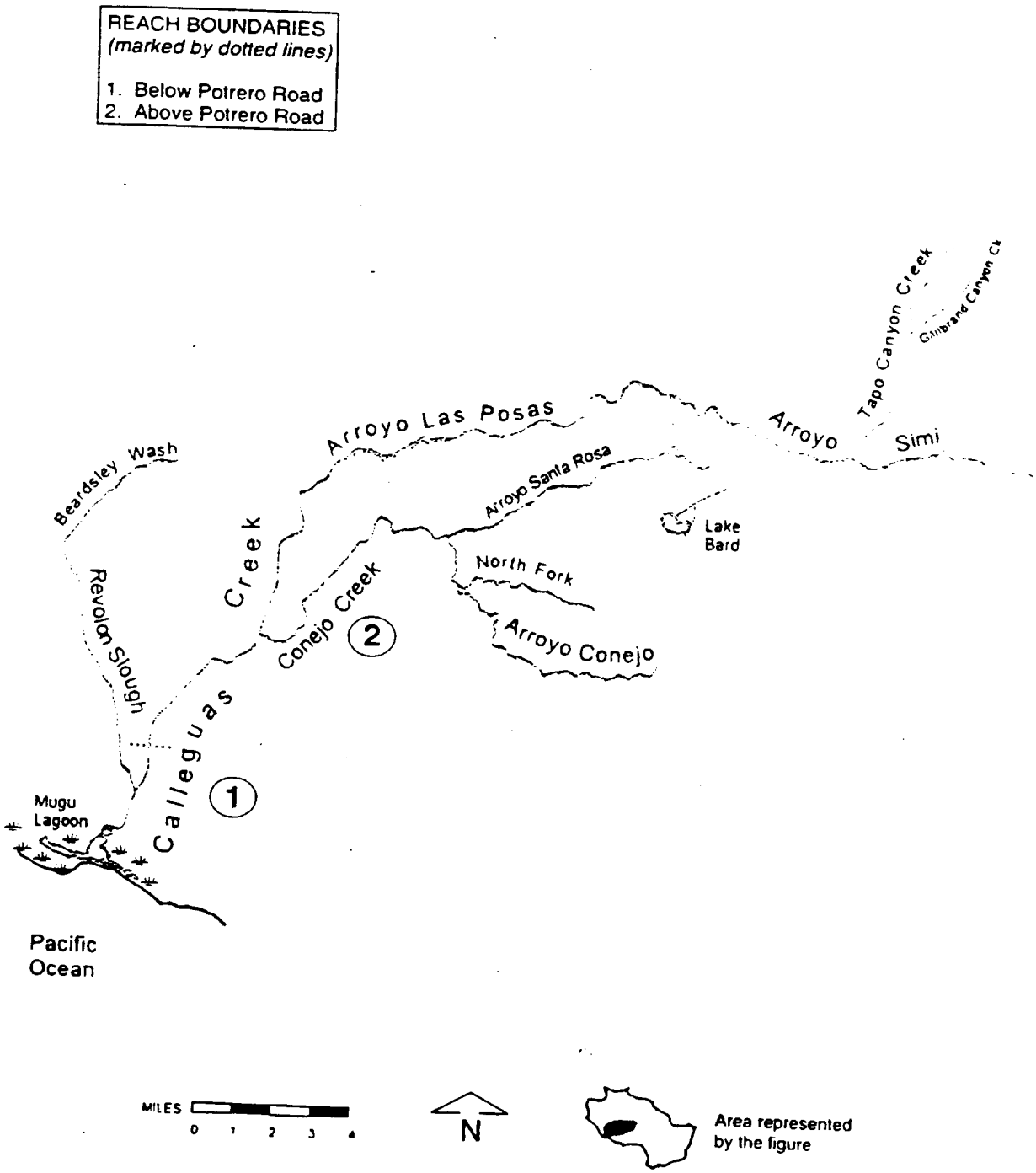


Figure 2-2. Major surface waters of the Ventura River watershed.



ire 2-3. Major surface waters of the Santa Clara r watershed.



R0002997

Figure 2-4. Major surface waters of the Calleguas-Conejo Creek watershed.

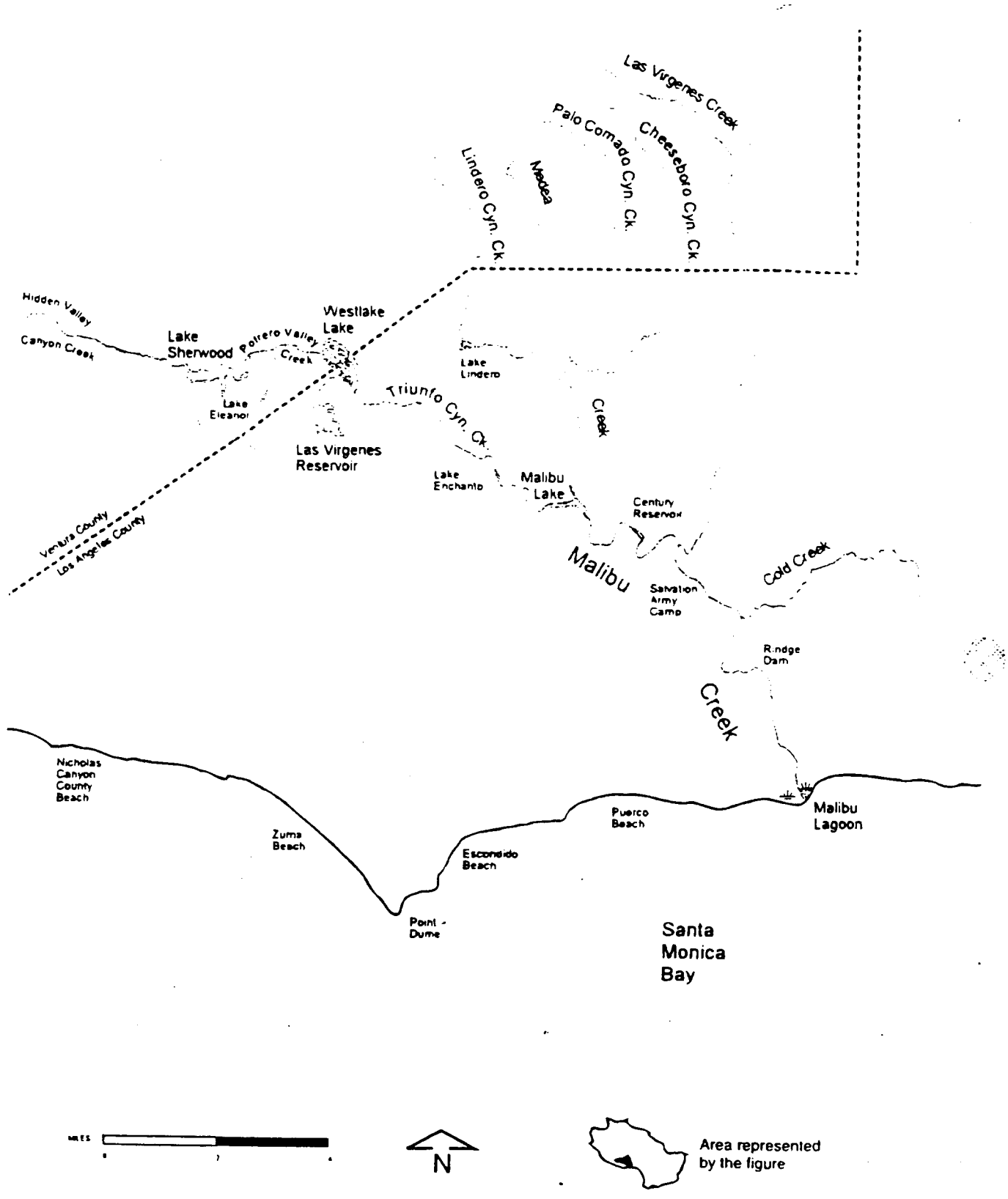


Figure 2-5. Major surface waters of the Malibu Creek watershed. R0002998

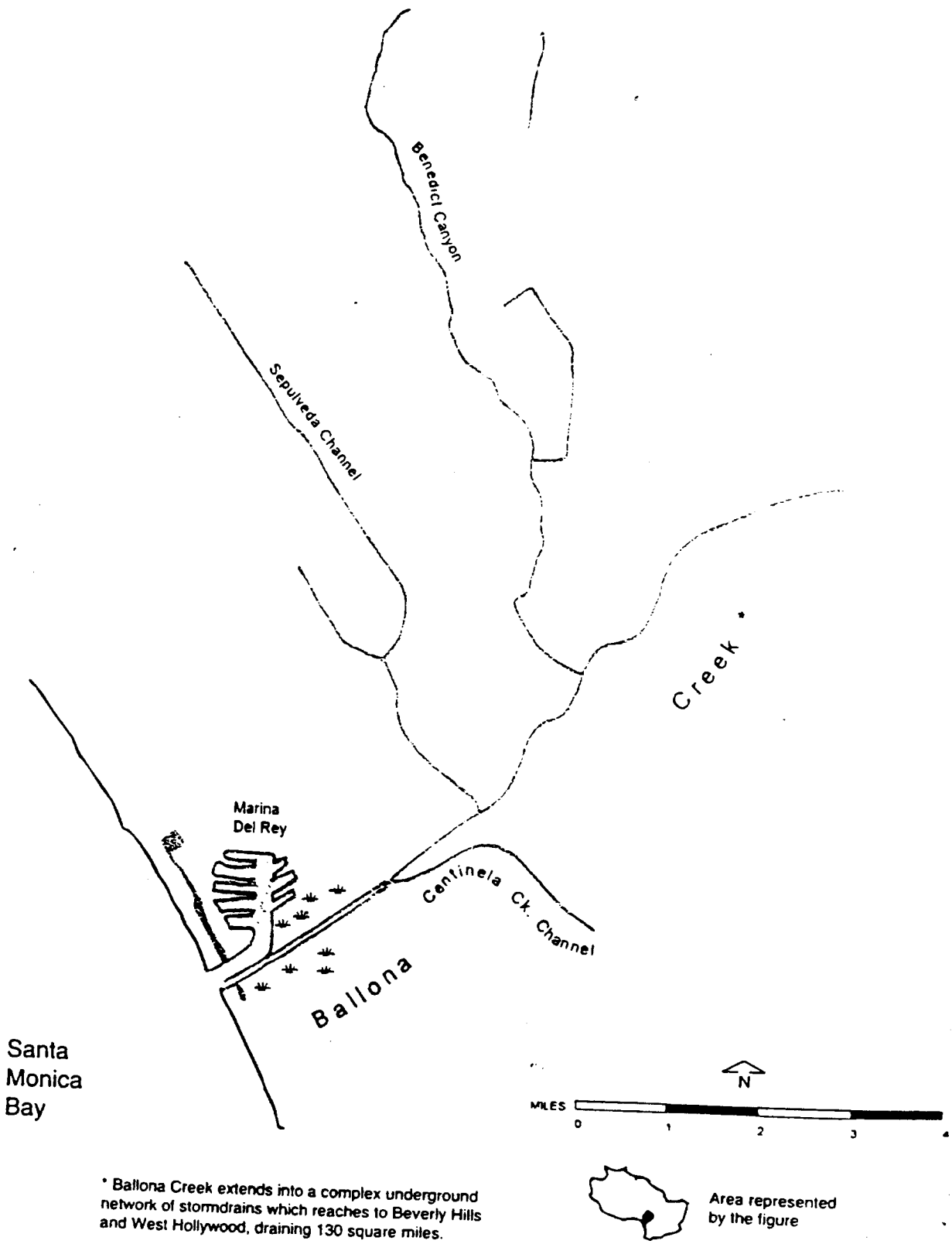


Figure 2-6. Major surface waters of the Ballona Creek watershed.

R0002999

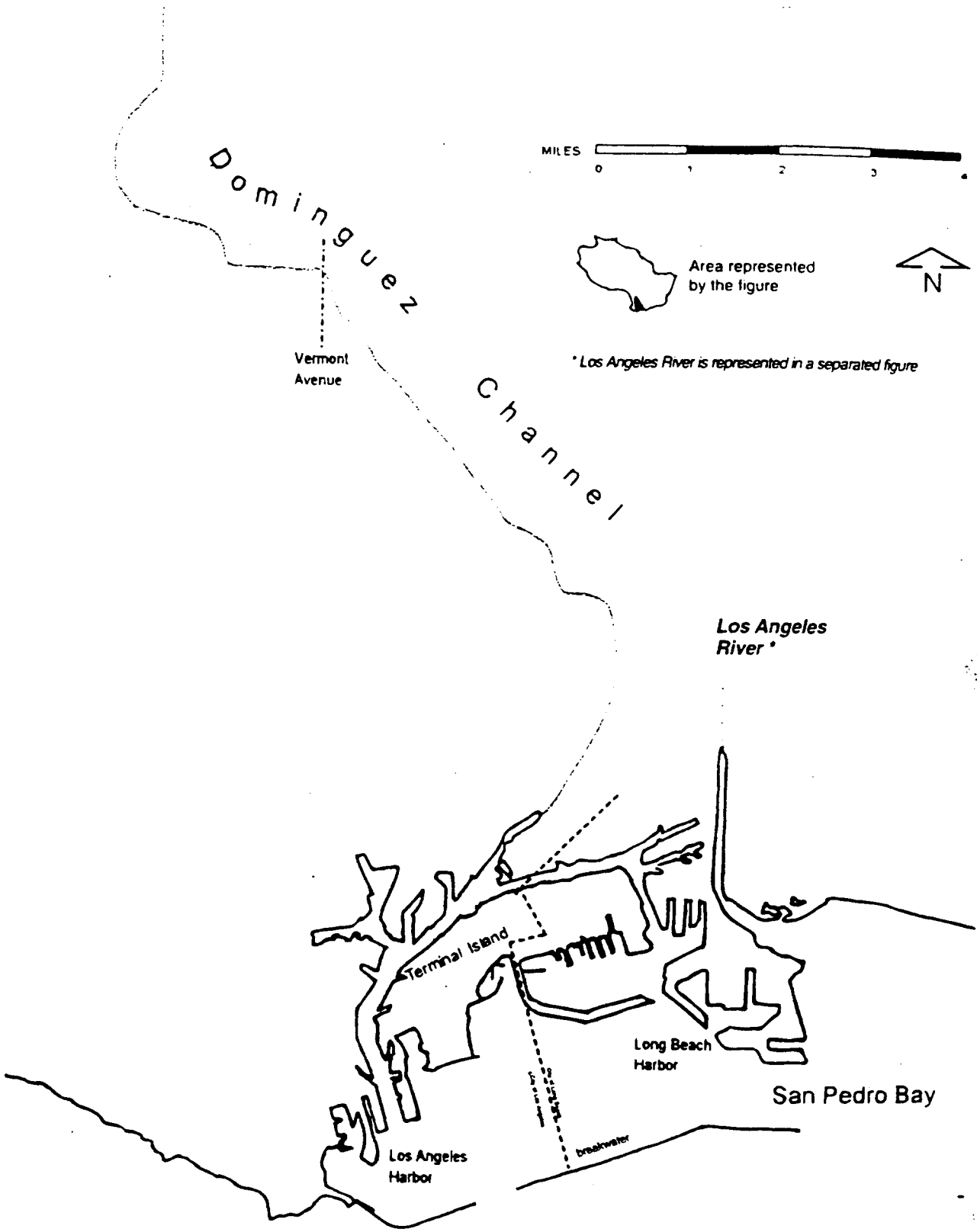


Figure 2-7. Major surface waters of the Dominguez Channel watershed.

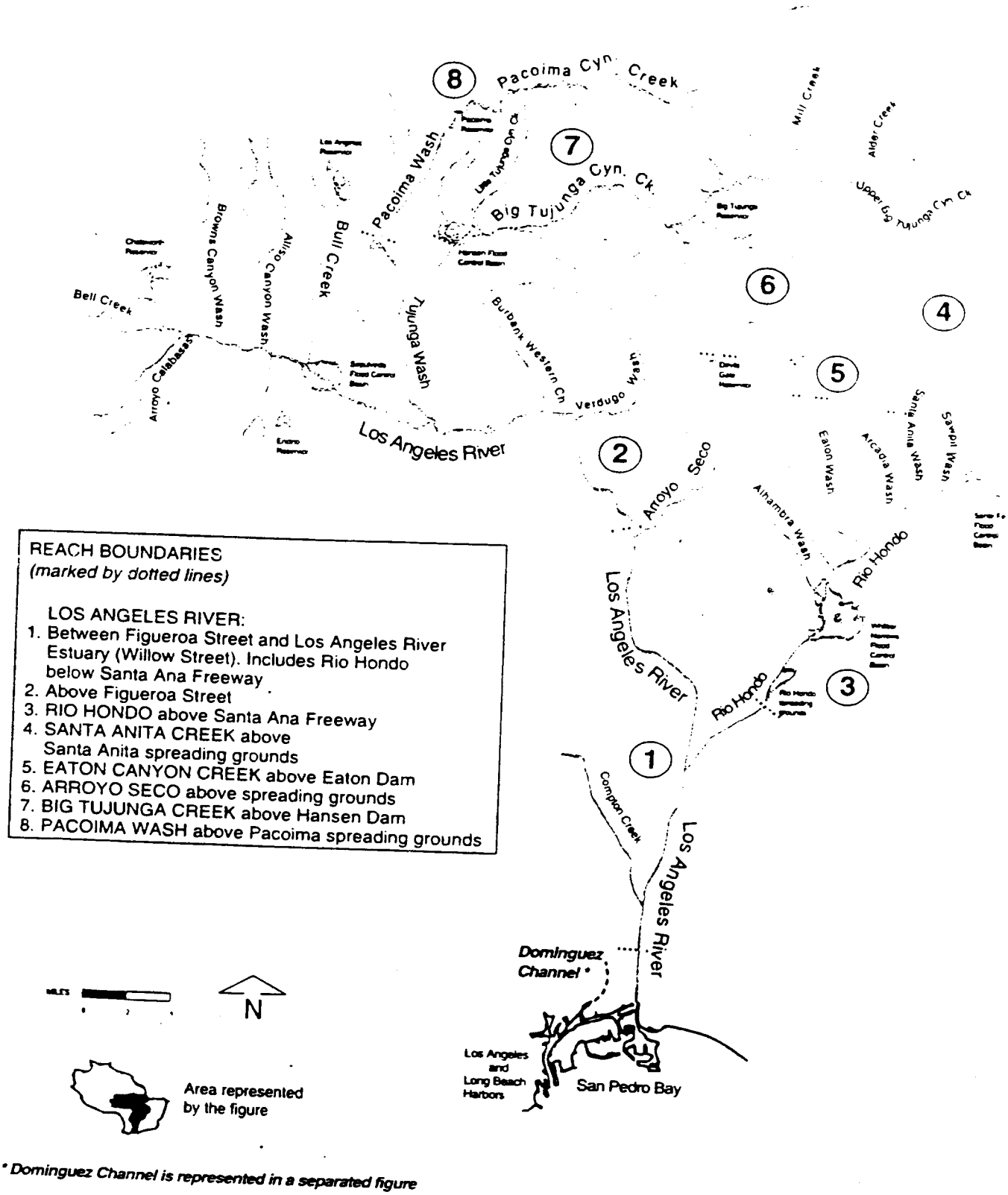


Figure 2-8. Major surface waters of the Los Angeles River watershed.

R0003001

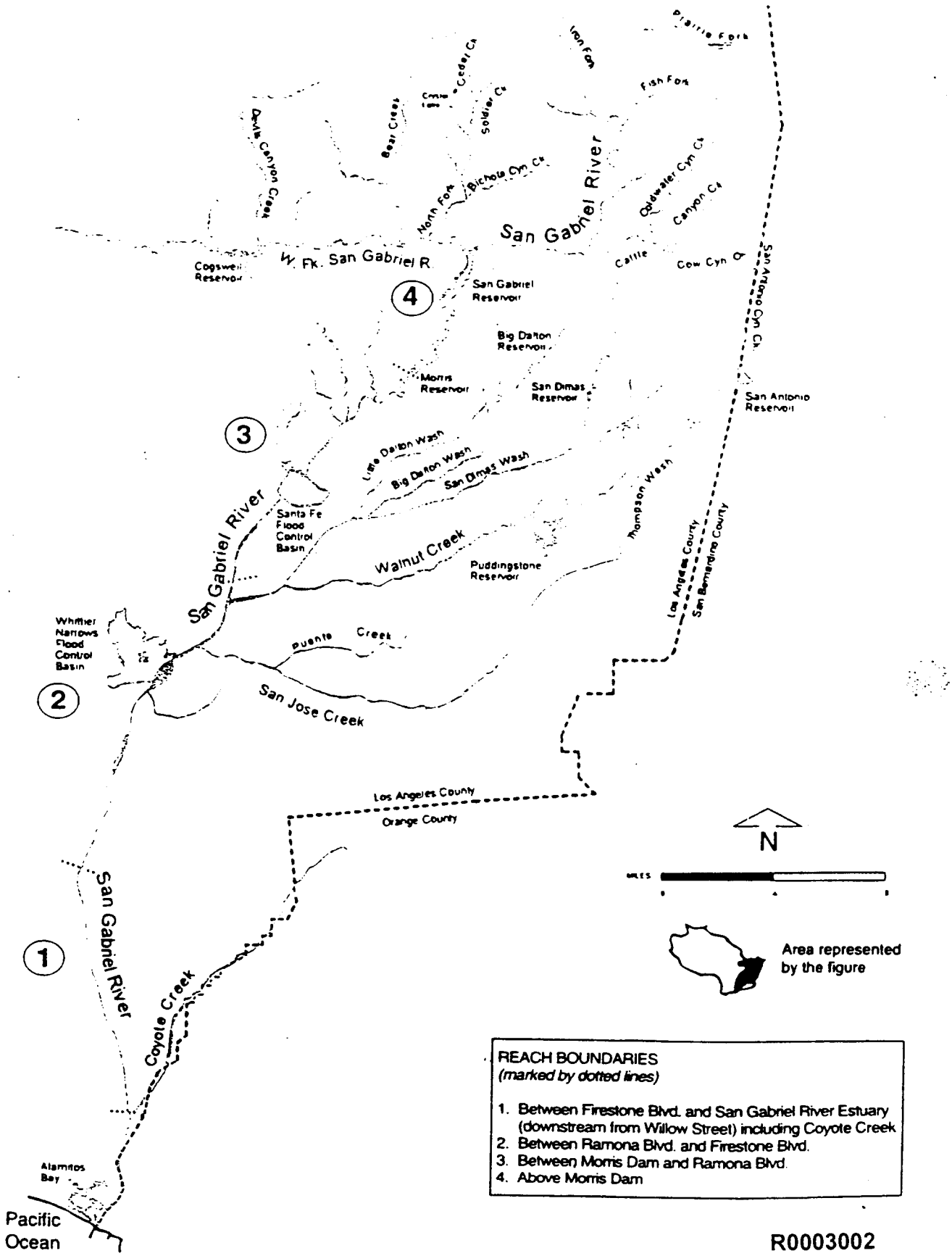


Figure 2-9. Major surface waters of the San Gabriel River watershed.

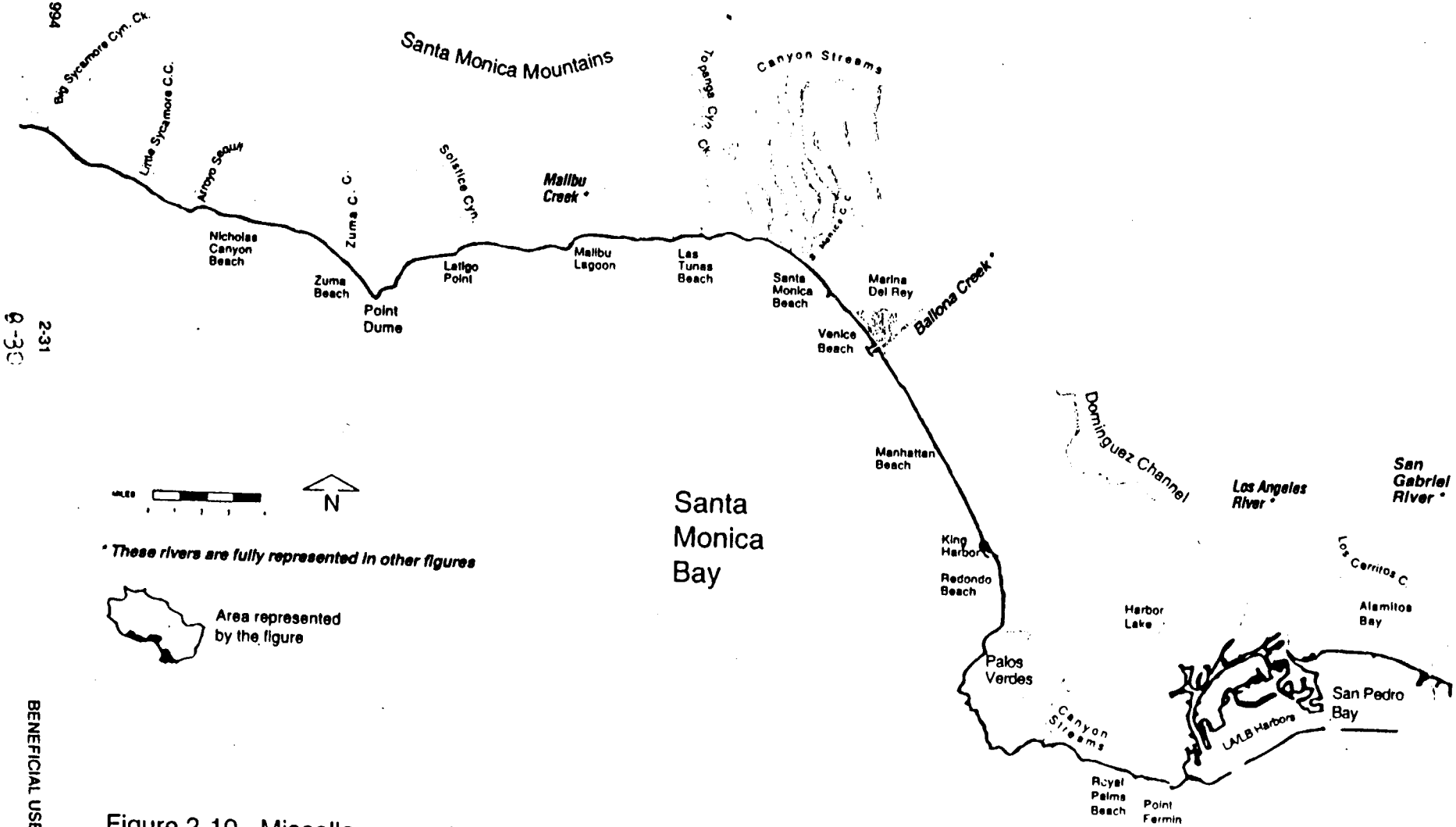
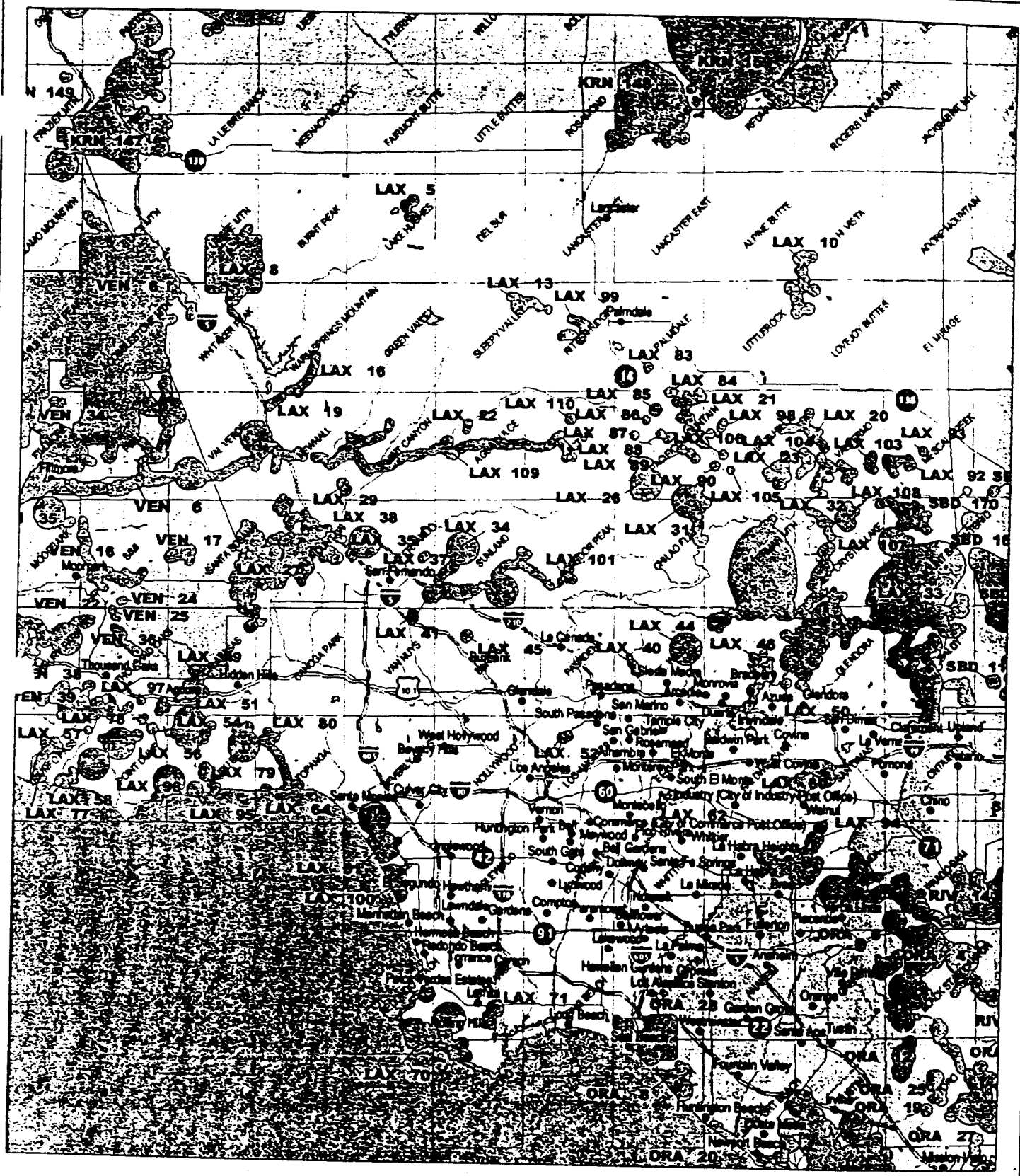


Figure 2-10. Miscellaneous streams and coastal features, Los Angeles County.

FIGURE B-2



Note: Fish and Game Code Sections 1930-1933 direct the Department of Fish and Game to identify and ensure recognition of the State's most significant natural areas. Identification of a Significant Natural Area does not, in itself, prevent a change in the use of the area.

Significant Natural Areas
Los Angeles County

March 2001

R0003004

L. Kenner

FIGURE B-2

California Department of Fish and Game
Significant Natural Areas Program

2001

For more information please call (916) 327-5956

For information about these species or natural communities, or other species or natural communities, please contact the Natural Diversity Database at (916) 324-3812

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 5

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1.363	California Dept. of Parks and Recreation	LAKE HUGHES	Total # of Elements =	3
	Private		Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Southern willow scrub* SOUTHERN WILLOW SCRUB	1	None	None		
EC	*Valley needlegrass grassland* VALLEY NEEDLEGRASS GRASSLAND	1	None	None		
EC	*Wildflower field* WILDFLOWER FIELD	1	None	None		

end of LAX 5

SITE NUMBER LAX 8

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
15.263	Angeles National Forest	BURNT PEAK	Total # of Elements =	7
	Private	LIEBRE MTN.	Extremely Rare Elements (S1) =	1
		WARM SPRINGS MOUNTAIN	Best Example Elements (BX) =	0
		WHITAKER PEAK		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Bufo microscaphus californicus* ARROYO TOAD	1	Endangered	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	1	None	None	SC	
EC	*Falco mexicanus (nesting)* PRAIRIE FALCON	2	None	None	SC	
S1	*Gymnogyps californianus* CALIFORNIA CONDOR	1	Endangered	Endangered		
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	4	None	None		
EC	*Southern mixed riparian forest* SOUTHERN MIXED RIPARIAN FOREST	1	None	None		

end of LAX 8

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 10

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
5,105	Private	ALPINE BUTTE	Total # of Elements =	3
	US Bureau of Land Management	HI VISTA	Extremely Rare Elements (S1) =	0
		LITTLEROCK	Best Example Elements (BX) =	0
		LOVEJOY BUTTES		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Falco mexicanus (nesting)* PRAIRIE FALCON	2	None	None	SC	
EC	*Toxostoma lecontei* LE CONTE'S THRASHER	10	None	None	SC	
EC	*Spermophilus mohavensis* MOHAVE GROUND SQUIRREL	2	None	Threatened		

end of LAX 10

SITE NUMBER LAX 13

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2,248	Private	RITTER RIDGE	Total # of Elements =	6
	US Bureau of Land Management	SLEEPY VALLEY	Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Rana aurora draytonii* CALIFORNIA RED-LEGGED FROG	1	Threatened	None	SC	
EC	*Anniella pulchra pulchra* SILVERY LEGLESS LIZARD	1	None	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	2	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	2	None	None	SC	
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	1	None	None		

end of LAX 13

SITE NUMBER LAX 16

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2,260	Angeles National Forest	NEWHALL	Total # of Elements =	1
	Private	WARM SPRINGS MOUNTAIN	Extremely Rare Elements (S1) =	0
	US Bureau of Land Management		Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	1	None	None		

end of LAX 16

SITE NUMBER LAX 19

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
827	Private	NEWHALL	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		

end of LAX 19

SITE NUMBER LAX 20

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
6,276	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	3
	Private	VALYERMO	Extremely Rare Elements (S1) =	2
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	3	None	None		1B
EC	*Canyon live oak ravine forest* CANYON LIVE OAK RAVINE FOREST	1	None	None		
S1	*Mojave riparian forest* MOJAVE RIPARIAN FOREST	5	None	None		

end of LAX 20

SITE NUMBER LAX 21

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
4,306	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	4
	Private	PACIFICO MOUNTAIN	Extremely Rare Elements (S1) =	2
	US Bureau of Land Management	PALMDALE	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	10	None	None		1B
EC	*Bufo microscaphus californicus* ARROYO TOAD	1	Endangered	None	SC	
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	1	None	None	SC	
S1	*Mojave riparian forest* MOJAVE RIPARIAN FOREST	2	None	None		

end of LAX 21

SITE NUMBER LAX 22

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
451	Private	AGUA DULCE	Total # of Elements =	3
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Gasterosteus aculeatus williamsoni* UNARMORED THREESPINE STICKLEBACK	1	Endangered	Endangered		
EC	*Gila orcutti* ARROYO CHUB	1	None	None	SC	
EC	*Southern riparian scrub* SOUTHERN RIPARIAN SCRUB	1	None	None		

end of LAX 22

SITE NUMBER LAX 23

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2,629	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Mojave riparian forest* MOJAVE RIPARIAN FOREST	2	None	None		

end of LAX 23

SITE NUMBER LAX 26

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
4,554	Angeles National Forest	CHILAO FLAT	Total # of Elements =	3
	Private	PACIFICO MOUNTAIN	Extremely Rare Elements (S1) =	2
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Arctostaphylos gabrielensis* SAN GABRIEL MANZANITA	1	None	None		1B
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	2	None	None		1B
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	1	None	None		

end of LAX 26

SITE NUMBER LAX 27

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
26.201	Private	CALABASAS	Total # of Elements =	11
	US Bureau of Land Management	CANOGA PARK	Extremely Rare Elements (S1) =	0
		NEWHALL	Best Example Elements (BX) =	0
		OAT MOUNTAIN		
		SANTA SUSANA		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Deinandra minthornii* SANTA SUSANA TARPLANT	14	None	Rare		1B
EC	*Dudleya multicaulis* MANY-STEMMED DUDLEYA	1	None	None		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Scaphiopus hammondii* WESTERN SPADEFOOT	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
EC	*Neotoma lepida intermedia* SAN DIEGO DESERT WOODRAT	4	None	None	SC	
EC	*California walnut woodland* CALIFORNIA WALNUT WOODLAND	12	None	None		
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	2	None	None		
EC	*Southern mixed riparian forest* SOUTHERN MIXED RIPARIAN FOREST	3	None	None		
EC	*Southern willow scrub* SOUTHERN WILLOW SCRUB	1	None	None		
EC	*Valley oak woodland* VALLEY OAK WOODLAND	1	None	None		

end of LAX 27

SITE NUMBER LAX 29

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
762	Private	MINT CANYON	Total # of Elements =	1
	US Bureau of Land Management	NEWHALL	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	2	None	None		1B

end of LAX 29

SITE NUMBER LAX 31

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
5,346	Angeles National Forest	CHILAO FLAT	Total # of Elements =	5
	Private	JUNIPER HILLS	Extremely Rare Elements (S1) =	1
		PACIFICO MOUNTAIN	Best Example Elements (BX) =	0
		WATERMAN MTN.		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Calochortus palmeri var palmeri* PALMER'S MARIPOSA LILY	1	None	None		1B
EC	*Calochortus striatus* ALKALI MARIPOSA LILY	1	None	None		1B
EC	*Castilleja gleasonii* MT. GLEASON INDIAN PAINTBRUSH	3	None	Rare		1B
EC	*Linanthus concinnus* SAN GABRIEL LINANTHUS	1	None	None		1B
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 31

SITE NUMBER LAX 32

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
238	Angeles National Forest	VALYERMO	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Orobanche valida ssp valida* ROCK CREEK BROOMRAPE	1	None	None		1B

end of LAX 32

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 33

Approximate Acreage
94.210

Owner / Management
Angeles National Forest
Private
San Bernardino National Forest

7.5' Quads
AZUSA
CRYSTAL LAKE
CUCAMONGA PEAK
GLENDORA
MESCAL CREEK
MOUNT SAN ANTONIO
MT. BALDY
ONTARIO
VALYERMO
WATERMAN MTN

Element Totals

Total # of Elements =	18
Extremely Rare Elements (S1) =	7
Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Berberis nevinii* NEVIN'S BARBERRY	1	Endangered	Endangered		1B
S1	*Dudleya densiflora* SAN GABRIEL MOUNTAINS DUDLEYA	1	None	None		1B
S1	*Eriogonum microthecum var johnstonii* JOHNSTON'S BUCKWHEAT	1	None	None		1B
EC	*Lilium parryi* LEMON LILY	5	None	None		1B
EC	*Monardella macrantha ssp hallii* HALL'S MONARDELLA	1	None	None		1B
S1	*Orobanche valida ssp valida* ROCK CREEK BROOMRAPE	1	None	None		1B
EC	*Parnassia cirrata* FRINGED GRASS-OF-PARNASSUS	1	None	None		1B
S1	*Catostomus santaanae* SANTA ANA SUCKER	2	Threatened	None	SC	
EC	*Gila orcutti* ARROYO CHUB	2	None	None	SC	
S1	*Rhinichthys osculus ssp 3* SANTA ANA SPECKLED DACE	2	None	None	SC	
S1	*Batrachoseps gabrieli* SAN GABRIEL SLENDER SALAMANDER	5	None	None		
EC	*Rana muscosa* MOUNTAIN YELLOW-LEGGED FROG	6	Proposed Endangered	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	2	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
EC	*Ovis canadensis nelsoni* NELSON'S BIGHORN SHEEP	2	None	None		
EC	*Canyon live oak ravine forest* CANYON LIVE OAK RAVINE FOREST	41	None	None		
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	3	None	None		

end of LAX 33

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 34

Approximate Acreage
14,479

Owner / Management
Angeles National Forest
Private

7.5' Quads
CONDOR PEAK
SAN FERNANDO
SUNLAND

Element Totals
Total # of Elements = 10
Extremely Rare Elements (S1) = 4
Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Calochortus plummerae* PLUMMER'S MARIPOSA LILY	1	None	None		1B
S1	*Dodecahema leptoceras* SLENDER-HORNED SPINEFLOWER	1	Endangered	Endangered		1B
S1	*Malacothamnus davidsonii* DAVIDSON'S BUSH MALLOW	1	None	None		1B
S1	*Catostomus santaanae* SANTA ANA SUCKER	1	Threatened	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Cnemidophorus hyperythrus* ORANGE-THROATED WHIPTAIL	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	3	None	None		
EC	*Southern mixed riparian forest* SOUTHERN MIXED RIPARIAN FOREST	2	None	None		

end of LAX 34

SITE NUMBER LAX 35

Approximate Acreage
3,710

Owner / Management
Angeles National Forest
Private

7.5' Quads
SAN FERNANDO

Element Totals
Total # of Elements = 2
Extremely Rare Elements (S1) = 1
Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Malacothamnus davidsonii* DAVIDSON'S BUSH MALLOW	1	None	None		1B
EC	*Vireo bellii pusillus (nesting)* LEAST BELL'S VIREO	1	Endangered	Endangered		

end of LAX 35

SITE NUMBER LAX 37

Approximate Acreage
392

Owner / Management
Angeles National Forest
Private

7.5' Quads
SAN FERNANDO

Element Totals
Total # of Elements = 1
Extremely Rare Elements (S1) = 1
Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Malacothamnus davidsonii* DAVIDSON'S BUSH MALLOW	1	None	None		1B

end of LAX 37

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 38

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
355	Private	OAT MOUNTAIN	Total # of Elements =	1
		SAN FERNANDO	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Calochortus clavatus var gracilis* SLENDER MARIPOSA LILY	2	None	None		1B

end of LAX 38

SITE NUMBER LAX 40

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
727	Angeles National Forest	MT. WILSON	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		

end of LAX 40

SITE NUMBER LAX 41

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
588	Private	VAN NUYS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		

end of LAX 41

SITE NUMBER LAX 44

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
3,285	Angeles National Forest	MT. WILSON	Total # of Elements =	3
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Galium grande* SAN GABRIEL BEDSTRAW	2	None	None		1B
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
EC	*Cypseloides niger (nesting)* BLACK SWIFT	1	None	None	SC	

end of LAX 44

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Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 45

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
515	County-City-Regional Parks and Preserves	BURBANK	Total # of Elements =	2
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Malacothamnus davidsonii* DAVIDSON'S BUSH MALLOW	1	None	None		1B
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	

end of LAX 45

SITE NUMBER LAX 46

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
4,985	Angeles National Forest	AZUSA	Total # of Elements =	4
	Private	BALDWIN PARK	Extremely Rare Elements (S1) =	3
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Dudleya cymosa ssp crebrifolia* SAN GABRIEL RIVER DUDLEYA	1	None	None		1B
S1	*Dudleya densiflora* SAN GABRIEL MOUNTAINS DUDLEYA	4	None	None		1B
EC	*Vireo bellii pusillus (nesting)* LEAST BELL'S VIREO	2	Endangered	Endangered		
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		

end of LAX 46

SITE NUMBER LAX 49

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
4,345	County-City-Regional Parks and Preserves	CALABASAS	Total # of Elements =	4
	National Seashore or National Recreation Area		Extremely Rare Elements (S1) =	1
	Private		Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Chorizanthe parryi var fernandina* SAN FERNANDO VALLEY SPINEFLOWER	1	Candidate	Candidate		1B
EC	*California walnut woodland* CALIFORNIA WALNUT WOODLAND	1	None	None		
EC	*Valley needlegrass grassland* VALLEY NEEDLEGRASS GRASSLAND	1	None	None		
EC	*Valley oak woodland* VALLEY OAK WOODLAND	3	None	None		

end of LAX 49

SITE NUMBER LAX 50

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals
357	Angeles National Forest	AZUSA	Total # of Elements = 1
	Private		Extremely Rare Elements (S1) = 1
			Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Dudleya densiflora* SAN GABRIEL MOUNTAINS DUDLEYA	1	None	None		1B

end of LAX 50

SITE NUMBER LAX 51

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals
831	California Dept. of Parks and Recreation	CALABASAS	Total # of Elements = 2
	Private	POINT DUME	Extremely Rare Elements (S1) = 2
		THOUSAND OAKS	Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Dudleya cymosa ssp agourensis* SANTA MONICA MTNS. DUDLEYA	2	Threatened	None		1B
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	2	Endangered	Endangered		1B

end of LAX 51

SITE NUMBER LAX 52

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals
621	Private	LOS ANGELES	Total # of Elements = 1
			Extremely Rare Elements (S1) = 1
			Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Walnut forest* WALNUT FOREST	1	None	None		

end of LAX 52

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 54

Approximate Acreage
5,864

Owner / Management
California Dept. of Parks and Recreation
County-City-Regional Parks and Preserves
National Seashore or National Recreation Area
Other Conservancy; Land Trust; Private University
Private
Water Districts etc.

7.5' Quads
CALABASAS
MALIBU BEACH
POINT DUME

Element Totals
Total # of Elements = 6
Extremely Rare Elements (S1) = 2
Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Bacchans malibuensis* MALIBU BACCHARIS	5	None	None		1B
EC	*Calochortus plummerae* PLUMMER'S MARIPOSA LILY	1	None	None		1B
EC	*Dudleya cymosa ssp marcescens* MARCESCENT DUDLEYA	3	Threatened	Rare		1B
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	1	Endangered	Endangered		1B
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	2	None	None	SC	
EC	*Valley oak woodland* VALLEY OAK WOODLAND	1	None	None		

end of LAX 54

SITE NUMBER LAX 56

Approximate Acreage
434

Owner / Management
County-City-Regional Parks and Preserves
National Seashore or National Recreation Area
Private

7.5' Quads
POINT DUME

Element Totals
Total # of Elements = 1
Extremely Rare Elements (S1) = 1
Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Bacchans malibuensis* MALIBU BACCHARIS	1	None	None		1B

end of LAX 56

SITE NUMBER LAX 57

Approximate Acreage
238

Owner / Management
Other Conservancy; Land Trust; Private University
Private

7.5' Quads
POINT DUME

Element Totals
Total # of Elements = 1
Extremely Rare Elements (S1) = 1
Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	1	Endangered	Endangered		1B

end of LAX 57

SITE NUMBER LAX 58

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1.544	California Dept. of Parks and Recreation	POINT DUME	Total # of Elements =	7
7.406	County-City-Regional Parks and Preserves	TRIUNFO PASS	Extremely Rare Elements (S1) =	1
	National Seashore or National Recreation Area		Best Example Elements (BX) =	0
	Other Conservancy; Land Trust; Private University			
	Private			
	Water Districts etc.			

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Calochortus plummerae* PLUMMER'S MARIPOSA LILY	2	None	None		1B
EC	*Deinandra minthornii* SANTA SUSANA TARPLANT	3	None	Rare		1B
EC	*Dudleya cymosa ssp marcescens* MARCESCENT DUDLEYA	1	Threatened	Rare		1B
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	2	Endangered	Endangered		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Cnemidophorus tigris multiscutatus* COASTAL WESTERN WHIPTAIL	1	None	None		

end of LAX 58

SITE NUMBER LAX 60

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
5.248	Private	BALDWIN PARK	Total # of Elements =	4
		SAN DIMAS	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Campylorhynchus brunneicapillus couesi* COASTAL CACTUS WREN	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
EC	*California walnut woodland* CALIFORNIA WALNUT WOODLAND	6	None	None		
S1	*Walnut forest* WALNUT FOREST	3	None	None		

end of LAX 60

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 61

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
6,774	Private	BEVERLY HILLS VENICE	Total # of Elements =	10
			Extremely Rare Elements (S1) =	3
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Centromadia parryi ssp australis* SOUTHERN TARPLANT	1	None	None		1B
EC	*Tryonia imitator* MIMIC TRYONIA (=CALIFORNIA BRACKISHWATER SNAIL)	1	None	None		
S1	*Trigonoscuta dorothea dorothea* DOROTHY'S EL SEGUNDO DUNE WEEVIL	1	None	None		
S1	*Brennania belkini* BELKIN'S DUNE TABANID FLY	1	None	None		
EC	*Danaus plexippus* MONARCH BUTTERFLY	2	None	None		
S1	*Panoquina errans* WANDERING (=SALTMARSH) SKIPPER	3	None	None		
EC	*Athene cunicularia (burrow sites)* BURROWING OWL	1	None	None	SC	
EC	*Passerculus sandwichensis beldingi* BELDING'S SAVANNAH SPARROW	1	None	Endangered		
EC	*Sterna antillarum browni (nesting colony)* CALIFORNIA LEAST TERN	1	Endangered	Endangered		
EC	*Southern coastal salt marsh* SOUTHERN COASTAL SALT MARSH	1	None	None		

end of LAX 61

SITE NUMBER LAX 62

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
491	Private	EL MONTE	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Ribes divaricatum var parishii* PARISH'S GOOSEBERRY	2	None	None		1B

end of LAX 62

SITE NUMBER LAX 64

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
482	Private	TOPANGA	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Neduba longipennis* SANTA MONICA SHIELDBACK KATYDID	1	None	None		

end of LAX 64

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 70

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
15.037	California Dept. of Fish and Game	REDONDO BEACH	Total # of Elements =	8
	Private	SAN PEDRO	Extremely Rare Elements (S1) =	3
		TORRANCE	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Aphanisma blitoides* APHANISMA	2	None	None		1B
EC	*Atriplex pacifica* SOUTH COAST SALTSCALE	1	None	None		1B
S1	*Dudleya virens ssp virens* BRIGHT GREEN DUDLEYA	2	None	None		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Campylorhynchus brunneicapillus couesi* COASTAL CACTUS WREN	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	5	Threatened	None	SC	
EC	*Neotoma lepida intermedia* SAN DIEGO DESERT WOODRAT	1	None	None	SC	
S1	*Southern coastal bluff scrub* SOUTHERN COASTAL BLUFF SCRUB	1	None	None		

end of LAX 70

SITE NUMBER LAX 71

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1.618	Private	TORRANCE	Total # of Elements =	5
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Centromadia parryi ssp australis* SOUTHERN TARPLANT	1	None	None		1B
S1	*Glaucopsyche lygdamus palosverdesensis* PALOS VERDES BLUE BUTTERFLY	1	Endangered	None		
EC	*Agelaius tricolor (nesting colony)* TRICOLORED BLACKBIRD	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
EC	*Sterna antillarum browni (nesting colony)* CALIFORNIA LEAST TERN	1	Endangered	Endangered		

end of LAX 71

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 75

Approximate Acreage
60.937

Owner / Management

7.5' Quads
SANTA CATALINA EAST
SANTA CATALINA NORTH
SANTA CATALINA SOUTH
SANTA CATALINA WEST

Element Totals
Total # of Elements = 20
Extremely Rare Elements (S1) = 11
Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Graphis saxorum* BAJA ROCK LICHEN	2	None	None		
EC	*Arctostaphylos catalinae* SANTA CATALINA ISLAND MANZANITA	2	None	None		1B
EC	*Atriplex pacifica* SOUTH COAST SALTSCALE	1	None	None		1B
EC	*Bergerocactus emoryi* GOLDEN-SPINED CEREUS	3	None	None		2
EC	*Centromadia parryi ssp australis* SOUTHERN TARPLANT	1	None	None		1B
S1	*Cercocarpus traskiae* CATALINA ISLAND MOUNTAIN-MAHOGANY	1	Endangered	Endangered		1B
S1	*Dendromecon harfordii var rhamnoides* ISLAND TREE POPPY	1	None	None		1B
S1	*Dudleya virens ssp virens* BRIGHT GREEN DUDLEYA	1	None	None		1B
EC	*Euphorbia misera* CLIFF SPURGE	1	None	None		2
EC	*Galvezia speciosa* ISLAND SNAPDRAGON	1	None	None		1B
EC	*Lavatera assurgentiflora ssp glabra* SOUTHERN ISLAND MALLOW	4	None	None		1B
S1	*Lyonothamnus floribundus ssp floribundus* SANTA CATALINA ISLAND IRONWOOD	3	None	None		1B
EC	*Scrophulana villosa* SANTA CATALINA FIGWORT	1	None	None		1B
S1	*Radiocentrum (=oreohelix) avalonense* CATALINA MOUNTAINSNAIL	1	None	None		
S1	*Sterkia clementina* SAN CLEMENTE ISLAND BLUNT-TOP SNAIL	1	None	None		
S1	*Thamnophis couchi ssp* SANTA CATALINA GARTER SNAKE	1	None	None		
EC	*Haliaeetus leucocephalus (nesting & wintering)* BALD EAGLE	4	Threatened	Endangered		
S1	*Sorex ornatus willetti* SANTA CATALINA SHREW	1	None	None	SC	
S1	*Urocyon littoralis* ISLAND FOX	1	None	Threatened		
S1	*Maritime succulent scrub* MARITIME SUCCULENT SCRUB	1	None	None		

end of LAX 75

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 76

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
49.696		SAN CLEMENTE ISLAND CENTRAL	Total # of Elements =	45
		SAN CLEMENTE ISLAND NORTH	Extremely Rare Elements (S1) =	22
		SAN CLEMENTE ISLAND SOUTH	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Aphanisma blitoides* APHANISMA	3	None	None		1B
EC	*Astragalus nevinii* SAN CLEMENTE ISLAND MILK-VETCH	15	None	None		1B
EC	*Atriplex coulteri* COULTER'S SALTBUSH	1	None	None		1B
EC	*Bergerocactus emoryi* GOLDEN-SPINED CEREUS	11	None	None		2
EC	*Brodiaea kinkiensis* SAN CLEMENTE ISLAND BRODIAEA	10	None	None		1B
S1	*Camissonia guadalupensis ssp clementina* SAN CLEMENTE ISLAND EVENING-PRIMROSE	6	None	None		1B
EC	*Castilleja grisea* SAN CLEMENTE ISLAND INDIAN PAINTBRUSH	41	Endangered	Endangered		1B
EC	*Cryptantha traskiae* TRASK'S CRYPTANTHA	4	None	None		1B
S1	*Delphinium variegatum ssp kinkiense* SAN CLEMENTE ISLAND LARKSPUR	12	Endangered	Endangered		1B
S1	*Delphinium variegatum ssp thornei* THORNE'S ROYAL LARKSPUR	7	None	None		1B
S1	*Dudleya virens ssp virens* BRIGHT GREEN DUDLEYA	4	None	None		1B
EC	*Enogonum giganteum var formosum* SAN CLEMENTE ISLAND BUCKWHEAT	18	None	None		1B
EC	*Enophyllum nevinii* NEVIN'S WOOLLY SUNFLOWER	24	None	None		1B
EC	*Euphorbia misera* CLIFF SPURGE	1	None	None		2
EC	*Galium catalinense ssp acrispum* SAN CLEMENTE ISLAND BEDSTRAW	18	None	Endangered		1B
EC	*Galvezia speciosa* ISLAND SNAPDRAGON	28	None	None		1B
EC	*Hazardia cana* SAN CLEMENTE ISLAND HAZARDIA	8	None	None		1B
EC	*Lavatera assurgentiflora ssp glabra* SOUTHERN ISLAND MALLOW	5	None	None		1B
S1	*Linanthus pygmaeus ssp pygmaeus* PYGMY LINANTHUS	1	None	None		1B
S1	*Lithophragma maximum* SAN CLEMENTE ISLAND WOODLAND STAR	3	Endangered	Endangered		1B
S1	*Lotus argophyllus var adsurgens* SAN CLEMENTE ISLAND BIRD'S-FOOT TREFOIL	8	None	Endangered		1B
EC	*Lotus dendroideus var traskiae* SAN CLEMENTE ISLAND LOTUS	12	Endangered	Endangered		1B
EC	*Lupinus guadalupensis* GUADALUPE ISLAND LUPINE	10	None	None		1B
EC	*Lyonothamnus floribundus ssp aspleniifolius* SANTA CRUZ ISLAND IRONWOOD	15	None	None		1B
S1	*Malacothamnus clementinus* SAN CLEMENTE ISLAND BUSH MALLOW	6	Endangered	Endangered		1B
EC	*Muhlenbergia appressa* APPRESSED MUHLY	1	None	None		2
S1	*Nama stenocarpum* MUD NAMA	2	None	None		2
S1	*Phacelia floribunda* MANY-FLOWERED PHACELIA	8	None	None		1B
EC	*Scrophularia villosa* SANTA CATALINA FIGWORT	12	None	None		1B
S1	*Sibara filifolia* SANTA CRUZ ISLAND ROCK CRESS	3	Endangered	None		1B
EC	*Stephanomeria blairii* BLAIR'S STEPHANOMERIA	21	None	None		1B

Significant Natural Areas of
LOS ANGELES COUNTY

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Triteleia clementina* SAN CLEMENTE ISLAND TRITELEIA	6	None	None		1B
S1	*Micrarionta gabbi* SAN CLEMENTE ISLANDSNAIL	1	None	None		
S1	*Xerarionta intercisa* HORSESHOE SNAIL	1	None	None		
S1	*Xerionata redimita* WREATHED ISLAND SNAIL	1	None	None		
S1	*Xantusia riversiana* ISLAND NIGHT LIZARD	1	Threatened	None		
S1	*Amphispiza belli clementeae* SAN CLEMENTE SAGE SPARROW	1	Threatened	None		
EC	*Charadrius alexandrinus nivosus (nesting)* WESTERN SNOWY PLOVER	1	Threatened	None	SC	
S1	*Lanius ludovicianus meamsi* SAN CLEMENTE LOGGERHEAD SHRIKE	1	Endangered	None		
S1	*Urocyon littoralis* ISLAND FOX	1	None	Threatened		
EC	*Island cherry forest* ISLAND CHERRY FOREST	13	None	None		
EC	*Island ironwood forest* ISLAND IRONWOOD FOREST	11	None	None		
S1	*Southern coastal bluff scrub* SOUTHERN COASTAL BLUFF SCRUB	21	None	None		
S1	*Southern dune scrub* SOUTHERN DUNE SCRUB	4	None	None		
EC	*Southern foredunes* SOUTHERN FOREDUNES	12	None	None		

end of LAX 76

SITE NUMBER LAX 77

Approximate Acreage
2,890

Owner / Management
California Dept. of Parks and Recreation
County-City-Regional Parks and Preserves
National Seashore or National Recreation Area
Other Conservancy; Land Trust, Private University
Private

7.5' Quads
TRIUNFO PASS

Element Totals

Total # of Elements =	3
Extremely Rare Elements (S1) =	0
Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Calochortus plummerae* PLUMMER'S MARIPOSA LILY	1	None	None		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Oncorhynchus mykiss irideus* SOUTHERN STEELHEAD - SOUTHERN CALIFORNIA ESU	1	Endangered	None	SC	

end of LAX 77

SITE NUMBER LAX 78

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
339	Private	POINT DUME	Total # of Elements =	3
		THOUSAND OAKS	Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Cnemidophorus tigris multiscutatus* COASTAL WESTERN WHIPTAIL	1	None	None		
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	1	None	None	SC	

end of LAX 78

SITE NUMBER LAX 79

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,868	California Dept. of Parks and Recreation	MALIBU BEACH	Total # of Elements =	6
	Private		Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Dudleya cymosa ssp ovatifolia* SANTA MONICA MOUNTAINS DUDLEYA	1	Threatened	None		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Eucyclogobius newberryi* TIDEWATER GOBY	1	Endangered	None	SC	
EC	*Oncorhynchus mykiss irideus* SOUTHERN STEELHEAD - SOUTHERN CALIFORNIA ESU	1	Endangered	None	SC	
EC	*Diadophis punctatus modestus* SAN BERNARDINO RINGNECK SNAKE	1	None	None		
EC	*Southern coastal salt marsh* SOUTHERN COASTAL SALT MARSH	1	None	None		

end of LAX 79

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 80

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
7,614	California Dept. of Parks and Recreation	MALIBU BEACH	Total # of Elements =	9
	County-City-Regional Parks and Preserves	TOPANGA	Extremely Rare Elements (S1) =	2
	National Seashore or National Recreation Area		Best Example Elements (BX) =	0
	Other Conservancy; Land Trust; Private University			
	Private			
	Water Districts etc.			

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Deinandra minthornii* SANTA SUSANA TARPLANT	1	None	Rare		1B
EC	*Dudleya cymosa ssp ovatifolia* SANTA MONICA MOUNTAINS DUDLEYA	1	Threatened	None		1B
S1	*Coelus globosus* GLOBOSE DUNE BEETLE	1	None	None		
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Oncorhynchus mykiss irideus* SOUTHERN STEELHEAD - SOUTHERN CALIFORNIA ESU	1	Endangered	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Cnemidophorus tigris multiscutatus* COASTAL WESTERN WHIPTAIL	1	None	None		
S1	*Lampropeltis zonata pulchra* SAN DIEGO MOUNTAIN KINGSNAKE	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	2	None	None	SC	

end of LAX 80

SITE NUMBER LAX 83

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
338	Private	PALMDALE	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 83

SITE NUMBER LAX 84

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
408	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
	Private	PALMDALE	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	2	None	None		1B

end of LAX 84

SITE NUMBER LAX 85

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
520	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 85

SITE NUMBER LAX 86

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
235	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 86

SITE NUMBER LAX 87

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
266	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 87

SITE NUMBER LAX 88

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
667	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	2
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	1	None	None	SC	

end of LAX 88

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 89

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
863	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	3	None	None		1B

end of LAX 89

SITE NUMBER LAX 90

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
311	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 90

SITE NUMBER LAX 92

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2.002	Angeles National Forest	MESCAL CREEK	Total # of Elements =	1
		VALYERMO	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	2	None	None		1B

end of LAX 92

SITE NUMBER LAX 93

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
271	Angeles National Forest	MESCAL CREEK	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 93

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 94

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
7.831	Army	LA HABRA	Total # of Elements =	4
	Private	SAN DIMAS	Extremely Rare Elements (S1) =	0
		YORBA LINDA	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
EC	*Vireo bellii pusillus (nesting)* LEAST BELL'S VIREO	1	Endangered	Endangered		
EC	*California walnut woodland* CALIFORNIA WALNUT WOODLAND	11	None	None		

end of LAX 94

SITE NUMBER LAX 95

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
927	California Dept. of Parks and Recreation	MALIBU BEACH	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Neotoma lepida intermedia* SAN DIEGO DESERT WOODRAT	1	None	None	SC	

end of LAX 95

SITE NUMBER LAX 96

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
3.821	California Dept. of Parks and Recreation	MALIBU BEACH	Total # of Elements =	2
	County-City-Regional Parks and Preserves	POINT DUME	Extremely Rare Elements (S1) =	1
	Private		Best Example Elements (BX) =	0
	Water Districts etc.			

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	1	Endangered	Endangered		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		

end of LAX 96

SITE NUMBER LAX 97

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
236	Private	THOUSAND OAKS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Dudleya cymosa ssp agourensis* SANTA MONICA MTNS. DUDLEYA	1	Threatened	None		1B

end of LAX 97

SITE NUMBER LAX 98

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
457	Angeles National Forest Private US Bureau of Land Management	JUNIPER HILLS	Total # of Elements = Extremely Rare Elements (S1) = Best Example Elements (BX) =	1 0 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Southern riparian scrub* SOUTHERN RIPARIAN SCRUB	1	None	None		

end of LAX 98

SITE NUMBER LAX 99

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2,115	Private	RITTER RIDGE	Total # of Elements = Extremely Rare Elements (S1) = Best Example Elements (BX) =	2 1 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	4	None	None		1B
EC	*Athene cunicularia (burrow sites)* BURROWING OWL	1	None	None	SC	

end of LAX 99

SITE NUMBER LAX 100

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
3,690	Private	VENICE	Total # of Elements = Extremely Rare Elements (S1) = Best Example Elements (BX) =	4 4 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Brennania belkini* BELKIN'S DUNE TABANID FLY	2	None	None		
S1	*Eucosma hennei* HENNE'S EUCOSMAN MOTH	1	None	None		
S1	*Euphilotes battoides allyni* EL SEGUNDO BLUE BUTTERFLY	2	Endangered	None		
S1	*Southern dune scrub* SOUTHERN DUNE SCRUB	1	None	None		

end of LAX 100

SITE NUMBER LAX 101

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,050	Angeles National Forest Private	CONDOR PEAK	Total # of Elements = Extremely Rare Elements (S1) = Best Example Elements (BX) =	2 1 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Catostomus santaanae* SANTA ANA SUCKER	1	Threatened	None	SC	
EC	*Southern mixed riparian forest* SOUTHERN MIXED RIPARIAN FOREST	2	None	None		

end of LAX 101

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 103

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
984	Angeles National Forest	VALYERMO	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 103

SITE NUMBER LAX 104

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,537	Angeles National Forest	VALYERMO	Total # of Elements =	3
	Private		Extremely Rare Elements (S1) =	0
	The Nature Conservancy		Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Linanthus concinnus* SAN GABRIEL LINANTHUS	1	None	None		1B
EC	*Rana muscosa* MOUNTAIN YELLOW-LEGGED FROG	1	Proposed Endangered	None	SC	
EC	*Falco mexicanus (nesting)* PRAIRIE FALCON	3	None	None	SC	

end of LAX 104

SITE NUMBER LAX 105

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
206	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 105

SITE NUMBER LAX 106

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
310	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 106

SITE NUMBER LAX 107

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,565	Angeles National Forest	CRYSTAL LAKE	Total # of Elements =	3
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Lilium parryi* LEMON LILY	5	None	None		1B
EC	*Linanthus concinnus* SAN GABRIEL LINANTHUS	2	None	None		1B
S1	*Potentilla glandulosa ssp ewanii* EWAN'S CINQUEFOIL	1	None	None		1B

end of LAX 107

SITE NUMBER LAX 108

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,959	Angeles National Forest	CRYSTAL LAKE	Total # of Elements =	4
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Eriogonum kennedyi var alpigenum* SOUTHERN ALPINE BUCKWHEAT	1	None	None		1B
EC	*Lilium parryi* LEMON LILY	1	None	None		1B
EC	*Linanthus concinnus* SAN GABRIEL LINANTHUS	1	None	None		1B
S1	*Potentilla glandulosa ssp ewanii* EWAN'S CINQUEFOIL	2	None	None		1B

end of LAX 108

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 109

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
15.102	Angeles National Forest	ACTON	Total # of Elements =	13
	Private	AGUA DULCE	Extremely Rare Elements (S1) =	5
	US Bureau of Land Management	MINT CANYON	Best Example Elements (BX) =	0
		NEWHALL		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Calochortus clavatus var gracilis* SLENDER MARIPOSA LILY	1	None	None		1B
S1	*Dodecahema leptoceras* SLENDER-HORNED SPINEFLOWER	1	Endangered	Endangered		1B
EC	*Navarretia fossalis* SPREADING NAVARRETIA	2	Threatened	None		1B
EC	*Orcuttia californica* CALIFORNIA ORCUTT GRASS	1	Endangered	Endangered		1B
S1	*Catostomus santaanae* SANTA ANA SUCKER	1	Threatened	None	SC	
S1	*Gasterosteus aculeatus williamsoni* UNARMORED THREESPINE STICKLEBACK	1	Endangered	Endangered		
EC	*Gila orcutti* ARROYO CHUB	1	None	None	SC	
EC	*Scaphiopus hammondii* WESTERN SPADEFOOT	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	4	None	None		
EC	*Southern riparian scrub* SOUTHERN RIPARIAN SCRUB	5	None	None		
EC	*Southern willow scrub* SOUTHERN WILLOW SCRUB	2	None	None		

end of LAX 109

SITE NUMBER LAX 110

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
417	Private	ACTON	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Stylocline masonii* MASON'S NESTSTRAW	1	None	None		1B

end of LAX 110

ATTACHMENT U-1
LIST OF CONSTITUENTS IN MONITORING PROGRAM
AND ASSOCIATED METHOD DETECTION LIMITS (MDLs)

CONSTITUENTS	USEPA METHOD	MDL A[1]	MDL B[2]
Conventional Pollutants		**mg/L**	**mg/L**
Oil and Grease	413.2	1	1
Total Phenols	420.1	0.1	0.1
Cyanide	335.2	0.01	0.01
pH	150.1	0 - 14	0 - 14
Temperature		None	None
Dissolved Oxygen		Sensitivity to 5 mg/L	Sensitivity to 5 mg/L
Bacteria			
Total Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Streptococcus	9221B	<20mpn/100ml	<20mpn/100ml
General		**mg/L**	**mg/l**
Dissolved Phosphorus	300	0.05	0.05
Total Phosphorus	300	0.05	0.05
Turbidity	180.1	0.1NTU	0.1NTU
Total Suspended Solids	160.2	2	2
Total Dissolved Solids	160.1	2	2
Volatile Suspended Solids	160.4	2	2
Total Organic Carbon	415.1	1	1
Total Petroleum Hydrocarbon	418.1	1	1
Biochemical Oxygen Demand	405.1	2	2
Chemical Oxygen Demand	410.4	20-900	20-900
Total Ammonia-Nitrogen	350.2	0.1	0.1
Total Kjeldahl Nitrogen	351.2	0.1	0.1
Nitrate-Nitrite	4110	0.1	0.1
Alkalinity	310.1	2	2
Specific Conductance	120.1	1umho/cm	1umho/cm
Total Hardness	130.2	2	2
MBAS	425.1	<0.5	<0.5
Chloride	4110	2	2
Fluoride	4110	0.1	0.1
Sulfate	4110	2	2

[1] Detection limits lower than or equal to the Minimum Levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California
[2] Detection limits from Order 96-054

Metals		µg/L	µg/L
Aluminum	202.1	100	100
Antimony	204.2	**0.5**	10
Arsenic	206.2	**1**	10
Barium	208.2	100	100
Beryllium	210.2	**0.5**	5
Boron	212.3	250	250
Cadnium	213.2	**0.25**	10
Calcium	215.2	200	200
Chromium	218.2	**0.5**	10
Copper	219.2	**0.5**	10
Hex. Chromium	7196	**5**	<10
Iron	236.2	100	100
Lead	239.2	0.5	10
Magnesium	242.1	200	200
Manganese	243.2	30	30
Mercury	245.1	**0.2**	1
Nickel	249.2	**1**	10
Potassium	258.1	100	100
Selenium	270.2	**1**	5
Silver	272.2	**0.25**	10
Sodium	273.1	50	50
Thallium	279.2	**1**	10
Zinc	289.2	**1**	50
Semivolatile Organic Compounds		µg/L	µg/L
Acids	**8250**		
Benzoic Acid	8250	<5	<5
Benzyl Alcohol	8250	<5	<5
2-Chlorophenol	8250	<2	<2
2, 4-Dichlorophenol	8250	**1**	<2
2, 6-Dichlorophenol	8250	<2	<2
4-Dimetylphenol	8250	<2	<2
4, 6-Dinitro-2-metylphenol	8250	<3	<3
2, 4-Dinitrophenol	8250	<3	<3
2-Methylphenol	8250	<3	<3
4-Methylphenol	8250	<3	<3
2-Nitrophenol	8250	<3	<3
4-Nitrophenol	8250	<3	<3
4-Chloro-3-methylphenol	8250	**1**	<3
Pentachlorophenol	8250	**1**	<2
Phenol	8250	<1	<1
2,3,4,6-Tetrachlorophenol	8250	<1	<1
2,4,5-Trichlorophenol	8250	<1	<1
2,4,6-Trichlorophenol	8250	<1	<1

Base/Neutral	8250	µg/L	µg/L
Acenapthene		<0.5	<0.5
Acenapthylene		0.2	<0.5
Acetophenone-		<3	<3
Aniline		<3	<3
Anthracene		2.0	<0.5
4-Aminobiphenyl		<3	<3
Benzidine		<3	<3
Benzo(a)anthracene		<1	<1
4-Chloroaniline		<1	<1
1-Chloronapthalene		<1	<1
p-Dimethylaminoazobenzene		<3	<3
7,12-Dimethylbenz(a)-anthracene		<1	<1
a-,a-Dimethylphenethylamine		<3	<3
Benzo(a)pyrene		<1	<1
Benzo(b)flouranthene		<1	<1
Benzo(k)flouranthene		<1	<1
Chlordane		<1	<1
Bis(2-chloroethoxy)methane		<1	<1
Bis(2-chlorisopropyl)ether		<1	<1
Bis(2-chloroethyl)ether		<1	<1
Bis(2-ethylhexl)phtalate		<3	<3
4-Bromophenyl phenyl ether		<1	<1
Butyl benzyl phthalate		<3	<3
2-Chloronapthalene		<1	<1
4-Chlorophenyl phenyl ether		<1	<1
Chrysene		<1	<1
Dibenz(a,j)acridine		<3	<3
Dibenz(a,h)anthracene		0.1	<1
1,3-Dichlorobenzene		<0.5	<0.5
1,4-Dichlorobenzene		<0.5	<0.5
1,2-Dichlorobenzene		<0.5	<0.5
3,3-Dichlorobenzidine		<3	<3
Diethylphthalate		<0.5	<0.5
Dimethylphthalate		<0.5	<0.5
Di-n-butylphthalate		<3	<3
2,4-Dinitrotoluene		<0.5	<0.5
2,6-Dinitrotoluene		<0.5	<0.5
Diphenylamine		<3	<3
1,2-Diphenylhydrazine		1	<3
Di-n-octylphtalate		<3	<3
Ethyl methanesulfonate		<3	<3
Fluoranthene		0.05	<1
Fluorene		0.1	<1
Hexachlorobenzene		<0.5	<0.5
Hexachlorobutadiene		<1	<1
Hexochlorocyclopentadiene		<3	<3
Hexochloroethane		<1	<1

Indeno(1,2,3-cd)pyrene		**0.05**	<1
Isophorone		<0.5	<0.5
3-Methylcholanthrene		<3	<3
Methyl methanesesulfonate		<3	<3
Napthalene		**0.2**	<0.5
1-Napthylamine		<3	<3
2-Napthalamine		<3	<3
2-Nitroaniline		<3	<3
3-Nitroaniline		<3	<3
4-Nitroaniline		<3	<3
Nitrobenzene		<0.5	<0.5
N-Nitroso-di-n-butylamine		<3	<3
N-Nitrosodimethylamine		<3	<3
N-Nitrosodiphenylamine		**1**	<3
N-Nitroso-di-N-propylamine		<1	<1
N-Nitrosopiperidine		<3	<3
Pentachlorobenzene		<3	<3
Phenacitin		<3	<3
Phenanthrene		**0.05**	<0.5
2-Picoline		<3	<3
Pronamide		<5	<5
Pyrene		**0.05**	<0.5
5-Tetrachlorobenzene		<3	<3
1,2,4-Trichlorobenzene		<0.5	<0.5
Pesticides	**608**	µg/L	µg/L
Aldrin	608	**0.005**	0.05
alpha-BHC	608	0.05	0.05
beta-BHC	608	0.05	0.05
delta-BHC	608	0.05	0.05
gamma-BHC (lindane	608	0.05	0.05
Carbofuran	531.1	<5	<5
Chlordane	608	0.05	0.05
4,4'-DDD	608	**0.05**	<0.1
4,4'-DDE	608	**0.05**	<0.1
4,4'-DDT	608	**0.01**	<0.1
Benzaton	515.1	<2	<2
Dieldron	608	**0.01**	<0.1
Endosulfan I	608	<0.1	<0.1
Endosulfan II	608	<0.1	<0.1
Endosulfan sulfate	608	**0.05**	<0.1
Endrin	608	**0.01**	<0.1
Endrin aldehyde	608	**0.01**	<0.1
Glyphosate	547	<0.5	<0.5
Heptachlor	608	**0.01**	0.05
Heptachlor epoxide	608	**0.01**	0.05
Methoxychlor	608	<0.5	<0.5
Toxaphene	608	**0.5**	<1.0

2,4-D	515.1	<0.02	<0.02
2,4,5-TP-SILVEX	515.1	<0.2	<0.2
Polychlorinated Biphenyls	**608**	µg/L	µg/L
Aroclor-1016	608	**0.5**	<1
Aroclor-1221	608	**0.5**	<1
Aroclor-1232	608	**0.5**	<1
Aroclor-1242	608	**0.5**	<1
Aroclor-1248	608	**0.5**	<1
Aroclor-1254	608	**0.5**	<1
Aroclor-1260	608	**0.5**	<1
Herbicides		µg/L	µg/L
Diazinon		**0.01**	0.01
Chlorpyrifos		**0.05**	0.05
Diuron		**1**	1
Malathion		**1**	1
Prometryn	507	**2**	2
Atrazine	507	**2**	2
Simazine	507	<2	<2
Cyanazine	507	**2**	2
Molinate	507	<0.01	<0.01
Thiobencarb	507	<0.1	<0.1
Volatile Organic Compounds	**8240A**	µg/L	µg/L
Acetonitrile		10.0	10.0
Acrolein		**2**	10.0
Acrylonitrile		0.5	0.5
Benzene		0.5	0.5
Bromoform		0.5	0.5
2-Butanone		10.0	10.0
Carbon Disulfide		10.0	10.0
Carbon Tetrachloride		0.5	0.5
Chlorobenzene		0.5	0.5
Chlorodibronmethane		0.5	0.5
Chloroethane		0.5	0.5
2-Chloroethyl vinyl ether		1.0	1.0
Chloroform		0.5	0.5
Dibromomethane		0.5	0.5
1,2-Dibromo-3Chloropropane		<0.01	<0.01
1,4-Dichloro-2-butene		10.0	10.0
Dichlorobromomethane		0.5	0.5
Dichlorodifluoromethane		0.5	0.5
1,1-Dichloroethane		0.5	0.5
1,2-Dichloroethane		0.5	0.5
1,1-Dichloroethene		0.5	0.5

trans-1,2-Dichloroethene		0.5	0.5
1,2-Dichloropropane		0.5	0.5
cis-1,3-Dichloropropene		0.5	0.5
Trans-1,3-Dichloropropene		0.5	0.5
Ethanol		10.0	10.0
Ethylbenzene		**0.5**	1.0
Ethylene Dibromide		<0.01	<0.01
Ethylene Oxide		10.0	10.0
Ethyl Metcrylate		0.5	0.5
2-Hexanone		5.0	5.0
Iodomethane		0.5	0.5
Methyl Bromide		5.0	5.0
Methyl Chloride		5.0	5.0
Methylene Chloride		1.0	1.0
4-Methyl-2-pentanone		5.0	5.0
Styrene		0.5	0.5
1,1,2,2-Tetrachloroethane		0.5	0.5
Tetrachloroethane		0.5	0.5
Toluene		**0.5**	1.0
Trichlorofluoromethane		1.0	1.0
1,2,3-Trichloropropane		0.5	0.5
Trichloroethene		0.5	0.5
1,1,1-Trichloroethane		1.0	1.0
1,1,2-Trichloroethane		1.0	1.0
1,2,2-Trifluoroethane		<0.5	<0.5
Vinyl acetate		5.0	5.0
Vinyl chloride		0.5	0.5
Xylene (Total)		0.5	0.5

ATTACHMENT U-2
SHORELINE MONITORING STATIONS

Station	Location[1]	Latitude	Longitude
S1	Surfrider Beach, Malibu, 50 yds E. of breech	34.03500	118.67833
S2	Topanga Point, Malibu, seaward of lifeguard station	34.03833	118.58083
S3	Pulga storm drain, Pacific Palisades, 50 yds E. of drain	34.03361	118.53417
S4	Santa Monica Canyon storm drain, Pacific Palisades, 50 yds E. of drain	34.02639	118.51861
S5	Santa Monica Pier, Santa Monica, 50 yds S. of pier	34.00833	118.49667
S6	Pico-Kenter storm drain, Santa Monica, 50 yds S. of drain	34.00583	118.49250
S7	Ashland storm drain, Santa Monica, 50 yds S. of drain	33.99639	118.48472
S8	Windward storm drain, Los Angeles, 50 yds S. of drain	33.98778	118.47750
S9	Marina Del Rey Beach, Marina Del Rey, at lifeguard tower.	33.98139	118.45833
S10	Ballona Creek, Playa Del Rey, 50 yds S. of south jetty	33.96083	118.45611
S11	Culver Blvd., extended, Playa Del Rey, N side of Culver storm drain	33.95639	118.45167
S12	Imperial Hwy. Storm drain, Playa Del Rey, 50 yds S. of drain	33.93028	118.43722
S13	El Porto, Manhattan Beach, 40th St. extended	33.90389	118.42250
S14	Manhattan Beach Pier, Manhattan Beach, 50 yds S. of pier	33.88360	118.41278
S15	Hermosa Beach Pier, Hermosa Beach, 50 yds S. of pier	33.86111	118.40278
S16	Redondo Pier, Redondo Beach, 50 yds S. of pier	33.83833	118.39111
S17	Ave. I storm drain, Redondo Beach, Ave. I extended, 50 yds S. of drain	33.81889	118.39111
S18	Malaga Cove, Palos Verdes Estates, Arroyo Circle extended	33.80500	118.39467

[1] Station locations from *Ocean Water Regulatory & Monitoring Protocol*, County of Los Angeles, Department of Health Services, May 5, 1999.

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

MONITORING AND REPORTING PROGRAM - CI 6948

FOR

MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES, EXCEPT THE CITY OF LONG BEACH

(NPDES PERMIT NO. CAS004001)

I. Program Reporting Requirements

A. Program Management

Permittees shall submit, no later than (3 months following the adoption of this Order), the Annual Storm Water Report and Assessment (Annual Report) for the period July 1, 2000, through October 25, 2001 documenting the status of the storm water management program (Program) up to permit reissuance and the results of analyses from the monitoring and reporting program.

The Principal Permittee shall submit, by October 15 of each year beginning the year 2002, an Annual Report documenting the progress of Permittee implementation of the Storm Water Quality Management Plan (SQMP) and the requirements of this Order. An integrated summary of the results of analyses from the Monitoring Program described under *II. Monitoring Requirements* shall also be included. The Principal Permittee shall evaluate the Annual Report with the results of analyses from the Monitoring Program (e.g. if the monitoring results show a particular constituent consistently at elevated levels, that may be a trigger for Permittees to address their programs specifically for that particular situation and change them accordingly to address the problem).

The Annual Report shall cover each fiscal year from July 1 through June 30. At a minimum, the Annual Report will include the following:

1. All proposed changes to the SQMP as approved by the Executive Advisory Committee (EAC).

2. A comparison of program implementation results to performance standards established in this Order and in the SQMP.

3. Status of compliance with permit requirements including implementation dates for all time-specific deadlines. If permit deadlines are not met, Permittees shall report the reasons why the requirement was not met, how the requirements will be met in the future, including projected implementation date.

4. An assessment of the effectiveness of SQMP requirements to reduce storm water pollution. This assessment will be based upon the specific record-keeping information requirement in each major section of the

permit, monitoring data, and any other information related to program effectiveness. Beginning in the Year 2002, to the extent that data collected in monitoring requirements included herein and existing monitoring data allows, the Principal Permittee shall include an analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses.

5. An analysis of the data to identify areas of the Program coverage which cause or contribute to exceedances of water quality standards or objectives, predominate land uses in these areas, and potential sources of pollutants in those areas.

6. Discussion of the compliance record and the corrective actions taken or planned that may be needed to bring the discharge into full compliance with the waste discharge requirements.

B. Public Information and Participation Program (PIPP)

The Principal Permittee shall submit an annual PIPP Update to the Regional Board Executive Officer for approval. The PIPP Update shall include a summary of the overall strategy and any updates or modifications to the PIPP.

Programs for Residents

1. Number of storm drain inlets and designated public access points to creeks, channels, and other relevant water bodies in each Permittees' systems that are marked or posted with a no dumping message. If the requirement that 100 percent of storm drains inlets are marked/signed is not met, each Permittee shall report the reasons why, and how the requirement will be met in the future, including the implementation date.

2. Description of activities on distributing brochures, community outreach efforts, public communication efforts and educational programs in schools including an estimate of the number of impressions per year made on the general public about storm water quality via print, local TV access, local radio presentations, meetings or other appropriate media.

3. Description of the quarterly Public Outreach Strategy meetings, including percentage of Permittee attendance, effectiveness at coordinating Permittee education programs, and overall effectiveness based on Permittee evaluations. Also, a description of each Permittee's participation in and contribution to the PIPP.

4. Description of activities for the Pollutant-Specific Outreach programs, including creating and distributing outreach materials to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate counters and events.

Programs for Businesses

1. Description of the Corporate Outreach program, including the number of consultations with corporate-level management of gas stations and restaurant chains and the percentage of the total.

2. Description of the Business Assistance Program, including the number of businesses that requested assistance and the number that were assisted through site visits, telephone consultations, presentations, or material distribution.

C. Industrial/Commercial Facilities Program

1. An annual update of the watershed-based inventory of all Industrial/Commercial sites identified as a threat to water quality. This includes all Phase I industrial facilities, motor vehicle repair shops, motor vehicle body shops, motor vehicle parts and accessories facilities, restaurants, and other facilities that contribute or have the potential to contribute to impairments of receiving waters. The inventory shall include at a minimum: facility name, site address, SIC code and narrative description of activities performed at each facility.

2. Number of restaurants, automotive businesses, industrial facilities, and other commercial facilities targeted under the program. During the past year, the number of industrial and commercial inspections conducted, the number of non-compliant sites, and the number of industrial facilities the Permittees have identified that have failed to file an NOI.

3. The percentage of targeted staff trained annually.

D. Development Planning Program

1. Total number and percent of all development projects reviewed and conditioned to meet SUSMP requirements by category such as residential, commercial, and industrial.

2. Total square feet of impervious area conditioned for mitigation by development and redevelopment category.

3. Significant date rewrite completed of General Plan with storm water considerations.

4. Percent and total number of targeted staff trained annually [100 percent].

5. Date CEQA guidelines revision completed to include storm water mitigation conditions.

6. Date BMP design and sizing technical manual completed and made available electronically.

E. Construction Development Program

1. Number of construction projects requiring local SWPPPs in the past year and the percentage of projects in categories requiring submittal of a local SWPPP for which local SWPPPs were completed.

2. Number and type of enforcement actions, applicable to storm water enforcement, taken at construction sites during the past year.

3. Description of the outreach program to the construction community and assessment of its effectiveness; This assessment should include a discussion of the number of inspections, or other meetings conducted.

4. The percentage of targeted staff trained annually.

F. Illicit Connections and Illicit Discharges Elimination Program

1. Annual update of the analytical tool used to manage and track illicit connections and discharges, including an evaluation of patterns and trends of illicit connections and illicit discharges in the entire storm drain system.

2. Location and length of open channels and closed storm drains that were screened by all Permittees, and the status of all suspected, confirmed, and terminated illicit connections.

3. Number of reports of illicit discharges that Permittees responded to, percentage that were identified as actual illicit discharges, and percentage of the actual illicit discharges where the incident was either cleaned up, referred to another responsible agency and/or follow up/education with the discharger was conducted.

4. Percentage of cleanup and abatement activities that occurred within 72 hours of discovery or report of a suspected illicit discharge and justification for response activities that exceeded 72 hours.

5. For groups of identified illicit discharge types where the probable causes for the discharge can be identified, report probable causes and the actions taken to prevent similar discharges from occurring.

6. Number of illicit connections identified in the past year.

7. Percentage of investigations that were initiated within 21 days of identification or a report of an illicit connection and justification for those that exceeded 21 days.

8. Number of illicit connections eliminated in the past year.

9. Percentage of illicit connections terminated within 180 days of identification and justification for terminations that exceeded 180 days.

10. Number and type of enforcement actions for storm water illicit discharges and/or illicit connections taken in the past year.

11. A summary from records on illicit discharges and connections which includes description of discharge, source, and enforcement action taken.

12. A summary from records on illicit connections which includes the number of illicit connections terminated by the issuance of a connection permit and those terminated by removal of the connection. This summary shall also include a breakdown of identified illicit connections by land use.

13. The percentage of targeted employees trained annually.

G. Programs for Facilities Maintenance

1. A summary which at a minimum includes the quantity, predominant types and likely sources of trash removed from catch basin inlets.

2. A summary of the total curb miles of streets swept annually and the percentage of total curb miles swept annually as a function of total curb miles.

3. The percentage of targeted staff trained annually.

H. Pollutants of Concern

1. A progress report on sources of pollutants of concern, BMPs for their control, and implemented BMP effectiveness.

I. Monitoring Program Management

1. The Principal Permittee shall submit a Storm Water Monitoring Report (Monitoring Report) on August 15, 2002, and annually on August 15, thereafter. The report shall include:

a) Status of implementation of the monitoring program

b) Results of the monitoring program

c) A general interpretation of the results

d) Data, results, methods of evaluating the data, graphical summaries of the data, and an explanation/discussion of the data for each component of the monitoring program, including any specific reporting requirements included in Section II. Monitoring Program

e) An analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses

f) Suggestions for improvements to the SQMP based on the analysis

g) All monitoring reports shall be submitted in both electronic and paper formats

2. The Principal Permittee shall

3. The Principal Permittee shall submit, no later than (3 months following the adoption of this Order), the results of analyses from the monitoring and reporting program for the period July 1, 2000 through October 25, 2001 together with the Annual Report for the same period.

J. All applications, reports, or information submitted to the Regional Board shall be signed and certified pursuant to EPA regulations 40 CFR 122.41 (k). Each report shall contain the following completed declaration:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility, of a fine and imprisonment for knowing violations.

Executed on the ___ day of _____ , 20_,

at _____.

(Signature)_____(Title)_____";

Permittee submittals to the Principal Permittee shall also be signed and certified pursuant to EPA regulations 40 CFR 122.41 (k).

The Principal Permittee shall mail the original of each annual report to:

INFORMATION TECHNOLOGY
CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD - LOS ANGELES REGION
320 W. 4TH STREET, SUITE 200
LOS ANGELES, CA 90013

A copy of the annual report shall also be mailed to:

REGIONAL ADMINISTRATOR
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105

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II. Monitoring Program

The primary objectives of the Los Angeles County Storm Water Quality Monitoring Program include, but are not limited to: 1) assessing compliance with this Order; 2) measuring and improving the effectiveness of the SQMPs; 3) assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff; 4) characterization of storm water

discharges; 5) identifying sources of pollutants; and 6) assessing the overall health and evaluating long-term trends in receiving water quality. Ultimately, the results of the monitoring requirements outlined below should be used to refine the SQMPs for the reduction of pollutant loadings and the protection and enhancement of the beneficial uses of the receiving waters in Los Angeles County.

The Principal Permittee shall implement the Countywide Storm Water Monitoring Program as follows:

A. Mass Emissions

The Principal Permittee shall monitor mass emissions to accomplish the following objectives: 1) estimate the mass emissions from the MS4; 2) assess trends in the mass emissions over time; and 3) determine if the MS4 is contributing to exceedances of water quality objectives by comparing results to objectives in the Basin Plan, Ocean Plan, and with emissions from other dischargers.

1. The Principal Permittee shall monitor mass emissions from the following seven mass emission stations: Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, Coyote Creek, Dominguez Channel, and the Santa Clara River (location to be determined prior to the adoption of this Order). The Principal Permittee shall monitor the first storm event and a minimum of 2 additional storm events for each season. A minimum of two dry weather samples per year at each mass emission station shall also be analyzed.

2. All storms, in addition to those required above, totaling at least 0.25 inches of rainfall shall be sampled and analyzed for TSS. Results shall be used to assess the variability of storm water constituents and provide a more accurate estimate of median mass emissions (pollutant correlation with TSS). This requirement does not apply to manual sampling stations.

3. Samples for mass emission station monitoring may be taken with the same type of automatic sampler used under Order 96-054. Grab samples shall be taken for pathogen indicators and oil and grease. The samplers shall be set to monitor storms totaling 0.25 inches or greater of rainfall. Samples taken at mass emission stations during the first storm event should be analyzed for all constituents listed in Attachment U-1. The Principal Permittee may elect not to sample Volatile Organic Compounds from the list of constituents for mass emission stations.

4. Manual samples shall be collected from mass emission stations where it is not feasible to install an automatic sampler (Santa Clara River). Manual samples shall be time-weighted composites, collected during the first 3 hours, or for the duration of the storm if it is less than 3 hours. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge[1], unless the Regional Board Executive Officer approves alternate protocol.

[1] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

5. For the first storm of each year, method detection limits (MDLs) lower than or equal to the minimum levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000 (SIP) shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year. If a constituent has been detected in 100 percent of samples during the last 2 years of monitoring, the Principal Permittee may continue to use the MDLs listed in column B until the constituent is not detected, afterwhich, the method detection limits shall be lowered to those in column A.

6. If a constituent is not detected at the method detection limit for its respective test method listed in Attachment U-1 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it need not be further analyzed, with the exception of the first storm of each season, unless the observed occurrences show high concentrations and are cause for concern.

B. Water Column Toxicity Monitoring

The Principal Permittee shall analyze mass emission samples for toxicity to evaluate the extent and causes of toxicity in receiving waters and to modify and utilize the SQMP to implement practices that eliminate or reduce sources of toxicity in storm water.

1. The Principal Permittee shall analyze two wet weather samples and two dry weather samples from each mass emission station for toxicity per year. A minimum of one freshwater and one marine species shall be used for toxicity testing. Specifically, Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization shall be used. Only Ceriodaphnia dubia shall be used for toxicity testing of samples from the Santa Clara mass emission station. If toxicity is not detected in either of the dry weather samples for any given mass emission station, the Principal Permittee may reduce dry weather toxicity testing to one sample per year at that station. If toxicity is not detected in either of the wet weather samples for any given mass emission station, wet weather toxicity testing may be reduced to one sample from the first storm of the wet season per year at that station.

2. Toxicity Identification Evaluations (TIE)

The Principal Permittee shall conduct Phase I TIEs on wet weather samples when two consecutive samples from the same monitoring station show toxicity and on dry weather samples when two consecutive dry weather samples from the same monitoring station show toxicity.

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3. Toxicity Reduction Evaluations (TRE)

a) The Principal Permittee shall perform a TRE for each pollutant or pollutant class that is identified as toxic. TREs shall include the following:

(1) An analysis of possible sources of toxicity, the identification of appropriate BMPs to eliminate toxicity and a time schedule for toxicity reduction that considers BMP implementation and effectiveness time. The Principal Permittee, Regional Board staff, and a third party will collaborate to develop and evaluate the analysis and recommendations.

(2) Submittal of the analysis to the Regional Board Executive Officer for approval.

The Principal Permittee may use EPA manual EPA/833B-99/002 (municipal) as guidance for TRE preparation.

b) Upon approval by the Regional Board Executive Officer, each Permittee having jurisdiction over sources causing or contributing to storm water toxicity shall be responsible for implementing the recommended BMPs to reduce toxicity.

c) During TRE development and implementation, the Principal Permittee shall continue monitoring the first storm and one dry weather event per year for toxicity at the subject station. According to the time schedule included in the TRE, the Principal Permittee shall analyze two wet weather and two dry weather samples for toxicity to evaluate the effectiveness of the TRE.

d) The Principal Permittee shall conduct a maximum of two TREs per year. If applicable, the Principal Permittee may use the same TRE for the same toxic pollutant or pollutant class in different watersheds.

e) The Principal Permittee shall report on the development, implementation, and results for each TRE in the annual Monitoring Reports, beginning the year following the identification of each pollutant or pollutant class causing toxicity.

C. Tributary/Source Identification Monitoring

The Principal Permittee shall monitor select tributaries to identify sources of pollutants in subwatersheds, prioritize locations that need management actions, provide baseline information for TMDL development and allocate pollutant loads for TMDL development. An additional purpose of this monitoring is to validate the Land Use Model.

1. The Principal Permittee shall develop and implement a tributary/source identification monitoring program[2]. The following tributaries which have

[2] The Principal Permittee is currently working with Regional Board staff to modify this program

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been identified as contributing the greatest loads of metals per acre in each subwatershed (based on the last four years of data for land use type, area, and rainfall) shall be monitored:

a) Centinela Creek (Ballona Creek WMA)
b) Kenter Canyon (Ballona Creek WMA)
c) Aliso Creek (Los Angeles River WMA)
d) Bull Creek (Los Angeles River WMA)
e) Compton Creek (Los Angeles River WMA)
f) Los Cerritos Channel (San Gabriel River WMA)
g) San Jose Creek (San Gabriel River WMA)

2. The Principal Permittee shall begin monitoring in the Los Angeles River watershed in the 2001-2002 storm season, and the San Gabriel River and Ballona Creek watersheds no later than the 2002-2003 storm season.

3. The Principal Permittee shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

4. Samples shall be time-weighted composites, collected during the first 3 hours, or for the duration of the storm if it is less than 3 hours. Samples may be collected manually or automatically. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge[3], unless the Regional Board Executive Officer approves alternate protocol. Samples shall be taken just upstream of the tributary's confluence with the mainstem. Constituents to be analyzed for each location shall include the following:

a) pH, dissolved oxygen, temperature, conductivity, and total suspended solids

b) Metals: aluminum, arsenic, beryllium, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

c) All other constituents for which the water body is impaired[4].

d) Flow (flow may be estimated using EPA methods[5] at sites where flow measurement devices are not in place).

5. For the first storm of each year, MDLs lower than or equal to the minimum levels identified in the SIP shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year.

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[3] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

[4] The 1998 California 303(d) List and TMDL Priority Schedule lists pollutants for which each water body is impaired, www.swrcb.ca.gov/tmdl/docs/303d98.pdf#reg4

[5] NPDES Storm Water Sampling Guidance Document, EPA 833-B-92-001, July 1992

6. The Principal Permittee shall submit a report identifying sources and/or source areas of pollutants within each watershed and priority management actions as part of the fourth Monitoring Report, to be submitted in 2005. The SQMP shall be modified to reflect the identified priority management actions.

D. Shoreline Monitoring

The City of Los Angeles shall monitor shoreline stations to evaluate the impacts to coastal receiving waters and the loss of recreational beneficial uses resulting from urban runoff. This component should be integrated and coordinated with similar monitoring programs in the region.

1. The City of Los Angeles shall monitor eighteen water quality sampling stations along the shoreline of the Pacific Ocean within the Santa Monica Bay to determine compliance with the State of California's bathing water standards for public beaches and ocean water-contact sport areas[6], and the related impacts of discharges from storm drains and piers. The shoreline monitoring program shall be implemented as follows:

   a) The eighteen established shoreline water quality stations listed in Attachment U-2 shall be monitored. Station locations may be modified based on recommendations from the Santa Monica Bay Restoration Project (SMBRP) and approval from the Regional Board Executive Officer;

   b) Three indicator groups shall be tested for using either membrane filtration, multiple tube fermentation, or chromogenic substrate test kits. Monitoring shall include the following types and frequencies of sampling:

Parameter	Units	Sample Frequency
Total coliforms	CFU or MPN/100 ml	6/week (Mon-Sat)[7]
Fecal Coliform[8]	CFU or MPN/100 ml	6/week (Mon-Sat)[5]
Enterococcus	CFU or MPN/100 ml	6/week (Mon-Sat)[5]

[6] California Department of Health Services, Health and Safety Code §115880 (Assembly Bill 411, Statutes of 1997, Chapter 765

[7] Samples will be collected on Sundays preceding Monday holidays

[8] *Escherichia Coli (E. Coli)* may be substituted for Fecal Coliform if chromogenic substrate test kits are used

c) Shoreline monitoring shall occur during daylight hours. Samples may be omitted in the event of hazardous weather;

d) Shoreline monitoring frequencies at certain stations may be modified based on the use of the adjacent beaches and their proximity to storm drains, as recommended by the SMBRP's Technical Advisory Committee and the Los Angeles County Department of Health Services (DHS).

e) Data collected shall be transmitted daily to the Los Angeles County DHS. Data shall be assessed annually and presented in the Annual Report;

f) When exceedances of public health standards for bacteria occur, the Principal Permittee shall notify the appropriate Permittees. Permittees shall initiate an investigation to determine the source, as required in the Program to Eliminate Illicit Connections and Discharges (Part 4.F.2.c.).

g) The City of Los Angeles will continue to conduct all monitoring, testing, and data transferring actions as part of the Santa Monica Bay Restoration Project regional program for the Santa Monica Bay.

E. Trash Monitoring

The Principal Permittee and the Permittees in the Los Angeles River and Ballona Creek WMAs (listed in Attachment A) shall develop and implement a trash monitoring program for the Los Angeles River and Ballona Creek watersheds. The Principal Permittee is encouraged to implement the program in the watersheds that are not presently listed on the 303(d) list for impairment for trash.

The Principal Permittee shall participate on regional monitoring committees to help establish on-going regional programs that address public health concerns, monitor trends in natural resources and nearshore habitats, and assess regional impacts from all pollutant sources. Regional Monitoring participation shall include, but not necessarily be limited to, the efforts described below.

F. Estuary Sampling

The Southern California Coastal Waters Research Project (SCCWRP), in conjunction with the USEPA, the State Board, three Regional Boards, and participating dischargers, has organized an effort to implement a regional monitoring program for the southern California bight. Previous studies (in 1994 and 1998) included microbiology, water quality, sediment chemistry, sediment toxicity testing, benthic infauna, demersal fish, and bioaccumulation. A similar bight-wide monitoring effort is planned to be conducted in 2003. The Principal Permittee shall participate on the Steering Committee for this bight-wide monitoring project, and should complete the estuary sampling requirement described below in parallel with this effort.

In addition to participation in the Bight-wide study, the goal of this requirement is to sample estuaries for sediment chemistry, sediment toxicity, and benthic macroinvertibrate community to determine the spatial extent of sediment fate from storm water, and the magnitude of its effects. A map of each estuary which depicts the impacted areas shall be produced. The maps shall provide the information necessary to conduct effective sediment monitoring to determine trends and accumulation, as a future permit requirement.

1. The Principal Permittee shall sample a maximum of 25 sites in each estuary/mouth (Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, and Dominguez Channel) once during the permit cycle. Sediment samples shall be taken at each station by means of a $0.1m^2$ ($1.1 ft^2$) modified Van Veen sediment grab sampler.

2. The Principal Permittee shall also sample a total of 25 sites outside of the direct outfalls to assess cumulative effects.

3. All samples shall be analyzed for the following:
   a) Sediment Chemistry (priority pollutants)
   b) Total Organic Carbon (TOC)
   c) Grain size
   d) Sediment Toxicity
      (1) Amphipod survival bioassays shall be conducted on each sediment sample. Toxicity shall be indicated by an amphipod survival rate of 70% or less in a single test.
      (2) Phase I TIEs of interstitial water, using Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization, shall be conducted for samples from stations identified to be toxic in a single amphipod survival bioassay.
   e) Benthic Macroinvertibrates
      (1) All sediment samples shall be passed through a 1.0mm (0.039 in) screen to retrieve the benthic organisms. Benthic epifauna and infauna shall be analyzed to determine the structure of the benthic community.
      (2) The Principal Permittee shall identify all organisms to lowest possible taxon.
      (3) The Principal Permittee shall determine the Total Biomass of:
         (i) Mollusks
         (ii) Echinoderms
         (iii) Annelids/polychaetes
         (iv) Crustaceans
         (v) All other macroinvertebrates

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(4) The Principal Permittee shall determine the community structure analysis, including wet weight of each taxonomic group (listed above), number of species, number of individuals per species, total numerical abundance, species abundance per grab, species richness, species diversity, species evenness and dominance, similarity analysis, cluster analyses, or other appropriate multivariate statistical techniques approved by the Regional Board Executive Officer, and the Infaunal Index[9].

4. The Principal Permittee shall create a map of each estuary depicting degraded areas and the spatial distribution of sediment from storm water.

G. Bioassessment

The Principal Permittee shall continue participation on the Southern California Stormwater Research/Monitoring Program committee (coordinated by SCCWRP). The Regional Board anticipates that this program will organize an effort to evaluate the biological index approach for southern California and to design a research project for developing an Index of Biological Integrity (IBI) for this region. The Principal Permittee shall participate in this regional effort at least to the extent described below.

The purpose of this requirement is to detect biological trends in receiving waters and to collect data for the development of an IBI for southern California.

1. The Principal Permittee shall coordinate with the Southern California Stormwater Research/Monitoring Program and with the Surface Water Ambient Monitoring Program (SWAMP) being developed by the Regional Board to identify the most appropriate locations for bioassessment stations within Los Angeles County.

2. Station selection shall be complete within one year from the date this Order is adopted, and sampling shall begin in October of 2003.

3. The Principal Permittee shall monitor a minimum of 20 station events per year (either 20 stations in October of each year, or 10 stations in May and October of each year). A minimum of three replicate samples shall be collected at each station during each sampling event.

4. Sampling, laboratory, quality assurance, and analysis procedures shall follow the standardized "Non-point Source Bioassessment Sampling Procedures" for professional bioassessment as set forth in the California Department of Fish and Game California Stream Bioassessment Procedure (CSBP)[10]. The following results shall be included in the annual Monitoring Report:

[9] Benthic Response Index for Assessing Infaunal Communities on the Mainland Shelf of Southern California, the SCCWRP
[10] California Stream Bioassessment Procedure (Protocol Brief for Biological and Physical/Habitat Assessment in Wadeable Streams), California Department of Fish and Game - Aquatic Bioassessment Laboratory, May 1999. Located at www.dfg.ca.gov/cabw/protocols.html.

a) All physical, chemical and biological data collected in the assessment;

b) Photographic documentation of assessment and reference stations;

c) Documentation of quality assurance and control procedures;

d) Analysis that shall include calculation of the metrics used in the CSBP;

e) Comparison of mean biological and habitat assessment metric values between stations and year-to-year trends;

f) Electronic data formatted to the California Department of Fish and Game Aquatic Bioassessment Laboratory for inclusion in the Statewide Access Bioassessment Database.

5. A professional environmental laboratory shall perform all sampling, laboratory, quality assurance, and analytical procedures.

H. New Development Impacts Study in the Santa Clara Watershed

The Principal Permittee and the City of Santa Clarita shall monitor tributaries in the Santa Clara watershed to determine impacts from new development and to compare storm water quality between subwatersheds with and without SUSMPs.

1. The Principal Permittee and the City of Santa Clarita shall select one station that is representative of a subwatershed in which the majority of development has occurred without SUSMP implementation, and one station (SUSMP station) in a subwatershed in which the majority of the development has/will include SUSMP implementation. Other inputs to runoff, such as septic systems, in the two subwatersheds should be similar.

2. The Principal Permittee shall coordinate with the City of Santa Clarita and the Regional Board to develop a proposed study design, including a description of the drainage areas to be monitored and sampling locations, no later than 180 days from the date this Order is adopted. If appropriate, this study may be conducted in conjunction with the Peak Discharge Impact Study, described in Section I.

3. The Principal Permittee and the City of Santa Clarita shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

4. Samples shall be time-weighted composites, collected during the first 3 hours, or for the duration of the storm if it is less than 3 hours. Samples may be collected manually or automatically. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within

each hour of discharge[11], unless the Regional Board Executive Officer approves alternate protocol. Constituents to be analyzed for each location shall include the following:

a) pH, dissolved oxygen, temperature, conductivity, chloride, nitrogen, and TSS

b) Metals: aluminum, arsenic, beryllium, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

c) Pathogen Indicators (Coliform)

d) Flow (flow may be estimated using EPA methods at sites where flow measurement devices are not in place)

5. For the first storm of each year, MDLs lower than or equal to the minimum levels identified in the SIP shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year.

6. The Principal Permittee and the City of Santa Clarita shall submit an analysis of the data, including a description of each subwatershed, year-to-year changes compared to the amount of development that occurred in each, comparisons between stations, and an analysis of SUSMP effectiveness, with the fifth year Monitoring Report.

I. Peak Discharge Impact Study

The Principal Permittee shall participate in a study to evaluate peak storm water discharge rate (PDR) control and to determine numeric criteria to prevent or minimize erosion of natural stream channels and banks caused by urbanization (Part 4.C.2.). The Principal Permittee may partner with the Ventura County Flood Control District to extend their stream erosion study to the Santa Clara River watershed. The study shall begin no later than 360 days from the date this Order is adopted.

J. BMP Effectiveness Study

The Principal Permittee shall conduct or participate in studies to evaluate the effectiveness of structural and treatment control storm water best management practices. The objectives of this study shall include the following:

[11] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

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1. Monitor the reduction of pollutants of concern in storm water (including, but not limited to: trash, suspended sediment, pathogen indicators, nutrients, heavy metals, and oil and grease) from five or more different types of BMPs that have been properly installed within the year proceeding monitoring. Monitoring shall be continued until the effectiveness of the BMP can be determined.

2. Evaluate the requirements, feasibility and cost of maintenance for each BMP.

3. Develop recommendations for appropriate BMPs for the reduction of pollutants of concern in storm water in Los Angeles County.

The Principal Permittee may participate in the Santa Monica Bay Restoration Foundation's proposed study, "Performance Evaluation of Structural BMPs for Storm water Pollution Control in the Santa Monica Bay Watershed" to meet this requirement. Participation includes collaboration and resource contribution to expand the scope of the proposed study.

K. Standard Monitoring Provisions

1. The Principal Permittee shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.

Records of monitoring information shall include:

a) The date, exact place, and time of sampling or measurements;

b) The individual(s) who performed the sampling or measurements;

c) The date(s) analyses were performed;

d) The individual(s) who performed the analyses;

e) The analytical techniques or methods used; and,

f) The results of such analyses.

2. All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order.

3. All chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency.

4. If no flow occurred during the reporting period, the Monitoring Report shall so state.

5. For any analyses performed for which no procedure is specified in the EPA guidelines or in this Monitoring Program, the constituent or parameter analyzed and the method or procedure used must be specified in the Monitoring Report.

6. The Regional Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring Program, after providing the opportunity for public comment, either:

   a) By petition of the Principal Permittee or by petition of interested parties after the submittal of the annual Monitoring Report. Such petition shall be filed not later than 60 days after the Monitoring Report submittal date, or

   b) As deemed necessary by the Regional Board Executive Officer following notice to the Principal Permittee.

Ordered by:

Dennis A. Dickerson
Executive Officer
Date:

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ATTACHMENT U-1
LIST OF CONSTITUENTS IN MONITORING PROGRAM
AND ASSOCIATED METHOD DETECTION LIMITS (MDLs)

CONSTITUENTS	USEPA METHOD	MDL A[1]	MDL B[2]
Conventional Pollutants		**mg/L**	**mg/L**
Oil and Grease	413.2	1	1
Total Phenols	420.1	0.1	0.1
Cyanide	335.2	0.01	0.01
pH	150.1	0 - 14	0 - 14
Temperature		None	None
Dissolved Oxygen		Sensitivity to 5 mg/L	Sensitivity to 5 mg/L
Bacteria			
Total Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Streptococcus	9221B	<20mpn/100ml	<20mpn/100ml
General		**mg/L**	**mg/l**
Dissolved Phosphorus	300	0.05	0.05
Total Phosphorus	300	0.05	0.05
Turbidity	180.1	0.1NTU	0.1NTU
Total Suspended Solids	160.2	2	2
Total Dissolved Solids	160.1	2	2
Volatile Suspended Solids	160.4	2	2
Total Organic Carbon	415.1	1	1
Total Petroleum Hydrocarbon	418.1	1	1
Biochemical Oxygen Demand	405.1	2	2
Chemical Oxygen Demand	410.4	20-900	20-900
Total Ammonia-Nitrogen	350.2	0.1	0.1
Total Kjeldahl Nitrogen	351.2	0.1	0.1
Nitrate-Nitrite	4110	0.1	0.1
Alkalinity	310.1	2	2
Specific Conductance	120.1	1umho/cm	1umho/cm
Total Hardness	130.2	2	2
MBAS	425.1	<0.5	<0.5
Chloride	4110	2	2
Fluoride	4110	0.1	0.1
Sulfate	4110	2	2

[1] Detection limits lower than or equal to the Minimum Levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California
[2] Detection limits from Order 96-054

Metals		µg/L	µg/L
Aluminum	202.1	100	100
Antimony	204.2	**0.5**	10
Arsenic	206.2	**1**	10
Barium	208.2	100	100
Beryllium	210.2	**0.5**	5
Boron	212.3	250	250
Cadnium	213.2	**0.25**	10
Calcium	215.2	200	200
Chromium	218.2	**0.5**	10
Copper	219.2	**0.5**	10
Hex. Chromium	7196	**5**	<10
Iron	236.2	100	100
Lead	239.2	0.5	10
Magnesium	242.1	200	200
Manganese	243.2	30	30
Mercury	245.1	**0.2**	1
Nickel	249.2	**1**	10
Potassium	258.1	100	100
Selenium	270.2	**1**	5
Silver	272.2	**0.25**	10
Sodium	273.1	50	50
Thallium	279.2	**1**	10
Zinc	289.2	1	50
Semivolatile Organic Compounds		µg/L	µg/L
Acids	**8250**		
Benzoic Acid	8250	<5	<5
Benzyl Alcohol	8250	<5	<5
2-Chlorophenol	8250	<2	<2
2, 4-Dichlorophenol	8250	**1**	<2
2, 6-Dichlorophenol	8250	<2	<2
4-Dimetylphenol	8250	<2	<2
4, 6-Dinitro-2-metylphenol	8250	<3	<3
2, 4-Dinitrophenol	8250	<3	<3
2-Methylphenol	8250	<3	<3
4-Methylphenol	8250	<3	<3
2-Nitrophenol	8250	<3	<3
4-Nitrophenol	8250	<3	<3
4-Chloro-3-methylphenol	8250	**1**	<3
Pentachlorophenol	8250	**1**	<2
Phenol	8250	<1	<1
2,3,4,6-Tetrachlorophenol	8250	<1	<1
2,4,5-Trichlorophenol	8250	<1	<1
2,4,6-Trichlorophenol	8250	<1	<1

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Base/Neutral	8250	µg/L	µg/L
Acenapthene		<0.5	<0.5
Acenapthylene		**0.2**	<0.5
Acetophenone-		<3	<3
Aniline		<3	<3
Anthracene		2.0	<0.5
4-Aminobiphenyl		<3	<3
Benzidine		<3	<3
Benzo(a)anthracene		<1	<1
4-Chloroaniline		<1	<1
1-Chloronapthalene		<1	<1
p-Dimethylaminoazobenzene		<3	<3
7,12-Dimethylbenz(a)-anthracene		<1	<1
a-,a-Dimethylphenethylamine		<3	<3
Benzo(a)pyrene		<1	<1
Benzo(b)flouranthene		<1	<1
Benzo(k)flouranthene		<1	<1
Chlordane		<1	<1
Bis(2-chloroethoxy)methane		<1	<1
Bis(2-chlorisopropyl)ether		<1	<1
Bis(2-chloroethyl)ether		<1	<1
Bis(2-ethylhexl)phtalate		<3	<3
4-Bromophenyl phenyl ether		<1	<1
Butyl benzyl phthalate		<3	<3
2-Chloronapthalene		<1	<1
4-Chlorophenyl phenyl ether		<1	<1
Chrysene		<1	<1
Dibenz(a,j)acridine		<3	<3
Dibenz(a,h)anthracene		**0.1**	<1
1,3-Dichlorobenzene		<0.5	<0.5
1,4-Dichlorobenzene		<0.5	<0.5
1,2-Dichlorobenzene		<0.5	<0.5
3,3-Dichlorobenzidine		<3	<3
Diethylphthalate		<0.5	<0.5
Dimethylphthalate		<0.5	<0.5
Di-n-butylphthalate		<3	<3
2,4-Dinitrotoluene		<0.5	<0.5
2,6-Dinitrotoluene		<0.5	<0.5
Diphenylamine		<3	<3
1,2-Diphenylhydrazine		**1**	<3
Di-n-octylphtalate		<3	<3
Ethyl methanesulfonate		<3	<3
Fluoranthene		**0.05**	<1
Fluorene		**0.1**	<1
Hexachlorobenzene		<0.5	<0.5
Hexachlorobutadiene		<1	<1
Hexochlorocyclopentadiene		<3	<3
Hexochloroethane		<1	<1

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Indeno(1,2,3-cd)pyrene		**0.05**	<1
Isophorone		<0.5	<0.5
3-Methylcholanthrene		<3	<3
Methyl methanesesulfonate		<3	<3
Napthalene		**0.2**	<0.5
1-Napthylamine		<3	<3
2-Napthalamine		<3	<3
2-Nitroaniline		<3	<3
3-Nitroaniline		<3	<3
4-Nitroaniline		<3	<3
Nitrobenzene		<0.5	<0.5
N-Nitroso-di-n-butylamine		<3	<3
N-Nitrosodimethylamine		<3	<3
N-Nitrosodiphenylamine		**1**	<3
N-Nitroso-di-N-propylamine		<1	<1
N-Nitrosopiperidine		<3	<3
Pentachlorobenzene		<3	<3
Phenacitin		<3	<3
Phenanthrene		**0.05**	<0.5
2-Picoline		<3	<3
Pronamide		<5	<5
Pyrene		**0.05**	<0.5
5-Tetrachlorobenzene		<3	<3
1,2,4-Trichlorobenzene		<0.5	<0.5
Pesticides	**608**	µg/L	µg/L
Aldrin	608	**0.005**	0.05
alpha-BHC	608	0.05	0.05
beta-BHC	608	0.05	0.05
delta-BHC	608	0.05	0.05
gamma-BHC (lindane	608	0.05	0.05
Carbofuran	531.1	<5	<5
Chlordane	608	0.05	0.05
4,4'-DDD	608	**0.05**	<0.1
4,4'-DDE	608	**0.05**	<0.1
4,4'-DDT	608	**0.01**	<0.1
Benzaton	515.1	<2	<2
Dieldron	608	**0.01**	<0.1
Endosulfan I	608	<0.1	<0.1
Endosulfan II	608	<0.1	<0.1
Endosulfan sulfate	608	**0.05**	<0.1
Endrin	608	**0.01**	<0.1
Endrin aldehyde	608	**0.01**	<0.1
Glyphosate	547	<0.5	<0.5
Heptachlor	608	**0.01**	0.05
Heptachlor epoxide	608	**0.01**	0.05
Methoxychlor	608	<0.5	<0.5
Toxaphene	608	**0.5**	<1.0

2,4-D	515.1	<0.02	<0.02
2,4,5-TP-SILVEX	515.1	<0.2	<0.2
Polychlorinated Biphenyls	**608**	**µg/L**	**µg/L**
Aroclor-1016	608	**0.5**	<1
Aroclor-1221	608	**0.5**	<1
Aroclor-1232	608	**0.5**	<1
Aroclor-1242	608	**0.5**	<1
Aroclor-1248	608	**0.5**	<1
Aroclor-1254	608	**0.5**	<1
Aroclor-1260	608	**0.5**	<1
Herbicides		**µg/L**	**µg/L**
Diazinon		**0.01**	0.01
Chlorpyrifos		**0.05**	0.05
Diuron		**1**	1
Malathion		**1**	1
Prometryn	507	**2**	2
Atrazine	507	**2**	2
Simazine	507	<2	<2
Cyanazine	507	**2**	2
Molinate	507	<0.01	<0.01
Thiobencarb	507	<0.1	<0.1
Volatile Organic Compounds	**8240A**	**µg/L**	**µg/L**
Acetonitrile		10.0	10.0
Acrolein		**2**	10.0
Acrylonitrile		0.5	0.5
Benzene		0.5	0.5
Bromoform		0.5	0.5
2-Butanone		10.0	10.0
Carbon Disulfide		10.0	10.0
Carbon Tetrachloride		0.5	0.5
Chlorobenzene		0.5	0.5
Chlorodibronmethane		0.5	0.5
Chloroethane		0.5	0.5
2-Chloroethyl vinyl ether		1.0	1.0
Chloroform		0.5	0.5
Dibromomethane		0.5	0.5
1,2-Dibromo-3Chloropropane		<0.01	<0.01
1,4-Dichloro-2-butene		10.0	10.0
Dichlorobromomethane		0.5	0.5
Dichlorodifluoromethane		0.5	0.5
1,1-Dichloroethane		0.5	0.5
1,2-Dichloroethane		0.5	0.5
1,1-Dichloroethene		0.5	0.5

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trans-1,2-Dichloroethene		0.5	0.5
1,2-Dichloropropane		0.5	0.5
cis-1,3-Dichloropropene		0.5	0.5
Trans-1,3-Dichloropropene		0.5	0.5
Ethanol		10.0	10.0
Ethylbenzene		**0.5**	1.0
Ethylene Dibromide		<0.01	<0.01
Ethylene Oxide		10.0	10.0
Ethyl Metcrylate		0.5	0.5
2-Hexanone		5.0	5.0
Iodomethane		0.5	0.5
Methyl Bromide		5.0	5.0
Methyl Chloride		5.0	5.0
Methylene Chloride		1.0	1.0
4-Methyl-2-pentanone		5.0	5.0
Styrene		0.5	0.5
1,1,2,2-Tetrachloroethane		0.5	0.5
Tetrachloroethane		0.5	0.5
Toluene		**0.5**	1.0
Trichlorofluoromethane		1.0	1.0
1,2,3-Trichloropropane		0.5	0.5
Trichloroethene		0.5	0.5
1,1,1-Trichloroethane		1.0	1.0
1,1,2-Trichloroethane		1.0	1.0
1,2,2-Trifluoroethane		<0.5	<0.5
Vinyl acetate		5.0	5.0
Vinyl chloride		0.5	0.5
Xylene (Total)		0.5	0.5

ATTACHMENT U-2
SHORELINE MONITORING STATIONS

Station	Location[1]	Latitude	Longitude
S1	Surfrider Beach, Malibu, 50 yds E. of breech	34.03500	118.67833
S2	Topanga Point, Malibu, seaward of lifeguard station	34.03833	118.58083
S3	Pulga storm drain, Pacific Palisades, 50 yds E. of drain	34.03361	118.53417
S4	Santa Monica Canyon storm drain, Pacific Palisades, 50 yds E. of drain	34.02639	118.51861
S5	Santa Monica Pier, Santa Monica, 50 yds S. of pier	34.00833	118.49667
S6	Pico-Kenter storm drain, Santa Monica, 50 yds S. of drain	34.00583	118.49250
S7	Ashland storm drain, Santa Monica, 50 yds S. of drain	33.99639	118.48472
S8	Windward storm drain, Los Angeles, 50 yds S. of drain	33.98778	118.47750
S9	Marina Del Rey Beach, Marina Del Rey, at lifeguard tower.	33.98139	118.45833
S10	Ballona Creek, Playa Del Rey, 50 yds S. of south jetty	33.96083	118.45611
S11	Culver Blvd., extended, Playa Del Rey, N side of Culver storm drain	33.95639	118.45167
S12	Imperial Hwy. Storm drain, Playa Del Rey, 50 yds S. of drain	33.93028	118.43722
S13	El Porto, Manhattan Beach, 40th St. extended	33.90389	118.42250
S14	Manhattan Beach Pier, Manhattan Beach, 50 yds S. of pier	33.88360	118.41278
S15	Hermosa Beach Pier, Hermosa Beach, 50 yds S. of pier	33.86111	118.40278
S16	Redondo Pier, Redondo Beach, 50 yds S. of pier	33.83833	118.39111
S17	Ave. I storm drain, Redondo Beach, Ave. I extended, 50 yds S. of drain	33.81889	118.39111
S18	Malaga Cove, Palos Verdes Estates, Arroyo Circle extended	33.80500	118.39467

[1] Station locations from *Ocean Water Regulatory & Monitoring Protocol*, County of Los Angeles, Department of Health Services, May 5, 1999.

R0003063

Second Draft (June 29, 2001)

FACT SHEET/STAFF REPORT

FOR THE

COUNTY OF LOS ANGELES MUNICIPAL STORM WATER NPDES PERMIT (CAS004001)

Los Angeles Regional Water Quality Control Board

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Second Draft – FACT SHEET/STAFF REPORT

State of California
California Regional Water Quality Control Board Los Angeles Region
National Pollutant Discharge Elimination System (NPDES)
Permit No. CAS004001, CI 6948
Regional Board Order No. 01-XXX

I. PURPOSE

The purpose of this Fact Sheet/Staff Report is to give the Permittees and interested parties an overview of the proposed permit as well as to provide the technical basis for the permit requirements. Sections I through IV describe water quality problems from urban runoff, and permit conditions to address these problems. Sections V and VI contain discuss each major element of the Permittees' Storm Water Quality Management Plan (SQMP), and is meant to be used as a reference document during review of the permit.

II. INTRODUCTION - THE NEED TO REGULATE STORM WATER DISCHARGES

A. Impacts

The quality of storm water and urban runoff are fundamentally important to the health of the environment and the quality of life in Southern California. Polluted storm water runoff is a leading cause of water quality impairment in the Los Angeles Region. Storm water and urban runoff, during dry and wet weather, are often contaminated with pesticides, fertilizers, animal droppings, trash, food wastes, automotive byproducts, and many other toxic substances generated by our urban environment. Water that flows over streets, parking lots, construction sites, and industrial, commercial, residential, and municipal areas carries these untreated pollutants through the storm drain networks directly into the receiving waters of the Region. Several of the documented water quality impacts and increased public health risks from Municipal Separate Storm Sewer System (MS4) discharges that affect receiving waters nationwide and Los Angeles County and its coastline are listed below.

The **National Urban Runoff Program** (NURP) Study (USEPA 1983) showed that MS4 discharges draining from residential, commercial, and light industrial areas contain more than ten times the annual loading of total suspended solids. Although the NURP Study did not target industrial sites, the study suggested that runoff from industrial sites may have significantly higher contaminant levels than runoff from other urban land use sites. Several studies tend to support this suggestion, such as the Fresno, California NURP project, which showed that industrial areas had the poorest storm water quality of the four land-uses evaluated. The study also found that pollutant levels from illicit discharges were high enough to significantly degrade receiving water quality, and threaten aquatic life, wildlife, and human health.

The **1998 National Water Quality Inventory** (305(b) Report)[1] showed that urban runoff/storm sewer discharges affect 11% of rivers, 12% of lakes, and 28% of estuaries.

[1] *Quality of Our Nation's Waters: Summary of the National Water Quality Inventory 1998 Report to Congress* - USEPA 841-S-00-001 - June 2000; *Water Quality Conditions in the United States: Profile from the 1998 National Water Quality Inventory Report to Congress* - USEPA 841-F-00-006 - June 2000

The report states that there was an increase in the impairment of ocean shoreline due to urban runoff/storm sewers from 55% in 1996 to 63% in 1998. The report notes that urban runoff and storm sewer discharges are the leading source of pollution and the main factor in the degradation of surface water quality[1] in California's coastal waters, rivers and streams.

The Natural Resources Defense Council (NRDC) 1999 Report, **"Stormwater Strategies, Community Responses to Runoff Pollution"**[2] identifies two main causes of the storm water pollution problem in urban areas. Both components are directly related to development in urban and urbanizing areas:

1. Increased volume and velocity of surface runoff. There are three types of human-made impervious covers that increase the volume and velocity of runoff: (i) rooftop, (ii) transportation imperviousness, and (iii) non-porous (impervious) surfaces. As these impervious surfaces increase, infiltration will decrease, forcing more water to run off the surface, picking up speed and pollutants.

2. The concentration of pollutants in the runoff. Certain activities, such as those from industrial sites, are large contributors of pollutant concentrations to the storm water system.

The report also identified several activities causing storm water pollution from urban areas, practices of homeowners, businesses, and government agencies.

More recent studies conducted by **United States Geological Service** (USGS)[3] confirms the link between urbanization and water quality impairments in urban watersheds due to contaminated storm water runoff.

Other studies proved a direct link between polluted urban runoff and adverse health effects to humans.[4]

B. Benefits of Permit Program Implementation

Implementation of the MS4 permit requirements should significantly reduce pollutants in urban storm water in a cost-effective manner. Implementation of Best Management Practices (BMPs) should also reduce pollutant discharges, and improve surface water quality. The expected benefits of implementing the minimum measures of an MS4 NPDES permit include:

- **Enhanced Aesthetic Value**: Storm water affects the appearance and quality of a water body, and the desirability of working, living, traveling, or owning property near that water body. Reducing storm water pollution will increase benefits as these water bodies recover and become more desirable.
- **Enhanced Opportunities for Boating**: reducing sediment and other pollutants, and increasing water clarity, which enhances the boating experience for users, offer additional benefits.

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[1] *Quality of Our Nation's Waters: Summary of the National Water Quality Inventory 1998 Report to Congress,* Chapter 12 State and Territory Summaries, California., pp. 282-83: 1998.
[2] *Clean Water & Oceans: Water Pollution: In Depth Report Stormwater Strategies, Community Responses to Runoff Pollution.* Natural Resources Defense Council (NRDC), 1999.
[3] *Water Quality in the Puget Sound Basin, Washington and British Columbia, 1996-98,*Circular 1216 - USGS 2000; *Water Quality in the Long Island-New Jersey Coastal Drainages, New Jersey and New York, 1996-98,* Circular 1201 - USGS 2000
[4] *An Epidimiological Study Of Possible Adverse Health Effects Of Swimming In Santa Monica Bay* - Haile, R. W. et al, Santa Monica Bay Restoration Project, 1996

- **Enhanced Commercial Fishing**: Important because commercial fisheries are a significant part of the nation's economy, and 28% of the estuaries in the 305(b) Report were impacted by storm water/urban runoff.
- **Enhanced Recreational and Subsistence Fishing**: Pollutants in storm water can eliminate or decrease the numbers, or size, of sport fish and shell fish in receiving waters.
- **Reduced Flood Damage**: Storm water runoff controls may mitigate flood damage by addressing problems due to the diversion of runoff, insufficient storage capacity, and reduced channel capacity from sedimentation.
- **Reduced Illness from Consuming Contaminated Seafood**: Storm water controls may reduce the presence of pathogens in seafood caught by commercial or recreational anglers.
- **Reduced Illness from Swimming in Contaminated Water**: Epidemiological studies indicate that swimmers in water contaminated by storm water runoff are more likely to experience illness than those who swim farther away from a storm water outfall.
- **Enhanced Opportunities for Non-contact Recreation**: Storm water controls reduce turbidity, odors, floating trash, and other pollutants, which then allow waters to be used as focal point for recreation, and enhance the experience of the users.
- **Drinking Water Benefits**: Pollutants from storm water runoff, such as solids, toxic pollutants, and bacteria may pose additional costs for treatment, or render the water unusable for drinking.
- **Water Storage Benefits**: Storm water is a major source of impairment for reservoirs. The heavy load of solids deposited by storm water runoff can lead to rapid sedimentation of reservoirs and the loss of needed water storage capacity.[1]

III. STATUTORY AND REGULATORY HISTORY OF THE STORM WATER PROGRAM

Over the past 29 years, water pollution control efforts have focused primarily on certain process water discharges from facilities such as factories and sewage treatment plants, with less emphasis on diffuse sources. The 1972 amendments to the federal Clean Water Act (CWA) prohibit the discharge of any pollutant to waters from a point source, unless a NPDES permit authorizes the discharge. Because the focus on reducing pollutants was centered on industrial and sewage treatment discharges, Congress amended the CWA in 1987, requiring the USEPA to create phased NPDES requirements for storm water discharges.

In response to the 1987 Amendments to the CWA, EPA developed Phase I of the NPDES Storm Water Program in 1990. Phase I requires NPDES permits for storm water discharges from: (i) "medium" and "large" MS4s generally serving, or located in incorporated places or counties with, populations of 100,000 or more people; and (ii) eleven categories of industrial activity, one of which is construction activity that disturbs five acres or greater of land.

Phase II, adopted in December 1990 and scheduled to be in full effect in March 2003, requires operators of small MS4s and small construction sites (construction activity disturbing between 1 and 5 acres of land) in urban areas to control storm water runoff discharges. Phase II establishes a cost-effective approach for reducing environmental harm caused by storm water discharges from previously unregulated diffuse sources.

[1] *Report to Congress on Phase II Storm Water Regulations.* USEPA, Office of Water. EPA-833-R-99-001, Oct. 1999.

A. Basis for Permit Conditions

1. **Statutory basis for permit conditions.** The conditions established by this permit are based on Section 402(p)(3)(B) of the CWA which mandates that a permit for discharges from MS4s must: effectively prohibit the discharges of non-storm water to the MS4; and require controls to reduce pollutants in discharges from MS4 to the maximum extent practicable (MEP) including best management practices, control techniques, and system, design and engineering methods, and such other provisions determined to be appropriate. MS4s are not exempted from compliance with Water Quality Standards. Section 301(b)(1)(C) of the CWA requiring that NPDES permits include limitations, including those necessary to meet water quality standards, applies. The intent of the permit conditions is to meet the statutory mandate of the CWA.

   As authorized by 40 CFR 122.44(k), the permit will be utilizing BMPs, a comprehensive Storm Water Quality Management Plan (SQMP), as the mechanism to implement statutory requirements. Section 402(p)(3)(B)(iii) of the CWA clearly includes structural controls as a component of maximum extent practicable requirement.

2. **Regulatory basis for permit conditions.** As a result of the statutory requirements of the CWA the USEPA promulgated the MS4 Permit application regulations, 40 CFR 122.26(d). These regulations described in detail the permit application requirements for MS4s operators. The information in the Report of Waste Discharge (ROWD) was utilized to develop the permit conditions and determine permittees status in relationship to these conditions.

3. **Discharge limitations.** No numeric limitations are proposed at this time. In accordance with 40 CFR 122.44(k), the USEPA has required a series of increasingly more effective BMPs[1], in the form of a comprehensive SQMP, performance standards, in lieu of numeric limitations.[2]

B. Public Review and Participation Process

Since the Regional Board received the ROWD for Los Angeles County on January 31, 2001, Regional Board staff has dedicated significant time and effort to the public review and participation process. Many meetings, workshops, and other outreach efforts were organized to ensure that the public, the Permittees, and other interested parties had ample opportunity to participate in the development and comment on draft permit requirements and language prior to the proposed adoption by the Regional Board.

To invite public comment at the beginning of the renewal process, a preliminary draft, dated March 16, 2001, was issued to a working group of interested parties. This draft was used as a starting point for discussion. Recipients had approximately 30 days to review it prior to the issuance of the first draft, on April 13, 2001. The first draft was sent to all Permittees, storm water consultants, environmental organizations, and other

[1] *Interpretative Policy Memorandum on Reapplication Requirements* of MS4s issued by USEPA (61 Fed. Reg. 41697)
[2] *Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits* (61 Fed. Reg. 43761)

interested parties. It was also available on the Regional Board Storm Water web page at www.swrcb.ca.gov/rwqcb4/html/programs/Stormwater/renewal.html. Again, more than one month was provided for the submittal of written comments. The renewal schedule also included the issuance of a second draft, followed by over 30 days for review and comments, and an additional 45 days between the issuance of the final draft and the proposed permit adoption, on October 25, 2001.

Furthermore, Regional Board staff conducted separate meetings to discuss each individual Special Provision as necessary. In addition to these meetings, Regional Board staff held two workshops to review the permit and listen to comments, including one formal workshop with the Board members. Regional Board staff also participated in the monthly Executive Advisory Committee meetings to answer questions and discuss permit issues. Staff was also available for public outreach via telephone. The following table outlines the public review process.

Date	Public Involvement Activity
January 31, 2001	Application for permit renewal (ROWD)
February 27, 2001	Inspections Working Group Meeting
February 28, 2001	Illicit Connection/Discharge Working Group Meeting
March 1, 2001	Monitoring Working Group Meeting
March 12, 2001	Public Information and Participation Working Group Meeting
March 20, 2001	Inspections Working Group Meeting
March 20, 2001	Construction Working Group Meeting
March 22, 2001	Preliminary Draft Working Group Meeting
April 9, 2001	Monitoring Working Group Meeting
April 13, 2001	Issuance of First Draft
April 24, 2001	Public Workshop
April 24, 2001	Construction Meeting with Building Industry Association
April 27, 2001	Monitoring Working Group Meeting
May 9, 2001	Monitoring Working Group Meeting
May 16, 2001	First Draft Comments Due
May 24, 2001	Construction Meeting with BIA
June 4, 2001	Monitoring Working Group Meeting
June 14, 2001	Monitoring Station Identification Field Trip
June 25, 2001	Monitoring Working Group Meeting
June 29, 2001	Issuance of Second Draft
July 26, 2001	Formal Workshop with Regional Board
September 7, 2001	Issue Final Draft
October 25, 2001	Proposed Permit Adoption at Board Meeting

IV. BACKGROUND - LOS ANGELES COUNTY MS4

A. Los Angeles County MS4 Permit History

In 1990, the Los Angeles Regional Water Quality Control Board (Regional Board) adopted Order No. 90-079, the Los Angeles County Municipal Storm Water Permit. That permit required the County of Los Angeles and the incorporated cities to implement pollution controls including amending ordinances, optimizing existing pollutant controls such as street sweeping, construction site controls, and others. The 1990 permit also required all Permittees to implement a minimum 13 BMPs for consistency across the County. The 1990 permit was issued on a system wide basis due to the highly interconnected storm drain system serving a population well in excess of 100,000 inhabitants. An NPDES permit is valid for a five-year period after the date is issued[1].

On July 15, 1996, the Regional Board adopted Order No. 96-054 that revised the 1990 permit. The 1996 permit required model programs be developed and implemented by the Permittees for Public Information and Public Participation, Industrial/Commercial Activities, Development Construction, Illicit Connections and Illicit Discharges, Public Agency Activities, and Development Planning. These dynamic model programs are modified with the changing needs of the SQMP.

Following the adoption of Order 96-054, the City of Long Beach submitted a ROWD as an application for its own MS4 permit. The City of Long Beach Municipal Storm Water Permit (Order No. 99-060) was adopted on June 30, 1999. This Order superseded the countywide permit, allowing Long Beach to operate under separate waste discharge requirements.

On January 31, 2001, the Los Angeles County Department of Public Works submitted an application for renewal of their MS4 permit in the form of an ROWD for Los Angeles County and the incorporated cities, except for the City of Long Beach. This application started the process of renewing the permit, which enters in its third cycle since the initial one was adopted in 1990.

B. Los Angeles County Storm Drain System

The storm drain system covered by this proposed permit for the County of Los Angeles and 83 incorporated cities drains the coastal slopes of the Transverse Mountain Ranges, and flows into the Santa Monica Bay and the Los Angeles/Long Beach Harbor. The storm drain structure consists of thousands of catch basins, thousands of miles of underground storm drains, as well as open channels, all owned and operated separately by Permittees. The length of the system, and the locations of all storm drain connections, is not known, as a comprehensive map for the storm drain system does not exist. Rough estimates, based on information from large municipalities (population > 100,000), indicates that the length exceeds 4,300 miles, as shown below.

[1] 40 CFR §122.46 (a)

Permittee	Area (Square Miles)	Catch Basins	Storm Drain Length	Open Channel Length
LA County		73,000	2,650 miles	450 miles
City of LA	469	30,000	1,600 miles	31 miles
El Monte	10	316	11 miles	0.4 mile
Glendale	30.6	1,100	Unknown	Unknown
Inglewood	9	1,157	12 miles	
Pasadena	26	1,050	30	
Santa Monica	8.3	850		
Torrance	20	2,000	20 miles	3 miles
TOTAL		**109,473**	**4,323**	**484.4**

C. Summary of Problems in the Los Angeles County Watersheds

Watersheds are geographic areas draining into a river system, ocean or other body of water through a single outlet. There are five Watershed Management Areas (WMAs) that represent the five major watersheds covered by the Los Angeles County MS4 NPDES permit. The following is a summary of some significant issues in each watershed.[1]

Dominguez Channel/Los Angeles-Long Beach Harbor Watershed

Permitted discharges

- 415 dischargers covered under an industrial storm water permit
- 69 dischargers covered under a construction storm water permit

Potential sources of pollution

- Historical deposits of DDT and PCBs in sediment
- Spills from ships and industrial facilities
- Leakages contaminating groundwater
- **Urban and storm water runoff**
- Impairments: metals, PCBs, PAHs, historic pesticides, coliform, trash, and nitrogen

Los Angeles River Watershed

Permitted discharges

- 1,327 dischargers covered under an industrial storm water permit

[1] *Watershed Management Initiative Chapter.* California Regional Water Quality Control Board – Los Angeles Region. Dec. 2000.

- 147 dischargers covered under a construction storm water permit

Potential sources of pollution

- Nitrogen and coliform contributions from septic systems
- Other nonpoint sources (horse stables, golf courses)
- Leakage of MTBE from underground storage tanks
- **Urban and storm water runoff**
- Impairments: nitrogen, trash, selenium, other metals, coliform, PCBs, historic pesticides, chlorpyrifos

San Gabriel River Watershed[1]

Permitted discharges

- 549 dischargers covered under an industrial storm water permit
- 175 dischargers covered under a construction storm water permit

Potential sources of pollution

- Excessive trash in recreational areas of upper watershed
- Nonpoint source loadings from nurseries and horse stables
- **Urban and storm water runoff**
- Impairments: nitrogen and effects, trash, metals, historic pesticides, coliform, chlorides, and PCBs

Santa Monica Bay Watershed

- 549 dischargers covered under an industrial storm water permit
- 175 dischargers covered under a construction storm water permit

Potential sources of pollution

- Discharges from Ballona and Malibu Creeks contribute to impairments in the Santa Monica Bay and its beaches.
- Impairments: mercury, selenium, other metals, historical pesticides, PAHs, PCBs, nitrogen, coliform, trash, TBT, habitat alteration, exotic vegetation, and salts

Coastline

- **Acute health risk associated with swimming in runoff contaminated surfzone waters**
- Chronic risk associated with consuming seafood from areas impacted by DDT and PCB contamination
- Historic deposits of DDT and PCBs in sediment

Ballona Creek Watershed

- Trash loading from creek

[1] *San Gabriel Watershed State of The Watershed* - RWQCB - LA Region - June 2000

- Sediment contamination by heavy metals form creek to Marina del Rey Harbor and offshore
- **Toxicity of both dry weather and storm water runoff in creek**
- High bacterial indicators at mouth of creek

Malibu Creek Watershed

- Excessive freshwater, nutrients, and coliform in lagoon; contribution from POTW and other sources
- **Urban runoff from upper watershed**
- Septic tanks in lower watershed

V. DISCUSSION OF SPECIAL PROVISIONS

A. Public Information and Participation Program (PIPP)

Legal Authority:

CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(I)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(6) provides that the proposed management program include "A description of a program to reduce to the maximum extent practicable, pollutants in discharges from MS4s associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(6) provides that the proposed management program include " A description of education activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials."

To satisfy the Public Education and Outreach minimum control measure, the Permittees need to: (i) implement a public education program to distribute educational materials to the community, or conduct equivalent outreach activities about the impacts of storm water discharges on local waterbodies and the steps that can be taken to reduce storm water pollution; and (ii) determine the appropriate BMPs and measurable goals for this minimum control measure.

Background:

Implementation of a PIPP is a critical BMP and a necessary component of a storm water management program. The State Board Technical Advisory Committee "recognizes that education with an emphasis on pollution prevention is the fundamental basis for solving nonpoint source pollution problems." The USEPA Phase II Fact Sheet 2.3 (Fact Sheet 2.3) finds that "An informed and knowledgeable community is critical to the success of a storm water management program since it helps insure the following: (i) greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, and (ii) greater compliance with the program as the

public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters."[1]

Furthermore, the public can provide valuable input and assistance to a municipal storm water management program and, therefore, should play an active role in the development and implementation of the program. An active and involved community is essential to the success of a storm water management program because it allows for:

- Broader public support since citizens who participate in the development and decision making process are partially responsible for the program and, therefore, may be less likely to raise legal challenges to the program and are more likely to take an active role in its implementation;
- Shorter implementation schedules due to fewer obstacles in the form of public and legal challenges and increased sources in the form of citizen volunteers;
- A broader base of expertise and economic benefits since the community can be a valuable, and free, intellectual resource; and
- A conduit to other programs as citizens involved in the storm water program development process provides important cross-connections and relationships with other community and government programs. This benefit is particularly valuable when trying to implement a storm water program on a watershed basis, which is encouraged by the USEPA.

Discussion:

Based on the background information, the County should continue its comprehensive educational storm water and urban runoff outreach program, which is designed to measurably increase public knowledge and change behavior regarding storm water pollution. The first five-year public education plan was successful at studying segmentations of Los Angeles County residents to identify those who pose the greatest threat to storm water quality and those who represent the greatest opportunity to respond to a public education program, as well as providing a baseline measurement of residents' storm water-related practices and habits. This information was used to target the residents who are most likely to change their behaviors to improve storm water quality. Using various communication tactics and activities, the program successfully reached 83% of County residents with pollution prevention messages through the Storm Water/Urban Runoff Public Education Program Five-Year Storm Water Public Education Strategic Analysis (Five-Year Strategy).[2]

Although the Program has been successful at certain goals it must be augmented to continue increasing public awareness of specific storm water issues. According to the USEPA, materials and activities should be relevant to local situations and issues, and incorporate a variety of strategies to ensure maximum coverage. This is addressed in Part P.4 of the Five-Year Strategy by

[1] *Storm Water Phase II Final Rule - Public Education and Outreach Minimum Control Measure*. USEPA Fact Sheet 2.3, January 2000.

[2] *Storm Water/Urban Runoff Public Education Program Five-Year Storm Water Public Education Strategic Analysis*, Los Angeles County of Public Works, July 31, 2000.

requiring the development of watershed and pollutant-specific education programs.

Also, the USEPA encourages partnerships and cooperation, and quarterly meetings will provide the opportunity for Permittees to coordinate their outreach efforts and efficiently build on the County's existing program with local, watershed-specific efforts.

Furthermore, "Directing materials or outreach programs toward specific groups of commercial, industrial, and institutional entities likely to have significant storm water impacts is recommended" (Fact Sheet 2.3). The Permittee conducted educational site visits to Phase I industrial facilities, auto repair shops, retail gasoline outlets, and restaurants during the last 5-year permit cycle. The next step in this targeted outreach program is education at the corporate level to facilitate employee compliance, as described in Part P.5 of Five-Year Strategy. Also, a non-regulatory business assistance program will encourage small businesses that lack access to the expertise necessary to comply with storm water regulations to implement pollution prevention measures.

Specific significant changes in the draft permit and their justifications are described below:

1. Program for Residents

NEW REQUIREMENT: The Principal Permittee shall organize Public Outreach Strategy meetings with all Co-permittees on a quarterly basis. The Principal Permittee shall provide guidance for Co-permittees to augment the regional outreach and education program. Co-permittees shall coordinate regional and local outreach and education to reduce duplication of efforts.

JUSTIFICATION: This requirement is based on the need for coordination between all Permittees. Since the Program's inception, Permittees have been required to conduct education activities within their own jurisdictions. The lack of guidance and coordination has led to duplicate efforts and confusion about developing appropriate programs that are consistent with, and enhance, the Principal Permittee's regional education program. This requirement will ensure that all Permittees are coordinated for the most efficient and effective Program. It will also help identify Permittees with insufficient Programs.

Fact Sheet 2.3 states that it is generally more cost-effective to have numerous operators coordinate to use an existing program than all developing their own local programs. Therefore, Permittees should build on the regional program with additional information specific to local needs.

NEW REQUIREMENT: The Principal Permittee and Co-permittees shall coordinate to develop outreach programs that target the watershed-specific pollutants listed in Table 1 within 6 months of the permit adoption date. It may be appropriate to address metals in the Industrial/Commercial businesses program. Region-wide pollutants may be included in the Principal Permittee's mass media efforts.

Table 1. Target Pollutants for Outreach

Watershed	Target Pollutants for Outreach
Ballona Creek	*Trash, Indicator Bacteria, Metals, PAHs*
Malibu Creek	*Trash, Nutrients (Nitrogen), Indicator Bacteria*
Los Angeles River	*Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals, Pesticides, PAHs*
San Gabriel River	*Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals*
Santa Clara River	*Nutrients (Nitrogen), Indicator Bacteria*
Dominguez Channel	*Trash, Indicator Bacteria, PAHs*

JUSTIFICATION: This requirement will allow the Program and/or local efforts to focus on target pollutants. Citizens must be aware of priority pollutants and their causes for any improvement to occur. Page 3 of the SQMP states that the components within the phases that roll-out over the next four years will be fluid to reflect the evolving message for each targeted audience. This implies that the Permittee realizes the need to target pollutants and specific audiences and has already planned to address this issue. This is a necessary step in the implementation of current and future total maximum daily loads (TMDLs) requirements.

Fact Sheet 2.3 states that municipalities should strive to make their materials and activities relevant to local situations and issues, and to incorporate a variety of strategies to ensure maximum coverage. It also recommends directing materials or outreach programs toward specific groups of commercial, industrial, and institutional entities likely to have significant storm water impacts.

Although it may not be appropriate to target heavy metals through the Program for Residents, it may be accomplished through the site inspection program. The Industrial/Commercial Program will prioritize facilities by their threat to water quality and whether or not they generate pollutants for which the water body is impaired, so it will be consistent with this requirement and Table 1.

2. Programs for Businesses

NEW REQUIREMENT: The Principal Permittee shall develop and implement a Corporate Outreach Program to educate corporate environmental managers about storm water regulations. The Program shall target retail gasoline outlets (gas stations) and restaurant chains.

JUSTIFICATION: Facility owners and representatives at the corporate level are not typically present during site visits or inspections. They need to be educated about applicable storm water regulations so they can set rules and direct management to ensure compliance at the facility level.

This has already been discussed as the next step following the last five years of outreach to these businesses.

NEW REQUIREMENT: Permittees may develop and implement a Business Assistance Program to provide technical resource assistance to small businesses to help them understand and comply with storm water regulations.

JUSTIFICATION: Many small businesses do not have the resources or expertise necessary to understand and implement storm water regulations. And hiring consultants and implementing structural BMPs can put many small operators out of business. Therefore, a non-regulatory assistance program that educates businesses about pollution prevention will help them comply, and cut costs, so they can continue to be competitive. This is encouraged, but is not a requirement.

The City of Los Angeles has been implementing a successful business outreach program through the Hazardous and Toxic Materials Office since 1988.

Fact Sheet 2.3 recommends directing materials or outreach programs toward specific groups of commercial, industrial, and institutional entities likely to have significant storm water impacts.

Alternative funding sources, such as grants and loans may be available to fund such a program.

3. Performance Standards

NEW PERFORMANCE STANDARD: The discharger shall ensure that a minimum of 35 million impressions per year are made on the general public about storm water via print, local TV access, local radio, or other appropriate media.

JUSTIFICATION: According to the Principal Permittee's Year Four (1999-2000) Highlights, approximately 85 million impressions were made through advertising, media relations, customized coffee jackets, corporate partnerships, special events, and business outreach. Hits on the www.888CleanLA.com website have been consistently increasing, indicating a growing public interest, as well as greater impressions. It can be anticipated that mass media coverage will become more efficient after the final Program study is complete in the summer of 2001. Also, increased media attention and public interest in current issues, such as trash TMDLs, is expected. The County originally proposed that it would make a minimum of 50 million impressions per year; however, this number has been reduced to 35 due to the increasing cost of advertising.

The requirement is consistent with the number of impressions required in the City of Long Beach Municipal Storm Water Permit Order (99-060) and the Ventura County Municipal Storm Water Permit. The City of Long Beach is required to make a minimum of 1.5 million impressions per year. With a total population of approximately 426, 000 people, they must impress each person approximately 3.5 times per year. Ventura County is also required to impress every resident approximately 3 times. The 9.5 million people in Los Angeles County[1] must be impressed approximately 3 times per year.

[1] 2000 U.S. Census Bureau

NEW PERFORMANCE STANDARD: The discharger shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, and other media necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution. All Co-permittees shall cooperate with funding and implementing this requirement. Cooperative efforts with other agencies may also be used to accomplish this requirement.

JUSTIFICATION: This requirement is consistent with the City of Long Beach Municipal Storm Water Permit.

It is also justified by the performance of Los Angeles County's School Environmental Education Program. According to data provided by the County, the Program has been reaching approximately 50 percent of elementary and secondary schools in the County every 2 years. It is also expected that the required coordination among permittees will increase the effectiveness and range of this Program.

NEW PERFORMANCE STANDARD: Corporate Outreach for all gas station and restaurant chain corporations shall occur once every 2 years, not less than twice during the permit cycle.

JUSTIFICATION: This performance standard is required because it is consistent with the frequency of previous and current inspections. This program will replace the need for educational site visits or inspections of gas stations. The resources saved by not inspecting gas stations can be used to fund this program. Also, a corporation can encompass many gas stations or restaurants, so the number of consultations will be significantly less than that of previously required educational site visits.

B. Industrial/Commercial Facilities Program

Legal Authority:

The Phase I 40 CFR 122.26(d)(2) regulations require, in part, that the applicant (i) develop adequate legal authority, (ii) perform a source identification, and (iv) develop a management program to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system design and engineering methods, and such other provisions which are appropriate. Specifically, with regards to industrial controls, the management plan shall include the following.

40 CFR 122.26(d)(2)(iv)(C), A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and **industrial facilities** that the municipal permit applicant determines are **contributing a substantial pollutant loading to the municipal storm sewer system**. The program shall:

*(1) Identify priorities and procedures for **inspections** and **establishing and implementing control measures** for such discharges;*

*(2) Describe a **monitoring program** for storm water discharges associated with industrial facilities [...]*

Background:

The municipality is ultimately responsible for discharges from their municipal storm sewer system (MS4). Because industrial awareness of the program may not be complete, there may be facilities within the MS4 area that should be permitted but are not (non-filers). In addition, the Phase I regulations that require industries to obtain permits is based on SIC Code. This has been shown to be incomprehensive in identifying industries that may be significant sources of storm water pollution (*by industries we also mean commercial businesses. "Industries" is intended as a generic term*) that should be permitted. Another concern is that the permitting authority **may not have adequate resources** to provide the **necessary oversight** of permitted facilities. Therefore, it is in the municipality's best interest to assess the specific situation and implement an industrial/commercial inspection/site visit and enforcement program to control the contribution of pollutants to and through their MS4 to the maximum extent practicable from all high risk sources.

In the preamble for its 1990 regulations, the USEPA clearly states the intended strategy for discharges of storm water associated with industrial activity: *"...Municipal operators of large and medium municipal separate storm sewer systems are responsible for obtaining system-wide or area permits for their system's discharges. These permits are expected to require that **controls** be placed on **storm water discharges associated with industrial activity** which discharge through the municipal system."* The USEPA also notes in the preamble that *"... municipalities will be required to meet the terms of their permits related to industrial dischargers."*

In the Chapter 3.0 of the USEPA's Guidance Manual[1], it is specified that municipal applicants must demonstrate that they possess adequate legal authority to:

- Control construction site and other **industrial discharges** to MS4s;
- Prohibit illicit discharges and control spills and dumping;
- Carry out **inspection, surveillance, and monitoring** procedures.[1]

The document goes on to explain that **"control"**, in this context means not only to require disclosure of information, but also to **limit, discourage, or terminate** a storm water discharge to the MS4. Also, to satisfy its permit conditions, a municipality **may need to impose additional requirements on discharges from permitted industrial facilities, as well as discharges from industrial facilities and construction sites *not* required to obtain permits.**

In the same Guidance Manual, Chapter 6.3.3, it is stated that the municipality is ultimately responsible for discharges from their MS4. Consequently, the proposed storm water management program should describe how the municipality **will help** the USEPA and authorized NPDES States to:

- **Identify** priority industries discharging to their systems; **R0003080**

[1] *Guidance Manual For the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems* - USEPA -November 1992

- **Review and evaluate** storm water pollution prevention plans (SWPPPs) and other procedures that industrial facilities must develop under general or individual permits;
- **Establish and implement** BMPs to reduce pollutants from these industrial facilities (or require industry to implement them); and
- **Inspect and monitor** industrial facilities discharging storm water to the municipal systems to ensure these facilities are in compliance with their NPDES storm water permit, if required.

Discussion:

Recognizing that the municipality is ultimately responsible for the quality of storm water discharges in the MS4, the municipalities should evaluate the industrial/commercial facilities and determine their compliance with the permit requirements, as well as their contribution to the MS4 and potential impacts to the receiving waters. The following areas must be addressed in order to implement a meaningful industrial/commercial inspection/site visit and enforcement program, which has the ability to **control and reduce** the contribution of pollutants from industrial/commercial sites to the MEP.

- **Source Identification**
  - Identification of industrial/commercial sites discharging to the MS4 (by SIC codes and narrative if needed)
  - Characterization of activities, materials used, and potential for contributing pollutants along with the type of pollutants

- **Pollution Prevention**
  - Key concepts are many times overlooked: **Prevent, before it happens**, and be **Pro-active** rather than **Reactive**. It is more difficult to treat after the pollutant is released or mixed with runoff. BMPs and other site-specific controls are often most appropriate for reducing pollutants in storm water discharges associated with industrial activity.

- **Threat to Water Quality Prioritization**
  - Identify impaired water bodies and link with activities and industrial/commercial sites that may contribute specific pollutants creating (or potentially contributing to) the water quality impairment

- **Through existing ordinance, order, or similar means, the ability to**
  - enter premises;
  - conduct inspections;
  - review and evaluate SWPPPs;
  - require minimum BMP implementation and monitoring results review; and,
  - take appropriate enforcement procedures and actions

  in order to address the following elements:

  - minimum BMP Implementation
  - monitoring of Industrial/Commercial sites
  - inspection/site visit of Industrial/Commercial sites
  - enforcement measures for Industrial/Commercial sites

It may be necessary to update existing ordinances if they do not provide sufficient legal authority to implement the above mentioned components.

Strategy and Coordination with State activities

Recognizing the dual coverage envisioned by the USEPA regulations, and suggested partnership between local and State authorities, municipalities shall coordinate with State activities for the implementation of the General Industrial Activities Storm Water Permit (GIASP) and the control of other sources not specifically covered under Phase I storm water regulations but identified as significant contributors of pollutants by the municipalities through their identification and prioritization process. The net result should be a better and improved coordinated program with greater impact on limiting and eliminating (as a final goal) the contribution of pollutants to the receiving water while maintaining and/or restore the capacity of the receiving water to sustain the beneficial uses without impairments.

During the previous permit cycle the Los Angeles County conducted a Critical Source Study (1998-2000) as required by the permit conditions. The objective of the study was to identify five priority industrial and/or commercial critical source types, and monitor each source type for two years. The *Critical Source Selection and Monitoring Report* (Woodward-Clyde, 1997) identified as the five highest ranked pollution potential activities to be, in order of ranking: (i) wholesale trade (scrap, auto dismantling), (ii) automotive repair/parking, (iii) fabricated metal products, (iv) motor freight (including trucking), (v) chemical and allied products. The report also outlined a complete study plan to be implemented by the Permittees during the permit cycle. It is significant to note that four out of five categories of activities are subject to Phase I storm water regulations while automotive repair/parking category was not the focus of Phase I, but the study identified this category as a significant contributor based on the criteria developed in the report.

Rank (pollution potential)[1]	Industrial Category	SIC Code	No. Facilities
1	Wholesale trade (scrap, auto dismantling)	50	587
2	Automotive repair/parking	75	6,067
3	Fabricated metal products	34	3,283
4	Motor freight (including trucking)	42	872
5	Chemical and allied products	28	1,069

Based on the dual coverage and partnership approach between permitting authority and municipalities intended by the USEPA in the storm water regulations (see letters from Alexis Strauss, USEPA Water Division Director)[2,3], and in order to best use limited resources at the State and Municipal level, Regional Board staff requires the following improvements:

Recognizing that this permit represents a third generation permit, and building upon the experience and tools developed under the previous permits, the Industrial/Commercial program must be elevated to an Inspection/Site visits and

[1] *Critical Source Selection and Monitoring Report (Table 1-3)* - Woodward-Clyde 1996
[2] Letter dated December 19, 2000, from Alexis Strauss, Director, Water Division, USEPA Region IX, to Dennis Dickerson, Executive Officer, Regional Water Quality Control Board-Los Angeles Region.
[3] Letter dated April 30, 2001, from Alexis Strauss, Director, Water Division, USEPA Region IX, to Honorable Stephen Horn, U.S. House of Representatives

enforcement program, in order to have the municipalities control the storm water discharges associated with industrial activities from industrial/commercial facilities to the MEP while assisting the Regional Board to implement the general permit for industrial activities. The business PIPP component should be continued under the auspices of the Public Education program.

The strategy as outlined in the permit builds on the State/Municipalities partnership by focusing their limited resources on the following activities:

- The Permittees will take a lead role in inspecting restaurants, automotive service facilities and site visits at Phase I facilities while
- Regional Board will be the lead for facilities covered or in need of coverage under GIASP
- The Permittees will assist Regional Board in its activities to fully implement the GIASP through spot check inspections, referrals, data information search, joint inspections
- The Regional Board and Permittees will coordinate their informational systems and task scheduling to avoid duplication and strengthen harmonization of activities

C. Construction Sites Program

Legal Authority:

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D) provides that a proposed management program must include "A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system."

In this Permit renewal, Regional Board staff have drafted language that provides more consistency among the Permittees and that distinguishes among the different types and sizes of construction activity that occur within our Region.

Background:

There are different environmental impacts of construction activity.

As stated in the *California Storm Water Best Management Practice Handbook for Construction Activity* (BMP Handbook), "Construction usually increases the amount of impervious area causing more of the rainfall to runoff, and increasing the speed at which runoff occurs. Unless properly managed, this increased runoff will erode natural and/or unprotected watercourses causing the watercourse to widen...Sedimentation can also contribute to accelerated filling of reservoirs, harbors, and drainage systems.[1]

Discussion:

R0003083

The prevention of erosion is a key objective to the proposed modifications to the construction program under this draft Order. The Permittees currently oversee

[1] *California Storm Water Best Management Practice Handbook for Construction Activity*. 1993

construction sites within their respective jurisdiction. The oversight of smaller construction sites (those sites under five acres) is inconsistent among Permittees. Some Permittees have incorrectly assumed that responsibility begins only after a discharge of pollutants, sediments for example, has left the site. This was not intended in either the Phase I Federal Regulations promulgated on November 16, 1990, or in Board Order 96-054. In this permit reissuance, Regional Board staff proposes to eliminate these inconsistencies and require that the municipalities better coordinate oversight of construction activity within their jurisdiction. The Permittees are ultimately responsible for what enters and exits the portion of the storm drain system that they own and/or operate. It is in the best interest of the Permittees to become familiar with what enters their system and to control as necessary the discharges allowed into their storm drain system.

Specific significant changes in the draft permit and their justifications are described below:

NEW REQUIREMENT: Regional Board staff propose that the Permittees implement requirements for the use of effective erosion and sediment controls at construction sites regardless of size, wherever applicable.

JUSTIFICATION: The need for proper erosion and sediment controls is very apparent during, and immediately after, the rains that we experience in Southern California. The environmental effects of erosion are well documented and erosion is something that can be prevented or reduced with the proper foresight and implementation of suitable BMPs.

NEW REQUIREMENT: Requirements for structural source control and non-structural BMPs for controlling runoff at construction sites.

JUSTIFICATION: The need to properly control runoff at construction sites is great. When erosion occurs the sediments generated begin to flow down hill. With adequately engineered and implemented structural or non-structural BMPs, the detrimental environmental effects can be eliminated or minimized. Currently, there are many manuals and guidance handbooks available to lead a developer. The municipalities, in general, are aware of these BMPs, and working with Regional Board staff facilitates the requirements being quickly implemented.

NEW REQUIREMENT: Each Permittee shall require the preparation, submittal, and implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP), or compliance with a minimum set of BMPs for construction sites of less than 1 acre.

JUSTIFICATION: This requirement is intended to bring the smaller sites into environmental compliance by requiring the implementation of erosion and sediment control or pollution prevention BMPs on smaller sites that other wise would potentially not have any requirements for pollution control. This, however, does not necessarily require that a permit be issued to the small site operator.

NEW REQUIREMENT: Each Permittee shall require the preparation, submittal, and implementation of a Local SWPPP prior to issuance of a grading permit for construction projects that meet one or more of the following criteria: will result in soil disturbance of one acre or more in size; is within, directly adjacent to, or is

discharging directly to an environmentally sensitive area; or is located in a hillside area.

JUSTIFICATION: This is to ensure that a site that is being graded, but is less than the size requirements for a General Construction Activities Storm Water Permit (GCASP) have oversight by the local permitting authority. Currently, there are inconsistent requirements for grading among the Permittees and this change would bring consistency and environmental protection for smaller sites conducting grading activities.

NEW REQUIREMENT: The Permittees shall have a mechanism to review, approve, and enforce any erosion control plan submitted to the Permittee for implementation at construction sites within the legal boundary of the Permittees jurisdiction, regardless of size and regardless of whether a GCASP exists for the sites. This mechanism shall be available through the requirement of Local SWPPPs on projects within the Permittees jurisdiction of one acre or more.

JUSTIFICATION: The Permittees need to take an active role in what the operators of construction sites are doing to prevent erosion and not wait for the detrimental effects of a rain on a site with inadequate erosion controls and the flow of sediments off site to react with an enforcement action.

NEW REQUIREMENT: The Permittees, on those sites that need a GCASP shall not issue a grading permit until such time that the Notice of Intent (NOI) to comply with the State Permit and a copy of the SWPPP is submitted to the local authority. This also applies to property transfers between developers.

JUSTIFICATION: This is currently a requirement in Board Order No. 96-054, but not all Permittees have completely or consistently implemented this. Regional Board staff inspect construction sites covered by a GCASP. The Permittees are optimizing the implementation of the State Permit when they implement this requirement. Regional Board staff has found that on occasion, a Permittee issues a grading permit where no state permit has been obtained. State-municipal coordination reduces the amount of sites that Regional Board staff inspects for State requirements. With this requirement fully implemented, Regional Board staff believe that the number of construction sites covered by a State Permit will increase from approximately 1000 to 1500, solely as a result of consistency among the Permittees in issuing grading permits.

NEW REQUIREMENT: Wet weather inspections are required of all construction sites one acre or greater. The Permittees need to conduct wet weather inspections to ensure compliance with local ordinances.

JUSTIFICATION: If all sites are inspected, this allows the Permittees to ascertain compliance and focus educational and enforcement efforts on those that most need it. Additionally, Regional Board staff can assist the Permittees in compliance oversight by conducting joint inspections. The City of Los Angeles estimates that there will be an increase of 15,000 sites. As this is the largest Permittee it is anticipated that this new requirement will not be as burdensome on the rest of the Permittees. Nonetheless, these inspections will be essential to reducing the discharge of pollutants to waters of the United States to the maximum extent practicable.

D. Illicit Connections and Illicit Discharges Elimination Program

Legal Authority:

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(B) provides that the proposed management program "shall be based on a description of a program, including a schedule, to detect and remove (or require the discharger to the municipal storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(1) provides that the Copermittee include in its proposed management program "a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal storm sewer system."

Background:

During dry weather, much of the discharge to storm drain systems consists of wastes and wastewater from non-storm water sources. A significant amount of such discharges may be from illicit discharges or connections, or both. Illicit discharges may occur either through direct connections, such as deliberate or mistaken piping, or through indirect connections, such as dumping, spillage, subsurface infiltration, and washdowns.

The objective of a municipality's illicit connection/illicit discharge (IC/ID) elimination program should be to detect illicit connections and illicit discharges to the storm drain system, and to promptly eliminate such discharges and connections. Municipalities typically employ the approaches listed below to achieve this objective:

1. Mapping locations of outfalls of the MS4 and the names and locations of all waters of the U.S. that receive discharges from the outfalls.
2. Adopting a storm water/ urban runoff ordinance to prohibit unauthorized non-storm water discharges into the MS4, and implementing appropriate enforcement procedures and actions.
3. Implementing a program to detect and eliminate non-storm water discharges to the MS4, including illegal dumping.
4. Educating public employees, businesses, and the general public about the dangers associated with illegal discharges and improper disposal.
5. Establishing a public reporting hotline or other mechanism to report illicit discharges and illegal dumping.
6. Establishing measurable goals to evaluate successful program implementation.

Discussion:

Existing IC/ID Elimination Program

The Regional Board approved a model IC/ID elimination program for the Permittees' SQMP on March 23, 1999. Only vague performance standards are specified in this model program. By July 1999, all Permittees reported that they implemented this program. Permittees' estimates of fiscal resources required to implement their programs ranged widely, with two cities, Culver City and Hermosa Beach, estimating expenditures of $4.2 million and $2.8 million, respectively. At the other end, four cities estimated $0 expenditures, namely La Habra Heights, Lawndale, Maywood (which does not operate a storm drain system), and West Covina. Based on the Permittees' estimates of expenditures, the Permittees expended an average of $113,900 in 1999/00. Removing the anomalous estimates for Culver City and Hermosa Beach, the high ranges up to $564,809, as estimated by the City of Los Angeles, and averaged $32,500.

The Permittee's IC/ID activities are summarized in Tables 1 through 12. The reports of suspected illicit discharges and connections, as summarized in the tables, do not appear to bear a relationship with IC/ID expenditures by each Permittee.

Illicit Connections: As designed in the model program, Permittees with storm drain systems under their management rely upon field screening, during regularly scheduled maintenance of the storm drain system, to locate illicit connections. However, most Permittees cannot estimate the length of the storm drain system that was field-screened; nor did the Regional Board require reporting such information.

For the 1999/00 annual reporting period, very few Permittees reported illicit connections. The attached tables show that the numbers of illicit connections varied widely among Permittees, with about half reporting no illicit connections, and with the County reporting 877 suspected illicit connections. Part of the reason for this range is that the County is responsible for maintaining over half[1] of the storm drain system. Also, several Permittees believe that few – if any – illicit connections have been identified in many cities because: (a) many cities are primarily residential, and illicit connections are unlikely to occur from residential land use; and (b) cities in the County of Los Angeles are relatively new vis a vis their eastern counterparts, and adequate controls were in place at the time storm drain connections were installed.

Table 1: Illicit Connections 1999/00 -- County of Los Angeles, and Ballona Creek and Urban Santa Monica Bay Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharges Terminated	Removed	Other
County of Los Angeles	877	124	0	336	417[2]
Beverly Hills	0				
Culver City	None				
El Segundo	0	0	0	0	0
Hermosa Beach	None				

[1] The exact length of storm drain systems operated by most cities is unknown.
[2] The County of Los Angeles reported under the "Other" category of illicit connections that 126 connections were already permitted but not properly identified and those 291 illicit connections are still under investigation.

Manhattan Beach	0				
Palos Verdes Estates	0	1	3	3	0
Rancho Palos Verdes	None				
Redondo Beach	0				
Rolling Hills	0	0	0	0	
Rolling Hills Estates	0				
Santa Monica	70	10	50	10	0
West Hollywood	None				
Total	947	135	53	349	417

Table 2: Illicit Discharges 1999/00 -- County of Los Angeles, and Ballona Creek and Urban Santa Monica Bay Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
County of Los Angeles	788	95	15	2	411	265
Beverly Hills	700	70[1]	35[2]	35[2]	525	35[2]
Culver City	25	0	0	0	25	0
El Segundo	10	7	1	0	2	0
Hermosa Beach	10	2	0	0	8	0
Manhattan Beach	1	0	0	0	1	0
Palos Verdes Estates	6	2	1	0	3	0
Rancho Palos Verdes	6	0	0	0	6	0
Redondo Beach	31	3	0	0	25	3
Rolling Hills	0	N/A	N/A	N/A	N/A	N/A
Rolling Hills Estates	1				1	
Santa Monica	450	5	22	5	398	20
West Hollywood	9	1	0	0	8	0
Total	2037	185	74	42	1413	323

Table 3: Illicit Connections 1999/00 -- Dominguez Channel and Los Angeles Harbor Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharges	Removed	Other
Carson	8	0	0	0	0
Hawthorne	None				

[1] Documented as percentage.

Inglewood	3				3[1]
Lawndale	None				
Lomita	1	0	1	0	0
Torrance	0				
Total	12	0	1	0	3

Table 4: Illicit Discharges 1999/00
Dominguez Channel and Los Angeles Harbor
Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
Carson	24	12	0	0	0	24
Hawthrone	10	0	1	0	9	0
Inglewood	3				3	
Lawndale	2	1	0	0	1	0
Lomita	14	0	0	0	14	0
Torrance	0					
Total	53	13	1	0	27	24

Table 5: Illicit Connections 1999/00 -- Los Angeles River Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharges Terminated	Removed	Other
Alhambra	0	0	0	0	0
Arcadia	0	0	0	0	0
Bell	0	N/A	N/A	N/A	N/A
Bell Garden	0	0	0	0	0
Burbank	4		3	1	
Commerce	14	8	6	0	0
Compton	8	6	2	0	0
Cudahy	0	N/A	N/A	N/A	N/A
El Monte	None				
Glendale					
Hidden Hills	0	N/A	N/A	N/A	N/A
Huntington Park	2			2	
La Canada Flintridge	0				
Los Angeles	29	7	8	11	3
Lynwood	0	0	0	0	0
Maywood	0	0			
Monrovia	0	N/A	N/A	N/A	N/A

[1] The City of Inglewood reports that 3 illicit connections are to be eliminated.

Montebello	21	0	11	1	9
Monterey Park	2	0	0	2	0
Paramount	0				
Pasadena	None				
Rosemead	0				
San Fernando	None				
San Marino	0	N/A			
Sierra Madre	None				
Signal Hills	None				
South El Monte	None				
South Gate	2	0	1	1	
South Pasadena					
Temple City					
Vernon	1	0	0	0	1
Total	83	21	31	18	13

Table 6: Illicit Discharges 1999/00 -- Los Angeles River Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
Alhambra	0	0	0	0	0	0
Arcadia	11	1	0	0	10	0
Bell	0	N/A	N/A	N/A	N/A	N/A
Bell Garden	0	0	0	0	0	0
Burbank	47	2	1	0	43	1
Commerce	21	4	8	0	9	0
Compton	17	9	5	0	3	0
Cudahy	0	N/A	N/A	N/A	N/A	N/A
El Monte	50	0	0	0	48	2
Glendale	?	?	?	?	?	?
Hidden Hills	0	N/A	N/A	N/A	N/A	
Huntington Park	2				2	
La Canada Flintridge	75	15	0	0	60	0
Los Angeles	1896	227	2	5	700	962
Lynwood	0	0	0	0	0	0
Maywood	1		1			
Monrovia	0	N/A	N/A	N/A	N/A	
Montebello	13	12	11	0	0	1
Monterey Park	19	0	0	0	18	1
Paramount	0					
Pasadena	39	1	0	0	37	1
Rosemead	0					
San Fernando	12	1	0	0	11	0

San Marino	0	N/A				
Sierra Madre	3	0	0	0	3	0
Signal Hills	13	3	0	0	10	0
South El Monte	15	0	0	0	15	0
South Gate	28	3	1	0	22	2
South Pasadena						
Temple City						
Vernon	10	0	0	0	9	0
Total	2271	278	29	5	1000	970

Table 7: Illicit Connections 1999/00
Malibu Creek and Rural Santa Monica Bay
Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharges Terminated	Removed	Other
Agoura Hills	0	0	0	0	
Calabasas	2				2
Malibu	15	0	7	0	
Total	17	0	7	0	2

Table 8: Illicit Discharges 1999/00 -- Malibu Creek and Rural Santa Monica Bay
Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
Agoura Hills	11	1	0	0	10	0
Calabasas	12	1			10	
Malibu	15	7	0	0	7	8
Total	38	9	0	0	27	8

Table 9: Illicit Connections 1999/00 -- San Gabriel River Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharged Terminated	Removed	Other
Artesia	0				
Azusa	0				
Baldwin Park	None				
Bellflower	0	0	0	0	0
Bradbury	0				
Cerritos	0	0	0	0	0
Claremont	0				
Covina	0				
Diamond Bar	0				
Duarte	3	0	1	0	2
Glendora	4	0	1	0	3
Hawaiian Garden	0				
City of Industry	None				
Irwindale	9	0	9	0	0
La Habra Heights	0				
La Mirada	1	1			
La Puente	0				
La Verne	0				
Lakewood	11	5	6	0	0
Norwalk	6	0	6	0	N/A
Pico Rivera	0				
Pomona	12	10	2	0	0
San Gabriel	2	0	0	2	0
Santa Fe Spring	0	N/A	N/A	N/A	N/A
Walnut	0				
West Covina	0				
Whittier	8	3	5	2	0
Total	56	19	30	4	5

Table 10: Illicit Discharges 1999/00 -- San Gabriel River Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
Artesia	10	4	0	0	4	2
Azusa	1				1	
Baldwin Park	27	5	0	0	20	2
Bellflower	8	8	0	0	0	0
Bradbury	0					
Cerritos	8	0	0	0	8	0
Claremont	4	1	0	0	3	
Covina	32	5	4	0	18	5
Diamond Bar	1					1
Duarte	3	3	0	0	0	3
Glendora	14	13	0	0	12	0
Hawaiian Garden	0					
City of Industry	None					
Irwindale	23	0	0	0	20	3
La Habra Heights	1			1		
La Mirada	16		3		13	
La Puente	1				1	
La Verne	1				1	
Lakewood	17	0	2	0	9	6
Norwalk	6	0	0	0	6	0
Pico Rivera	12	6	0	0	6	0
Pomona	78	18	8	10	16	26
San Gabriel	4	0	0	0	3	1
Santa Fe Spring	12	3	0	0	0	9
Walnut	2			1	1	0
West Covina	48	6	0	0	7	35
Whittier	32	12	18	15	17	3
Total	361	84	35	27	166	96

Illicit Discharges: As designed in the model program, Permittees eliminate illicit discharges by preventing spills and, for those that do occur, by responding promptly. To prevent spills, Permittees enacted ordinances prohibiting non-storm water runoff, and are following spill prevention guidance. To respond to discharges, Permittees implement containment and cleanup procedures, coordinate with other agencies, investigate the cause of the discharge and – when the source and responsible party is know – take enforcement action. Additionally, employee training is provided on all of the above.

As with illicit connections, the numbers of illicit discharges varies widely for the annual reporting period 1999/00. The County reported a total of 788 suspected illicit discharges. Among the Cities, results at the high end include 1,876 in the

City of Los Angeles, 700 in the City of Beverly Hills, and 450 in Santa Monica. At the other end of the range, many cities reported no incidents of suspected illicit discharges. Based on information provided to date, staff cannot account for this wide range. Audits of the Permittees' programs should help clarify this.

Reporting: As designed in the model program, Permittees have implemented procedures to receive reports of illicit discharge and disposal incidents, and to promptly respond and report such incidents. Most rely upon the countywide hotline system, which is maintained by the County. For hazardous substances, Permittees implement additional reporting procedures.

Proposed IC/ID Elimination Program

The Special Provisions Section of the proposed permit requires the Permittees to revise their IC/ID Elimination Program in the SQMP within 180 days of adoption. As specified in the proposed permit, the key revision to the IC/ID Elimination Program shall include a proactive screening program for illicit discharges in priority areas. As Permittees have pointed out, and as staff acknowledges, residential land uses are less likely to have illicit connections. However, staff remains concerned that adequate controls have been in place at all times for proper connections to the storm drain system. Staff's concern is based upon the wide range of illicit connections reported by Permittees with no apparent relation to land use, and also incidents of illicit connections reported separately to the Regional Board. Accordingly, the proposed permit specifies that the Permittees shall revise the SQMP to evaluate illicit connections, prioritize suspected problem areas, and implement a proactive field screening program for such areas (that does not rely upon screening during Permittees' regularly scheduled maintenance of the storm drain system). As set forth on page 3-3 and in Appendix I of the Permittees' model program, screening tools for the proactive program will include dye tests, smoke tests, and TV inspections.

E. Public Agency Activities Program

Legal Authority:

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A)(1,3,4,5,and 6). Each Copermittee must develop a program to reduce the discharge of pollutants to and from the MS4 to the maximum extent practicable for all urban land uses and activities, including municipal areas and activities.

Background:

Many Permittees conduct activities that ultimately result in the enhancement of the lives of the residents of the cities in which they live. Some of these activities include but are not limited to: sewage system operations; public construction activities; vehicle maintenance; material storage; street and road maintenance; landscaping; recreational facility management; parking facility management; public industrial activities; and many other activities. These are essential services that unfortunately have potential side effects, albeit they are preventable or treatable. The Permittees also conduct some activities that are required to have separate coverage under the 1990 storm water regulations. These services or

activities undertaken by the Permittees, or by their contractors, sometimes mirror industrial activities and construction activities that a Permittee would actually place requirements upon, if the work were undertaken by and for a private party. The changes proposed by Regional Board staff are to bring consistency to requirements in this draft permit so that the end effect is pollution prevention.

Specific significant changes in the draft permit and their justifications are described below:

NEW REQUIREMENT: In sewage system operations, the proposed change is that each Permittee will be required to implement a response plan in case of an overflow of the sewage system to the storm drain system.

JUSTIFICATION: The response plan will have different requirements dependent upon whether the Permittee neither owns nor operates or maintains the sewer system to whether the Permittee owns and operates the sewer system. Because the responsibilities are different, the expectations of the Regional Board should therefore be different and the proposed language reflects this.

NEW REQUIREMENT: In public construction activity management, the proposed changes include generally, that the requirements in the construction section of the draft permit also apply to the Permittees public construction sites.

JUSTIFICATION: This is proposed to reduce the possibility of a public construction site from becoming a source of pollutants. A public construction site should be a model of what to do efficiently and effectively.

NEW REQUIREMENT: Each Permittee with a construction site that meets the size requirements for a GCASP shall obtain a permit from the State for the construction activity. Currently the size threshold is 5 acres but will change to 1 acre on March 10, 2003. However, a municipality of less than 100,000 people need not apply for the state permit for a construction activity until March 10, 2003.

JUSTIFICATION: This change is for consistency and will assist in the tracking of construction sites operated by Permittees.

NEW REQUIREMENT: For each Permittee owned construction site, the Permittee shall inspect and replace any ineffective BMPs when found.

JUSTIFICATION: This is to ensure that a properly designed and implemented BMP is properly maintained and is in proper working order during rains.

NEW REQUIREMENT: Each Permittee will be required to design and construct public facilities using construction and post-construction BMPs consistent with the Standard Urban Storm Water Mitigation Plans (SUSMPs) required under the Construction Planning section of the draft permit.

JUSTIFICATION: This is to be consistent with private projects and their planning, design, and construction requirements.

NEW REQUIREMENT: For Permittee owned or operated vehicle maintenance, material storage areas, and corporation yards the Permittees will implement site

specific SWPPPs to minimize pollutant discharges in storm water discharges. Vehicle and equipment wash areas will be required to be self contained or covered, equipped with a clarifier, or other pretreatment device, and or properly connected to the sanitary sewer. This requirement will take effect when a new facility is constructed or when an existing site is remodeled or reconstructed.

JUSTIFICATION: This is to be consistent with private projects and their planning, design, and construction requirements.

NEW REQUIREMENT: For landscape and recreational facilities the changes proposed include the handling and storage of materials under cover, or on secondary containment, and the inspection of such areas.

JUSTIFICATION: These changes are minimal, and simply reflect good house keeping practices that are easily and inexpensively made.

NEW REQUIREMENT: For storm drain operation and maintenance the changes proposed are the inspection and clean out of catch basin inlets between May 1 and September 30 of each year, and the classification of priority catch basins as those 40% or more full for additional cleaning between October 1 and April 30.

JUSTIFICATION: This is to be consistent with the Ventura County Municipal Storm Water Permit.

NEW REQUIREMENT: The Permittees shall keep records of catch basins cleaned and record overall quantity of wastes collected.

JUSTIFICATION: This change is a tool to assist the Permittees in tracking cleaning and amounts of wastes collected that can also be reported to the public and to federal and state agencies as to what was prevented from flowing to waters of the U.S.

NEW REQUIREMENT: For storm drain maintenance each Permittee must visually monitor their open channels for debris and identify and prioritize areas of illicit discharge for regular inspection and at least annually remove trash and debris from the channels. Permittees will review existing maintenance activities. After clean out, the material will be properly disposed of.

JUSTIFICATION: The annual clean out is a continuation of the 1996 Permit but the visual monitoring is a new requirement to assist the Permittees in prioritizing clean outs and mobilizing cleaning crews.

NEW REQUIREMENT: For street and road maintenance each Permittee will conduct street sweeping on curbed public streets in their permitted area at a monthly average, not less than four times per month, in areas generating high volumes of trash, and at a monthly average not less than two times per month in areas generating moderate volumes of trash on traffic collector streets and residential areas (except that for any Permittee within an area subject to a trash TMDL, the Permittee may implement a program which maximizes trash removal by using an effective combination of street sweeping, catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve waste load allocations).

JUSTIFICATION: The changes in frequency are to be consistent with the Ventura County Municipal Storm Water Discharge Permit. The language pertaining to complying with a TMDL Waste Load Allocation (WLA) is new and was created to provide the Permittees subject to TMDLs flexibility in complying with both the TMDL and this Order. By complying with the TMDL, the Permittee will be complying with this Order as it pertains to the listed sections only.

NEW REQUIREMENT: Permittee-owned parking lots shall be kept clear of debris and oil buildup and cleaned no less than two times per month and/or inspected no less than two times per month to determine if cleaning is necessary.

JUSTIFICATION: The proposed change is to require the inspection of the lots and to clean them when necessary. The proposed cleanup of oil spots and debris is to keep lots from becoming significant sources of pollutants.

NEW REQUIREMENT: Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that in no case shall waste be allowed to enter the storm drain.

JUSTIFICATION: Previously the requirement was that sawcutting not occur during a rain except by emergency. This requirement provides flexibility in implementation of BMPs with the ultimate result being no discharge of pollutants allowed to enter the storm drain system.

NEW REQUIREMENT: Concrete and other street and road maintenance materials and wastes shall be managed to prevent pollutant discharges

JUSTIFICATION: This requirement provides flexibility in implementation of BMPs with the ultimate result being no discharge of pollutants allowed to enter the storm drain system.

NEW REQUIREMENT: The washout of concrete trucks and chutes shall only occur in designated areas and never into storm drains, open ditches, streets, or catch basins leading to the storm drain system.

JUSTIFICATION: Regional Board staff have seen inconsistent implementation of this requirement and have revised the language to be clearer while providing flexibility in implementation of BMPs with the ultimate result being no discharge of pollutants allowed to enter the storm drain system.

F. New Development And Significant Redevelopment Program

Water Quality and Storm Water

The water quality impacts of urbanization and urban storm water discharges have been summarized by several recent USEPA reports.[1] Urbanization causes changes in hydrology and increases pollutant loads which adversely impact water quality and impairs the beneficial uses of receiving waters. Increases in population density and imperviousness result in changes to stream hydrology including:

[1] *Storm Water Phase II Report to Congress* (USEPA 1995); Report to Congress on the Phase II Storm Water Regulations (USEPA1999); Coastal Zone Management Measures Guidance (USEPA 1992)

1. increased peak discharges compared to predevelopment levels;

2. increased volume of storm water runoff with each storm compared to pre-development levels;

3. decreased travel time to reach receiving water; increased frequency and severity of floods;

4. reduced stream flow during prolonged periods of dry weather due to reduced levels of infiltration;

5. increased runoff velocity during storms due to a combination of effects of higher discharge peaks, rapid time of concentration, and smoother hydraulic surfaces from chanellization, and

6. decreased infiltration and diminished groundwater recharge.

The Los Angeles County municipal storm water management MS4 program conducts monitoring to:

1. quantify mass emissions for pollutants,
2. identify critical sources for pollutants of concern in storm water;
3. evaluate BMP effectiveness, and
4. evaluate receiving water impacts.

The monitoring indicates that instream concentrations of pathogen indicators (fecal coliform and streptococcus), heavy metals (such as Pb, Cu, Zn,) and pesticides (such as diazinon) exceed state and federal water quality criteria.[1] The mass emissions of pollutants to the ocean are significant from the urban Watershed Management Areas (WMAs) such as the Los Angeles River WMA, Ballona Creek WMA, and Coyote Creek WMA, with the Los Angeles River WMA providing more than seventy percent of the loadings. Critical source data for facilities (such as auto-salvage yards, primary metal facilities, and automotive repair shops) showed that total and dissolved heavy metals (Pb, Cu, Zn, and Cd), and total suspended solids (TSS) exceeded state and federal water quality criteria by as much as one hundred times. The results are consistent with a limited term study conducted by the Regional Board to characterize storm water runoff in the Los Angeles region before the issuance of MS4 permits.[2] Storm water runoff data from predominant land uses showed similar patterns. Light-industrial, commercial and transportation land uses showed the highest range of exceedances. A pesticide (diazinon) showed higher ranges from residential land use. The data for polycyclic aromatic hydrocarbons (PAHs), a known pollutant of concern in urban storm water runoff, is inconclusive but improved analytical methods may yield more definitive results next year. Receiving water impacts studies found that storm water discharges from urban watersheds exhibit toxicity that are attributable to heavy metals. Biosurveys of the sea-bottom showed bioaccumulation of toxicants. Sediment analysis showed higher concentrations of pollutants, such as Pb and PAHs, in urban watersheds rather than rural watersheds (2 to 4 times higher). In addition, toxicity of dry weather flows was

[1] *Los Angeles County 1998-1999 Storm water Monitonng Report*, Los Angeles County Department of Public Works (1999). Data summarizes results of storm water monitoring for the most recent year and the past five years.
[2] *Storm Water Runoff in Los Angeles and Ventura Counties, Final Report* (1988), California Regional Water Quality Control Board, Los Angeles, SCCWRP Contribution C292. This study found the highest mean concentrations of pollutants of concern such as heavy metals in the urban watershed rivers and that they contributed significant loads to the ocean.

observed with the cause of toxicity undetermined.[1] Previous studies have found chemical concentration of pollutants that exceed state and federal water quality criteria in storm drains flowing to the ocean,[2] and that there are adverse health impacts from swimming near them.[3]

Treatment BMP requirements on new development and redevelopment offer the most cost effective strategy to reduce pollutant loads to surface waters. Retrofit of existing development will be expensive and may be considered on a targeted basis. Studies on the economic impacts of watershed protection indicate that storm water quality management has a positive or at least neutral economic effect while greatly improving the quality of surface waters.[4]

Municipal storm water regulations at 40 CFR 122.26 require that pollutants in storm water be reduced to the MEP. The USEPA's definition is intentionally broad to provide maximum flexibility in MS4 permitting and to give municipalities the opportunity to optimize pollutant reductions on a program-to-program basis.[5] The definition of MEP has generally been applied to mean implementation of economically achievable management practices. Because storm water runoff rates can vary from storm to storm, the statistical probabilities of rainfall or runoff events become economically significant and are central to the control of pollutants through cost effective BMPs. Further, it is recommended that storm water BMPs be designed to manage both flows and water quality for best performance. [6] It is equally important that treatment BMPs once implemented be routinely maintained.

Financing the MS4 program offers a considerable challenge for municipalities. A proven successful financing mechanism is the establishment of a storm water utility.[7] Utility fees, which are assessed on the property owner based on some estimate of storm water runoff generated for the site, are a predictable and dedicated source of funds. Utility fees can also provide a mechanism to provide incentives to commercial and industrial property owners to reduce impervious surface areas. Such incentives offer flexibility to property owners to choose the better economic option – paying more fees or making improvements to reduce runoff from the site.

REVIEW OF DESIGN STANDARDS

The American Society of Civil Engineers (ASCE) and the Water Environment Federation (WEF) have recommended a numerical BMP design standard for storm water that is derived from a mathematical equation to maximize treatment of runoff volume for water quality based on rainfall/ runoff statistics and which is

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[1] *Toxicity of Dry Weather Flow from the Santa Monica Bay Watershed*, Bay, S. et al (1996), Bull. Southern California Acad. Sci. 5(1), pp. 33-45. The paper describes preliminary results on dry weather toxicity which have been confirmed by the MS4 monitoring program.

[2] *Chemical Contaminant Release into Santa Monica Bay, Final Report*, American Oceans Campaign , Santa Monica (1993)

[3] *The Health Effects of Swimming in Ocean Water Contaminated by Storm Drain Runoff*, Haile, R.W. et al. (1999), Epidemiology 10: 355-363). The study found higher risks of respiratory and gastrointestinal symptoms from swimmers.

[4] *The Economics of Watershed Protection*, T. Schueler (1999), Center for Watershed Protection, Endicott, MD. The article summarizes nationwide studies to support the statement that watershed planning and storm water management provides positive economic benefits.

[5] *Storm Water Phase II Final Rule* – Pre-Federal Register Version, p 87 (USEPA 1999). See USEPA's discussion in response to challenges that the definition is sufficiently vague to be deemed adequate notice for purposes of compliance with the regulation.

[6] *Urban Runoff Pollution – Summary Thoughts* – The State of Practice Today and For the 21st Century. Wat. Sci. Tech. 39(2) pp. 353-360. L.A. Roesner (1999)

[7] *Preliminary Data Summary of Urban Storm Water Best Management Practices* (1999), Report No. USEPA-821-R-99-012, USEPA.. The document reviews municipal financing mechanisms and summarizes experience in the U.S. to date.

economically sound.[1] The maximized treatment volume is cut-off at the point of diminishing returns for rainfall/ runoff frequency. On the basis of this equation the maximized runoff volume for eighty-five percent treatment of annual runoff volumes in California can range from 0.08 to 0.86 inches depending on the imperviousness of the watershed area and the mean rainfall.[2]

Other methods of establishing numerical BMP design standards include: (i) Percent treatment of the annual runoff; (ii) Full treatment of runoff from rainfall event equal to or less than a predetermined size; (iii) Percent reduction in runoff based on a rainfall event of standard size.[3] These numerical design standards have been applied to Development Planning in Puget Sound, WA; Alexandria, VA; Montgomery County, MD; Denver, CO; Orlando, FL; Portland, OR; and Austin, TX.

The City of Seattle requires that where new development coverage is 750 square feet or more, storm water detention be provided based on a 25 year storm return frequency, and a peak discharge rate not to exceed 0.2 cubic feet per second.[4] Additionally, for projects that add more than 9,000 square feet in developmental coverage, the peak drainage water discharge rate is limited to 0.15 cubic feet per second per acre for a two-year storm. The City of Denver requires new residential, commercial, and industrial developments to capture and treat the 80th percentile runoff event. This capture and proper treatment is estimated to remove 80 to 90 percent of the annual TSS load which is a surrogate measure for heavy metal and petroleum hydrocarbon pollutants.[5]

Some States have established numerical standards for sizing storm water post-construction BMPs for new development and significant redevelopment. The State of Maryland has established storm water numerical criteria for water quality of 0.9 to 1 inch, and BMP design standards in a unified approach combining water quality, stream erosion potential reduction, groundwater recharge, and flood control objectives.[6] The State of Florida has used numerical criteria to require treatment of storm water from new development since 1982, including BMPs sized for 80 percent reduction (95 percent for impaired waters) in annual TSS loads derived from the 90 percent (or greater for impaired waters) annual runoff treatment volume method for water quality.[7] The State of Washington has proposed at least six different approaches of establishing storm water numerical mitigation criteria for new development, which add 10,000 square feet of impervious surface or more for residential development, and 5,000 square feet of impervious surface or more for other types of development[8]. The mitigation

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[1] *In Urban Runoff Quality Management, WEF Manual of Practice No. 23, ASCE Manual and Report on Engineering Practice No. 87.* WEF, Alexandria, VA; ASCE, Reston, VA. 259 pp. (1998).

[2] *Sizing and Design Criteria for Storm Water Treatment Controls, Presentation to California Storm Water Quality Task Force,* November 13, 1998, Sacramento, CA. L.A. Roesner, Camp Dresser McKee.

[3] *Sizing and Design Criteria for Storm water Quality Infrastructure, Presentation at California Regional Water Quality Control Board Workshop on Standard Urban Storm Water Mitigation Plans,* August 10, 1999, Alhambra, CA., R.A. Brashear, Camp Dresser McKee.

[4] *City of Seattle Municipal Code, Chapter 22.802.015* – Storm water, drainage and erosion control requirements.

[5] *Urban Storm Drainage, Criteria Manual – Volume 3, Best Management Practices, Urban Drainage and Flood Control District, Denver,* CO (1999). Manual provides detail design criteria for new development for the Denver Metropolitan area.

[6] *Maryland Storm Water Design Manual* - (Maryland Department of the Environment 2000).

[7] *Florida Development Manual: A Guide to Sound Land and Water Management* (Florida Department of Environmental Protection 19xx). The manual describes structural and non-structural construction and post construction BMPs design criteria.

[8] *Storm Water Management in Washington State Volumes 1 – 5.* Public Review Draft (Washington Department of Ecology 1999). The volumes 1,3 and 5 are most relevant to new development standards and cover Hydrologic and Flow Control Designs, Minimum Technical Requirements and Treatment BMPs. The volumes will be adopted as statewide standards in early 2000 after completion of public hearings according to the agency.

criteria options include the 90th percentile 24-hour rainfall event and the six month 24 hour rainfall event. The State of Maryland

On a national level, the USEPA is planning to standardize minimum BMP design and performance criteria for post-construction BMPs under Title III of the Clean Water Act, and will likely build from the experience of effective state and local programs to establish national criteria.[1] The USEPA, based on the National Urban Runoff Program, supports the first half-inch of rainfall as generating first flush runoff.[2] First flush runoff is associated with the highest pollutant concentrations, and not pollutant load. The USEPA considers the first flush treatment method, the rainfall volume method, and the runoff capture volume method as common approaches for sizing of water quality BMPs.

BACKGROUND IN THE LOS ANGELES REGION

Los Angeles County and municipalities within the County (except the City of Long Beach) implement a municipal storm water program to reduce storm water and urban runoff pollution under the requirements of Board Order No. 96-054. The Los Angeles County Municipal Storm Water Permit includes requirements that SUSMPs be prepared for priority planning projects and that they include appropriate BMPs and guidelines to reduce pollutants in storm water to the MEP.[3]

On April 22, 1999, the Regional Board approved a List of BMPs for MS4 Permittees to select from and required implementation of the most effective BMPs in their Development Planning and Development Construction programs.[4]

Los Angeles County Department of Public Works (LACDPW), on behalf of the Permittees, submitted SUSMPs for the Regional Board Executive Officer on July 22, 1999, which was revised and resubmitted on August 12, 1999.

The Regional Board on January 26, 2000 approved a Final SUSMP, which included requirements for the following categories. The Regional Board Executive Officer issued a Board Approved Final SUSMP on March 8, 2000, which established new development and significant redevelopment conditions for all projects in the following categories,

10 or more home subdivision;
100,000+ square-foot commercial development;
automotive repair facilities;
retail gasoline outlets;
restaurants;
parking lots more than 5,000 square feet or more than 25 parking spaces
hillside located single-family dwelling,
construction projects adjacent to, in, or discharging directly to environmentally sensitive areas

[1] *Storm Water Phase II Final Rule* – 64 Fed. Reg. 68759. See USEPA's discussion on construction and post-construction BMP requirements for Phase II.
[2] *A Watershed Approach to Urban Runoff: Handbook for Decisionmakers*, Terene Institute and USEPA Region 5 (1996). See discussion on sizing rules for water quality purposes, p 36.
[3] The Los Angeles County Municipal Storm Water Permit (Permit Pt. 2. III.A.)
[4] (Board Resolution No. 99-03)

The SUSMP included numerical design criteria for structural and treatment control BMPs.

Numerical Design Standard

Mitigate (infiltrate or treat) storm water runoff from either:

a) each runoff event up to and including the 85th percentile 24-hour runoff event, determined as the maximized capture storm water volume for the area from the formula recommended by the WEF and ASCE study[1] or

b) the annual runoff volume, based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in the BMP Handbook[2], or

c) the volume of runoff produced from each and every storm event up to and including 0.75 inch of rainfall, prior to its discharge to a storm water conveyance system, or

d) the volume of runoff produced from each and every storm event up to and including a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.

The Regional Board action was appealed to the State Water Resources Control Board by a coalition of cities, the Building Industry Association of Southern California (BIA), and the Western States Petroleum Association (WSPA). The State Board issued a precedential decision[3] on the matter in Order WQ 2000-11, largely sustaining the SUSMP as approved by the Regional Board. The State Board amended the SUSMP to limit its application to discretionary projects as defined by CEQA, eliminated the category for projects in environmentally sensitive areas, and set aside the requirement for retail gasoline outlets to treat storm water until a threshold is developed in the future. In addition the State Board articulated its support for regional solutions and the mitigation banking.

The Regional Board staff proposes to modify SUSMP requirements to clarify implementation, make it consistent with recent Regional Board actions, and where appropriate cure procedural and other deficiencies identified by the State Board in its SUSMP ruling. In the revised permit, staff proposes to:

require SUSMPs for hillside developments that are 10,000 square feet or more. Hillside residential homes below the threshold would be required to incorporate

[1] *In Urban Runoff Quality Management, WEF Manual of Practice No. 23, ASCE Manual and Report on Engineering Practice No. 87.* WEF, Alexandria, VA; ASCE, Reston, VA. (1998).
[2] *California Storm water Best Management Practices Handbook – Industrial/ Commercial,* (1993)
[3] *State Water Board Order WQ 2000-11*: SUSMP; Memorandum from Chief Counsel to Regional Board Executive Officers, (December 26, 2000) discusses statewide policy implications of the decision.

BMPs to facilitate drainage and pollutant removal but would not be subject to the numerical mitigation criteria. Currently, all hillside developments regardless of size are subject to the numerical mitigation criteria.

require retail gasoline stations be subject to the numerical mitigation criteria, where they meet certain thresholds such as: (i) projected gasoline output of 25,000 gallons per month or more; (ii) four or more fueling dispensers, (iii) 24 or more dispensing meters; (iv) projected average daily traffic of 100 cars or more; and (v) 5,000 square feet or more of surface area.

amend the 100,000 square feet commercial development to include heavy industrial development. The category will be designated 'industrial/commercial'.

lower the industrial/commercial category threshold from 100,000 square feet to 1-acre (40,000 square feet) beginning March 9, 2003, to be consistent with the USEPA Phase 2 Final Rule for small construction projects.

require the application of new development requirements to all developments, both ministerial and discretionary. As presently implemented the SUSMP requirements apply to only discretionary projects as defined under the California Environmental Quality Act.

require to include as a category projects situated in, adjacent to, or discharging directly to environmentally sensitive areas where the development (a) creates 2,500 square feet or more of impervious area, or (b) alters the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and (c) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat.

include numerical mitigation criteria for flow-based structural and treatment BMPs to be consistent with recent municipal storm water permits issued by the Regional Board.[1] These criteria are:

> the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity, or
> the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County
> the flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above

In addition staff propose that under the New Development Requirements Permittees update CEQA Documents with immediate effect and General Plans no later than 18 months from permit adoption to address storm water considerations. Both these requirements currently exist in the permit but there is no firm deadline for complying with the requirement.

The attached technical papers provide more detail.

VI. MONITORING PROGRAM

R0003103

[1] *Board Order No. 00-018; NPDES Permit No. CAS004002.* Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within Ventura County Flood Control District, County of Ventura, and the Cities of Ventura County

Background:

Using data collected from a monitoring program, storm water management efforts can be prioritized, helping limited resources be most effective in improving receiving water quality. For example, a monitoring program can provide data that can allow for specific receiving waters and watersheds to be targeted for urban runoff management and education efforts based on their need. Particular pollutants and their sources can also be identified and targeted using monitoring data. In addition, monitoring data can be useful in assessing the effectiveness of an urban runoff management program. Successful efforts that have resulted in receiving water quality improvements can be analyzed for application elsewhere, while areas that need greater efforts can also be identified. In general, a comprehensive monitoring program can supply a wealth of data that can be used in a wide range of applications for improving water quality.

Storm Water Monitoring History:

In the 1994-95 storm season, the Los Angeles County Department of Public Works began monitoring storm water quality in Los Angeles County. The first two years of monitoring were conducted pursuant to the 1990 permit. Over the past five years, the Los Angeles County storm water monitoring program consisted of four main components: mass emission monitoring, land use monitoring, critical source monitoring, and a Santa Monica Bay receiving water study. The results of each objective are summarized below.

- **Mass Emission Monitoring**

  Mass emissions were monitored for four major watersheds: Ballona Creek, Malibu Creek, Los Angeles River, and San Gabriel River. The County also monitored mass emissions from Coyote Creek, although it was not a requirement of Order 96-045. The mass emission monitoring successfully identified 32 pollutants of concern, including toxic levels of zinc and copper from Ballona Creek discharge, toxicity in the Los Angeles and San Gabriel Rivers, and the extent of severity of bacterial indicators in both dry and wet weather. The Los Angeles River was found to consistently contribute the most zinc, copper and suspended solids.

- **Land Use Monitoring**

  The County selected eight land use types to be monitored to identify sources of pollutants in storm water monitoring. These land uses include retail/commercial, vacant, high-density single family residential, transportation, light industrial, education, multifamily residential, and mixed residential. Light industrial, transportation, and retail/commercial land uses were identified as producing the highest median concentrations for total and dissolved zinc. Light industrial and transportation displayed the highest median concentrations for total and dissolved copper, and light industrial produced the highest concentrations of suspended solids. The land use monitoring data has not provided significant information to the storm water management program. However, the required event mean concentrations were not all derived during the last five years of monitoring, so the program will be continue until it is complete.

- **Critical Source Monitoring**

  Five critical sources, including industrial and commercial facilities, were monitored to evaluate the effectiveness of voluntary good housekeeping and preventative BMPs. The critical sources included in the study were motor freight, auto dealers, chemical

manufacturing, machinery manufacturing, and rubber/plastics. No significant difference in storm water quality was found between critical source industries that implemented BMPs and those that did not. A significant finding was that the metal fabrication industry was identified as producing the highest median concentrations for zinc, copper, and suspended solids. Due to the inability to require or control the implementation of BMPs, this study was ineffective at evaluating BMP effectiveness.

- **Receiving Water Study**

  A three-year study was conducted to assess the impacts of urban storm water runoff, specifically ecosystem health, on the receiving waters of the Santa Monica Bay. The study examined plume characteristics, water column and seafloor biology. Ballona and Malibu Creek were compared to evaluate the effects of different watershed types. The study discerned the presence of well-developed plumes containing toxic materials, identified zinc and copper as contaminants in Ballona Creek, and concluded that sediments offshore of Ballona Creek generally had higher concentrations of urban contaminants. These findings demonstrate the need for further studies.

Proposed Storm Water Monitoring Program:

The objectives of this program include, but are not limited to: 1) assessing compliance with the MS4 permit; 2) measuring and improving the effectiveness of the SQMP; 3) assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff; 4) characterization of storm water discharges; 5) identifying sources of pollutants; and 6) assessing the overall health and evaluating long-term trends in receiving water quality.

Mass Emissions Monitoring

The Principal Permittee shall monitor mass emissions from seven stations, as opposed to four in Order 96-054. The Principal Permittee proposed to continue monitoring the Coyote Creek station, and new stations were required in Dominguez Channel, and the Santa Clara River.

The Dominguez Channel watershed contains the highest percentage of impervious area. The Center for Watershed Protection has linked overall watershed imperviousness to storm water quality problems.[1] Also, the Dominguez Channel Watershed is a highly industrialized area and the storm water runoff needs to be characterized to determine its contribution of pollutants in the San Pedro Bay.

A new mass emission station in the Santa Clara watershed is also required. The purpose of this station is to characterize mass emissions from Los Angeles County and to monitor the impacts from new development. Therefore, the station should be located as close to the Ventura County line as practicable. The Santa Clara watershed is currently the most natural and least impacted by development in the County. However, it is rapidly developing and contains a significant amount of proposed development. Several factors, including the natural state of the river and the lack of accessibility, have made it difficult to select a location for a sampling station. The Principal Permittee and the County are currently working together to find an appropriate location.

Method Detection Limits

[1] need citation for CWP

For the first storm of each year, method detection limits (MDLs) lower than or equal to the minimum levels in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000 (SIP) shall be used. If minimum levels are not detected, the MDLs from Order 96-054 may be used. The purpose of this new requirement is to detect toxic levels of constituents. If the lower MDLs are not used, toxic levels may not be detected.

TSS Monitoring

Every storm greater than .25 inch shall be sampled and analyzed for TSS. The purpose of this requirement is to consider the high variability of storm water discharges and determine more accurate average mass emission values. The high variability of storm water makes it unlikely to characterize a storm season based on a few mass emission samples. Studies show that the median event mean concentration for storm water programs that do not sample every storm is consistently biased low, relative to the annual flow-weighted mean[1]. To adequately characterize a storm and capture central tendencies, many storms would need to be sampled. However, this is cost-prohibitive. Therefore, the correlation between TSS and trace metals should be used. Studies have indicated that runoff contaminants tend to be highly correlated with suspended solids in large rivers and creeks throughout southern California[2]. TSS measurements are one-tenth the cost of trace metal analyses. However, TSS concentrations accounted for up to 95% of the variability in some trace metal concentrations in a study of the Santa Ana River (urbanized watershed in Orange County) conducted by the Southern California Coastal Water Research Project (SCCWRP)[2].

Water Column Toxicity Monitoring

Previous storm water quality monitoring provides justification for this requirement. Storm water samples were found to be toxic in the Los Angeles River, the San Gabriel River, Ballona Creek, and the Santa Monica Bay, demonstrating the need for continued studies and source identification.

Furthermore, previous toxicity testing was only conducted using the Stronglyocentrotus purpuratus (sea urchin) fertilization test, a marine species. In order to assess the impacts that storm water has on the inland receiving waters before it reaches the ocean, toxicity testing must also be conducted on a fresh water organism. Therefore, all tests will be conducted using the sea urchin and the Ceriodaphnia dubia (water flea). Sea urchins are sensitive to metals, while the Ceriodaphnia is sensitive to pesticides. Both of these are known impairments in this region. Samples from the Santa Clara mass emission station only need to be analyzed for toxicity to the freshwater species, because the station is located inland. Two wet weather and two dry weather samples will be analyzed for toxicity from each mass emission station every year.
Toxicity Identification Evaluations (TIE) will be conducted when two consecutive samples show toxicity. The rationale for using two toxicity hits as a trigger is based on the toxicity guidelines and requirements for NPDES permits, developed by this Regional Board. Also, storm water discharges are highly variable and requiring a TIE whenever a single sample shows toxicity, which could be a one-time event, is not cost-effective.

Furthermore, when a toxic pollutant is identified, Toxicity Reduction Evaluations (TRE) will be conducted. The purpose of this requirement is to evaluate the extent and causes

[1] Temporal variability patterns of stormwater concentrations in urban stormwater runoff. Leisl L. Tiefenthaler, Kenneth C. Schiff, and Molly Leecaster, Southern California Coastal Water Research Project (SCCWRP) annual Report 2000.
[2] SCCWRP. 1992. Surface runoff to the Southern California Bight.

of toxicity in inland and coastal receiving waters, and to eliminate or reduce the sources of toxicity in storm water. TRE development and implementation is directly tied to the SQMP, to ensure that management actions are taken when problems are identified. The Principal Permittee expressed concern to Regional Board staff that the TRE requirement could potentially be too involved and costly to be completed with the available funds and resources during the course of the Order. To address this concern, the Regional Board clarified the TRE language. It was decided that a third party should be involved in the source analysis and BMP recommendations, and that each Permittee shall be responsible for the implementation of BMPs in their areas of jurisdiction that are causing or contributing to toxicity. The Principal Permittee is responsible for conducting an analysis of possible sources of toxicity and the identification of appropriate BMPs, based on available information. Regional Board staff also agreed with the Principal Permittee's proposed funding limit for this requirement, to ensure that the majority of the monitoring budget is not used.

Overall, the toxicity monitoring program will assess the impact of storm water on the overall quality of aquatic systems and implement measures to ensure that those impacts are eliminated or reduced. Chemical monitoring does not necessarily reveal the impacts of storm water on aquatic life or beneficial uses of water bodies. Therefore, toxicity monitoring is a necessary component of a storm water monitoring program.

Tributary/Source Identification Monitoring

Based on the results of previous storm water quality monitoring and toxicity testing, there is a need to monitor subwatersheds to determine pollutant sources, prioritize management actions, and provide information for TMDL development and implementation. Regional Board staff worked with Los Angeles County staff to design a tributary monitoring program.

Due to the great number of tributaries and limited resources for monitoring, the goals of the tributary monitoring program were prioritized. Regional Board staff decided to focus on metals in the Los Angeles River, San Gabriel River, and Ballona Creek because of existing data and the TMDL schedule[1]. Staff requested that the Principal Permittee conduct an analysis of the last four years of data for land use type, area, and rainfall to determine the major tributaries with the highest loads of metals per acre. Based on the analysis, Regional Board staff selected the following tributaries to be monitored:

- Centinela Creek (Ballona Creek WMA)
- Kenter Canyon (Ballona Creek WMA)
- Aliso Creek (Los Angeles River WMA)
- Bull Creek (Los Angeles River WMA)
- Compton Creek (Los Angeles River WMA)
- Los Cerritos Channel (San Gabriel River WMA)
- San Jose Creek (San Gabriel River WMA)

The data from the tributary monitoring program will also be used to validate the Land Use Model that the County has been developing.

Shoreline Monitoring

[1] Current TMDL schedule can be found on the Regional Board website at www.swrcb.ca.gov/rwqcb4/docs/table7_wmi_appdx.pdf

The City of Los Angeles has conducted shoreline and nearshore water quality monitoring off the Santa Monica Bay since the 1950s under the monitoring program for the Hyperion Waste Water Treatment Plant (NPDES No. CA0109991). The monitoring results indicate that effluent from Hyperion's 5-Mile Outfall does not impinge the shoreline, and that elevated bacterial counts are associated with runoff from storm drains and discharges from piers. In 1994, the Regional Board approved the relocation of Hyperion's shoreline stations to implement a bay-wide, regional shoreline monitoring program associated with storm drain outfalls in the Santa Monica Bay. The City of Los Angeles requested that the shoreline monitoring requirement be incorporated in this Order. Regional Board staff and the County of Los Angeles determined that the shoreline monitoring is an appropriate requirement for the storm water monitoring program, per the conditions listed in Section D of the draft Monitoring Program.

Trash Monitoring

Trash is a storm water pollutant, and a monitoring program should be developed. The language in the draft is general so that details of the monitoring program can be determined through the TMDL process. A specific trash monitoring program will be required through a 13267[1] letter related to the TMDL. The Regional Board does not intend to require two separate monitoring programs through the MS4 permit and the TMDL.

Regional Monitoring

Regional Monitoring efforts address public health concerns, monitor trends in natural resources and nearshore habitats, and assess regional impacts from all pollutant sources. Los Angeles County is a major discharger in this region and should participate in regional programs. Also, participation in Regional Monitoring, such as the SCCWRP Bight-wide study in 2003, can accomplish several goals of the Monitoring Program.

Estuary Sampling

The main goal of the estuary sampling is to determine the spatial extent of sediment fate from storm water, and the magnitude of its effects. Form this information, a map of each estuary that depicts the impacted areas will be produced. Such a map will be used to direct future monitoring efforts. Once the impacted areas are identified, regular monitoring can be conducted to determine trends and accumulation of sediment from storm water. The specific sampling requirements are consistent with the Hyperion Waste Water Treatment Plant NPDES permit. This sampling program is also consistent with the objectives of the SCCWRP Bight-wide 2003 study. The results will be incorporated into a larger study of the entire coast of Southern California, from Santa Barbara to the boarder of Mexico. This will also provide a comparison of the storm water impacts from Los Angeles County to other larger MS4s.

Bioassessment

Bioassessment data can be an important indicator of stream health and storm water impacts. It can detect impacts that chemical and physical monitoring cannot. In the Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems, EPA encourages permitting authorities to consider requiring biological monitoring methods to fully characterize the nature and extent of storm water problems. Therefore, this Regional Board and other Regional Boards commonly require bioassessment monitoring in storm water and point source NPDES permits.

[1] Section 13267 of the Porter-Cologne Water Quality Act

However, the fact that a biological index does not yet exist for this region is an issue that Regional Board staff took into consideration for this requirement. Without a biological index, including reference conditions and knowledge of background variability, data cannot be fully analyzed to accurately indicate stream health or impacts. However, it can be used to determine trends in the biological community, and it is necessary for index development. Also, bioassessment data can be analyzed in the future, after an index is developed.

Considering the importance of bioassessment and the need for an index, the Principal Permittee is required to develop a bioassessment program as part of a regional effort (Southern California Stormwater Research/Monitoring Program) and to coordinate with the Surface Water Ambient Monitoring Program (SWAMP), organized by the Regional Board. This is to ensure that the most useful data is collected for the purposes of detecting biological trends in receiving waters and for developing a biological index.

New Development Impact Study in the Santa Clara Watershed

The Santa Clara River is the largest river system in southern California that remains in a relatively natural state. For much of its length, it is a high quality natural resource[1]. There is also a great amount of current and future development in the watershed. Therefore, it is important to monitor this watershed to detect water quality impacts from new development and implement measures to prevent degradation from occurring. To accomplish this, a special study in addition to the two mass emission stations is appropriate.

The special study will consist of monitoring tributaries in the Santa Clara watershed to accomplish two goals. The first is to determine impacts from new development. The second is to assess the effectiveness of SUSMPs by comparing storm water quality between subwatersheds with and without post-construction storm water BMPs. Two tributary stations will be selected and monitored for this study. One will be chosen that is representative of a subwatershed in which the majority of development has occurred without SUSMP implementation. The second station will be representative of a subwatershed in which the majority of development has/will include SUSMP implementation.

Due to the similarities in sites to be monitored, it may be appropriate to combine this study with the Peak Discharge Impact Study.

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Peak Discharge Impact Study

The Development Planning section (Part 4.C.2) of the draft permit requires that the Principal Permittee determine numeric criteria to prevent or minimize erosion of natural stream channels and banks caused by urbanization. The purpose of the Peak Discharge Impact Study is to help meet that requirement. The Ventura County MS4 permit contains a similar requirement. The Ventura County Flood Control District has designed a study that can be extended to a watershed in Los Angeles County.

[1] Watershed Management Initiative Chapter, January 2000. California Regional Water Quality Control Board, Los Angeles Region

BMP Effectiveness Study

The BMP Effectiveness Study is an integral part of the storm water monitoring program. It is necessary to determine the reduction of pollutants from different BMPs so that the storm water management agency can make educated determinations about appropriate locations and types of BMPs.

RETAIL GASOLINE OUTLETS: NEW DEVELOPMENT DESIGN STANDARDS FOR MITIGATION OF STORM WATER IMPACTS

Technical Report

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Introduction

On March 8, 2000, the California Regional Water Quality Control Board, Los Angeles Region (LA Regional Board) issued requirements for new development and significant redevelopment consolidated in a Standard Urban Storm Water Mitigation Plan (SUSMP). The SUSMP included requirements for retail gasoline outlets (RGOs), commonly referred to as "gas stations", among several other development categories. Several municipalities, the Building Industry of Southern California (BIA), and the Western States Petroleum Association (WSPA) appealed the action of the LA Regional Board to the State Water Resources Control Board (State Board) for review. The State Board issued its decision *In Re City of Bellflower et al.* (SUSMP Decision) in large part upholding the action of the LA Regional Board.

In its Order, the State Board set aside the numerical mitigation requirement for RGOs explaining that the decision did not preclude future inclusion of numerical mitigation standards for RGOs with proper justification.

On February 21, 2001, the California Regional Water Quality Control Board, San Diego Region (SD Regional Board) issued an MS4 permit for San Diego County and Cities which includes requirements for new development and significant redevelopment. The MS4 permit requires Permittees to develop a model SUSMP no later than February 21, 2002, that will establish new development controls for project categories including RGOs. The SD Regional Board did not propose a threshold for RGOs to apply numerical design standards, giving the MS4 permittees the first option to develop the threshold criterion for RGOs and the justification. On March 22, WSPA filed an appeal of the SD Regional Board action for review before the State Board contending that RGOs were being improperly subject to numerical design standards in the MS4 permit for San Diego County and cities.

Urbanization and Storm Water Quality

Urbanization alters the natural infiltration capability of the land and generates a host of pollutants that are entrained in storm water and urban runoff. These pollutants such as heavy metals and petroleum hydrocarbons result from the activities of dense human populations. The overall impact is an increase in storm water runoff volumes and pollutant loading in storm water discharged to receiving water-bodies.[1]

Urban development increases the amount of impervious surface in a watershed as farmland, forests, and meadowlands with natural infiltration characteristics are converted into buildings with rooftops, driveways, sidewalks, roads, and parking lots with virtually no ability to absorb storm water. Storm water and snow-melt runoff wash over these impervious areas, picking up pollutants along the way while gaining speed and volume because of their inability to disperse and filter into the ground. What results are storm water flows that are higher in volume, pollutants, and temperature than the flows in less impervious areas, which have more natural vegetation and soil to filter the runoff.[2] In addition to impervious areas increase, urban development brings with it proportionately high levels of car emissions, car maintenance waste, pet waste, litter, pesticides, and household hazardous wastes, which may be washed into receiving waters by storm water or dumped directly into storm drains designed to discharge to receiving waters.

Most organic compounds found in storm water are associated with various human-related activities, especially automobile use, or are associated with plastics.[3] Heavy metals found in storm water also mostly originate from automobile use activities, including gasoline combustion, brake lining, fluids, undercoatings, and tire wear.[4]

More recently, studies reveal a connection between urban development and contamination of local waterbodies. Studies found the highest levels of organic contaminants, known as polycyclic aromatic hydrocarbons (PAHs) (products of combustion including fossil fuels combustion), in the reservoirs of urbanized watersheds.[5] Studies also established a clear

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[1] U.S. EPA (1992). *Environmental Impacts of Storm Water Discharges: A National Profile*. EPA 841-R-92-001. Office of Water. Washington, DC.

[2] U.S. EPA (1997). *Urbanization and Streams: Studies of Hydrological Impacts*. EPA 841-R-97-009. Office of Water. Washington, DC.

[3] Field, Richard, James P. Heaney and Robert Pitt. (2000). *Innovative Urban Wet-Weather Flow Management Systems*. Technomic Publishing Co., Inc. Lancaster.

[4] See, Durum, W.H. (1974), *Occurrence of some trace metals in surface waters and groundwaters*. In Proceeding of the Sixteenth Water Quality Conference. Am. Water Works Assoc., et al. Univ. of Illinois Bull. 71(108). Urbana, IL.; Koeppe, D.E. (1977). Comp. Vol. IV: *Soil-water-air-plant studies*. In: Environmental Contamination by Lead and Other Heavy Metals. G.L Rolfe and K.A. Peinbold, eds. Institute for Environmental Studies. Univ. of Illinois. Urbana-Champaign, IL. July.; Rubin, A.J., ed. (1976). *Aqueous-Environmental Chemistry of Metals*. Ann Arbor Science Publishers. Ann Arbor, MI; Shaheen, D.G. (1975). *Contributions of Urban Roadway Usage to Water Pollution*. 600/2-75-004. U.S. Environmental Protection Agency. Washington, DC.; Solomon, R.L. and D.F.S. Natusch. (1977). Vol. III: *Distribution and characterization of urban dists*. In: Environmental Contamination by Lead and Other heavy Metals. G.L. Rolfe and K.G. Reinbold, eds. Institute for Environmental Studies. Univ. Of Illinois. Urbana-Champaign, IL.; and Wilber, W.G. and J.V. Hunter. (1980). *The Influence of Urbanization on the Transport of Heavy Metals in New Jersey Streams*. Water Resources Research Institute. Rutgers University. New Brunswick, NJ.

[5] USGS (1998). *Research reveals link between development and contamination in urban watersheds*. USGS news release. USGS National Water-Quality Assessment Program.

relationship between the adverse impact of urbanization and impairment of aquatic communities in receiving waterbodies.[6]

Federal Storm Water Regulations

Federal regulations require that MS4 permittees implement a program to control storm water pollution from new developments during and post-construction. Because there is no express national standard for the control of storm water pollutants from new developments, the permitting authority must defer to statements of policy and intent made by the U.S.EPA.

The U.S.EPA under Phase I regulations did not fully describe the expectations for MS4 Permittees in controlling post construction storm water discharges from new development and significant redevelopment except that "a comprehensive master plan" was required [55 *Fed Reg.* 48054]. For a better understanding of the regulatory expectation, we look to the Final Rule for Phase II storm water regulations. Therein, the U.S.EPA notes that "prior planning and designing for the minimization of pollutants in storm water is the most cost-effective approach to storm water quality management" [64 *Fed Reg.* 68759], and identifies four essential elements to control storm water from new development and redevelopment. These are, (i) to develop and implement strategies that include a combination of structural and non-structural BMPs; (ii) adopt an ordinance to address post construction runoff; (iii) ensure long term operation and maintenance of the BMPs; and (iv) ensure that controls are in place that will *minimize* water quality impacts. [Emphasis added] EPA goes on to say:

> "The requirements .....[are] consistent with the permit application requirements for large MS4s for post-construction controls for new development and redevelopment."

The permitting authority in order to comply with federal regulations must thus require the implementation of an MS4 program that will achieve all four enumerated objectives for new development and redevelopment. In order for the program to be enforceable, the program for new development and significant redevelopment must include objective criteria such as water quality design standards for treatment-control BMPs, for significant categories of development such as RGOs.

Further, the Federal Court of Appeals has unequivocally stated that Congress intended for "the Administrator or a State to design [substantive] controls" for storm water discharges from MS4s but did not mandate a particular approach [*NRDC v. USEPA*, 966 F.2d 1292 (9th Cir. 1992)]. The court held that it is appropriate to defer to U.S.EPA [and the State] where the agency supplied a "reasoned explanation".

Also, the USEPA is currently in the process of developing effluent guidelines for the construction and development industry, which will include controls for new development and significant redevelopment.[7]

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[6] USGS (2000). *Water Quality in the Long Island-New Jersey Coastal Drainages, New York and New Jersey, 1996-98.* USGS Circular 1201.

[7] See, Fact Sheet: Effluent Guidelines for the Construction and Development Industry, USEPA, 1999, 3 pp.

Retail Gasoline Outlets

RGOs can range in size from about 3,000 square feet to more than 200,000 square feet. The median size of new RGOs in Los Angeles County is about 13,000 square feet.[8] There are about 2,133 RGOs in Los Angeles County servicing a population of 9.5 million, and nearly six million registered motor vehicles.[9] In San Diego County there are about 700 RGOs serving a population of 2.8 million, and nearly 2 million registered vehicles.

RGOs are points of confluence for motor vehicles for automotive related services such as repair, refueling, and ancillary services such as tire air inflation and radiator fillup. The vehicular traffic patterns at RGOs are similar to those on parking lots and on highways. Researchers have identified RGOs as toxic pollutant hotspots.[10]

Storm Water Quality

RGOs are a well identified source of urban storm water pollutants that impair receiving waters. WSPA has acknowledged that storm water discharges from even "normally operated and maintained" RGOs are no worse than discharges from commercial parking lots and diffuse urban runoff.[11] The reason that "normally operated and maintained" RGOs do not demonstrate any improvement in storm water discharge quality is because existing BMPs do not address pollutants generated by motor-vehicle traffic.[12] Heavy metals, significant concentrations of which occur in storm water discharges from RGOs, have been demonstrated to be the main cause of toxicity in Santa Monica Bay during wet weather.[13] Oil and grease in the storm water discharges from RGOs are also of concern.[14]

In a study conducted in Maryland, RGOs were identified to generate significantly higher concentrations of hydrocarbon and heavy metals than parking lots, convenience store lots, and streets.[15] A study conducted in Sacramento County, California, identified heavy metals such as

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[8] Data Base Summary Report, New Gas Station Permits issued between Jan 1, 1999 and Dec 31, 2000, City of Los Angeles, Department of Building and Safety (2001)

[9] California Energy Commission, Fuels Office, 1999.

[10] Schueler, T. and D. Shepp (1992). *The Quality of Trapped Sediments and Poor Water within Oil Grit Separators in Suburban MD.* Metropolitan Washington Council of Governments.

[11] See, Results of a Retail Gasoline Outlet and Commercial Parking Lot Storm Water Runoff Study, Western States Petroleum Association and American Petroleum Institute (1994) at p 13. The study concludes that pollutant concentrations in storm water discharges from RGOs are similar to concentrations from commercial parking lots and diffuse urban runoff. See also June 7 State Board Hearing Transcript at p 231; comment by WSPA witness, that "concentrations of metals, hydrocarbons, and solids were no higher than.... roads and parking lots".

[12] See June 8 State Board Hearing Transcript at p 136, Regional Board staff testimony that current BMPs at RGOs do not address pollution associated with vehicular traffic.

[13] See "Study of the Impact of Storm Water Discharge on Santa Monica Bay – Executive Summary", Los Angeles County Department of Public Works (1999), which identifies Zn and Cu as principal pollutants that cause storm water toxicity.

[14] Rouge River National Wet Weather Demonstration Project, MI, - Evaluation of On-line Media Filters in the Rouge River Watershed, Report No. RPO-NPS-TPM59.00 (1999), 36 pp.

[15] *Hydrocarbon Hotspots in the Urban Landscape, Shueler T., and Shepp, D., (1995), pp. 259-264, National Conference on Urban Runoff Management: Enhancing Urban Watershed Management at the Local, County and State Levels, Chicago, IL,* Report No. EPA/625/R-95/003. A survey of oil and grit separators in suburban Maryland indicated that RGOs and convenience stores had much higher levels of hydrocarbons and metals both in the water column and the sediments.

lead, copper, and zinc, as significant in storm water from RGOs.[16] Volatile organic compounds (VOCs) such as benzene, toluene, ethylbenzene, and xylene are rarely detected in storm water because of their volatility. In contrast, gasoline and other solvents, because of their physical and chemical characteristics, may present a significant risk for groundwater contamination, if underground and aboveground storage tanks leak.

The sources of storm water pollutants at RGO are from tail-pipe exhaust particles, fluid losses, drips, spills, and mechanical, brakepad and tire wear products, which build up on impervious surfaces at RGOs.[17] The pollutants of most concern in storm water are heavy metals such as Pb, Cu, and Zn and petroleum hydrocarbons such as PAHs.[18] The concentration and loads of these pollutants in storm water runoff from RGOs depends on the surface deposition and removal rates, and permanent storage. The permanent storage on surfaces is a function of surface area texture and condition and is literally trapped in the texture or cracks of the surface area. Pollutants are deposited any where vehicles travel, park, or are serviced, including RGOs.[19]

Review of New Development Design Standards

WSPA represents petroleum industry members in the States of Arizona, Hawaii, Nevada, Oregon, in addition to California. WSPA in its Petitions before the State Board has contended that new development standards that include numerical design standards for BMPs are impracticable and unnecessary at RGOs, and so we focussed the review on development standards that new RGOs are subject to in Western U.S. States. We are aware that new RGO developments in other States such as Maryland, Virginia, Florida, Alabama, Tennessee. Georgia, Oklahoma and Texas, are also subject to numerical mitigation requirements for storm water pollutants, but we did not review their programs for this technical report.

In Washington, RGOs in the western region that create impervious surfaces of 5,000 square feet or more are required to mitigate the 6 month 24 hour storm (about 1.2 inches of rainfall). In addition to the standard treatment menu based on a water quality design storm, RGOs that are expected to generate ADT of 100 vehicles or more per 1,000 square feet of gross building area are required separately to treat to remove oil.[20] The City of Portland in Oregon under its MS4 program requires RGOs to mitigate storm water runoff from impervious areas equal to or greater than 500 square feet using any one of three different design

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[16] *Action Plan Demonstration Project (APDP) - Demonstration of Gasoline Fueling Station Best Management Practices, County of Sacramento, (1994)*, pp. 30 Submitted to US EPA Region IX, San Francisco Estuary Project.. This study funded by the USEPA and conducted by Sacramento County identified heavy metals such as lead, copper, and zinc in significant concentrations in storm water runoff from RGOs. Volatile Organic Compounds (VOCs) from fueling areas were rarely detected because of their volatility. Data on Polycyclic Aromatic Hydrocarbons (PAHs) was inconclusive because analytical detection limits used were higher than regulatory action levels.

[17] Shaheen, D.G. (1975). *Contributions of Urban Roadway Usage to Water Pollution.* 600/2-75-004. U.S. Environmental Protection Agency. Washington, DC.

[18] Field, Richard, James P. Heaney and Robert Pitt. (2000). *Innovative Urban Wet-Weather Flow Management Systems.* Technomic Publishing Co., Inc. Lancaster.

[19] County of Sacramento, (1994). *Action Plan Demonstration Project (APDP) - Demonstration of Gasoline Fueling Station Best Management Practices.* Submitted to US EPA Region IX, San Francisco Estuary Project.

[20] Such sites are considered "high use sites" because they typically generate high concentrations of oil from traffic turnover. See Stormwater Management Manual for Western Washington, Vol. V, Runoff Treatment BMPs, (2000), Washington Department of Ecology, p 145.

approaches.[21] One of the choices is the 24-hour rainfall event standard (0.83 inch of rainfall). In addition, RGOs that are expected to generate 100 vehicles or more ADT per 1000 square feet of gross building area are subject to separate treatment controls for oil using a water quality design standard of a two year 24 hour storm.[22] In both Washington and Oregon, storm water treatment is required in addition to the source control BMPs identified by WSPA for implementation at its facilities in California.[23]

Treatment Control BMPs

The U.S. EPA funded a demonstration project to evaluate the effectiveness of on-line media filter media to treat pollutants from storm discharges at RGOs.[24] Four on-line media filter systems were tested and the study concluded that the treatment systems had sufficient ability to remove pollutants without risk of flooding, were easy to operate and maintain, and reasonable in capital cost.

We also reviewed storm water quality data results evaluating the pollutant removal effectiveness of a proprietary on-line filter media device located at a large RGO in Washington.[25] The device was installed underground and thus occupied no surface area. The treatment device was effective in removing between 50 and 90 percent of pollutants of concern in storm water discharges from RGOs. We note with interest that in perusing the treatment devices installation list of this proprietary manufacturer between 1997 and 2001 in the Western U.S., California had not a single installation at an RGO but Oregon and Washington had a combined total of 13 RGO sites where the treatment devices were installed. Considering that RGOs in the State of Washington and Oregon have ADT that is much less than in California, the aberration can only be explained by the lack of rigorous storm water regulatory controls in California to control the discharge of pollutants in storm water discharges from RGOs.[26]

Our review indicates that effective treatment devices for RGOs include on-line media filter systems with a combination of media placed in series to remove the pollutants of concern. Sand filters are another option. There may be other treatment control BMPs that may be equally if not more effective.[27]

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[21] Stormwater Management Manual, City of Portland, OR, (2000), p 1-11.

[22] Ibid. at page 9-47. Sites that meet the threshold are considered "higher risk categories".

[23] Cf. BMP Guide for Retail Gasoline Outlets, CA Storm Water Quality Task Force, and WSPA (1997); Storm Water Manual for Western Washington Vol. IV and V, Washington Dept. Ecology (2000).

[24] See, Rouge River National Wet Weather Demonstration Project, MI, - Evaluation of On-line Media Filters in the Rouge River Watershed, Report No. RPO-NPS-TPM59.00 (1999), 36 pp.

[25] See, Stormwater Sampling – StormFilter Performance Results: Burwell-Straley's Union 76 Station, Bremerton, WA (2000). 7 pp.

[26] Report, Database Summary List of Treatment Devices installed between 1997 and 2001, Provided by StormFilter, OR.

[27] For a list of potential treatment options see, Storm Water Manual for Western Washington Vol. V, - Runoff Treatment BMPs, Washington Dept. Ecology (2000).

Economic Considerations

A review of costs of storm water treatment controls for RGOs indicates that the cost of storm water treatment is reasonable.[28] In addition, a demonstration project sponsored by the USEPA to evaluate the effectiveness and costs of on-line media filters placed the first year capital cost between $250 and $900 and an operations and maintenance cost of $240 annually.[29]

Justification

The State Board in its SUSMP Decision temporarily excluded RGOs from the numerical mitigation standard until Regional Boards provided proper justification and established appropriate thresholds. Issues to be considered included presumptions that RGOs were, (i) already heavily regulated; (ii) limited in their ability to construct infiltration BMPs; (iii) generally small in size; and (iv) storm water treatment may not be feasible or safe.

Over-regulation:[30] Under State law, the State Board and Regional Boards are the primary authorities for implementation of the federal Clean Water Act, and for matters related to water quality within the State.[31] There is no basis in federal or State statute that permits the State Board or Regional Boards to abdicate their water quality authority because discharges from facilities that impact water quality are already regulated for other purposes. Attainment and maintenance of receiving water objectives and the protection of beneficial uses are the paramount considerations.

Limitations of space or ability: Our review indicates that RGOs appear not to be limited by space or ability to treat storm water. The surface area of RGO developments is generally greater than 5000 square feet. The fabricated storm water treatment systems we reviewed generally do not exceed 128 square feet in surface area when installed and do not impede traffic flow because they are situated sub-surface. While opportunities for infiltration practices may be limited, it is but one type of option for mitigation of pollutants in storm water. The SUSMP does not mandate infiltration BMPs. Other treatment options exist such as fabricated treatment control BMPs to remove storm water runoff pollutants using physical, biological, or chemical processes. Also treatment control BMPs can be installed sub-surface without interfering with surface use. RGOs situated in other Western U.S. States, which have lower impervious surface area and higher water quality treatment volume criteria thresholds already implement storm water treatment controls at new facilities.

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[28] See "Cost and Benefits of Storm Water BMPs", Preliminary Data Summary of Urban Storm Water Best Management Practices, USEPA, (1999) Report No. EPA-821-R-99-0012, pp. 6-1 – 6-44.

[29] Rouge River National Wet Weather Demonstration Project, MI, - Evaluation of On-line Media Filters in the Rouge River Watershed, Report No. RPO-NPS-TPM59.00 (1999), at p 15-18.

[30] The Regional Board's review of regulations that affect RGOs identified, (i) business license for business operation, (ii) Fire Department for tank/ piping integrity and gasoline storage; (iii) County Public Works for underground storage of hazardous chemicals; (iv) Air Quality Management District for VOC emissions; (v) Sanitation District for any sanitary sewer discharges; (vi) County Weights and Measures for sale of gasoline; (vi) Department of Toxics Substance Control for waste motor oil disposal; (vii) County Health for food and beverage sale; and (viii) Regional Board for regulation of leaking tanks to protect groundwater.

[31] Cal. Wat. Code § 13160 states that, "the State Board is designated as the state water pollution control authority for all purposes.... in federal act." Cal. Pub. Res. Code § 30412 states that, "other State agencies shall not modify, adopt conditions, or take any action in conflict with any determination by the State Board in matters relating to water quality".

Feasibility of storm water treatment: Our review of implementation of storm water treatment control requirements in other Western U.S. States indicates that storm water treatment at RGOs is both feasible and safe. In California, sub-surface fabricated treatment systems have been commonly used at RGOs to separate waste-oil before discharge to the sanitary sewer system. Safety or feasibility has not been an issue when sanitation districts required RGOs to install treatment systems in order to obtain connection permits to the sanitary sewer system. As previously mentioned storm water treatment controls are installed as a matter of practice by RGOs in other Western U.S. States. There is no reason to suppose that storm water treatment in California introduces new and different safety and feasibility considerations, as when compared to wastewater treatment systems which RGOs have readily installed in California and storm water treatment systems installed in other Western U.S. States.

Suggested criteria

Storm water pollution at RGOs is primarily a function of the number of motor vehicles that are refueled or serviced. Ancillary services such as auto repair may additionally contribute significant pollutant loads. A WSPA study concluded that the storm water runoff quality from well-maintained RGOs is comparable in pollutant concentrations to runoff from commercial parking lots.[32]

The State Board recommended that the Regional Boards undertake further consideration of a threshold relative to size of RGOs for application of the numerical design standard for storm water. Our analysis indicated the following criteria for thresholds may be appropriate.

Land area: 5,000 square feet or more of impervious area. RGOs in Portland, Oregon and Western Washington that meet this land area threshold are currently subject to storm water treatment requirements based on the water quality design storm.[33]

Projected Average Daily Traffic (ADT): 100 or more vehicles fueled per day. The projection for the number of vehicle trips a RGO can expect may be estimated using information published by the Institute of Transportation Engineers. The vehicular traffic at an RGO is a good determinant for the quantity of storm water pollutants generated at the site. RGOs in Oregon and Washington are subject to two tiers of threshold for treatment of storm water, the first based on the impervious area threshold, and an additional tier storm water treatment requirement for sites that expect 100 vehicles or more ADT per 1,000 square feet of gross building area. [34]

Projected volume of gasoline sale: 25,000 gallons or more of gasoline sale per month. [35] The projected volume of gasoline sales is directly correlated with vehicular trips. 25,000 gallons of gasoline sale per month is equivalent to an average daily traffic of about 100 vehicles.[36]

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[32] See 'Results of a Retail Gasoline Outlet and Commercial Parking Lot Storm Water Runoff Study (1994)', Western States Petroleum Association, and American Petroleum Institute, 49 p. Commercial parking lots 5,000 square feet or more are presently subject to the SUSMP numerical mitigation standard.

[33] WSPA represents companies that explore, produce, refine, transport and market petroleum in six western states including Oregon, Washington, and California. See www.wspa.org

[34] See, Storm Water Management Manual (August 2000), City of Portland, Oregon, (p 9-10) additional thresholds for fuel dispensing facilities. Also, Storm Water Management Manual for Western Washington, Vol. V, Runoff Treatment BMPs, Washington Department of Ecology, p 9-10, additional requirement thresholds for high-use sites.

[35] The average volume of gasoline sales at a RGO in California is approximately 100,000 gallons per month. Gasoline stations with outputs of 200,000 or more gallons a month are considered high output facilities by the industry.

Although other criteria such as the number of fueling dispensers ("nozzles"-4 or more) and the number of dispenser meters (12 or more assuming one meter per octane grade), were considered for thresholds, the relationship of such criteria to predict the potential for pollutant generation at RGOs is less direct.

It is recommended that numerical mitigation standards be made applicable, if the RGO development meets the following thresholds, (i) creates 5,000 square feet or more of impervious surface; and (ii) has a projected trip generation of 100 or more motor vehicles ADT.

Conclusion

RGOs have been well documented in the scientific literature as significant sources of storm water pollutants. These pollutants such as heavy metals and PAHs have been know to cause the impairment of beneficial uses in receiving waters. As a source of pollutants, storm water from RGOs is similar to runoff from driveways, roads, highways and parking lots.

In order to reduce the discharge of pollutants in storm water to the MS4, it is technically appropriate to require that new RGOs and significantly redeveloped RGOs be subject to the SUSMP numerical mitigation criteria. RGOs in other Western U.S. States already comply with higher numerical mitigation standards than those established by the LA Regional Board and the SD Regional Board. The treatment of storm water for RGOs is technically feasible, safe, and of reasonable cost.

[36] A typical "full" tank gas refueling is around 8 gallons delivered at a pump. Many RGOs use this benchmark for discount offerings or other type of incentives associated with refueling. 100 cars x 8 gallons per car x 30 days = 24,000 gallons of gasoline per month.

Table 1. Characterization of Pollutant Concentrations in the OGS Water Column: Effect of Land-Use Condition (Mean Values)[37]

Sampled Parameter	All-Day Parking (N = 8)	Convenience Commercial (N = 6)	Gas Stations (N = 7)	Streets (N = 6)	Townhouse/ Gard Apartments (N = 6)
OP (mg/L)	0.23	0.16	0.11	ND	0.11
TP (mg/L)	0.30	0.50	0.53	0.06	0.19
NH3-N (mg/L)	0.20	1.58	0.11	0.19	0.20
TKN (mg/L)	1.18	4.94	2.5	0.84	1.00
OX-N (mg/L)	0.65	0.01	0.21	0.92	0.17
TOC (mg/L)	20.60	26.80	**95.51**	9.91	15.75
Hydrocarbons (mg/L)	15.40	10.93	21.97	2.86	2.38
TSS (mg/L)	4.74	5.70	--	9.60	7.07
ECd (µg/L)	6.45	7.92[a]	**15.29**[a]	ND	ND
SCd (µg/L)	3.40[a]	ND	6.34[a]	ND	10.34[a]
ECr (µg/L)	5.37	13.85	**17.63**[a]	5.52[a]	ND
SCr (µg/L)	ND	ND	6.40[a]	ND	4.79[a]
ECu (µg/L)	11.61	22.11	**112.63**	9.50[a]	3.62
SCu (µg/L)	8.22[a]	ND	25.64	ND	2.40
EPb (µg/L)	13.42	28.87	**162.38**	8.23	ND
SPb (µg/L)	8.10[a]	ND	26.90[a]	ND	ND
EZn (µg/L)	190.00	201.00	**554.00**	92.00	NA
SZn (µg/L)	106.70	43.70	471.00	69.00	59.00

[a]Mean is for all observations in which the indicated parameter was actually detected.

ND = not detected; NA = not applicable.

Hydrocarbons = total hydrocarbons
TSS = total suspended solids
ECd = extractable cadmium

OP = ortho phosphate phosphorus
TP = total phosphorus
NH3-N = ammonia nitrogen
TKN = total Kjeldahl nitrogen
OX-N = oxidized nitrogen
TOC = total organic carbon

SCd = soluble cadmium
ECr= extractable chromium
SCr= soluble chromium
ECu = extractable copper
SCu = soluble copper
EPb = extractable lead
SPb = soluble lead
EZn = extractable zinc
SZn = soluble zinc

[37] *Hydrocarbon Hotspots in the Urban Landscape, Shueler T., and Shepp, D., (1995), pp. 259-264,* National Conference on Urban Runoff Management: Enhancing Urban Watershed Management at the Local, County and State Levels, Chicago, IL, Report No. EPA/625/R-95/003.

Table 2. Data Comparison – RGO Studies

Constituent (ug/l)	Study 1[38]	Study 2[39]	Study 3[40]	Effluent Criteria[41,42] (ug/l)	
Aluminum	**829**	ND	ND	750	--
Cadmium	0.7	ND	**15.29**	15.9	4.3
Chromium	4.2	ND	**17.63**	--	16[43]
Copper	**25.2**	**200**	**112.63**	63.6	13
Lead	33.4	ND	**162.38**	81.6	65
Nickel	4.7	ND	ND	1417	470
Zinc	**379**	**200 to 600#**	**554**	117	120
Oil & Grease (mg/l)	4.6	1 to **34**	**95.5**[44]	15	--
TSS (mg/l)	59	10 to ?	ND	100	--

= range; ND = No Data;

[38] *Demonstration of Gasoline Fueling Station Best Management Practices* - Uribe & Associates, Larry Walker Associates - Final Report - October 1994

[39] *Retail Gasoline Outlet Storm Water Runoff Study* - Western States Petroleum Association (WSPA), Draft Report, prepared by Hart-Crowser 1993

[40] *Hydrocarbon Hotspots in the Urban Landscape* - Schueler T. and Shepp D., Metropolitan Washington Council of Governments - Washington DC in Seminar Publication National Conference on Urban Runoff Management: Enhancing Urban Watershed Management at the Local, County, and State Levels - Chicago 1993 [EPA/625/R-95/003]

[41] *Parameter Benchmark Values* - Final Reissuance of National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities; Notice - Federal Register/ Vol. 65, No 210/ October 30, 2000. 64767

[42] *Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California; Rule* - 40 CFR Part 131 Federal Register/ Vol. 65, No 97/ May 18, 2000 pag. 31682 et. Seq.

[43] Chromium (VI)

[44] TOC

Environmentally Sensitive Areas – Technical Report

[to be transmitted later]

California Environmental Quality Act – Technical Report

[to be distributed later]

CITY OF LOS ANGELES
CALIFORNIA

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June 29, 2001

Mr. Dennis Dickerson
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

CITY OF LOS ANGELES ADDITIONAL REVIEW COMMENTS ON THE FIRST DRAFT OF THE 2001 LOS ANGELES COUNTY MUNICIPAL STORM WATER NPDES PERMIT

We are transmitting the attached additional comments on the first draft of the 2001 Los Angeles County Municipal Storm Water National Pollutant Discharge Elimination System Permit. These comments deal with issues that are governed by official policies of the City of Los Angeles and are impacted by the draft Permit.

As we noted when we submitted comments on technical issues on May 16, 2001, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must first be adopted in the form of a resolution by the City Council with the concurrence of the Mayor. Attached please find the City's position on the draft Permit with supporting documentation.

Once again, the City appreciates that the Regional Board will give due consideration to incorporating the City's comments into the final Permit.

R0003124

If you have any questions, please contact me at (213) 473-7999 or Gary Lee Moore, of my staff, at (213) 847-6346.

Sincerely,

James F. Langley for
Judith A. Wilson, Director
Bureau of Sanitation

JAW/GLM/MFS/SHN/AAS:lm
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Attachments

cc: Xavier Swamikannu, Los Angeles Regional Water Quality Control Board
James F. Langley, Assistant Director, Bureau of Sanitation
Gary Lee Moore, Stormwater Program Manager

FORM GEN. 160 (Rev. 6-80)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

DATE: June 18, 2001

TO: Councilmember Mark Ridley-Thomas, Chair
Environmental Quality and Waste Management Committee

FROM: Ronald F. Deaton
Chief Legislative Analyst

William T. Fujioka, Director
Office of Administrative and Research Services

SUBJECT: POLICY ISSUES RELATED TO THE DRAFT 2001 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) MUNICIPAL STORMWATER PERMIT

BACKGROUND: The Los Angeles Regional Water Quality Control Board (Regional Board) recently issued a draft 2001 NPDES Municipal Stormwater Permit for review and comment. The NPDES permit is reissued every five years and the existing permit expires on July 31, 2001. This permit identifies the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles and the incorporated cities (except Long Beach and Santa Clarita). The County of Los Angeles is the principal permittee and the City of Los Angeles and 82 other jurisdictions are co-permittees.

A Council Motion regarding the 2001 NPDES Municipal Stormwater Permit was introduced on May 18, 2001 (CF#01-1020). This motion directed the CLA and OARS to prepare a report for the Environmental Quality and Waste Management Committee on various policy implications of the draft 2001 NPDES permit.

The deadline for the receipt of comments was May 16, 2001. City staff prepared and submitted technical comments to the Regional Board on that date (see attached). There were, however, several substantive policy issues associated with the proposed permit. In light of the new charter, which states that any official position of the City of Los Angeles with respect to pending agency regulations must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor, this report has been prepared.

The Regional Board has issued a schedule that states that there will be two more draft permits; a second draft of the permit will be issued on June 29, 2001 and a final draft will be issued on September 6, 2001. The proposed adoption date by the Regional Board is scheduled for October 25, 2001.

ANALYSIS: The proposed permit contains the following major new requirements for cities:

1. Public Agency Activities

Proposed Permit – Stormwater runoff from urban streets is a contributing factor in the contamination of coastal waters and beaches. Pollutants, litter and debris on city streets enter the storm drain system and are channeled directly to the ocean. Street sweeping has been identified as a best management practice to reduce storm water pollution. The proposed permit contains language that would require all jurisdictions to conduct bi-weekly street sweeping. The Regional Board's fact sheet states that the change in frequency for street sweeping has been included to be consistent with the Ventura County Municipal Storm Water Discharge Permit.

Current Practice - The existing permit requires a municipality to implement a street sweeping program that sweeps the streets at least monthly, and where feasible, more frequently in areas generating significant refuse. The Bureau of Street Services sweeps approximately 40% of the City's 13,100 curb miles of paved dedicated streets weekly and the remainder once a month. In commercial areas where persistent litter is a problem, the streets are swept weekly or daily. The annual current cost for the street sweeping activities is approximately $7.5 million of which $4.9 is paid from the Stormwater Pollution Abatement Fund (SPAF). The current discretion given to municipalities allows the City of Los Angeles to provide street sweeping services more frequently in areas that generate more debris and less sweeping in areas that are less populated.

Impact on City - Staff estimates that bi-weekly street sweeping will increase the City's cost by an additional $4.6 million annually, $3.6 million in staff costs and $985,334 in expense costs. Additionally, a one-time capital cost for the purchase of additional street sweeping equipment is estimated at around $7 million. The cost to the ratepayer would be an additional charge of $4 a year for the annual costs alone, and the average residential Stormwater Pollution Abatement Charge would need to increase from $23 to $27 a year. This would increase another $7 or more if the equipment was purchased with SPAF funds. Moreover, the South Coast Air Quality Management District's fleet rules require the City to replace its street sweepers with ones that use alternative fuels when new equipment is purchased. The cost of new and upgraded facilities for natural gas sweepers has not been estimated at this time, however, it is expected to be substantial.

The proposed permit states that the increased street sweeping requirement apply until the implementation of a trash total maximum daily load (TMDL) program, which is currently under development for the Los Angeles River and Ballona Creek. Compliance with the trash TMDL will require the City to develop a plan to reduce trash in the waterways by the implementation of new structural devices to capture litter before it reaches the waterways. Although difficult to estimate, capital and operation/maintenance cost estimates are in the neighborhood of $900 million for full capture devices. The proposed permit would require the City to spend millions of dollars to implement bi-weekly street sweeping, which will be necessary only until the trash TMDL is finalized.

Recommended City Position – Delete the requirement for bi-weekly street sweeping.

2. Programs for industrial/commercial inspections

Proposed Permit - The proposed permit includes language that would require the City to move from educational visits to site inspections and require the City to inspect all industrial commercial sites under the Regional Board's jurisdiction, in addition to the City's jurisdiction. Additionally, the proposed permit would add categories of industrial and commercial businesses within the City, almost doubling the list from 13,000 to 23,000 businesses. The required inspections would involve a thorough review of the physical structure and layout of the business, as well as a review of their common practices. It is estimated that, depending on the type of business, the new inspections would average two hours, not including expected follow-up visits, which may be necessary for a majority of the businesses.

Current Practice - The existing NPDES permit requires the City to conduct educational site visits, which are typically brief in duration. Staff activities are limited to distributing brochures and other informational handouts.

Impact on City - Staff supports moving from site visits to full inspections of industrial/commercial sites. This will allow the City to thoroughly review industrial/commercial stormwater impacts and begin enforcement actions on violators. Additionally, staff is supportive of increasing the number of industrial/commercial sites that are under the jurisdiction of the permittees. It is estimated that an additional two new inspectors would be necessary to fulfill the new NPDES requirements to inspect industrial/commercial sites under the City's jurisdiction, which would cost $175,081 per year. Additional attorney costs for anticipated legal actions, which are difficult to estimate, may also be necessary. The SPAF anticipated some additional costs associated with the proposed NPDES permit and included $530,000 in the 2001-02 budget (See Table 1).

The proposed permit, however, also assigns the responsibility for industrial/commercial inspections currently under the Regional Board's jurisdiction to the City. The Regional Board receives permit fees from between $250 and $500 from General Industrial Activities Stormwater Permits for their industrial/commercial inspections. Staff strongly opposes the requirements of the draft permit that passes these responsibilities to the City. These responsibilities clearly belong to and should remain with the Regional Board. Staff estimates that an additional four new inspectors, beyond the previously mentioned two inspectors, would be necessary to carry out this requirement, at a cost of $350,000 per year.

Recommended City Position – Support the Regional Board's responsibility for inspections of industrial/commercial sites that are under their General Industrial Activities Stormwater Permit.

3. Standard Urban Storm Water Mitigation Plans (SUSMPs)

Proposed Permit – Include administrative projects in the SUSMP project categories.

Current Practice - on January 25, 2000, the City Council adopted a policy position that endorsed, in concept, the SUSMP requirement for developments as proposed by the Regional

Board. The Regional Board's proposal included discretionary and ministerial (administratively approved) projects. Although the SUSMP requirements ultimately adopted by the State Water Resources Control Board (State Board) for the current NPDES permit apply only to discretionary projects, the Regional Board has the authority to add ministerial projects when the NPDES permit is re-issued. As a result, the draft NPDES permit expands this section to include ministerial projects.

Impact on City - The inclusion of ministerial projects in the draft NPDES permit for SUSMP project categories is estimated to require four additional staff at a cost of $432,779. The Stormwater Pollution Abatement Fund (SPAF) anticipated some additional costs associated with the proposed NPDES permit and included $530,000 in the SPAF 2001-02 budget (see Table 1).

Recommended City Position – Support the requirements for Standard Urban Storm Water Mitigation Plans (SUSMP).

4. **Implement Requirements for Peak Flow Control.**

Proposed Permit – The proposed permit requires all development that drains to soft-bottom channels, including the entire upper Los Angeles River region (the San Fernando Valley), to show that a post-development peak runoff discharge rate does not exceed the pre-development runoff discharge rate.

Current Practice – The current peak flow control requirements are implemented as part of the existing SUSMP requirements imposed through the CEQA review process. This condition is applicable to the SUSMP project categories where developments will result in increased potential for downstream erosion. It is applied to only developments that have site runoff discharge ***directly*** to soft-bottom channels.

Impact on City - Typical peak flow control measures include detention, retention, or infiltration systems. These measures, however, are limited for new developments in the San Fernando Valley, due to the Watermaster's restriction against any infiltration systems. Staff prepared a sample peak flow calculation, assuming the need for detention/retention, which resulted in a system the size of an average swimming pool for a one-acre development. If this example is accurate, the need for additional open spaces for detention, retention and infiltration systems will severely constrain development in the San Fernando Valley.

Recommended City Position – Since this requirement is not defined in detail and may have significant impact, staff recommends the Peak Flow Control requirement be deleted until consensus language is developed.

5. **Small Construction Site Requirements.**

Proposed Permit - The proposed permit states that for construction sites of less than one acre, the proposed permit would require the implementation of structural and non-structural BMPs, as well as site inspections.

Current Practice – Under the current permit, for sites less than two acres of disturbed soil, construction projects are required to implement minimum BMPs, which consist of good housekeeping practices. During routine inspections, City inspectors observe practices for compliance with minimum requirements. There are no inspections specifically conducted to look for storm water compliance.

Impact on City - In essence, this proposed requirement would make ***every*** project subject to storm water conditions, which would be over 30,000 projects per year in the City of Los Angeles. "Less than one acre" does not have a lower limit and goes significantly beyond the intent of the upcoming federal stormwater regulations. Many projects less than one acre do not cause an adverse impact on water quality. Those that do not cause an adverse impact are not being regulated at the state or federal level and will not be regulated in the immediate future. If a site that is less than one acre does cause an adverse impact on water quality, then current local, state and/or federal ordinances, laws and regulations give the authority for agencies to take enforcement action.

Staff estimates that an additional eight staff would be necessary to conduct this activity at a cost of approximately $809,456. This would increase the stormwater pollution abatement charge by about a dollar a year for residents.

Recommended City Position – Delete the additional requirements on the City to require structural and non-structural BMPs and site inspections on construction sites less than one acre.

6. **Larger Construction Site Requirements.**

Proposed Permit - For construction sites greater than one acre, the proposed permit would require the review and inspection of BMP implementation plans during construction and a Storm Water Pollution Prevention Plan (SWPPP) on site.

Current Practice - Currently, the City is required to inspect construction sites of two acres and above for compliance with a SWPPP. Should violations be discovered on sites between two and five acres, the City conducts follow-up activities. If the construction project site is five acres or over, the City notifies the Regional Board for follow-up activities. The Regional Board is responsible for issuing State General Construction Permits and conducting follow-up activities for sites five acres and above. Beginning in 2003, however, federal regulations will require the Regional Board issue General Construction Permits for sites one acre and above. The issuance of these permits will allow the Regional Board to collect fees for site inspection activities. As the proposed permit is currently written, however, cities will be required to inspect these sites, while the Regional Board collects the fees. It is more appropriate for the Regional Board to begin this activity in 2003 and fund their work through their permit fees.

Impact on the City – It is estimated that the cost to hire an additional two staff to review and inspect BMP implementation plans and SWPPPs would cost approximately $188,339. This would cost the ratepayers an increase of several cents on their Stormwater Pollution Abatement Charge.

Recommended City Position – Until March 2003, current permit requirements should be maintained, whereby permittees are responsible only for SWPPPs for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre. If the Regional Board is willing to transfer the funding from permit fees to the City for the responsibility of inspection of construction sites greater than one acre, the City may want to reconsider this position.

7. Responsibilities of the Principal Permitee

Proposed Permit - Assigns Los Angeles County, as the Principal Permittee, the responsibility of coordinating permit activities and negotiate NPDES requirements with the Regional Board. The proposed permit identifies the Executive Advisory Committee (EAC) representatives and the County as the agencies who will conduct formal discussions with the Regional Board on behalf of the permitees.

Current Practice – The existing permit does not give a formal role to the EAC.

Impact on the City – The proposed language will not allow the City an independent voice when permit coordinating activities take place. As the largest jurisdiction in the region, it is reasonable to provide a separate, permanent voice to the City of Los Angeles on this body.

Recommended City Position – In addition to the Principal Permittee and the EAC, add the City of Los Angeles as the agencies to conduct formal discussions with the Regional Board on behalf of the permittees.

RECOMMENDATION:

That the Council:

1. Forward the attached policy comment matrix to the Regional Board, which details the City's recommended changes for the draft 2001 NPDES Municipal Stormwater Permit, specifically, the Council's positions to:

2. Request deletion of the requirement for bi-weekly street sweeping;

3. Support the Regional Board's responsibility for inspections of industrial/commercial sites that are under the General Industrial Activities Stormwater Permit;

4. Support the requirements for Standard Urban Storm Water Mitigation Plans (SUSMP);

5. Request deletion of the requirement for peak flow control until consensus language is developed;

6. Request deletion of the additional requirements on City to require structural and non-structural BMPs and inspect construction sites less than one acre;

7. Request that until March 2003, current permit requirements be maintained, whereby the City is responsible only for SWPPPs for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre;

8. Add the City of Los Angeles to the Principal Permittee and the Executive Advisory Committee (EAC) as the agencies to conduct formal discussions with the Regional Board on behalf of the permitees.

FISCAL IMPACT STATEMENT:

The total cost of the proposed permit, as written, would cost the City over $13.4 million (see Table 3). The staff recommendations for the proposed 2001 NPDES Municipal Stormwater Permit will cost a total of $607,860 (see Table 2). This total cost includes additional staff costs of $432,779 for the expanded SUSMP implementation requirements and $175,081 for the addition of two inspectors to conduct expanded industrial/commercial site inspections. Any increase in attorney costs have not been calculated at this time, however, it is not expected to be significant the first year of the permit and may be revisited in future years if costs escalate substantially.

The 2001-02 Stormwater Pollution Abatement Fund included $530,000 for expected new NPDES permit requirements. The estimated staff costs of $607,000 will leave a shortfall of approximately $70,000 in the SPAF for these activities. All of the staff will not be necessary the first year of the NPDES permit implementation. In future years, however, the SPAF was budgeted to absorb an increase of $200,000, which will leave the SPAF short by $400,000 annually for permit implementation activities.

CITY OF LOS ANGELES: BUREAU OF SANITATION, STORMWATER MANAGEMENT PROGRAM
Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Location	Passage	Comments/Recommendations
Page 4,Findings Item 6	"These environmentally sensitive area include . . . Significant Natural Areas, and impaired water bodies listed under Clean Water Act Section 303(d)."	Recommend modifying as follows: "These environmentally sensitive area include . . . Significant Natural Areas, and ~~impaired water bodies listed under Clean Water Act Section 303(d)~~." Impaired water bodies are not necessarily synonymous with environmentally sensitive areas. The City believes that there are separate regulatory provisions to address and deal with impaired water bodies such as the TMDL process, which takes into consideration point and non-point source pollution for these waters
Page 4, Findings Item 7	"The increased volume, increased velocity, and..."	Recommend adding to the end of this sentence: "**in water bodies susceptible to these effects**".
Page 4, Findings Item 7	"Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces."	Recommend rewording this text as follows because 10% may not be the standard: "Studies have demonstrated that increasing impervious cover can lead to declines in habitat quality and associated biodiversity."
Page 5, Findings Item 11	"Studies indicate that facilities...fueling (automotive...)..."	Delete typographical error in parenthesis (...service facilities0)
Page 8, Findings Item 25	"...These criteria apply to discharges...."	Recommend the sentence be changed: "These apply as ambient criteria for inland surface waters". The current language inaccurately describes the legal requirements. The CTR criteria apply as ambient criteria for surface waters, the criteria do not apply directly to discharges as stated here. Also, the State Implementation Policy (SIP) specifically states in footnote 1 on page 1 that "This Policy does not apply to regulation of storm water discharges."
Page 9, Findings Item 37	"California Water Code (CWC) Section 13263(a) requires that...."	Water Code Section 13263(a), in addition to the requirements listed, requires the Regional Board when setting waste discharge requirements to take into consideration "the provisions of Section 13241 including economic considerations." The Los Angeles Superior Court in the permit appeals for the Los Angeles-Glendale, Tillman, and Burbank Water Reclamation Plants confirmed this requirement in the final Statement of Decision issued on April 4, 2001. This decision is binding on the Regional Board. "...other waste discharges; and the need to prevent nuisance. **,and the provisions of Section A 132 and 1.**"
Page 10, Findings Item 38	"California Water Code (CWC) Section 13370 et seq. Requires...".	Recommend changing "comply" to "**be consistent**...". California operates an in-lieu permitting program, waste discharge requirements must merely "be consistent" with CWA requirements.
Page 10, Findings Item 39	The Regional Board is the...."	Recommend replacement of word "or" with "**for**" in the first sentence.
Page 10, Findings Item 43	"To meet this objective, this Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters."	Recommend modifying as follows: "To meet this objective, this Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff to **the Maximum Extent Practicable (MEP)** such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters."

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Location	Passage	Comments/Recommendations
Page 11, Findings	Add a new finding (presumably between Items #45-47).	Recommend reference to non-chapter 3 CEQA requirements for the adoption of waste discharge requirements. Chapter 1 of CEQA requires the Regional Board explore alternatives and mitigation measures that might cause less impact on the environment than the action/Order proposed. Recommend modyifying as follows: "The action to adopt a NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21100, et seq.), in accordance with Section 13389 of the California Water Code."
Page 12, Part 1	"Each Permittee shall effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are: 1. covered by a separate individual or general NPDES permit for . . ."	Recommend modifying as follows: " ...covered by a separate individual or general NPDES permit, or **granted an exemption by the Regional Board, the Executive Officer, or the State Water Resources Control Board**, for . . ." This modification would maintain the intent of the current Permit and include sources previously granted an exemption from the Regional Board or State Water Resources Control Board.
Page 12, Part 1.2	".... and meet all the conditions specified by the Regional Board Executive Officer (and which must be included in the revised SQMP)..."	We recommend reinstating Part 2, Section II.C.4 (p. 33-34) of Order 96-054, which describes the procedures to obtain additional categories of exemptions.
Page 12, Part 1.2.a	"a) Categories of natural flow: . . ."	Recommend modifying as follows: "a) Categories of natural flow: (1) Natural springs and ~~rising~~ **natural** ground water; . . . Uncontaminated **natural** ground water . . ."
Page 12, Part 1.2.c	Add now reference items.	9) Washing of fire/emergency vehicles; and 10) Potable water sources with appropriate BMP's applied.
Page 12, Part 1.2.c.1 & 2	Discharge Prohibitions: "Reclaimed and potable landscape irrigation runoff;" "Water line flushing of potable water distribution systems;"	Recommend modifying as follows: "Reclaimed and potable landscape irrigation runoff;" "Water line flushing ~~of potable water distribution systems~~;" Line flushing within the system is necessary to protect the health and safety of the public. In some cases, when flushing occurs within the distribution system, chlorination is increased and then the water is dechlorinated. However, during the flush, the water may not be to potable water standards.
Page 13, Part 1.2.c.6	"Dewatering of lakes and decorative fountains;"	Recommend modifying as follows: "Dewatering of lakes, **reservoirs, potable water tanks**, and decorative fountains with appropriate BMPs **applied**;"
Page 13, Part 1.2 Last paragraph	"The Regional Board Executive Officer may add or remove categories of non-stormwater discharges above. Furthermore, in the event that any of the above categories of non-	Recommended modifying as follows: " . . . in the event that any of the above categories of non-stormwater discharges are determined to be a **significant** source of pollutants and **cause an adverse significant impact** . . . the discharge will no

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Location	Passage	Comments/Recommendations
	stormwater discharges are determined . . . in consideration of anti-degradation policies."	longer be exempt . . ."
Page 13, Part 2	"Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited."	An intro sentence needs to be added that says before paragraph 1, "Except in accordance with this Order." This is an extremely important change to protect from citizen enforcement over an alleged violation of the Receiving Water Limitations.
Page 13, Part 2.1 and 2.2	"1. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited." "2. Discharges from the MS4 of storm water, or non-stormwater, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance."	The Order includes the "cause or contribute to" language taken from 40 CFR §122.44(d), which is arguably not applicable to stormwater discharges as stormwater is regulated under §122.44(k), which allows BMPs where effluent limitations are not feasible. The language should at least be changed to read: "1. Discharges from the MS4 that **are demonstrated to** cause ~~or contribute to~~ the violation of **applicable** water quality standards or water quality objectives are prohibited." "2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause ~~or contribute to~~ a condition of nuisance."
Page 13, Part 3	"The Permittee shall comply with the permit through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the Storm Water Quality Management Plan (SQMP) and its components and other requirements of this permit including any modifications. If exceedances of water quality objectives.... by complying with the following procedures."	To protect from enforcement jeopardy, the language must read: "The Permittee shall **be deemed to be in compliance** ~~comply~~ with the requirements of this permit through timely implementation of control measures and other actions to **reduce to the Maximum Extent Practicable** pollutants . . . the Permittee shall **assure attempt to come into** compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:" The current wording is not protective against potential enforcement actions and is not consistent with the SWRCB Policy set forth in Order 99-05.
Page 13, Part 3.a	" a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance...The Regional Board may require modifications to the Report."	Remove the "or contributing to" language.
Page 17, Part 3.F.2	"The Principal Permittee shall modify the SQMP to comply with waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Maximum Daily Loads (TMDLs) for impaired water bodies."	Include discussion of the process for that modification and the timeline for compliance, which must include a public review.
Page 18, Part 3.G.1.b and g	Prohibit the discharge of "untreated" runoff.	Modify by adding the word "untreated" for each paragraph as follows: "b) Prohibit the discharge of **untreated** wash waters to the MS4 from the cleaning of gas stations . . . or other automotive facilities." "c) Prohibit the discharge of **untreated** runoff to the MS4 from mobile auto washing, steam cleaning . . ." "e) Prohibit the discharge of **untreated** runoff to the MS4 from storage areas of materials containing grease, oil..." "g) Prohibit the discharge of **untreated** runoff from the washing of toxic materials from paved or unpaved areas to the MS4..."

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Location	Passage	Comments/Recommendations
		"h) Prohibit washing impervious surfaces in industrial/commercial areas that result in a discharge of **untreated** runoff to..." In the existing permit, paragraphs b & g prohibit the discharge of "untreated" runoff
Page 18, Part 3.G.1.e	"Prohibit the discharge of runoff to the MS4 from storage areas of materials containing..."	Recommend modify as follows: "Prohibit the discharge of runoff to the MS4 from storage areas of materials containing grease, . . . and uncovered receptacles containing hazardous materials **unless such containers are new and unopened** "
Page 18, Part 3.G.1.j	"Prohibit spills, dumping, or disposal of materials into the MS4, other than storm water, such as:"	Recommend modifying as follows: "Prohibit ~~spills~~; dumping; or disposal of materials into the MS4, . . ." Spills are not deliberate, intentional acts whereas dumping and disposal are.
Page 18, Part 3.G.1	Add a new reference item after j).	"Control spills to the maximum extent practicable."
Page 18, Part 3.G.1.j.4	"Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials . . ."	Recommend modifying as follows: "Fuel and chemical wastes, animal wastes, garbage, **and** batteries, and other materials that have potential adverse . . . " "other materials" is overly broad, too open-ended, and redundant with the phrase "such as" that prefaces this subsection.
Page 19, Part 3.G.1.k-p	Paragraphs (k) through (p) are not related to (a) through (j) in that they do not reflect a category of prohibitions or controls.	Recommend adding another appropriate topic heading for items (k) through (p) and renumbering as appropriate.
Page 19, Part 3.G.1.p	"Adopt and implement an agency-specific storm water and urban runoff ordinance or amend an existing one, if necessary, to be able to enforce all requirements of the permit, effective immediately upon the adoption of this Order."	The City is unable to adopt a new or amend a current ordinance immediately upon the adoption of this Order. The City recommends modifying as follows: "Adopt and implement an agency-specific storm water and urban runoff ordinance or amend an existing one, if necessary, to be able to enforce all requirements of the permit, effective immediately upon **9 months after** the adoption of this Order."
Page 19, Part 3.H	"...Permittees to address their programs specifically for that particular situation and change them accordingly to address the problem.)"	Recommend modifying as follows: "...for that particular situation and change them accordingly to address the problem **if continued implementation of the SQMP is not expected to address the situation).**"
Page 20, Part 3.J	"The Principal Permittee shall submit a Storm Water Monitoring Report on August 15, 2002 and annually on August 15 thereafter..."	Although not specifically specified, it appears from this passage that the reporting period for monitoring requirements is based on the fiscal year (July 1 through June 30 of each year) The Storm Water Monitoring Report for this period is then due on August 15, only about six weeks later. This time period is too short to perform thorough assessments and reporting of the vast array of data that will be collected during the year. This report should be due six months after the conclusion of the year's sampling
Page 24. Part 4.A.2. a and 1	Corporate Outreach	The phrase "corporate heads" is too limiting, especially for large corporations whose officers are located out of the areas. Therefore, change "corporate heads" to "**corporate or management company**."

Location	Passage	Comments/Recommendations
Page 24, Part 4.A.2.b	"Permittees shall develop and implement a Business Assistance Program . . . "	Change to "Permittees shall implement a Business Assistance Program..." Permittees may be able to establish cooperative efforts with existing business assistance programs to accomplish this requirement without undue burden of developing a brand new program. It may also be more cost effective for them to partner with other organizations.
Page 24, Part 4.A.2.b.1	"On-site technical assistance or consultation via telephone to identify and implement pollution prevention methods and best management practices"	Recommend the insertion of the word "stormwater" in front of "pollution prevention".
Page 25, Part 4.A.2.b.4	"Permittees shall conduct follow-up independent of the Business Assistance Program, based on the priorities of the Industrial/Commercial Inspection Program"	Move "Permittees shall conduct follow-up independent of the Business Assistance Program, based on the priorities of the Industrial/Commercial Inspection Program" to P. 28 Part B 5. C). The placement of this statement implies that some type of follow-up is required by the Business Assistance Program. After "The Business Assistance Program shall be a confidential and non-enforcement program", add the following: "The Business Assistance Program shall operate independently of the Industrial/Commercial Inspection Program".
Page 27, Part 4.B.3.d	"Other Commercial facilities (contributing or potentially contributing to the impairments of receiving waters)"	We recommend the "other commercial" sites to be defined as follows: Those facilities having activities corresponding to SIC codes 33XX, 34XX, 35XX, 4612, 4613, 4619, 4731, 4783, 4789, 4925, 4932, 5031, 5039, 5051, 5082, 5083, 5084, 5085, 5172, 5211, 5989, 7221, 7212, 7213, 7217, 7218, 7219, 7261, 7622, 7623, 7692, 7693, and 9629.
Page 28, Part 4.B.5.b	"Automotive Service Facilities"	We recommend defining "Automotive Service Facilities" as SIC codes 75XX, and 5014.
Page 28, Part 4.B.7.a	"Each Permittee shall provide oral notification to the Regional Board of non-compliance with existing storm water regulations (within 3 days of discovery) or create an adverse impact or nuisance as it relates to the quality of the receiving waters of the State within its jurisdiction, within 24 hours of the discovery. Such oral notification shall be followed up by a written report to be submitted to the Regional Board within 5 days of the incidence of non-compliance."	Our enforcement staff deals with nuisance discharges almost on a daily basis. These flows are stopped and appropriate enforcement actions are taken. Reporting all incidents would not be practical We recommend reporting only serious discharges of sewage or hazardous material to the RWQCB as detailed in the draft permit language. All other discharges should be reported in writing by the 10th day of each month. Replace passage with, " For discharges to the MS4 of sewage and hazardous materials that are a threat t public health and safety, and the quality of receiving waters, each permittee shall provide verbal notification to the Regional Board of non-compliance within 24 hours of discovery followed by a written report within 5 working days. All other discharges will be reported in writing to the Regional Board by the 10th day of each month.
Page 28, Part 4.B.7.b	"Permittees shall develop and submit criteria by which to evaluate events of non-compliance to determine whether they create an adverse impact or nuisance. These criteria shall be submitted in the SQMP and Annual Report for Regional Board review and subject to Regional Board Executive Officer's approval."	Recommend modifying as follows: "~~Permittees~~ **The Principal Permittee in conjunction with the co-Permittees** shall develop and submit ~~criteria~~ **procedures ~~by which~~** to evaluate . . ."
Page 29, Part 4.C.1	Programs for Development Planning	Recommend modifying as follows: "...require all planning priority development and redevelopment projects, **to the maximum extent practicable,** to,"

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Location	Passage	Comments/Recommendations
Page 29, Part 4.C.1	Programs for Development Planning	Define planning priority projects. Definition must be consistent with the Development Planning Model Program.
Page 29, Part 4.C.1.b	"Maximize the percentage of permeable surfaces to allow more percolation of storm water into the ground;"	Recommend modifying as follows: "Maximize the percentage of permeable surfaces to allow percolation of storm water into the ground, **except in the Harbor area and in the San Fernando Valley (SFV), where prior approval by the SFV Watermaster, also known as the Upper Los Angeles River Area (ULARA) Watermaster, is required.**" The Upper Los Angeles River Area (ULARA) Watermaster is concerned with percolation of storm water into the ground in the San Fernando Valley area. The Port of Los Angeles has also expressed concerns r the feasibility in the Harbor area due to the high groundwater table.
Page 29, Part 4.C.1.d	"Minimize pollution emanating from parking lots through the use of appropriate treatment control BMPs and good house keeping practices;"	Recommend deleting this subsection. It is redundant with the SUSMP requirement.
Page 30, Part 4.C.3.a.4 and 5	"Divert roof runoff to vegetated areas before discharge"	This violates section 91.7013.9 of the building code, which requires all roof water be delivered through a non-erosive via gravity to a street or watercourse if the slope of the underlying natural ground exceeds 3% Under Finding #7 (page 4 of the draft permit) the major concern with urban developments in hillside areas is the potential for increase volume and velocity of storm water runoff that will greatly accelerates downstream erosion and impairs stream habitat. This will be true in rural areas where there are no concrete curbs, gutters, or storm drains. Under section 91.7013.9 there will not be any downstream erosion and impairs stream habitat because all the roof drainage will be carried to the City's storm drain system via non-erosive devices. Therefore, it is recommended that item (4), "Divert roof runoff to vegetated areas before discharge" be deleted.
Page 30, Part 4.C.3.b	SUSMP	Since this permit is supposed to consider watershed solutions and that in some cases it may make more sense to develop regional solutions that could address existing as well as new development. The followir change is suggested: After (7) add in the following paragraph: "Or the Permittee shall demonstrate how a watershed solution using regional controls has been developed that would lead to better water quality results than individual new and redevelopment sites meeting the SUSMP standards".
Page 30, Part 4.C.3.b	SUSMP Project Categories	Recommend changing title of item (4) to "Automotive Repair Shops" to be consistent with the definition title on Part 5 of page 46, or vice versa.
Page 31, Part 4.C.4	Numerical Design Criteria	Include "Structural BMPs" in 1st paragraph. The revised paragraph shall read as follows: "The Permittees shall require that post-construction **structural or** treatment control BMPs incorporate..."
Page 31, Part 4.C.4.b.2	"....for Los Angeles County"	Recommended change: "...for Los Angeles County, or"
Page 32, Part 4.C.6	Definition of Acre	Define acre as 43,560.

Location	Passage	Comments/Recommendations
Page 32, Part 4.C.6.a	USEPA Phase II requirements	Change sentence to read as, "One acre or greater..."
Page 34, Part 4.C.10	Mitigation Funding	Please explain what this entire section means. Are subsections a through c identified as potential funding sources? Define items a through c. In item (a), define conditions of impracticability. (Same as existing permit?) Granting of waivers, including waivers of impracticability, shall be the responsibility of the Regional Board Item (b) needs clarification. "'Legislative funds become available"...to who?
Page 35, Part 4.C.12	General Plan Update	Under the State of California General Plan Guidelines, each City is given 5 years to update the General Plan. This item gives each Permittee 540 days from permit adoption date. In order to effect a complete and appropriately detailed update to the General Plan, it is suggested that the time allowed should reflect the State General Plan Guidelines of 5 years. Therefore, change the deadline of 540 days to 5 years from permit adoption date.
Page 35, Part 4.C.14.	Developer Technical Guidance and Information	The City of Los Angeles has developed three technical guidance manuals, which are entitled, "REFERENCE GUIDE FOR STORMWATER BEST MANAGEMENT PRACTICES", "DEVELOPMENT BEST MANAGEMENT PRACTICES HANDBOOK, PART A – CONSTRUCTION ACTIVITIES", AND "DEVELOPMENT BEST MANAGEMENT PRACTICES HANDBOOK, PART B – PLANNING ACTIVITIES". The City's technical manuals already provide such information as identified on Page 35 Part 4C14b1-5 for development projects with the exception of the Peak Flow Control numerical criteria (referred to on Page 29 Part 4C2). The Peak Flow Control numerical criteria will be developed by the Permittees upon the adoption of the Permit as described in Page 29 Part 4C2. If the Board determines that the City's technical manuals are not sufficient to meet the requirements enumerated in Part 4C14, then for the purposes of countywide consistency, the Principal Permittee should develop the technical guidance manual. Recommend modifying as follows: "b) Principal Permittees shall develop...."
Pg. 39, Part 4.E.1	Public Agency Activities	Please revise the listing of Public Agency requirements to be consistent with the succeeding Sections and Topics.
Page 40, Part 4.E.3.a	"Each Permittee shall...from construction activity at all construction sites."	Change sentence to read: Each Permittee shall...from construction activity **activities** at all **public** construction sites.
Page 40, 41		There are two subsections under Part 4.E numbered "3", one on page 40 and one on page 41.
Page 41, Part 4.E.3.b.4 and 5	Public Construction Activities Management	Items 4 and 5 address City staff ensuring effectiveness of BMPs. It has always been the City's contention that staff is not responsible for ensuring BMPs are effective. Staff may be responsible for ensuring BMPs are in place and operational, but should not be liable for "effectiveness."
Page 41, Part 4.E.3.b and c	"Each Permittee shall obtain coverage...under separate permit until March 10, 2003."	Delete b) and c). Replace with "Each Permittee shall comply with Part 4 D of this Order."
Page 41, Part 4.E.3.b	Vehicle Maintenace/Material Storage... "Each Permittee shall implement BMPs to minimize pollutant discharges in storm water..."	Recommend modifying as follows: "Each Permittee shall implement BMPs to minimize pollutant discharges to the maximum extent **practicable** in storm water . . ."

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Location	Passage	Comments/Recommendations
Page 42, Part 4.E.3.c	"Each Permittee shall require that all vehicle/equipment wash areas..."	Recommend modifying as follows. "...for new facilities or during redevelopment of existing sites **wash areas**."
Page 42, Part 4.E.3.d	"Each Permittee shall, for each municipal yard...obtain separate coverage under the State of California General Industrial Activities Storm Water Discharge Permit"	We would like to maintain the current Permit provisions (Part 2.IV.C.8 of Order 96-054), which allow municipal yards covered under Phase I of the Federal Storm Water Regulations, to seek coverage under the municipal permit.
Page 42, Part 4.E.4.g	"Each Permittee shall regularly inspect storage areas."	Revise to read: "Each Permittee shall regularly annually inspect storage areas."
Page 42, Part 4.E.5.b	"Classify priority catch-basins to be those that are 40 percent full"	Please clarify how the 40 percent full figure came about---is there any science behind it. This figure is very subjective to individual judgement, especially in the field.
Page 43. Part 4.E.5.a	"Inspect and clean catch basins between..."	Change to "Inspect **and if necessary** clean catch basins...."
Page 43. Part 4.E.5. Second b	"A review of current storm drain maintenance...appropriate storm water BMPs are being utilized to water quality;"	Change to ".... appropriate storm water BMPs are being utilized to **protect** water quality;"
Page 44, Part 6.c	"Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that no case shall waste be allowed to enter the storm drain."	Change paragraph to read:" Each Permittee shall require that sawcutting wastes be recovered and disposed of properly."
Page 44, Part 4.E.7	"Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as: earthquakes, . . ."	Recommend modifying as follows: "Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as, **but not limited to**: earthquakes, . . ."
Page 44, Part 4.F	"Permittees shall eliminate all illicit connections and illicit discharges to the storm drain, and shall document and report all such cases. To accomplish this, the Permittees shall revise their Program for Elimination of Illicit Connection and Illicit Discharge...including performance measures and schedules."	Does this mean revising the Model Program?
Page 45, Part 4.F.1.a	"Implementation: Upon Executive Officer approval of the revised IC/ID Program...and available for review and approval by the Regional Board when requested."	Does this mean "Upon Executive Officer approval of the revised Model IC/ID Program" ?
Page 45, Part 4.F.1.b	General Elements – "...the Lead Permittee shall have the capability to locate all permitted discharges..."	The term "Lead Permittee" is not defined in the permit. Are we to assume this is the "Principal Permittee?"
Page 46, Part 4.F.3.a	"Respond, within 72 hours of discovery or a report of a suspected illicit discharge, with activities ..."	It is our recommendation that the response time be changed to three (3) business days instead of 72 hours.

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Location	Passage	Comments/Recommendations
Page 48	"Environmentally Sensitive Areas"	"...Natural Area by the California Department of Fish and Game... or Endangered Species (RARE) beneficial use~~; or an area identified by the Permittees as environmentally sensitive for water quality purposes, based on the Regional Board Basin Plan and Clean Water Act Section 303(d) Impaired Water-bodies List for Los Angeles County~~."
Page 51	Definitions	Add new term, "Pollution Prevention" and definition, which emphasizes source reduction methods for reduction and elimination of pollutants entering stormwater. The restricted definition will more clearly define what is being required of the regulated community and what is being enforced by regulators. If undefined, the term will default to include multi-media source reduction, in process recycling, conservation of energy and natural resources.
Page 57, Item F Page 59, Item L	Proper Maintenance and Operation Bypass	These requirements seem to have been copied from an NPDES permit for a wastewater treatment plant. They are not applicable to a stormwater permit. "Facilities and systems of treatment" have not even been proven to be effective. How can it be that the non-operation or bypassing of such facilities can be deemed harmful or non-compliant? Please ensure that these sections are deleted.
Page 73, Monitoring and Reporting Program, IIC1	"The Principal Permittee shall develop and implement a tributary/source identification monitoring program."	The RWQCB should have more mass emission sites up each of the 5 major watersheds instead of just measuring concentration in various tributaries. Data from each of these proposed mass emission stations represents the contribution from the next upstream mass emission station and all the ancillary storm drain contributions. Watershed-based source control should be targeted in the proposed mass emission reaches that contribute the most pollutant of concern. If the RWQCB still wants to have these tributary stations, then flow should be added to the requirements so that the different tributaries could be compared to each other based on pollutant loads.
Page 75, Monitoring and Reporting Program, IIE2	" Reference stations shall be selected in stream reaches that are not listed as impaired on the 303(d) list and that are not representative of urban stream conditions, based on surrounding land uses and a lack of upstream point source discharges."	These reference stations will be difficult to find and are probably not comparable to the more urban downstream reaches.

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TABLE 1

SPECIAL PURPOSE FUND SCHEDULES

SCHEDULE 7

STORMWATER POLLUTION ABATEMENT FUND

The Water Quality Act of 1987, adding Section 402(P) to the Federal Water Pollution Control Act, provides that the Environmental Protection Agency shall establish regulations setting forth requirements for stormwater discharges from large municipal storm drain systems. The City enacted a Stormwater Pollution Abatement Charge (Article 4.2 of Chapter 6 of the Los Angeles Municipal Code) on all properties in the City in order to treat and abate stormwater. The charge is based on stormwater runoff and pollutant loading associated with property size and land use.

Actual 1999-00	Estimated 2000-01		Budget 2001-02
		REVENUE	
$ 6,302,128	$ 12,035,806	Cash Balance, July 1	$ 12,225,806
		Less:	
		Prior Year's Unexpended Appropriations	9,011,275
$ 6,302,128	$ 12,035,806	Balance Available, July 1	$ 3,214,531
27,819,609	28,000,000	Stormwater Pollution Abatement Charge	28,000,000
3,481,859	–	General Fund	1,000,000
180,270	250,000	Interest	250,000
294,834	1,690,000	Grant Reimbursement	2,333,623
7,577	55,000	Reimbursement from Other Funds	–
183,750	1,550,000	Other	755,000
38,269,827	$ 43,580,806	Total Revenue	$ 35,553,154
EXPENDITURES		APPROPRIATIONS	
143,744	157,000	Environmental Affairs	160,517
406,241	473,000	General Services	472,750
51,594	75,000	Planning	78,872
		Public Works:	
101,962	116,000	Board Office	68,515
–	–	Director of Public Works	119,534
59,818	74,000	Accounting	–
189,040	189,000	Contract Administration	239,151
4,153,559	4,849,000	Engineering	5,368,187
7,119,710	7,915,000	Sanitation	8,115,002
4,639,354	4,880,000	Street Services	4,879,818
70,000	--	Recreation and Parks	–
3,014,682	4,270,000	CIEP Physical Plant	4,637,000
–	321,000	CIEP Municipal Facilities	100,000
–	–	Unappropriated Balance - Civilian Contract Negotiations	339,075
		Special Purpose Fund Appropriations:	
6,192,168	6,374,000	Related Costs	6,374,201
--	--	General Services	361,000
--	--	Reserve for Future Capital Projects	1,900,000
--	162,000	Unallocated NPDES Implementation	50,000
–	--	New Stormwater Permit Requirements	530,000
–	610,000	Emergency Construction Contingency	–
77,949	890,000	On Call Contractors (Emergency Funds)	1,759,532
$ 26,234,021	$ 31,355,000	Total Appropriations	$ 35,553,154

TABLE 2

DRAFT STORM WATER PERMIT: ADDITIONAL REQUIREMENTS AND ESTIMATED COSTS

New Requirement	Dept./Bur.	Position	Class. #	No. of Positions	Base Salary/Position	Related Costs/Position	Total Cost
PROGRAMS FOR INDUSTRIAL/COMMERCIAL INSPECTIONS							
Inspect industrial/commercial sites, City jurisdiction, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	Bur. San., SMD	Industrial Waste Inspector	4292	2	$57,566	$29,975	$175,081
Legal action pursuant to inspections of industrial/commercial sites, general, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	City Attorney						
PROGRAMS FOR DEVELOPMENT PLANNING and CONSTRUCTION							
Implement requirement for Standard Urban Storm Water Mitigation Plans (SUSMP) for ministerial projects for the SUSMP project categories. (Part 4.C)	Dept. Bldg. & Safety	Associate Engineer	7240	4	$65,876	$42,319	$432,779
Total Annual Cost:							**$607,860**

GENERAL NOTE: This cost estimate does not include costs related to implementing TMDLs.

TABLE 3

DRAFT STORM W/ 'R PERMIT: ADDITIONAL REQUIREMENTS AN' 'STIMATED COSTS

New Requirement	Dept./Bur.	Position	Class. #	No. of Positions	Base Salary/Position	Related Costs/Position	Total Cost
PROGRAMS FOR INDUSTRIAL/COMMERCIAL INSPECTIONS							
Inspect industrial/commercial sites, City jurisdiction, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	Bur. San., SMD	Industrial Waste Inspector	4292	2	$57,566	$29,975	$175,081
Inspect industrial/commercial sites, State jurisdiction, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	Bur. San., SMD	Industrial Waste Inspector	4292	4	$57,566	$29,975	$350,162
Legal action pursuant to inspections of industrial/commercial sites, general, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	City Attorney						
PROGRAMS FOR DEVELOPMENT PLANNING and CONSTRUCTION							
Implement requirement for Standard Urban Storm Water Mitigation Plans (SUSMP) for ministerial projects for the SUSMP project categories. (Part 4.C)	Dept. Bldg. & Safety	Associate Engineer	7240	4	$65,876	$42,319	$432,779
For construction sites less than 1 acre, implement requirements for structural and non-structural BMPs and inspect sites during wet weather. (Part 4.D)	Dept. Bldg. & Safety	Associate Engineer	7240	6	$65,876	$42,319	$649,168
		Building Inspector	4211	2	$48,797	$31,347	$160,288
For construction sites greater than 1 acre, review and inspect BMP implementation plans and Local Storm Water Pollution Prevention Plan (Local SWPPP). (Part 4.D)	Dept. Bldg. & Safety	Associate Engineer	7240	1	$65,876	$42,319	$108,195
		Building Inspector	4211	1	$48,797	$31,347	$80,144
PUBLIC AGENCY ACTIVITIES							
Sweep streets that generate low volumes of trash not less than two times per month. (Part 4.E)	Bur. St. Services	Motor Sweeper Operator	3585	23	$48,414	$69,372	$2,709,088
		HD Truck Operator	3584	7	$41,380	$59,293	$704,714
		Truck Operator	3583	2	$40,639	$58,232	$197,741
General Services Inter-Departmental Expense: Estimated annual costs for General Services for fuel, maintenance (labor and materials) related to additional sweepers, trucks, and loaders.*							$985,334
Total Annual Cost:							**$6,377,614**

Capital costs for purchase of equipment for Bureau of Street Services to perform additional street sweeping (24 Compressed Natural Gas (CNG) powered motor sweepers, 3 Tractors, 1 Pushback Trailer, 3 Lt. Over-the-cab-Loaders, and 6-HD Over-the-cab Loaders).	$7,065,000
Total Capital Cost:	**$7,065,000**

Total Costs, Annual and Capital:	**$13,442,614**

* The cost of facilities for the CNG powered equipment has not been estimated at this time. Additional overnight parking for the equipment may be required at the Northridge Facility.

GENERAL NOTE: This cost estimate does not include costs related to implementing TMDLs.

R0003144

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
General Comment	The City strongly opposes the requirements of the draft Permit that pass responsibilities of the State to the Permittees for the inspection of industrial/commercial sites and construction sites. We are pleased to hear that the Executive Officer has taken the same position as the City against the proposed transfer of responsibilities. These responsibilities clearly belong to and should remain with the State and the Regional Water Quality Control Board. Specifically, for: Industrial/Commercial Sites: Inspections would include Phase I facilities that operate under NPDES permits issued by the Regional Board. Shifting responsibilities for inspections will put the Permittees in the position of acting as agents of the State, create significant financial burdens for the Permittees, and expose the facilities to being regulated at both the State and local levels. This will create situations where inconsistencies in the interpretation and application of regulations can double the potential liability of a given facility. Construction Sites: a) Less than 1 acre - Regulations for sites less than 1 acre are unnecessary. "Less than 1 acre" does not have a lower limit and is beyond the intent of the Federal Phase II program. Many projects less than 1 acre do not cause an adverse impact on water quality; those that do not cause an adverse impact are not being regulated at the State or Federal level and will not be regulated in the immediate future. If a site that is less than 1 acre does cause an adverse impact on water quality, then current local, State and/or Federal ordinances/laws/regulations give the authority for agencies to take enforcement action. b) Between 1 and 5 acres - Federal regulations (Phase II) for sites 1 acre and greater will be in effect beginning March 2003. Therefore, increases in regulations for sites 1 - 5 acres should be deferred until that time, when the State will modify its General Construction Permit to include these sites and take on the responsibilities to inspect them. Until March 2003, current Permit requirements should be maintained, whereby Permittees are responsible only for Local SWPPPs for sites 2 - 5 acres. c) Five or more acres - Regulating these sites belongs with the State under the Statewide General Construction program.	
Page 10, Findings Item 39	"These industrial and construction sites and discharges are also regulated under local laws and regulations."	The responsibilities for State General Industrial and General Construction Permits should remain with the State (please reference General Comment above). Recommend modifying as follows: "These industrial and construction sites and discharges are also can also be regulated under local laws and regulations."
Page 10, Findings Item 41	"A ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion."	The California CEQA defines which projects require discretionary actions. A ministerial project cannot be made discretionary by adopting local ordinance. Any modifications and/or additions to CEQA must be done at the state level. Recommend deleting this sentence.
Page 14, Part 3.A.1	Second paragraph, second sentence: " However, the Principal Permittee..."	Recommend changing the language to "However, the Principal Permittee, the City of Los Angeles, and five representatives of the Watershed Management Committees designated by the Executive Advisory Committee (EAC) will conduct formal discussions with the Regional Board on behalf of the Permittees."

R0003145

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
Page 19, Part 3.G.1.m and n	"m) Control the contribution, or potential contribution..." "n) Carry out all inspection, surveillance..."	These paragraphs overlap the responsibilities of the State-wide General Storm Water Permits associated with Industrial Activities and Construction Activities. Recommend modifying as follows: "m) ...discharges of storm water runoff associated with industrial activities (including construction activities) not already covered by the State General Industrial Activities Storm Water Permit or the State General Construction Activities Storm Water Permit to its MS4... " "n) ...and require regular reports from industrial facilities, not already covered by the State General Industrial Activities Storm Water Permit, discharging..."
Page 23, Part 4.A.1.d	"Each Permittee shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, and other media necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution."	Revise to read: "~~Each~~ The Principal Permittee in cooperation and coordination with the other Permittees shall provide all School Districts within its their jurisdiction with materials, including ~~videos~~, live presentations with visual media, brochures, and other media necessary to educate a minimum of 50 percent of all school children (Grades K-12) every 2 years on storm water pollution."
Page 25 Part 4.B	6th Bullet "Enforcement of Pollution Prevention and enforcement control measures at Industrial/Commercial sites."	Change to "~~Enforcement~~ The implementation of proper stormwater Pollution Prevention source reduction and control measures at Industrial/Commercial sites".
Page 26, Part 4.B.3.a	NEW: ""All industrial groups regulated under Phase I..."	NEW: In accordance with the General Comment on Page 1, this item should be deleted.
Page 26, Part 4.B.3.c	"Restaurants. The County Health Department Code shall be amended to facilitate compliance with this Order. At a minimum, the Code shall be modified to require inspections for ..."	The passage appears to imply assigning County Health inspectors the task of inspecting restaurants for BMPs. It is our recommendation that a more direct sentence be added. For example, "Restaurant. The Principal Permittee shall inspect restaurants and other food establishments to ensure compliance with this Order, and the County Health Department Code shall be amended to facilitate the implementation of this requirement."

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
Page 26-28, Part 4.B.2 & 5	"Source Identification (Industrial/Commercial Sites)"	In accordance with the General Comment on page 1, the Permittees are responsible for the updating of their data bases and the Regional Board is responsible for maintaining its data base. This item should be deleted. Facilities that are already covered under both the General Industrial and Construction permits should not also be covered under the Municipal permit. Inspection and BMP requirements for these permits should remain the responsibility primarily of the RWQCB.
Page 27, Part 4.B.4.a	"Each Permittee shall implement, or require the implementation of, the designated minimum BMPs, as approved in Resolution No. 98-08, at each industrial/commercial site within its jurisdiction."	Please reference General Comment, located at the top of Page 1 Recommend modifying as follows: "Each Permittee shall implement, or require the implementation of, the designated minimum BMPs, as approved in Resolution No. 98-08, at each industrial/commercial site, other than those facilities that have a State General Industrial Activities Storm Water Permit, within its jurisdiction."
Page 27, Part 4.B.4.b	"Each Permittee shall implement, or require implementation of, additional controls for Industrial/Commercial sites tributary to Clean Water Act section 303(d) water bodies (where a site discharges pollutants for which the water body is impaired) as necessary to comply with this Order. Each Permittee shall implement, or require implementation of, additional controls for Industrial/Commercial sites within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas as necessary to comply with this Order."	Please reference General Comment, located at the top of Page 1. Recommend modifying first half of Part 4.B.4.b as follows: "Each Permittee shall implement . . . for Industrial/Commercial sites, other than those facilities that have a State General Industrial Activities Storm Water Permit, tributary to Clean Water Act . . . " Recommend separating and modifying second half of Part 4.B.4.b into Part 4.B.4.c as follows: "c) Each Permittee shall implement, or require implementation of, additional controls for Industrial/Commercial sites, other than those facilities that have a State General Industrial Activities Storm Water Permit, within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas as necessary to comply with this Order."
Page 27, Part 4.B.5.a	"Each Permittee shall conduct Industrial site inspections..."	In accordance with the General Comment on page 1, we recommend that Item 5a be modified by the addition of the following: "other than those facilities that have a State General Industrial Activities Storm Water Permit."

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
Page 27, Part 4.B.5.b	"Each Permittee shall establish inspection frequencies for facilities...	In accordance with the General Comment on page1 and the revised Part 4.B.3.a we recommend that the 4th row of the table be deleted. The following inspection schedule is recommended: 1. Automotive Facilities – twice during the permit cycle. 2. Industrial/Commercial – once during the permit for all; second visit to those with exposure. 3. Restaurants – will be done by Principal Permittee.
Page 28, Part 4.B.5.b	Table	Add asterisk to "other commercial" in the table.
Page 28, Part 4.B.5.d	"To the extent that Regional Board staff has conducted an inspection of an Industrial/Commercial site during a particular year, the requirement for the responsible Permittee to inspect this site during the same year will be satisfied."	In accordance with the General Comment on page 1, this item should be deleted.
Page 29, Part 4.C.2	Peak Flow Control	This item requires that all projects, regardless of size or types, must show that the post-development peak discharge rate must not exceed the pre-development rate. This will cause undue hardship for developments, particularly in the Upper Los Angeles River Area where there is limited open space for detention/retention. Typical peak flow control measures include detention, retention, or infiltration systems. In addition, the Upper Los Angeles River Area (ULARA) Watermaster is concerned with potential ground water contamination from stormwater infiltration in the San Fernando Valley and will not allow any infiltration systems. The result can be a limit on or stopping new developments in the Upper LA River Area (See Exhibit 1). In addition, the Principal Permittee needs to be involved to ensure countywide consistency. We are also unclear as to what peak flows are intended to be controlled. For estimating purposes, we calculated the amount of runoff generated by 0.75 inch of rainfall on a 1-acre apartment building development. It was assumed that the site was 100% pervious prior to development and 90% impervious after development. Calculations show that the amount of runoff would increase by approximately 16,700 gallons, which would require a capture system with a capacity equivalent to an average-sized (15 ft. x 23 ft. x 6 ft.) residential swimming pool. If this assumption is correct, then the capture system for bigger sites would be several times larger than one swimming pool. Therefore, the need for additional open space for capture systems will put severe constraints on new developments and place an onerous burden on developers that may result in reducing the number of development projects.

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
		Since this requirement is not defined in detail and may have significant impact, we recommend the Peak Flow Control requirement be deleted until consensus language is developed.
Page 30, Part 4.C.2.e	"Soft-bottom segments of other receiving waters within Los Angeles County"	Replace phrase to read as, "unlined reaches of streams, creeks or rivers within Los Angeles County." This is consistent with Xavier Swamikannu of LARWQCB in his description of natural fresh water streams. (Need to attach map that shows which reaches are soft-bottom segments)
Page 32, Part 4.C.5	"Applicability of Numerical Design Criteria"	Change item (a) to read as follows: "Single-family hillside home developments that result in the creation of 10,000 square feet or more of impervious surface area." Change item (c) to read as follows: "Industrial/Commercial developments that result in the creation of 100,000 square feet or more of impervious surface area." Change item (d) to "Automotive Repair Shops" The criteria specified for retail gasoline outlets in item (e) should be required and not suggested. However, remove the 2 criteria where values are projected. The revised sentence should read as follows: "Retail gasoline outlets with six or more fueling dispensers, or with 24 or more dispensing meters, or 5,000 square feet or more of impervious surface area." For restaurants in item (f) change to "5,000 square feet or more of impervious surface area."
Page 32-33, Part 4.C.7.a.1-8	"Site Specific Mitigation"	These added categories have gone beyond the scope of Phase II. In addition, many of these categories are being dealt with in other regulations. The federal regulation for stormwater is to control pollutants via application of BMPs to the MEP if the discharge is a significant pollutant source that creates an adverse impact to the environment, an individual NPDES permit is required and it is no longer regulated by the Municipal permit. The City recommends that these categories be removed and allow the other regulations already set such as the Federal Phase I and Phase II programs to regulate these sites.
Page 33, Part 4.C.8	"Redevelopment Projects" "Significant redevelopment means the creation or addition or replacement of 5,000 square feet of impervious surface area on an already	Delete the term "replacement" because replacement should not trigger SUSMP requirements. It is not consistent with the text in the SUSMP Board Order and will significantly increase redevelopment costs, and impede redevelopment. Economic Impacts should be evaluated and taken into account

Location	Passage	Comments/Recommendations
-	developed site."	
Pages 36-39, Part 4.D	"Programs for Construction Sites"	Modify the text in this section in accordance with the General Comment on page 1. The General Construction Activities Storm Water Permit (GCASP) and the General Industrial Activities Storm Water Permit (GIASP) should be referenced in this Municipal permit, not restated or modified by this municipal permit. These activities are already regulated under the respective permits and should not be additionally regulated under the Municipal NPDES Permit.
Page 36, Part 4.D	"D. Programs for Construction Sites"	Add Exempt Projects in the categories of construction: Permittees may exempt certain types of Development Construction Projects from the program that pose a minimum risk of storm water pollution. These projects are exempt from any storm water construction control measures including the minimum BMP requirements. A specific listing of exempt projects is included in this section. Additional exemptions may be determined by the Permittee and shall be provided to the Regional Board with a justification for their designation (for purposes of notification). A list of specific types of Development Construction Projects that are deemed to be exempt include: • Routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility; • Emergency construction activities required to immediately protect public health and safety; • Interior remodeling with no outside exposure of construction materials or construction waste to storm water; • Mechanical permit work; • Electrical permit work; • Sign permit work. Other types of Development Construction projects may be designated as exempt if all three of the following criteria are met: • No significant soil disturbing activity (unless adequate controls are provided); • No outside storage or exposure to storm water of construction materials or construction wastes (unless adequate controls are provided); and • The activity poses a minimal risk of storm water pollution. •
Page 36, Part 4.D.a, b, c	"D. Programs for Construction Sites"	Modify the text in this section in accordance with the General Comment on page 1. Additionally, it should be clearly stated that the three size categories of the construction

Location	Passage	Comments/Recommendations
R0003151		sites refer to areas of disturbed soil. For example, 5 or more acres means a construction site with 5 or more acres of disturbed soil. Otherwise the specified designations will encompass ALL projects, including projects where only interior work is involved with no outside exposure of materials, or others such as mechanical/electrical permit work. These types of projects do not have any impact to storm water pollution and should be exempted from the requirements of this permit. Hence, a category for exempted projects should be included for these activities that are determined to have no potential significant effect on storm water quality to include emergency activities required for public safety and routine maintenance to maintain original grade line or hydraulic capacity. Include a category for exempt projects and change the categories to read as follows: Construction sites with 5 or more acres of disturbed soil Construction sites with 1 to 5 acres of disturbed soil Construction sites with less than 1 acre of disturbed soil Exempt Projects
Page 36, Part 4.D.1	"For construction sites less than 1 acre...."	Modify the text in this section in accordance with the General Comment on page 1. Change title to read, "For construction sites with less than 1 acre of disturbed soil..." Most of the projects under this category of construction sites with one acre or less of disturbed soil have minimum, if any, impact to storm water pollution. With limited resources, we should focus on construction sites with one acre or greater of disturbed soil for BMP implementation that have greater impact on storm water pollution. The section Part 4D1c-bulleted items are not consistent with the Model Program. Therefore, section 4D1c should be remove in its entirety and replaced with a minimum set of requirements in accordance with the Model Program.
Page 36, Part 4.D.1.b	"Train employees in targeted positions . . . (180 days from adoption of this Order), and . ."	Sufficient time should be allowed for the accomplishment of the training requirements following the revised Construction Development Program in the SQMP. Recommend revising Part 4.D.1.b to read as follows: "Train employees in targeted positions . . . (one (1) year from adoption of the Order), and . . . "
Page 37, Part 4.D.2	"For construction sites one acre and greater..."	Modify the text in this section in accordance with the General Comment on page 1. Recommend changing the 1st paragraph to read as follows: "For construction sites with one acre or more of disturbed soil and greater, each Permittee shall require that in addition to the requirements of D.1 above, and require the preparation, submittal, and

Policy Issues

Location	Passage	Comments/Recommendations
		implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP).
Page 37, Part 4.D.2.a	"Will result in soil disturbance of one acre or more in size;"	Change the phrase to read, "Will result in one acre or more of disturbed soil..."
Page 37, Part 4.D.2.e	"No construction-related materials, wastes..."	Recommend modifying as follows: "~~No c~~Construction-related materials, wastes, spills, ~~or~~ and residues shall be ~~discharged from the project site to streets, drainage facilities or adjacent properties by wind or runoff~~ kept onsite to the maximum extent practicable;"
Page 37, Part 4.D.2.d-g	"In addition, each Permittee shall ensure the following minimum requirements are effectively implemented at all construction sites regardless of size: d, e, f, g"	Recommend moving Parts 4.D.2.d-g to follow immediately after Part 4.D.1 because Part 4.D.4, the category for construction sites of five acres and greater, refers to the requirements of Part 4.D.1, not Part 4.D.2. Recommend modifying as follows: "d) Sediments generated on the project site shall be retained ~~using adequate structural drainage controls~~ onsite to the maximum extent practicable;"
Page 37, Part 4.D.2.f	"Non-storm water runoff from equipment and vehicle washing and any other activity shall be . . ."	Recommend modifying as follows: "Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at ~~the project site~~ and treated before discharge and/or contained and hauled off site to an approved disposal facility; and"
Page 37, Part 4.D.2.g	"Erosion from slopes and channels will be prevented by implementing BMPs including, but not limited to: . . ."	Recommend modifying as follows: . . . BMPs ~~including, but not limited~~ to such as: limiting of grading... and covering erosion susceptible slopes."
Page 38, Part 4.D.2 (after g)	"The landowner shall sign a statement to the effect:"	Recommend modifying as follows: "The landowner or agent of the landowner shall sign a statement to the effect"
Page 38-39, Part 4.D.3	For sites one acre and greater...	Recommend modifying sentence to read as follows: "For construction sites with one acre of disturbed soil and greater, each Permittee shall inspect..." Modify the text in this section in accordance with the General Comment on page 1.
Page 39, Part 4.D.4	"For sites 5 acres and greater, . . ."	Recommend modifying as follows: "For construction sites with 5 acres and greater of disturbed soil, each Permittee shall require that the conditions in D.1 above and:" Modify the text in this section in accordance with the General Comment on page 1.

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
Page 39, Part 4.D.4.a	"On March 10, 2003, for sites one acre and greater, each Permittee..."	Change the sentence to read, "On March 10, 2003, for sites one acre and greater of disturbed soil, each Permittee..." Modify the text in this sectidn in accordance with the General Comment on page 1.
Page 40, Part 4.E.3.b	"Each Permittee shall comply with requirements 1,2, and 3 in the Construction...at all public construction sites:"	Paragraph should read:" Each Permittee shall comply with requirements of D.1, D.2, and D.3 (Page 36-39) in the Construction...at all public construction sites:" Delete 4.E.3.b.2 through 4.E.3.b.6 because they are already covered under D.2 and D.3.
Page 44, Part 4.E.6.a.2	"At a monthly average not less than 2 times per month in areas generating moderate volumes of trash on traffic collector streets and residential areas."	The Regional Board has not provided any data that supports a blanket requirement for bi-weekly street sweeping. Also, no analysis has been done at the state level on merging the efforts of the Permit and the proposed Trash TDML to ensure a comprehensive, cost-efficient approach that will result in real water quality benefits. Recommend modifying as follows: "At a monthly average not less than ~~2 times~~ **once** per month in areas generating low or moderate volumes of trash on traffic collector streets and residential areas."
Page 44, Part 6.b	"Permittee –owned parking lots shall be kept clear of debris and oil buildup and cleaned no less than 2 times per month and /or inspected no less than 2 times per month to determine if cleaning is necessary."	Change Paragraph to read: " Permittee-owned parking lots shall be inspected no less than 2 times per month to determine if cleaning is necessary. If cleaning is necessary, it shall be performed within one business day of inspection."
Page 73, Monitoring and Reporting Program, IIC3	"Permittees shall participate in tributary monitoring when the majority of a monitoring station sub-watershed is located in their jurisdiction."	Level of participation, financial or otherwise, is not defined. This scheme creates a negative incentive for Permittees who have the majority area of a monitoring station sub-watershed.
Page 76, Monitoring and Reporting Program, IIF	"The Principal Permittee and the City of Los Angeles shall participate in the SCCWRP's development and calibration of water quality models . . ."	The City has voluntarily participated in the development of the coliform bacteria TMDL by providing over $500,000 in monies and in-kind testing services. No mention is made of other cities that have runoff entering the Los Angeles River and Santa Monica Bay. Also, no limits are put on the extent of participation. According to the language as written, the City could be required to participate for the entire 5-year span of the Permit, if SCCWRP is unsuccessful at calibrating the model.

COMMUNICATION

TO: LOS ANGELES CITY COUNCIL File No. 01-1020

FROM: COUNCIL MEMBER MARK RIDLEY-THOMAS, CHAIR
ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT COMMITTEE

	Yes	No
Public Comments	___	XX

COMMUNICATION FROM CHAIR, ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT COMMITTEE relative to the draft 2001 National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit.

Recommendation for Council action, as initiated by Motion (Ridley-Thomas - Galanter), SUBJECT TO THE APPROVAL OF THE MAYOR:

DIRECT the Chief Legislative Analyst (CLA) to forward the policy comment matrix (attached on the Council file in the joint CLA and Office of Administrative and Research Services (OARS) report dated June 18, 2001) to the Los Angeles Regional Water Quality Control Board (Regional Board), which details the City's recommended changes for the draft 2001 NPDES Municipal Stormwater Permit, specifically, the Council's position to:

a. Request deletion of the requirement for bi-weekly street sweeping.

b. Support the Los Angeles Regional Water Quality Control Board's (Regional Board) responsibility for inspections of industrial/commercial sites that are under the General Industrial Activities Stormwater Permit.

c. Support the requirements for Standard Urban Storm Water Mitigation Plans (SUSMP) for discretionary and ministerial projects.

d. Request a clarification of new Peak Flow Control requirements for all development that drains to soft-bottom channels.

e. Request deletion of the additional requirements on the City to require structural and non-structural Best Management Practices (BMP) and inspection of construction sites that are less than one acre.

f. Request that until March 2003, maintain current permit requirements, whereby the City is responsible only for Storm Water Pollution Prevention Plans (SWPPP) for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre.

g. Add the City of Los Angeles to the Principal Permittee and the Executive Advisory Committee (EAC) as the agencies to conduct formal discussions with the Regional Board on behalf of the permitees.

h. Request an exemption to the storm drain discharge prohibition requirements to allow the washing down of residual blood from trauma scenes.

Fiscal Impact Statement: The Chief Legislative Analyst (CLA) and the Office of Administrative and Research Services (OARS) reports that the total cost of the proposed permit, as written, would cost the City over $13.4 million (Table 3 of the joint CLA and OARS report dated June 18, 2001, contained on the Council file). The staff recommendations for the proposed 2001 NPDES Municipal Stormwater Permit will cost a total of $607,860 (see Table 2). This total cost includes additional staff costs of $432,779 for the expanded SUSMP implementation requirements and $175,081 for the addition of two inspectors to conduct expanded industrial/commercial site inspections. Any increase in attorney costs have not been calculated at this time, however, it is not expected to be significant the first year of the permit and may be revisited in future years if costs escalate substantially.

The 2001-02 Stormwater Pollution Abatement Fund (SPAF) included $530,000 for expected new NPDES permit requirements. The estimated staff costs of $607,000 will leave a shortfall of approximately $70,000 in the SPAF for these activities. All of the staff will not be necessary the first year of the NPDES permit implementation. In future years, however, the SPAF was budgeted to absorb an increase of $200,000, which will leave the SPAF short by $400,000 annually for permit implementation activities.

SUMMARY

On May 15, 2001, Council referred Motion (Ridley-Thomas - Galanter), relative to the draft 2001 NPDES Municipal Stormwater Permit, to the Environmental Quality and Waste Management Committee for consideration. Said Motion directed the CLA and OARS to prepare a report for the Environmental Quality and Waste Management Committee on various policy implications of the draft 2001 NPDES permit.

The Los Angeles Regional Water Quality Control Board (Regional Board) recently issued a draft 2001 NPDES Municipal Stormwater Permit for review and comment. The NPDES permit is reissued every five years and the existing permit expires on July 31, 2001. This permit identifies the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles and the incorporated cities (except Long Beach and Santa Clarita). The County of Los Angeles is the principal permittee and the City of Los Angeles and 82 other jurisdictions are co-permittees.

The proposed permit contains the following major new requirements for cities: Public Agency Activities, Programs for industrial/commercial inspections; Standard Urban Storm Water Mitigation Plans (SUSMPs), Implement Requirements for Peak Flow Control, Small Construction Site Requirements, Larger Construction Site Requirements, and Responsibilities of the Principal Permittee.

In their joint transmittal dated June, 18, 2001, the CLA and OARS reports that of the seven new requirements, the City will be most impacted by the Public Agency Activities requirement which contains language that would require all jurisdictions to conduct bi-weekly street sweeping. The existing permit requires a municipality to implement a street sweeping program that sweeps the streets at least monthly, and where feasible, more frequently in areas generating significant refuse. The Bureau of Street Services sweeps approximately 40% of the City's 13,100 curb miles of paved dedicated streets weekly and the remainder once a month. In commercial areas where persistent litter is a problem, the streets are swept weekly or daily. The annual current cost for the street sweeping activities is approximately $7.5 million of which $4.9 million is paid from the Stormwater Pollution Abatement Fund (SPAF). The current discretion given to municipalities allows the City of Los Angeles to provide street sweeping services more frequently in areas that generate more debris and less sweeping in areas that are less populated.

The CLA and OARS further report that bi-weekly street sweeping will increase the City's cost by an additional $4.6 million annually, $3.6 million in staff costs and $985,334 in expense costs. Additionally, a one-time capital cost for the purchase of additional street sweeping equipment is estimated at around $7 million. The cost to the ratepayer would be an additional charge of $4 a year for the annual costs alone, and the average residential Stormwater Pollution Abatement Charge would need to increase from $23 to $27 a year. This would increase another $7 or more if the equipment was purchased with SPAF funds. Moreover, the South Coast Air Quality Management District's fleet rules require the City to replace its street sweepers with ones that use alternative fuels when new equipment is purchased. The cost of new and upgraded facilities for natural gas sweepers has not been estimated at this time, however, it is expected to be substantial.

The proposed permit states that the increased street sweeping requirement apply until the implementation of a trash total maximum daily load (TMDL) program, which is currently under development for the Los Angeles River and Ballona Creek. Compliance with the trash TMDL will require the City to develop and implement a plan to reduce trash in the waterways. Although difficult to estimate, capital and operation/maintenance cost estimates are in the neighborhood of $900 million for full capture devices. The proposed new permit would require the City to spend millions of dollars to implement bi-weekly street sweeping, which will be necessary only until the trash TMDL is finalized.

The Regional Board has issued a schedule that states that there will be two more draft permits; a second draft of the permit will be issued on June 26, 2001 and a final draft will be issued on September 6, 2001. The proposed adoption date by the Regional Board is scheduled for October 25, 2001.

At its regular meeting held June 20, 2001, the Environmental Quality and Waste Management Committee Chair discussed this matter with City staff. The CLA reported that the Fire Department was seeking an exemption to the storm drain discharge prohibition requirements to allow the continued practice of washing down residual blood from trauma scenes. The CLA reports that data from the Los Angeles County Department of Health Services indicates that the small amounts of fluid from this practice will have no negative health effects. The Chair asked staff to explain why their recommendation was to delete the requirement regarding Peak Flow Control when their report indicates that they were uncertain about the intent. The Chair suggested that, procedurally, staff should first seek clarification regarding the requirement prior to taking a position on it.

The Environmental Quality and Waste Management Committee Chair concluded his consideration of this matter and recommended that Council approve the recommendations of the CLA and OARS as amended. The Chair recommended that Council request a clarification of the new Peak Flow Control requirements for all development that drains to soft-bottom channels, rather than approving staff's recommendation to delete them. The Chair further recommended that Council request an exemption to the Storm Drain Discharge Prohibition requirements to allow the washing down of residual blood from trauma scenes, as requested by the Fire Department. This matter is now submitted to Council for consideration.

Respectfully Submitted,

Council Member Mark Ridley-Thomas, Chair
Environmental Quality and Waste Management Committee

AA:
6/20/01
#011020

ADOPTED
MOTION ADOPTED TO APPROVE COMMUNICATION RECOMMENDATION
JUN 27 2001
LOS ANGELES CITY COUNCIL

FORTHWITH TO THE MAYOR

Mayor With File

R0003157

Mayor's Time Stamp

RECEIVED
'01 JUN 27 P2:13

FORTHWITH

City Clerk's Time Stamp

2:50

BY

SUBJECT TO MAYOR'S APPROVAL

COUNCIL FILE NO. 01-1020 COUNCIL DISTRICT NO. _____

COUNCIL APPROVAL DATE June 27, 2001

RE: DRAFT 2001 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) MUNICIPAL STORMWATER PERMIT

RECEIVED
CITY CLERK'S OFFICE
2001 JUN 29 PM 4:29
CITY CLERK
BY _____ DEPUTY

JUL 09 2001

LAST DAY FOR MAYOR TO ACT _____
(10 Day Charter requirement as per Charter Section 341)

DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY

APPROVED ✓

*DISAPPROVED _____

*Transmit objections in writing pursuant to Charter Section 341

JUN 29 2001

DATE OF MAYOR APPROVAL OR DISAPPROVAL _____

MAYOR

R0003158

COUNCIL VOTE

27-Jun-01 12:57:03 PM, #21

ITEM NO. (39)
Voting on Item(s): 39
Roll Call

BERNSON	Absent
CHICK	Yes
FEUER	Yes
GARCETTI	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Absent
WACHS	Absent
WALTERS	Absent
*GALANTER	Yes
	Absent

Present: 10, Yes: 10 No: 0

MAY 1 5 2001

MOTION

Any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

The Los Angeles Regional Water Quality Control Board recently issued a draft National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit for review and comment; and

The County of Los Angeles is the principal permitee and the City of Los Angeles and 83 other jurisdictions are co permitees of this permit; and

This permit identifies the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles and the incorporated cities (except Long Beach and Santa Clarita); and

It is critical that the City monitor the various regulatory actions and provide input to ensure that federal, state, and regional programs integrate with one another, are reasonable, include appropriate source control by state and federal agencies, and are consistent with the City's water quality improvement goals and policies; and

The City supports the implementation of programs that reduce water pollution and protect the beneficial uses of the region's water bodies; and

The City must ensure that water pollution control strategies and mandates can be realistically and cost efficiently implemented and funded, result in real water quality benefits, and successfully integrate with other environmental mandates and considerations.

NOW, THEREFORE, I MOVE that by adoption of this Resolution, the Office of Administrative and Research Services (OARS) and the Office of the Chief Legislative Analyst (CLA) are directed to prepare a report for the Environmental Quality and Waste Management Committee on the following issues regarding the draft 2001 NPDES Municipal Stormwater Permit:

1. The City of Los Angeles' role in formal discussions with the Regional Board, along with the Principal Permitee and the Watershed Management Committee representatives on the Executive Advisory Committee (EAC), regarding stormwater quality management plan implementation, monitoring and reporting;
2. The cost and appropriateness of an increased street sweeping program and its connection to the upcoming Trash Total Maximum Daily Load (TMDL) program;
3. New obligations assigned to the cities for additional inspection and enforcement activities on industrial/commercial and construction sites and appropriate permit fees funding;
4. A proposed new inspection program timeline and its consistency with the upcoming Los Angeles Standard Urban Stormwater Mitigation Plan (SUSMP) requirements; and
5. The accurate incorporation of federal and state rules.

PRESENTED BY: _____
MARK RIDLEY-THOMAS
COUNCILMEMBER, CD- 8

SECONDED BY: _____
RUTH GALANTER
COUNCILMEMBER, CD-6

R0003160

MEETING WITH BIA

July 3, 2001

NAME	AGENCY	PHONE	E-MAIL
XAVIER SWAMIKANNU	RWQCB-LA	(213) 576-6654	xswami@rb4.swrcb.ca.gov
[illegible]	Ventura	213 576 6729	[illegible]
Rich Lambros	BIA/SC	(909) 396-9993	rlambros@biasc.or
MICHAEL W. LEWIS	CONSTRUCTION INDUSTRY COALITION ON WATER QU.	626-858-4611	lewisco@cyberg8.com
Dennis D. [illegible]	LA RWQCB	213 576 6605	
Tim Piasky	BIA/SC	(909) 396-9993	
[illegible]	RB	213.576.6618	

Los Angeles County NPDES Stormwater Permit
Special Executive Advisory Committee Meeting
July 9, 2001

Name	City/Agency	Signature	E-Mail Address
Abbaszadeh, Nasser	Azusa		nabbaszadeh@ci.azusa.ca.us
Alvarez, Desi	Downey		dalvarez@downeyca.org
Burtt, Richard	Torrance		rburtt@tormet.com
Collins, Rose	Long Beach		rocolli@ci.long-beach.ca.us
~~Fosselman, Jill~~* Travis Longcore for Jill Fosselman	Santa Clarita	For this entry	jfosselman@santa-clarita.com + langec@
Hopkins, Travis	Carson		thopkins@carson.ca.us
Hughes, Roxanne*	Westlake Village		rhughes@willdan.com
Kennedy, Sheila	John L. Hunter & Assoc.		skennedy@jlha.net
Leary, Tom	Long Beach		toleary@ci.long-beach.ca.us
Merenda, Heather Lea	Calabasas		hmerenda@ci.calabasas.ca.us
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Tahir, Ray*	Whittier		tecsenv@yahoo.com
Therrien, Brad	Santa Clarita		btherrien@santa-clarita.com
Weiand, Penny	Los Angeles		pow@san.ci.la.ca.us

Executive Advisory Committee
July 9, 2001
Page 2

Name	City/Agency	Signature	E-Mail Address
Dickerson, Dennis	Regional Board	[illegible]	ddickers@rb4.swrcb.ca.gov
Phillips, Wendy	Regional Board	Wendy Phillips	wphillip@rb4.swrcb.ca.gov
Don Wolfe	Los Angeles County	Don Wolfe	dwolfe@dpw.co.la.ca.us
Brian Sasaki	Los Angeles County		bsasaki@dpw.co.la.ca.us
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NIKAIDO, STEVEN	CITY OF LOS ANGELES	Steven Nikaido	snikaido@san.lacity.org
Laura I. Channell	City of Monterey Park	Laura I. Channell	lchannell@montereypark.ca.gov
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TJ KIM	"	[illegible]	tjkim@dpw.co.la.ca.us
Jay Golida	Richards, Watson & Gershon	Jay Golida	jgolida@rwglaw.com
Peter J. Gutierrez	LA County - County Counsel	Peter J. Gutierrez	pgutierrez@counsel.co.la.ca.us
Howard Gest	Burhenn & Gest LLP	H. Gest	hgest@burhenngest.com

R0003163

Name	City/Agency	Signature	E-Mail Address
Dan Radulescu	LARWQCB	[signature]	dradules@rb4.swrcb.ca.gov
Xavier Swamikannu	LARWQCB	[signature]	xswami@rb4.swrcb.ca.gov.
MARILYN LEVIN	ATTORNEY GENERAL'S OFF.	[signature]	Marilyn.Levin@doj.ca.gov
Gregory Newmark	Cal. Attorney Gen. Ofc	[signature]	Gregory.Newmark@doj.ca.gov
MORAD SEDRAK	City of LA	[signature]	
Richard Montevideo	Coalition.	[signature]	rmontevideo@rutan.com
Jim Marchese	City of LA	[signature]	jmarches@san.ci.la.ca.us

*Alternate

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R0003164

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, CA 90013
Phone (213) 576-6600 FAX (213) 576-6640

July 11, 2001

California Newspaper Service
Bureau, Incorporated
P.O. Box 54310
Los Angeles, CA 90054

GOVERNMENT ACCOUNTS (FILE NO. 100.324)

Enclosed is a copy of a public notice we would like to publish in the Los Angeles Times for one day as soon as possible but not later than July 13, 2001.

We rely on your proofreading.

Please bill us in triplicate and provide us with three copies of affidavit of publication (Attention: Pat Guokas).

If you have any questions, please call me at (213) 576-6790.

Megan Fisher
Environmental Specialist III
Storm Water Section

Enclosure

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

320 W. 4th Street, Suite 200
Los Angeles, California 90013
Tel No. (213) 576-6600; Fax No.: (213) 576-6660

Public Notice No. 01-041

NPDES No. CAS004001

NOTICE OF PUBLIC WORKSHOP

CONSIDERATION OF A STORM WATER MANAGEMENT/URBAN RUNOFF PERMIT

FOR

THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN,

EXCEPT THE CITY OF LONG BEACH

Los Angeles Regional Water Quality Control Board will conduct a workshop to consider public comment on a municipal storm water permit for Los Angeles County. Regional Board staff will provide background and a brief overview of the proposed draft permit. The public will have the opportunity to orally comment on the draft.

WORKSHOP DATE AND LOCATION:

DATE: Thursday, July 26, 2001
TIME: 9:00 a.m.
PLACE: Metropolitan Water District (MWD) Building
Board Meeting Room
700 North Alameda
Los Angeles

AVAILABILITY OF DOCUMENTS

You may contact Weindy Abarquez, at (213) 576-6802, to request a copy of the second draft permit and staff report. You may also download the draft permit and other related documents from the Regional Board Storm Water web page at www.swrcb.ca.gov/rwqcb4/html/programs/Stormwater/renewal.html.

WORKSHOP PROCEDURE

The workshop will start at 9:00 am. It will be conducted before the Board. Interested persons are invited to attend. Oral statements will be heard; however, for the accuracy of the record, all comments should be in writing. Discussion will be limited to ensure that each component of the permit is addressed.

Date: July 11, 2001

MESSAGE CONFIRMATION

JUL-11-2001 10:50AM WED

FAX NUMBER: 2135765777
NAME :

NAME/NUMBER	:	96803255
PAGE	:	003
START TIME	:	JUL-11-2001 10:38AM WED
ELAPSED TIME	:	01'36"
MODE	:	G3 STD ECM
RESULTS	:	[O.K]

Winston H. Hickox
Secretary for Environmental Protection

California Regional Water Quality Control Board
Los Angeles Region
(50 Years Serving Coastal Los Angeles and Ventura Counties)
320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640
Internet Address: http://www.swrcb.ca.gov/rwqcb4

Gray Davis
Governor

FAX TRANSMITTAL

DATE: 7-11-01

TO: GINGER FROM: WENDY A.

FAX NO: 213-680 2355 TEL. #: (213) 576- 6802

FAX #: (213) 576-5777

Number of pages sent (including this cover page): 3

MESSAGE:

HI GINGER ! WILL YOU PLS. RUN THIS PUBLIC NOTICE IN THE LA TIMES, ... IF POSSIBLE, FOR TOMORROW. ☺

THANKS.

PLS. call if you have any questions.

R0003167

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 12 2001

THE ADMINISTRATOR

The Honorable David Dreier
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Dreier:

Thank you for your letter of April 24, 2001 concerning Clean Water Act permits for discharges from storm sewers owned by local governments. Your letter explains that several local governments are concerned that enforcement of pollution controls at individual industrial and commercial sites that discharge to the local storm sewer systems should be the responsibility of the State permit authority and that local governments should not be required to participate in this effort.

I understand that throughout the State, communities are facing a considerable challenge in the need to address storm water issues. While the State has already begun to substantially increase its staffing resources devoted to the storm water program, EPA recognizes that funding for the State storm water program needs to increase. We are continuing to discuss ways to further increase the State's investment, including discussions of EPA funding.

Urban runoff is the leading cause of water quality impairment throughout the country and in the Santa Monica Bay and the Los Angeles area. Effective programs for reducing pollution from municipal storm sewers are essential to protecting and restoring the Nation's water resources.

The Clean Water Act regulations concerning permits for discharges from municipal storm sewers provide that the State permit authority and the local government holding the permit share responsibility for inspections of facilities discharging to these storm sewers. The State is responsible for enforcing its general Clean Water Act storm water permits, while a local government permit holder needs to enforce local storm water ordinances (which may be similar, but not identical to, the State general permits). The specific responsibilities of the permit holder to monitor and control storm water pollutants from industrial and commercial facilities are normally determined through a cooperative process when a permit is prepared.

It is important to note that the storm water regulations require the local government permit holder to perform activities such as control, inspect, monitor, and require compliance of industrial and commercial facilities and that the permit holder must have the legal authority to ensure compliance. Such programs are already required in many storm water permits, such as the permits for Orange, Riverside and San Diego Counties, and they play a significant role in ensuring the overall effectiveness of the storm water program.

EPA has been intensively involved with all nine California Regional Boards and the State Water Resources Control Board to effectively implement the storm water program. From the initial issuance of the storm water permits to the current round of reissuing those permits, EPA has been working closely with the State to encourage stakeholder participation and cooperation in storm water programs. In addition, EPA and the State have worked together to respond to a petition filed by the Natural Resources Defense Council (NRDC) to withdraw the NPDES storm water program administered by the Los Angeles Regional Board. In response to the NRDC petition, Region 9 met with NRDC and the State to discuss steps to respond to the concerns in the petition.

If you have any additional questions or concerns please contact me, or your staff may call Shawna Roesch in the Office of Congressional and Intergovernmental Relations at (202) 564-3641.

Sincerely yours,

Christine Todd Whitman

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL # of pages ▶ 3

To Wendy Phillips	From Laura Gentile
Dept./Agency	Phone #
Fax # 213/576-5777	Fax #

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

ROUTING AND TRANSMITTAL SLIP Date 7/12

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. ALEXIS STRAUSS		
2. TERRY ODA		
3. EUGENE BROMLEY		
4. LAURA GENTILE		
5. JOVITA APARILLO		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

FINAL VERSION OF LETTER TO REP. DREIER ON STORM WATER PERMITS.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
SUNNY NELSON	OPA-1
	Phone No. 1562

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

* U.S. GPO: 1990 — 288-080

R0003170

Los Angeles County NPDES Stormwater Permit

July 18, 2001

Name	City/Agency	Signature	E-Mail Address
Abbaszadeh, Nasser	Azusa		nabbaszadeh@ci.azusa.ca.us
Alvarez, Desi	Downey		dalvarez@downeyca.org
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Collins, Rose	Long Beach		rocolli@ci.long-beach.ca.us
Fosselman, Jill*	Santa Clarita		jfosselman@santa-clarita.com
Hopkins, Travis	Carson		thopkins@carson.ca.us
Hughes, Roxanne*	Westlake Village		rhughes@willdan.com
Kennedy, Sheila	John L. Hunter & Assoc.		skennedy@jlha.net
Leary, Tom	Long Beach		toleary@ci.long-beach.ca.us
Merenda, Heather Lea	Calabasas		hmerenda@ci.calabasas.ca.us
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Moore, Gary Lee	Los Angeles		gmoore@san.ci.la.ca.us
Nisich, Tony	Santa Clarita		anisich@santa-clarita.com
Putz, Edward	Long Beach		edputz@ci.long-beach.ca.us
Santos, Carlos	Glendale		csantos@ci.glendale.ca.us
Schroder, Eduard	Signal Hill		eschroder@ci.signal-hill.ca.us
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Tahir, Ray*	Whittier		tecsenv@yahoo.com
Therrien, Brad	Santa Clarita		btherrien@santa-clarita.com
Weiand, Penny	Los Angeles		pow@san.ci.la.ca.us

Name	City/Agency	Signature	E-Mail Address
Dickerson, Dennis	Regional Board	by teleconference	ddickers@rb4.swrcb.ca.gov
Phillips, Wendy	Regional Board	Wendy Phillips	wphillip@rb4.swrcb.ca.gov
Don Wolfe	Los Angeles County		dwolfe@dpw.co.la.ca.us
Brian Sasaki	Los Angeles County		bsasaki@dpw.co.la.ca.us
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Grant, Terri	Los Angeles County		tgrant@dpw.co.la.ca.us
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Howe, Glenn	Los Angeles County		ghowe@dpw.co.la.ca.us
Trevizo, Carolina	Los Angeles County	Carolina Trevizo	ctrevizo@dpw.co.la.ca.us
Piasky, Tim	BIA/So. Calif.		tpiasky@biasc.org
Young, Rufus	2 Cities	[signature]	ryoung@bwslaw.com
Farfsing, Ken	Signal Hill	[signature]	kfarfsing@ci.signal-hill.ca...
Dan Radulescu	Regional Board	[signature]	dradules@rb4.swrcb.ca.gov
Jay Golida	Richards, Watson & Gershon	Jay Golida	jgolida@rwglaw.com
Ray [illegible]	Lomita		[illegible]
Xavier Swamikannu	RWQCB - LA	[signature]	xswami@rb4.swrcb.ca.gov
Jorge Leon	RB Legal Counsel	by teleconference	
Laura Gentile	US EPA	by teleconference	
Peter J. Gutierrez	Los Angeles County County Counsel	Pete J. Gutierrez	pgutierrez@counsel.co.la.ca.us
Howard Gest	Burhenn & Gest LLP for County of Los Angeles	[signature]	hgest@burhenngest.com

R0003172

Name	City/Agency	Signature	E-Mail Address
Richard Montenegro	Coalition	[signature]	RMontenegro@RUTM.com
EDUARDO ESCOBAR	L.A COUNTY DPW	[signature]	eescobar@dpw.co.la.ca.us
Wai So	"	[signature]	nwaiso@dpw.co.la.ca.us

*Alternate

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R0003173

JULY AUG 23, ...

NAME	AGENCY	E-MAIL
Xavier Swamikanna	RWQCB-LA	XSwami@rb4.swrcb.ca.gov
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DAVID Beckman	NRDC	dbeckman@NRDC.org
Steve Fleischli	Baykeeper	sfleischli@[illegible]
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[illegible]	RB	ddickes@

City of MONROVIA

1887

Department of Public Works

VIA FACSIMILE

July 24, 2001

2001 JUL 27 P 3:31

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Regional Board Workshop Concerning 2nd Draft of the NPDES Storm Water Permit

Dear Mr. Dickerson:

The City of Monrovia is pleased and appreciates that the Regional Board is holding another workshop on this very important issue. There have been several important improvements in this latest draft and we appreciate the amount of time your staff has spent reviewing and incorporating comments received to date. However, there are several fundamental issues that need to be addressed before the permit is issued.

We would first like to express our concern for the proposed format of the workshop. We have been informed that the Regional Board will be provided with suggested changes to the circulated 2nd draft without any written version of those changes. This will pose extreme difficulty for us to ascertain with any certainty exactly what it is the Board is proposing. As a result, our comments will not be as responsive as they would be had a comprehensive document, including possible future amendments, been provided to review. We hope that the Regional Board will not assume that the absence of comment equates to City's acceptance of the current draft.

Also, the absence of a redline-strikeout version of the first draft made the review of the second draft very cumbersome and problematic. In the spirit of continued collaboration, it is hoped that future revisions be made in the redline-strikeout format to help expedite future reviews.

The City of Monrovia feels that there are still some significant issues that need to be resolved before the permit is issued. Some of these issues include:

R0003175

- *Receiving Waters Limitation Language (Open Ended Permit)*
- *Redefinition the SUSMP & incorporation of previously removed elements*
- *Removal of the Meet and Confer Process from the permit*
- *Failure to recognize limited funding sources available to municipalities for many mandated permit programs*
- *Storm Water Inspection Programs (including State Permitted Facilities)*

Specific comments pertaining to this draft permit will be provided at a later date.

The development of appropriate permit language, which is acceptable to both the Regional Board and the permitted cities, is critical to insure the continued success of the NPDES program. In is our understanding that there have been several meetings between City, County and Board staffs that have not produce a fully acceptable permit, and a recent request for a facilitator to help assist in permit drafting was denied. The City of strongly encourages the Regional Board in the spirit of collaboration examine all avenues available and accept the cities' offers and develop a permit which is acceptable to all the interested parties.

Should you have any questions, please feel free to contact me at (626) 932-5544. Thank you for your attention.

Sincerely,

David F Fike

David F. Fike
Director of Public Works

cc: City Manager
City Attorney

Sign-up sheet

7/25/01

WSPA / LA Regional Board Staff Meeting on issues regarding the Draft LA Co MS4 Permit

Name	Organization	Signature
Dan Radulescu	RWQCB - LA	[signature] 213/576-6669
Xavier Swamikannu	RWQCB - LA	[signature] (213) 576-665
Tim Simpson	Geomatrix	[signature] (949) 642 024
Brian Wall	Mayer Brown & Platt	[signature] (213) 229-51
Steve Arita	WSPA	[signature] (916) 498-775
Dennis Dickerson	LA RWQCB	[signature] 213 576 6605

California Regional Water Quality Control Board

Los Angeles Region

Winston H. Hickox
Secretary for Environmental Protection

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640
Internet Address: http://www.swrcb.ca.gov/~rwqcb4

Gray Davis
Governor

Notice of Public Meeting/Workshop

51 Years Serving Coastal Los Angeles & Ventura Counties

Thursday, July 26, 2001 ***444 th Regular Board Meeting***

9:00 a.m.

Meeting Location:

The Metropolitan Water District of Southern California
Board Room
700 North Alameda Street
Los Angeles, California

Agenda

Submittal of Written Material for Regional Board Consideration

To ensure that the Regional Board Members are given the opportunity to fully study and consider written material, it is necessary that 12 copies of any such material be provided to the Executive Officer not later than five (5) days before the meeting. This will allow distribution of the material to the Board Members and appropriate staff in advance of the meeting.

If you are reading a statement at the meeting, please provide the Executive Assistant with a copy at the meeting. The Board will endeavor to consider all matters listed on this agenda. However, time may not allow the Board to hear all matters listed. Matters not heard at this meeting may be carried over to the next Board meeting or to a future Board meeting. Parties will be notified in writing of the rescheduling of their item. Please contact the Regional Board staff to find out about rescheduled items.

The Board will recess for a 15-minute break at approximately 10:45 a.m., and recess for lunch at approximately 12:30 p.m. The meeting will reconvene at approximately 1:30 p.m.

Pledge of Allegiance. **R0003178**

1. Roll Call.
   [Ronji Harris, 213/576-6612].....Board Members Present

2. Order of Agenda.....Board Direction
   (The agenda items are numbered for identification purposes only and will not necessarily be considered in this order).

3. Board Member Ex Parte Communication Disclosure.
[Robert Sams 213/576-6797].....Information/Discussion
(Board Members will identify any discussions they may have had requiring disclosure pursuant to Government Code Section 11430.40)

4. Public Forum. *(Any person may address the Board regarding any matter within the Board's Jurisdiction. This need not be related to any item on the agenda. Remarks will be limited to three (3) minutes.)*

5. **WORKSHOP** to discuss the proposed renewal of the Municipal Storm Water Permit for the County of Los Angeles *(The existing municipal permit for the County of Los Angeles and 83 cities within the County expires in July 2001. Staff will brief the Board on efforts to renew the permit, as well as key issues that have arisen to date from pubic review of a tentative permit. Following the staff presentation, the Board will hear comments from permittees and interested parties. There will be no voting or formal action taken by the Board on this item.)*
[Xavier Swamikannu, 576-6654].....Information/Discussion

6. Executive Officer's Report.....Information/Discussion

7. Closed Session.....By Board
The Board will conduct a closed session to consider the following litigation matters. (Authority: Government Code Section 11126(e))

   (a) City of Los Angeles, City of Burbank v. Los Angeles Regional Water Quality Control Board, Los Angeles County Superior Court, Case Nos. BS 060957 and BS 060960;

   (b) USEPA and Los Angeles Regional Water Quality Control Board v. City of Los Angeles, U.S. District Court for the Central District of California, Case No. 01-00191 FMC (Mcx);

   (c) City of Thousand Oaks v. Los Angeles Regional Water Quality Control Board, Los Angeles County Superior Court, Case No. BS 067393.

   (d) Petitions to SWRCB No. A-1357 and A-1357(a) Municipal Storm Water Permits for Ventura County, Order No. 00-108, NPDES Permit No. CAS004002.

   (e) United States of America and State of California v. Montrose Chemical Corporation, et al, United States District Court, Central District of California, Case No CV 90-3122-R.

8. Adjournment of Current Meeting. There will be a Special Meeting on August 8, 2001, 9:00 a.m. at the Metropolitan Water District of Southern California, 700 North Alameda Street, Board Room, Los Angeles, and the next Regular Meeting is scheduled for August 23, 2001, 9:00 a.m. at the Richard H. Chambers, U.S. Court of Appeals, 125 South Grand Avenue, Pasadena.

**

A copy of the complete agenda package is available for examination at the Regional Board Office during regular working hours. Questions about specific items on the agenda should be directed to the staff person whose name is listed with the item.

***

Material presented to the Board as part of testimony that is to be made part of the record must be left with the Board. This includes photographs, slides, charts, diagrams, etc. All Board files pertaining to the items on this Agenda are hereby made a part of the record submitted to the Regional Board by staff for its consideration prior to action on the related items.

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Pursuant to Water Code Section 13320, any aggrieved person may file a petition to seek review by the State Water Resources Control Board (SWRCB) of any action taken by the Regional Board. Such petition must be filed within 30 days of the action. Petitions must be sent to SWRCB, P.O. Box 100, 1001 I St., Sacramento CA 95812.

*****

Our web site address is www.swrcb.ca.gov/rwqcb4. The site can also be accessed through the State Water Resources Control Board's web site at www.swrcb.ca.gov.,then clicking on "Regional Boards". Information currently available includes the Regional Board's meeting schedule, a list of the Regional Board members, a list of staff and phone numbers arranged by their work unit, a copy of the Underground Storage Tank database and information relevant to the UST program, linkage to the Santa Monica Bay Restoration Project's home page, and links to other governmental agencies. If you need further information, please contact Jack Price at 213/576-6669.

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A listing of pending water quality certification applications currently on public notice pursuant to Section 401 of the Federal Clean Water Act may be obtained by calling Anthony Klecha at 213/576-6785.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
Los Angeles Region

Board Members	City of Residence	Appointment Category
H. David Nahai, Chairman	Los Angeles	Water Quality
Susan Cloke	Santa Monica	County Government
Fran B. Diamond	Pacific Palisades	Public Member
Robert L. Miller	Hidden Hills	Recreation, Fish & Wildlife
Bradley H. Mindlin	Sherman Oaks	Industrial Water Use
Christopher Pak	Playa Del Rey	Municipal
Timothy J. Shaheen	Northridge	Irrigated Agriculture
Larry Kosmont	West Los Angeles	Water Supply
Vacant		Water Quality

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Dennis A. Dickerson, Executive Officer
Deborah J. Smith, Assistant Executive Officer, Watershed Management Division
Dennis Dasker, Assistant Executive Officer, Groundwater Protection Division
Ronji R. Harris, Executive Assistant
Laura Gallardo, Secretary
Pat Guokas, Staff Services Manager I
Karen Caesar, Ombudsperson, Public Information Officer
Jorge Leon, Senior Staff Counsel, State Water Resources Control Board, 1001 I Street, Sacramento, CA 95814
Robert Sams, Staff Counsel

Groundwater Protection Division

Underground Tanks
David Bacharowski, Chief
Greg Kwey, San Gabriel River
Yue Rong, Ph.D., Los Angeles Coastal/Ventura County
Hubert Kang, Los Angeles River
J.T. Liu, Business Revitalization Center

Enforcement & Groundwater Permitting
Paula Rasmussen, Chief
Hugh Marley, Enforcement & Special Projects
Kwang-il Lee, Ph.D., Non-Chapter 15
Rod Nelson, Landfills Unit
Michael Lyons, Contaminated Sediments

Remediation
Arthur Heath, Ph.D., Chief
Rebecca Chou, Ph.D., Site Cleanup I
Blythe Ponek-Bacharowski, Site Cleanup II
Dixon Oriola, SGV/SFV Superfund

Stormwater
Wendy Phillips, Chief
Xavier Swamikannu, Ph. D., L.A. Coastal
Ejigu Solomon, Ventura
Yi Lu, Ph.D., L.A. Inland

Watershed Management Division

Watershed Regulatory
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Winnie D. Jesena, Municipal
Augustine Anijielo, General Permitting
David Hung, Industrial
Al Novak, Permit Coordinator

Regional Programs
Jonathan Bishop, Chief
Melinda Becker, Standards & TMDL
Raymond Jay, Non-Point Source
Jack Price, Information Technology
Shirley Birosik, Watershed Coordinator
Vacant, TMDL2

Santa Monica Bay Restoration Project (SMBRP)
Marianne Yamaguchi, Program Director

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Hoan Tang
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Weixing Tong, Ph.D.
Jack Topel
Arman Toumari
Ana Townsend
T. Don Tsai
Sam Unger
Carlos Urrunaga
Guangyu Wang, Ph.D.
Rueen-Fang Wang, Ph.D.
Carey Wilder
Jimmie Woo
Tracy Woods
C. Eric Wu
Michael Yang
Wen Yang, Ph.D.
Matt Yeager
David Young
Mohammad Zaidi
Aniela Zaszkodna

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LOS ANGELES REGION

Los Angeles, California
July 26, 2001
444th Regular Meeting/Workshop

ITEM: 1

SUBJECT: Roll Call.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LOS ANGELES REGION

Los Angeles, California
July 26, 2001
444th Regular Meeting/Workshop

ITEM: 2

SUBJECT: Order of Agenda.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LOS ANGELES REGION

Los Angeles, California
July 26, 2001
444h Regular Meeting/Workshop

ITEM: 3

SUBJECT: Board Member Ex Parte Communication Disclosure.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LOS ANGELES REGION

Los Angeles, California
July 26, 2001
444th Regular Meeting/Workshop

ITEM: 4

SUBJECT: Public Forum

DISCUSSION: Any member of the public may address the Board relating to any matter within the Board's jurisdiction. This need not be related to any item on the agenda.

California Regional Water Quality Control Board, Los Angeles Region
444th Regularly-scheduled Meeting of July 26, 2001 (Los Angeles)

Item 5

Subject Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges, within the County of Los Angeles and the incorporated cities therein except for the City of Long Beach (hereafter referred to as the municipal storm water permit, or permit).

Purpose To conduct a workshop to discuss critical issues arising from a proposed renewal of the permit. The Board directed staff to prepare for this workshop in response to a request, made by an Executive Advisory Committee (EAC) for the Permittees, for adequate time for public comment before the Board.

As this item is being presented for informational purposes, no regulatory action is requested from the Board at this workshop. However, as the existing permit expires on July 30, 2001, the Board may wish to provide direction as staff prepares the proposed permit for adoption later this year.

Background The storm drain system regulated by the Board is prinicipally owned and operated by the Los Angeles County Flood Control District (Principal Permittee). This system drains the coastal slopes of the Transverse Ranges, moving storm flows as well as a significant amount of dry weather runoff into the Santa Monica Bay and the Los Angeles/Long Beach Harbor.[1] It is one of the largest storm drain systems in the nation, when measured in terms of both areal extent as well as differences in vertical elevations.

The storm drain system is also one of the most complex to operate, when considering that it encompasses 84 municipalities. Although principally owned and operated by the Principal Permittee, this system collects runoff from 84 municipalities which, except for the City of Long Beach, are all Co-Permittees; these Co-Permittees have varying degrees of responsibility for development and maintenance of their portions of the oeverall system. The Permittees' physical assets that comprise the infrastructure of the system include over 100,000 catch basins, about 4,300 miles of underground storm drains, and about 500 miles of open channels. A precise summary of these physical assets is not possible, as the

[1] The Los Angeles County Flood Control District also operates a storm drain system on the inland side of the Transverse Ranges; this system falls under the jurisdiction of the Lahontan Regional Board.

Permittees do not have a comprehensive map or database that can accurately show the location, extent, and ownership of all underground drains and catch basins – which is an illustration of difficulties arising from the complex ownership structure of the storm drain assets.

Regulatory History

1990: The Regional Board adopted the first municipal storm water permit for the County, Order No. 90-079, which required Permittees to amend ordinances and implement best management practices (BMPs) – in particular, a minimum of 13 BMPs such as street sweeping and construction site controls.

1996: After 18 months of effort to renew the 1990 permit, the Board adopted Order No. 96-054 (i.e. the existing permit – see attachment 5.F). Key elements of this permit were requirements that Permittees develop and implement model programs for Public Information and Participation, Industrial/Commercial Activities, Development Construction, Illicit Connections and Illicit Discharges, Public Agency Activities, and Development Planning. The permit does not include a requirement for inspections as part of an industrial/commercial control program; rather, after significant debate, the Board included a requirement that Permittees conduct site visits of industrial facilities in their jurisdications. This was intended as an interim step, to give Permittees a 5-year period before requiring a stronger industrial/commercial control program.

1999: Following adoption of Order 96-054 and litigation by the City of Long Beach, the Board adopted Order No. 99-060, with separate requirements for the City of Long Beach.

2000: The Permittees' proposed model program for Development Planning was vigorously debated in a public workshops in 1999 and 2000, culminating in the Board's adoption of Order 00-02, specifying design criteria for a Standard Urban Storm Water Mitigation Plan (SUSMP). In response to a petition of the Board's action by 33 of the Permittees and other interested parties, the State Board affirmed in large part the Regional Board action (see State Board Order WQ 2000-11, attachment 5.C-2).

2001: On January 31, 2001, the Permittees submitted a renewal application for the permit, which expires on July 30, 2001.[2] Since then, staff, the Permittees, and Heal the Bay (on monitoring issues) have devoted significant time to exchanging information and

[2] Per federal regulations, Order No. 96-054 will remain in effect until the Board acts to renew the permit.

reviewing drafts of the proposed permit, which will enter a third term since the initial permit was adopted in 1990.

Compliance Status Staff took only a few actions to enforce the permit between 1996 and 2000, as lack of staff resources prevented rigorous oversight of Permittees' compliance status. Had staff resources been adequate for systematic compliance checks of all Permittees, many more enforcement actions most likely would have needed to be taken. The few enforcement actions that were taken were generally in response to complaints, and included 5 Notices of Violation (NOVs) issued to the:

- City of Culver City (February 1998), for failure to maintain erosion and sediment controls at one of its construction sites, which resulted in a discharge of mud into Ballona Creek. The City ultimately implemented sediment controls, but only after repeated discussions with Regional Board staff and the City's consultant.

- Cities of Pomona and Lynwood, for failure to submit Annual Reports for 1996/97 by the due date of October 15, 1997. The City of Lynwood submitted its delinquent Annual Report after receiving the NOV. The City of Pomona did not submit its Annual Program Report until the Executive Officer issued an Administrative Civil Liability (ACL) in the amount of $6,700, which the City promptly paid.

- City of Alhambra, for a discharge of muddy water to the storm drain from a pipeline repair (1998). The City complied after receiving this NOV.

- City of Monterey Park, for failure to protect slopes from erosion at a city construction site on Ramona Boulevard (1999). The City of Monterey Park ultimately complied but only after repeated discussions with City staff.

In 2001, staff completed a review of the 1999/00 Annual Program Report, and issued 11 NOVs for failure to implement various programs, including, among others, requirements to: modify planning procedures (such as a CEQA checklist) to integrate storm water considerations; and require pollution prevention plans at construction sites between 2 and 5 acres. The 11 NOVs were issued to each of the Cities of: Azusa, Cerritos, Huntington Park, Inglewood, Malibu, Maywood, Monrovia, Rolling Hills Estates, San Gabriel, South Pasadena, and Vernon. Many of these Permittees have vehemently objected to these NOVs, have

submitted documentation of their objections, and are demanding that the Executive Officer invoke a "Notice to Meet and Confer" provision, as set forth in the existing permit (see also a discussion on this provision on page 8 of this Item). This issue has not been resolved, and staff still needs to complete a review of the documentation submitted to date.

Most recently, in March 2001, staff issued NOVs to each of the Cities of Los Angeles and Covina for discharges of sediment to the storm drain.

Permit Objectives

Staffs' goal is to propose renewal of a permit that will implement regulations and guidance from US EPA, State Board, and Regional Board. Specific objectives for the third-term renewal are to:

- more effectively prohibit non-storm water (dry weather) discharges to the storm drain system, through elimination of illicit connections and unauthorized discharges;
- more effectively reduce pollutants in storm water; and
- require that Permittees implement additional control measures that the Board may determine are necessary for TMDLs[3] that staff anticipates over the next five years.

Permit Approach

To meet these objectives, staff has structured the draft permit with several improvements over the existing permit, as outlined below:

Receiving Water Limitations (Part 2, page 16): Clarifies that discharges must meet narrative water quality objectives, including that they must not cause nuisance (in addition to the existing requirement to reduce pollutants to the maximum extent practicable). Additionally, Part 3, Section C (page 18) adds a requirement to implement load allocations approved by the Board in a TMDL, without reopening the permit.

Public Information and Participation (Part 4, Section B, pages 23 to 26): No significant changes.

Development Planning (Part 4, Section D, pages 29 to 35): Lowers the threshold of industrial/commercial development that is subject to Standard Urban Storm Water Mitigation Plan (SUSMP) requirements from 100,000 square feet to one acre (consistent with USEPA Phase II), beginning in 2003; and expands SUSMPs to:

- environmentally sensitive areas

[3] Total Maximum Daily Loads (TMDLs).

- retail gasoline outlets (RGOs)
- ministerial as well as discretionary projects.

Development Construction (Part 4, Section E, pages 35 to 38): Lowers the threshold for a pollution prevention plan and wet weather inspection program to construction sites one acre and greater in size (currently two acres and greater in the existing permit).

Industrial/Commercial Inspections (Part 4, Section C, pages 26 to 29): Upgrades the existing site visit program to an inspection program of select industrial/commercial sectors.

Public Agency Activities (Part 4, Section F, pages 38 to 45): Includes explicit requirements to control trash.

Illicit Connections and Discharges (Part 4, Section G, pages 45 to 46): Requires the Principal Permittee to take more responsibility for tracking illicit discharges and connections, and upgrades passive field screening activities (during regularly scheduled maintenance) to a proactive field screening program.

Monitoring (Attachment T): Adds mass emissions monitoring on the Santa Clara River and Dominguez Channel, and a requirement to conduct a biomonitoring assessment with a minimum of 20 stations.

Enforcement: Deletes the Notice to Meet and Confer provision in the existing permit, and instead relies upon the State's policy of progressive enforcement.

Permittees have not provided specific estimates of additional costs that might be incurred by the requirements highlighted above. Permittees have, however, provided estimates of their 2000/01 budget allocated for storm water program. This amount aggregates $142 million, as reproduced in the table[4] on pages 6 to 7.

Critical Issues

Since receiving the application for renewal, on January 31, 2001, staff have dedicated significant time and effort to involving the public in the renewal process, and have been responsive to public comment. However, many critical issues are before the Board, as summarized below.

[4] The amounts in the table (pages 6 to 7) are self-reported. As permittees may not have been consistently compiled their expenditures in a consistent manner, the amounts should be regarded as rough estimates.

Table 5
SUMMARY OF FISCAL RESOURCES 2000/01

Permittee	Program Management	IC / ID	Development Planning and Construction	Public Agency Activities	Public Information and Participation	Monitoring Program	Other	Total
Agoura Hills	$30,000	$0	$15,000	$100,000	$10,000	$0	$15,000	$170,000
Alhambra	$20,000	$22,000	$7,500	$75,500	$32,500	$0	$20,000	$177,500
Arcadia	$25,000	$5,000	$4,000	$658,195	$22,000	$30,000	$0	$744,195
Artesia	$0	$0	$0	$0	$0	$0	$0	$0
Azusa	$14,000	$9,000	$8,000	$211,000	$21,000	$0	$2,000	$265,000
Baldwin Park	$4,000	$2,750	$7,000	$278,383	$21,240	$0	$62,005	$375,378
Bell	$38,000	$1,050	$8,000	$56,700	$8,900	$0	$0	$112,650
Bell Gardens	$12,500	$15,000	$111,000	$307,000	$15,000	$0	$0	$460,500
Bellflower	$14,500	$40,000	$5,000	$2,000	$18,000	$0	$11,000	$90,500
Beverly Hills	$602,152	$20,000	$40,000	$55,000	$50,000	$60,000	$179,787	$1,006,939
Bradbury	$6,000	$1,200	$5,000	$7,000	$1,500	$0	$0	$20,700
Burbank	$165,800	$45,100	$154,200	$1,722,800	$76,400	$25,520	$2,880,000	$5,069,820
Calabasas	$60,000	$24,450	$20,000	$428,500	$15,600	$25,000	$350,000	$923,550
Carson	$1,350	$0	$2,400	$344,200	$28,680	$0	$0	$376,630
Cerritos	$6,200	$73,000	$5,200	$288,000	$11,000	$0	$0	$383,400
Claremont	$27,500	$24,000	$38,900	$518,000	$15,300	$0	$0	$623,700
Commerce	$20,000	$5,000	$5,000	$105,000	$10,000	$0	$325,000	$470,000
Compton	$17,600	$7,150	$6,820	$429,000	$26,950	$0	$0	$487,520
Covina	$46,000	$13,120	$4,590	$109,520	$21,880	$0	$0	$195,110
Cudahy	$3,399	$4,376	$5,406	$61,171	$15,753	$0	$0	$90,105

Permittee	Program Management	IC / ID	Development Planning and Construction	Public Agency Activities	Public Information and Participation	Monitoring Program	Other	Total
Culver City	$18,994	$4,205,859	$30,424	$4,017,405	$42,428	$0		$8,315,110
Diamond Bar	$80,357	$30,788	$55,934	$212,344	$24,100	$0	$0	$403,523
Downey	$56,012	$5,111	$97,625	$984,218	$25,000	$1,598,560	$0	$2,766,526
Duarte	$19,000	$16,000	$10,000	$426,400				$471,400
El Monte	$38,142	$4,000	$20,549	$86,349	$65,500	$3,500	$7,823	$225,863
El Segundo	$15,000	$3,000	$20,000	$98,150	$5,000	$0	$26,950	$168,100
Gardena	$100,000	$12,600	$2,000	$177,500	$22,200	$0	$0	$314,300
Glendale	$157,304	$58,676	$167,960	$5,580,820	$1,296,052	$0	$0	$7,260,812
Glendora	$50,000	$50,000	$15,000	$100,000	$30,000	$0	$0	$245,000
Hawaiian Gardens	$5,000	$3,000	$25,000	$68,000	$7,000	$0	$0	$108,000
Hawthorne	$71,432	$7,899	$19,261	$378,263	$27,398	$0	$27,192	$531,445
Hermosa Beach	$33,990	$2,778,416	$11,105	$1,017,830	$23,594	$660	$21,600	$3,887,195
Hidden Hills	$7,350	$7,560	$5,270	$4,100	$3,540	$0	$0	$27,820
Huntington Park	$65,000	$6,150	$40,000	$248,500	$5,250	$3,600	$0	$368,500
Industry	$225,000	$52,000	$132,000	$330,000	$128,500	$0	$8,500	$876,000
Inglewood	$88,000	$47,300	$17,600	$1,985,500	$55,000	$6,600	$0	$2,200,000
Irwindale	$25,000	$15,000	$7,500	$90,000	$5,000	$0	$5,000	$147,500
La Canada Flintridge	$10,000	$5,000	$52,500	$296,275	$10,000	$10,000	$0	$383,775
La Habra Heights	$2,000	$0	$1,000	$1,000	$1,000	$1,000	$0	$6,000
Lakewood	$35,000	$28,000	$35,000	$391,000	$30,000	$0	$105,000	$624,000

Table 5
SUMMARY OF FISCAL RESOURCES

Permittee	Program Management	IC / ID	Development Planning and Construction	Public Agency Activities	Public Information and Participation	Monitoring Program	Other	Total
La Mirada	$184,375	$20,312	$97,336	$556,387	$23,700	$0	$0	$882,110
La Puente	$6,000	$3,500	$4,500	$6,500	$4,000	$1,000	$2,000	$27,500
La Verne	$25,000	$8,000	$10,000	$139,400	$38,000	$0	$0	$220,400
Lawndale	$4,500	$0	$0	$157,240	$45,000	$4,000	$15,000	$225,740
Lomita	$4,000	$2,000	$2,000	$259,000	$0	$0	$30,000	$297,000
Los Angeles	$2,036,099	$564,809	$1,551,754	$13,604,741	$2,180,073	$404,952	$205,572	$20,548,000
County of Los Angeles	$3,135,550	$165,000	$179,000	$46,446,000	$4,195,550	$482,751	$881,500	$55,487,351
Lynwood	$13,000	$2,000	$6,000	$447,000	$12,000	$2,400	$0	$482,400
Malibu	$36,590	$3,000	$10,000	$221,000	$4,200	$80,000	$0	$354,790
Manhattan Beach	$24,900	$4,000	$3,500	$908,300	$15,500	$2,500	$235,000	$1,193,700
Maywood	$5,400	$0	$10,500	$103,000	$3,750	$0	$0	$122,650
Monrovia	$21,280	$5,061	$9,696	$362,012	$30,386	$0	$0	$428,435
Montebello	$12,100	$16,100	$8,000	$232,000	$11,000	$22,800	$310,000	$612,000
Monterey Park	$20,000	$3,800	$4,400	$445,000	$16,800	$0	$31,376	$521,376
Norwalk	$44,500	$5,000	$12,000	$368,160	$31,150	$0	$0	$460,810
Palos Verdes Estates	$13,000	$1,050	$8,000	$56,700	$8,900	$0	$0	$87,650
Paramount	$12,500	$35,000	$107,000	$307,000	$15,500	$0	$0	$477,000
Pasadena	$45,000	$20,000	$53,168	$1,819,329	$91,200	$50,000	$75,728	$2,154,425
Pico Rivera	$30,600	$12,000	$10,300	$181,000	$1,800	$0	$5,000	$240,700
Pomona	$71,073	$25,000	$10,745	$30,000	$19,000	$0	$0	$155,818

Permittee	Program Management	IC / ID	Development Planning and Construction	Public Agency Activities	Public Information and Participation	Monitoring Program	Other	Total
Rancho Palos Verdes	$5,069	$4,532	$19,942	$170,049	$1,473	$0	$1,325,383	$1,526,448
Redondo Beach	$16,544	$27,682	$37,106	$714,681	$133,020	$0	$0	$929,033
Rolling Hills	$25,189	$3,434	$9,009	$800	$2,000	$0	$0	$40,432
Rolling Hills Estates	$19,654	$10,500	$26,020	$37,240	$21,936	$0	$65,000	$180,350
Rosemead	$13,500	$20,000	$556,000	$376,000	$21,000	$0	$0	$986,500
San Dimas	$18,865	$9,751	$5,691	$162,350	$11,300	$6,080	$500	$214,537
San Fernando	$10,515	$4,759	$6,798	$123,383	$14,502	$0	$1,133	$161,090
San Gabriel								
San Marino	$2,800	$600	$500	$89,450	$100	$0	$100	$93,550
Santa Clarita	$351,964	$96,469	$215,250	$798,255	$268,264	$0	$244,470	$1,974,672
Santa Fe Springs	$30,900	$8,200	$11,700	$68,700	$35,900	$0	$226,100	$381,500
Santa Monica	$50,000	$96,505	$52,000	$730,000	$89,110	$175,000	$25,000	$1,217,615
Sierra Madre	$3,329	$880	$3,530	$53,370	$6,050	$0	$5,500	$72,659
Signal Hill	$17,461	$337,365	$9,483	$109,897	$15,297	$0	$282,570	$772,073
South El Monte	$11,047	$8,498	$7,320	$139,501	$30,025	$0	$47,586	$243,977
South Gate	$8,712	$4,305	$10,188	$394,574		$0	$52,216	$469,995
South Pasadena	$46,000	$341,695	$133,000	$542,300	$20,000	$5,000	$0	$1,087,995
Temple City	$10,640	$1,700	$8,176	$132,216	$9,338	$0	$40,777	$202,847
Torrance	$155,000	$25,000	$20,000	$930,000	$55,000	$0	$700,000	$1,885,000
Vernon	$56,193	$56,310	$28,434	$473,484	$28,348	$0	$0	$642,769

Permittee	Program Management	IC / ID	Development Planning and Construction	Public Agency Activities	Public Information and Participation	Monitoring Program	Other	Total
Walnut	$5,000	$3,500	$3,500	$4,500	$3,500	$1,000	$2,000	$23,000
West Covina	$190,870	$0	$0	$178,290	$0	$0	$0	$369,160
West Hollywood	$18,688	$22,645	$13,280	$310,100	$56,020	$0	$1,445,852	$1,866,585
Westlake Village	$15,915	$6,995	$8,995	$106,736	$18,760	$27,175	$0	$184,576
Whittier	$30,000	$50,000	$5,000	$31,000	$10,000	$0	$40,000	$166,000
GRAND TOTAL	**$9,075,904**	**$9,685,512**	**$4,507,565**	**$95,579,268**	**$9,826,717**	**$3,029,098**	**$10,342,220**	**$142,046,284**

Enforcement: ***Should the new permit contain a safe harbor clause (i.e. a "Notice to Meet and Confer")?***

During the 18-month renewal effort in 1995 to 1996, the Board approved a "Notice to Meet and Confer" (NTMC) provision (existing permit, Part 2, section G). Many of the Permittees strongly advocated for this provision, which they envisioned as an important administrative review process for resolving permit disputes before the Board could take formal enforcement action. It was actually used only once, in 2000, when the Regional Board issued NTMC letters in order to obtain information on permittees' efforts to abate trash in the Los Angeles River and Ballona Creek watersheds. As mentioned above, several Permittees want to invoke the NTMC as an interim step to any penalties the Board might issue for the 1999/00 Annual Program Report violations.

Subsequent to renewal of the existing permit, the State developed an enforcement policy (State Board Resolution 96-030) and guidance, which sets forth a progressive strategy that has the goal of ensuring consistent, predicable, and fair enforcement of regulations. This is now a well-established and widely implemented policy throughout the State, and has been successfully implemented in Los Angeles Region. Therefore, staff submits that the NTMC provision should not be included in the renewed permit.

Receiving Water Limitation: ***In structuring a receiving water limitation, has staff correctly complied with State Board direction?***

Some environmentalists believe that the draft permit should contain numerical limitations. Permittees, for the most part, believe that they should not be subject to either numerical or narrative receiving water limits, as their SQMP (Storm Water Quality Management Plan) is designed to reduce pollutants only to the maximum extent practicable.[5]

In Part 2 (page 16) of the draft permit, staff incorporated narrative receiving water language as directed by the State Board in Order No. 99-05 (Attachment 5A-2). Subsections 2.1 and 2.2 slightly modify the State Board language in that: 2.1 separately states that discharges that cause or contribute to the exceedences of water quality standards are prohibited, and 2.2 separately states the

[5] Regulations do not define what exactly constitutes the Maximum Extent Practicable (MEP). In general, MEP relies on best management practices that emphasize pollution prevention and source control (i.e. the first line of defense), with additional structural controls as needed (an additional line of defense). With some exceptions, criteria for these BMPs to meet MEP tends to be developed on a case-by-case basis in the storm water programs overseen by the US EPA and delegated States.

discharges shall not cause a condition of nuisance [such as trash]. Some Permittees contend that these modifications exceed State Board Order No. 99-05. However, a review of language in other recent municipal storm water permits, issued by the State Board itself and by other Regional Boards, indicates that the subsection language is substantially similar (see attachments 5.A.3 to 5.A.7).

Some Permittees also contend that the draft language is inconsistent with the U.S. Court of Appeals decision in, *Defenders of Wildlife v. Browner* (9th Cir. 1999). This decision found that the Clean Water Act does not require MS4 dischargs to strictly comply with water quality standards. However, the decision did uphold US EPA's discretion to establish narrative requirements, as it deemed necessary. As discussed in State Board's Office of Chief Counsel memorandum (Attachment 5.A-1), the Clean Water Act allows States to include such provisions, and concluded that the 9th Circuit decision did not contradict State Board Order No. 99-05.

Inspections: ***Should the Regional Board require Permittees to inspect industrial/commercial facilities?***

As required by the previous permit, the Principal Permittee conducted a critical source identification study[6] and identified five of the highest risk activities that pollute storm water in the County. Four of these activities – scrap metals, trucking, chemical, metal fabricating – are regulated by the State's General Permit for Industrial Activities. The other activity – automotive services – is not subject to the States General Permit) or Phase 1 regulations. Also, through the same source identification process, the Principal Permittee identified two additional activities – retail gas outlets (RGOs) and restaurants – at high risk of storm water pollution.

In the first draft (April 13, 2001), staff took a "top – down" approach to inspections, proposing that Permittees screen databases of tens of thousands of industrial and commercial facilities to identify facilities that should be targeted for an inspection program. In response to comments, staff focussed the inspection requirement in the second draft (June 29, 2001) to better structure a partnership among the Regional Board and Permittees, whereby the Regional Board would take the lead on the "Phase 1" industrial facilities subject to the State's General Permit, and the Permittees would take the lead to regulate other problem activities, such as automotive service facilities, restaurants, and RGOs.

[6] Critical Source Selection and Monitoring Report, prepared for the Los Angeles County Department of Public Works by Woodward-Clyde, September 3, 1996.

Accordingly, the current draft language (Part 4, Section C, pages 26 to 29), upgrades the Permittees' existing site visitation program to a site inspection program with the following elements:

- **Automotive service facilities:** Permittees must inspect all facilities once every two years, for compliance with their model programs and local storm water ordinances. There are about 6,000 such facilities in Region 4.
- **Phase 1 Industrial facilities:** There are about 2,600 industrial ("Phase 1") facilities that are enrolled in the State's General Permit, and an unknown number of non-filers. To help identify non-filers, Permittees must visit (not inspect) facilities in their jurisdictions to determine that Phase 1 facilities are enrolled under the State's General Permit. Although Permittees are being required to help identify non-filers, they are not being asked to assume the State's compliance and enforcement responsibility under the General Permit. Of course, this requirement does not preclude Permittees from compliance oversight vis a vis their own local ordinances and model programs.
- **RGOs:** This remains an outreach program, and requires the Prinicipal Permittee to communicate appropriate BMPs to RGO operators. To optimize outreach efforts, such communications can be through corporate or franchise organizations, as opposed to visits to each retail outlet (there are 2,133 RGO in the County, most of which are associated with one of six large petroleum companies.
- **Restaurants:** Staff has upgraded this to an inspection program, by requiring County Health inspectors to include storm water criteria during their health inspections. These storm water criteria must be applied once every two years during the inspections (which, for health purposes, are much more frequent). There are about 20,000 restaurants in the County.

To ensure the productivity of the inspection partnership, the permit also contains language specifying interagency coordination.

Many Permittees have questioned the Board's authority to require an Industrial/Commercial Program that specifies inspections of facilities within their jurisdictions. In response, staff point out that the US EPA, in its regulations and guidance, clearly states that Permittees must have a program to control industrial sources of storm water pollution. In structuring the General Permit back in 1990, the State envisioned that this would be a joint effort among Regional Boards and municipalities. The US EPA recently

reiterated this understanding, in a letter dated December 19, 2000 (see attachment 5.B.5). Finally, in approving the site visit program in the existing permit, it was understood that this was an interim step, to give Permittees a 5-year outreach period before requiring a stronger industrial/commercial control program.

The attachments in Section 5.B contain selected references from regulations and guidance that pertain to this program. Federal regulations (Attachment 5.B.2) require that applicants for municipal storm water permits implement a program to monitor and control pollutants in storm water discharges from specific industrial activities, as well as additional industrial sources that the applicant determines are contributing pollutant to the MS4. Staff believe that automotive services activities fall into the additional category.

The federal regulations further state that the program shall include procedures for inspections, monitoring, establishing, and implementing pollutant controls. Furthermore, Chapter 3.0 of USEPA Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from MS4s (Attachment 5.B.3) specifies that municipal applicants must demonstrate that they possess adequate legal authority to:

- Control construction site and other industrial discharges to MS4s;
- Prohibit illicit discharges and control spills and dumping;
- Carry out inspection, surveillance, and monitoring procedures.

Staff believe that these regulations apply to BMPs that are critical to preventing pollution, or controlling pollution sources – indeed, a large degree of the program's effectiveness relies upon prevention BMPs. On the other hand, many Permittees don't believe that they have legal authority to inspect sites, and that they should not be required to take any enforcement action until an illicit discharge has actually left private property and entered a public street or storm drain. However, staff points out that US EPA clearly states, in Chapter 6.3.3 of the Guidance Manual (Attachment 5.B.3), that a municipality is ultimately responsible for discharges from their MS4. Consequently, the Permittees' proposed model program for Industrial/commercial Control needs to set forth how the municipality will help the USEPA and authorized States to:

- **Identify** priority industries discharging to their systems;

- **Review and evaluate** storm water pollution prevention plans (SWPPPs) and other procedures that industrial facilities must develop under general or individual permits;
- **Establish and implement** BMPs to reduce pollutants from these industrial facilities (or require industry to implement them); and
- **Inspect and monitor** industrial facilities discharging storm water to the municipal systems to ensure these facilities are in compliance with their NPDES storm water permit, if required.

Development Planning: ***Does the extension of SUSMP requirements to cover retail gasoline outlets, ministerial projects, and environmentally sensitive areas, comply with the State Board's SUSMP decision?***

Yes. The Development Planning subsection (Part 4, Section D, pages 26-53) incorporates SUSMP requirements as upheld by the State Board in State Board Order No. 2000-11 "SUSMP Order" (Attachment 5C.2) and corrects deficiencies that were identified.

The SUSMP Order set aside the applicability of the SUSMP requirements to development projects in environmentally sensitive areas and to ministerial projects, as defined in the California Environmental Quality Act (CEQA), until a full and fair consideration by the Regional Board during permit reissuance. The SUSMP Order also set aside the applicability of numerical mitigation criteria to retail gasoline outlets until the Regional Board provided proper justification and established thresholds. While some commenters have suggested that the proposed permit violates the SUSMP Order by the extension, a memorandum issued by the State Board Chief Counsel identifies these three areas as potential areas for extension of SUSMP requirements by Regional Boards in the future consistent with State Board guidance in its SUSMP Order (Attachment 5C.3).

It is proper to extend coverage of SUSMP requirements to developments within, adjacent to or discharging directly to environmentally sensitive areas. Development and urbanization especially threaten environmentally sensitive areas, because these areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. A development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. Staff has provided thresholds for developments in environmentally sensitive areas to exclude small developments (less than 2,500 square feet impervious surface) and insignificant land use conversions (less than

10% of the site as impervious surface compared to the existing natural condition). Findings B.6, B.7, and E.4.

It is appropriate to apply numerical design criteria for storm water mitigation to new retail gasoline outlet developments. Retail gasoline outlets are points of convergence for vehicular traffic and are similar to parking lots and urban roads. Studies indicate that storm water discharges from retail gasoline outlets have high concentrations of hydrocarbons and heavy metals. Pilot studies indicate that treatment control best management practices installed at retail gasoline stations are effective in removing pollutants, reasonable in capital cost, easy to operate, and do not present safety risks. Retail gasoline outlets in western States such as Oregon and Washington are already subject to storm water numerical mitigation criteria. As recommended by the State Board in its SUSMP Order, Board staff has established thresholds for the criteria to apply to retail gasoline outlets (5,000 square feet or more of impervious surface and projected Average Daily Traffic of 100 vehicles or more) with proper justification. Finding C.6., Attachment 5E.1.

It is proper to apply SUSMP requirements to all planning priority project SUSMP categories, including ministerial projects. The California Environmental Quality Act (CEQA) (Cal Pub Resources Code Section 21000 *et seq.*) requires that public agencies consider the environmental impacts of the projects they approve. CEQA applies to projects that are considered discretionary and does not apply to ministerial projects, that is projects which involve the use of established standards or objective measurements. For purposes of water quality, CEQA distinctions are not germane because it is a procedural statute that provides a public forum for consideration of environmental impacts of governmental decision-making. CEQA is not a statute for water quality protection. Municipalities have multiple ways of ensuring that SUSMP requirements are applied in a consistent manner within SUSMP categories. A municipality may give itself discretionary authority by adopting local ordinance provisions that create decision-making discretion for SUSMP categories (Attachment 5.C.4). Alternatively, a municipality may establish standards and objective criteria for review of ministerial projects that are in SUSMP categories administratively (Attachment 5.C.6.).

Consistent with the Regional Board's action in the Ventura County municipal storm water permit, the proposed permit includes numerical design criteria for water quality flow in addition to water quality volume.

Development Construction: ***Are new requirements to inspect construction sites greater than 1 acre appropriate, and are they consistent with regulations and other permits?***

Small construction sites account for a significant amount of pollution from construction activities. In response to this concern, the Development Construction subsection (starting in Part 4, Section E, page 35 of the draft permit) requires that Permittees inspect construction projects one acre or greater to ensure compliance with local agency ordinances and model programs to prevent erosion, control sediment, and manage on-site construction wastes.

The existing permit has a similar requirement for construction sites two acres or greater. Staff proposes to lower the threshold is to 1 acre by 2003, when US EPA Phase II regulations to regulate smaller (1 acre and above) construction sites become effective. Also, the Board has already issued municipal permits with such a requirement, to the City of Long Beach in 1999 and the County of Ventura in 2000.

Total Maximum Daily Loads (TMDLs): ***Should the Board include a provision requiring implementation of TMDL load reductions, without reopening the permit?***

TMDLs are one of the Board's highest priorities. In view of the Region's highly urbanized environment, it is likely that pollutants in storm water will be allocated significant load reductions. While specific load reductions can't be forecast at this time, staff has structured the permit as a vehicle for achieving load reductions (Part 3, Section C).

Public review of TMDLs, which will typically be in the form of an amendment to the Basin Plan, will occur during the TMDL adoption process; and staff does not anticipate that there will be a need for an additional public process for TMDL implementation measures. Therefore, upon approval of a TMDL, implementation of municipal storm water requirements (specified in that TMDL) will become effective and enforceable under the permit. In other words, municipal storm water requirements will be automatically included in this proposed permit upon adoption of a TMDL by the Board, without reopening this permit. This TMDL requirement and structure is consistent with TMDL provisions in the City of Long Beach and County of Ventura permits.

Monitoring: ***In the event that monitoring indicates storm water from a particular municipality as a source of toxicity, should the Board require that Permittee to implement additional BMPs needed to reduce toxicity?***

Per the *Basin Plan*, there should be no toxicity in receiving waters. Per Parts 2 and 3 of the draft permit, Permittees must revise their Storm Water

Management Plan, as necessary, to meet receiving water limitations, including water quality objectives. Attachment T to the Monitoring and Reporting Program requires the Principal Permittee to monitor for toxicity and, upon finding toxicity, to conduct a "Toxicity Identification Evaluation" (TIE) and submit a "Toxicity Reduction Evaluation" (TRE) to the Regional Board. As a result of the TRE, the affected Permittee would then be responsible for modifying its SQMP to implement BMPs to eliminate toxicity based on the sources of toxicity within its jurisdiction.

Illicit Connections and Discharges: ***To better identify and eliminate IC/ID (illicit connection/illicit discharge) problems, should the Board require the Principal Permittee to better track IC/ID problems, and should the Board upgrade the Permittees' passive field screening program?*** During dry weather, much of the flow to the storm drain system consists of illicit discharges.[7] Reporting of these problems, as summarized in the Fact Sheet/Staff Report (pages 23 to 31), shows erratic IC/ID occurrences that bear no relationship to land uses or to estimated expenditures by Permittees. Under current operating practices, the Prinicipal Permittee is unable to track reports of illicit connections and discharges in order to identify problem areas and prioritize corrective action. Many of the Permittees cannot estimate the length of their portion of the storm drain system. Many more of these Permittees are unable to estimate how much of their portion of the storm drain system has been field screened for IC/ID problems over the past 5 years, partly because the Permittees' existing Storm Water Quality Management Plan requires field screening only "during regularly scheduled maintenance."

In the first draft, staff proposed that the Permittees develop a GIS (Geographical Information System) to better track IC/ID problems and, based upon annual evaluations of IC/ID problems, to implement an active screening program in problem areas. Several Permittees objected to this, stating that a GIS was too expensive to develop, and that simpler systems (e.g. pin maps) could suffice. In the second draft, staff is proposing that the Principal Permittee – with the cooperation of Permittees – develop a system (type of system unspecified) to track and prioritize IC/ID problems. The Principal Permittee objects to this requirement out of concern over: (a) anticipated difficulties in coordinating with other Permittees, and (b) the cost of a GIS, which cost could be well in excess of $15 million (the Principal Permittee feels that GIS is the only system that is sophisticated enough to comprehensively locate all permitted storm drain connections, and to track IC/ID occurrences in the storm drain system, as Board staff have suggested).

[7] Federal regulations define an illicit discharge as "...any discharge to an MS4 that is not composed entirely of storm water..." with some exceptions (such as NPDES-permitted discharges and emergency fire fighting flows).

Staff strongly believe that a comprehensive map[8] or system is needed to track and evaluate IC/ID occurrances, that the Principal Permittee is the appropriate entity with adequate control to take on this responsibly, and that other Permittees should be required to undertake active field screening as such needs are indicated by a better tracking tracking system. Discussions on this issue are ongoing with the Principal Permittee.

Conclusion Pollutants in dry weather runoff and storm water are the most significant source of impairment to water quality in the Los Angeles Region. For the third 5-year term of the County's permit, staff has tried to carefully and reasonably structure requirements – including specific performance objectives – that are needed to better focus Permittees' storm water management programs in order to more effectively control pollutants.

Recommendation The workshop is being conducted for informational purposes, and the Board is not being asked to take regulatory action at this time. However, the Board may consider staffs' position on the critical issues summarized above in light of comments that will be received from Permittees and interested parties, and provide direction to staff.

Next Steps The deadline for submittal of written comments on the second draft (dated June 29, 2001) is August 6th. After consideration of oral comments at the workshop on July 26th, the Board may wish to extend this deadline.

Following the workshop, staff intend to issue a third draft of the permit, which will incorporate direction that the Board may wish to provide, and consideration of additional written comments that are anticipated on the second draft. Adoption of the permit is tentatively scheduled for the October or November Board meeting.

Attachments 5A. Receiving Water References:

1. Memos: from Elizabeth Miller Jennings (10/14/99 and 10/03/95), from Don Elliot, EPA (01/09/91)
2. State Board Order WQ 99-05
3. Los Angeles Regional Board Order No. 00-108
4. Los Angeles Regional Board Order No. 99-060
5. State Board Order No. 99-06-DWQ
6. San Diego Regional Board Order No. 2001-01

[8] Indeed, basic requirements such as a map demonstrating a basic awareness of the storm drain system, are part of a Permittees' initial application requirements, and should have been met back in 1990 when the permit was first issued.

7. San Francisco Bay Regional Board Order No. 01-024

5B. Inspection References:

1. Case for Inspection Requirements under the LA MS4 Permit (07/11/01 draft)
2. 40 CFR 122.26
3. EPA Guidance Manual for Preparation of Part 2 of the NPDES Permit Applications for Dischargers from MS4s (November 1992)
4. Memo from Jorge Leon (04/17/96)
5. Letters from Alexis Strauss, EPA, Region IX (12/19/00 and 05/16/01)
6. Letters from the Executive Advisory Committee (03/22/01) and the City of La Canada Flintridge (03/23/01)

5C. SUSMP References:

1. Proposed Definition of "Redevelopment"
2. State Board Order No. WQ 2000-11
3. Memo from Craig Wilson (12/26/00)
4. CEQA Guidance, Manley, Moose, Remy, Thomas (1999)
5. EPA Guidance Manual for Preparation of Part 2 of the NPDES Permit Applications for Discharges from MS4s (November 1992)
6. Comments from City of Los Angeles (06/29/01)
7. EPA Fact Sheet 2.7: Post-Construction Runoff Control Minimum Control Measure (January 2000)
8. EPA Handbook on Urban Runoff Pollution Prevention and Control Planning (September 1993)
9. Transcript from Los Angeles Regional Board Public Meeting/Hearing, "Redevelopment" reference (01/26/00)

5D. Draft Permit:

1. Cover letter and distribution list (06/29/01)
2. Second draft – County of Los Angeles Municipal Storm Water NPDES Permit (06/29/01)
3. Attachments to draft permit
4. Monitoring and Reporting Program – CI 6948 (06/29/01)

5E. Draft Staff Report:

1. Fact Sheet/Staff Report (06/29/01)
2. Technical Report on Retail Gasoline Outlets (06/01)

5F. Existing Permit (07/15/96)

After issuing the first draft of the permit (dated April 13, 2001), staff received voluminous comment letters, filling two large binders. All of these comment letters are a part of the administrative file. A representative sampling of the letters are being provided as a supplemental package to the Board members. Most attachments have not been included, due to bulk and repetition. A list of the attached letters is as follows:

ston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

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Gray Davis
Governor

TO: Walt Pettit
Executive Director

FROM: Elizabeth Miller Jennings
Senior Staff Counsel
OFFICE OF CHIEF COUNSEL

DATE: October 14, 1999

SUBJECT: RECEIVING WATER LIMITATIONS IN MUNICIPAL STORM WATER PERMITS

The purpose of this memorandum is to discuss a recent federal appellate decision on this issue, and to provide advice on how to proceed in the future.

BACKGROUND

The State Water Resources Control Board (State Water Board) first addressed the issue of whether permits for municipal separate storm sewer systems (MS4) must include effluent limitations that will achieve compliance with water quality objectives in Order WQ 91-03. There, the State Water Board concluded that permits for MS4s must contain effluent limitations based on water quality standards. The Board further concluded that it was appropriate for Regional Water Quality Control Boards (Regional Water Boards) to achieve this result by requiring best management practices, rather than by inserting numeric effluent limitations. The State Water Board addressed this issue again in Order WQ 98-01, wherein it prescribed specific language that should be in receiving water limitations in order to protect water quality objectives. Finally, in Order WQ 99-05, the State Water Board modified that language in order to meet specific objections by the U.S. Environmental Protection Agency (EPA).

In its opinions discussing the need for receiving water limitations to protect water quality objectives, the State Water Board provided several rationales. First, U.S. EPA issued a legal opinion concluding that MS4s must meet both the technology-based requirements of the Clean Water Act and any more stringent requirements necessary to protect water quality. The State Water Board also noted that the Clean Water Act contains explicit authority for states to require provisions in addition to the technology-based controls. Finally, the State Water Board relied on provisions of the California Water Code that all waste discharge requirements must take into consideration the appropriate water quality objectives.

DEFENDERS OF WILDLIFE V. *BROWNER*

In a case arising out of MS4 permits issued by U.S. EPA to several Arizona cities, the Ninth Circuit Court of Appeals held that the Clean Water Act does not require MS4 discharges to comply strictly with state water quality standards. (*Defenders of Wildlife* v *Browner* (9th Cir. 1999) ____ F.3d ____.)[1] In other words, the Court disagreed with U.S. EPA's legal opinion that all MS4 permits must include more stringent requirements to achieve water quality standards. While holding that that the Clean Water Act does not require all MS4 discharges to comply strictly with state water quality standards, the Court also held that U.S. EPA has the authority to determine that ensuring strict compliance with state water quality standards is necessary to control pollutants. Thus, the Court did uphold the permits that included narrative requirements to achieve compliance with state water quality standards, based on U.S. EPA's discretion to establish those requirements.[2]

DISCUSSION

The Ninth Circuit case, which is controlling in California, grants U.S. EPA discretion to decide whether or not to require MS4s to comply with state water quality standards. It specifically authorized an approach similar to that approved by the State Water Board in its various orders, of requiring compliance through an iterative process of stronger BMPs. While one of the bases for the State Water Board's opinions—the U.S. EPA legal opinion requiring compliance with state water quality standards in all MS4 permits—has been weakened, the Court clearly upheld U.S. EPA's discretion to adopt similar permit provisions. Moreover, the Clean Water Act does clearly allow states (as well as U.S. EPA) to include such provisions. Finally, the California Water Code also requires that waste discharge requirements ensure compliance with water quality objectives.

As discussed above, the State Water Board clearly has the authority to retain the receiving water limitations language it has developed in its various orders consistent with *Defenders of Wildlife*. Moreover, because most MS4 discharges enter impaired water bodies, there is a real need for permits to include stringent requirements to protect those water bodies. As total maximum daily loads are developed, it is likely that MS4s will have to participate in load reductions, and the MS4 permits are the most effective vehicles for those reductions. The existing receiving water limitations language has been developed by the State Water Board to achieve compliance with water quality objectives, and should therefore be retained.

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[1] The Court did unequivocally state that industrial storm water dischargers do have to comply with both technology-based and water quality-based requirements.

[2] It is interesting to note that the challenge to the permits came from environmental groups who claimed that the water quality standards requirement was not adequate because it did not include numeric effluent limitations. This is similar to challenges made to Regional Water Boards who have used the narrative language adopted by the State Water Board, which in turn is similar to U.S. EPA's language in the Arizona permits.

CONCLUSION

The recent Ninth Circuit opinion upholds the discretion of the state to issue permits to MS4s that require compliance with water quality objectives through iterative BMPs. The State Water Board has issued orders requiring such compliance. The fact that many MS4s discharge pollutants of concern into impaired water bodies makes the requirements useful tools in protecting water quality. The Regional Water Boards should continue to use the language developed by the State Water Board.

BMJennings/llcastleberry
10-12-99
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State of California

Memorandum

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To Carlos Urrunaga	From Fujimoto
Co.	Co.
Dept	Phone #
Fax #	Fax #

To : Bruce Fujimoto
Division of Water Quality

Elizabeth M Jennings

Elizabeth Miller Jennings Oct 3, 1995
Senior Staff Counsel
From : OFFICE OF THE CHIEF COUNSEL
STATE WATER RESOURCES CONTROL BOARD
901 P Street, Sacramento, CA 95814
Mail Code G-8

Subject: MUNICIPAL STORM WATER PERMITS: COMPLIANCE WITH WATER QUALITY OBJECTIVES

ISSUE

Must storm water permits for municipal separate storm sewer systems (MS4s) include requirements necessary to achieve water quality objectives?

CONCLUSION

Storm water permits issued to MS4s must include requirements necessary to achieve water quality objectives.

DISCUSSION

Section 301 of the Clean Water Act prohibits the discharge of any pollutant unless pursuant to a National Pollutant Discharge Elimination System (NPDES) permit. Section 301 also requires compliance with effluent limitations necessary to achieve compliance with technology-based standards (e.g., best practicable control technology currently available or secondary treatment). Finally, Section 301 requires compliance with any more stringent effluent limitation which are necessary to protect water quality standards.

Section 402(p) of the Clean Water Act includes a technology-based standard for storm water permits issued to MS4s. Such permits must require:

> "controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods ...."

Section 402(p) does not discuss water quality-based standards. A question is therefore raised whether permits issued to MS4s

must include only effluent limitations to meet the technology-based standard of "maximum extent practicable" (MEP), or whether they must also include water quality-based effluent limitations.

This question has already been answered by the SWRCB in Order No.WQ 91-03. The answer is that permits issued to MS4s must include effluent limitations which will achieve the MEP standard, and will also achieve compliance with water quality objectives. The SWRCB stated:

> We therefore conclude that permits for municipal separate storm sewer systems issued pursuant to Clean Water Act Section 402(p) must contain effluent limitations based on water quality standards. Order No. WQ 91-03, at slip op. 36.

The specific language in effluent limitations or other permit conditions is left to the discretion of the agency issuing the permit. Thus, for storm water permits for MS4s, it is appropriate to include "best management practices" (BMPs) instead of numeric effluent limitations. See, Order No. WQ 91-03, at slip op. 37-38. These BMPs may be adequate as both technology-based limitations and water quality-based limitations. *Id.* Section 301(b)(1)(C) of the Clean Water Act broadly requires compliance with "any more stringent limitation, including those necessary to meet water quality standards". The legal requirements for determining effluent limitations in permits are listed in 40 Code of Federal Regulations (CFR) Section 122.44. The SWRCB interpreted these provisions in Order No. WQ 91-03, and concluded permits for MS4s may include BMPs as effluent limitations.

In Order No. WQ 91-04, the SWRCB considered a storm water permit issued to a MS4 that included BMPs as effluent limitations, and did not specifically require compliance with water quality objectives. The SWRCB stated that even where a permit does not specifically reference violation of water quality standards, it should be read "so as to require the implementation of practices which will achieve compliance with applicable standards". Slip op. at 15.

In conclusion, the SWRCB has determined storm water permits for MS4s must include requirements necessary to achieve compliance with both MEP and water quality standards. The SWRCB has allowed RWQCBs to determine the specific requirements to place in permits. The SWRCB has approved permits for MS4s which include BMPs rather than numeric effluent limitations. The SWRCB has also approved a permit that did not specifically

prohibit violation of water quality objectives. The permit was approved because it contained BMPs adequate to meet water quality objectives.

To	From
Co.	Co.
Dept.	Phone #
Fax #	Fax #

JAN - 9 1991

OFFICE OF GENERAL COUNSEL

MEMORANDUM

SUBJECT: Compliance with Water Quality Standards in NPDES Permits Issued To Municipal Separate Storm Sewer Systems

FROM: E. Donald Elliott
Assistant Administrator and
General Counsel (LE-130)

TO: Nancy J. Marvel
Regional Counsel
Region IX

In your memorandum of August 9, 1990, you have asked for our views on the following two issues:

ISSUES

1) Must NPDES permits for municipal separate storm sewer systems ("MS4s") issued under Section 402(p)(3)(B) of the Clean Water Act (CWA) include requirements necessary to achieve water quality standards (WQS), as generally required by Section 301(b)(1)(C) for all NPDES permits?

2) If permits issued to MS4s must comply with WQS, by what date must the permit ensure compliance?

SHORT ANSWERS

1) The better reading of Sections 402(p)(3)(B) and 301(b)(1)(C) is that all permits for MS4s must include any requirements necessary to achieve compliance with WQS.

2) Sections 402(p)(4)(A) and (p)(4)(B) give "large" and "medium" MS4s three years to comply with permit conditions from the date of permit issuance. This three year compliance date also applies to WQS-based permit requirements.

DISCUSSION

1. Statutory Background

Section 402(a)(1) requires that all NPDES permits comply with the applicable provisions of section 301. This includes compliance with appropriate technology-based standards and effluent limits (sections 301(b)(1)(B), 301(b)(2)). Permits must include "any more stringent limitation" necessary to meet WQS. Section 301(b)(1)(C). In addition, Section 401 requires that any applicant for a federal permit (including NPDES permits issued by EPA) must provide the permitting agency a certification from the State in which the discharge originates that the discharge will comply with the State's WQS.

As part of the 1987 amendments to the Clean Water Act, Congress added Section 402(p) to the Act, related to storm water discharges. Congress exempted some storm water discharges from the requirement to obtain an NPDES permit until after October 1, 1992. Section 402(p)(1). For certain specific categories of storm water discharges, this permit "moratorium" is not in effect, including discharges "associated with industrial activity," discharges from large and medium municipal separate storm sewer systems (i.e., systems serving a population over 250,000 or systems serving a population between 100,000 and 250,000, respectively). Section 402(p)(2).

For industrial and municipal storm water discharges, EPA was instructed to promulgate new regulations specifying permit application requirements. Congress mandated EPA to issue permits no later than February 4, 1991 (for industrial and large municipal discharges) or February 4, 1993 (for medium municipal discharges). Section 402(p)(4). These permits shall provide for compliance "as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit." Id.

Section 402(p) also specified the levels of control to be incorporated into storm water permits. Permits for discharges associated with industrial activity are to require compliance with all applicable provisions of Sections 301 and 402 of the CWA, i.e., all technology-based and water quality-based requirements. Section 402(p)(3)(A). By contrast, permits for discharges from municipal separate storm sewers "shall require controls to reduce the discharge of pollutants to the maximum extent practicable" ("MEP"). Section 402(p)(3)(B)(iii).

2. Analysis

A. WQ-based Requirements in Municipal Storm Water Permits

The relationship of Section 402(p)(3)(B)(iii) to Section 301(b)(1)(C) is not clear, either on the face of the statute or in legislative history. Section 402(p)(3) is clearly intended to draw a distinction between the requirements on industrial and municipal storm water discharges. Section 402(p)(3)(A) states that industrial discharges shall comply with the applicable provisions of section 301, i.e., BAT/BCT technology-based requirements as well as any more stringent WQ-based requirements pursuant to 301(b)(1)(C). In the next sub-paragraph, Congress requires municipalities to control storm water to the MEP standard; no mention is made of section 301. The juxtaposition of (p)(3)(A) and (p)(3)(B) gives rise to the argument that Congress may have intended to waive all section 301 requirements for municipal discharges in favor of the MEP standard. On the other hand, one could read (p)(3)(B)(iii) as modifying only technology-based requirements for municipal storm water (i.e., MEP substitutes for BAT/BCT); any WQ-based requirements would still be necessary in a municipal permit, even if those requirements are more stringent than "practicable." The legislative history of Section 402(p) provides no guidance as to how Congress intended the MEP standard to operate.

Where Congressional intent behind a statutory provision is ambiguous in light of the language or legislative history, the Agency charged with administering that statute may adopt any reasonable interpretation consistent with the goals and purposes of the statute. Chevron, U.S.A. v. NRDC, 467 U.S. 837 (1984). Therefore, EPA has a large degree of discretion to choose how it will interpret the applicability of WQS to municipal storm water discharges. The only interpretation by EPA to date, contained in its proposed rulemaking, has been that WQS would continue to apply to permits for municipal storm water discharges. See, e.g., 53 Fed. Reg. 49,457 (Dec. 7, 1988) (priorities for controls in municipal storm water management programs will be developed to ensure achievement of water quality standards and the CWA).[1] There has been no intervening interpretation expressed by EPA on this issue. It is the opinion of the Office of General Counsel that the interpretation adopted by the Agency in the proposal is a reasonable one, for the following reasons.

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[1] EPA's intent to apply WQS to municipal storm water discharges can also be inferred by the fact that the 1988 proposal did not propose to alter 40 CFR 122.44(d), which provides that all NPDES permits must contain water quality-based requirements more stringent than technology-based requirements where necessary to achieve WQS.

First, to support the opposite reading (i.e., that WQ-based requirements do not apply to municipal storm water permits), one would have to assert that Congress implicitly waived section 301(b)(1)(C) requirements for municipal storm water. One would further have to assume that Congress impliedly exempted municipal storm water permits from the Section 401 certification requirements. Implied repeals of statutory provisions are generally disfavored. Morton v. Mancari, 417 U.S. 535, 549 (1974). A court generally will find a statute impliedly repealed only if the later enacted provision is in "irreconcilable conflict" with the earlier provision. Kremer v. Chemical Construction Corp., 456 U.S. 461, 468 (1982) (citations omitted). In this case, the statutory provisions are not in irreconcilable conflict; rather, as discussed above, one may read Section 301(b)(1)(C) as requiring "any more stringent limitation" necessary to meet a WQS in every NPDES permit, including permits for discharges from municipal separate storm sewers which are subject to the MEP standard. Such a reading would harmonize the two provisions and give effect to the policy behind Sections 301(b)(1)(C) and 401, i.e., to ensure that WQS are met, regardless of practical considerations (such as the availability of treatment technology or the "practicability" of MS4 permit requirements).

To read section 402(p)(3)(B) as overriding 301(b)(1)(C) requirements would also cause a conflict between Section 402(p) and the general focus of the provisions in the 1987 Amendments, many of which reflect a Congressional desire to improve compliance with the WQ-based requirements of the Act. The amendments to/additions of sections 303(c)(2)(B), 304(l), 319, 320, 402(o) all reflect Congressional concern with the improvement of water quality through the NPDES and other CWA programs. It would be particularly difficult to argue that the storm water provisions, a major part of the 1987 Amendments, were intended to create an exemption from the general rule regarding WQ-based requirements without an explicit acknowledgment of that result. We think the approach taken in the proposed rule is preferable.

B. Compliance Date for WQ-Based Limits in Municipal Storm Water Permits

In contrast to the issue of whether WQ-based requirements apply at all to MS4s, Congress had indeed spoken to the compliance date issue. Section 402(p)(4) requires compliance with all permit conditions no later than three years from the date of issuance. In light of the express language, we believe the Agency may reasonably interpret the three-year compliance provisions in Section 402(p)(4) to apply to all permit

conditions, including those imposed under 301(b)(1)(C).[2]

There are arguments which support the reasonableness of this interpretation. First, EPA has issued few, if any storm water permits to MS4s to date. Many of these systems will face NPDES permit conditions for the first time, and I understand immediate compliance for these systems is likely to be unrealistic. The compliance date in Section 402(p)(4) apparently reflects a Congressional realization of that reality. Second, EPA has already construed another very similer provision of the 1987 Amendments in the same manner. Section 304(l) establishes an identical three-year compliance date for achieving water quality standards in Individual Control Strategies issued under that section. EPA has interpreted that provision, while not repealing Section 301(b)(1)(C), to allow for three-year compliance with new effluent limits established to meet WQS on 304(l)-identified streams. 54 Fed. Reg. 23,889 (Jun. 2, 1989). Given that 304(l) deals directly with WQ-based standards and permit requirements, a consistent interpretation with respect to 402(p)(3) and (p)(4) (which, as we have seen, is silent on the role of WQ-based requirements for MS4s) is certainly reasonable.[3]

If you have any questions regarding this memorandum, please contact Randy Hill of my staff, FTS 382-7700.

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[2]. There may be some municipal separate storm sewer systems which are unable to meet even the three-year compliance date in their permits. The Agency retains the discretion to issue an administrative order fixing a schedule for compliance if compliance is not achieved in that three-year period.

[3] The decision of the Administrator in the Star-Kist permit appeal does not affect this analysis. Indeed, the decision itself supports the reading that compliance schedules under Section 304(l) (and, by extension, schedules under Section 402(p)(4)) are unaffected by the holding in that decision. Cf. Order on Petition for Reconsideration, In the Matter of Star-Kist Caribe, Inc., NPDES Appeal No. 88-5, (Apr. 17, 1990), at 6 n.5 (because decision does not prevent all post-1977 compliance schedules, arguments regarding 304(l) are not pertinent); (order stayed Sept. 4 1990).

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER: WQ 99 - 05

Own Motion Review of the Petition of Environmental Health Coalition
to Review Waste Discharge Requirements Order No. 96-03, NPDES Permit No. CAS0108740
for Storm Water and Urban Runoff from the Orange County Flood Control District and the
Incorporated Cities of Orange County Within the San Diego Region,
Issued by the California Regional Water Quality Control Board,
San Diego Region.
SWRCB/OCC File A-1041

BY THE BOARD:

In Order WQ 98-01, the State Water Resources Control Board (State Water Board) ordered that certain receiving water limitation language be included in future municipal storm water permits. Following inclusion of that language in permits issued by the San Francisco Bay and San Diego Regional Water Quality Control Boards (Regional Water Boards) for Vallejo and Riverside respectively, the United States Environmental Protection Agency (EPA) objected to the permits. The EPA objection was based on the receiving water limitation language. The EPA has now issued those permits itself and has included receiving water limitation language it deems appropriate.

In light of EPA's objection to the receiving water limitation language in Order WQ 98-01 and its adoption of alternative language, the State Water Board is revising its instructions regarding receiving water limitation language for municipal storm water permits. It is hereby ordered that Order WQ 98-01 will be amended to remove the receiving water limitation language contained therein and to substitute the EPA language. Based on the reasons stated here, and as a precedent decision, the following receiving water limitation language shall be included in future municipal storm water permits.

RECEVING WATER LIMITATIONS

The permittees shall comply with Discharge Prohibitions [ ] and Receiving Water Limitations [ ] through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SWMP and other requirements of this permit including any modifications. The SWMP shall be designed to achieve compliance with Receiving Water Limitations [ ]. If exceedance(s) of water quality objectives or water quality standards (collectively, WQS) persist notwithstanding implementation of the SWMP and other requirements of this permit, the permittees shall assure compliance with Discharge Prohibitions [ ] and Receiving Water Limitations [ ] by complying with the following procedure:

a. Upon a determination by either the permittees or the Regional Water Board that discharges are causing or contributing to an exceedance of an applicable WQS, the permittees shall promptly notify and thereafter submit a report to the Regional Water Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of WQSs. The report may be incorporated in the annual update to the SWMP unless the Regional Water Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Water Board may require modifications to the report.

b. Submit any modifications to the report required by the Regional Water Board within 30 days of notification.

c. Within 30 days following approval of the report described above by the Regional Water Board, the

permittees shall revise the SWMP and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.

d. Implement the revised SWMP and monitoring program in accordance with the approved schedule.

So long as the permittees have complied with the procedures set forth above and are implementing the revised SWMP, the permittees do not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Water Board to develop additional BMPs.

ORDER

IT IS ORDERED that Order WQ 98-01 is revised as discussed above.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 17, 1999.

AYE: James M. Stubchaer

Mary Jane Forster

John W. Brown

Arthur G. Baggett, Jr.

NO: None

ABSENT: None

ABSTAIN: None

/s/
Maureen Marché
Administrative Assistant to the Board

R0003217

Ventura

STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 00-108 NPDES PERMIT NO. CAS004002
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES
WITHIN
VENTURA COUNTY FLOOD CONTROL DISTRICT,
COUNTY OF VENTURA, AND THE CITIES OF VENTURA COUNTY

FINDINGS

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter called the Regional Board), finds that:

Permit Parties

1. Ventura County Flood Control District (VCFCD), the County of Ventura, and the Cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley, and Thousand Oaks (hereinafter referred to separately as Co-permittees and jointly as the Discharger) have joined together to form the Ventura Countywide Storm Water Quality Management Program to discharge wastes under waste discharge requirements contained in Order No. 94-082, adopted by this Board on July 27, 2000. The Discharger discharges or contributes to discharges of storm water and urban runoff from municipal separate storm sewer systems (MS4s), also called storm drain systems, into receiving waters of the Santa Clara River, Ventura River, Calleguas Creek, and other coastal watersheds within Ventura County.

2. The Regional Board may require a separate National Pollutant Discharge Elimination System (NPDES) permit for any entity that discharges storm water into coastal watersheds of Ventura County. Such entity can be any State or Federal agency, State or Federal facility, real estate development, waste disposal facility, special district, private interest, etc. Pursuant to 40 CFR 122.26(a), the Regional Board will give these entities the option to become a Co-permittee, after obtaining the concurrence of the Co-permitees, or obtain an individual storm water discharge permit.

Nature of Discharge

3. Storm water discharges consist of surface water runoff generated from various land uses in all the hydrologic drainage basins which discharge into waters of the State. The quality of these discharges varies and is affected by hydrology, geology, land use, season, and sequence and duration of hydrologic events. The primary

PART 2 - RECEIVING WATER LIMITATIONS

A. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.

B. Discharges from the MS4 of storm water, or non-storm water, for which a Discharger is responsible, shall not cause or contribute to a condition of nuisance.

C. The Discharger shall comply with the permit through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the Ventura County SMP and other requirements of this permit including any modifications. The Ventura County SMP shall be designed to achieve compliance with receiving water limitations. If exceedance(s) of water quality objectives or water quality standards persist, notwithstanding implementation of the Ventura County SMP and other requirements of this permit, the Discharger shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

1 Upon a determination by either the Discharger or the Regional Board that discharges are causing or contributing to an exceedance of an applicable water quality standard(s), the Discharger shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented, and additional BMPs that will be implemented, to prevent or reduce any pollutants that are causing or contributing to the exceedances of water quality standards. This report may be included with the Annual Storm Water Report and Assessment, unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the report.

2. Submit any modifications to the report required by the Regional Board within 30 days of notification.

3. Within 30 days following the approval of the report, the Discharger shall revise the Ventura County SMP and monitoring program to incorporate the approved, modified suite of BMPs, implementation schedule, and any additional monitoring required.

4. Implement the revised Ventura County SMP and monitoring program according to the approved schedule.

D. So long as the Discharger complies with the procedures set forth above and is implementing the revised Ventura County SMP, the Discharger does not have to repeat the procedure for continuing or recurring exceedances of the same water quality standard(s) unless directed by the Regional Board to develop additional BMPs.

Long Beach

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

ORDER NO. 99-060
NPDES NO. CAS004003 (CI 8052)

WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN CITY OF LONG BEACH

FINDINGS

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter referred to as the Regional Board), finds:

Permit Background

1. The City of Long Beach, hereinafter referred to as the Permittee, discharges or contributes to discharges of storm water and urban runoff from municipal separate storm sewer systems (MS4s), also called storm drain systems, into receiving waters of the Los Angeles Basin.

2. On March 22, 1999, the Permittee submitted a Report of Waste Discharge (ROWD) as an application for issuance of waste discharge requirements and a National Pollutant Discharge Elimination System (NPDES) permit.

3. Municipal storm water discharges from the Permittee's storm drain systems were regulated under countywide waste discharge requirements contained in Order No. 90-079 and Order No. 96-054 adopted by this Regional Board on June 18, 1990, and July 15, 1996, respectively. These Orders serve as an NPDES permit (CA0061654) for the MS4 in Los Angeles County, which is hereby superseded for the City of Long Beach by Order No. CAS004003.

4. The Report of Waste Discharge (ROWD) submitted by the Permittee consists of:

   a. Statement of Accomplishments and Future Goals;
   b. Long Beach Storm Water Management Program; and
   c. Long Beach Monitoring Program;

Requirements

IT IS HEREBY ORDERED that the City of Long Beach, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act, as amended, and regulations and guidelines adopted thereunder, shall comply with the following:

Part 1. RECEIVING WATER LIMITATIONS

A. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.

B. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance.

C. The Permittee shall comply with Part 1 and 2 of the permit through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the LBSWMP and other requirements of this permit including any modifications. The LBSWMP shall be designed to achieve compliance with receiving water limitations. If exceedances of water quality objectives or water quality standards (collectively, water quality standards) persist, notwithstanding implementation of the LBSWMP and other requirements of this permit, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

1. Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance of an applicable water quality standard, the Permittee shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of water quality standards. This report may be incorporated in the annual update of the LBSWMP unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the Report.

2. Submit any modifications to the report required by the Regional Board within 30 days of notification

3. Within 30 days following the approval of the report, the Permittee shall revise the LBSWMP and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any

additional monitoring required

4. Implement the revised LBSWMP and monitoring program according to the approved schedule

So long as the Permittee has complied with the procedures set forth above and is implementing the revised LBSWMP, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

Part 2. DISCHARGE PROHIBITIONS

I. Discharge Prohibitions

A. The Permittee shall effectively prohibit non-storm water discharges into the MS4 and watercourses except where such discharges:

1. Are covered by a separate individual or general NPDES permit; or

2. Meet one of the conditions below:

a. Not identified as a source of pollutants:

i. Flows from riparian habitats or wetlands;
ii. Diverted stream flows;
iii. Springs;
iv. Rising ground waters;
v. Uncontaminated groundwater infiltration; and

b. Not Identified as a source of pollutants subject to conditions:

i. Reclaimed and potable landscape irrigation water;
ii. Water line flushing;
iii. Discharges from potable water sources;
iv. Foundation drains;
v. Footing Drains;
vi. Air conditioning condensate;
vii. Water from crawl space pumps
viii. Reclaimed and potable irrigation water;
ix. Reclaimed and potable lawn watering;
x. Dechlorinated swimming pool discharges;
xi. Individual residential car washing; and
xii. Sidewalk washing
xiii. Discharges or flows from emergency fire fighting activities.

If any of the above types of non-storm water discharges (Part 2, I. A.2.b) are determined to be a source of pollutants by the Regional Board Executive Officer, the discharge need not be prohibited if the

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STATE WATER RESOURCES CONTROL BOARD

ORDER NO. 99 - 06 - DWQ
NPDES NO. CAS000003

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT
STATEWIDE STORM WATER PERMIT
AND
WASTE DISCHARGE REQUIREMENTS (WDRs)
FOR THE
STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION (CALTRANS)

The State Water Resources Control Board (SWRCB) finds that:

1. **NPDES PERMIT APPLICATION**: On September 5, 1996, Caltrans, located at 1120 N Street, Sacramento, California 95814 submitted an NPDES Permit application for storm water discharges from the Caltrans highways, properties, facilities, and activities throughout the State of California for Caltrans headquarters and for the District offices including: the North Coast region (District 1), Northern Central Valley and Far Northeastern region (District 2), Sacramento area (District 3), San Francisco Bay area (District 4), Central Coast (District 5), Lower Central Valley (District 6), Los Angeles Basin (District 7), San Bernardino area (District 8), Mono/Inyo area (District 9), Middle Central Valley (District 10), San Diego area (District 11), and Orange County (District 12). The application was accepted on October 4, 1996. As part of the application, Caltrans submitted a Storm Water Management Plan (SWMP) and Monitoring Plan. The SWMP and Monitoring Plan were amended in March 1997 and again in April 1998. The application is considered an application for permit reissuance because Caltrans is currently under permit in all of the parts of the State for which a Municipal Separate Storm Sewer System (MS4) permit is currently required. The MS4 permits that Caltrans holds, the permitting agency, the adoption date, and expiration date are shown in Table 1.

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shall conduct a follow-up investigation to identify the source of the elevated pollutants.

8. Discharges or flows from health and safety emergencies, such as fire fighting activities and accident response, shall be addressed only when such flows are identified by Caltrans to be significant sources of pollutants to waters of the United States. *(It is not the intention of the SWRCB for Caltrans to prohibit, under any circumstances, the discharge of water or other fire retardants that flow into storm water conveyance systems as a result of their use for protection of life and public or private property. However, there may be instances when specified BMPs are appropriate for fire fighting flows).* Although this NPDES Permit does not prohibit these discharges, they may still be subject to regulation under the federal and/or State law.

9. Caltrans shall submit a ***COMPREHENSIVE NONSTORM WATER REPORT*** each year as part of the Annual Report. This report shall include the analysis of each category of discharge, and the BMPs to be implemented for each category. Caltrans must also periodically evaluate the effectiveness of the modified BMPs by examining illicit discharge/illegal dumping investigation results and take any further action necessary to reduce such pollutant concentrations.

C. RECEIVING WATER LIMITATIONS

C-1- RECEIVING WATER LIMITATIONS FOR MUNICIPAL ACTIVITIES:

1. The discharge of storm water from a facility or activity that causes or contributes to the violation of water quality standards or water quality objectives (collectively WQSs) is prohibited.

2. The discharges shall not cause the following conditions to create a condition of nuisance or to adversely affect beneficial uses of waters of the State:

   a. Floating, suspended solids, or deposited macroscopic particulate matter, or foam;

   b. Bottom deposits or aquatic growths;

   c. Alteration of temperature, turbidity, or apparent color beyond present natural background levels;

   d. Visible, floating, suspended, or deposited oil or other products of petroleum origin, and /or;

   e. Toxic or deleterious substances present in concentrations or quantities which will cause deleterious effects on aquatic biota, wildlife, or waterfowl, or which render any of these unfit for human consumption

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either at levels created in the receiving waters or as a result of biological concentration.

3. Caltrans shall comply with Parts C-1.1. and 2. of this permit through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SWMP and other requirements of this permit including any modifications; the SWMP shall be designed to achieve compliance with Parts C-1.1. and 2. of this permit; if exceedance(s) of WQSs persist notwithstanding implementation of the SWMP and other requirements of this permit, the permittee shall assure compliance with Parts C-1.1. and 2. of this permit by complying with the following procedure:

   a. Upon a determination by either Caltrans or the RWQCB that discharges are causing or contributing to an exceedance of an applicable WQS, Caltrans shall promptly notify and thereafter submit a report to the appropriate RWQCB. The report shall describe BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of water quality standards. The report may be incorporated in the annual update to the SWMP unless the RWQCB directs an earlier submittal. The report shall include an implementation schedule. The RWQCB may require modifications to the report;

   b. Submit any modifications to the report required by the RWQCB within 30 days of notification;

   c. Within 30 days following approval of the report described above by the RWQCB, Caltrans shall revise the SWMP and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required; and

   d. Implement the revised SWMP and monitoring program in accordance with the approved schedule.

4. So long as Caltrans has complied with the procedures set forth in Receiving Water Limitations C-1-3. above and are implementing the revised SWMP, Caltrans does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the RWQCB to develop additional BMPs.

C-2-RECEIVING WATER LIMITATIONS FOR CONSTRUCTION ACTIVITIES:

1. Storm water discharges and authorized nonstorm water discharges to any surface or ground water shall not adversely impact human health or the environment.

2. The SWPPP developed for the construction activity covered by this NPDES Permit

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shall be designed and implemented such that storm water discharges and authorized nonstorm water discharges shall not cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan and/or the applicable RWQCB's Basin Plan.

3. Should it be determined by Caltrans, SWRCB or RWQCB staff that storm water discharges and/or authorized nonstorm water discharges are causing or contributing to an exceedance of an applicable water quality standard, Caltrans shall:

   a. Implement corrective measures immediately following discovery that water quality standards were exceeded, followed by notification of the RWQCB by telephone as soon as possible but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report within 14 days to the appropriate RWQCB, unless otherwise directed by the RWQCB, describing (1) the nature and case of the water quality standard exceedance; (2) the BMPs currently being implemented; (3) any additional BMPs which will be implemented to prevent or reduce pollutants that are causing or contributing to the exceedance of water quality standards; and (4) any maintenance or repair of BMPs. This report shall include an implementation schedule for corrective actions and shall describe the actions taken to reduce the pollutants causing or contributing to the exceedance.

   b. Caltrans shall revise its SWPPP and monitoring program immediately after the report to the RWQCB to incorporate the additional BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring needed.

   c. Nothing in this section shall prevent the appropriate RWQCB from enforcing any provisions of this permit while Caltrans prepares and implements the above report.

D. RWQCB AUTHORITIES

1. Following adoption of this permit, RWQCBs shall implement the Provisions of this permit. Implementation of this permit may include, but is not limited to, reviewing SWPPPs, reviewing Maintenance Facility Pollution Prevention Plans (FPPPs), reviewing monitoring reports, conducting compliance inspections, conducting monitoring, reviewing the Annual Reports and taking enforcement actions.

2. RWQCBs may require submittal of, require changes to, specify a format for, and enforce Provisions of SWPPPs and FPPPs. RWQCBs may also designate projects which do not meet the acreage requirements based upon water quality concerns and require SWPPPs. RWQCBs may require that Caltrans submit all SWPPPs automatically up to 30 days in advance of the onset of construction.

3. RWQCBs may require retention of records for more than three years.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
ORDER NO. 2001-01
NPDES NO. CAS0108758

WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF URBAN RUNOFF FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s) DRAINING THE WATERSHEDS OF THE COUNTY OF SAN DIEGO, THE INCORPORATED CITIES OF SAN DIEGO COUNTY, AND THE SAN DIEGO UNIFIED PORT DISTRICT

The California Regional Water Quality Control Board, San Diego Region (hereinafter SDRWQCB), finds that:

1. **COPERMITTEES ARE DISCHARGERS OF URBAN RUNOFF:** Each of the persons in Table 1 below, hereinafter called Copermittees or dischargers, owns or operates a municipal separate storm sewer system (MS4), through which it discharges urban runoff into waters of the United States within the San Diego Region. These MS4s fall into one or more of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is "interrelated" to a medium or large MS4; or (3) an MS4 which contributes to a violation of a water quality standard; or (4) an MS4 which is a significant contributor of pollutants to waters of the United States.

Table 1. Municipal Copermittees

1.	City of Carlsbad	11.	City of National City
2.	City of Chula Vista	12.	City of Oceanside
3.	City of Coronado	13.	City of Poway
4.	City of Del Mar	14.	City of San Diego
5.	City of El Cajon	15.	City of San Marcos
6.	City of Encinitas	16.	City of Santee
7.	City of Escondido	17.	City of Solana Beach
8.	City of Imperial Beach	18.	City of Vista
9.	City of La Mesa	19.	County of San Diego
10.	City of Lemon Grove	20.	San Diego Unified Port District

2. **URBAN RUNOFF IS A "WASTE" AND A "POINT SOURCE DISCHARGE OF POLLUTANTS":** Urban runoff is a waste, as defined in the California Water Code, that contains pollutants and adversely affects the quality of the waters of the State. The discharge of urban runoff from an MS4 is a "discharge of pollutants from a point source" into waters of the United States as defined in the Clean Water Act.

3. **URBAN DEVELOPMENT AND RUNOFF CAUSES RECEIVING WATER DEGRADATION:** Urban runoff discharges from MS4s are a leading cause of receiving water quality impairment in the San Diego Region and throughout the United States. As runoff flows over urban areas, it picks up harmful pollutants such as pathogens, sediment (resulting from human activities), fertilizers, pesticides, heavy metals, and petroleum products. These pollutants often become dissolved or suspended in urban runoff and are conveyed and discharged to receiving waters, such as streams, lakes, lagoons, bays, and the ocean without treatment. Once in receiving waters, these pollutants harm aquatic life primarily through toxicity and habitat degradation.

k. Water line flushing;
l. Landscape irrigation;
m. Discharges from potable water sources other than water main breaks;
n. Irrigation water;
o. Lawn watering;
p. Individual residential car washing; and
q. Dechlorinated swimming pool discharges.

3. When a discharge category above is identified as a significant source of pollutants to waters of the United States, the Copermittee shall either:

   a. Prohibit the discharge category from entering its MS4; ***OR***

   b. Not prohibit the discharge category and implement, or require the responsible party(ies) to implement, BMPs which will reduce pollutants to the MEP; ***AND***

   c. For each discharge category not prohibited, the Copermittee shall submit the following information to the SDRWQCB within **365 days** of adoption of this Order:

      (1) The non-storm water discharge category listed above which the Copermittee elects not to prohibit; and

      (2) The BMP(s) for each discharge category listed above which the Copermittee will implement, or require the responsible party(ies) to implement, to prevent or reduce pollutants to the MEP.

4. **Fire Fighting Flows:** Emergency fire fighting flows (i.e., flows necessary for the protection of life or property) do not require BMPs and need not be prohibited. As part of the Jurisdictional URMP, each Copermittee shall develop and implement a program within 365 days of adoption of this Order to reduce pollutants from non-emergency fire fighting flows (i.e., flows from controlled or practice blazes and maintenance activities) identified by the Copermittee to be significant sources of pollutants to waters of the United States.

5. **Dry Weather Analytical Monitoring and Non-Storm Water Discharges:** Each Copermittee shall examine all dry weather analytical monitoring results collected in accordance with section F.5. and Attachment E of this Order to identify water quality problems which may be the result of any non-prohibited discharge category(ies) identified above in Non-Storm Water Discharges to MS4s Prohibition B.2. Follow-up investigations shall be conducted as necessary to identify and control any non-prohibited discharge category(ies) listed above.

C. RECEIVING WATER LIMITATIONS

1. Discharges from MS4s that cause or contribute to the violation of water quality standards (designated beneficial uses and water quality objectives developed to protect beneficial uses) are prohibited.

2. Each Copermittee shall comply with Part C.1. of this Order through timely implementation of control measures and other actions to reduce pollutants in urban runoff discharges in accordance with the Jurisdictional Urban Runoff Management Program (Jurisdictional URMP) and other requirements of this Order including any modifications. The Jurisdictional URMP shall be designed to achieve compliance with Part C.1. of this Order. If exceedance(s) of water quality standards persist notwithstanding implementation of the URMP and other requirements of this Order, the Copermittee shall assure compliance with Part C.1. of this Order by complying with the following procedure:

   a. Upon a determination by either the Copermittee or the SDRWQCB that MS4 discharges are causing or contributing to an exceedance of an applicable water quality standard, the

Copermittee shall promptly notify and thereafter submit a report to the SDRWQCB that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of water quality standards. The report may be incorporated in the annual update to the Jurisdictional URMP unless the SDRWQCB directs an earlier submittal. The report shall include an implementation schedule. The SDRWQCB may require modifications to the report;

b. Submit any modifications to the report required by the SDRWQCB within 30 days of notification;

c. Within 30 days following approval of the report described above by the SDRWQCB, the Copermittee shall revise its Jurisdictional URMP and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required;

d. Implement the revised Jurisdictional URMP and monitoring program in accordance with the approved schedule.

So long as the Copermittee has complied with the procedures set forth above and are implementing the revised Jurisdictional URMP, the Copermittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the SDRWQCB to do so.

3. Nothing in this section shall prevent the SDRWQCB from enforcing any provision of this Order while the Copermittee prepares and implements the above report.

D. LEGAL AUTHORITY

1. Each Copermittee shall establish, maintain, and enforce adequate legal authority to control pollutant discharges **into** and **from** its MS4 through ordinance, statute, permit, contract or similar means. This legal authority must, at a minimum, authorize the Copermittee to:

   a. Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity **to** its MS4 and control the quality of runoff **from** industrial and construction sites. This requirement applies both to industrial and construction sites which have coverage under the statewide general industrial or construction storm water permits, as well as to those sites which do not. Grading ordinances shall be upgraded and enforced as necessary to comply with this Order.

   b. Prohibit **all** identified illicit discharges not otherwise allowed pursuant to section B.2 including but not limited to:

      (1) Sewage;

      (2) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;

      (3) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;

      (4) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;

      (5) Discharges of wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas,

Region 2

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 01-024
NPDES PERMIT NO. CAS029718

REISSUING WASTE DISCHARGE REQUIREMENTS FOR:

SANTA CLARA VALLEY WATER DISTRICT, COUNTY OF SANTA CLARA, CITY OF CAMPBELL, CITY OF CUPERTINO, CITY OF LOS ALTOS, TOWN OF LOS ALTOS HILLS, TOWN OF LOS GATOS, CITY OF MILPITAS, CITY OF MONTE SERENO, CITY OF MOUNTAIN VIEW, CITY OF PALO ALTO, CITY OF SAN JOSE, CITY OF SANTA CLARA, CITY OF SARATOGA, AND CITY OF SUNNYVALE, which have joined together to form the SANTA CLARA VALLEY URBAN RUNOFF POLLUTION PREVENTION PROGRAM

The California Regional Water Quality Control Board, San Francisco Bay Region, (hereinafter referred to as the Regional Board) finds that:

1. The Santa Clara Valley Water District (hereinafter District), County of Santa Clara, City of Campbell, City of Cupertino, City of Los Altos, Town of Los Altos Hills, Town of Los Gatos, City of Milpitas, City of Monte Sereno, City of Mountain View, City of Palo Alto, City of San Jose, City of Santa Clara, City of Saratoga, and City of Sunnyvale (hereinafter referred to as the Dischargers) have joined together to form the Santa Clara Valley Urban Runoff Pollution Prevention Program (hereinafter referred to as the Program) and have submitted a permit application (Report of Waste Discharge), dated December 21, 1999, for re-issuance of waste discharge requirements under the National Pollutant Discharge Elimination System (NPDES) to discharge stormwater run off from storm drains and watercourses within the Dischargers' jurisdictions.

2. The Dischargers are currently subject to NPDES Permit No.CAS029718 issued by Order No. 95-180 on August 23, 1995, and modified by Order No. 99-050 on July 21, 1999.

3. The Dischargers each have jurisdiction over and/or maintenance responsibility for their respective municipal separate storm drain systems and/or watercourses in the Santa Clara basin. (See attached location and political jurisdiction map.) The basin can be divided into eleven sub basins or watersheds including the Coyote Creek watershed on the east side of the valley, the Guadalupe River watershed which drains the south-central portion of the valley, the San Francisquito Creek watershed which drains the northwest portion of the valley (and part of San Mateo County), and a series of small, relatively urbanized watersheds that drain the west side of the valley. (See attached basin watersheds map.) Discharge consists of the surface runoff generated from various land uses in all the hydrologic sub basins in the basin which discharge into watercourses, which in turn flow into South San Francisco Bay.

   The quality and quantity of these discharges varies considerably and is affected by hydrology, geology, land use, season, and sequence and duration of hydrologic event. Pollutants of concern in these discharges are certain heavy metals, excessive sediment production from erosion due to anthropogenic activities, petroleum hydrocarbons from sources such as used motor oil, microbial

30. It is the intention of the Regional Board that this Order supersedes Order Nos. 90-094, 92-021, 93-164, 95-180, and 99-050.

31. This Order serves as a NPDES permit, pursuant to CWA Section 402, or amendments thereto, and shall become effective ten days after the date of its adoption provided the Regional Administrator, US EPA, Region IX, has no objections.

IT IS HEREBY ORDERED that the Dischargers, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted hereunder and the provisions of the Clean Water Act as amended and regulations and guidelines adopted hereunder, shall comply with the following:

A. DISCHARGE PROHIBITION

The Dischargers shall, within their respective jurisdictions, effectively prohibit the discharge of non-stormwater (materials other than stormwater) into the storm drain systems and watercourses. NPDES permitted discharges are exempt from this prohibition. Compliance with this prohibition shall be demonstrated in accordance with Provision C.1 and C.8 of this Order. Provision C.8 describes a tiered categorization of non-stormwater discharges based on potential for pollutant content.

B. RECEIVING WATER LIMITATIONS

1. The discharge shall not cause the following conditions to create a condition of nuisance or to adversely affect beneficial uses of waters of the State:

   a. Floating, suspended, or deposited macroscopic particulate matter, or foam;

   b. Bottom deposits or aquatic growths;

   c. Alteration of temperature, turbidity, or apparent color beyond present natural background levels;

   d. Visible, floating, suspended, or deposited oil or other products of petroleum origin; and/or

   e. Substances present in concentrations or quantities which will cause deleterious effects on aquatic biota, wildlife, or waterfowl, or which render any of these unfit for human consumption.

2. The discharge shall not cause or contribute to a violation of any applicable water quality standard for receiving waters contained in the Regional Board Basin Plan. If applicable water quality objectives are adopted and approved by the State Board after the date of the adoption of this Order, the Regional Board may revise and modify this Order as appropriate.

C. PROVISIONS

1. The Dischargers shall comply with Discharge Prohibition A and Receiving Water Limitations B.1 and B.2 through the timely implementation of control measures and other actions to reduce pollutants in the discharge in accordance with the Management Plan and other requirements of

this permit, including any modifications. The Management Plan shall be designed to achieve compliance with Receiving Water Limitations B.1 and B.2. If exceedance(s) of water quality standards or water quality objectives (collectively WQSs) persist notwithstanding implementation of the Management Plan, a Discharger shall assure compliance with Discharge Prohibition A.1 and Receiving Water Limitations B.1 and B.2 by complying with the following procedure:

a. Upon a determination by either the Discharger(s) or the Regional Board that discharges are causing or contributing to an exceedance of an applicable WQS, the Discharger(s) shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of WQSs. The report may be incorporated in the annual update to the Management Plan unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the report;

b. Submit any modifications to the report required by the Regional Board within 30 days of notification;

c. Within 30 days following approval of the report described above by the Regional Board, the Dischargers shall revise the Management Plan and monitoring program to incorporate the approved modified control measures that have been and will be implemented, the implementation schedule, and any additional monitoring required;

d. Implement the revised Management Plan and monitoring program in accordance with the approved schedule.

As long as Dischargers have complied with the procedures set forth above and are implementing the revised Management Plan, they do not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional control measures and BMPs.

2. Urban Runoff Management Plan and Performance Standards

a. The Dischargers shall implement control measures and best management practices to reduce pollutants in stormwater discharges to the maximum extent practicable. The Management Plan shall serve as the framework for identification, assignment, and implementation of such control measures/BMPs. The Management Plan contains Performance Standards that address the following Program elements: Illicit Connection/Illegal Discharge Control; Industrial/Commercial Discharger Control; Public Streets, Roads, and Highways Operation and Maintenance; Storm Drain Operation and Maintenance; Water Utility Operation and Maintenance; and New Development Planning Procedures and Construction Inspection. Performance Standards are defined as the level of implementation necessary to demonstrate the control of pollutants in stormwater to the maximum extent practicable. The Dischargers shall implement the Management Plan, and shall, through its continuous improvement process[4], subsequently demonstrate its effectiveness and provide for necessary and

[4] Continuous Improvement shall be defined as seeking new opportunities for improving Program effectiveness, controlling stormwater pollution, and, protecting beneficial uses. The Program's approach to implementing Performance Standards explicitly

A Case for Inspection Requirements at Industrial and Other High Priority Facilities under the LA County MS4 Permit

Requirement	Citation
"Today's rule also requires the municipal storm sewer permittee to describe **a program to address industrial discharges** that are covered under the municipal storm sewer permit. Today's rule requires the municipal applicant to identify such discharges..., provide a description of a program to monitor pollutants in runoff from certain industrial facilities that discharge to the municipal storm sewer system, **identify priorities and procedures for inspections**, and **establish and implement control measures for such discharges**."	Final Rule (Federal Register, Vol. 55, p. 48056)
Part 2 application requirement: [The applicant must demonstrate that it can control through] Adequate Legal Authority which authorizes or enables at a minimum to: **Control** through **ordinance, permit, contract, order or similar means**, the **contribution of pollutants** to the municipal storm sewer by **storm water discharges associated with industrial activity** and the quality of **storm water discharged from sites of industrial activity**;	40 CFR 122.26(d)(2)(i)(A)
Carry out all inspection, **surveillance** and **monitoring** procedures necessary to **determine compliance and noncompliance** with **permit conditions *including*** the prohibition on illicit discharges to the municipal separate storm sewer.	40 CFR 122.26(d)(2)(i)(F)
In part 2 of the application, municipal applicants **must demonstrate** that **they now possess adequate legal authority** to: • **Control** construction site and **other industrial discharges** to the MS4;... • **Control potential sources of pollutants from discharges to or from** coapplicants' MS4s, or MS4s that are interconnected or shared with other entities;... • **Carry out inspection, surveillance, and monitoring** procedures.	Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems (Guidance Manual) USEPA 1992 Pag. 3-1
"Control"[...] means not only to require disclosure of information, but **also** to **limit, discourage, or terminate** a storm water discharge to the MS4.	Guidance Manual pag. 3-1
However, a municipality, to satisfy its permit conditions, **may need to impose additional requirements** on **discharges from permitted industrial facilities**, **as well as discharges from industrial facilities** and construction sites ***not* required to obtain permits**.	Guidance Manual pag. 3-1
In their part 2 applications, municipalities must propose programs to **control** the contributions of pollutants from industrial facilities **and prohibit** illicit discharges. For **both** of these activities, municipalities **must have the legal authority** to **carry out inspection, surveillance, and monitoring** procedures necessary to **determine compliance**.	Guidance Manual pag. 3-3
In their part 2 applications, municipalities should provide documentation of **their authority to enter, sample, inspect, review, and copy records,** etc. as well as demonstrate their authority to require regular reports.	Guidance Manual pag. 3-3
A description of **a program** to **monitor and control pollutants** in storm water discharges to municipal systems from **municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA),** and ***industrial facilities that the municipal permit applicant***	40 CFR 122.26(d)(2)(iv)(C) **R0003233**

Requirement	Citation
determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program **shall**: (1) **Identify priorities and procedures for inspections** and **establishing and implementing control measures** for such discharges;	
NPDES permits for MS4s will establish *responsibilities* for municipal system operators to control pollutants from industrial storm water discharged through their system.	Guidance Manual pag. 6-16
Proposed storm water management programs must address the reduction of pollutants in storm water discharges from **municipal landfills, hazardous waste treatment, disposal and recovery facilities, facilities subject to SARA Title III;** and ***other priority industrial facilities***, as determined by the applicant. **Municipalities should consider** the information gathered for [..] the part 2 application (**particularly the Source Identification and Characterization Data** components) when prioritizing storm water discharges from these sites.	Guidance Manual pag. 6-16
In part 2 application, the Source Identification component requires the applicant to provide **an inventory of pollutant sources**, organized by watershed. This inventory **identifies and describes the products and services** of each industrial facility that may discharge storm water to the MS4. The Source identification component suggests applicants to use standard industrial classification codes (SIC) codes for this description. EPA strongly recommends this information be used to identify priority waste handling sites and industrial facilities. A similar technique could be developed for sites ***that do not meet*** the ***regulatory definition of "storm water discharge associated with industrial activity"*** (i.e. not included in the Source Identification and Discharge Characterization components), but ***are identified as a high priority*** under the proposed management program.	Guidance Manual pag. 6-16 [Commercial Sites]
The municipality is **ultimately responsible** for discharges from their MS4. Consequently, the proposed storm water management program should describe how **the municipality will help** EPA and authorized NPDES States: • **Identify priority industries** discharging to their systems; • **Review. and evaluate storm water pollution prevention plans and other procedures that industrial facilities must develop under general or individual permits;** • **Establish and implement BMPs to reduce pollutants from these industrial facilities (or require industry to implement them);** and • ***Inspect*** **and monitor industrial facilities *to verify* that the industries discharging storm water to the municipal systems *are in compliance with their NPDES storm water permit***, if required.	Guidance Manual pag. 6-17
At a minimum, priority facilities include: • Operating and closed municipal landfills; • Hazardous waste treatment, disposal or recovery facilities; and • Facilities subject to SARA Title III. Municipalities must identify these **and *other priority industrial facilities***	Guidance Manual pag. 6-17 **R0003234**

Requirement	Citation
and describe the criteria used to identify them. For example, information from the Toxics Release Inventory is one source a municipality could use to identify industrial facilities subject to SARA Title III. **Other sources** may include CWA Section 205 or 208 use-attainability studies, other studies that **indicate a site-specific beneficial use impairment immediately downstream of a storm water outfall**, or **records of industrial pretreatment programs or other permit programs that identify facilities that may be the source of a use impairment or a major contribution of pollutants**. The program should also describe procedures for modifying the inventory of priority industries based on **additional evaluation** that occurs throughout the permit term.	
During the term of the permit, as additional information becomes available, **the municipality should target and set priorities for other program elements** that emerge.	Guidance Manual pag. 6-18
As noted above, when identifying priority sites, applicants must consider all the facilities listed in 122.26(d)(2)(iv)(C)(1). When municipalities develop criteria for **identifying additional priority industrial facilities**, they are advised to consider, **at a minimum:** • The **type of industrial activity** (SIC codes can help characterize the type of industrial activity); • The **use and management of chemicals or raw products** at the facility and **the likelihood** that storm water discharge from the site **will be contaminated**; and • The **size and location of the facility in relation to sensitive watersheds.**	Guidance Manual pag. 6-18
The proposed management program **must include procedures for inspecting priority industrial sites**. The results of inspection may be used as a basis for **requiring storm water management controls and enhanced pollution prevention measures**. It should also establish an **inspection schedule** for each priority facility at the time it is identified.	Guidance Manual pag. 6-18
Applicants also should describe a procedure for **conducting follow-up inspections**, where necessary, as part of this program component. For example, follow-up inspections **might be needed to verify the installation of a specific control or implementation of a practice specified** in a negotiated agreement between the municipality and the industrial site. A system-wide approach to establishing priorities for inspection procedures is recommended. The system-wide approach should begin with the evaluation of existing information, followed by the identification and evaluation of new information during the permit term. Therefore, applicants **should link** these procedures with information from the Source Identification and Discharge Characterization components.	Guidance Manual pag. 6-19
A municipality **must consider** if it **should place more stringent controls on discharges associated with industrial activity than are required in an industrial facility's existing NPDES storm water permit.**	Guidance Manual pag. 6-19
Priority industrial facilities should focus on controlling activities such as	Guidance Manual pag. 6-19

Requirement	Citation
the use, storage, and handling of toxic chemicals. Standard methods for implementing control measures at different types of facilities should be described. To facilitate this, municipalities **should obtain copies of the pollution prevention plans developed by industrial permittees**. **Control measures** that the municipality **may suggest include preventing exposure of pollutant sources to precipitation, on-site pretreatment, and oil/water separators.**	
The proposed management program **should describe the inspection procedures that will be followed. Storm water inspections can be coupled with inspections for other purposes** (e.g., pretreatment programs, fire and safety). Proposed management **programs should address minimum frequency for routine inspections**. For example, **how often, how much of the site, and how long an inspection may take** are appropriate to explain in this proposed management program component. Applicants should also describe **procedures for conducting inspections and provide an inspector's checklist**. In addition, these inspection procedures should identify the **minimum number of inspectors** that will be employed and **describe the programs to train them**.	Guidance Manual pag. 6-19
Municipalities are **urged to *evaluate* pollution prevention plans and discharge monitoring data collected by the industrial facility to *ensure* that the facility is *in compliance with its NPDES storm water permit. Site inspections* should include (1) *an evaluation of the pollution prevention plan*** and any other pertinent documents, **and (2) an *on-site visual inspection of the facility*** to ***evaluate the potential* for *discharges of contaminated storm water*** from the site and ***to assess the effectiveness of the pollution prevention plan.***	Guidance Manual pag. 6-20

R0003236

From 40 CFR (Code of Federal Regulations)

any warm or cold water aquatic animal production facility as a concentrated aquatic animal production facility upon determining that it is a significant contributor of pollution to waters of the United States. In making this designation the Director shall consider the following factors:

(i) The location and quality of the receiving waters of the United States;

(ii) The holding, feeding, and production capacities of the facility;

(iii) The quantity and nature of the pollutants reaching waters of the United States; and

(iv) Other relevant factors.

(2) A permit application shall not be required from a concentrated aquatic animal production facility designated under this paragraph until the Director has conducted on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program.

[48 FR 14153, Apr. 1, 1983, as amended at 65 FR 30907, May 15, 2000]

§ 122.25 Aquaculture projects (applicable to State NPDES programs, see § 123.25).

(a) *Permit requirement.* Discharges into aquaculture projects, as defined in this section, are subject to the NPDES permit program through section 318 of CWA, and in accordance with 40 CFR part 125, subpart B.

(b) *Definitions.* (1) *Aquaculture project* means a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.

(2) *Designated project area* means the portions of the waters of the United States within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan or operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).

(a) *Permit requirement.* (1) Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain a NPDES permit except:

(i) A discharge with respect to which a permit has been issued prior to February 4, 1987;

(ii) A discharge associated with industrial activity (see § 122.26(a)(4));

(iii) A discharge from a large municipal separate storm sewer system;

(iv) A discharge from a medium municipal separate storm sewer system;

(v) A discharge which the Director, or in States with approved NPDES programs, either the Director or the EPA Regional Administrator, determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States. This designation may include a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under paragraph (a)(2) of this section or agricultural storm water runoff which is exempted from the definition of point source at § 122.2.

The Director may designate discharges from municipal separate storm sewers on a system-wide or jurisdiction-wide basis. In making this determination the Director may consider the following factors:

(A) The location of the discharge with respect to waters of the United States as defined at 40 CFR 122.2.

(B) The size of the discharge;

(C) The quantity and nature of the pollutants discharged to waters of the United States; and

(D) Other relevant factors.

(2) The Director may not require a permit for discharges of storm water runoff from mining operations or oil and gas exploration, production, processing or treatment operations or

transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with or that has not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

(3) *Large and medium municipal separate storm sewer systems.* (i) Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.

(ii) The Director may either issue one system-wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to: all discharges owned or operated by the same municipality; located within the same jurisdiction; all discharges within a system that discharge to the same watershed; discharges within a system that are similar in nature; or for individual discharges from municipal separate storm sewers within the system.

(iii) The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must either:

(A) Participate in a permit application (to be a permittee or a co-permittee) with one or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system;

(B) Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible; or

(C) A regional authority may be responsible for submitting a permit application under the following guidelines:

(*1*) The regional authority together with co-applicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time part 1 of the application is due;

(*2*) The permit applicant or co-applicants shall establish their ability to make a timely submission of part 1 and part 2 of the municipal application;

(*3*) Each of the operators of municipal separate storm sewers within the systems described in paragraphs (b)(4) (i), (ii), and (iii) or (b)(7) (i), (ii), and (iii) of this section, that are under the purview of the designated regional authority, shall comply with the application requirements of paragraph (d) of this section.

(iv) One permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The Director may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

(v) Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

(vi) Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.

(4) *Discharges through large and medium municipal separate storm sewer systems.* In addition to meeting the requirements of paragraph (c) of this section, an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or 180 days prior to commencing such discharge:

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the name of the facility; a contact person and phone number; the location of the discharge; a description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility; and any existing NPDES permit number.

(5) *Other municipal separate storm sewers.* The Director may issue permits for municipal separate storm sewers that are designated under paragraph (a)(1)(v) of this section on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

(6) *Non-municipal separate storm sewers.* For storm water discharges associated with industrial activity from point sources which discharge through a non-municipal or non-publicly owned separate storm sewer system, the Director, in his discretion, may issue: a single NPDES permit, with each discharger a co-permittee to a permit issued to the operator of the portion of the system that discharges into waters of the United States; or, individual permits to each discharger of storm water associated with industrial activity through the non-municipal conveyance system.

(i) All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the United States, with each discharger to the non-municipal conveyance a co-permittee to that permit.

(ii) Where there is more than one operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications.

(iii) Any permit covering more than one operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.

(7) *Combined sewer systems.* Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain NPDES permits in accordance with the procedures of §122.21 and are not subject to the provisions of this section.

(8) Whether a discharge from a municipal separate storm sewer is or is not subject to regulation under this section shall have no bearing on whether the owner or operator of the discharge is eligible for funding under title II, title III or title VI of the Clean Water Act. *See* 40 CFR part 35, subpart I, appendix A(b)H.2.j.

(9)(i) On and after October 1, 1994, for discharges composed entirely of storm water, that are not required by paragraph (a)(1) of this section to obtain a permit, operators shall be required to obtain a NPDES permit only if:

(A) The discharge is from a small MS4 required to be regulated pursuant to §122.32;

(B) The discharge is a storm water discharge associated with small construction activity pursuant to paragraph (b)(15) of this section;

(C) The Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, determines that storm water controls are needed for the discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs) that address the pollutant(s) of concern; or

(D) The Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(ii) Operators of small MS4s designated pursuant to paragraphs (a)(9)(i)(A), (a)(9)(i)(C), and (a)(9)(i)(D) of this section shall seek coverage under an NPDES permit in accordance with §§122.33 through 122.35. Operators of non-municipal sources designated pursuant to paragraphs (a)(9)(i)(B), (a)(9)(i)(C), and (a)(9)(i)(D) of this section shall seek coverage under an NPDES permit in accordance with paragraph (c)(1) of this section.

(iii) Operators of storm water discharges designated pursuant to paragraphs (a)(9)(i)(C) and (a)(9)(i)(D) of this section shall apply to the Director for a permit within 180 days of receipt

of notice, unless permission for a later date is granted by the Director (see § 124.52(c) of this chapter).

(b) *Definitions.* (1) *Co-permittee* means a permittee to a NPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

(2) *Illicit discharge* means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

(3) *Incorporated place* means the District of Columbia, or a city, town, township, or village that is incorporated under the laws of the State in which it is located.

(4) *Large municipal separate storm sewer system* means all municipal separate storm sewers that are either:

(i) Located in an incorporated place with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of the Census (Appendix F of this part); or

(ii) Located in the counties listed in appendix H, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) Owned or operated by a municipality other than those described in paragraph (b)(4) (i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (b)(4) (i) or (ii) of this section. In making this determination the Director may consider the following factors:

(A) Physical interconnections between the municipal separate storm sewers;

(B) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (b)(4)(i) of this section;

(C) The quantity and nature of pollutants discharged to waters of the United States;

(D) The nature of the receiving waters; and

(E) Other relevant factors; or

(iv) The Director may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraph (b)(4) (i), (ii), (iii) of this section.

(5) *Major municipal separate storm sewer outfall* (or "major outfall") means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

(6) *Major outfall* means a major municipal separate storm sewer outfall.

(7) *Medium municipal separate storm sewer system* means all municipal separate storm sewers that are either:

(i) Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census (Appendix G of this part); or

(ii) Located in the counties listed in appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) Owned or operated by a municipality other than those described in paragraph (b)(7) (i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm

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sewer and the discharges from municipal separate storm sewers described under paragraph (b)(7) (i) or (ii) of this section. In making this determination the Director may consider the following factors:

(A) Physical interconnections between the municipal separate storm sewers;

(B) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (b)(7)(i) of this section;

(C) The quantity and nature of pollutants discharged to waters of the United States;

(D) The nature of the receiving waters; or

(E) Other relevant factors; or

(iv) The Director may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs (b)(7) (i), (ii), (iii) of this section.

(8) *Municipal separate storm sewer* means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

(ii) Designed or used for collecting or conveying storm water;

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

(9) *Outfall* means a *point source* as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

(10) *Overburden* means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by mining operations.

(11) *Runoff coefficient* means the fraction of total rainfall that will appear at a conveyance as runoff.

(12) *Significant materials* includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

(13) *Storm water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

(14) *Storm water discharge associated with industrial activity* means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under this part 122. For the categories of industries identified in this section, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or

by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (b)(14)(i) through (xi) of this section) include those facilities designated under the provisions of paragraph (a)(1)(v) of this section. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of paragraph (b)(14):

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) in paragraph (b)(14) of this section);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221–25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation,

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mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (b)(14) (i)-(vii) or (ix)-(xi) of this section are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the CWA;

(x) Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25;

(15) *Storm water discharge associated with small construction activity* means the discharge of storm water from:

(i) Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The Director may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

(A) The value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of *Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE)*, pages 21-64, dated January 1997. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C 552(a) and 1 CFR part 51. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M St. S.W., Washington, DC 20460. A copy is also available for inspection at the U.S. EPA Water Docket , 401 M Street S.W., Washington, DC. 20460, or the Office of the Federal Register, 800 N. Capitol Street N.W. Suite 700, Washington, DC. An operator must certify to the Director that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

(B) Storm water controls are not needed based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for non-impaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this paragraph, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity.

The operator must certify to the Director that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

(ii) Any other construction activity designated by the Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

EXHIBIT 1 TO § 122.26(B)(15).—SUMMARY OF COVERAGE OF "STORM WATER DISCHARGES ASSOCIATED WITH SMALL CONSTRUCTION ACTIVITY" UNDER THE NPDES STORM WATER PROGRAM

Automatic Designation: Required Nationwide Coverage.	• Construction activities that result in a land disturbance of equal to or greater than one acre and less than five acres. • Construction activities disturbing less than one acre if part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and less than five acres. (see § 122.26(b)(15)(i).)
Potential Designation: Optional Evaluation and Designation by the NPDES Permitting Authority or EPA Regional Administrator.	• Construction activities that result in a land disturbance of less than one acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants. (see § 122.26(b)(15)(ii).)
Potential Waiver: Waiver from Requirements as Determined by the NPDES Permitting Authority..	Any automatically designated construction activity where the operator certifies: (1) A rainfall erosivity factor of less than five, or (2) That the activity will occur within an area where controls are not needed based on a TMDL or, for non-impaired waters that do not require a TMDL, an equivalent analysis for the pollutant(s) of concern. (see § 122.26(b)(15)(i).)

(16) *Small municipal separate storm sewer system* means all separate storm sewers that are:

(i) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.

(ii) Not defined as "large" or "medium" municipal separate storm sewer systems pursuant to paragraphs (b)(4) and (b)(7) of this section, or designated under paragraph (a)(1)(v) of this section.

(iii) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

(17) *Small MS4* means a small municipal separate storm sewer system.

(18) *Municipal separate storm sewer system* means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems pursuant to paragraphs (b)(4), (b)(7), and (b)(16) of this section, or designated under paragraph (a)(1)(v) of this section.

(19) *MS4* means a municipal separate storm sewer system.

(20) *Uncontrolled sanitary landfill* means a landill or open dump, whether in operation or closed, that does not meet the requirements for runon or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(c) *Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity*—(1) *Individual application.* Dischargers of storm water associated with industrial activity and with small

construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water which the Director is evaluating for designation (*see* 40 CFR 124.52(c)) under paragraph (a)(1)(v) of this section and is not a municipal separate storm sewer, and which is not part of a group application described under paragraph (c)(2) of this section, shall submit an NPDES application in accordance with the requirements of §122.21 as modified and supplemented by the provisions of the remainder of this paragraph. Applicants for discharges composed entirely of storm water shall submit Form 1 and Form 2F. Applicants for discharges composed of storm water and non-storm water shall submit Form 1, Form 2C, and Form 2F. Applicants for new sources or new discharges (as defined in §122.2 of this part) composed of storm water and non-storm water shall submit Form 1, Form 2D, and Form 2F.

(i) Except as provided in §122.26(c)(1)(ii)-(iv), the operator of a storm water discharge associated with industrial activity subject to this section shall provide:

(A) A site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including: each of its drainage and discharge structures; the drainage area of each storm water outfall; paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant materials, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners and fertilizers are applied, each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 CFR 262.34); each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive storm water discharges from the facility;

(B) An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following: Significant materials that in the three years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water; method of treatment, storage or disposal of such materials; materials management practices employed, in the three years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(C) A certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges which are not covered by a NPDES permit; tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

(D) Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application;

(E) Quantitative data based on samples collected during storm events and collected in accordance with §122.21 of this part from all outfalls containing a storm water discharge associated with industrial activity for the following parameters:

(1) Any pollutant limited in an effluent guideline to which the facility is subject;

(2) Any pollutant listed in the facility's NPDES permit for its process wastewater (if the facility is operating under an existing NPDES permit);

(3) Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(4) Any information on the discharge required under paragraph §122.21(g)(7)(iii) and (iv) of this part;

(5) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and

(6) The date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

(F) Operators of a discharge which is composed entirely of storm water are exempt from the requirements of §122.21 (g)(2), (g)(3), (g)(4), (g)(5), (g)(7)(iii), (g)(7)(iv), (g)(7)(v), and (g)(7)(viii); and

(G) Operators of new sources or new discharges (as defined in §122.2 of this part) which are composed in part or entirely of storm water must include estimates for the pollutants or parameters listed in paragraph (c)(1)(i)(E) of this section instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in paragraph (c)(1)(i)(E) of this section within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the NPDES permit for the discharge. Operators of a new source or new discharge which is composed entirely of storm water are exempt from the requirements of §122.21 (k)(3)(ii), (k)(3)(iii), and (k)(5).

(ii) An operator of an existing or new storm water discharge that is associated with industrial activity solely under paragraph (b)(14)(x) of this section or is associated with small construction activity solely under paragraph (b)(15) of this section, is exempt from the requirements of §122.21(g) and paragraph (c)(1)(i) of this section. Such operator shall provide a narrative description of:

(A) The location (including a map) and the nature of the construction activity;

(B) The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

(C) Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable State and local erosion and sediment control requirements;

(D) Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable State or local erosion and sediment control requirements;

(E) An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(F) The name of the receiving water.

(iii) The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with paragraph (c)(1)(i) of this section, unless the facility:

(A) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

(B) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

(C) Contributes to a violation of a water quality standard.

(iv) The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

(v) Applicants shall provide such other information the Director may reasonably require under § 122.21(g)(13) of this part to determine whether to issue a permit and may require any facility subject to paragraph (c)(1)(ii) of this section to comply with paragraph (c)(1)(i) of this section.

(2) *Group application for discharges associated with industrial activity.* In lieu of individual applications or notice of intent to be covered by a general permit for storm water discharges associated with industrial activity, a group application may be filed by an entity representing a group of applicants (except facilities that have existing individual NPDES permits for storm water) that are part of the same subcategory (*see* 40 CFR subchapter N, part 405 to 471) or, where such grouping is inapplicable, are sufficiently similar as to be appropriate for general permit coverage under § 122.28 of this part. The part 1 application shall be submitted to the Office of Water Enforcement and Permits, U.S. EPA, 401 M Street, SW., Washington, DC 20460 (EN-336) for approval. Once a part 1 application is approved, group applicants are to submit Part 2 of the group application to the Office of Water Enforcement and Permits. A group application shall consist of:

(i) *Part 1.* Part 1 of a group application shall:

(A) Identify the participants in the group application by name and location. Facilities participating in the group application shall be listed in nine subdivisions, based on the facility location relative to the nine precipitation zones indicated in appendix E to this part.

(B) Include a narrative description summarizing the industrial activities of participants of the group application and explaining why the participants, as a whole, are sufficiently similar to be a covered by a general permit;

(C) Include a list of significant materials stored exposed to precipitation by participants in the group application and materials management practices employed to diminish contact by these materials with precipitation and storm water runoff;

(D) For groups of more than 1,000 members, identify at least 100 dischargers participating in the group application from which quantitative data will be submitted. For groups of 100 or more members, identify a minimum of ten percent of the dischargers participating in the group application from which quantitative data will be submitted. For groups of between 21 and 99 members identify a minimum of ten dischargers participating in the group application from which quantitative data will be submitted. For groups of 4 to 20 members, identify a minimum of 50 percent of the dischargers participating in the group application from which quantitative data will be submitted. For groups with more than 10 members, either a minimum of two dischargers from each precipitation zone indicated in appendix E of this part in which ten or more members of the group are located, or one discharger from each precipitation zone indicated in appendix E of this part in which nine or fewer members of the group are located, must be identified to submit quantitative data. For groups of 4 to 10 members, at least one facility in each precipitation zone indicated in appendix E of this part in which members of the group are located must be identifed to submit quantitative data. A description of why the facilities selected to perform sampling and analysis are representative of the group as a whole in terms of the information provided in paragraphs (c)(1)(i)(B) and (c)(1)(i)(C) of this section, shall accompany this section. Different factors impacting the nature of the storm water discharges, such as the processes used and material management, shall be represented, to the extent feasible, in a manner roughly equivalent to their proportion in the group.

(ii) *Part 2.* Part 2 of a group application shall contain quantitative data

(NPDES Form 2F), as modified by paragraph (c)(1) of this section, so that when part 1 and part 2 of the group application are taken together, a complete NPDES application (Form 1, Form 2C, and Form 2F) can be evaluated for each discharger identified in paragraph (c)(2)(i)(D) of this section.

(d) *Application requirements for large and medium municipal separate storm sewer discharges.* The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the Director under paragraph (a)(1)(v) of this section, may submit a jurisdiction-wide or system-wide permit application. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a coapplicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under paragraph (a)(1)(v) of this section shall include:

(1) *Part 1.* Part 1 of the application shall consist of:

(i) *General information.* The applicants' name, address, telephone number of contact person, ownership status and status as a State or local government entity.

(ii) *Legal authority.* A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in paragraph (d)(2)(i) of this section, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria.

(iii) *Source identification.* (A) A description of the historic use of ordinances, guidance or other controls which limited the discharge of non-storm water discharges to any Publicly Owned Treatment Works serving the same area as the municipal separate storm sewer system.

(B) A USGS 7.5 minute topographic map (or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost effective) extending one mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. The following information shall be provided:

(*1*) The location of known municipal storm sewer system outfalls discharging to waters of the United States;

(*2*) A description of the land use activities (e.g. divisions indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a ten year period within the drainage area served by the separate storm sewer. For each land use type, an estimate of an average runoff coefficient shall be provided;

(*3*) The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste;

(*4*) The location and the permit number of any known discharge to the municipal storm sewer that has been issued a NPDES permit;

(*5*) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and

(*6*) The identification of publicly owned parks, recreational areas, and other open lands.

(iv) *Discharge characterization.* (A) Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events.

(B) Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used.

(C) A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of

whether the water bodies receiving such discharges have been:

(1) Assessed and reported in section 305(b) reports submitted by the State, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of Clean Water Act (CWA) goals (fishable and swimmable waters), and causes of nonsupport of designated uses;

(2) Listed under section 304(l)(1)(A)(i), section 304(l)(1)(A)(ii), or section 304(l)(1)(B) of the CWA that is not expected to meet water quality standards or water quality goals;

(3) Listed in State Nonpoint Source Assessments required by section 319(a) of the CWA that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards);

(4) Identified and classified according to eutrophic condition of publicly owned lakes listed in State reports required under section 314(a) of the CWA (include the following: A description of those publicly owned lakes for which uses are known to be impaired; a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes; and a description of methods and procedures to restore the quality of such lakes);

(5) Areas of concern of the Great Lakes identified by the International Joint Commission;

(6) Designated estuaries under the National Estuary Program under section 320 of the CWA;

(7) Recognized by the applicant as highly valued or sensitive waters;

(8) Defined by the State or U.S. Fish and Wildlife Services's National Wetlands Inventory as wetlands; and

(9) Found to have pollutants in bottom sediments, fish tissue or biosurvey data.

(D) *Field screening.* Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two grab samples shall be collected during a 24 hour period with a minimum period of four hours between samples. For all such samples, a narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR part 136, the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. The field screening points shall be established using the following guidelines and criteria:

(1) A grid system consisting of perpendicular north-south and east-west lines spaced ¼ mile apart shall be overlayed on a map of the municipal storm sewer system, creating a series of cells;

(2) All cells that contain a segment of the storm sewer system shall be identified; one field screening point shall be selected in each cell; major outfalls may be used as field screening points;

(3) Field screening points should be located downstream of any sources of suspected illegal or illicit activity;

(4) Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system,

within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination;

(5) Hydrological conditions; total drainage area of the site; population density of the site; traffic density; age of the structures or buildings in the area; history of the area; and land use types;

(6) For medium municipal separate storm sewer systems, no more than 250 cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than 500 cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than 250 cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system shall be subject to field screening (unless access to the separate storm sewer system is impossible); and

(7) Large or medium municipal separate storm sewer systems which are unable to utilize the procedures described in paragraphs (d)(1)(iv)(D) (1) through (6) of this section, because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than 500 or 250 major outfalls respectively (or all major outfalls in the system, if less); in such circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced ¼ mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells; the applicant will then select major outfalls in as many cells as possible until at least 500 major outfalls (large municipalities) or 250 major outfalls (medium municipalities) are selected; a field screening analysis shall be undertaken at these major outfalls.

(E) *Characterization plan.* Information and a proposed program to meet the requirements of paragraph (d)(2)(iii) of this section. Such description shall include: the location of outfalls or field screening points appropriate for representative data collection under paragraph (d)(2)(iii)(A) of this section, a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, a description of the sampling equipment. The proposed location of outfalls or field screening points for such sampling should reflect water quality concerns (*see* paragraph (d)(1)(iv)(C) of this section) to the extent practicable.

(v) *Management programs.* (A) A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls, that are currently being implemented. Such controls may include, but are not limited to: Procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under State law as well as local requirements.

(B) A description of the existing program to identify illicit connections to the municipal storm sewer system. The description should include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented.

(vi) *Fiscal resources.* (A) A description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs.

(2) *Part 2.* Part 2 of the application shall consist of:

(i) *Adequate legal authority.* A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant at a minimum to:

(A) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;

(B) Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer;

(C) Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water;

(D) Control through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

(E) Require compliance with conditions in ordinances, permits, contracts or orders; and

(F) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

(ii) *Source identification.* The location of any major outfall that discharges to waters of the United States that was not reported under paragraph (d)(1)(iii)(B)(*1*) of this section. Provide an inventory, organized by watershed of the name and address, and a description (such as SIC codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity;

(iii) *Characterization data.* When "quantitative data" for a pollutant are required under paragraph (d)(a)(iii)(A)(*3*) of this section, the applicant must collect a sample of effluent in accordance with 40 CFR 122.21(g)(7) and analyze it for the pollutant in accordance with analytical methods approved under part 136 of this chapter. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

(A) Quantitative data from representative outfalls designated by the Director (based on information received in part 1 of the application, the Director shall designate between five and ten outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five outfalls covered in the application, the Director shall designate all outfalls) developed as follows:

(*1*) For each outfall or field screening point designated under this subparagraph, samples shall be collected of storm water discharges from three storm events occurring at least one month apart in accordance with the requirements at §122.21(g)(7) (the Director may allow exemptions to sampling three storm events when climatic conditions create good cause for such exemptions);

(*2*) A narrative description shall be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;

(*3*) For samples collected and described under paragraphs (d)(2)(iii)(A)(*1*) and (A)(*2*) of this section, quantitative data shall be provided for: the organic pollutants listed in Table II; the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of appendix D of 40 CFR part 122, and for the following pollutants:

Total suspended solids (TSS)
Total dissolved solids (TDS)
COD
BOD_5
Oil and grease
Fecal coliform
Fecal streptococcus
pH
Total Kjeldahl nitrogen
Nitrate plus nitrite
Dissolved phosphorus
Total ammonia plus organic nitrogen
Total phosphorus

(*4*) Additional limited quantitative data required by the Director for determining permit conditions (the Director

may require that quantitative data shall be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to insure representativeness);

(B) Estimates of the annual pollutant load of the cumulative discharges to waters of the United States from all identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from all identified municipal outfalls during a storm event (as described under §122.21(c)(7)) for BOD_5, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modelling, data analysis, and calculation methods;

(C) A proposed schedule to provide estimates for each major outfall identified in either paragraph (d)(2)(ii) or (d)(1)(iii)(B)(*1*) of this section of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under paragraph (d)(2)(iii)(A) of this section; and

(D) A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment.

(iv) *Proposed management program.* A proposed management program covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each coapplicant. Proposed programs may impose controls on a systemwide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the Director when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. Such programs shall be based on:

(A) A description of ~~structural~~ and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

(*1*) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers;

(*2*) A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed. (Controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in paragraph (d)(2)(iv)(D) of this section;

(*3*) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

(4) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible;

(5) A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under paragraph (d)(2)(iv)(C) of this section); and

(6) A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities.

(B) A description of a program, including a schedule, to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

(1) A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges, however the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to waters of the United States);

(2) A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens;

(3) A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling procedures for constituents such as fecal coliform, fecal streptococcus, surfactants (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other considerations allow. Such description shall include the location of storm sewers that have been identified for such evaluation);

(4) A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer;

(5) A description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

(6) A description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

(7) A description of controls to limit infiltration of seepage from municipal

sanitary sewers to municipal separate storm sewer systems where necessary:

(C) A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

(*1*) Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges;

(*2*) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in paragraph (d)(2)(iv)(C) of this section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for a facility; oil and grease, COD, pH, BOD_5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under §122.21(g)(7)(vi) and (vii).

(D) A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include:

(*1*) A description of procedures for site planning which incorporate consideration of potential water quality impacts;

(*2*) A description of requirements for nonstructural and structural best management practices;

(*3*) A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

(*4*) A description of appropriate educational and training measures for construction site operators.

(v) *Assessment of controls.* Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.

(vi) *Fiscal analysis.* For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs (d)(2)(iii) and (iv) of this section. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.

(vii) Where more than one legal entity submits an application, the application shall contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination.

(viii) Where requirements under paragraph (d)(1)(iv)(E), (d)(2)(ii), (d)(2)(iii)(B) and (d)(2)(iv) of this section are not practicable or are not applicable, the Director may exclude any operator of a discharge from a municipal separate storm sewer which is designated under paragraph (a)(1)(v), (b)(4)(ii) or (b)(7)(ii) of this section from such requirements. The Director shall not exclude the operator of a discharge from a municipal separate storm sewer identified in appendix F, G, H or I of part 122, from any of the permit application requirements under this paragraph except where authorized under this section.

(e) *Application deadlines.* Any operator of a point source required to obtain a permit under this section that does not have an effective NPDES permit authorizing discharges from its storm water outfalls shall submit an application in accordance with the following deadlines:

(1) *Storm water discharges associated with industrial activity.* (i) Except as provided in paragraph (e)(1)(ii) of this

section, for any storm water discharge associated with industrial activity identified in paragraphs (b)(14)(i) through (xi) of this section, that is not part of a group application as described in paragraph (c)(2) of this section or that is not authorized by a storm water general permit, a permit application made pursuant to paragraph (c) of this section must be submitted to the Director by October 1, 1992:

(ii) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, powerplant, or uncontrolled sanitary landfill, the permit application must be submitted to the Director by March 10, 2003.

(2) For any group application submitted in accordance with paragraph (c)(2) of this section:

(i) *Part 1.* (A) Except as provided in paragraph (e)(2)(i)(B) of this section, part 1 of the application shall be submitted to the Director, Office of Wastewater Enforcement and Compliance by September 30, 1991;

(B) Any municipality with a population of less than 250,000 shall not be required to submit a part 1 application before May 18, 1992.

(C) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, powerplant, or uncontrolled sanitary landfill, permit applications requirements are reserved.

(ii) Based on information in the part 1 application, the Director will approve or deny the members in the group application within 60 days after receiving part 1 of the group application.

(iii) *Part 2.* (A) Except as provided in paragraph (e)(2)(iii)(B) of this section, part 2 of the application shall be submittted to the Director, Office of Wastewater Enforcement and Compliance by October 1, 1992;

(B) Any municipality with a population of less than 250,000 shall not be required to submit a part 1 application before May 17, 1993.

(C) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, powerplant, or uncontrolled sanitary landfill, permit applications requirements are reserved.

(iv) *Rejected facilities.* (A) Except as provided in paragraph (e)(2)(iv)(B) of this section, facilities that are rejected as members of the group shall submit an individual application (or obtain coverage under an applicable general permit) no later than 12 months after the date of receipt of the notice of rejection or October 1, 1992, whichever comes first.

(B) Facilities that are owned or operated by a municipality and that are rejected as members of part 1 group application shall submit an individual application no later than 180 days after the date of receipt of the notice of rejection or October 1, 1992, whichever is later.

(v) A facility listed under paragraph (b)(14) (i)-(xi) of this section may add on to a group application submitted in accordance with paragraph (e)(2)(i) of this section at the discretion of the Office of Water Enforcement and Permits, and only upon a showing of good cause by the facility and the group applicant; the request for the addition of the facility shall be made no later than February 18, 1992; the addition of the facility shall not cause the percentage of the facilities that are required to submit quantitative data to be less than 10%, unless there are over 100 facilities in the group that are submitting quantitative data; approval to become part of group application must be obtained from the group or the trade association representing the individual facilities.

(3) For any discharge from a large municipal separate storm sewer system;

(i) Part 1 of the application shall be submitted to the Director by November 18, 1991;

(ii) Based on information received in the part 1 application the Director will approve or deny a sampling plan under paragraph (d)(1)(iv)(E) of this section within 90 days after receiving the part 1 application;

(iii) Part 2 of the application shall be submitted to the Director by November 16, 1992.

(4) For any discharge from a medium municipal separate storm sewer system:

(i) Part 1 of the application shall be submitted to the Director by May 18, 1992.

(ii) Based on information received in the part 1 application the Director will approve or deny a sampling plan under paragraph (d)(1)(iv)(E) of this section within 90 days after receiving the part 1 application.

(iii) Part 2 of the application shall be submitted to the Director by May 17, 1993.

(5) A permit application shall be submitted to the Director within 180 days of notice, unless permission for a later date is granted by the Director (see §124.52(c) of this chapter), for:

(i) A storm water discharge that the Director, or in States with approved NPDES programs, either the Director or the EPA Regional Administrator, determines that the discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States (see paragraphs (a)(1)(v) and (b)(15)(ii) of this section);

(ii) A storm water discharge subject to paragraph (c)(1)(v) of this section.

(6) Facilities with existing NPDES permits for storm water discharges associated with industrial activity shall maintain existing permits. Facilities with permits for storm water discharges associated with industrial activity which expire on or after May 18, 1992 shall submit a new application in accordance with the requirements of 40 CFR 122.21 and 40 CFR 122.26(c) (Form 1, Form 2F, and other applicable Forms) 180 days before the expiration of such permits.

(7) The Director shall issue or deny permits for discharges composed entirely of storm water under this section in accordance with the following schedule:

(i)(A) Except as provided in paragraph (e)(7)(i)(B) of this section, the Director shall issue or deny permits for storm water discharges associated with industrial activity no later than October 1, 1993, or, for new sources or existing sources which fail to submit a complete permit application by October 1, 1992, one year after receipt of a complete permit application;

(B) For any municipality with a population of less than 250,000 which submits a timely Part 1 group application under paragraph (e)(2)(i)(B) of this section, the Director shall issue or deny permits for storm water discharges associated with industrial activity no later than May 17, 1994, or, for any such municipality which fails to submit a complete Part II group permit application by May 17, 1993, one year after receipt of a complete permit application;

(ii) The Director shall issue or deny permits for large municipal separate storm sewer systems no later than November 16, 1993, or, for new sources or existing sources which fail to submit a complete permit application by November 16, 1992, one year after receipt of a complete permit application;

(iii) The Director shall issue or deny permits for medium municipal separate storm sewer systems no later than May 17, 1994, or, for new sources or existing sources which fail to submit a complete permit application by May 17, 1993, one year after receipt of a complete permit application.

(8) For any storm water discharge associated with small construction activity identified in paragraph (b)(15)(i) of this section, see §122.21(c)(1). Discharges from these sources require permit authorization by March 10, 2003, unless designated for coverage before then.

(9) For any discharge from a regulated small MS4, the permit application made under §122.33 must be submitted to the Director by:

(i) March 10, 2003 if designated under §122.32(a)(1) unless your MS4 serves a jurisdiction with a population under 10,000 and the NPDES permitting authority has established a phasing schedule under §123.35(d)(3) (see §122.33(c)(1)); or

(ii) Within 180 days of notice, unless the NPDES permitting authority grants a later date, if designated under §122.32(a)(2) (see §122.33(c)(2)).

(f) *Petitions.* (1) Any operator of a municipal separate storm sewer system may petition the Director to require a separate NPDES permit (or a permit

issued under an approved NPDES State program) for any discharge into the municipal separate storm sewer system.

(2) Any person may petition the Director to require a NPDES permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) The owner or operator of a municipal separate storm sewer system may petition the Director to reduce the Census estimates of the population served by such separate system to account for storm water discharged to combined sewers as defined by 40 CFR 35.2005(b)(11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the NPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

(4) Any person may petition the Director for the designation of a large, medium, or small municipal separate storm sewer system as defined by paragraph (b)(4)(iv), (b)(7)(iv), or (b)(16) of this section.

(5) The Director shall make a final determination on any petition received under this section within 90 days after receiving the petition with the exception of petitions to designate a small MS4 in which case the Director shall make a final determination on the petition within 180 days after its receipt.

(g) *Conditional exclusion for "no exposure" of industrial activities and materials to storm water.* Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to rain, snow, snowmelt and/or runoff, and the discharger satisfies the conditions in paragraphs (g)(1) through (g)(4) of this section. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

(1) *Qualification.* To qualify for this exclusion, the operator of the discharge must:

(i) Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and runoff;

(ii) Complete and sign (according to § 122.22) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in paragraph (g)(2) of this section;

(iii) Submit the signed certification to the NPDES permitting authority once every five years;

(iv) Allow the Director to inspect the facility to determine compliance with the "no exposure" conditions;

(v) Allow the Director to make any "no exposure" inspection reports available to the public upon request; and

(vi) For facilities that discharge through an MS4, upon request, submit a copy of the certification of "no exposure" to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

(2) *Industrial materials and activities not requiring storm resistant shelter.* To qualify for this exclusion, storm resistant shelter is not required for:

(i) Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak ("Sealed" means banded or otherwise secured and without operational taps or valves);

(ii) Adequately maintained vehicles used in material handling; and

(iii) Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

(3) *Limitations.* (i) Storm water discharges from construction activities identified in paragraphs (b)(14)(x) and (b)(15) are not eligible for this conditional exclusion.

(ii) This conditional exclusion from the requirement for an NPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be "no exposure" discharges, individual permit requirements should be adjusted accordingly.

(iii) If circumstances change and industrial materials or activities become exposed to rain, snow, snow melt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for un-permitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

(iv) Notwithstanding the provisions of this paragraph, the NPDES permitting authority retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

(4) *Certification.* The no exposure certification must require the submission of the following information, at a minimum, to aid the NPDES permitting authority in determining if the facility qualifies for the no exposure exclusion:

(i) The legal name, address and phone number of the discharger (see §122.21(b));

(ii) The facility name and address, the county name and the latitude and longitude where the facility is located;

(iii) The certification must indicate that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

(A) Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water;

(B) Materials or residuals on the ground or in storm water inlets from spills/leaks;

(C) Materials or products from past industrial activity;

(D) Material handling equipment (except adequately maintained vehicles);

(E) Materials or products during loading/unloading or transporting activities;

(F) Materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

(G) Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;

(H) Materials or products handled/stored on roads or railways owned or maintained by the discharger;

(I) Waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

(J) Application or disposal of process wastewater (unless otherwise permitted); and

(K) Particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow;

(iv) All "no exposure" certifications must include the following certification statement, and be signed in accordance with the signatory requirements of §122.22: "I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from NPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under paragraph (g)(2)) of this section. I understand that I am obligated to submit a no exposure certification form once every five years to the NPDES permitting authority and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the NPDES permitting authority, or MS4 operator where the discharge is into the local MS4, to perform inspections

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to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

[55 FR 48063, Nov. 16, 1990, as amended at 56 FR 12100, Mar. 21, 1991; 56 FR 56554, Nov. 5, 1991; 57 FR 11412, Apr. 2, 1992; 57 FR 60447, Dec. 18, 1992; 60 FR 17956, Apr. 7, 1995; 60 FR 19464, Apr. 18, 1995; 60 FR 40235, Aug. 7, 1995; 64 FR 68838, Dec. 8, 1999; 65 FR 30907, May 15, 2000]

§ 122.27 Silvicultural activities (applicable to State NPDES programs, see § 123.25).

(a) *Permit requirement.* Silvicultural point sources, as defined in this section, as point sources subject to the NPDES permit program.

(b) *Definitions.* (1) *Silvicultural point source* means any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA section 404 permit (See 33 CFR 209.120 and part 233).

(2) *Rock crushing and gravel washing facilities* means facilities which process crushed and broken stone, gravel, and riprap (See 40 CFR part 436, subpart B, including the effluent limitations guidelines).

(3) *Log sorting and log storage facilities* means facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). (See 40 CFR part 429, subpart I, including the effluent limitations guidelines).

§ 122.28 General permits (applicable to State NPDES programs, see § 123.25).

(a) *Coverage.* The Director may issue a general permit in accordance with the following:

(1) *Area.* The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area should correspond to existing geographic or political boundaries such as:

(i) Designated planning areas under sections 208 and 303 of CWA;

(ii) Sewer districts or sewer authorities;

(iii) City, county, or State political boundaries;

(iv) State highway systems;

(v) Standard metropolitan statistical areas as defined by the Office of Management and Budget;

(vi) Urbanized areas as designated by the Bureau of the Census according to criteria in 30 FR 15202 (May 1, 1974); or

(vii) Any other appropriate division or combination of boundaries.

(2) *Sources.* The general permit may be written to regulate one or more categories or subcategories of discharges or sludge use or disposal practices or facilities, within the area described in paragraph (a)(1) of this section, where

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Agency

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Guidance Manual For The Preparation Of Part 2 Of The NPDES Permit Applications For Discharges From Municipal Separate Storm Sewer Systems

3.0 ADEQUATE LEGAL AUTHORITY

3.1 BACKGROUND

A crucial requirement of the NPDES storm water regulation is that a municipality must demonstrate that it has adequate legal authority to control the contribution of pollutants in storm water discharged to its MS4. This guidance manual and the storm water program emphasize development and implementation of storm water management programs as described in Chapter 6. In order to have an effective municipal storm water management program, a municipality must have adequate legal authority to control the contribution of pollutants discharged to the MS4.

Part 1 of the permit application requires applicants to describe their existing legal authority to control the discharge of pollutants from MS4s and evaluate the adequacy of these ordinances. Where existing ordinances were lacking, a proposed schedule to obtain the necessary authority was included with the Part 1 application. In Part 2 of the application, municipal applicants must demonstrate that they now possess adequate legal authority to:

- Control construction site and other industrial discharges to the MS4;
- Prohibit illicit discharges and control spills and dumping;
- Control potential sources of pollutants from discharges to or from coapplicants' MS4s, or MS4s that are interconnected or shared with other entities;
- Require compliance with all regulations and statutes; and
- Carry out inspection, surveillance, and monitoring procedures.

Section 3.2 reviews each of these regulatory requirements. Section 3.3 describes specific procedures a municipality may use to demonstrate adequate legal authority.

3.2 SUMMARY OF REGULATORY REQUIREMENTS

3.2.1 Control Construction Site and Other Industrial Discharges to the MS4.

> §122.26(d)(2)(i)(A). [The applicant must demonstrate that it can control] through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity.

The municipality, as a permittee, is responsible for compliance with its permit and must have the authority to implement the conditions in its permit. To comply with its permit, a municipality must have the authority to hold dischargers accountable for their contributions to separate storm sewers.

"Control," in this context, means not only to require disclosure of information, but also to limit, discourage, or terminate a storm water discharge to the MS4. For example, construction sites (of 5 or more acres) and other industrial activities that discharge storm water through MS4s are required to obtain individual NPDES permits or coverage under general NPDES permits from EPA or an authorized NPDES State. These permits require compliance with applicable Federal and State regulations. However, a municipality, to satisfy its permit conditions, may need to impose additional requirements on discharges

from permitted industrial facilities, as well as discharges from industrial facilities and construction sites not required to obtain permits. Therefore, a municipality should develop a mechanism to assure that all industrial facilities and constructions sites that discharge to the MS4 know their obligation to comply with the applicable terms of the municipality's storm water ordinances.

3.2.2 Prohibit Illicit Discharges and Control Spills and Dumping

> §122.26(d)(2)(i)(B). [The applicant must demonstrate that it can prohibit] through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer.
>
> §122.26(d)(2)(i)(C) [The applicant must demonstrate that it can control] through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water.

To demonstrate that it possesses adequate legal authority to control storm water discharges, a municipality must be able to effectively prohibit illicit discharges and illegal dumping. An illicit discharge is "any discharge that is not composed entirely of storm water except discharges pursuant to a NPDES permit . . . and discharges resulting from fire fighting activities" [40 CFR 122.26(b)(2)].

3.2.3 Control Contributions of Coapplicants

> §122.26(d)(2)(i)(D). [The applicant must demonstrate that it can control] through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system.

An operator of a MS4 may participate in an application with one or more other operators, or may submit an individual application for the separate storm sewer it operates. As indicated in the box above, the operator of a discharge from a large or medium MS4 may submit, through the use of interjurisdictional agreements, a system-wide permit application. The system-wide application can accommodate existing storm water programs, on a watershed basis, as well as programs which must take into account regional differences in climate, geography, and political institutions. Such an application should cover issues of liability, financial contributions, access to records, enforcement responsibilities, and any other applicable areas of mutual concern.

When two or more municipalities submit a joint application, each coapplicant must demonstrate that it individually possesses adequate legal authority over the entire municipal system it operates or owns. A coapplicant need not fulfill every component of legal authority specified in the regulations, as long as the combined legal authority of all coapplicants satisfies the regulatory criteria for every segment of the MS4 (including authority over all sources that discharge to the MS4).

As coapplicants, for example, a county and a flood control district within that county may together possess adequate legal authority. The flood control district may have legal authority to build, operate, and maintain structures associated with major drainage channels within the county. The county itself may have legal authority to control pollutants in discharges from privately owned lands to the MS4s and legal authority to build, operate, and maintain structures associated with minor drainage channels that tie into major drainage channels. In this situation, the combined legal authority of the coapplicants may be adequate for the system, provided that the only discharge to major drainage channels comes from the county's separate storm sewer system. As another example, a department of transportation or flood control district with no land use authority could be a co-permittee with

a city that does possess land use authority over the entire jurisdiction.

Coapplicants also may use interjurisdictional agreements to show adequate legal authority and to ensure planning, coordination, and the sharing of the resource burden of permit compliance. When more than one entity is submitting an application for a MS4 (either as coapplicants or as individual applicants for different parts of a system), the role of each party must be well defined. Each applicant or coapplicant must show the ability to fulfill its responsibilities, including legal authority for the separate storm sewers it owns or operates.

Applicants and coapplicants may use the procedures outlined in Section 3.3 to demonstrate adequate legal authority in their Part 2 permit applications. These procedures are guidelines, however, and are not intended to be the only possible approaches that applicants may follow.

3.2.4 Require Compliance with all Regulations and Statutes

To meet the requirements of §122.26(d)(2)(i)(E), the applicant must show that it has adequate authority to enforce its ordinances.

> §122.26(d)(2)(i)(E). [The applicant must demonstrate that it can require] compliance with conditions in ordinances, permits, contracts or orders.

One acceptable way to support a declaration of adequate legal authority, including the ability to enforce appropriate ordinances, is for the municipality to provide a certification from the Municipal General Counsel or equivalent. The certification should state that the applicant has the legal authority to apply and enforce the requirements of §122.26(d)(2)(i)(A)-(F) in State or local courts. The certification would, therefore, cite specific ordinances and the reasons why they are enforceable. The statement should discuss what the municipality can do to ensure full compliance with §122.26(d)(2)(i).

In a Part 2 application, through a statement from the Municipal General Counsel or through some other method, a municipality should identify the administrative and legal procedures available to mandate compliance with appropriate ordinances, and, therefore, with permit conditions. Applications should contain descriptions of how ordinances are implemented and appealed. In particular, a municipality should indicate if it can issue administrative orders and injunctions or if it must go through the court system for enforcement actions.

3.2.5 Carry Out Inspection, Surveillance, and Monitoring Procedures

In their Part 2 applications, municipalities must propose programs to control the contributions of pollutants from industrial facilities and prohibit illicit discharges. For both of these activities, municipalities must have the legal authority to carry out inspection, surveillance, and monitoring procedures necessary to determine compliance.

> §122.26(d)(2)(i)(F). [The applicant must demonstrate that it can carry] out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

To meet this requirement, municipalities may wish to consider establishing ordinances that require industrial facilities to perform inspections and report the results to the city. In many municipalities, these facilities may perform similar inspections under a pretreatment program. In their Part 2 applications, municipalities should provide

documentation of their authority to enter, sample, inspect, review, and copy records, etc., as well as demonstrate their authority to require regular reports.

3.3 PROCEDURES FOR DEMONSTRATING ADEQUATE LEGAL AUTHORITY

The Part 2 application requires the applicant or coapplicants to cite and describe specific ordinances currently in effect and demonstrate that the jurisdiction for these ordinances covers the entire area served by the MS4. In addition, the applicant may elect to discuss specific changes in ordinances passed since the submission of the Part 1 permit application to illustrate how legal authority has evolved to meet the regulatory requirements in §122.26(d)(2)(i). One method by which an applicant can partially demonstrate that it has adequate legal authority is to develop a matrix that compares, in a side-by-side format, the regulatory requirements in §122.26(d)(2)(i)(A)-(F) and the municipality's legal authority. Once completed, the matrix would indicate whether an adequate legal framework exists to address all key regulatory requirements identified in §122.26(d)(2)(i)(A)-(F). Furthermore, the matrix could also illustrate where the authority to mandate compliance is vested.

In order to support an assertion of adequate legal authority, applicants should include the complete text of the applicable portions of the ordinances or other such provisions in the application. The applicant should also provide a specific explanation of why and how the language of a particular ordinance or other authority meets Federal regulatory requirements. The application should indicate to whom the ordinance applies and how it will operate to control, prevent, or stop discharges that violate permit conditions. For example, the municipality may describe and provide an excerpt from a city ordinance that prohibits non-storm water discharges to the MS4.

Appendix C illustrates one way to detail the existence of ordinances that establish the legal authority required in §122.26(d)(2)(i). A narrative discussion of the historical use of these ordinances to control pollutants in storm water discharges also may be included. The example in Appendix C shows what the applicant may do to satisfy §122.26(d)(2)(i).

Substantial effort should be devoted to obtaining the necessary legal authority before the Part 2 application is submitted. However, some municipalities may find that the two-year application process does not allow enough time to secure adequate legal authority as described in this section. This may be due to the need for State statutory or legislative changes. In this instance, the Part 2 application must include a detailed description of what changes are needed and a schedule of when they will be accomplished. The schedule must include timetables for drafting proposed changes, public comment periods, and final authorizations.

An acceptable program must include a training program, which should be supplemented by a certification program for all construction site operators (contractors and developers), plan reviewers, and inspectors that work on sites that discharge to a MS4. For example, one NPDES State has a certification program based on adequate training and minimum-competency level testing of all private individuals involved in the preparation and implementation of erosion and sediment control plans.

6.3.3 Program to Control Pollutants in Storm Water Discharges from Waste Handling Sites and from Industrial Facilities

> §122.26(d)(2)(iv)(C). [The application must include a] description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system.

The storm water regulations envision that NPDES permitting authorities and municipaloperators will cooperate to develop programs to monitor and control pollutants in storm water discharges to municipal systems from various sites that handle waste and certain industrial facilities.

Operators responsible for storm water discharges associated with industrial activity must obtain NPDES permits from EPA or an authorized NPDES State. These industrial storm water permits will establish requirements such as controls, practices, and monitoring for storm water discharges from the industrial facilities to the MS4. The industrial storm water permits will also provide a basis for enforcement actions directly against the industrial owner or operator.

NPDES permits for MS4s will establish responsibilities for municipal system operators to control pollutants from industrial storm water discharged through their system. Proposed storm water management programs must address the reduction of pollutants in storm water discharges from municipal landfills; hazardous waste treatment, storage and disposal facilities; facilities subject to SARA Title III; and other priority industrial facilities, as determined by the applicant. Municipalities should consider the information gathered for the Part 1 application and other parts of the Part 2 application (particularly the Source Identification and Characterization Data components) when prioritizing storm water discharges from these sites. In addition, Appendix B contains a list of pollutants commonly associated with various industries.

In the Part 2 application, the Source Identification component (see Section 4 of this guidance manual) requires the applicant to provide an inventory of pollutant sources, organized by watershed. This inventory identifies and describes the products and services of each industrial facility that may discharge storm water to the MS4. The *Source Identification* component suggests applicants use standard industrial classification (SIC) codes for this description. EPA strongly recommends this information be used to identify priority waste handling sites and industrial facilities. A similar technique could be developed for sites that do not meet the regulatory definition of "storm water discharge associated with industrial activity" (i.e. not included in the *Source Identification* and *Discharge Characterization* components), but are identified as a high priority under the proposed management program. Applicants can obtain information on how SIC codes are used to describe the industrial facilities located within their jurisdictions from their NPDES permitting authority.

Characterization data should also be evaluated. Applicants should analyze quantitative data from representative outfalls to establish a monitoring and control program.

An integral part of this requirement is the adequacy of the applicant's legal authority. If a municipality believes that a discharge of storm water associated with industrial activity violates the industrial facility's NPDES permit limits, but the municipality does not have authority over the discharge, the municipality should contact the NPDES permitting authority for appropriate action. Examples of possible actions by the NPDES permitting authority are:

- For a facility that already has a NPDES individual permit, the permit may be reopened and further controls imposed;
- For a facility covered by a NPDES general permit, an individual site-specific permit application may be required; or
- For a facility not covered by a NPDES storm water permit, a permit may be required.

The municipality is ultimately responsible for discharges from their MS4. Consequently, the proposed storm water management program should describe how the municipality will help EPA and authorized NPDES States:

- Identify priority industries discharging to their systems;
- Review and evaluate storm water pollution prevention plans and other procedures that industrial facilities must develop under general or individual permits;
- Establish and implement BMPs to reduce pollutants from these industrial facilities (or require industry to implement them); and
- Inspect and monitor industrial facilities to verify that the industries discharging storm water to the municipal systems are in compliance with their NPDES storm water permit, if required.

6.3.3.1 Identifying Priorities

Proposed management programs must clearly identify priority industrial facilities.

> §122.26(d)(2)(iv)(C)(1). [The applicant must] identify priorities and procedures for inspections and establishing and implementing control measures for such discharges.

This section discusses how applicants might identify priority facilities. Section 6.3.3.2 discusses how municipalities might develop procedures for inspections and implementation of control measures.

At a minimum, priority facilities include:

- Operating and closed municipal landfills;
- Hazardous waste treatment, disposal or recovery facilities; and
- Facilities subject to SARA Title III.

Municipalities must identify these and other priority industrial facilities and describe the criteria used to identify them. For example, information from the Toxics Release Inventory is one source a municipality could use to identify industrial facilities subject to SARA Title III. Other sources may include CWA Section 205 or 208 use-attainability studies, other studies that indicate a site-specific beneficial use impairment immediately downstream of a storm water outfall, or records of industrial pretreatment programs or other permit programs that identify facilities that may be the source of a use impairment or

a major contribution of pollutants. The program should also describe procedures for modifying the inventory of priority industries based on additional evaluation that occurs throughout the permit term.

Applicants may initially focus their implementation efforts on known pollution sources. The municipality may have previously identified these sources, or they may be identified through existing information compiled during the permit application process. However, the initial management program implementation strategy should be based on information gathered while completing the *Adequate Legal Authority, Source Identification,* and *Discharge Characterization* sections of the permit application (See Chapters 3, 4, and 5, respectively.)

During the term of the permit, as additional information becomes available, the municipality should target and set priorities for other program elements that emerge. For example, if the municipality has incomplete characterization data about waste handling sites identified in this program component because the inventory of dischargers to the MS4 has not been completed, the municipality could propose to direct monitoring programs to those areas. Upon acquiring sufficient characterization data, the priority of the sites discharging to these portions of the MS4 can be either determined or modified.

As noted above, when identifying priority sites, applicants must consider all the facilities listed in §122.26(d)(2)(iv)(C)(1). When municipalities develop criteria for identifying additional priority industrial facilities, they are advised to consider, at a minimum:

- The type of industrial activity (SIC codes can help characterize the type of industrial activity);
- The use and management of chemicals or raw products at the facility and the likelihood that storm water discharge from the site will be contaminated; and
- The size and location of the facility in relation to sensitive watersheds.

6.3.3.2 Developing Procedures

This program component should describe the specific steps that the municipality will take if it identifies a waste handling site or priority industrial facility when preparing the Part 2 application or during the permit term [§122.26(d)(2)(iv)(C)(1), printed in the box above]. The proposed management program must include procedures for inspecting priority industrial sites. The results of inspection may be used as a basis for requiring storm water management controls and enhanced pollution prevention measures. It should also establish an inspection schedule for each priority facility at the time it is identified.

Applicants may want to consider establishing prior notification procedures. The applicant will need to evaluate the legal authority it has over priority facilities to determine if prior notification is required. This is another example of how EPA expects the different components of the application process to be linked. In this instance, the Adequate Legal Authority section is tied directly to the prior notification procedure of the inspection and evaluation component of the proposed management plan.

Applicants also should consider developing inspection documents such as standard forms or checklists for recording observations. Forms and checklists can be used to identify high risk areas of priority facilities and to make comparisons among sites. When characterization data or baseline estimates are factored into the evaluation process, the effectiveness of pollution prevention activities at a particular site could be quantified and compared to similar sites. Other procedures that applicants should describe to effectively incorporate inspections as well as establish and implement control measures for these types of discharges can be derived from monitoring data.

Applicants also should describe a procedure for conducting follow-up inspections, where necessary, as part of this program component. For example, follow-up inspections might be needed to verify the installation of a specific control or implementation of a practice specified in a negotiated agreement between the municipality and the industrial site. A system-wide approach to establishing priorities for inspection procedures is recommended. The system-wide approach should begin with the evaluation of existing information, followed by the identification and evaluation of new information during the permit term. Therefore, applicants should link these procedures with information from the *Source Identification* and *Discharge Characterization* components.

6.3.3.3 Establishing and Implementing Controls

A municipality must consider if it should place more stringent controls on discharges associated with industrial activity than are required in an industrial facility's existing NPDES storm water permit [§122.26(d)(2)(iv)(C)(1), printed in box above]. Usually, the municipality will not need to impose controls beyond those required in the industrial facility's NPDES storm water permit (for more information on appropriate controls, refer to *Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices*, EPA 832-R-92-006, September, 1992).

However, nothing in the Federal regulations would prohibit the municipality from requiring additional controls beyond the permit requirements for industrial activities. For this reason, EPA recommends that municipal applicants incorporate a provision in the proposed storm water management program that allows the municipality to require priority industrial facilities to implement the controls necessary for the municipality to meet its permit responsibilities.

Finally, the applicant should suggest procedures for requiring pollutant control measures in runoff from priority industrial facilities. Applicants should provide information to the industrial facilities that discharge to the MS4s and industry-specific guidance on appropriate control measures that industries discharging to their systems should follow (WDOE, 1991).

Priority industrial facilities should focus on controlling activities such as the use, storage, and handling of toxic chemicals. Standard methods for implementing control measures at different types of facilities should be described. To facilitate this, municipalities should obtain copies of the pollution prevention plans developed by industrial permittees. Control measures that the municipality may suggest include preventing exposure of pollutant sources to precipitation, on-site pretreatment, and oil/water separators. Applicants should provide a schedule for setting up this program component at priority industrial facilities. The schedule should include educational services for industrial site operators and technical BMP guidance, training courses, videos, workshops, and seminars for plan reviewers, inspectors, contractors, and developers.

6.3.3.4 Inspection and Monitoring

The proposed management program should describe the inspection procedures that will be followed. Storm water inspections can be coupled with inspections for other purposes (e.g., pretreatment programs, fire and safety). Proposed management programs should address minimum frequency for routine inspections. For example, how often, how much of the site, and how long an inspection may take are appropriate to explain in this proposed management program component. Applicants should also describe procedures for conducting inspections and provide an inspector's checklist.

In addition, these inspection procedures should identify the minimum number of inspectors that will be employed and describe

the programs to train them. For example, if the number of inspectors is expected to increase over the term of the permit, it should be noted in the proposed management program. Also, if storm water inspections are combined with other program inspections, means of cross-training inspectors and coordinating schedules should be outlined.

Municipalities are urged to evaluate pollution prevention plans and discharge monitoring data collected by the industrial facility to ensure that the facility is in compliance with its NPDES storm water permit. Site inspections should include (1) an evaluation of the pollution prevention plan and any other pertinent documents, and (2) an on-site visual inspection of the facility to evaluate the potential for discharges of contaminated storm water from the site and to assess the effectiveness of the pollution prevention plan. A municipality could begin the inspection process with information from the facility's notification to the municipality, which should have been submitted by May 15, 1991. Industrial facilities must also submit an individual NPDES permit application, participate in a group storm water permit application, or file a Notice of Intent (NOI) to be covered by a general permit to the NPDES permitting authority. Section 308 of the CWA provides the legal authority for any individual (including a municipality) to obtain information from the NPDES permitting authority.

The proposed management program also must include a description of a monitoring program for storm water discharges associated with industrial facilities [§122.26(d)(2)(iv)(C)(2)].

The monitoring program should describe the framework and rationale for selecting monitoring sites. Sites that may be appropriate for monitoring include locations with several upstream industrial facilities, industrial facilities that are representative of a significant number of similar facilities, and priority industrial sites with significant potential for high levels of pollutants in their storm water discharges. The description of the proposed monitoring program should address how the monitoring data will be used and what the frequency of the monitoring will be.

> **§122.26(d)(2)(iv)(C)(2). [The application must describe] a monitoring program for storm water discharges associated with the industrial facilities identified in paragraph (d)(2)(iv)(C) of this section, to be implemented during the term of the permit, including the submission of qualitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for a facility; oil and grease, COD, pH, BOD_5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 CFR 122.21(g)(7)(iii) and (iv).**

Identifying who will actually conduct the monitoring (e.g., industry or municipality) is appropriate to include in the program description. Linking this element of the monitoring program to the Adequate Legal Authority section of the permit application is vital. The legal authority to require monitoring should prescribe the specific monitoring protocols required elsewhere in the regulation [§122.26(d)(2)(i)(F)]. Applicants should describe proposed procedures for monitoring industrial facilities, including methods for determining parameters to be sampled throughout the term of the permit. **At a minimum, parameters that must be considered for monitoring include:**

- Any pollutant limited in effluent limitations guidelines for the subcategory of industry;
- Any pollutant that is controlled in a NPDES permit for the process discharge from an industrial site;
- Oil and grease, COD, pH, BOD_5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen; and

State of California

Memorandum

: Catherine Tyrrell
Assistant Executive Officer
Los Angeles RWQCB

Date: APR 17 1996

Jorge A. León
Senior Staff Counsel

From : OFFICE OF THE CHIEF COUNSEL
STATE WATER RESOURCES CONTROL BOARD
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Subject: LEGAL ISSUES RAISED IN DRAFT STORM WATER WDR/NPDES PERMIT FOR LOS ANGELES COUNTY ET AL.

You have asked that I respond to legal issues raised in comments submitted by the principal permittee, copermittees, and interested parties during the development of the current draft of Waste Discharge Requirements/NPDES Permit (permit) for Los Angeles County and the copermittee cities.

As background to the storm water permitting process, the federal Clean Water Act (CWA or Act) provides that the U.S. EPA Administrator, or States with delegated authority, shall issue National Pollutant Discharge Elimination System (NPDES) permits to control discharge of pollutants into surface waters. California is a delegated state for NPDES purposes. Section 402(p) (33 USC § 1342) requires that storm water discharges be addressed through the NPDES permitting process. Section 402(p) provisions applicable to municipal permits read as follows:

> "Municipal discharge. Permits for discharges from municipal storm sewers . . . .
>
> "(i) may be issued on a system- or jurisdiction-wide basis;
>
> "(ii) shall include a requirement to effectively prohibit non-storm water discharges into the storm sewers; and
>
> "(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other

provisions as the Administrator or the State determines appropriate for the control of such pollutants." (§ 402(p)(2)(B).)

The language of Section 402(p) is notably brief and provides a great deal of discretion to the U.S. EPA Administrator and to delegated states. To assist the states and affected parties in interpreting the CWA's provisions, the U.S. EPA issued regulations in 1990 that implement and interpret Section 402(p). They are found at 40 CFR Part 122.26. Along with the regulations, the U.S. EPA released a "Final Rule" that contains its responses to comments received during the rulemaking, and in large measure, illuminates the U.S. EPA's interpretation of the CWA requirements. Later, the U.S. EPA published its "Guidance Manual For the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems", which contains further guidance.

Below, I have paraphrased the comment that raises each legal issue, followed by my response.

1. *Under the terms of the current draft, the Executive Advisory Committee (EAC) could be held legally responsible for compliance with the provisions of the permit. The Regional Board has no authority to require an EAC nor can it dictate the composition of the EAC.*

As I understand it, the EAC provisions of the permit were included in a response to a proposal contained in the permit application submitted by Los Angeles County on behalf of the copermittees, and, to facilitate administration of the permit, given the complexities involved in obtaining the involvement of 86 copermittee cities. It is evident that for the permit to be successfully implemented, some form of leadership among the copermittees is necessary. In this connection, I note that 40 CFR 122.26(d)(2)(iv) requires "where necessary, intergovernmental coordination" in developing and implementing a storm water management program. Recognizing the absence of any specific requirement for an EAC, the provision was contemplated as a voluntary effort to further the success of the permit implementation.

Turning to the liability issue, the previous draft provided that the EAC would implement certain permit requirements. The current (December 18, 1995) draft is revised to clarify that the EAC provides direction to the County and the cities, who are the actual dischargers under the permit. The dischargers remain responsible for implementation of the permit requirements. The EAC members themselves, in their role as

members of the EAC, are neither permittees nor dischargers. As such, they cannot personally or as a group be required to do anything under the permit. The legal responsibility for implementation of the permit requirements remains with the County and the cities.

On the issue of the Regional Board's authority, if there remains opposition to the EAC provisions, I recommend that staff delete all requirements regarding the EAC and, instead, expand the Findings to discuss the EAC proposals provided by the dischargers themselves. In that way, we memorialize the fact that the dischargers suggested the approach and mention a leadership mechanism while deleting any objectionable mandatory requirements. The permittee and the copermittee thus assume all responsibility for appropriate implementation of the permit.

2. *The Administrative Review provisions regarding issuance of a Notice of Intent to Meet and Confer violate the permittee's due process rights in that the city is not afforded notice and an opportunity to be heard.*

These provisions were drafted to create an informal dispute resolution process for the benefit of the cities. The Administrative Review provisions constitute a voluntary mechanism intended to resolve compliance issues in an informal manner prior to commencement of formal enforcement. "Due Process" applies only to State action that would deprive the subject of property or other rights. Since the Administrative Review process precedes (and ultimately seeks to replace) formal enforcement actions, there is no loss of property or other rights and, thus, there can be no loss of due process rights. To the extent that the comment seeks an additional level of notice and opportunity to be heard, I would recommend against it, since to do so would defeat the purposes of informal resolution.

Additionally, the analysis above regarding the EAC is also pertinent to the Administrative Review component of the permit. That is, the relevant provisions in the draft permit were developed to facilitate administration of the permit, although staff recognizes that there is no specific authority to require inclusion of such provisions. If voluntarily accepted by the dischargers, it can be included for the purpose of promoting effective communication regarding compliance with the permit, and to avoid enforcement actions. Removal of these provisions would remove an apparently desirable dispute resolution mechanism preceding enforcement action. However, if there

remain objections to the provisions, as with the EAC, I recommend deletion.

3. *The NRDC and other entities should be required to participate in the Administrative Review process to resolve differences and be bound by the results.*

To the extent that the NRDC and other nondischarging observers agree to be so bound, they are free to negotiate a document memorializing that agreement with the dischargers. However, the Regional Board does not possess any authority over nondischarging entities. The Regional Board's authority in issuing the permit is limited to controlling the conduct of dischargers which affects water quality. It does not extend to the conduct of nondischargers. Indeed, the CWA provides certain rights to citizens, including the right to file a citizen's suit challenging the failure to properly implement CWA provisions. Adoption of the proposed comment would infringe on that right. Thus, the Regional Board may not require that the NRDC or others participate in or be bound by the Administrative Review process.

4. *Final determinations made by the Executive Officer during the Administrative Review process should be subject to appeal to the Regional Board.*

Under Water Code Section 13263(e), all <u>final</u> determinations made by the Executive Officer involving waste discharge requirements are subject to review by the Regional Board. Non-final decisions are not reviewable because it would create duplication and impede final resolution of issues. A provision can be added to the Administrative Review section to satisfy the comment, to the effect "Final determinations made by the Executive Officer at the conclusion of the Administrative Review process are subject to review by Regional Board pursuant to Water Code Section 13263(e)."

5. *The draft permit exceeds State and Federal requirements for storm water programs. Programs required under the permit should be limited to those required under the Clean Water Act.*

By its express terms (Section 402(p)), the Act requires that the municipalities implement controls to reduce the discharge of pollutants in storm water to the maximum extent practicable (MEP) and must not exceed water quality standards. The State's obligation is to interpret this provision to give effect to the purposes of the Act. The programs required under the permit are consistent with this mandate. The permit contemplates programs that will reduce the discharge of pollutants to the

maximum extent practicable. Rather than exceeding the CWA requirements, the permit provisions describe storm water program components that minimally fulfill the CWA mandate.

For example, another comment states, "The Clean Water Act does not regulate 'parking lot pollution'".

The U.S. EPA states in the Final Rule as follows:

> "The Administrator or NPDES State has the authority under section 402(p)(2)(E) of the amended CWA to require a permit prior to October 1, 1992, by designating storm water discharges such as those from parking lots that are significant contributors of pollutants or contribute to a water quality standard violation." (Federal Register, Vol. 55, p. 48010.)

Studies demonstrate that parking lot storm water discharges are significant sources of pollutants. See Pitt et al., Urban Storm Water Toxic Pollution, Assessment, Sources, V. 67, pp. 260-275; Western States Petroleum Association and American Petroleum Institute, Results of Retail Gas Outlet & Commercial Parking Lot Storm Water Runoff Study (Geomatrix Consultants), 1994. Since the Act does not exempt a source that is a significant contributor of pollutants, it is appropriate to address parking lot pollution in the municipal storm water permit.

6. *Who determines what is the "maximum extent practicable?"*

It is up to the principal permittee and the copermittees initially to propose actions that implement best management practices to reduce pollution to the MEP. It is the Regional Board's responsibility, however, to evaluate the proposed programs using appropriate guidance. Neither the CWA nor the U.S. EPA has defined MEP. However, the issue has been analyzed in some detail in a memorandum prepared by Elizabeth Miller Jennings, Senior Staff Counsel, Office of Chief Counsel, State Water Resources Control Board, dated February 11, 1993 (copies of which can be provided on request). The following excerpt provides the factors that we need to consider in determining MEP:

> "Although MEP is not defined by the federal regulations, use of this manual in selecting BMPs should assist municipalities in achieving MEP. In selecting BMPs which will achieve MEP, it is important to remember that municipalities will be responsible to reduce the discharge of pollutants in

storm water to the maximum extent practicable. This means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive. The following factors may be useful to consider:

"1. Effectiveness: Will the BMP address a pollutant of concern?

"2. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?

"3. Public acceptance: Does the BMP have public support?

"4. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?

"5. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc.?

"After selecting a menu of BMPs, it is of course the responsibility of the discharger to insure that all BMPs are implemented."

The Regional Board's role is to review BMPs suggested by the municipalities and determine MEP using the above guidance and the court's decision in NRDC et al. v. California Department of Transportation Federal District Court, Central District of California (1994). The court stated that a permittee must evaluate and implement BMPs except where (1) other effective BMPs will achieve greater or substantially similar pollution control benefits; (2) the BMP is not technically feasible; or (3) the cost of BMP implementation greatly outweighs the pollution control benefits.

7. *The draft permit unjustifiably imposes an unnecessary burden by requiring that the cities conduct inspections of industrial/commercial facilities and to determine whether an NOI has been submitted to the State Board, whether a SWPPP is available on-site, and to notify the Regional Board staff of noncompliance with these and any other requirements as determined appropriate by the permittee.*

The U.S. EPA has provided guidance on this issue. Its language in the Final Rule (Federal Register, Vol. 55, p. 48056) indicates that it contemplates that the cities will arrange for inspections as necessary to assure success of the storm water programs:

> "Today's rule also requires the municipal storm sewer permittee to describe a program to address industrial discharges that are covered under the municipal storm sewer permit. Today's rule requires the municipal applicant to identify such discharges . . . , provide a description of a program to monitor pollutants in runoff from certain industrial facilities that discharge to the municipal separate storm sewer system, identify priorities and procedures for inspections, and establish and implement control measures for such discharges. Should a municipality suspect that an individual discharger is discharging pollutants in storm water above acceptable limits, and the owner/operator of the system has no authority over the discharge, the municipality should contact the NPDES permitting authority for appropriate action."

Furthermore, the federal regulations, at 40 CFR 122.26(d)(2)(i)(F) require that municipalities demonstrate legal authority to:

> "Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm water sewer."

The inclusion of this requirement in the regulations supports the conclusion that it was the U.S. EPA's intent to require the municipalities to carry out those inspections. The provisions of the permit regarding inspections are drafted in an attempt to make the cities' increased role as manageable as possible. They are drafted to allow the cities to meet their obligation to inspect facilities for compliance with permit requirements as part of the inspection and enforcement process which the permittees are already required to implement pursuant to guidelines issued pursuant to CWA Section 402(p) and any other inspection programs that they may undertake. Inspection staff can comply with the permit requirements by making additional observations at facilities that are inspected, take additional notes and share appropriate information with the Regional Board staff. There may be room for negotiating the specific types of

facilities which must be inspected and the inspection frequencies, but it is clear that the CWA contemplates some level of inspection by the copermittees.

8. *City and County inspectors will need an administrative inspection warrant to gain access to private property to inspect facilities. The cities would have to embark upon the burdensome process of obtaining an administrative warrant to enter such properties. The permit requirement that cities inspect nonpermitted facilities exceeds CWA requirements.*

As noted above, the CWA and the implementing regulations found at 40 CFR 122.26 must be interpreted in a manner to carry out the purposes of the Act. As noted above, the U.S. EPA's guidance on the matter makes it clear that the CWA and the federal regulations seek to impose an inspection responsibility on the permittees. 40 CFR 122.26 (d)(2)(i)(F) expressly requires that the permittees demonstrate or obtain the authority to conduct inspections. To the extent that cities do not presently possess authority to inspect, they will obtain such authority in compliance with this regulation.

Generally, the County and cities should presently possess authority to enforce and ensure compliance with their various permits, such as for construction and business. The County and cities should be able to rely on that authority to gain access to private property in the majority of cases to assure compliance with the storm water permit requirements. In the much smaller number of cases, where the inspectors are unable to gain consensual entry to premises, they may have no right of entry without a warrant. The process involves drafting the warrant documents, obtaining a judge's signature, providing advance notice of execution of the warrant, and, if met with resistance, enlisting cooperation of the local police to gain access for inspection purposes. Certainly, this will create an additional burden for those cases where consensual access is not available, and, while there is no accurate way to predict the proportion of consensual versus nonconsensual cases, it is possible that over time, the process could become routinized, resistance to such inspections reduced and, therefore, the burden to obtain warrants, reduced.

9. *The federal regulations provide that certain identified discharges are to be addressed only when the municipality identifies the discharges as a source of pollution. The permit proposes to prohibit certain activities that have not been so identified by the municipalities. The permit's exemptions should mirror the federal regulations.*

The federal regulations promulgated pursuant to CWA Section 402(p) require permittees to "effectively prohibit" all non-storm water discharges to the MS4 except those that have been issued a separate NPDES permit. However, the regulations treat a discreet list of nineteen categories separately. As to these, the municipal permittees need not prohibit their discharge unless they are identified as a source of pollutants. (40 CFR § 122.26(d)(2)(iv)(B)(1).) The December 18, 1995 draft permit includes the nineteen exempt categories in two separate groups: "Exempted Discharges" and "Conditionally Exempted Discharges." The latter group includes additional categories of non-storm water discharges not listed as such by the U.S. EPA, but which the municipalities requested be exempt.

The Regional Board requires separate NPDES permit coverage for ground water discharges and hydrostatic testing (this includes waterline flushing and potable water sources) because of region-specific contamination concerns. In addition, the Regional Board has historically required that public/municipal swimming pool discharges be covered by a separate NPDES permit.[1]

In order to avoid a conflict with these Regional Board policies, I recommend that the draft permit follow the federal list of non-storm water exemptions, except for three categories: (1) uncontaminated ground water; (2) discharges from potable water sources; (3) water line flushing; and (4) dechlorinated public/municipal swimming pools discharges. The Regional Board may consider adopting a policy in the future, as appropriate, to resolve any conflicts in this area.

Regarding additional categories that permittees requested be exempted but are not in the U.S. EPA's list of nineteen, these may be handled under the draft permit's "Procedures for Exemption." In order to be considered, permittees must demonstrate that strategies for minimizing pollutant discharges have been developed, or show that the non-storm water discharge is not a potential source of pollutants to the MS4.

10. *The legal authority requirements should apply to the primary operator of the MS4 and the principal permittee (the County), rather than the copermittee cities.*

40 CFR Part 122.26 (d)(2)(i) requires a demonstration that the applicant can operate pursuant to legal authority established

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[1] *Section 402(p) requires that facilities already under permit shall remain covered under a separate NPDES permit.*

by statute, ordinance, or series of contracts which authorizes or enables the applicant at a minimum to:

> "(A) Control through ordinance, permit, contract, order, or similar means, the contribution of pollutants to the municipal storm water sewer by storm water discharges associated with industrial activity and the quality of storm water discharges from sites of industrial activity;
>
> "(B) Prohibit through ordinance, order, or similar means, illicit discharges to the municipal separate storm sewer;
>
> "(C) Control through ordinance, order, or similar means, the discharge to a municipal separate sewer of spills, dumping or disposal or materials other than storm water;
>
> "(D) Control through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;
>
> "(E) Require compliance with conditions in ordinances, permits, contracts, or orders; and
>
> "(F) Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer."

The U.S. EPA's Guidance Document provides assistance on the issue whether the County alone can be required to provide the legal authority demonstration:

> "When two or more municipalities submit a joint application, each coapplicant must demonstrate that it individually possesses adequate legal authority over the entire municipal system it operates or owns. A coapplicant need not fulfill every component of legal authority specified in the regulations, as long as the combined legal authority of all coapplicants satisfies the regulatory criteria for every segment of the MS4 (including authority over sources that discharge to the MS4) . . . .

> "Coapplicants also may use interjurisdictional agreements to show adequate legal authority and to ensure planning, coordination, and the sharing of the resource burden of permit compliance. When more than one entity is submitting an application for a MS4 (either as coapplicants or as individual applicants for different parts of a system), the role of each party must be well defined. Each applicant or coapplicant must show the ability to fulfill its responsibilities, including legal authority for the separate storm sewers it owns or operates." (Section 3.2.3)

This guidance makes clear that the cities and the County must coordinate with each other to assure that there is the necessary legal authority either in the County or in the cities, or through some combination of authority, to control the discharge of pollutants in all parts of the municipal separate storm sewer system.

11. *The legal authority requirements are unclear.*

In summary, the copermittees must demonstrate to the Regional Board that they possess the legal authority to implement the required actions provided in 40 CFR 122.26(d)(2)(i)(A)-(F). Subject to the Response to Comment No. 10, above, each permittee's municipal attorney should provide a statement that he/she has reviewed the city's ordinances and has determined that they provide the necessary authority. If the permittee does not currently have an effective ordinance(s) that provides the required authority, it must provide a schedule setting forth when it will adopt or amend its ordinances to provide the necessary authority.

Once each permittee has so demonstrated, it is required to enforce those ordinances to the extent required to effectively control discharges to and from those portions of the MS4 over which it has jurisdiction, as required by the permit.

12. *No city attorney will be able to certify that the city possesses legal authority to implement the permit because the permit requires inspections that may infringe on the rights of private parties.*

The current draft eliminates the requirement that the city attorney "certify" legal authority. Regarding authority to implement the permit, the comment confuses two separate issues. The permit requires compliance with the legal authority requirements as provided at 40 CFR Part 122.26(d)(2)(i)(A)-(F). This requirement can be met simply by providing information

about the ordinance that provides the stated authority, or a schedule in which such ordinance will be adopted. That is all that a city attorney needs to consider. The issue regarding inspections is an entirely separate matter and it does not need to delay compliance with the straightforward legal authority requirements. Specifically, the issue regarding inspections is whether the permit requirements themselves regarding inspections are appropriate. That issue is treated in responses to Comments 3 and 4, above.

13. *The stated goals of the Countywide Guidelines would unrealistically and unlawfully target new development to improve existing conditions, rather than preventing water pollution by storm water discharges.*

The current draft has been modified to clarify that the requirement is to preserve--rather than create--existing beneficial uses. To the extent that the comment suggests that the permit applies disproportionately to existing facilities and new development, requiring the latter to take on greater responsibility for control of storm water pollution, a review of the permit shows this to be unfounded. Many more of the permit's requirements apply to existing residential, commercial, and industrial facilities.

14. *The Regional Board does not have authority to adopt watershed management plans that effectively preempt local land use control.*

CWA Section 402(p) provides that municipal storm water permits, "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices . . . ." As interpreted and implemented in the federal regulations, 40 CFR 122.26(d)(2)(iv)(D) requires:

> "A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include: [1] A description of procedures for site planning which incorporate consideration of potential water quality impacts."

Municipalities are authorized under their planning authority to control land use decisions. The above regulation clearly contemplates that municipalities exercise their planning power in such a manner that considers potential water quality impacts. Pursuant to these directives, the permit requires

consideration of watershed planning elements to control pollution from affected sources.

The permit requires actions consistent with existing law, including those concerning local land use control, and should not be read as preempting those laws. The intent has been to facilitate, to the extent allowed by law, smooth implementation of applicable provisions of the CWA and to ensure consistency with the Coastal Zone Act Reauthorization Amendments (CZARA). Under CZARA, management measures have been prescribed by the U.S. EPA and National Oceanic and Atmospheric Administration (NOAA) applicable to construction activity regardless of land size.

15. *Provisions of the permit dictate the manner in which the dischargers are to comply with its requirements, in violation of Water Code Section 13360.*

Water Code Section 13360 clearly provides a restriction on the ability of the Regional Boards to dictate the manner of compliance with State requirements. However, Water Code Section 13377 provides that, notwithstanding Section 13360, the Regional Boards shall issue waste discharge requirements which apply and ensure compliance with all applicable provisions of the CWA. Inasmuch as the permit seeks to implement CWA requirements, it does not violate Section 13360 for the Regional Board to include specified programs that must be implemented by the municipalities in order to carry out CWA requirements. This is made all the more necessary by the elimination of numerical limits from the permit. Reliance on BMPs requires specification of those programs that are relied upon to reduce pollution.

16. *The decision-making authority of a city rests with its city council, and it cannot be delegated, except within narrowly prescribed limits, to a representative on the WMC.*

As I understand it, the intent of the permit is to assure representation by city staff of sufficiently high level to accomplish implementation of programs within narrow time limits, and avoid wasted time. Further discussion should identify the appropriate staff, or the extent of permissible delegation, and if none is available, other acceptable mechanisms for the WMC to achieve its objectives, including procedures that would allow the representatives to take issues back to their respective city councils for approval.

17. *The BMP substitution provisions unlawfully delegate to the Executive Officer authority to prescribe permit requirements.*

The provisions were put into the draft permit in order to allow the cities a streamlined means of allowing for BMP substitution. If an acceptable provision cannot be drafted along the lines described below, it should be deleted. BMP changes would thus be taken to the Board for approval.

The current draft provides that the Executive Officer approve modifications only where he/she finds that the proposed change will (1) achieve greater or substantially similar reduction in storm water pollutants, and (2) be implemented within a similar period of time. These criteria are sufficiently detailed to constitute an appropriate authorization to the Executive Officer.

18. *The cities have no legal authority to control discharges on federal and certain other facilities within the cities' jurisdiction.*

The permit may properly require only control of discharges to the extent allowed by law. The provisions of the permit are not intended to, and legally cannot, expand the cities' authority over such facilities as federal properties. The appropriate permit language should be clarified to exclude obligations by the cities over federal properties located within its boundaries, state-owned properties, state parks, and state universities.

19. *The Permit constitutes rulemaking subject to the APA.*

The essence of the argument appears to be that, because the Regional Board staff has relied upon studies, guidance manuals, reports, portions of other permits, and staff input to produce the draft permit, and those underlying documents have not been subjected to scrutiny under the APA, the permit itself constitutes rulemaking subject to the APA. I do not agree.

Government Code Section 15375 defines a "permit" as:

> "[A]ny license, certificate, registration, permit, or any other form of authorization required by a state agency to engage in a particular activity or act."

The draft storm water waste discharge requirements for Los Angeles County constitute a permit within the meaning of the Government Code. Permits issued pursuant to Water Code Section 13262 or 13377 are not subject to the APA. (Government Code § 11352.) The fundamental distinction between permit issuance and rulemaking is that the former is a quasi-judicial process involving a specific discharger or group of dischargers

based upon facts unique to the discharger or group, while the latter is a quasi-legislative exercise aimed at regulating the public in general, based upon general facts.

By definition, permit issuance involves the identification and imposition of applicable standards to allow the permittee or permittees to discharge storm water. That is what the draft permit seeks to accomplish. The fact that the draft permit makes use of materials not previously subjected to the APA does not, as the comment suggests, impose upon any group, any perceived requirements in those materials and documents. That would be rulemaking subject to the APA. None of the arguments raised by the commenters affect the essential difference between rulemaking and permit issuance.

Furthermore, the process for adoption of the permit provides safeguards not unlike the APA's procedural requirements. Both provide for notice, opportunity to comment, response requirements, and hearing before the Board. The process provides for airing of all comments to provisions in the permit by those subject to permit and by other interested parties. The commenters' invitation to embark upon a rulemaking process in order to adopt the permit should be declined as it would unavoidably confuse the distinction between rulemaking and permit issuance. Moreover, the Regional Boards have not historically engaged in rulemaking under the APA. That function has been performed exclusively by the State Board in its discretion. To require each Regional Board to engage in separate rulemaking actions to support their storm water permits is not only time- and resource-intensive, but creates the undesirable potential for conflicting results.

20. *Reimbursement for State Mandates. The permit will require numerous programs which the cities will have to fund. To the extent the storm water permit requirements constitute federal requirements, the State may not properly shift the cost of those programs to the cities, without providing a funding mechanism.*

Section 6 of Article XIII B of the California Constitution requires the state to reimburse local government for the costs of complying with any new program or higher level of service mandated by either the Legislature or any state agency. In developing this storm water permit, the Regional Board is implementing provisions of the CWA and applicable regulations, which are federal laws. The SWRCB has previously determined that in several circumstances, Regional Board orders are exempt from the requirement for reimbursement. Among the reasons is that the orders implement federal and not state law. See The

City of San Bernardino (1991) Order No. WQ 91-08. As noted in other responses to comments, the permit requirements are intended to require the minimal programs and activities necessary to carry out the intent of the CWA, which is to assure reduction to the maximum extent practicable the discharge of pollutants in storm water. The Regional Board has not relied upon its discretion under State law to implement more stringent requirements than those set forth under the CWA.

21. *The information gathering requirements (developing a computer database, obtaining information from permittees, conducting inspections, preparing reports) exceed the CWA and federal regs, and are in violation of 44 U.S.C. Sections 3501, et seq. (Paperwork Reduction Act) and would require hiring additional staff.*

The current draft reduces the reporting frequencies and the detail of required reporting. The aspects of this comment concerning obtaining information from permittees and the need to hire more staff is addressed in the comment/response dealing with inspections. As to the manner of report submittal, the Regional Board may request that reports be submitted in a particular format, including electronic.

The Paperwork Reduction Act (PRA) applies to collection and use of information by federal agencies, not state agencies. 44 U.S.C. Section 3502(1). Even if it were applicable to collection and use of information by state agencies, the reporting requirements do not violate the PRA so long as the required reports are "necessary for the proper performance of the functions of the agency." 44 U.S.C. § 3508. Clearly, the reporting requirements are necessary to assure compliance with the permit.

22. *The County has no authority to require a city to cease discharges that occur in the city but enter county-operated storm water conveyances. Who is liable for cleanup costs?*

This is the kind of issue that should be resolved among the County and the cities themselves, as copermittees pursuant to interagency agreement authority. The cities among each other, and the County and the cities should consider entering into memoranda of understanding to apportion their respective responsibilities in such cases.

23. *Regarding Section II.B., the cities should not be required to assume any responsibility for cleanup if the owner/operator does not address a problem.*

The EPA's guidance indicates that the cities have responsibility for assuring that owner/operators do not cause illegal storm water discharges. It follows that the cities have responsibility to assure that owner/operators who cause pollution will address pollution problems they have caused through enforcement actions. The cities assume cleanup responsibility under their obligation to assure prevention of discharges of pollutants into storm water channels. Otherwise, that responsibility is illusory.

24. *The permit improperly seeks to shift responsibility for control of Industrial/Commercial sources of pollution to the cities.*

The permit places responsibility for control of these sources at the same place that the U.S. EPA places the responsibility: with the municipalities. The US EPA notes in the Preamble to the Storm Water Regulations that municipalities are in the best place to enforce compliance with storm water discharge requirements.

> "Because storm water from industrial facilities may be a major contributor of pollutants to MS4s, municipalities are obligated to develop controls for storm water discharges associated with industrial activity through their system in their storm water management program . . . . The CWA provides that permits for municipal separate storm sewers shall require municipalities to reduce pollutants to the maximum extent practicable. Permits issued to municipalities for discharges from municipal separate storm sewers will reflect terms, specified controls, and programs that achieve that goal."

Federal Register, Volume 55, Number 222, p. 48000. Again, at p. 48006, the U.S. EPA stated:

> "Municipal operators of large and medium municipal separate storm sewer systems are responsible for obtaining system-wide or area permits for their system's discharges. These permits are expected to require that controls be placed on storm water discharges associated with industrial activity which discharge through the municipal system."

It is clear from these passages that the U.S. EPA interprets the CWA as requiring control of industrial/commercial discharges by the municipalities. The draft permit is consistent with the EPA's interpretation.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

DEC 19 2000

In Reply
Refer to: WTR-5

Dennis A. Dickerson
Executive Officer
California Regional Water Quality Control Board,
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

2000 DEC 29 P 2:28

Dear Mr. Dickerson:

The letter is in follow up to our meeting on October 5, 2000 concerning the NRDC Petition to Withdraw the NPDES storm water permit program administered by the Los Angeles Regional Board. One of the NRDC's principal concerns with the Regional Board's program is the alleged absence of an effective program for controlling pollutants in storm water discharges from industrial facilities. NRDC also recognizes, however, that the root of the problem is the lack of adequate staffing at the Regional Board to implement the program. At the October 5 meeting, we suggested that the upcoming MS4 permit reissuance for Los Angeles County require that the MS4 permittees provide more assistance to the Regional Board in this regard. We also indicated that we would provide this letter of support to the Regional Board for such requirements.

EPA's storm water permit application regulations of November 16, 1990 (55 Fed. Reg. 47990) set forth the permit application requirements for industries and municipalities and also provide guidance concerning the implementation of the program over the longer term. The storm water regulations envision a cooperative effort on the part of the NPDES permitting authority and permitted MS4s in the implementation of the industrial storm water program (55 Fed. Reg. 47997). The regulations at 40 CFR 122.26(d)(2)(iv)(C) also specifically require that MS4 permittees develop and implement controls on industrial sources which discharge into the storm sewer system, including:

> "a description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system."

The current MS4 permit for Los Angeles County requires "educational visits" by MS4 personnel to assist industrial/commercial facilities in complying with local ordinances and prohibitions. We understand that the intent of this particular requirement was to provide time for

the permittees to gain experience in controlling pollutants in storm water discharges from these facilities. Now that the permittees have had five years to gain such experience, we recommend that the next permit explicitly require that the permittees require compliance with local ordinances and implement an effective enforcement program to ensure compliance. For industrial facilities, such a requirement would be fully consistent with EPA regulations at 40 CFR 122.26(d)(2)(iv)(C). We also believe that the Regional Board's extension of the program to commercial facilities is consistent with EPA regulations at 40 CFR 122.26(d)(2)(iv)(A); however, NRDC's concerns are primarily related to industrial facilities.

Since the intent and requirements of local MS4 ordinances are usually similar (but perhaps less detailed) to the requirements of the State's general NPDES permit for industries, the above recommendation should significantly assist the Regional Board in more effectively controlling pollutants in storm water discharges from industrial (and commercial) facilities. As noted above, NRDC's concerns with the Regional Board's program are fundamentally resource-related, and by utilizing the resources of the MS4 permittees more effectively, this should help to address NRDC's concerns.

It should also be noted that the above recommendation would be nothing new for California MS4 permits. For example, the MS4 permits issued in 1996 for Orange and Riverside Counties already include explicit requirements for enforcement of local ordinances for storm water pollution control. Detailed enforcement requirements for local ordinances have also been proposed by the San Diego Regional Board for the upcoming reissuance of the San Diego County MS4 permit.

Should you have any questions regarding this matter, please call me at (415) 744-1860, or refer your staff to Eugene Bromley of the CWA Standards and Permits Office at (415) 744-1906.

Sincerely,

Alexis Strauss
Director, Water Division

cc: Xavier Swamikannu, Los Angeles RWQCB
David Beckman, NRDC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

In Reply
Refer to: WTR-5

MAY 16 2001

2001 MAY 24 P 2:47

James DeStefano
Interim City Manager
City of Diamond Bar
21825 E. Copley Drive
Diamond Bar, CA 91765-4178

Dear Mr. DeStefano:

Thank you for your letter of April 30, 2001, regarding EPA, Region 9's letter of December 19, 2000 to the Los Angeles Regional Board concerning requirements for inspections of industrial and commercial facilities by municipal separate storm sewer system (MS4) permittees. Your letter requested clarification of a number of issues in the December 19, 2000 letter.

As you may be aware, urban runoff is the leading cause of water quality impairment in Santa Monica Bay and the Los Angeles area. This problem, and the State's inability to apply adequate resources to its storm water program, were key factors cited in a petition filed by the Natural Resources Defense Council (NRDC) to withdraw the NPDES storm water program administered by the Los Angeles Regional Board. Current storm water fees to the State do not provide enough funds to meet all storm water program needs. In response to the NRDC petition, we met with NRDC and the State on October 5, 2000 to discuss what steps the State could take to respond to the concerns in the petition. The State had already begun to substantially increase its staffing resources devoted to the storm water program and we are continuing to discuss ways to further increase the State's investment through grant money from EPA. Also discussed were the NPDES regulatory requirements for MS4 permits, specifically the existing Federal regulatory requirement that MS4 permittees implement inspection and pollution control programs for certain industrial and commercial facilities. Such programs are already required in many MS4 permits, such as the permits for Orange, Riverside and San Diego Counties, and they play a significant role in ensuring the overall effectiveness of the storm water program through the combined efforts of the State and MS4 permittees.

The scope of an MS4 inspection program is normally negotiated with the State when a permit is reissued. We agree that a cooperative effort between the State and MS4 permittees on inspections is needed, and we believe that neither the MS4 permittees nor the State should be saddled with the entire inspection burden for industrial and commercial facilities. The State is also responsible for enforcing its general NPDES storm water permits, while the MS4 permittees need to enforce local storm water ordinances (which are often similar to the State general permits).

With regards to the intent of the "educational visits" in the existing MS4 permit, we contacted Los Angeles Regional Board staff to obtain additional information on this matter since the permit was issued by the Los Angeles Regional Board. According to Board staff, the intent of the "educational visits" in the 1996 permit was to provide a period of time during which MS4 permittees could engage in outreach activities to industrial and commercial facilities concerning storm water pollution control and best management practices which could be implemented by the facilities to reduce pollutant discharges. Since storm water pollution control was new to some facilities, the Board thought that such outreach was appropriate prior to actual enforcement of the pollution control measures. The Board also intended, however, that future permits, such as the permit under development at the present time, would require enforcement of local storm water pollution control ordinances. We believe that this is generally consistent with the characterization in our letter.

EPA has been intensively involved with all nine California Regional Boards and the State Water Resources Control Board to effectively implement the storm water program. From the initial issuance of the MS4 permits to the current round of reissuing those permits, we have been working closely with the State to encourage stakeholder participation and cooperation in the MS4 storm water programs. EPA staff have been participating in the monthly meetings between the State and the MS4 permittees to discuss the pending reissuance of the Los Angeles County MS4 permit, and we are committed to maintaining a cooperative and constructive dialogue among the stakeholders. We welcome and encourage active participation by all permittees in these monthly meetings.

Should you have any questions, please call me at (415) 744-1860, or refer your staff to Eugene Bromley of the CWA Standards and Permits Office at (415) 744-1906.

Sincerely,

Alexis Strauss 15 May 2001

Alexis Strauss
Director, Water Division

cc: Dennis Dickerson, Los Angeles Regional Board

~~NJ Haltermann~~
WS Bromley,
a narrow: disappointing reply... in lieu of suggesting what is possible...
as

Executive Advisory Committee

Stormwater Program - Los Angeles County

March 22, 2001

Ms. Alexis Strauss
Director, Water Division
United States Environmental
Protection Agency-Region IX
San Francisco, CA 94105-3901

Dear Ms. Strauss:

LETTER DATED DECEMBER 19, 2000, TO DENNIS DICKERSON

Your December 19, 2000, letter to Dennis Dickerson recommends that the Los Angeles Regional Water Quality Control Board require that the Los Angeles County Municipal Stormwater Permittees be required to conduct inspections and enforcement of State permitted commercial and industrial facilities. As you point out, the current permit requires educational site visits of some permitted industrial/commercial facilities. However, it does not require nor contemplate that the Permittees be responsible for enforcement of compliance of State-issued permits. The Permittees lack the statutory authority to inspect and enforce facilities permitted by agencies other than them selves. ?

Los Angeles County Permittees are fully committed to enforcing their local ordinances for stormwater pollution control. The Permittees are sympathetic to the fact that the Regional Board does not have sufficient resources to enforce permits issued by them but are not in a position to legally assume the Regional Board's statutory responsibilities. The Permittees are also dealing with limited financial resources and have less capacity than the Regional Board to undertake this responsibility were it to be legally possible.

We trust that you will reconsider your recommendation. Should you wish to discuss this matter further, you are welcome to attend an Executive Advisory Committee (EAC) meeting. The EAC meets at 1:30 p.m. on the second Wednesday of each month in the 12th floor conference room of the Los Angeles County Department of Public Works, at 900 S. Fremont Avenue, in the city of Alhambra.

Very truly yours,

Desi Alvarez
Chairman
Executive Advisory Committee

DA:sv
WM-9/A:\EAC_LETTER.WPD

cc: All Permittees
Regional Water Quality Control Board Members

Mayor
David A. Spence

Mayor Pro Tem
Anthony J. Portantino

City Council
Carol Liu
Jerry G. Martin
Deborah K. Orlik

LA CAÑADA FLINTRIDGE

March 23, 2001

Ms. Christine Todd-Whitman
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Region IX USEPA – Local Inspection Recommendation

Dear Ms. Todd-Whitman:

The City of La Cañada Flintridge would like to request clarification on a recent letter sent by Ms. Alexis Strauss, Director of the Water Division, for USEPA Region IX. A copy of the December 19, 2000 letter is attached for your review. The letter was sent as USEPA guidance to Dennis A. Dickerson, the Executive Officer of the California Water Quality Control Board, Los Angeles Region.

The December 19th letter states that USEPA's position requires that the MS4 permittees (the cities) in Los Angeles County assume legal and funding responsibilities for performing storm water compliance inspections for all State permitted industrial and commercial facilities within their boundaries. The correspondence is explained as a "letter of support to the Regional Board" for the shifting of inspection responsibilities and costs.

The December 19th letter concludes that USEPA "recommends" that the State require the cities "implement an effective enforcement program" in the next NPDES permit. The December 19th letter states that "storm water regulations envision a cooperative effort on the part of the NPDES permitting authority (the State) and permitted MS4s (the cities) in the implementation of the industrial storm water program".

There are several concerns that we have with the letter. The first concern is that no one at USEPA contacted the cities to discuss their proposed new inspection requirements. This is far from the cooperative effort that the USEPA regulations envision. The cities were not even aware of the October 5, 2000, meeting and were not invited to participate to express their concerns.

The second concern is that cities believe that USEPA failed to mention a major problem with the California program – the State's refusal to fully fund industrial/commercial inspection programs.

The State is in the position to fully fund programs since the State is running billion dollar surpluses, even after paying for electricity contracts. The State receives fees ranging from $250 to $10,000 per permit to help fund their inspection program. These fees appear adequate to fund a regular inspection program.

The shifting of new inspection responsibilities to the cities is especially egregious, since the cities have absorbed over $3.4 billion in annual property tax losses from the State since 1992. This drain of local property taxes has weakened the cities' ability to fund existing municipal services for their growing populations, much less new storm water inspection programs.

Ms. Strauss believes that the main support for shifting the inspection and enforcement responsibilities is the Clean Water Act definition of "storm water sewers". As you are aware, dry climate cities have a particular hardship with the application of Section 402 permits. In particular, the cities in my Congressional District do not operate "storm sewer systems" with centralized treatment facilities like many eastern cities.

The western climate and typography dictated in the 1930's that urban storm drain systems control rainfall in multiple areas, due to high rates of rain over short periods of time. The western systems are "flood control facilities" and not "storm sewers". The goal of a flood control system is to transport rainfall to the rivers and water bodies as quick as possible. Storm water is discharged into hundreds of localized areas along short reaches of flood control channels and rivers.

The Los Angeles County "flood control" system was designed with the primary responsibility to prevent localized flooding of residences and businesses, which occurred with regularity prior to the construction of the system. We were all reminded of the critical importance of this specialized flood control system this past February. The Los Angeles area received over 9 inches of rain that month. This rainfall was three-quarters of the average yearly rainfall. The flood control system worked, and localized flooding was minimal. This pattern of rainfall is typical for many portions of Southern California and the West.

I have a third concern with the letter. Ms. Strauss explained that the current NPDES permit for the Los Angeles County cities required "educational visits" by the cities to the industrial/commercial facilities. She stated the educational visits were to "provide time for the permittees (the cities) to gain experience in controlling pollutants in storm water" from the industrial and commercial businesses. The cities believe that this was never the intent. They did not agree to implement costly inspection programs for industrial/commercial facilities five years ago.

I would appreciate if USEPA could send a clarification letter to Mr. Dickerson. It would be helpful to the cities in my District if the letter clarified that USEPA believes that the State and the cities need to develop a "cooperative effort" in the area of inspection programs, not a program that shifts the entire inspection responsibility to the cities. It should be the goal of USEPA to bring the stakeholders together and assist in resolving conflicts, not to appear to "take sides" with the State regulators.

There is a sense of urgency to this letter, since the Los Angeles Regional Water Quality Control Board is in the process of negotiating the NPDES permit regulations. I would be happy to discuss this urgent matter with you.

Thank you for your assistance.

Sincerely,

David A. Spence

David A. Spence
Mayor

Definition in Second Draft of Permit:

"Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces. Where redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated. Where redevelopment results in an increase in less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the addition must be mitigated, and not the entire development.

[See pages 30-31 in State Board Order WQ 2000-11 for the revised definition of "Redevelopment" (included in next sub-section).]

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER: WQ 2000 - 11

In the Matter of the Petitions of
THE CITIES OF BELLFLOWER, ET AL., THE CITY OF ARCADIA, AND WESTERN STATES PETROLEUM ASSOCIATION
Review of January 26, 2000 Action of the Regional Board
and
Actions and Failures to Act
by both the
California Regional Water Quality Control Board,
Los Angeles Region and Its Executive Officer
Pursuant to Order No. 96-054,
Permit for Municipal Storm Water and Urban Run-Off Discharges Within
Los Angeles County
[NPDES NO. CAS614001]

SWRCB/OCC FILES A-1280, A-1280(a) and A-1280(b)

BY THE BOARD:

On July 15, 1996, the Los Angeles Regional Water Quality Control Board (Regional Water Board) issued a revised national pollutant discharge elimination system (NPDES) permit in Order No. 96-054 (permit) to the 85 incorporated cities and the county within Los Angeles County (the County).[1] The permit covers storm water discharges from municipal separate storm sewer systems throughout the County.[2]

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[1] This was the second storm water permit adopted for Los Angeles County and its cities. The first permit was the subject of an earlier Order. (In the Matter of Natural Resources Defense Council, Inc., Order WQ 91-04). In this permit, the County is designated as the Principal Permittee, and each city is designated as a permittee. The County is required to submit various documents on behalf of all of the permittees.
[2] The Regional Water Board has since issued a separate permit for one city, Long Beach. The relevant provisions of the Long Beach permit are similar to those in Order No. 96-054.

The permit contains provisions for the regulation of storm water discharges from development planning and construction.[3] Pursuant to these provisions, the County was required to submit Standard Urban Storm Water Mitigation Plans (SUSMPs).[4] The SUSMPs are plans that designate best management practices (BMPs) that must be used in specified categories of development projects. The County submitted SUSMPs, but the Regional Water Board approved the SUSMPs only after making revisions. The Executive Officer issued the revised SUSMPs on March 8, 2000.[5]

On February 25, 2000, the State Water Resources Control Board (State Water Board or Board) received a petition for review of the actions and failures to act regarding the SUSMPs from a number of cities, the Building Industry Association of Southern California and the Building Industry Legal Defense Foundation (jointly referred to as Cities). A second petition was received from the City of Arcadia. And a third petition was received from the Western States Petroleum Association (WSPA). On April 7, 2000, the petitioners filed amendments to their petitions, concerning the March 8, 2000 issuance of the SUSMPs. The Cities' amendment also revised the list of cities included in the petition. The Cities' petition now includes 32 cities. The petitions are legally and factually related, and have therefore been consolidated for purposes of review.[6] The petitioners also requested a stay of the SUSMPs. This request was denied by letter, dated May 11, 2000.

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[3] Permit, Part 2.III. These provisions focus more on post-construction impacts of development than on discharges from construction activities.
[4] Permit, Part 2.III.A.1.c.
[5] These are referred to herein as the Final SUSMPs. The Final SUSMPs also apply to Long Beach, even though it is subject to a separate permit.
[6] Cal. Code of Regs., tit. 23, section 2054.

On June 7 and 8, 2000, the Board held a hearing in Torrance. Several entities, including the petitioners, the Regional Water Board, and several environmental groups[7], were designated parties. The evidence from that hearing has been included in the record before the Board. The record for comments on the petition was kept open until the end of the hearing. The parties were allowed to submit post-hearing briefs.[8]

I. BACKGROUND

In prior Orders[9] this Board has explained the need for the municipal storm water programs and the emphasis on BMPs in lieu of numeric effluent limitations. The emphasis for preventing pollution from storm water discharges is still on the development and implementation of effective BMPs, but with the expectation that the level of effort will increase over time. In its Interim Permitting Approach[10], the United States Environmental Protection Agency (U.S. EPA) stated that first-round permits should include BMPs, and expanded or better-tailored BMPs in subsequent permits where necessary to attain water quality standards. Dischargers, consultants, and academic institutions in California and nationwide have conducted numerous studies on the effectiveness of BMPs and appropriate design standards. While many questions are still

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[7] The environmental groups are Natural Resources Defense Council, Inc., Santa Monica BayKeeper, and Heal the Bay.

[8] There are several documents that were not timely received and, therefore, are not made a part of the record before the Board. The hearing notice specified that all evidence from parties must be received by May 31, 2000. The Regional Water Board submitted documents on June 6, 2000. The hearing notice specified that policy statements were due by the close of the hearing. Several comment letters were received June 12, 13, and 19, 2000. None of these submittals are a part of the record. The post-hearing briefs were subject to a 10-page limit. The environmental groups submitted objections to the post-hearing brief submitted by the Cities. First, the environmental groups challenge the length of the brief. All briefs were subject to a 10-page limit. The Cities submitted a 10-page brief, with a 22-page attachment showing extensive proposed revisions to the SUSMPs. This submittal violates the page limit, and only the brief is considered part of the record. Second, the environmental groups claim that an e-mail message referred to by the petitioners is subject to attorney-client privilege and should not have been used in this hearing. This e-mail message, from the Regional Water Board's counsel to one of its engineers, was placed in the Regional Water Board's administrative record and submitted to the State Water Board. Any privilege that may have attached to the message has been waived and no longer exists. Finally, the post-hearing brief from the City of Arcadia was received late and will not be considered. Documents submitted late for interim deadlines (such as the deadline for submitting responses to the petitions), have been included in the record.

[9] See, especially Orders WQ 91-03 (In the Matter of Citizens for a Better Environment et al.) and WQ 91-04.

outstanding, more is expected of municipal dischargers, and many are implementing more effective programs.

While storm water management plans are improving, our knowledge of the impacts is also growing. Urban runoff has been determined to be a significant contributor of impairment to waters throughout the state. In Los Angeles specifically, beach closures are sometimes associated with urban runoff. In adopting the SUSMPs, the Regional Water Board took note of the urgent need for preventing further pollution from urban runoff and storm water discharges.

It is important to emphasize the role of the SUSMPs within the totality of regulating storm water discharges, and the purpose of these particular control measures. The requirement to prepare SUSMPS was part of the development controls in the permit. In addition to development controls, the permit requires education, public outreach, programs to restrict illicit connections and discharges, and controls on public facilities. In the context of the entire effort required by the permit, the development controls can be seen as preventing the existing situation from becoming worse.

The Final SUSMPs include a list of mandatory BMPs for nine categories of development. There are provisions that are applicable to all categories and lists of BMPs for individual categories. Requirements applicable to all categories include provisions to limit erosion from new development and redevelopment, requirements to conserve natural areas, protection of slopes and channels, and storm drain stenciling. Examples of BMPs specific to categories of discharge include design of loading docks for commercial projects and design of fueling areas for retail gasoline outlets. In most respects, the Final SUSMPs were similar to those proposed by the County. The significant departures were the inclusion of a numeric design standard for

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[10] Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits. (61 Federal Register 57425.)

structural or treatment control BMPs, and the inclusion of certain types of projects that were not covered in the County's proposal. The design standard creates objective and measurable criteria for the amount of runoff that must be treated or infiltrated by BMPs.

The record indicates that the purpose of the development controls, including the SUSMPs, is not simply to prevent pollution associated with construction runoff. As the petitioners point out, construction discharges are already subject to this Board's Statewide Construction Permit. The development controls in the SUSMPs, on the other hand, focus on post-construction runoff. They are aimed at limiting not just the pollutants in runoff from the new development, but also the volume of runoff that enters the municipal storm sewer system. By limiting runoff from new development, the SUSMPs prevent increased impacts from urban runoff generally. There is adequate technical information in the record to show that by controlling the volume of runoff from new development, BMPs can be effective in reducing the discharge of pollutants in storm water runoff.

The Procedure for Adopting the SUSMPs

The permit requires a program for controls on Development Planning and Construction. It involved a number of submissions by the County in consultation with the Cities. The first step was submission of a checklist for determining priority projects and exempt projects. The checklist was due on January 30, 1998. A list of recommended BMPs for development projects was also due on that date. The SUSMPs were due within six months of approval of the BMP list, and were to incorporate BMPs for certain categories of development. Following approval of the SUSMPs, the cities and County were to implement development programs for priority projects, consistent with the BMP list and the SUSMPs.

The BMP list was not approved until April 22, 1999. Thereafter, the County submitted proposed SUSMPs on July 22, 1999. The Regional Water Board held a public workshop on August 10, 1999. Following the workshop, the County submitted revisions to the SUSMPs on August 12, 1999. On August 16, 1999, the Regional water Board gave notice that it would discuss the SUSMPs in a public meeting on September 16, 1999. There was significant discussion at that meeting regarding the intent of the Executive Officer to approve the SUSMPs, but with revisions including a numeric design standard. At the conclusion of the meeting, the Regional Water Board members asked the Executive Officer to revise the SUSMPs and bring them back to another meeting. On December 7, 1999, the Executive Officer circulated revised SUSMPs for public review. This document incorporated a numeric design standard and made other revisions to the permittees' proposal. The Regional Water Board held a hearing on the SUSMPs on January 26, 2000. At that meeting, the Regional Water Board endorsed the SUSMPs revised by the Executive Officer, but directed him to make further changes. The Executive Officer issued the Final SUSMPs on March 8, 2000.

The Contents of the Final SUSMPs

The permit provides that the SUSMPs must incorporate the appropriate elements of the BMP list and, at a minimum, apply to seven development categories: 100-plus home subdivisions; 10-plus home subdivisions; 100,000-plus square foot commercial developments; automotive repair shops; retail gasoline outlets; restaurants; and hillside single-family dwellings.

The SUSMPs proposed by the County applied to these seven categories. Various BMPs applied to the different categories, and the SUSMPs contained narrative mitigation requirements for source control and treatment. The July proposals stated:

> "The development must be designed so as to mitigate (infiltrate and/or treat) the site runoff generated from impervious directly connected areas that may contribute pollutants of concern to the storm water conveyance system."

There were no numeric design criteria for mitigation. According to various participants, earlier County drafts had included design standards to mitigate flows from 0.6-inch storm events. But any numeric criteria had been removed from the version that was submitted.

In its revised SUSMPs, submitted on August 12, the County explained in its cover letter that the mitigation language did not mean that all runoff must be mitigated. Rather, the County's intent was to omit a numerical standard from the SUSMPs. The revised SUSMPs no longer referred to mitigation at all. Instead, the following language replaced the mitigation requirement:

> "The development must be designed so as to minimize, to the maximum extent practicable (MEP), the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official."

The Final SUSMPs, as approved by the Executive Officer and the Regional Water Board, included several revisions from the County's submittal. The revision that is of greatest concern to the petitioners is the addition of Design Standards for Structural or Treatment Control BMPs.[11] The design standards require that developments subject to the SUSMPs shall be designed to mitigate storm water runoff (by treatment or infiltration) from one of the following:

> "1. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area..., or
> 2. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment..., or
> 3. The volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or
> 4. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles

[11] The Final SUSMPs also include the narrative language quoted from the County's August 22, 1999 proposal.

County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event."

The Final SUSMPs also applied to two additional categories of development: parking lots over 5,000 square feet or with 25 or more spaces and exposed to storm water, and to developments in environmentally-sensitive areas. Other revisions included application to all projects in the categories instead of discretionary projects only and the definition of redevelopment.

II. CONTENTIONS AND FINDINGS[12]

Contention: The petitioners contend that the Regional Water Board erred in not complying with the Administrative Review Process within the permit, and acted arbitrarily and capriciously and in violation of the Clean Water Act and state law.

Finding: The permit required the County, in consultation with the cities subject to the permit, to submit SUSMPs. The permit includes some general minimum requirements for the SUSMPs.[13] The Executive Officer is granted authority to approve the SUSMPs.[14]

The permit also contains an administrative review process.[15] The permit states that the administrative review process "formalizes the procedure for review and acceptance of reports and documents" and "provides a method to resolve any differences in compliance expectations between the Regional Board and Permittees, prior to initiating enforcement action."[16] Following this introductory statement, the permit includes two procedures. The first is for review and

[12] This Order does not address all of the issues raised by the petitioners. The Board finds that the issues that are not addressed are insubstantial and not appropriate for State Water Board review. (See *People v. Barry* (1987) 194 Cal.App.3d 158, [239 Cal.Rptr. 349], Cal. Code Regs., tit. 3, § 052.)
[13] Permit, Part 2, III.A.1.c.
[14] Permit, Part 2, III.A.2.
[15] Permit, Part 2, I.G.
[16] *Id.*

approval or disapproval of reports and documents. The second is the dispute resolution section that must be followed prior to enforcement action.

The process for review of documents that are subject to the Executive Officer's approval is that the Executive Officer will notify the permittees of the results of the review and approval or disapproval within 120 days. If the Executive Officer does not do so, the permittees must notify the Regional Water Board of their intent to implement the documents without approval. The Executive Officer then has 10 days to respond, or the permittees may implement the program and the Executive Officer may not make modifications.

The dispute resolution procedure is to be used when the Executive Officer determines that a permittee's storm water program is insufficient to meet the permit's provisions. The Executive Officer must send a "Notice of Intent to Meet and Confer" with the permittee. A meet and confer period then ensues, resulting in a written "Storm Water Program Compliance Amendment (SWPCA)." The permittee is provided time to comply with the SWPCA. The Executive Officer is not allowed to take enforcement action against a permittee until the Executive Officer notifies the permittee in writing that the administrative review process has been exhausted and that a violation exists warranting enforcement.

The petitioners contend that the Executive Officer failed to notify the permittees that their SUSMPs were inadequate within 120 days of its submittal. The petitioners also argue that, by revising the SUSMPs without pursuing the dispute resolution process, the Regional Water Board "violated" the terms of the permit.

The provision for review of documents, which clearly includes the SUSMPs, requires that the Executive Officer notify the permittees of the results of the review and approval or disapproval within 120 days. The County submitted the revised SUSMPs on August 12, 1999.

Within 120 days, the Regional Water Board held a workshop where staff expressed their concerns with the SUSMPs. Also within 120 days the Regional Water Board itself held a public meeting where there was extensive discussion and concern by board members that the SUSMPs did not include a numeric standard. And, prior to any notification by the permittees that they would proceed with implementing their SUSMPs, the Regional Water Board held a hearing January 26, 2000, where it directed the Executive Officer to issue the SUSMPs with revisions. The Executive Officer did so on March 8, 2000.

It is clear from the record that the Executive Officer, and the Regional Water Board itself, did inform the permittees that the SUSMPs were inadequate. There was no requirement for a specific form for expressing disapproval of documents. The extensive discussion and meetings on the need for revisions to the SUSMPs, and the Executive Officer's approval of revised SUSMPs, plainly refutes the allegation that the Regional Water Board never notified the permittees of its disapproval of the County's proposed SUSMPs.

The permittees also claim that the Regional Water Board "violated" the permit by failing to institute the meet and confer process.[17] The dispute resolution process, which includes meet and confer, did not apply to the decision to disapprove the proposed SUSMPs. That process is only required when the Regional Water Board ultimately takes an enforcement action against a permittee. It is separate from the process for review and approval or disapproval of documents, and does not even appear to relate to possible enforcement actions for submission of inadequate documents. This is illustrated by the fact that the provision regarding documents refers to submittals from both the Principal Permittee and the individual permittees, while the dispute resolution provision refers only to the permittees. This distinction is relevant because the County

[17] We note that permits are issued to permittees to allow discharges to waters of the state. It is only permittees, and not Regional Water Boards, who can be charged with violating permits.

is charged with submitting the documents, while the individual permittees are responsible for compliance. A fair reading of the entire section on the administrative review process is that the review and approval or disapproval of documents applies to submission of documents by the County on behalf of the cities, while the dispute resolution process applies to enforcement actions against any permittees for failing to implement adequate programs.

Contention: The petitioners contend that the Regional Water Board was not authorized to revise the SUSMPs to add more stringent requirements.

Finding: The petitioners contend that the mitigation standards in the SUSMPs are more stringent than the requirement in the permit to reduce pollutants in storm water runoff to the maximum extent practicable (MEP)[18]. The issue of what level of protection constitutes MEP will be discussed *Infra*, in the discussion of the reasonableness of the numeric standards. But the petitioners also make certain procedural claims on this point. They argue that in approving the BMP list, the Regional Water Board determined that those BMPs constituted MEP and that the Board could not add additional BMPs in the SUSMPs. They also contend the Regional Water Board itself had no authority to "usurp" the Executive Officer's role in reviewing the SUSMPs.[19] Finally, the petitioners contend that the Regional Water Board was not authorized to mandate a program for the permittees without amending the permit.

The permit requires the County to submit a list of BMPs for approval. The Regional Water Board approved this list. Following approval of the list, the County was required to submit the SUSMPs, which must "incorporate the appropriate elements of the recommended

[18] The technology-based standard for controls under municipal storm water permits is MEP. For a fuller discussion of this standard, see Order WQ 91-03.

[19] It is undisputed that, at its January 26, 2000 meeting, the Board directed the Executive Officer to make additional revisions to the SUSMPs.

BMPs list."[20] The petitioners contend that by approving the list, the Regional Water Board determined that those BMPs constituted MEP, and that under the terms of the permit the Regional Water Board could not require additional BMPs.

In addressing this contention, we face what appears to be a fundamental misunderstanding of the numeric design standards on the part of the petitioners. The design standards are objective criteria that developers must achieve in designing their BMPs. The design standards are not separate BMPs. The standards tell what magnitude of storm event the BMPs must be designed to treat or infiltrate. They do not specify the BMPs that must be employed.

The SUSMPs as submitted by the County specify BMPs for various categories of development. Many of these BMPs are designed to minimize the pollutants in storm water runoff, by reducing flow through infiltration or by treatment. Examples of BMPs proposed by the County include infiltration basins and trenches, oil/water separators, and media filtration. The County's proposed SUSMPs also included language requiring minimizing the introduction of pollutants to the storm water conveyance system. That language remains unchanged in the Final SUSMPs. The only significant difference between the two versions of the SUSMPs was that the Regional Water Board established numeric criteria for designing the BMPs.

In adopting the Final SUSMPs, the Regional Water Board based its decision on the MEP standard.[21] The Regional Water Board did not significantly revise the BMP list or specify further the actions that developers must take to comply with the SUSMPs. Thus, we find that the Regional Water Board did not inappropriately revise its determination of what constituted MEP.

[20] Permit, Part 2, III.A.1.c.
[21] Resolution R-00-02.

The Regional Water Board is the political body responsible for water quality control in the Los Angeles region.[22] While the Regional Water Board may delegate specified powers and duties to its Executive Officer,[23] it can at any time act on its own behalf. The fact that the Board authorized its Executive Officer to approve the SUSMPs in the permit did not mean that the Board thereby denied itself the opportunity to provide direction to the Executive Officer in his approval. Such an interpretation of its delegation authority would result in an improper failure of the Board to assume responsibility for water quality in the region.

We also find that the Regional Water Board was authorized to revise the SUSMPs to achieve compliance with the permit's requirements. The SUSMPs are a part of implementation of the permit. Because the permit regulates storm water discharges throughout the entire Los Angeles region and it is implemented by 85 cities and the County, it is obvious that the permit could not spell out every detail of the program for the five-year term of the permit. Instead, the implementation is through the submission, review and approval, and implementation of various programs, including the SUSMPs.[24] Where it receives a submission that it finds is not consistent with the requirements of the permit, it is reasonable for the Regional Water Board to be able to require revisions. The Regional Water Board is not required to amend the permit each time it approves a submittal or approves a submittal with revisions. On the other hand, if the Regional Water Board's action in requiring revisions is inconsistent with the terms of the permit, then the Board should not act without first amending the permit. While the Regional Water Board could have required the County to make the revisions rather than making them itself, we see no harm in the Regional Water Board's approach.

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[22] Water Code sections 13200 and 13225.
[23] Water Code section 13223.
[24] A fuller discussion of the use of storm water management plans to incorporate a developing program is found in Order No. WQ 91-03.

As will be discussed below, in most respects the Final SUSMPs are consistent with the permit. But there are some portions of the SUSMPs that are not consistent, and in those cases the SUSMPs provisions are further revised in this Order.

Contention: The petitioners make various procedural claims, including that they were denied due process, and that the Regional Water Board violated the Administrative Procedure Act, the California Environmental Quality Act (CEQA), and the California Constitution, Article XIII B, section 6 (regarding state mandates).

Finding: The petitioners point out that at the January 26, 2000 Regional Water Board hearing, there was some confusion over late changes to the SUSMPs and they contend they were not provided adequate opportunity to comment. There was significant discussion of the SUSMPs over several months. We do not agree with the petitioners that a program of this magnitude must necessarily take years to develop. But we are concerned that at the January 26, 2000 hearing, interested persons and permittees were not given adequate time to review late revisions or to comment on them. Given the intense interest in this issue, the Regional Water Board should have diverged from its strict rule limiting individual speakers to three minutes and conducted a more formal process. Such a process should provide adequate time for comment, including continuances where appropriate.[25] But to the extent the Regional Water Board's process caused any harm, this Board cured those harms. We held a two-day hearing in Los Angeles County, where all parties were allowed significant time to present their positions and testimony. In addition, we allowed the introduction of new evidence that had not been presented to the Regional Water Board. At this point, all parties have been afforded a full

[25] For future adjudicative proceedings that are highly controversial or involve complex factual or legal issues, we encourage regional water boards to follow the procedures for formal hearings set forth in Cal. Code of Regs., tit. 23, section 648 et seq.

opportunity to review the Final SUSMPs, to present their positions and evidence, and to engage in cross-examination. The petitioners' due process rights have been protected.

The Board has already addressed the contentions regarding compliance with other laws in prior decisions. The Administrative Procedure Act exempts the adoption of permits from its requirements.[26] While the SUSMPs are not a permit, they are implementing documents for a permit, and are therefore subject to the exemption. Moreover, they are relevant only to this permit, and are not a general rule of application. The constitutional provisions regarding state mandates also do not apply to NPDES permits.[27] As will be explained below, the SUSMPs as revised herein, are consistent with MEP and therefore are federally mandated. The provisions of CEQA requiring adoption of environmental documents also do not apply to NPDES permits.[28] Again, as an implementing document for the permit, there is no requirement for a separate CEQA analysis.[29]

Contention: The petitioners contend that the SUSMPs do not properly apply the maximum extent practicable standard.

Finding: The permit, consistent with Clean Water Act section 402(p)(3)(B)(iii), requires controls to reduce the discharge of pollutants to the maximum extent practicable, or MEP.[30] In approving the Final SUSMPs, the Regional Water Board acknowledged that one of the primary objectives of the municipal storm water program is the requirement to reduce the discharge of pollutants from storm water conveyance systems to the MEP.[31] While all parties appear to agree

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[26] Government Code section 11352; See, Order No. 95-4 (In the Matter of the City and County of San Francisco).
[27] See, Order No. WQ 90-3 (In the Matter of San Diego Unified Port District).
[28] Water Code section 13389.
[29] We do note with interest the environmental groups' comment that if the permittees believed it was necessary to comply with the APA and CEQA prior to adoption of the SUSMPs, then they themselves would have violated those acts in their submissions of the proposed SUSMPs.
[30] Permit, Finding 13.
[31] Final SUSMPs, at page 2; Resolution No. R-00-02, at page 3.

that the standard for the SUSMPs is MEP, they disagree about what level of effort is necessary to comply with that standard.

The petitioners approach this issue from two angles. First, they contend that the SUSMPs will not provide water quality benefits that reflect MEP. Second, they contend that there could be adverse impacts on groundwater quality that have not been adequately evaluated.

Storm Water Design Standards as MEP

In adopting the Final SUSMPs, the Regional Water Board found that many rivers and streams in Los Angeles County are impaired for pollutants found in storm water and urban runoff, and that storm water runoff carries pollutants from nearly all types of developed properties.[32] Pollutant loading from the aggregate of development in the basin results in impairments from sediments, metals, complex organic compounds, oil and grease, nutrients, and pesticides.[33] The Final SUSMPs reflect two goals: to reduce the amounts of these pollutants in runoff and to reduce the ability of runoff to act as a conveyance system to deliver more pollutants to receiving waters. The Final SUSMPs, which include lists of BMPs and design standards requiring treatment or infiltration, address these two goals.

Clean Water Act section 402(p)(3)(B)(iii), which sets forth the requirements for establishing MEP in municipal storm water permits, provides that such permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." The United States Environmental Protection Agency (U.S. EPA), in a guidance document, explains that BMPs should be used in first-round storm water permits, and "expanded

[32] Resolution No. R-00-02.
[33] *Id.*

or better-tailored BMPs in subsequent permits, where necessary, to provide for the attainment of water quality standards."[34] The Clean Water Act, as interpreted by U.S. EPA, does require that, in a second-round permit,[35] expanded BMPs may be appropriate. In light of the number of water bodies impaired by runoff in Los Angeles County, it was appropriate to expand the scope of BMPs during the permit term.

The regulations implementing section 402(p) specifically require municipalities to have controls to reduce the discharge of pollutants from their storm sewer systems that "receive discharges from areas of new development and significant redevelopment," including post-construction discharges.[36] Clearly, it was appropriate for the Regional Water Board to require BMPs for new development and significant redevelopment. The permittees, who submitted their own version of SUSMPs with listed BMPs for categories of development, appear to have no real quarrel with this general mandate.

This Board has already endorsed requirements to limit the flow of the "first flush" of storm water, which may contain more significant pollutants.[37] The permittees' own version of the SUSMPs required mitigation of storm water runoff by treatment or infiltration, thus conceding the propriety of these two approaches to lessening the impact of storm water discharges. The crux of the disagreement is that the Regional Water Board added numeric design standards to establish the amount of runoff that must be treated or infiltrated, and required the mandatory application of these standards to categories of development.

The addition of measurable standards for designing the BMPs provides additional guidance to developers and establishes a clear target for the development of the BMPs. The U.S.

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[34] Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits, 61 Federal Register 57425 (1996).
[35] The original permit was issued in 1990. The 1996 permit is a second-round permit.
[36] 40 CFR section 122.26(d)(2)(iv)(A)(2).

EPA guidance manual suggests the use of design criteria and performance standards for post-construction BMPs.[38] The numeric criteria the Regional Water Board adopted essentially requires that 85 percent of the runoff from the development be infiltrated or treated.[39] In adopting these standards, the Regional Water Board based its decision on a research review of standards in other states and a statistical analysis of the rainfall in the area. The standard was set to gain the maximum benefit in mitigation while imposing the least burden on developers.[40] In light of the evidence of the use of this or more stringent standards in other states, the expert testimony supporting this standard, the endorsement by U.S. EPA in its comments, and the cost-effectiveness of its implementation (discussed below), the Regional Water Board acted appropriately in determining that the standards reflect MEP.[41]

We also find that the Regional Water Board appropriately applied these standards to seven of the categories listed in the SUSMPs: single-family hillside residences, 100,000 square foot commercial developments, automotive repair shops, restaurants, home subdivisions with 10 to 99 housing units, home subdivisions with 100 or more housing units, and parking lots with 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff.[42] These categories, except for parking lots, were already targeted for special treatment in the permit. The evidence shows that each listed category can be a significant source

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[37] In the Matter of National Steel and Shipbuilding Company, et al., Order WQ 98-07, at slip opinion 7.

[38] Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Strom Sewer Systems, at page 6-4 (November 1992).

[39] Four different methods of calculation are permitted, so the percentage of capture may vary slightly.

[40] At the hearing in this matter, Regional Water Board staff explained that the standard was set at the bottom of the "knee" of the curve where the benefits of the mitigation requirements decrease and the cost increases. Other states have set the standard higher along this curve, requiring 90 to 95 percent mitigation.

[41] This conclusion in no way departs from our acceptance of BMPs in lieu of numeric effluent limitations in storm water permits. (See, e.g., Order WQ 91-03 and Order WQ 91-04.) The numeric standard is a design standard for BMPs. It does not quantify or limit the pollutants in the effluent. It also does not specify which of the listed BMPs must be employed.

[42] As discussed below, this Board is revising the SUSMPs to delete the application of the design standards to retail gasoline outlets and to locations within or directly adjacent to or discharging directly to environmentally-sensitive areas.

of pollutants and/or runoff following development. It is appropriate that the design standards apply so that BMPs for these categories of development result in the infiltration or treatment of a significant about of the runoff.

Potential Impacts on Ground Water

The petitioners contend that infiltration of runoff may lead to ground water pollution, and that the Regional Water Board did not properly consider such potential impacts. The mitigation standards provide for a waiver where there is a risk of ground water contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than ten feet from the soil surface.[43] The Final SUSMPs also include a discussion on how to use infiltration so that the risk of contamination of groundwater is reduced, and where infiltration is not appropriate.[44]

The Regional Water Board did consider the potential impacts to groundwater from infiltration, and included appropriate limitations and guidance on its use as a BMP. These provisions will ensure adequate protection of groundwater from any adverse impacts due to infiltration.

Contention: The petitioners contend the Regional Water Board failed to show that the SUSMPs as adopted are cost-effective and that the benefits to be obtained outweigh the costs.

Finding: The petitioners refer to the Preamble to the Phase II storm water regulations[45] as the basis for their economic argument. The quoted language, however, does not wholly support the petitioners' contention. The Preamble states that President Clinton's Clean Water Initiative clarifies "that the maximum extent practicable standard should be applied in a site-

[43] Final SUSMP, page 14.
[44] *Id.*, at page 15.
[45] 64 Federal Register 68722 and following. These regulations do not apply to the permit, but the general language on MEP is relevant to EPA's interpretation of the standard.

specific, flexible manner, taking into account cost considerations as well as water quality effects."[46] It is clear that cost should be considered in determining MEP; this does not mean that the Regional Water Board must demonstrate that the water quality benefits outweigh the economic costs.

While the standard of MEP is not defined in the storm water regulations or the Clean Water Act, the term has been defined in other federal rules. Probably the most comparable law that uses the term is the Superfund legislation, or CERCLA, at section 121(b). The legislative history of CERCLA indicates that the relevant factors, to determine whether MEP is met in choosing solutions and treatment technologies, include technical feasibility, cost, and state and public acceptance.[47] Another example of a definition of MEP is found in a regulation adopted by the Department of Transportation for onshore oil pipelines. MEP is defined as to "the limits of available technology and the practical and technical limits on a pipeline operator . . . ."[48]

These definitions focus mostly on technical feasibility, but cost is also a relevant factor. There must be a serious attempt to comply, and practical solutions may not be lightly rejected. If, from the list of BMPs, a permittee chooses only a few of the least expensive methods, it is likely that MEP has not been met. On the other hand, if a permittee employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit to be derived, it would have met the standard. MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive. Thus while cost is a factor, the Regional Water Board is not required to perform a cost-benefit analysis.

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[46] 64 Federal Register 68722, 68732 (December 8, 1999).
[47] 132 Cong. Rec. H 9561 (Oct. 8, 1986).

In reviewing the record, it is apparent that the Regional Water Board did evaluate the cost of the SUSMPs. While the petitioners claim there is no evidence in the record to show the SUSMPs are necessary and cost effective, the opposite is true. The record is replete with documentation of costs of pilot mitigation projects, studies from similar programs in other states, and research studies. The Regional Water Board complied with the requirement to consider cost.

The Regional Water Board found that the cost to include BMPs that will meet the mitigation criteria will be one to two percent of the total development cost. This amount appears reasonable, especially in light of the amount of impervious surface already in Los Angeles County and the impacts on impaired water bodies. In considering the cost of compliance, it is also important to consider the costs of impairment. The beach closures in the Los Angeles region, well documented in the evidence, have reached critical proportions. These beach closures clearly have a financial impact on the area, and should be positively affected by the SUSMPs.

We do note that there could be further cost savings for developers if the permittees develop a regional solution for the problem. We recommend that the cities and the County, along with other interested agencies, work to develop regional solutions so that individual dischargers are not forced to create numerous small-scale projects. While the SUSMPs are an appropriate means of requiring mitigation of storm water discharges, we also encourage innovative regional approaches.[49]

Contention: The petitioners have raised contentions regarding details of the SUSMPs, including the amount of time allowed for inclusion of SUSMPs in local ordinances, and their application to both "discretionary" and "non-discretionary" projects. In addition, during the

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[48] 49 CFR section 194.5.

hearing certain ambiguities in the wording of the Final SUSMPs became apparent, including the provisions regarding redevelopment and environmentally-sensitive areas. In this portion of the Order we address these issues and also the application of the design standards to retail gasoline outlets (RGOs) and the waiver funding requirements.

Finding: The testimony at the hearing in this matter revealed that there are specific provisions of the SUSMPs that create confusion as to the types of development projects subject to the mitigation design standards. The petitioners also contend that application of the standards to specific types of development either is unreasonable or is inconsistent with the terms of the permit. The specific requirements are discussed below.

Retail Gasoline Outlets

Petitioner WSPA contends that RGOs should be excluded from the SUSMPs. Its petition raised the same general contentions as the other petitioners, but at the hearing WSPA presented evidence specific to RGOs. In particular, WSPA raised questions about the propriety of applying the design standards for BMPs to RGOs. In considering this issue, we conclude that construction of RGOs is already heavily regulated and that owners may be limited in their ability to construct infiltration facilities. Moreover, in light of the small size of many RGOs and the proximity to underground tanks, treatment may not always be feasible, or safe. The mandatory BMPs that are included in the SUSMPs may be adequate to achieve MEP at RGOs, but the Regional Water Board should add additional mandatory BMPs, such as use of dry cleanup methods (e.g. sweeping) for removal of litter and debris, use of rags and absorbents for leaks and spills, restricting the practice of washing down hard surfaces unless the wash water is collected and disposed of properly, annual training of employees on proper spill cleanup and waste disposal

[49] We note that the SUSMPs as written do not in any way preclude the development of regional solutions approved by the Regional Water Board as a means to comply with the BMP and design standard requirements.

methods, and the inclusion of BMPs to address trash receptacle areas and air/water supply areas.[50] We conclude that because RGOs are already heavily regulated and may be limited in their ability to construct infiltration facilities or to perform treatment, they should not be subject to the BMP design standards at this time, and recommend that the Regional Water Board undertake further consideration of a threshold relative to size of the RGO, number of fueling nozzles, or some other relevant factor. This Order should not be construed to preclude inclusion of RGOs in the SUSMP design standards, with proper justification, when the permit is reissued.

Redevelopment Projects

The SUSMPs were written to apply to new development and to some types of redevelopment in nine categories of projects. The definition of "redevelopment" reflected the intent of the Regional Water Board to define the scope of redevelopment projects subject to the requirements. That definition[51], however, was somewhat confusing, and it was apparent from testimony at the hearing that the parties had different understandings of the scope of redevelopment subject to the SUSMPs. In their post-hearing briefs, the various parties appeared to agree on the actual intent of the Regional Water Board in including redevelopment in the SUSMPs. This intent was to include redevelopment that adds or creates at least 5,000 square feet of impervious surface to the original development and, where the addition constitutes less

[50] These BMPs are from a list of BMPs in a publication of the California Storm Water Quality Task Force. (Best Management Practice Guide – Retail Gasoline Outlets. March 1997.) This publication includes BMPs in addition to those listed in the SUSMPs. All BMPs recommended in this publication should be mandated.

[51] The SUSMPs state: "Redevelopment" means, on an already developed site, the creation or addition of at least 5,000 square feet of impervious surfaces or the creation or addition of fifty percent or more of impervious surfaces or the making of improvements to fifty percent or more of the existing structure. Redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces.

than 50 percent of the original development, to limit the application of the BMP design standards to the addition.

While some parties requested further requirements for development, it appears that the Regional Water Board's original intent was relatively simple to apply and results in a fair and appropriate application of the SUSMPs' requirements to redevelopment. Therefore, we will revise the definition in the SUSMPs accordingly.

Environmentally-Sensitive Areas

The permit required that the SUSMPs address at least seven development categories.[52] The final SUSMPs added two more categories: parking lots of 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff; and location within or directly adjacent to an environmentally-sensitive area (ESA). The petitioners contend that the addition of ESAs was inappropriate because the permit refers only to "development categories"[53] and ESA is a location category.

Whether or not the Regional Water Board went beyond the permit's terms in including this category, we find a fundamental problem with the language of the SUSMPs regarding ESAs. All of the other categories are relatively simple to apply because they describe the types of development that fall within the category. For instance, the threshold for a commercial development is 100,000 square feet. If the development is smaller, it is not subject to the SUSMPs. But for developments within ESAs, the SUSMPs contain no threshold. This absence led to speculation by the petitioners that something as small as a new patio on a home in an ESA would make the SUSMPs applicable. The Regional Water Board, at the hearing and in its post-

[52] The categories listed in the permit are: single-family hill residences, 100,000 square-foot commercial developments, automotive repair shops, retail gasoline outlets, restaurants, home subdivisions with 10 to 99 housing units, and home subdivisions with 100 or more housing units. Permit, Part 2, III.A.1.c.
[53] *Id.*

hearing brief, conceded that there should be some threshold. While the Regional Water Board did recommend a specific threshold, we believe that it is inappropriate for this Board to add a threshold that has not been fully discussed by all interested persons.

While it may be appropriate to include more stringent controls for developments in ESAs, we also note that such developments are already subject to extensive regulation under other regulatory programs. Moreover, in light of the permit language limiting the SUSMPs to development categories, ESAs are not an appropriate category within the SUSMPs. The Regional Water Board may choose to consider the issue further when it reissues the permit.

Discretionary and Non-Discretionary, or Ministerial, Projects

The petitioners contend that the SUSMPs should apply only to projects that are considered "discretionary" within the meaning of California Environmental Quality Act (CEQA).[54] They argue that the inclusion of non-discretionary, or ministerial, projects is inconsistent with the terms of the permit.

The permit provisions on development projects do refer to "discretionary" projects in several places. The permittees are directed to develop a checklist for determining priority and exempt projects.[55] Priority projects are defined as development and redevelopment projects requiring discretionary approval, which may have a potential significant effect on storm water quality.[56] The permittees are also required to develop a BMP list.[57] In developing the SUSMPs, the permittees are required to incorporate appropriate elements of the BMP list.[58] Next, the permittees must develop a program on planning control measures for priority projects (which are limited to projects requiring discretionary approval), consistent with the list of BMPs and the

[54] Public Resources Code section 21000 *et seq.*
[55] Permit, Part 2, III.A.1.a.
[56] *Id.*
[57] Permit, Part 2, III.A.1.b.

SUSMPs.[59] The permit further states that, in order to assure compliance with these requirements, the permittees must develop guidelines on preparing CEQA documents that link mitigation conditions to "local discretionary project approvals."[60]

Taken as a whole, the provisions of the permit appear to link the development requirements for SUSMPs to developments that receive discretionary approval by local governments, as defined in CEQA. The SUSMPs are an implementation tool for the permit and must be consistent with the permit. While the limitation of the SUSMPs to discretionary projects may not be sufficiently broad for an effective storm water control program, the Regional Water Board acted inappropriately in expanding the SUSMPs to include non-discretionary projects. The Regional Water Board may consider expanding the development controls beyond CEQA discretionary projects when it reissues the permit. But at this time, the SUSMPs must be revised so that they are limited to development projects requiring discretionary approval within the meaning of CEQA.[61]

Waiver Funding Requirement

Where a waiver is granted from the design standard requirements, the Final SUSMPs provide that the permittee must require the project proponent to transfer the cost savings to a storm water mitigation fund. The fund is to be operated by a public agency or a non-profit entity, to promote regional or alternative solutions for storm water pollution in the same storm watershed. The petitioners contend that the funding requirement will create an additional administrative burden.

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[58] Permit, Part 2, III.A.1.c.
[59] Permit, Part 2, III.a.2.
[60] Permit, Part 2, III.a.3.b.
[61] We note that the Final SUSMPs already include a definition of "discretionary project" consistent with the definition in the CEQA guidelines. Final SUSMPs at page 4 of 25; Title 14, California Code of Regulations, section 15357. Apparently this definition was inadvertently retained after the Regional Water Board decided to expand the SUSMPs beyond discretionary projects.

The concept of a mitigation fund or "bank" is a positive idea for obtaining regional solutions to storm water runoff. As a long-term strategy, municipal storm water dischargers should work to establish regional mitigation facilities, which may be more cost-effective and more technically effective than mitigation structures at individual developments. But at this point there are not sufficient resources in place to require all permittees to establish such funds or to find appropriate non-profit organizations. Before mandating funding, preliminary questions should be answered, including who will manage the fund, what types of projects it will be used for, what entities can legally operate such funds, and how permittees will determine the amount of the assessments. It would be appropriate for the County to consider developing a program with the appropriate flood control agency, or as a model for the separate cities to develop. There may be suitable agencies to administer such funds, but the development of programs may take some time. The Regional Water Board should consider adopting such a program when it reissues the permit, after consultation with the appropriate local agencies.

III. CONCLUSIONS

Based on the discussion above, the Board concludes that:

1. The Regional Water Board complied with the procedural requirements of the permit, including the Administrative Review Process, in approving the Final SUSMPs.
2. The Regional Water Board was authorized to revise the SUSMPs by including more stringent requirements than the permittees had proposed.
3. The Regional Water Board complied with did not violate the Administrative Procedure Act, CEQA, or the Constitutional provisions on state mandates. The petitioners' due process rights have been protected
4. The Regional Water Board considered the costs of the SUSMPs, and acted reasonably in requiring these controls in light of the expected benefits to water quality.

5. The Final SUSMPs reflect a reasonable interpretation of development controls that achieve reduction of pollutants in storm water discharges to the maximum extent practicable.
6. The SUSMPs include adequate protections of groundwater quality from any impacts from infiltration.
7. The SUSMPs will be revised to clarify the intent of the Regional Water Board and to make them consistent with the permit. Specifically, retail gasoline outlets should not be subject to the BMP design standards because they are already heavily regulated and may be limited in their ability to construct infiltration facilities or to perform treatment. Redevelopment projects should be subject to the SUSMPs only if they result in creation or addition of 5,000 square feet of impervious surfaces. Environmentally-sensitive areas should not be listed as a category in the SUSMPs. The SUSMPs should only apply to discretionary projects. The requirement for funding by project proponents who receive waivers should be deleted. The SUSMPs will be amended as shown in the attachment to this Order.
8. In light of the revisions of the SUSMPs made by this Order, and to allow the permittees adequate time to adopt implementing ordinances, the deadline for adopting ordinances will be revised to January 15, 2001, and the effective date of the Final SUSMPs will be revised to February 15, 2001.

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IV. ORDER

IT IS HEREBY ORDERED that the Standard Urban Storm Water Mitigation Plans for Los Angeles County and Cities in Los Angeles County is revised consistent with the amendments attached hereto. In all other respects the petitions are dismissed.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 5, 2000.

AYE: Arthur G. Baggett, Jr.
Mary Jane Forster
John W. Brown
Peter S. Silva

NO: None

ABSENT: None

ABSTAIN: None

/s/
Maureen Marché
Administrative Assistant to the Board

AMENDMENTS TO SUSMPS

[These amendments are to the Final SUSMP, as published March 8, 2000]

Page 3 of 25

First full paragraph:

All **discretionary development and redevelopment** projects that fall into one of ~~seven~~ **the following** categories are ~~identified in the Los Angeles County MS4 Permit as requiring~~ **subject to these** SUSMPs. These categories are:

- Single-family Hillside Residences
- 100,000 Square Foot Commercial Developments
- Automotive Repair Shops
- Retail Gasoline Outlets
- Restaurants
- Home Subdivisions with 10 to 99 housing units
- Home Subdivisions with 100 or more housing units
- **Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff**

Second full paragraph:

~~The Regional Board Executive Officer has designated two additional categories subject to SUSMP requirements for the Los Angeles County MS4 Permit. These categories are:~~

- ~~Location within or directly adjacent to or discharging directly to an environmentally sensitive area, and~~
- ~~Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff~~

Fourth full paragraph:

Permittees shall amend codes, if necessary, not later than ~~September 8, 2000~~ **January 15, 2001**, to give legal effect to the SUSMP requirements. The SUSMP requirements for projects identified herein shall take effect not later than ~~October 8, 2000~~ **February 15, 2001**.

Page 4 of 25

Delete definition of "Environmentally Sensitive Area"

Revise Definition of "Redevelopment":

"Redevelopment" means, on an already developed site, the creation or addition of at least 5,000 square feet of impervious surfaces ~~or the creation or addition of fifty percent or more of impervious surfaces or the making of improvements to fifty percent or more of the existing structure~~. Redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routing maintenance activity; and land disturbing activities related with structural or impervious surfaces. **Where redevelopment results in an increase of less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to these SUSMPs, the Design Standards apply only to the addition, and not to the entire development.**

Page 10 of 25

Add to "Limited Exclusion": Retail Gasoline Outlets

Page 15 of 25

Delete the first full paragraph (storm water mitigation funding)

Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

Division of Water Quality
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Gray Davis
Governor

TO: Craig Wilson, Chief Counsel
Office of Chief Counsel

FROM: Stan Martinson, Chief
DIVISION OF WATER QUALITY

DATE:

SUBJECT: TECHNICAL REPORT FOR THE PETITION OF THE CITIES OF BELLFLOWER, ET AL., THE CITY OF ARCADIA, AND WESTERN STATES PETROLEUM ASSOCIATION (REVIEW OF JANUARY 26, 2000 ACTION OF THE REGIONAL BOARD AND ACTIONS AND FAILURES TO ACT BY BOTH THE REGIONAL BOARD AND ITS EXECUTIVE OFFICER PURSUANT TO ORDER NO. 96-054, PERMIT FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN LOS ANGELES COUNTY [NPDES NO. CAS614001]) SWRCB/OCC File Nos. A-1280, A-1280(a), and A-1280(b)

Attached is the technical report for the Petition of the Cities of Bellflower, et al., the City of Arcadia, and Western States Petroleum Association. If you have any questions please contact Maryann Jones at 657-0783.

Attachment

Staff Report
Division of Water Quality
State Water Resources Control Board

In the matter of THE PETITION OF THE CITIES OF BELLFLOWER, ET AL., THE CITY OF ARCADIA, AND WESTERN STATES PETROLEUM ASSOCIATION (REVIEW OF JANUARY 26, 2000 ACTION OF THE REGIONAL BOARD, AND ACTIONS AND FAILURES TO ACT BY BOTH THE REGIONAL BOARD AND ITS EXECUTIVE OFFICER PURSUANT TO ORDER NO. 96-054, PERMIT FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN LOS ANGELES COUNTY [NPDES NO. CAS614001])
SWRCB/OCC File Nos. A-1280, A-1280(a), and A-1280(b)

BACKGROUND

The Los Angeles Regional Board (Regional Board) adopted a municipal storm water Permit (Permit) for the cities and portions of Los Angeles County within the Region on June 18, 1990 (Order No 90-079). The Permit was reissued on July 15, 1996 (Order No. 96-054).

The specific portions of the Permit that are pertinent to the petition are sections 2.III.A.1.a, 2.III.A.1.b and 2.III.A.1.c. These sections are based on the federal regulation at 40CFR122.26(d)(2)(iv)(A)(2). It requires Permittees to implement management programs, including a comprehensive planning process to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program is to be based on structural and source control measures including a comprehensive master plan to develop, implement, and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment.

The program, referred to as a Standard Urban Storm Water Mitigation Plan (SUSMP), was to be developed in two parts. The first part under the Permit section 2.III.A.1.b. was to be a menu of BMPs that included site planning practices, post-construction BMPs, and redevelopment and infill practices. The second part, under section 2.III.A.1.c. of the Permit, was to be the actual SUSMP, which outlined how the BMPs were to be implemented and the projects to which they were to be applied. On April 22, 1999, the Regional Board approved the BMP menu and guidelines that the Permittees submitted in compliance with Permit section 2.III.A.1.b. This approval was contained in Regional Board Order No. 99-03. At that time, the Board indicated that rather than leaving approval of the SUSMP to the Executive Officer, as specified in the Permit, it wanted to review the SUSMP, which was to be submitted in response to section 2.III.A.1.c.

The Permittees submitted the SUSMP for Regional Board Executive Officer approval on July 22, 1999. The SUSMP applied the approved BMPs to the categories of development listed in 2.III.A.1.c. A joint workshop was held on August 10, 1999 to evaluate the

language in the SUSMP with the Permittees and Regional Board staff. A revised SUSMP was submitted by the dischargers on August 12, 1999. The Regional Board discussed the SUSMP at the September 16, 1999 meeting. Comments were received from municipalities, environmental groups, businesses, environmental consultants, and the building industry. The issue was continued to allow the Regional Board Executive Officer additional time to fully consider the issues and hold discussions with all of the interested parties.

On December 7, 1999, Regional Board staff released a revised SUSMP, which used most of the language of the SUSMP submitted by the Permittees. The SUSMP, as revised by the Regional Board, added a numeric design standard for the BMPs and added two new categories of designated priority planning projects; (1) projects located adjacent to or discharging to environmentally sensitive areas, and (2) parking lots with 25 or more spaces. Of these two new requirements, only the category of parking lots was not addressed in the Permit. While environmentally sensitive areas was not one of the categories listed in 2.III.A.1.c, it was referred to as a consideration to be used for all projects in 2.III.A.1.a.

The Regional Board conducted a nine-hour hearing on January 26, 2000 and directed the Executive Officer to make changes to the proposed SUSMP and to issue a final version of them. The Regional Board Executive Officer issued the final Board SUSMP on March 8, 2000. The major difference between the draft SUSMP and the revised SUSMP was the deletion of some exemptions, especially an exemption for rooftop runoff. On February 25, 2000, a group of the cities filed a petition with the State Board requesting administrative review, challenging the actions of the Regional Board and the actions of the Regional Board Executive Officer in issuing the SUSMP.

ISSUES AND ANALYSIS

1. Is a numeric design standard for infiltration or treatment appropriate? Is the 0.75-inch standard appropriate? Should it be substituted with a different numeric standard, including potentially different numbers for different areas? If there were a range of numbers, how would that be implemented?

One of the principle differences between the SUSMP proposed by the Permittees and the Regional Board SUSMP is the addition of a numeric design standard. This design standard can be considered a technology based effluent limitation that sets the standard for MEP. USEPA's guidance manual for Part 2 MS4 Permit applications specifically encourages "design criteria and performance standards" for post construction control measures for storm water discharges. If there were no standard specified, the SUSMP would be much harder for the cities to implement. Cities that implemented a more stringent standard could be at a disadvantage with the development community in relationship with neighboring cities who had a less stringent requirement. Developers would argue with the cities over how much of an effort they had to make and environmental advocates could bring suit against a city or developer if there was any

increase in either flow or pollutant loading from a development, arguing that all runoff must be captured. A design standard levels the playing field and offers the regulatory certainty that cities are seeking.

The language for the design standard in the SUSMP is:

"Post-construction Structural or Treatment Control BMPs shall be designed to:

A. mitigate (infiltrate or treat) storm water runoff from either:

1. the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)*, or

2. the volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in *California Stormwater Best Management Practices Handbook – Industrial/ Commercial,* (1993), or

3. the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or

4. the volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event,

AND

B. control peak flow discharge to provide stream channel and over bank flood protection, based on flow design criteria selected by the local agency."

The SUSMP does not provide a single standard that must be met. It gives four different methods for determining the required sizing. The methods would provide different sizing criteria depending on the location of the project. The basic philosophy behind all of the methods is that most storms are small and that most runoff is generated by smaller storms and most pollutants are carried by smaller storms. If one graphs the probability of a rainfall event a curve is generated where there is a steep part of the graph representing the smaller quantity events and a flat part of the graph that represents the larger, less frequent storms. In order to maximize the return on an investment in a storm water structure, one would size the structure to capture the quantity of water in the storms on the steep part of the graph and let the greater quantity of water generated by the large storms on the flat part of the graph bypass the system. To achieve the maximum efficiency, one would design the system to capture the size storm that was found at the point where the graph

flattened out. This is a range of values, since the graph defines a curve and not an angle. As described by a graph shown in the testimony by Dr. Xavier Swammikanu at an evidentiory hearing on this appeal conducted on June 7 and 8, 2000, these data, when plotted for the Los Angeles area generally begins to flatten at the 75th percentile and shows the maximum flattening at the 85th percentile 24 hour rainfall event. This corresponds to an average range of 0.6"-0.75" of rainfall, although the numbers are higher, as much as 1.2" in the coastal areas. Using average numbers for the Los Angeles area, sizing for a 0.6" storm would represent the most minimal effort, and sizing for a 0.75" storm would represent the most efficient sizing criteria.

Four different sizing methods are given. The first method requires the cities to determine what the 85th percentile storm is based on their local rainfall data. The second method requires cities to determine the volume equivalent to 80% volume treatment. The third method allows the cities to use the region wide average of 0.75". Finally, a fourth method allows cities to require sizing for a pollutant loading equivalent to that achieved by the 85th percentile 24-hour runoff event. All of these methods are considered equivalent by the Regional Board staff (testimony of Dr. Xavier Swammikanu).

It would be possible to use the 85th percentile as a stand alone standard without allowing the cities to use 0.75 inches as a standard. This would result in varying standards throughout the area with the coastal cities having a standard as high as 1.2 inches. Using this standard would make the SUSMP harder to implement and would leave the cities open to lawsuit as parties argued about the numbers that were chosen. It would also make some cities more attractive to development than neighboring cities. Having a single number as a baseline standard makes the SUSMP more feasible to implement.

In comparison to the standards adopted by other jurisdictions nationwide, this standard is conservative. Maryland, Florida and Washington all require capture of the 90th percentile or better. This corresponds to between 1" and 1.3". In these states, the standard applies to all development, rather than just the nine categories covered by the Los Angeles SUSMP.

2. Are the BMP requirements cost effective?

It is important in considering this issue to determine the alternatives to implementation of the BMP programs. There are three alternatives. One is to do nothing. The second is for the developer to implement the SUSMP on a project by project basis, and the third alternative is for the cities to implement large-scale treatment controls to handle the increased runoff and pollutants. The first alternative is unacceptable under the storm water regulations. This is clearly a requirement of the Permit. The third alternative would require the cities to build large facilities to treat the increased flow from these newly developed areas. The experience of the cities such as Sacramento and San Francisco that have combined sanitary and storm water systems has shown that it is impractical to treat all of the storm water. The cities have already expressed in numerous forums that the cost of the third alternative is prohibitive.

The second alternative spreads the cost between the cities and the developer. In general, the developer will pay for the cost of building the structure, and pass that cost onto the end user. The maintenance of the structure will either fall to the cities or be passed to the owner. The Regional Board staff worked with the City of Los Angeles to determine the actual cost of a structure including maintenance. They found that, in general, the cost of the structures with the first five years of maintenance was less than one percent of the total project cost. As experience is gained with these requirements, it is possible that costs will then drop. However, one of the largest components of the cost is the price of the land and that is unlikely to go down. It is probable that on many of the projects the structures can be built into landscaping or recreational amenities.

It is impossible to say if this will increase the price of low-income housing. There are too many factors in the pricing of housing. If the structures can be part of the landscaping or used for recreation, they can actually be amenities that improve the quality of life by providing more green space.

3. Does implementation of the SUSMP potentially cause problems related to infiltration and ground water contamination?

The SUSMP requires that BMPs be implemented to mitigate, defined as infiltrate or treat, storm water runoff. In most areas, infiltration of runoff is practical, and even beneficial. Infiltration of storm water runoff is an important source of potable water in the Los Angeles area. There are large spreading grounds in the San Fernando and San Gabriel Valleys to facilitate infiltration.

There are also parts of the Los Angeles area in which it is infeasible to infiltrate storm water. These include areas in which infiltration would compromise the stability of the soils, areas where the ground water is close enough to the surface that the pollutants would not be removed before the infiltration reached the water table and areas where the subsurface soils are contaminated and infiltration through those soils will carry the pollutants to the ground water. If any of these conditions are present, the developer has the option to treat the storm water runoff and discharge it to the storm drain system.

In the rare instance where all structural or treatment control BMPs have been considered and rejected as infeasible, the SUSMP provides a waiver. The waiver can be provided in cases where "all other structural or treatment control BMPs have been considered and rejected as infeasible. Recognized situations of impracticability include, (i) extreme limitations of space for treatment on a redevelopment project, (ii) unfavorable or unstable soil conditions at a site to attempt infiltration, and (iii) risk of ground water contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than 10 feet from the soil surface. Any other justification for impracticability must be separately petitioned by the permittee and submitted to the Regional Board for consideration." This waiver should be comprehensive enough that it will cover all legitimate cases where the SUSMP cannot be applied. The waiver can be approved by the Regional Board, or delegated to

the Executive Officer for approval on a case by case basis where a blanket waiver cannot be applied.

4. Is the definition of redevelopment too inclusive?

The SUSMP defines redevelopment to be "on an already developed site, the creation or addition of at least 5,000 square feet of impervious surfaces or the creation or addition of fifty percent or more of impervious surfaces or the making of improvements to fifty percent or more of the existing structure. Redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces."

The SUSMP definition of redevelopment causes problems when it is applied to single family homes and small facilities such as restaurants, gas stations and automotive repair shops. The problem is particularly acute in "environmentally sensitive areas", where it can be applied to every remodel project, thus triggering the need to implement the SUSMP with every project.

The parts of the definition that are most problematic are "the making of improvements to fifty percent or more of the existing structure" and "replacement of impervious surface that is not part of a routine maintenance activity". The first section can be interpreted to mean that if the interior of a structure is remodeled, with no work being done on the outside, that the SUSMP requirement is triggered. The second part has been interpreted to mean that replacement of a roof or fence would trigger the requirement. Presumably, this is based on the idea that if you replace a roof, it is not "part of a routine maintenance activity". This seems like an extreme interpretation. Replacement of a roof or an interior remodel, with no increase in the footprint of a structure should not trigger the requirement. The exception to this would be in the category of 100,000 Square Foot Commercial Developments. While reroofing the structure should not trigger the requirement, a remodel that affected 50% or more of either the interior or exterior of the structure is more problematic. A remodel of that size would be an enormous investment and the intent would be to dramatically increase use of the structure. While they may not increase the size of the parking facilities, it is certainly the intent to increase the use of those facilities and thereby increase the amount of pollutants deposited.

5. Should location, such as environmentally sensitive areas, be a factor in determining the application of the SUSMP? If so, what specific types of projects should be included?

Environmentally sensitive areas are defined in the SUSMP as "an area designated as an Area of Special Biological Significance by the State Water Resources Control Board (*Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (1994) and amendments) or an area designated as an Area of Ecological Significance by the County of Los *Angeles (Los Angeles County Significant Areas Study, Los Angeles County Department of Regional*

Planning (1976) and amendments) or an area designated as a significant natural area by the California Resources Agency. Refer to Table 3 for a listing."

Part 2.III.A.1.a requires that the post construction requirements consider location of the project with respect to designated environmentally sensitive areas as one of the overarching principles. The SUSMP requirement moves this from a basic principle to a category. The designated environmentally sensitive areas are areas that have been deemed to warrant special consideration. It is not unreasonable to apply the SUSMP to all construction in these areas, particularly with a change in the definition of redevelopment.

CONCLUSION

The SUSMP, as issued by the Regional Board, is a reasonable attempt to implement the requirements under 40CFR122.26(d)(2)(iv)(A)(2). The design standard is conservative, technically defensible and provides a level regulatory playing field. The cost of the BMPs is appropriate, especially in comparison to the alternative of large-scale treatment plants. While it is possible that infiltration of storm water could potentially cause problems with soil stability or ground water contamination, the language in the SUSMP has alternatives to infiltration that should prevent this. The definition of redevelopment should be rewritten to remove remodeling or repair work that does not change the size of the structure. It is appropriate to require implementation to all construction in designated environmentally sensitive areas, as these are areas that require special consideration.

Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

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Gray Davis
Governor

December 26, 2000

TO: RWQCB Executive Officers

FROM: /s/
Craig M. Wilson
Chief Counsel
OFFICE OF CHIEF COUNSEL

DATE:

SUBJECT: STATE WATER BOARD ORDER WQ 2000-11: SUSMP

On October 5, 2000, the State Water Resources Control Board (State Water Board) adopted a precedential decision concerning the use of Standard Urban Storm Water Mitigation Plans (SUSMPs) in municipal storm water permits. (Order WQ 2000-11; hereafter referred to as "the Order.") The Order arose from the municipal storm water permit in the Los Angeles region. As a precedential decision, the State Water Board has recognized that the decision includes significant legal or policy determinations that are likely to recur. (Gov. Code §11425.60.) The Regional Water Quality Control Board (Regional Water Board) orders must be consistent with applicable portions of the State Water Board's precedential decisions.

In the Order, the State Water Board considered SUSMPs related to new development and redevelopment. The SUSMPs include a list of best management practices (BMPs) for specific development categories, and a numeric design standard for structural or treatment control BMPs. The numeric design standard created objective and measurable criteria for the amount of runoff that must be treated or infiltrated by BMPs. The purpose of the SUSMPs is to control runoff both during and after construction.

Several of the conclusions reached in the Order are likely to recur, and future municipal storm water permits must be consistent with the principles set forth therein.[1] Pursuant to the Clean Water Act, municipal storm water permits must require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP). The Order finds that the provisions in the SUSMPs, as revised in the Order, constitute MEP. The Order also discusses areas where the Regional Water Boards may exercise more discretion.

[1] The Order considered a Phase I storm water permit, applicable to urban areas with populations of 100,000 and greater. The State Water Board will soon embark on Phase II, which will include municipal permits for smaller municipalities. The Order did not address Phase II requirements, which may be different than Phase I requirements.

1. The Order finds that the design standard in the SUSMPs, which essentially requires that 85 percent of the runoff from specified categories of development be infiltrated or treated, reflects MEP. It is conceivable that the specific design standard could vary depending on such factors as rainfall and soil characteristics.

2. The Order determined that SUSMPs appropriately applied to the following categories of development: single-family hillside residences, 100,000 square foot commercial developments, automotive repair shops, restaurants, home subdivisions with 10 to 99 housing units, home subdivisions with 100 or more housing units, and parking lots with 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff. Redevelopment projects that are within one of these categories are included if the redevelopment adds or creates at least 5,000 square feet of impervious surface to the original developments; if the addition constitutes less than 50 percent of the original development, the design standard only applies to the addition. The Order approved a waiver from compliance with the design standard where there is a risk of groundwater contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than 10 feet from the soil surface.

3. The Order allows broader discretion by the Regional Water Boards to decide whether to include additional types of development in future SUSMPs. These areas for potential future inclusion in SUSMPs include retail gasoline outlets, ministerial projects (only discretionary projects are included in the approved SUSMPs), and projects in environmentally sensitive areas. If Boards include these types of developments in future permits, the Order explains the types of evidence and findings that are necessary.

4. The Order encourages regional solutions. The Order endorses establishment of a mitigation fund or "bank" that could be funded by developers who obtain waivers from the design standards. The Order explains that such a funding mechanism must be developed after consultation with appropriate local agencies.

The SUSMPs as developed by the Los Angeles Regional Water Board resulted from a requirement in a municipal storm water permit to draft and submit a proposal. The Regional Water Board then made revisions to the SUSMPs, and the State Water Board made further revisions prior to approving the SUSMPs. In light of the specificity and detail in the Order, Regional Water Boards should simply incorporate SUSMP requirements for new development and redevelopment into new municipal permits, rather than adopting a process of submittal, review and revision of proposals. In adopting SUSMPs in permits, the requirements should be substantially similar to the SUSMPs approved in the Order. If, for example, the Regional Water Board determines that a different design standard than 85 percent of the runoff is appropriate, the permit findings should explain how the alternative design standard is generally equivalent to the standards approved in the Order, and why the alternative standard is appropriate to the area. The

general principles of the Order—that design standards for BMPs for new development and redevelopment are required—must be implemented.

cc: Edward C. Anton
Acting Executive Director

Guide to the California Environmental Quality Act

1999

CITED AS AN AUTHORITATIVE SOURCE BY THE CALIFORNIA COURTS

1999 Tenth edition

Guide to the California Environmental Quality Act (CEQA)

Michael H. Remy, Tina A. Thomas, James G. Moose, and Whitman F. Manley

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IMPORTANT NOTICE

Before you rely on the information in this book, please be sure you have the latest edition and are aware that some changes in statutes, guidelines, or case law may have gone into effect since the date of publication. The book, moreover, provides general information about the law. Readers should consult their own attorneys before relying on the representations found herein.

The Book at a Glance

CHAPTER I

Introduction

The Legislature enacted the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA"),[1] in 1970, one year after Congress enacted its predecessor statute, the National Environmental Policy Act (42 U.S.C. § 4321 et seq.) ("NEPA"). Like the federal act, CEQA was conceived primarily as a means to require public agency decisionmakers to document and consider the environmental implications of their actions. (See Pub. Resources Code, §§ 21000, 21001; *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 254–256 [104 Cal.Rptr. 761]; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 73–75 [118 Cal.Rptr. 34] ("*No Oil I*"); *San Francisco Ecology Center v. City and County of San Francisco* (1st Dist. 1975)[2] 48 Cal.App.3d 584, 589–591 [122 Cal.Rptr. 100]; *Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 112 [65 Cal.Rptr.2d 580] ("*Mountain Lion Foundation*"); Selmi, *The Judicial Development of the California Environmental Quality Act* (1984) 18 U.C. Davis L.Rev. 197, 202.)

CEQA = California Environmental Quality Act
NEPA = National Environmental Policy Act

CEQA applies to all "governmental agencies at all levels" in California, including "local agencies," "regional agencies," and "state agencies, boards, and commissions." (Pub. Resources Code, §§ 21000, subd. (g), 21001, subds.

CEQA applies to all governmental agencies at all levels in California including local agencies, regional agencies, and state agencies, boards, and commissions.

1. The full text of all of the statutes that together comprise CEQA are included verbatim, updated as of January 1999, as Appendix III to this book.
2. Contrary to the normal practice in the California courts, all citations herein to published opinions of the California Court of Appeal will, for the reader's benefit, refer to the particular district of that court issuing the decision. There are six appellate districts in California.

   The First District consists of the following counties: San Francisco, Marin, Sonoma, Napa, Solano, Lake, Mendocino, Humboldt, Del Norte, Contra Costa, Alameda, and San Mateo. The Second District includes San Luis Obispo, Santa Barbara, Ventura, and Los Angeles Counties. The Third District consists of Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Plumas, Colusa, Glenn, Butte, Sierra, Sutter, Yuba, Nevada, Yolo, Placer, Sacramento, El Dorado, San Joaquin, Amador, Calaveras, Alpine, and Mono Counties. The Fourth District includes Inyo, San Bernardino, Riverside, Orange, San Diego, and Imperial Counties. The Fifth District consists of Stanislaus, Tuolumne, Merced, Mariposa, Madera, Fresno, Kings, Tulare, and Kern Counties. The Sixth District includes Santa Clara, Santa Cruz, Monterey, and San Benito Counties.

(f), (g); CEQA Guidelines, §§ 15002, subd. (b), 15020, 15367, 15368, 15379, 15383.)[3] The Legislature, however, has chosen not to subject its own proposals for legislation to environmental review. (CEQA Guidelines, § 15378, subd. (b)(1).)

Unlike NEPA, CEQA has not been characterized as merely a procedural statute.

Unlike NEPA, CEQA has not been characterized as merely a "procedural" statute. (See *Vermont Yankee Nuclear Power Corporation v. Natural Resources Defense Council* (1978) 435 U.S. 519, 558 [98 S.Ct. 1197]; *Stryker's Bay Neighborhood Council, Inc. v. Karlen* (1980) 444 U.S. 223, 227–228 [100 S.Ct. 497]; see also *Robertson v. Methow Valley Citizens Council* (1989) 490 U.S. 332, 350 [109 S.Ct. 1835].) Rather, CEQA contains a "substantive mandate" that public

3. The "CEQA Guidelines" can be found in title 14 of the California Code of Regulations, commencing with section 15000. Appendix V of this book includes the full text of the Guidelines, along with "Discussions" explaining their content, issued by the California Resources Agency to help agencies and the public interpret the statutes. These helpful Discussions are not found in the official version of the CEQA Guidelines found in the standard copy of Title 14 of the California Code of Regulations published by Barclays and found in most libraries.

The most recent version of the CEQA Guidelines is available on the Internet at: http://ceres.ca.gov/topic/env_law/ceqa/guidelines/. The Guidelines are found within a website full of very valuable information about CEQA and related topics, including full copies of the CEQA statutes, all of the leading CEQA decisions published by the California Supreme Court and California Courts of Appeal, and Technical Advice Documents issued by the Governor's Office of Planning and Research ("OPR"). The specific Internet address providing direct access to all of these materials, as well as a search engine for finding information within the Guidelines, statutes, and cases, is http://www.ceres.ca.gov/ceqa/index.html. Before relying on statutes or Guidelines as found on the website, readers should check the dates provided next to those resources to determine whether they are current. Furthermore, readers who have previously "bookmarked" the website (Netscape) or saved it as a "favorite" (Internet Explorer) should be careful to contact the website again (i.e., "refresh" the "hit") to ensure access to the most recently updated information within the website.

OPR = Office of Planning and Research

Throughout this book, all references to CEQA Guidelines sections and Discussions, except where otherwise noted, reflect the numbering found in the most recent edition, finalized in late October 1998. Prior to 1986, earlier versions of the Guidelines, which are discussed in many of the older court cases described in this book, were numbered differently, and were substantively different in minor respects, particularly in the extent of the Discussions. Guidelines revisions issued in May 1997 and October 1998 also made changes in the numbering of a few sections and subdivisions within those sections. For the benefit of the reader, Appendix IV of this book contains two conversion tables that allow readers to translate the new numbers into the old, and vice versa. The first table shows changes made in the 1986 edition of the Guidelines. The second table shows new numbering created in either the 1997 revisions or those made near the end of 1998. The authors suggest that readers consult these tables if a court case discussed herein cites authority that, after checking, does not seem quite correct.

In past years, the Guidelines, along with the CEQA statutes, could be obtained from the State of California in a document entitled, "CEQA: California Environmental Quality Act—Statute and Guidelines," which was updated periodically. In light of the ease of access to these materials through the Resources Agency's CEQA Internet site, the authors do not know whether the written publication will be updated in the future as often as has been the case in the past. Readers interested in obtaining a copy of the most recent version of that document should therefore call the Department of General Services at (916) 574-2200 to see whether any such available compilation of the statute and Guidelines is up-to-date. Previous editions of the document could be purchased by contacting the Publications Section of the California Department of General Services, P.O. Box 1015, North Highlands, CA 95660. Orders could not be made by phone, with interested persons simply mailing a check, money order, or purchase order for $18, which included postage and handling. Checks were to be made out to the State of California. Orders were to specify both the title of the document and stock number, which, for the 1997 version, was 7540-931-1022-0. The authors of this book do not know whether the same rules and prices apply to attempts to obtain a version of the statutes and Guidelines post-dating 1997. Before purchasing a printed set of CEQA and the Guidelines from the Department of General Services (if available), cost-conscious readers without home or work Internet access or printing capability should explore the option of paying a commercial entity, such as a copying service, to print a copy of the CEQA statutes and Guidelines from the Internet sources identified above.

agencies refrain from approving projects with significant environmental effects if "there are feasible alternatives or mitigation measures" that can substantially lessen or avoid those effects. (*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134 [65 Cal.Rptr.2d 580] ("*Mountain Lion Foundation*"); Pub. Resources Code, § 21002.) "CEQA compels government first to identify the [significant] environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives." (*Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1233 [32 Cal.Rptr.2d 19].) Stated another way, "CEQA contains substantive provisions with which agencies must comply. The most important of these is the provision requiring public agencies to deny approval of a project with significant adverse effects when feasible alternatives or feasible mitigation measures can substantially lessen such effects." (*Sierra Club v. Gilroy City Council* (6th Dist. 1990) 222 Cal.App.3d 30, 41 [271 Cal.Rptr. 393]; see also CEQA Guidelines, §§ 15002, subd. (a)(3), 15021, subds. (a)(2), (c), 15041, subd. (a), 15063, subd. (c)(2), 15091, subd. (a), 15093, 15096, subd. (g), 15126, subds. (c), (d), 15364, 15370; *Citizens for Quality Growth v. City of Mount Shasta* (3d Dist. 1988) 198 Cal.App.3d 433, 440–441 [243 Cal.Rptr. 727].)

CEQA contains a substantive mandate that public agencies refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects.

In the nearly 30 years since the enactment of CEQA, the environmental review process has also become a means by which the public interacts with decisionmakers in developing policies affecting the environment. Thus, the California Supreme Court has stated that the CEQA process "'protects not only the environment but also informed self-government.'" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 [276 Cal.Rptr. 410] ("*Goleta II*"); see also *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 392 [253 Cal.Rptr. 426] ("*Laurel Heights I*"); *Laurel Heights Improvement Association of San Francisco, Inc. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123 [26 Cal.Rptr.2d 231] ("*Laurel Heights II*"); *Sierra Club v. State Board of Forestry*, *supra*, 7 Cal.4th at p. 1229.) For example, for projects requiring the preparation of environmental impact reports ("EIRs") or documents the functional equivalent thereof, informed self-government is protected by the requirement that an agency respond in writing to significant environmental points raised during the project review process. That requirement "ensures that members of the [governmental decisionmaking body] will fully consider the information necessary to render decisions that intelligently take into account the environmental consequences. It also promotes the policy of citizen input underlying CEQA." (*Mountain Lion Foundation*, *supra*, 16 Cal.4th at p. 133 (internal citations omitted); Pub. Resources Code, §§ 21080.5, subd. (d)(2)(D), 21091, subd. (d)(2); CEQA Guidelines, § 15088.)

EIR = Environmental impact report

The requirement that a government agency respond in writing to significant environmental points raised in comments in a draft EIR ensures that the agency will fully consider the information necessary to render decisions that intelligently take into account the environmental consequences of a project.

For more information about CEQA, see the following publications: OPR's Technical Advice Series;[4] Bass, Herson, and Bogdan, CEQA Deskbook

4. According to OPR, the CEQA Technical Advice Series "is intended to offer CEQA practitioners, particularly at the local level, concise information about some aspect of the California Environmental Quality Act. This series of occasional papers is part of OPR's public education and training program for planners, developers, and others." (Governor's Office of Planning and Research, Focusing on Master EIRs, CEQA Technical Advice Series (3d ed. 1997) p. 2.) The advisories are "not intended to amend or replace the regulations represented by the *Guidelines*." (*Id.* at p. 3 (italics added).) These advisories are available on the Internet at http://ceres.ca.gov/ceqa/more/tas/.

(1999 ed.);[5] and Kostka and Zischke, Practice Under the California Environmental Quality Act (1993, 1999).[6] On the general subject of land use law in California, see Fulton, Guide to California Planning (2d ed. 1999); Curtin, Curtin's California Land Use and Planning Law (19th ed. 1999);[7] Longtin, Longtin's California Land Use (2d ed. 1987, 1999 supp.);[8] and Manaster and Selmi, eds., California Environmental Law and Land Use Practice (1999), especially chapters 20–23, Bass and Herson, The California Environmental Quality Act.[9] For a series of articles addressing the various perceived benefits and detriments of CEQA as of the spring of 1993, see 2 Land Use Forum 95 et seq. (Cont.Ed.Bar Spring 1993).[10] A 1995 report by the Environmental Law Section of the State Bar of California entitled, "The California Environmental Quality Act: Assessment and Recommendations," can be found on the Internet at: http://www.calbar.org/2sec/3env/3envtoc.htm. A 1997 report by the Legislative Analyst's Office entitled, "CEQA: Making It Work Better," can be found on the Internet at: http://www.lao.ca.gov/ceqa_397.html.

Appendix VI to this book is an article written in October 1998 by Wilson Administration Resources Agency General Counsel Maureen Gorsen entitled, "The New and Improved CEQA Guidelines Revisions: Important Guidance for Controversial Issues." Her article explains how the Wilson Administration, in updating the CEQA Guidelines in 1998, intentionally responded to criticisms of CEQA voiced by entities such as the CEQA Working Group of the Bay Area Economic Forum, the Environmental Law Section of the State Bar, the California Policy Seminar of the University of California at Berkeley, the Association of Environmental Professionals, and other interested organizations. The authors of this book have included Ms. Gorsen's article as an appendix because it constitutes a valuable statement of the intent behind many of the new Guidelines provisions.

A. Procedural Devices of Environmental Review

Probably the best known aspect of CEQA is its requirement that public agencies prepare an EIR whenever the approval of a proposed project may cause significant adverse effects on the environment.

Probably the best known aspect of CEQA is its requirement that public agencies prepare an environmental impact report whenever the "approval" of a proposed "project" may cause "significant [adverse] effects [or 'impacts'] on the environment." (See Pub. Resources Code, §§ 21002.1, 21061, 21100, 21151; CEQA Guidelines, §§ 15080–15096, 15120–15132, 15160–15170, 15358, 15362, 15382.) The courts, in fact, have repeatedly stated that "[i]n many respects, the EIR is the heart of CEQA." (*County of Inyo v. Yorty* (3d Dist. 1973) 32 Cal.App. 3d 795, 810 [108 Cal.Rptr. 377]; see also *Laurel Heights Improvement Association*

5. This book is available from Solano Press, P.O. Box 773, Point Arena, CA 95468, (800) 931-9373 or through the Solano Press website: http://www.solano.com.
6. This book is published by the "Continuing Education of the Bar" Program of the California State Bar. Information on how to order the book can be obtained by calling (800) 232-3444 (or, outside California, (800) 642-8000).
7. The books by Fulton and Curtin are also available from Solano Press, P.O. Box 773, Point Arena, CA 95468, (800) 931-9373.
8. Longtin's California Land Use can be obtained from Local Government Publications, P.O. Box 10087, Berkeley, CA 94707. Orders can be placed over the phone by calling (800) 345-0899.
9. This multi-volume treatise can be obtained from Matthew Bender & Company, (800) 833-9844.
10. Questions about how to comply with CEQA can be directed to the Governor's Office of Planning and Research at (916) 445-0613, or to the Office of Permit Assistance ("OPA") within the California Trade and Commerce Agency at (916) 322-4245.

OPA = Office of Permit Assistance

theory. The court reasoned that the original landfill had never been subject to environmental review, and the practical effect of the regional board's order was to authorize disposal of an additional 3.4 million tons of municipal waste in an unlined landfill. (*Id.* at pp. 1188–1191.)

Whether a particular activity constitutes a project is a question of law as to which a reviewing court owes no deference to the judgment of a respondent agency.

Whether a particular activity constitutes a project is a question of law as to which a reviewing court owes no deference to the judgment of a respondent agency. (*Fullerton, supra*, 32 Cal.3d at p. 795; *Kaufman, supra*, 9 Cal.App.4th at p. 470; *City of South Gate v. Los Angeles Unified School District* (2d Dist. 1986) 184 Cal.App.3d 1416, 1422 [229 Cal.Rptr. 568].) Moreover, a reviewing court's decision as to whether an activity is a "project" should not have to be based on an initial study or other environmental document. As one court observed:

> The existence of a project cannot depend on the outcome of the inquiry which the act contemplates only after the existence of a project is established.
>
> (*Simi Valley, supra*, 51 Cal.App.3d at p. 663.)

For a partial list of actions that have been deemed not to constitute a "project" under CEQA, see section IV(E)(2), *infra*.

B. CEQA Applies to *Discretionary* Projects

CEQA applies to discretionary projects, but not to projects that are purely ministerial.

CEQA applies to "discretionary projects." CEQA does not apply to projects that are purely "ministerial." (Pub. Resources Code, § 21080, subd. (a); CEQA Guidelines, § 15268.)

A "discretionary project" is one that "requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations." (CEQA Guidelines, § 15357; see also *id.*, § 15002, subd. (i); *Johnson v. State of California* (1969) 69 Cal.2d 782 [73 Cal.Rptr. 240]; *Prentiss v. City of South Pasadena* (2d Dist. 1993) 15 Cal.App.4th 85, 90–91 [18 Cal.Rptr.2d 641] ("*Prentiss*"); *Miller v. City of Hermosa Beach* (2d Dist. 1993) 13 Cal.App.4th 1118, 1139 [17 Cal.Rptr.2d 408] ("*Miller*"); *Friends of Westwood, Inc. v. City of Los Angeles* (2d Dist. 1987) 191 Cal.App.3d 259, 271–273 [235 Cal.Rptr. 788] ("*Friends of Westwood*"); *Natural Resources Defense Council, Inc. v. Arcata National Corporation* (1st Dist. 1976) 59 Cal.App.3d 959, 969–970 [131 Cal.Rptr. 172] ("*Natural Resources Defense Council*"); *Day v. City of Glendale* (2d Dist. 1975) 51 Cal.App.3d 817, 822 [124 Cal.Rptr. 569].)

"Ministerial projects," on the other hand, "involve little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out." (CEQA Guidelines, § 15369; see also *id.*, § 15268, subd. (b).)

Projects that possess both ministerial and discretionary attributes are treated as being discretionary.

Projects that possess both ministerial and discretionary attributes are treated as being discretionary. (CEQA Guidelines, § 15268, subd. (d); *Miller, supra*, 13 Cal.App.4th at p. 1139; *Friends of Westwood, supra*, 191 Cal.App.3d at pp. 270–271; *Citizens for Non-Toxic Pest Control v. California Department of Food and Agriculture*

(1st Dist. 1986) 187 Cal.App.3d 1575, 1583 [232 Cal.Rptr. 729]; *Environmental Law Fund v. City of Watsonville* (1st Dist. 1981) 124 Cal.App.3d 711 [177 Cal. Rptr. 542]; *San Diego Trust and Savings Bank v. Friends of Gill* (4th Dist. 1981) 121 Cal.App.3d 203 [174 Cal.Rptr. 784] ("*San Diego Trust*"); *Natural Resources Defense Council, supra*, 59 Cal.App.3d at p. 970; *Day v. City of Glendale* (2d Dist. 1975) 51 Cal.App.3d 817, 823–824 [124 Cal.Rptr. 569] ("*Day*"); cf. *Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 119 [65 Cal.Rptr.2d 580] ("*Mountain Lion Foundation*") ("the Legislature intended CEQA to apply to discretionary projects, even when the agency's discretion to fully comply with CEQA is constrained by the substantive laws governing its actions").) "[D]oubt whether a project is ministerial or discretionary should be resolved in favor of the latter characterization." (*Friends of Westwood, supra*, 191 Cal.App.3d at p. 271, quoting *People v. Department of Housing and Community Development (Ramey)* (3d Dist. 1975) 45 Cal.App.3d 185, 194 [119 Cal.Rptr. 266] ("*Ramey*").)

The Legislature intended CEQA to apply to discretionary projects, even when the agency's discretion to fully comply with CEQA is constrained by the substantive laws governing its actions.

One Court of Appeal decision indicates that, even where a government approval involves virtually no discretion, CEQA review may be required if the approval "is the only point at which the environmental impact of the project may be publicly considered...." (*Day, supra*, 51 Cal.App.3d at p. 824 (issuance of grading permit was the only chance for CEQA review in process by which ridge would be cut and canyons filled to facilitate highway construction).)[4]

"The statutory distinction between discretionary and purely ministerial projects implicitly recognizes that unless a public agency can shape the project in a way that would respond to concerns raised in an EIR, or its functional equivalent, environmental review would be a meaningless exercise." (*Mountain Lion Foundation, supra*, 16 Cal.4th at p. 117.) In *Mountain Lion Foundation*, petitioners challenged the decision of the Fish and Game Commission ("Commission") to remove the Mojave ground squirrel from the Commission's list of threatened species. (*Ibid.*) Amicus curiae argued that the California Endangered Species Act ("CESA") exempts the Commission's delisting decision from the requirements of CEQA because, under CESA, such a decision is a nondiscretionary biological determination. (*Ibid.*) Fish and Game Code section 2070 requires the Commission to list or delist a species "if it finds, upon the receipt of sufficient scientific information..., that the action is warranted." Nonetheless, said the Supreme Court, "this standard is not so fixed and objective as to eliminate the need for judgment and deliberation on the Commission's part." (16 Cal.4th at p. 118.) The Supreme Court found delisting decisions to be "truly discretionary" based on: (1) statutory language stating that the Commission shall "consider" a petition; (2) regulations stating that a species "may" be delisted; (3) the Commission's own findings stating that the Commission must "consider... weigh and evaluate" the scientific evidence introduced in connection with a proposed delisting; and (4) the fact that, in this case, the Commission declined to follow the recommendation of the Department of Fish and Game not to delist the species. (*Id.* at p. 118.)

CESA = California Endangered Species Act

According to the CEQA Guidelines, the issuance of building permits is presumed to be ministerial in the absence of local ordinance provisions creating

4. The quotation set forth above may be dicta. The Court of Appeal found that the respondent city's grading ordinance was of a "mixed ministerial-discretionary" character, because the factors to be considered in issuing the permit "require[d] the exercise of judgment, deliberation, and decision by the city engineer." (51 Cal.App.3d at p. 823.)

Issuance of building permits is presumed to be ministerial in the absence of local ordinance provisions creating decision-making discretion.

decisionmaking discretion. (CEQA Guidelines, § 15268, subd. (b)(1); see also *Prentiss, supra*, 15 Cal.App.4th at p. 91.) In practice, no "presumption" (in the sense affecting the burden of proof) exists unless the public entity retains *no* discretion whatsoever in approving an application for a permit. Such an utter lack of discretion exists only where the approving agency retains no discretion to exercise subjective judgment regarding the carrying out of *any* phase of the proposed project, but rather must only determine whether the proposal is consistent with applicable zoning and meets strength requirements based on the application of *fixed* standards and *objective* measurements. (*Friends of Westwood, supra*, 191 Cal.App.3d at pp. 269–271.) Standards are not "fixed" where they embody the earlier exercise of an agency's discretion that can be changed or ignored at the agency's discretion. (*Id.* at p. 278.)

The issuance of building permits is ministerial where the ordinance requiring the permit limits public officials' review to determining whether (a) the zoning allows the structure to be built in the requested location, (b) the structure would meet the strength requirements of the Uniform Building Code, and (c) the applicant has paid his fee. (CEQA Guidelines, § 15369.)

As the principles described above implicitly recognize, the issuance of building permits is not *always* ministerial. In *Friends of Westwood*, the Court of Appeal enjoined construction of a proposed 26-story office tower pending resolution of a lawsuit in which the petitioners argued that the issuance of the building permit for the project was discretionary and thus was subject to CEQA. In rejecting the respondent's argument that the issuance was ministerial, the court described a detailed standard for determining when the issuance of building permits is discretionary.

The court first noted that the distinction between ministerial and discretionary decisions exists under CEQA only because preparing environmental documentation for a purely ministerial project would be futile. Since the approving agency has no discretion to modify such a project, the resulting EIR would be just so much wasted paper. As a matter of property rights, the applicant could demand approval of the project as described in his or her application. (191 Cal. App.3d at pp. 266–268.)

The issuance of a building permit may be discretionary even where issuance is mandatory, as long as the approving agency retains discretion to require substantial changes in building design.

The court then explained that the issuance of a building permit may be discretionary even where issuance is mandatory, as long as the approving agency retains discretion to require "substantial changes" in building design. (*Id.* at p. 269.)

Such discretion may exist where the approving agency can impose "reasonable conditions" based on "professional judgment." (*Id.* at p. 272, citing *Natural Resources Defense Council, supra*, 59 Cal.App.3d at p. 971; see also *Day, supra*, 51 Cal.App.3d at pp. 822–824 (issuance of a grading permit held to be of a "mixed ministerial-discretionary character" because factors to be considered in issuing the permit "require[d] the exercise of judgment, deliberation, and decision").)

Discretion may also exist where the standards guiding decisionmakers are "relatively general," rather than fixed and precise, and where the question of compliance involves "relatively personal decisions addressed to the sound judgment and enlightened choice of the administrator." (*Friends of Westwood, supra*, 191 Cal.App.3d at pp. 271–272, citing *Ramey, supra*, 45 Cal.App.3d at p. 193.) Even the power merely "to delay a project" in order to explore alternatives may

be enough to render an approving agency's decision at least partly discretionary. (*Friends of Westwood, supra*, 191 Cal.App.3d at pp. 272–273, citing *San Diego Trust, supra*, 121 Cal.App.3d at pp. 210–214.)

Even the power merely to delay a project in order to explore alternatives may be enough to render an approving agency's decision at least partly discretionary.

In finding that a building permit for an office tower constituted a discretionary project, the *Friends of Westwood* court also emphasized that city staff had exercised discretion to *waive* certain legal requirements that clearly would have required the exercise of discretion and would thus have triggered the CEQA process. Staff opted not to impose these requirements because the concerns in question had been addressed elsewhere in the overall review process. The court reasoned that CEQA could not be interpreted to effectively give agency staff members the chance to exempt a project simply by waiving requirements that would trigger the statute. (191 Cal.App.3d at pp. 273–278.)

The court cautioned, however, that by no means should all, or even most, building permits be regarded as discretionary decisions. "Run of the mill building permits *are* 'ministerial' actions not requiring compliance with CEQA." (*Id.* at p. 277 (emphasis in original).)

The Friends of Westwood *case raises the question of whether many building permit approvals previously deemed ministerial may come to be regarded as at least partially discretionary.*

Despite the court's cautionary note, however, the *Friends of Westwood* case raises the question of whether many building permit approvals previously deemed ministerial may come to be regarded as at least partially discretionary. Many local agencies exercise considerable judgment in imposing conditions to mitigate noise, air pollution, and traffic impacts. For example, in *Miller, supra*, 13 Cal.App.4th 1118, the Court of Appeal held that a building permit for a hotel project required CEQA compliance because of the amount of discretion the local agency had exercised in attaching conditions to the issuance of the building permit.

The Court of Appeal's opinion in *Miller* recounts the history of the proposed hotel complex over a period spanning almost a decade. Beginning in 1983, the Hermosa Beach City Council had approved the hotel project in a number of forms, but in three separate elections the voters had rejected the various legislative approvals the Council had granted.

In 1989, the City rezoned the hotel project site and the developer submitted a new application for a modified hotel project. City officials noted that the developer's stated goal was "to avoid discretionary approvals requiring environmental assessment," but urged the developer to prepare an addendum to an EIR prepared some years earlier for the project. (*Id.* at p. 1123.) Nevertheless, the City did not require an addendum and in November 1989 issued the applicant an "Approval in Concept" for the hotel project, together with "Conditions of Approval" imposed on the development "to alleviate impacts to surrounding properties." The Conditions of Approval included conditions relating to traffic and circulation, pavement evaluation, excavation and dewatering, sanitary sewer, storm drainage, insurance coverage, associated costs, noise, parking, aesthetics, public safety, and utilities.

Among other things, the City required the developer (1) to obtain a "traffic engineering impact analysis" of vehicle and pedestrian circulation prepared by a licensed traffic engineer; (2) to prevent groundwater from entering the storm drain system during dewatering, or from flowing across the surface of the public beach; (3) to obtain a soil settlement analysis performed by a licensed soils engineer; (4) to monitor the extent of subsidence during and after construction; (5) to provide an engineering analysis of peak capacity flows in the sewer line

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Guidance Manual For The Preparation Of Part 2 Of The NPDES Permit Applications For Discharges From Municipal Separate Storm Sewer Systems

PRE-PRINT

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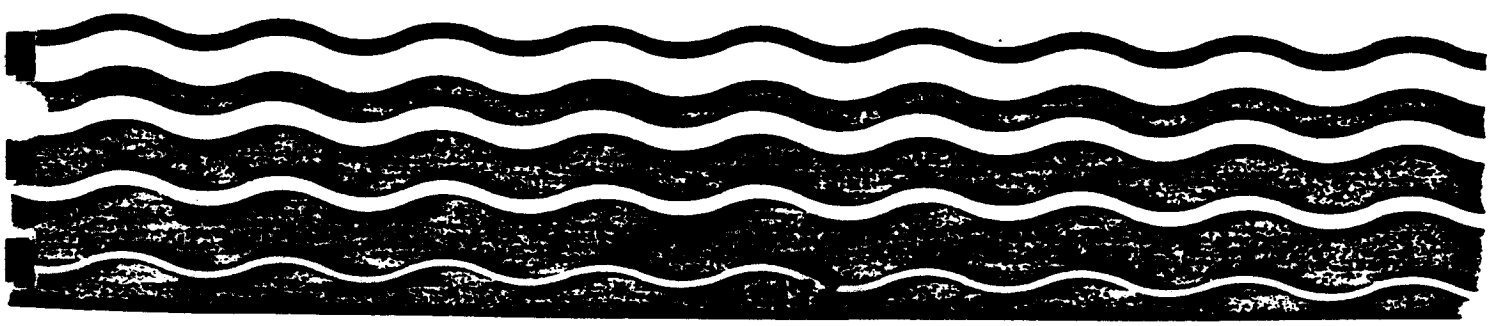

FOREWORD

This manual provides detailed guidance on the development of Part 2 permit applications for municipal separate storm sewer systems. It provides technical assistance and support for all municipal separate storm sewer systems subject to regulatory requirements under the National Pollutant Discharge Elimination System (NPDES) program for storm water point source discharges. This manual also emphasizes the application of pollution prevention measures and implementation of Best Management Practices (BMPs) to reduce pollutant loadings and improve water quality.

The control of pollution from urban and industrial storm water discharges is critical in maintaining and improving the quality of the Nation's waters. Pollutants in storm water discharges from many sources are largely uncontrolled. The *National Water Quality Inventory, 1990 Report to Congress,* provides a general assessment of water quality based on biennial reports submitted by the States under Section 305(b) of the Clean Water Act (CWA). The report indicates that roughly one third of the impairment in assessed waters is due to storm water runoff.

This document was issued in support of Environmental Protection Agency (EPA) regulations and policy initiatives involving the development and implementation of a national storm water program. This document is Agency guidance only. It does not establish or affect legal rights or obligations. Agency decisions in any particular case will be made applying the laws and regulations on the basis of specific facts when permits are issued or regulations promulgated.

This document will be revised and expanded periodically to reflect additional guidance. Comments from users are welcomed. Send comments to U.S. EPA, Office of Wastewater Enforcement and Compliance, 401 M Street, SW, Mail Code EN-336, Washington, D.C. 20460.

Michael Cook,
Director
Office of Wastewater
Enforcement and Compliance

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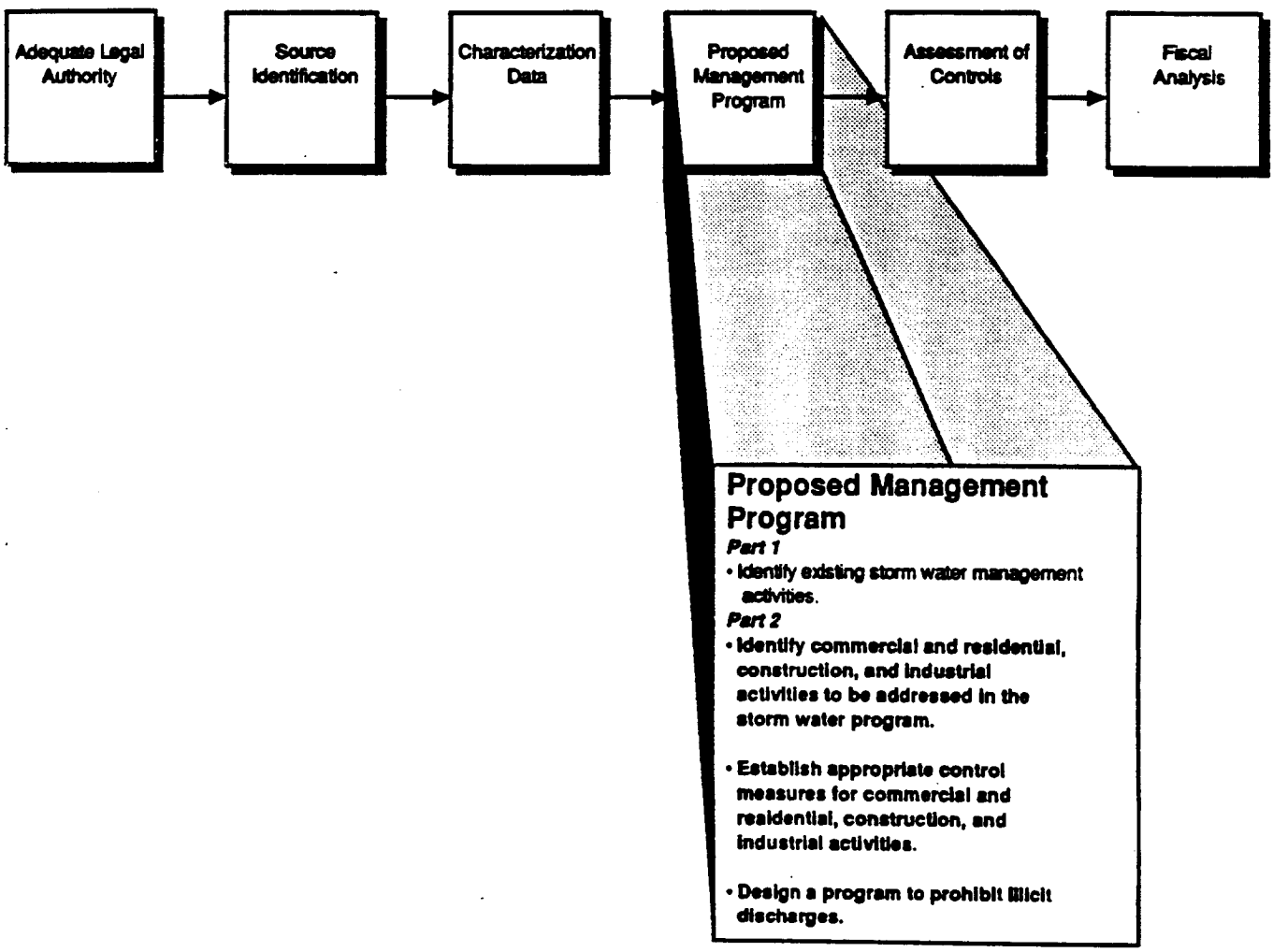
CHAPTER 6
PROPOSED MANAGEMENT PROGRAM



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6.0 PROPOSED MANAGEMENT PROGRAM

6.1 BACKGROUND

Under the Part 2 application requirements, municipalities must propose site-specific storm water management programs. This is the most important aspect of the permit application. The Part 2 application requirements provide each MS4 with the flexibility to design a program that best suits its site-specific factors and priorities.

The regulations require the applicant to provide a description of the range of control measures considered for implementation during the term of the permit. Applicants must meet all the requirements of the Part 2 application regulation. However, flexibility in developing permit conditions is encouraged by allowing municipalities to emphasize the controls that best apply to their MS4. For example, a municipality that expects significant new development may focus more on requirements for new development and construction, while a municipality that does not expect significant new development may focus more on a program to prohibit illicit discharges or control industrial contributions. In any case, a satisfactory proposed management program will address: management practices; control techniques and systems; design and engineering methods; and other measures to ensure the reduction of pollutants to the "maximum extent practicable (MEP)."

If the municipality proposes a thorough and complete program, the permitting authority is likely to incorporate all or part of the proposed management program into the NPDES storm water permit written for that municipality. Therefore, the proposed programs provide municipalities with the opportunity to have substantial input into their NPDES permit conditions.

This section of the guidance manual describes the minimum information requirements for proposed storm water management programs. Examples of how the program elements should be addressed are provided. These examples illustrate minimum information requirements for the program elements, and occasions when municipalities may opt to go beyond minimum requirements in order to meet the MEP standard.

6.2 SUMMARY OF REGULATORY REQUIREMENTS

The municipality must develop and submit a proposed management program that covers the duration of the permit. The program must integrate the information and actions described in the Part 1 application and portions of the Part 2 application (see Chapters 3, 4, and 5 of this guidance). The regulatory requirements for the proposed management program are in 40 CFR 122.26(d)(2)(iv).

At a minimum, the proposed management program must include:

- A comprehensive planning process that involves both public participation and intergovernmental coordination;
- A description of management practices, control techniques, and system design and engineering methods to reduce the discharge of pollutants to the MEP; and
- A description of staff and equipment available to set up and assess the storm water management program.

Additional provisions under §122.26(d)(2)(iv)(A) require applicants to include:

- Programs to control storm water runoff from commercial and residential areas, construction sites, and industrial

facilities (including waste handling sites), (Section 6.3);

- Identification of structural control measures to be included in these proposed programs, such as detention controls, infiltration controls, and filtration controls that the municipality plans to apply to the activities addressed in its storm water management program (Section 6.4); and

- Programs to detect and remove illicit discharges, and to control and prevent improper disposal into the MS4 of materials such as used oil or seepage from municipal sanitary sewers (Section 6.5).

6.3 PROGRAMS TO CONTROL STORM WATER RUNOFF FROM COMMERCIAL AND RESIDENTIAL AREAS, CONSTRUCTION SITES, AND INDUSTRIAL FACILITIES

A proposed management program must identify the activities or areas that require controls to reduce pollutants in storm water runoff. Specifically, a proposed management program must address storm water runoff from commercial and residential areas (Section 6.3.1), construction sites (Section 6.3.2), and industrial facilities (Section 6.3.3). Also, areas where illicit connections or illegal discharges may occur must be identified (Section 6.5).

In addition to the requirements of the proposed storm water management program, other provisions of the Part 1 and Part 2 applications require information that will help enable the municipality to focus on identifying activities and areas that may need control measures. Examples of these provisions include:

- Identification of sources [Part 1, §122.2(d)(1)(iii)(B)(3)-(4), and Part 2, §122.26(d)(2)(ii)];

- Identification of water bodies that may be adversely affected by storm water runoff [Part 1, §122.26(d)(1)(iv)(C)];

- Organization of sources by watershed [Part 2, §122.26(d)(2)(ii)];

- Description of land use activities [Part 1, §122.26(d)(1)(iii)(B)(2)];

- Results of field screening analysis [Part 1, §122.26(d)(1)(iv)(D)];

- Results of the sampling program [Part 2, §122.26(d)(2)(iii)(A)(3)];

- Estimates of annual pollutant loads and event mean concentrations, and schedules to submit seasonal pollutant loads and event mean concentrations [Part 2, §122.26(d)(2)(iii)(B) and (C)]; and

- Findings from an on-going monitoring program [Part 2, §122.26(d)(2)(iii)(D)].

6.3.1 Commercial and Residential Activities

Under §122.26(d)(2)(iv)(A), applicants must propose structural and source control measures to reduce pollutants from commercial and residential areas.

> **§122.26(d)(2)(iv)(A).** [The proposed management program must include a] description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls.

To ensure that proposed control measures are effective, the applicant should study how storm water runoff from pollutant sources affects the existing municipal system, how the proposed

control measures will enhance the existing system, and what impact the proposed measures will have on receiving waters. The control measures should recognize and emphasize the interaction between pollutant sources and the physical attributes of the municipal system and receiving waters.

Specific commercial and residential activities that must be addressed include maintenance activities and a maintenance schedule for structural controls to reduce pollutants in storm water runoff. This provision is discussed in Section 6.4.2. Other activities to be addressed include:

- Post-construction controls to reduce pollutants in discharges to MS4s resulting from new development and significant redevelopment (Section 6.3.1.1);
- Practices for maintaining and operating public streets, roads, and highways that will reduce the impact on receiving waters from storm water runoff discharges (Section 6.3.1.2);
- Procedures to assure that the impacts on receiving waters from flood management projects are assessed, and that existing structural control devices have been evaluated to determine if retrofit controls are feasible (Section 6.3.1.3);
- A program to monitor pollutants in runoff from operating or closed municipal landfills that identifies priorities and procedures for inspections and establishing and implementing control measures (Section 6.3.1.4); and
- A program to reduce to the maximum extent practicable, pollutants in storm water runoff associated with the application of pesticides, herbicides, and fertilizer (Section 6.3.1.5).

To reduce pollutants in storm water runoff from commercial and residential activities, a proposed management program might include the use of infiltration devices, detention and retention basins, vegetated swales, water quality inlets (which may include oil and water or oil/grit separators), screens, channel stabilization/riparian habitat enhancement efforts, wetland restoration and preservation projects, as well as various source control strategies and other nonstructural control measures.

6.3.1.1 New Development and Significant Redevelopment

Summary of Regulatory Requirement

New development or redevelopment often increases impervious land surfaces, which usually leads to increased pollutant levels in storm water runoff. Chemical and thermal changes in storm water runoff are commonly associated with new development and can adversely affect the quality of receiving waters. In addition, urbanization results in an increase in the volume of storm water discharges.

The Nationwide Urban Runoff Program (NURP) study (EPA, 1983) and more recent investigations indicate that controlling the contribution of pollutants in storm water discharges at the onset of land development is the most cost-effective approach to storm water quality management. Mitigating problems caused by pollutants after they have entered a MS4 is often more expensive and less efficient than preventing or reducing the discharge of pollutants at the source. Therefore, a satisfactory proposed management program will propose structural and nonstructural measures to reduce pollutants in storm water discharges from areas of new development and redevelopment. Examples of such measures are discussed below.

§122.26(d)(2)(iv)(A)(2). [The applicant must include a] description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed.

Provisions under §122.26(d)(2)(iv)(A)(2) focus on the reduction of pollutants in storm water runoff after construction in areas where new development or redevelopment is completed. Controls that are required during construction are discussed in Section 6.3.2 of this guidance.

Post-Construction Controls

Proposed storm water management programs should include planning procedures for both during and after construction to implement control measures to ensure that pollution is reduced to the maximum extent practicable in areas of new development and redevelopment. Design criteria and performance standards may be used to assist in meeting this objective.

Further, storm water management program goals should be reviewed during planning processes that guide development to appropriate locations and steer intensive land uses away from sensitive environmental areas. A municipality may, for example, include provisions in the planning process that ensure that all new development in targeted areas or zones provides for a certain percentage of undisturbed area to assist in preserving post-development runoff quality and velocity as similar as possible to pre-development conditions. In its Part 2 application, a municipality should describe how it plans to implement the proposed standards (e.g., through an ordinance requiring approval of storm water management programs, a review and approval process, and adequate enforcement).

The proposed storm water management program should identify and include planning procedures and control measures that will be used in the municipality.

Planning Procedures

Comprehensive planning procedures typically involve incorporation of land use goals and objectives into a plan document or a plan map. These plans are often called Master Plans, Comprehensive Land Use Plans, or Comprehensive Zoning Plans.

Comprehensive or master plans are often non-binding. They provide support and direction to local officials that have the authority to make land use decisions.

While applicants do not need to submit a complete comprehensive or master plan with the Part 2 application, they should detail the planning process employed by the municipality. They must thoroughly describe how the municipality's comprehensive plan is compatible with the storm water regulations. The description should clearly:

- Identify management objectives for streams, wetlands, and other receiving waters;
- Identify areas where urban development is likely to occur and areas that are sensitive to the effects of urbanization. Consideration should be given to receiving waters, topography, soil types, ground water uses and potential impacts, and other relevant factors;
- Describe standards such as design criteria and performance standards for storm water controls for new developments, such as buffer zones,

open space preservation, erosion and sediment controls, etc.;

- Describe other measures to minimize the effects of new development on storm water quality (these may include local code and ordinance requirements); and

- Identify or discuss the site development review process for the evaluation and approval of storm drainage or storm water management programs. Requirements in drainage or storm water management programs can be coordinated with review of other related plans such as those for site grading or landscaping.

There will be great variation among municipalities in their sophistication of land use planning. If the municipality has recently updated its land use plan, it may detail storm water quality issues. In other instances, there may be no policy to include storm water quality considerations in land use decisions. In such cases, the applicant must describe how consideration of those activities that affect storm water quality are to be incorporated into the municipality's comprehensive or master plan and its approval process for construction projects.

Control Measures

Most traditional storm water control measures focus on efficient collection and conveyance of storm water runoff to an offsite location. This approach can increase downstream property damage due to increased storm water runoff quantity and flow velocity. Corrective action often involves expensive public works projects, such as enlarging and reinforcing channels or constructing swales to provide an adequate outfall from affected or damaged areas. The traditional approach has typically involved downstream channel stabilization projects. However, these projects may also result in increased storm water runoff quantity and flow velocity.

Some recent approaches to storm water management include preserving the natural features of a watershed by maintaining vegetative cover and establishing buffer zones and open space or green areas. The benefit of employing this approach is the protection afforded to riparian areas and wetlands, as well as the preservation of a stable watershed. One additional benefit from this approach includes maintaining ground water recharge through infiltration. These approaches to storm water management minimize the impact of erosion, flooding, and other damage to natural drainage features such as streams, wetlands, and lakes. Preservation of natural habitat can be achieved through effective storm water quality control measures. More recent approaches use storm water to:

- Recharge ground water sources with runoff from impervious areas;

- Preserve baseflows of surface water bodies;

- Augment water supplies used for street cleaning and other municipal functions, such as watering public lawns;

- Increase recreational opportunities including swimming, fishing, and boating; and

- Sometimes, augment drinking water supplies if it is treated and in compliance with all applicable drinking water standards.

The municipality should consider storm water controls and structural concerns in planning, zoning, and site or subdivision plan approval. An example of effective structural control is described in Exhibit 6-1. Non-structural control measures are highly recommended for new development. They can be included during the planning, site-selection, and development stages. Examples of non-structural controls include street sweeping, buffer strip preservation, and public education.

Exhibit 6-1
Storm Water Programs in Delaware and Florida

Delaware requirements for on-site measures include water quality ponds with permanent pools. Ponds must be designed to release the equivalent volume of runoff from the first 1/2 inch of runoff from the site over a 24-hour period and have a storage volume designed to accommodate at least 1/2 inch of runoff from the site. Water quality ponds without permanent pools may also be used in Delaware's program. These pools are to be designed to release the first inch of runoff from the site over a 24-hour period.

Developers are instructed to consider infiltration practices only after ponds are eliminated for engineering or hardship reasons. Infiltration structures must be designed to accept at least the first inch of runoff from all streets, roadways, and parking lots. Other practices may be acceptable if they meet the equivalent removal efficiency of 80 percent for suspended solids. More stringent requirements may be established on a case-by-case basis.

The 80 percent removal efficiency for suspended solids that Delaware requires takes into account pollutant settling. The 24-hour detention period allows for substantial settling where most of the pollutant removal occurs. In addition, the requirement that the first inch of runoff be released over a period of no less than 24 hours reduces downstream erosion.

Source: Schueler, 1987.

For significant redevelopment, municipalities can incorporate both structural and nonstructural storm water controls. However, there are generally far more constraints and limitations on the control opportunities available at redevelopment sites. One of the primary constraints is the availability of sufficient open area to accommodate structural controls such as detention ponds. In instances where redevelopment is occurring in densely urbanized areas, storm water runoff volumes may be so large that sufficient storage capacity can not be provided without further compounding problems associated with siting and retrofitting existing storm water conveyance systems. In such cases, the municipality should consider nonstructural control measures such as traffic flow control, the use of porous construction materials for roads and parking lots, revisions to street sweeping or deicing policies, or public education programs.

6.3.1.2 Public Streets, Roads, and Highways

Summary of Regulatory Requirement

Public streets, roads, and highways can be significant sources of pollutants in discharges from MS4s. Therefore, proposed management programs must include a description of practices for operation and maintenance of public streets, roads, and highways, and procedures for reducing the impact of runoff from these areas on receiving waters.

§122.26(d)(2)(iv)(A)(3). [The application must include a] description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities.

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- Recordkeeping and public notice procedures.

6.3.2 Construction Sites

As specified in §122.26(d)(2)(iv)(D), applicants must describe proposed regulatory programs to reduce pollutants in storm water runoff from construction sites to the MS4.

> §122.26(d)(2)(iv)(D). [The application must include a] description of a program to implement and maintain structural and nonstructural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system.

This part of the proposed management program must address:

- Implementation of BMPs;
- Procedures for reviewing site plans to ensure that they are consistent with local sediment and erosion control plans;
- Inspection of construction sites; and
- Enforcement measures and educational activities for construction site developers and operators.

EPA encourages municipalities to (1) coordinate requirements to reduce pollutants in construction site runoff with management programs to reduce pollutants from new development, and (2) maintain, to the degree possible, pre-construction hydrologic conditions (Section 6.3.1.1). Applicants are encouraged to describe these two proposed management program components together. Implementation of this program component will rely on the establishment and maintenance of both structural and nonstructural BMPs. This requirement extends to all construction activity within the municipality.

All construction sites, regardless of size, must be addressed by the municipality. To begin to identify these sites, the applicant should obtain lists of construction site operators that are covered by general or individual storm water NPDES permits from the NPDES permitting authority. However, construction sites not covered by a storm water discharge permit also need to be addressed by the municipality. The best way to identify these construction sites and implement an effective BMP program to reduce pollutants in their runoff is through the site planning process (see Section 6.3.2.1).

The BMPs envisioned for construction site runoff are generally well established technologies and practices. They rely predominantly on erosion and sediment controls and other measures applicable to construction sites (e.g., control of solid wastes, and prohibitions on discharging concrete truck washing runoff into storm drains). The technologies proposed should be referenced, and a description of when and how the controls will be used should be included. Municipality-specific technical guidance for construction site operators, such as handbooks and inspection checklists, are examples of suitable reference sources. If an applicant chooses to develop such handbooks and checklists, they should be referenced and described in the application.

The major requirements of this program component include:

- Site planning that considers the potential impacts on water quality;
- Nonstructural and structural best management practices;
- Procedures that consider physical site characteristics when identifying priorities for inspection and enforcement; and
- Educational and training measures for construction site operators.

Each of these requirements, and the reasons that they are important elements of a proposed storm water management program, is described in more detail below.

6.3.2.1 Site Planning

Sediment runoff rates from construction sites are typically 10 to 20 times greater than those of agricultural lands, and 1,000 to 2,000 times those of forest lands. Over a short period, construction sites can contribute more sediment to streams than had been deposited over several decades. Runoff from construction sites can also include other pollutants such as phosphorus and nitrogen from fertilizer, pesticides, petroleum derivatives, construction chemicals, and solid wastes.

To address these problems, the proposed management program should describe procedures for site planning that consider potential water quality impacts.

> §122.26(d)(2)(iv)(D)(1). [The program for construction sites must include a] description of procedures for site planning which incorporate consideration of potential water quality impacts.

The objective is for the municipality and the developer to address storm water discharges from construction activity early in the project design process so that potential water quality impacts can be eliminated or minimized and consequences to the aquatic environment assessed. Nonstructural approaches to minimize the generation of runoff from the construction site will also need to be considered. These measures may include phasing development to coincide with seasonal dry periods, minimizing areas that are cleared and graded to only the portion of the site that is necessary for construction, exposing areas for the briefest period possible, and stabilizing and reseeding disturbed areas rapidly after construction activity is completed.

It is often easier and more effective to incorporate storm water quality controls during the site plan review process or earlier. The process typically culminates with the developer of the construction site submitting detailed engineering plans to the municipality for review and approval.

Upon completion of the site plan review stage, the developer and the municipality have invested considerable time and money into the project. If storm water quality issues are considered only after significant detailed engineering has gone into the project, municipal site reviewers may only address minor drainage issues. In recent years, however, many municipalities have developed separate teams of site inspectors to implement erosion and sediment control measures in the field. In these municipalities, site inspectors should be part of the site review team (if they are not already) in order to incorporate their expertise on the appropriate erosion and sediment controls for the given circumstances.

The above discussion reinforces the importance of site planning, as described in the section on site planning for new development (Section 6.3.1). In general, the sooner planners consider storm water quality issues, the better the opportunity for efficient and effective pollutant reduction. In some cases storm water issues should be considered in the conceptual stage of planning (e.g., as a planning or zoning function).

Some municipalities include a final step in the planning process that requires a developer to provide a far greater level of design detail than earlier conceptual design approvals. This step may be required as a condition of the final approval for certain zoning categories. Municipalities with such a step in the development process can consider potential storm water quality issues in detail at this stage. Municipalities that do not currently require such detailed plans should consider adopting this procedure as part of their storm water management program.

6.3.2.2 Nonstructural and Structural BMPs for Construction Activities

This component of the proposed management program should describe requirements for nonstructural and structural BMPs that operators of construction activities that discharge to MS4s must meet.

> §122.26(d)(2)(iv)(D)(2). [The program for construction sites must include a] description of requirements for nonstructural and structural best management practices.

As indicated above, applicants must propose site review and approval procedures that address sediment and erosion controls, storm water management, and other appropriate measures. Approvals should be clearly tied to commitments to implement structural and nonstructural BMPs during the construction process. Appropriate structural and nonstructural control requirements will vary by project. Project type, size, and duration, as well as soil composition, site slope, and proximity to sensitive receiving waters will determine the appropriate structural and nonstructural BMPs. Municipalities should acquire the authority to require operators to install and maintain applicable erosion and sediment control plans. Exhibit 6-2 summarizes common construction-site BMPs.

A description of the local erosion and sediment control law or ordinance is needed to satisfy this program requirement. The description should include information that links the enforcement of the law or ordinance to the legal authority of the applicant, as discussed in Section 3 of this manual.

While many municipalities have erosion and sediment control ordinances in place, their effectiveness is often limited because they are not adequately implemented and enforced. Examples include silt fencing that is not maintained, or excavated soils that are placed directly on top of the silt fencing. Therefore, construction sites covered under NPDES permit regulations must indicate whether they are in compliance with State and local sediment and erosion control plans. Site inspections are expected to be the primary enforcement mechanism by which erosion and sediment controls are maintained.

To ensure that developers are in compliance with erosion and sediment control plans, applicants may wish to consider expanding the use of performance bonds. This approach might depart from a traditional site bonding approach. For example, the size of bonds could be based on the amount of earth disturbed, the slope of the site, changes in grades, soil type, proximity to surface waters, sensitivity of surrounding area, and other relevant factors. In addition, the bond could clearly specify the storm water quality controls that must be included in the development. Appropriate maintenance and site cleanup could be tied to the bond-release process.

6.3.2.3 Site Inspections and Enforcement of Controls For Construction Sites

Storm water BMPs associated with construction activities are highly susceptible to damage due to the intensity of activities commonly associated with construction. Consequently, inspections are crucial to the effective operation of storm water BMPs. Therefore, the proposed management program should describe construction site inspection and enforcement procedures. The procedures should be flexible so that they can be tailored to specific construction activities and physical characteristics of the construction site.

> §122.26(d)(2)(iv)(D)(3). [The program for construction sites must include a] description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality.

Exhibit 6-2
Construction Site Controls and Their Applicability

Control Type	Slope Protection	Waterway Protection	Surface Drainage	Enclosed Drainage	Large Flat Areas	Borrow Areas	Adjacent Properties
Non-structural (cover)							
temporary seeding	●		●		●	●	●
mulching & matting	●				●	●	
plastic covering	●					●	
retain natural vegetation	●	●	●	●	●	●	●
buffer zones	●	●	●	●	●	●	●
seeding & planting	●				●	●	
sodding	●		●		●	●	●
topsoiling					●	●	
Structural-erosion control							
gravel entry/truck wash			●		●		
road stabilization			●				
dust control							
pipe slope drains					●	●	●
subsurface drains	●						
surface roughening	●				●		
gradient terraces	●					●	
bioengineered slopes	●					●	
level spreader			●				
interceptor dikes/swales	●					●	●
check dams			●				●
outlet protection		●	●				
riprap	●	●	●				
vegetative streambank stabilization		●					
bioengineered streambank stabilization		●					
structural streambank stabilization		●					
Structural-sediment retention							
filter fence		●		●			●
gravel filter berm	●	●			●		●
storm drain inlet protection	●			●			●
sediment trap or sump		●	●		●	●	●
sediment pond or basin		●	●	●	●	●	●

Source: Modified from WDOE, *Public Review Draft - Stormwater Management Manual for the Puget Sound Basin*, Washington State Department of Ecology, Publication #90-73. June 1991.

Effective inspection and enforcement requires adequate staff, systematic inspection procedures, penalties to deter infractions, and intervention by the municipal authority to correct violations. Enforcement mechanisms, such as the ability to require additional storm water controls, administrative penalties (e.g., stop work orders) and injunctive relief (via citizen suits) also must be described. In addition, the applicant should describe who has the authority to require compliance.

Proposed procedures for inspecting construction sites may include minimum frequencies and an inspector's checklist. For example, the State of Delaware requires a minimum of one inspection every two weeks for sites over 50,000 square feet.

The proposed program should also specify the minimum number of inspectors that will be employed during the permit term and how they will be trained. For example, some erosion and sediment control programs require that certified private inspectors be used. In such case, procedures for inspector training and certification must also be described.

In formulating procedures to identify priorities for inspecting sites and enforcing control measures, applicants are encouraged to begin early in the process (i.e., at the site planning stage, as discussed previously) and continue throughout all ground disturbing activities. Once the nature of the construction activity has been established or perhaps modified during the site plan review process, the physical site constraints can be evaluated so that effective controls can be implemented.

For example, if the controls specified in the site plan prove to be ineffective, or if changes occur that were not anticipated during the planning process, site inspection and enforcement mechanisms can be required to mitigate the potential for pollutants to enter a downstream MS4. In this instance, a perimeter barrier, such as a temporary diversion dike, could be used to divert the concentrated runoff to a pipe slope drain terminating with a level spreader. The spreader would dissipate the erosive velocity of the runoff and release it into an undisturbed area beyond the limits of the clearing and grading at the toe of the slope.

The proximity and sensitivity of the receiving water to which the construction site discharges is an important consideration. For construction sites that discharge to receiving waters that do not support their designated use or other waters of special concern, additional construction site controls are probably warranted and should be strongly considered. These receiving waters are identified in the Part 1 municipal NPDES storm water permit application [§122.26(d)(1)(i)(C)].

6.3.2.4 Educational Measures for Construction Site Operators

Construction site operators often need training and education about the sources, control, and impacts of pollutants in runoff from construction sites (see Virginia, 1988). Therefore, applicants must describe examples of informational materials and activities to be used in education programs.

> §122.26(d)(2)(iv)(D)(4). [The program for construction sites must include a] description of appropriate educational and training measures for construction site operators.

Implementation and enforcement of erosion and sediment controls have historically been major problems even with many programs that may be otherwise exemplary. Therefore, technical information on how to incorporate storm water management with erosion and sediment control and other BMP training courses are recommended for municipal employees and construction site operators. Training on the available alternatives will help operators recognize and correct problems promptly. Tools for such training include videos, workshops, seminars, and demonstrations or field trips.

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June 29, 2001

2001 JUL -2 P 2:43

Mr. Dennis Dickerson
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

CITY OF LOS ANGELES ADDITIONAL REVIEW COMMENTS ON THE FIRST DRAFT OF THE 2001 LOS ANGELES COUNTY MUNICIPAL STORM WATER NPDES PERMIT

We are transmitting the attached additional comments on the first draft of the 2001 Los Angeles County Municipal Storm Water National Pollutant Discharge Elimination System Permit. These comments deal with issues that are governed by official policies of the City of Los Angeles and are impacted by the draft Permit.

As we noted when we submitted comments on technical issues on May 16, 2001, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must first be adopted in the form of a resolution by the City Council with the concurrence of the Mayor. Attached please find the City's position on the draft Permit with supporting documentation.

Once again, the City appreciates that the Regional Board will give due consideration to incorporating the City's comments into the final Permit.

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If you have any questions, please contact me at (213) 473-7999 or Gary Lee Moore, of my staff, at (213) 847-6346.

Sincerely,

James F. Langley for
Judith A. Wilson, Director
Bureau of Sanitation

JAW/GLM/MFS/SHN/AAS:lm
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Attachments

cc: Xavier Swamikannu, Los Angeles Regional Water Quality Control Board
James F. Langley, Assistant Director, Bureau of Sanitation
Gary Lee Moore, Stormwater Program Manager

AM GEN. 160 (Rev. 6-80)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

DATE: June 18, 2001

TO: Councilmember Mark Ridley-Thomas, Chair
Environmental Quality and Waste Management Committee

FROM: Ronald F. Deaton
Chief Legislative Analyst

William T. Fujioka, Director
Office of Administrative and Research Services

SUBJECT: POLICY ISSUES RELATED TO THE DRAFT 2001 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) MUNICIPAL STORMWATER PERMIT

BACKGROUND: The Los Angeles Regional Water Quality Control Board (Regional Board) recently issued a draft 2001 NPDES Municipal Stormwater Permit for review and comment. The NPDES permit is reissued every five years and the existing permit expires on July 31, 2001. This permit identifies the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles and the incorporated cities (except Long Beach and Santa Clarita). The County of Los Angeles is the principal permittee and the City of Los Angeles and 82 other jurisdictions are co-permittees.

A Council Motion regarding the 2001 NPDES Municipal Stormwater Permit was introduced on May 18, 2001 (CF#01-1020). This motion directed the CLA and OARS to prepare a report for the Environmental Quality and Waste Management Committee on various policy implications of the draft 2001 NPDES permit.

The deadline for the receipt of comments was May 16, 2001. City staff prepared and submitted technical comments to the Regional Board on that date (see attached). There were, however, several substantive policy issues associated with the proposed permit. In light of the new charter, which states that any official position of the City of Los Angeles with respect to pending agency regulations must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor, this report has been prepared.

The Regional Board has issued a schedule that states that there will be two more draft permits; a second draft of the permit will be issued on June 29, 2001 and a final draft will be issued on September 6, 2001. The proposed adoption date by the Regional Board is scheduled for October 25, 2001.

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2. Programs for industrial/commercial inspections

Proposed Permit - The proposed permit includes language that would require the City to move from educational visits to site inspections and require the City to inspect all industrial/commercial sites under the Regional Board's jurisdiction, in addition to the City's jurisdiction. Additionally, the proposed permit would add categories of industrial and commercial businesses within the City, almost doubling the list from 13,000 to 23,000 businesses. The required inspections would involve a thorough review of the physical structure and layout of the business, as well as a review of their common practices. It is estimated that, depending on the type of business, the new inspections would average two hours, not including expected follow-up visits, which may be necessary for a majority of the businesses.

Current Practice - The existing NPDES permit requires the City to conduct educational site visits, which are typically brief in duration. Staff activities are limited to distributing brochures and other informational handouts.

Impact on City - Staff supports moving from site visits to full inspections of industrial/commercial sites. This will allow the City to thoroughly review industrial/commercial stormwater impacts and begin enforcement actions on violators. Additionally, staff is supportive of increasing the number of industrial/commercial sites that are under the jurisdiction of the permittees. It is estimated that an additional two new inspectors would be necessary to fulfill the new NPDES requirements to inspect industrial/commercial sites under the City's jurisdiction, which would cost $175,081 per year. Additional attorney costs for anticipated legal actions, which are difficult to estimate, may also be necessary. The SPAF anticipated some additional costs associated with the proposed NPDES permit and included $530,000 in the 2001-02 budget (See Table 1).

The proposed permit, however, also assigns the responsibility for industrial/commercial inspections currently under the Regional Board's jurisdiction to the City. The Regional Board receives permit fees from between $250 and $500 from General Industrial Activities Stormwater Permits for their industrial/commercial inspections. Staff strongly opposes the requirements of the draft permit that passes these responsibilities to the City. These responsibilities clearly belong to and should remain with the Regional Board. Staff estimates that an additional four new inspectors, beyond the previously mentioned two inspectors, would be necessary to carry out this requirement, at a cost of $350,000 per year.

Recommended City Position – Support the Regional Board's responsibility for inspections of industrial/commercial sites that are under their General Industrial Activities Stormwater Permit.

3. Standard Urban Storm Water Mitigation Plans (SUSMPs)

Proposed Permit – Include administrative projects in the SUSMP project categories.

Current Practice - on January 25, 2000, the City Council adopted a policy position that endorsed, in concept, the SUSMP requirement for developments as proposed by the Regional

Board. The Regional Board's proposal included discretionary and ministerial (administratively approved) projects. Although the SUSMP requirements ultimately adopted by the State Water Resources Control Board (State Board) for the current NPDES permit apply only to discretionary projects, the Regional Board has the authority to add ministerial projects when the NPDES permit is re-issued. As a result, the draft NPDES permit expands this section to include ministerial projects.

Impact on City - The inclusion of ministerial projects in the draft NPDES permit for SUSMP project categories is estimated to require four additional staff at a cost of $432,779. The Stormwater Pollution Abatement Fund (SPAF) anticipated some additional costs associated with the proposed NPDES permit and included $530,000 in the SPAF 2001-02 budget (see Table 1).

Recommended City Position – Support the requirements for Standard Urban Storm Water Mitigation Plans (SUSMP).

4. **Implement Requirements for Peak Flow Control.**

Proposed Permit – The proposed permit requires all development that drains to soft-bottom channels, including the entire upper Los Angeles River region (the San Fernando Valley), to show that a post-development peak runoff discharge rate does not exceed the pre-development runoff discharge rate.

Current Practice – The current peak flow control requirements are implemented as part of the existing SUSMP requirements imposed through the CEQA review process. This condition is applicable to the SUSMP project categories where developments will result in increased potential for downstream erosion. It is applied to only developments that have site runoff discharge ***directly*** to soft-bottom channels.

Impact on City - Typical peak flow control measures include detention, retention, or infiltration systems. These measures, however, are limited for new developments in the San Fernando Valley, due to the Watermaster's restriction against any infiltration systems. Staff prepared a sample peak flow calculation, assuming the need for detention/retention, which resulted in a system the size of an average swimming pool for a one-acre development. If this example is accurate, the need for additional open spaces for detention, retention and infiltration systems will severely constrain development in the San Fernando Valley.

Recommended City Position – Since this requirement is not defined in detail and may have significant impact, staff recommends the Peak Flow Control requirement be deleted until consensus language is developed.

5. **Small Construction Site Requirements.**

Proposed Permit - The proposed permit states that for construction sites of less than one acre, the proposed permit would require the implementation of structural and non-structural BMPs, as well as site inspections.

Current Practice – Under the current permit, for sites less than two acres of disturbed soil, construction projects are required to implement minimum BMPs, which consist of good housekeeping practices. During routine inspections, City inspectors observe practices for compliance with minimum requirements. There are no inspections specifically conducted to look for storm water compliance.

Impact on City - In essence, this proposed requirement would make *every* project subject to storm water conditions, which would be over 30,000 projects per year in the City of Los Angeles. "Less than one acre" does not have a lower limit and goes significantly beyond the intent of the upcoming federal stormwater regulations. Many projects less than one acre do not cause an adverse impact on water quality. Those that do not cause an adverse impact are not being regulated at the state or federal level and will not be regulated in the immediate future. If a site that is less than one acre does cause an adverse impact on water quality, then current local, state and/or federal ordinances, laws and regulations give the authority for agencies to take enforcement action.

Staff estimates that an additional eight staff would be necessary to conduct this activity at a cost of approximately $809,456. This would increase the stormwater pollution abatement charge by about a dollar a year for residents.

Recommended City Position – Delete the additional requirements on the City to require structural and non-structural BMPs and site inspections on construction sites less than one acre.

6. **Larger Construction Site Requirements.**

Proposed Permit - For construction sites greater than one acre, the proposed permit would require the review and inspection of BMP implementation plans during construction and a Storm Water Pollution Prevention Plan (SWPPP) on site.

Current Practice - Currently, the City is required to inspect construction sites of two acres and above for compliance with a SWPPP. Should violations be discovered on sites between two and five acres, the City conducts follow-up activities. If the construction project site is five acres or over, the City notifies the Regional Board for follow-up activities. The Regional Board is responsible for issuing State General Construction Permits and conducting follow-up activities for sites five acres and above. Beginning in 2003, however, federal regulations will require the Regional Board issue General Construction Permits for sites one acre and above. The issuance of these permits will allow the Regional Board to collect fees for site inspection activities. As the proposed permit is currently written, however, cities will be required to inspect these sites, while the Regional Board collects the fees. It is more appropriate for the Regional Board to begin this activity in 2003 and fund their work through their permit fees.

Impact on the City – It is estimated that the cost to hire an additional two staff to review and inspect BMP implementation plans and SWPPPs would cost approximately $188,339. This would cost the ratepayers an increase of several cents on their Stormwater Pollution Abatement Charge.

United States Environmental Protection Agency | Office of Water (4203) | EPA 833-F-00-009 January 2000 Fact Sheet 2.7

EPA

Storm Water Phase II Final Rule

Post-Construction Runoff Control Minimum Control Measure

This fact sheet profiles the Post-Construction Runoff Control minimum control measure, one of six measures that the operator of a Phase II regulated small municipal separate storm sewer system (MS4) is required to include in its storm water management program in order to meet the conditions of its National Pollutant Discharge Elimination System (NPDES) permit. This fact sheet outlines the Phase II Final Rule requirements for post-construction runoff control and offers some general guidance on how to satisfy those requirements. It is important to keep in mind that the small MS4 operator has a great deal of flexibility in choosing exactly how to satisfy the minimum control measure requirements.

Why Is The Control of Post-Construction Runoff Necessary?

Post-construction storm water management in areas undergoing new development or redevelopment is necessary because runoff from these areas has been shown to significantly effect receiving waterbodies. Many studies indicate that prior planning and design for the minimization of pollutants in post-construction storm water discharges is the most cost-effective approach to storm water quality management.

There are generally two forms of substantial impacts of post-construction runoff. The first is caused by an increase in the type and quantity of pollutants in storm water runoff. As runoff flows over areas altered by development, it picks up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients (e.g., nitrogen and phosphorus). These pollutants often become suspended in runoff and are carried to receiving waters, such as lakes, ponds, and streams. Once deposited, these pollutants can enter the food chain through small aquatic life, eventually entering the tissues of fish and humans. The second kind of post-construction runoff impact occurs by increasing the quantity of water delivered to the waterbody during storms. Increased impervious surfaces interrupt the natural cycle of gradual percolation of water through vegetation and soil. Instead, water is collected from surfaces such as asphalt and concrete and routed to drainage systems where large volumes of runoff quickly flow to the nearest receiving water. The effects of this process include streambank scouring and downstream flooding, which often lead to a loss of aquatic life and damage to property.

What Is Required?

The Phase II Final Rule requires an operator of a regulated small MS4 to develop, implement, and enforce a program to reduce pollutants in post-construction runoff to their MS4 from new development and redevelopment projects that result in the land disturbance of greater than or equal to 1 acre. The small MS4 operator is required to:

- ❑ Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs);
- ❑ Have an ordinance or other regulatory mechanism requiring the implementation of post-construction runoff controls to the extent allowable under State, Tribal or local law.

- ❑ Ensure adequate long-term operation and maintenance of controls;

- ❑ Determine the appropriate best management practices (BMPs) and measurable goals for this minimum control measure.

What Is Considered a "Redevelopment" Project?

The term "redevelopment" refers to alterations of a property that change the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than 1 acre of land. The term does not include such activities as exterior remodeling. Because redevelopment projects may have site constraints not found on new development sites, the rule provides flexibility for implementing post-construction controls on redevelopment sites that consider these constraints.

What Are Some Guidelines for Developing and Implementing This Measure?

This section includes some sample non-structural and structural BMPs that could be used to satisfy the requirements of the post-construction runoff control minimum measure. It is important to recognize that many BMPs are climate-specific, and not all BMPs are appropriate in every geographic area. Because the requirements of this measure are closely tied to the requirements of the construction site runoff control minimum measure (see Fact Sheet 2.6), EPA recommends that small MS4 operators develop and implement these two measures in tandem. Sample BMPs follow.

❑ Non-Structural BMPs

- **Planning and Procedures.** Runoff problems can be addressed efficiently with sound planning procedures. Master Plans, Comprehensive Plans, and zoning ordinances can promote improved water quality by guiding the growth of a community away from sensitive areas and by restricting certain types of growth (industrial, for example) to areas that can support it without compromising water quality.

- **Site-Based Local Controls.** These controls can include buffer strip and riparian zone preservation, minimization of disturbance and imperviousness, and maximization of open space.

❑ Structural BMPs

- **Storage Practices.** Storage or detention BMPs control storm water by gathering runoff in wet ponds, dry basins, or multichamber catch basins and slowly releasing it to receiving waters or drainage systems. These practices both control storm water volume and settle out particulates for pollutant removal.

- **Infiltration Practices.** Infiltration BMPs are designed to facilitate the percolation of runoff through the soil to ground water, and, thereby, result in reduced storm water quantity and reduced mobilization of pollutants. Examples include infiltration basins/trenches, dry wells, and porous pavement.

- **Vegetative Practices.** Vegetative BMPs are landscaping features that, with optimal design and good soil conditions, enhance pollutant removal, maintain/improve natural site hydrology, promote healthier habitats, and increase aesthetic appeal. Examples include grassy swales, filter strips, artificial wetlands, and rain gardens.

What Are Appropriate Measurable Goals?

Measurable goals, which are required for each minimum control measure, are intended to gauge permit compliance and program effectiveness. The measurable goals, as well as the BMPs, should reflect needs and characteristics of the operator and the area served by its small MS4. Furthermore, the measurable goals should be chosen using an integrated approach that fully addresses the requirements and intent of the minimum control measure. An integrated approach for this minimum measure could include the following goals:

Target Date	Activity
1 year.....	Strategies developed that include structural and/or non-structural BMPs.
2 years.....	Strategies codified by use of ordinance or other regulatory mechanism.
3 years.....	Reduced percent of new impervious surfaces associated with new development projects.
4 years.....	Improved clarity and reduced sedimentation of local waterbodies.

For Additional Information

Contact

☞ U.S. EPA Office of Wastewater Management
- Phone: 202 260-5816
- E-mail: SW2@epa.gov
- Internet: www.epa.gov/owm/sw/phase2

Reference Documents

☞ Storm Water Phase II Final Rule Fact Sheet Series
- Internet: www.epa.gov/owm/sw/phase2

☞ Storm Water Phase II Final Rule (64 *FR* 68722)
- Internet: www.epa.gov/owm/sw/phase2
- Contact the U.S. EPA Water Resource Center
  - Phone: 202 260-7786
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United States Environmental Protection Agency | Office of Water (4203) | EPA 833-F-00-008 January 2000 Fact Sheet 2.6

EPA

Storm Water Phase II Final Rule

Construction Site Runoff Control Minimum Control Measure

This fact sheet profiles the Construction Site Runoff Control minimum control measure, one of six measures that the operator of a Phase II regulated small municipal separate storm sewer system (MS4) is required to include in its storm water management program to meet the conditions of its National Pollutant Discharge Elimination System (NPDES) permit. This fact sheet outlines the Phase II Final Rule requirements and offers some general guidance on how to satisfy them. It is important to keep in mind that the small MS4 operator has a great deal of flexibility in choosing exactly how to satisfy the minimum control measure requirements.

Why Is The Control of Construction Site Runoff Necessary?

Polluted storm water runoff from construction sites often flows to MS4s and ultimately is discharged into local rivers and streams. Of the pollutants listed in Table 1, sediment is usually the main pollutant of concern. Sediment runoff rates from construction sites are typically 10 to 20 times greater than those of agricultural lands, and 1,000 to 2,000 times greater than those of forest lands. During a short period of time, construction sites can contribute more sediment to streams than can be deposited naturally during several decades. The resulting siltation, and the contribution of other pollutants from construction sites, can cause physical, chemical, and biological harm to our nation's waters. For example, excess sediment can quickly fill rivers and lakes, requiring dredging and destroying aquatic habitats.

Table 1

Pollutants Commonly Discharged From Construction Sites
Sediment
Solid and sanitary wastes
Phosphorous (fertilizer)
Nitrogen (fertilizer)
Pesticides
Oil and grease
Concrete truck washout
Construction chemicals
Construction debris

What Is Required?

The Phase II Final Rule requires an operator of a regulated small MS4 to develop, implement, and enforce a program to reduce pollutants in storm water runoff to their MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The small MS4 operator is required to:

- ❑ Have an ordinance or other regulatory mechanism requiring the implementation of proper erosion and sediment controls, and controls for other wastes, on applicable construction sites;
- ❑ Have procedures for site plan review of construction plans that consider potential water quality impacts;
- ❑ Have procedures for site inspection and enforcement of control measures;
- ❑ Have sanctions to ensure compliance (established in the ordinance or other regulatory mechanism);

- ❑ Establish procedures for the receipt and consideration of information submitted by the public; and
- ❑ Determine the appropriate best management practices (BMPs) and measurable goals for this minimum control measure. Suggested BMPs (i.e., the program actions/activities) and measurable goals are presented below.

What Are Some Guidelines for Developing and Implementing This Measure?

Further explanation and guidance for each component of a regulated small MS4's construction program is provided below.

Regulatory Mechanism

Through the development of an ordinance or other regulatory mechanism, the small MS4 operator must establish a construction program that controls polluted runoff from construction sites with a land disturbance of greater than or equal to one acre. Because there may be limitations on regulatory legal authority, the small MS4 operator is required to satisfy this minimum control measure only to the maximum extent practicable and allowable under State, Tribal, or local law.

Site Plan Review

The small MS4 operator must include in its construction program requirements for the implementation of appropriate BMPs on construction sites to control erosion and sediment and other waste at the site. To determine if a construction site is in compliance with such provisions, the small MS4 operator should review the site plans submitted by the construction site operator before ground is broken.

Site plan review aids in compliance and enforcement efforts since it alerts the small MS4 operator early in the process to the planned use or non-use of proper BMPs and provides a way to track new construction activities. The tracking of sites is useful not only for the small MS4 operator's recordkeeping and reporting purposes, which are required under their NPDES storm water permit (see Fact Sheet 2.9), but also for members of the public interested in ensuring that the sites are in compliance.

Inspections and Penalties

Once construction commences, BMPs should be in place and the small MS4 operator's enforcement activities should begin. To ensure that the BMPs are properly installed, the small MS4 operator is required to develop procedures for site inspection and enforcement of control measures to deter infractions. Procedures could include steps to identify priority sites for inspection and enforcement based on the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality. Inspections give the MS4 operator an opportunity to provide additional guidance and education, issue warnings, or assess penalties. To conserve staff resources, one possible option for small MS4 operators is to have these inspections performed by the same inspector that visits the sites to check compliance with health and safety building codes.

Information Submitted by the Public

A final requirement of the small MS4 program for construction activity is the development of procedures for the receipt and consideration of public inquiries, concerns, and information submitted regarding local construction activities. This provision is intended to further reinforce the public participation component of the regulated small MS4 storm water program (see Fact Sheet 2.4) and to recognize the crucial role that the public can play in identifying instances of noncompliance.

The small MS4 operator is required only to *consider* the information submitted, and may not need to follow-up and respond to every complaint or concern. Although some form of enforcement action or reply is not required, the small MS4 operator is required to demonstrate acknowledgment and consideration of the information submitted. A simple tracking process in which submitted public information, both written and verbal, is recorded and then given to the construction site inspector for possible follow-up will suffice.

What Are Appropriate Measurable Goals?

Measurable goals, which are required for each minimum control measure, are intended to gauge permit compliance and program effectiveness. The measurable goals, as well as the BMPs, should reflect the needs and characteristics of the operator and the area served by its small MS4. Furthermore, they should be chosen using an integrated approach that fully addresses the requirements and intent of the minimum control measure. An integrated approach for this minimum measure could include the following measurable goals:

Target Date	Activity
1 year.....	Ordinance or other regulatory mechanism in place; procedures for information submitted by the public in place.
2 years.....	Procedures for site inspections implemented; a certain percentage rate of compliance achieved by construction operators.
3 years.....	Maximum compliance with ordinance; improved clarity and reduced sedimentation of local waterbodies.
4 years.....	Increased numbers of sensitive aquatic organisms in local waterbodies.

Are Construction Sites Already Covered Under the NPDES Storm Water Program?

Yes. EPA's Phase I NPDES storm water program requires operators of construction activities that disturb five or more acres to obtain a NPDES construction storm water permit. General permit requirements include the submission of a Notice of Intent and the development of a storm water pollution prevention plan (SWPPP). The SWPPP must include a site description and measures and controls to prevent or minimize pollutants in storm water discharges. The Phase II Final Rule similarly regulates discharges from smaller construction sites disturbing equal to or greater than one acre and less than five acres (see Fact Sheet 3.0 for information on the Phase II construction program).

Even though all construction sites that disturb more than one acre are covered nationally by an NPDES storm water permit, the construction site runoff control minimum measure for the small MS4 program is needed to induce more localized site regulation and enforcement efforts, and to enable operators of regulated small MS4s to more effectively control construction site discharges into their MS4s.

To aid operators of regulated construction sites in their efforts to comply with both local requirements and their NPDES permit, the Phase II Final Rule includes a provision that allows the NPDES permitting authority to reference a "qualifying State, Tribal or local program" in the NPDES general permit for construction. This means that if a construction site is located in an area covered by a qualifying local program, then the construction site operator's compliance with the local program constitutes compliance with their NPDES permit. A regulated small MS4's storm water program for construction could be a "qualifying program" if the MS4 operator requires a SWPPP, in addition to the requirements summarized in this fact sheet.

The ability to reference other programs in the NPDES permit is intended to reduce confusion between overlapping and similar requirements, while still providing for both local and national regulatory coverage of the construction site. The provision allowing NPDES permitting authorities to reference other programs has no impact on, or direct relation to, the small MS4 operator's responsibilities under the construction site runoff control minimum measure profiled here.

Is a Small MS4 Required to Regulate Construction Sites that the Permitting Authority has Waived from the NPDES Construction Program?

No. If the NPDES permitting authority waives requirements for storm water discharges associated with small construction activity (see 122.26(b)(15)(i)), the small MS4 operator is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such construction sites.

For Additional Information

Contact

☞ U.S. EPA Office of Wastewater Management
- Phone: 202 260-5816
- E-mail: SW2@epa.gov
- Internet: www.epa.gov/owm/sw/phase2

Reference Documents

☞ Storm Water Phase II Final Rule Fact Sheet Series
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☞ Storm Water Phase II Final Rule (64 *FR* 68722)
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- Contact the U.S. EPA Water Resource Center
  - Phone: 202 260-7786
  - E-mail: center.water-resource@epa.gov

Office of Wastewater Management Header

NPDES Storm Water [illegible] Activity Disturbing [illegible] Acres

Under the Storm Water Phase II Final Rule, construction activity disturbing equal to or greater than one acre and less than five acres of land is subject to NPDES permitting requirements. Construction activity disturbing less than one acre requires a permit if it is part of a larger common plan of development or sale disturbing a total of one acre or greater, or is individually designated for permit coverage by the NPDES permitting authority. The NPDES Storm Water Program currently addresses storm water discharges from construction sites disturbing five acres or greater (as well as sites less than five acres if they are part of a larger common plan of development or sale disturbing a total of five acres or greater).

IMPORTANT: Note that permit applications from operators of constructions activities disturbing less than five acres will not be due until 2002/early 2003. Contact your Permitting Authority for the exact date.

Key questions addressed here include:

- What is required of Phase II construction operators under the Final Rule?
- What waivers are available for Phase II construction activity?

Resources

- Storm Water Phase II Final Rule: Construction Program Overview (Fact Sheet 3.0)
- Storm Water Phase II Final Rule

What Is Required Of Phase II Construction Operators Under The Final Rule?

The Phase II Final Rule requires, nationally, operators of Phase II construction sites to obtain an NPDES permit and implement best management practices (BMPs) to minimize pollutant runoff. [It is important to note that, locally, these same sites may also be covered by State, Tribal, or local construction runoff control programs.] For the Phase II construction program, EPA has taken an approach similar to the current Phase I approach where the program requirements are not fully defined in the rule but rather in the NPDES storm water permit issued by the NPDES permitting authority. EPA recommends that the NPDES permitting authorities use their existing NPDES storm water general permits for construction as a guide in developing their Phase II construction permits. In doing so, the Phase II requirements will be similar to the following three main requirements of EPA's Construction General Permits:

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- Submission of a Notice of Intent (NOI) that includes general operator and site information, and a certification that the activity will not impact endangered or threatened species. This certification is unique to EPA's NOI and is not a requirement of most NPDES-delegated State's NOIs;
- The development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) with appropriate BMPs to minimize the discharge of pollutants from the site; and
- Submission of a Notice of Termination (NOT) when final stabilization of the site has been achieved as defined in the permit, or storm water runoff is no longer being discharged, or when another operator has assumed control of the site.

What Waivers Are Available for Phase II Construction Activity?

Under the Phase II Final Rule, NPDES permitting authorities have the option of providing a waiver from the requirements to operators of Phase II construction activity who could certify to one of two conditions:

1. Low predicted rainfall potential (i.e., activity occurs during a negligible rainfall period), where the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation (RUSLE)) is less than 5 during the period of construction activity. Chapter 2 of the USDA's publication, "Predicting Soil Erosion by Water: A Guide to Conservation Planning with the Revised Universal Soil Loss Equation (RUSLE)", is now available for download here (in Adobe Acrobat format) and contains more information on the R factor. Fact Sheet 3.1 on the "Construction Rainfall Erosivity Waiver" will be availabe soon - see the Fact Sheet series for this and other fact sheets on the Phase II program.

2. A determination that storm water controls are not necessary based on either:

   (A) Total Maximum Daily Load (TMDL) approved or established by EPA that addresses the pollutant(s) of concern for construction activities; or

   (B) For non-impaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety.

Note: Waivers are *not* available for any construction activity disturbing 5 acres or greater, or less than 5 acres if part of a common plan of development or sale (or if designated for permit coverage by the NPDES permitting authority).

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United States
Environmental Protection
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Office of Research and
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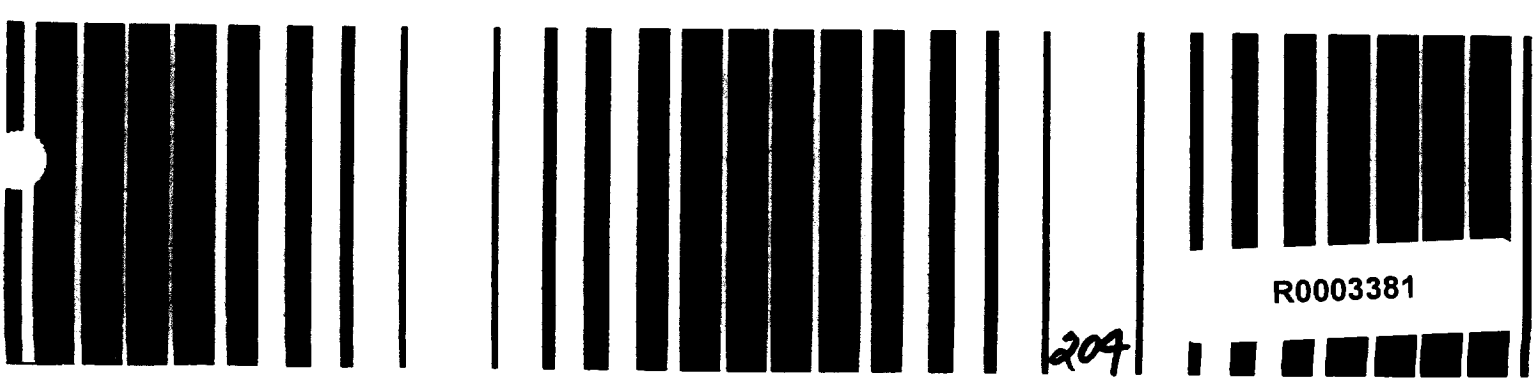
Handbook

Urban Runoff Pollution Prevention and Control Planning



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Handbook

Urban Runoff Pollution Prevention and Control Planning

U.S. Environmental Protection Agency

Office of Research and Development
Center for Environmental Research Information
Cincinnati, Ohio

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Chapter 2
Regulatory Framework

The structure of urban runoff regulations includes all levels of government. Responsibility for enforcement and oversight of these regulations can be held by federal, state, local, or in some cases regional agencies. Despite this array of programs and regulations, the primary responsibility for developing approaches to solve urban runoff pollution problems generally resides with municipalities. Such pollution problems are considered to be best handled locally because of the site-specific nature of pollution sources and of potential pollution prevention and control activities.

The major direction for prevention and control of urban runoff pollution has come from the federal government through the 1972 Clean Water Act (CWA) and its amendments. Several sections of the Act deal with diffuse source pollution. Additional federal statutes that address urban runoff pollution include the Pollution Prevention Act, the Safe Drinking Water Act (SDWA), and the Coastal Zone Management Act (CZMA).

This chapter discusses the major federal regulations, policies, and programs related to urban runoff pollution prevention and control. Given the national scope of this handbook and the site-specific nature of state, regional, and local regulations, this chapter focuses on regulations and programs at the federal level. Currently, the major federal statutes, regulations, and programs that provide a framework for storm water runoff and NPS pollution prevention and control are:

- Storm Water NPDES Permit Program
- Combined Sewer Overflow Strategy
- Pollution Prevention Act
- Safe Drinking Water Act
- Nonpoint Source Management Program
- Coastal Zone Nonpoint Source Pollution Control
- Clean Lakes Program
- National Estuary Program
- Agricultural Nonpoint Source Programs

This chapter includes a general discussion of each of these statutes, regulations, and programs and of how they relate to urban runoff pollution control at the municipal level. Because of the dynamic, evolving nature of most of these regulations and programs, municipalities must keep up to date on specific schedules and requirements. In addition, local officials need to be familiar with urban runoff pollution prevention and control programs initiated and overseen by state, county, and local entities. These programs might stem from federal regulatory authority but will be more tailored and directly applicable to local issues and needs.

Storm Water NPDES Permit Program

Under Section 402 of the 1972 CWA, point source discharges of pollutants to navigable waters are prohibited unless authorized by an NPDES permit. Initially, the focus of the permit program was on point source discharges of industrial and municipal wastewaters. As controls for point source discharges were implemented, however, it became apparent that to achieve the water quality goals of the CWA, more diffuse sources of pollutants, including urban and agricultural runoff, also would have to be addressed.

In the 1987 amendments to the CWA, Congress introduced new provisions and reauthorized existing programs that address diffuse sources. The development of a workable program to regulate storm water discharges was challenging given the number of individual discharges, the diffuse nature of the sources and related water quality effects, and limited state and federal resources. After extended development and review, EPA promulgated the NPDES storm water regulations in November 1990. These regulations represent the most comprehensive program to date for controlling urban and industrial storm water runoff pollution. The storm water regulations apply to municipal separate storm sewer systems that serve either incorporated populations greater than 100,000 or unincorporated, urbanized populations greater than 100,000 based on the 1980 decennial census. In addition, EPA defined a discharge associated with industrial activity; activities that fall within 11 industrial categories are required to obtain a NPDES storm water permit (U.S. EPA, 1990a).

The 1990 NPDES storm water permit regulations directly affect approximately 200 municipalities and 47 counties across the country, as well as an estimated 125,000 industries and 10,000 construction sites annually. Under this extensive program, affected municipalities and industries must conduct storm water runoff sampling and collect site characterization information for each permit application. The municipal permit application requirements include:

- Proof of the municipality's legal authority to enforce the regulations.
- Characterization of the municipality's storm water runoff through wet-weather sampling.
- Location of illicit storm drain connections and development of a plan to eliminate those connections.
- Description of existing urban runoff control programs and development of a proposed storm water management program.
- Analysis of the municipality's fiscal resources to implement the program.

Once a permit application is filed and a permit issued, both municipalities and industries are required to comply with permit conditions as specified by EPA or the responsible state permitting authority. EPA has developed general permits designed to cover many industrial storm water discharges. These general permits require the elimination of non-storm water discharges from drainage systems and the development of a storm water pollution prevention plan, including:

- Development of a pollution prevention team.
- Description of sources expected to add pollution to runoff.
- Implementation of source control practices, such as:
  - good housekeeping,
  - preventive maintenance,
  - spill prevention and response procedures,
  - equipment inspections,
  - employee training,
  - recording and internal reporting procedures,
  - removal of non-storm water discharges,
  - sediment and erosion control, and
  - management of runoff.
- Implementation of annual site-compliance evaluations.

Most municipalities in the United States have populations under 100,000 and therefore are not currently required to file municipal storm water permit applications. EPA is considering regulations to address storm water runoff pollution from smaller communities (CWA Section 402), which could be required to develop storm water management plans. In addition, existing NPDES regulations allow EPA or a responsible state permitting authority to require permits for any storm water discharges that cause violations of water quality standards.

Combined Sewer Overflow Strategy

Combined sewer overflows (CSOs) are discharges from sewer systems that are designed to carry storm water rainfall and snowmelt runoff, along with sanitary sewage, pretreated industrial wastewater, and a certain quantity of flow from storm and ground-water infiltration. Combined systems were constructed in more than 1,200 municipalities throughout the United States, particularly in the Northeast, East, and Midwest. Combined sewer systems have overflow points designed to discharge wet-weather flows that exceed the carrying capacity of the system (usually designed to carry peak dry-weather flow). Such combined sewer discharges, if not treated before overflowing into receiving waters, can significantly affect water resources and threaten human health.

Many municipalities have begun to address these pollution sources through various means, such as storing and treating the discharges, implementing low-cost BMPs, and replacing combined sewers with separate sanitary and storm sewer systems. Separating combined systems can be a long and relatively expensive process and results in a separate storm drainage system that could eventually require an NPDES permit.

To address CSO discharges, EPA developed a national strategy (Federal Register, 1989), which sets forth three major objectives in NPDES permitting for CSOs:

- To ensure that no CSOs occur during dry-weather flow conditions.
- To bring all wet-weather CSOs into compliance with the technology-based requirements of the CWA and applicable state water quality standards.
- To minimize impacts on water quality, aquatic biota, and human health from wet-weather generated overflows.

To achieve these objectives, recommended strategies include the application of the best conventional pollutant control technology (BCT), or best available technology economically achievable (BAT), based on best professional judgment (BPJ).

The technology-based effluent limitation for CSOs were mandated to include six minimum technologies:

- Proper operation and maintenance

- Maximization of collection system storage
- Pretreatment
- Maximization of flow to treatment plant
- Elimination of dry-weather overflows
- Control of solids and floatables

Following the development of a guidance document for implementing the National CSO Strategy, three more minimum technologies were added to the list:

- CSO inspection, monitoring, and reporting
- Pollution prevention
- Public notification of CSO impacts

EPA, with input from numerous state, municipal, and environmental organizations, released a new Draft CSO Control Policy on January 19, 1993. The final policy will provide guidance to permittees on developing consistent CSO control strategies, and to NPDES permitting authorities on developing permit language and enforcement strategies that will ensure consistent implementation of control strategies.

Pollution Prevention Act

With the passage of the Pollution Prevention Act of 1990, Congress established a national policy that emphasizes pollution prevention over control or treatment. With this policy, Congress defined a pollution prevention hierarchy for all pollution reduction programs:

- Pollution should be prevented or reduced at the source whenever feasible.
- Pollution that cannot be prevented should be recycled in an environmentally safe manner.
- Pollution that cannot be prevented or recycled should be treated in an environmentally safe manner.
- Disposal or other release to the environment should be a last resort and should be conducted in an environmentally safe manner.

As stated in Chapter 1, one goal of this handbook is to integrate pollution prevention into urban runoff pollution control planning. Summarizing the goals of EPA's pollution prevention program, the National Pollution Prevention Strategy serves two basic purposes:

- To provide guidance and direction for incorporating pollution prevention in EPA regulatory and nonregulatory programs.
- To set forth a program that will achieve specific pollution prevention objectives in a reasonable time period.

To address the first objective, EPA is investigating changes to the institutional barriers to pollution prevention within the Agency by:

- Designating special assistants for pollution prevention in each assistant administrator's office.
- Developing incentives and awards for Agency staff who engage in pollution prevention efforts.
- Incorporating prevention into each program office's comprehensive 4-year strategic plans.
- Providing pollution prevention training to Agency staff.
- Supporting technology innovation.
- Including prevention-related activities in the Agency's operating guidance, accountability measures, and regulatory review and development process.

To address the second objective, EPA is targeting high-risk chemicals and seeking to reduce releases of these chemicals through a voluntary program.

This pollution prevention policy was originally developed to address industrial waste issues. Since it also applies to storm water and diffuse source pollution, EPA is now emphasizing pollution prevention at the municipal level in dealing with urban runoff pollution. Municipalities are encouraged to employ techniques and policies that reduce the amount of pollutants available for transport in urban runoff. Municipalities can implement activities and use management practices that are consistent with EPA's pollution prevention policies. Such activities include public education; household hazardous waste collection; location and elimination of illicit connections to separate storm systems; reduction of roadway sanding and salting; and reduction of pesticide, herbicide, and fertilizer use. Such programs, which are discussed in later chapters, can reduce the availability of pollutants for washoff.

Safe Drinking Water Act

The Surface Water Treatment Rule (SWTR) of the SDWA outlines requirements for watershed protection. Municipalities that use surface water for drinking-water supplies are required by EPA or the approved state agency to develop a watershed protection plan for such surface waters (AWWA, 1990). Municipalities are required to:

- Develop a watershed description, including:
  - the watershed's geographic location and physical features;
  - the location of major components of the water system in the watershed;
  - annual precipitation patterns, streamflow characteristics, and other hydrology information;

- agreements and delineation of land use and ownership.

- Identify the watershed characteristics and activities detrimental to water quality, such as:
  - the effects of precipitation, terrain, soil types, and land cover;
  - the effects of animal population;
  - point sources of contamination;
  - nonpoint sources of contamination, such as road construction, pesticides, logging, grazing animals, and recreational activities.
- Control detrimental activities by implementing appropriate control practices.
- Conduct ongoing routine and specific monitoring.

Under the SDWA, watershed control programs also must:

- Minimize potential contamination by *Giardia* cysts and viruses in the water source.
- Characterize the watershed hydrology and land ownership.
- Identify watershed characteristics and activities that threaten or harm source water quality.
- Monitor activities that threaten or harm source water quality.

These watershed control programs are designed to protect surface drinking water supplies from urban runoff and NPS pollutants, and to reduce the need for subsequent water treatment.

Nonpoint Source Management Program

A 1975 federal program designed to address NPS pollution, called the 208 program, did not lead to significant implementation. A more recent program, initiated under the 1987 CWA amendments, is one of the few federal programs that specifically addresses and provides funding for NPS control. Through this program under CWA Section 319, states must submit a Nonpoint Source Assessment Report which:

- Identifies navigable waters that do not meet applicable water quality standards.
- Identifies categories of nonpoint sources that add significant pollution to the waters not meeting water quality standards.
- Describes the process for identifying BMPs to address the identified nonpoint sources.
- Identifies and describes state programs for controlling pollution from identified nonpoint sources.

To be eligible for funding under CWA Section 319, states can use the information in Nonpoint Source Assessment Reports to develop and gain EPA approval for Nonpoint Source Management Plans. These management plans provide a framework to address the state's NPS control issues and to develop priorities for implementation. At a minimum, management plans must include:

- An identification of the BMPs selected to address the nonpoint sources identified in the Assessment Report.
- An identification of the programs to implement these BMPs.
- A schedule with annual milestones for program implementation.
- A certification of existing adequate legal authority to implement the program.
- A description of available federal and state funding sources to be used.

Through CWA Section 319, EPA has the authority to base annual NPS funding on its review and approval of these management plans. EPA usually grants funds to the state authority overseeing NPS control and allows the state authority to earmark the funds for specific programs, which are to be implemented on a watershed basis to the maximum extent possible. The priorities set in a state's management plan influence how the funds will be spent each year. Depending on the state, funding through this program could be available for a municipality, or a group of municipalities, to implement aspects of an NPS management program in a high-priority watershed. Funds from this program, however, are limited and are available mainly for demonstration projects to educate or establish the effectiveness of particular controls.

Coastal Zone Nonpoint Source Pollution Control

Under Section 6217(g) of the 1990 Coastal Zone Act Reauthorization, states with existing coastal zone management programs are required to establish coastal NPS programs approved by EPA and the National Oceanic and Atmospheric Administration (NOAA). These programs will be incorporated into the existing state NPS management plans (CWA Section 319) and state Coastal Zone Management Programs (CZMA Section 306). The purpose of Section 6217(g) is to encourage states to work with local authorities and other states to develop and implement a program of NPS pollution management to restore and protect coastal waters (U.S. EPA, 1991). This program is limited to NPS pollution control in coastal areas and the contribution of inland sources of pollution to degraded coastal water quality. In order to maintain a federally

approved coastal zone program, states must act to reduce NPS pollution through:

- Implementing EPA-specified management measures and additional state-developed measures to control NPS pollution in impaired or threatened coastal waters.
- Modifying the state coastal zone boundary, if necessary.
- Developing enforceable policies and mechanisms to implement the Coastal Zone Act Reauthorization management measures.
- Coordinating activities with existing CWA programs, such as basin planning (Section 303), NPS planning (Section 319), and the National Estuary Program (Section 320).
- Developing a technical assistance program for local governments and the public to implement the management measures.
- Developing a public participation program.

The coastal NPS program can directly affect municipalities in coastal areas with impaired or threatened waters if they are not covered by the NPDES municipal permit program (CWA Section 402). They will likely be required by the state coastal NPS control agency to implement management practices to address NPS pollution. In addition, since this program includes a requirement for states to reassess their coastal zone boundaries, municipalities that formerly were not within coastal areas might now be included.

EPA and NOAA, along with other federal and state agencies, are developing guidance materials: a document to assist states in developing their coastal NPS pollution control program (U.S. EPA, 1991) and a document specifying management measures for controlling NPS pollution in coastal areas (U.S. EPA, 1993). This management measures guidance document includes the following information for each management measure discussed:

- A description of activity categories and applicable locations.
- A listing of the pollutants addressed.
- A description of the water quality effects of implementation.
- An outline of the expected pollutant reductions achievable.
- A cost description.
- An outline of specific factors to be considered in adapting management measures to specific sites.

The major management measure categories are agriculture, forestry, urban, marinas and recreational boating, hydromodification, shoreline erosion, and wetlands. Where the proposed management measures do not address pollution problems adequately, states must develop additional management measures to prevent and reduce nonpoint sources of pollution. States with existing coastal zone management programs will be required to implement management measures in conformity with the approved NPS measures. This requirement could result in additional urban runoff pollution prevention and control requirements on affected coastal municipalities.

Clean Lakes Program

The Clean Lakes Program, initiated in 1972 under CWA Section 314, sets goals for defining the cause and extent of pollution problems in each state's lakes and for developing effective techniques to restore these lakes. Lake protection or restoration projects should include the development of watershed assessments that consider all point and nonpoint sources affecting lake quality. Each state is encouraged to organize and administer its own lakes program and to apply for EPA grants for lakes projects that meet state and EPA criteria.

A review of statewide lake quality, to be part of the biennial state Section 305(b) report, must include:

- Identification and classification of all publicly owned lakes.
- Description of the procedures, processes, and methods to control sources of pollution.
- Description of the methods and procedures to restore lake quality.
- Description of methods and procedures to control high acidity.
- List of the lakes for which uses are known to be impaired.
- Assessment of the water quality status and trends.

Clean Lakes projects are conducted in several phases: a diagnostic/feasibility study, implementation of recommendations, and long-term monitoring. The diagnostic section of the study must consist of the following information:

- Name, location, and hydrologic characteristics of the lake to be studied.
- Geologic description of the drainage basin.
- Public access to the lake.
- Size and economic structure of the watershed's population.

- Summary of historical lake uses.
- Adverse impacts caused by lake degradation.
- Water uses of the lake.
- Point sources of pollution to the lake and abatement actions to reduce this pollution.
- Land uses in the lake watershed.
- Discussion and analysis of historical baseline limnological data and 1 year of current limnological data as described in 40 CFR Part 35.
- Identification and discussion of biological resources in the lake.

The feasibility section should include:

- Identification and discussion of pollution control alternatives.
- Benefits expected from implementing the project.
- Long-term monitoring schedule.
- Proposed milestone implementation schedule.
- Description of how nonfederal funds will be obtained for the project.
- Relationship between the proposed lake project and other water pollution control initiatives in the area.
- Summary of public participation in developing and assessing the project.
- Operation and maintenance plan.
- Copies of all permits and impending permits applicable to the project.

Once a diagnostic/feasibility report has been submitted and approved, federal grants may be available to implement project recommendations.

National Estuary Program

With the 1987 passage of CWA amendments (Section 320), Congress created the National Estuary Program (NEP) to identify nationally significant estuaries, protect and improve their water quality, and enhance their living resources (U.S. EPA, 1990b). NEP estuary selection is based on the estuaries' potential to include environments of significant national concern and the demonstrated commitment by involved local parties to protect these valuable resources. Currently, 21 estuaries are part of the NEP (see Table 2-1). Common problems found in these estuaries include pollution from agricultural and urban runoff and waste disposal activities, as well as high levels of toxins and pathogens, excess nutrient loading, habitat loss, and declining abundance of living marine resources.

Table 2-1. Estuaries in the National Estuary Program as of 1993

Albemarle-Pamlico Sounds, NC	Narragansett Bay, RI
Buzzards Bay, MA	New York/New Jersey Harbor, NY/NJ
Casco Bay, ME	Peconic Bay, NY
Chesapeake Bay, MD/PA/VA	Puget Sound, WA
Corpus Christi, TX	San Francisco Bay, CA
Delaware Bay, DE	San Juan Bay, PR
Delaware Inland Bays, DE	Santa Monica Bay, CA
Galveston Bay, TX	Sarasota Bay, FL
Indian River Lagoon, FL	Tampa Bay, FL
Long Island Sound, CT/NY	Tillamook Bay, OR
Massachusetts Bay, MA	

Once an estuary is accepted into the NEP, EPA formally convenes a Management Conference of Agency and local representatives to develop a Comprehensive Conservation and Management Plan (CCMP) to protect the estuary. The Management Conference must also build support to carry out the CCMP recommended actions, conduct extensive research, and implement projects to improve the water quality of the estuary. These projects are usually demonstration activities implemented on a small scale, but can be applicable to larger areas of an estuary.

The NEP is not specifically designed to address the issue of NPS pollution. All 21 estuaries currently in the program have identified storm water runoff and diffuse source pollution as problems. Municipalities located within an NEP estuary's watershed might be encouraged as part of the CCMP, therefore, to address diffuse source pollution issues. In addition, the NEP is a potential funding source for urban runoff control projects. Municipalities in the watersheds of major coastal embayments should be aware of this program and understand the management structure and program objectives of local NEPs.

Agricultural Nonpoint Source Programs

While this handbook focuses primarily on storm water and NPS pollution issues in urban watersheds, many municipalities have outlying agricultural and other areas that contribute solids, nutrients, pesticides, herbicides, and pathogenic organisms to urban receiving waters. In many areas of the country, a basinwide approach must be taken to correct receiving-water impacts, and the basin is likely to contain agricultural activities. The U.S. Department of Agriculture (USDA) administers programs that address agricultural NPS problems. These programs are managed by the Soil Conservation Service (SCS) and the Agricultural Stabilization and Conservation Service (ASCS), which conduct

research; undertake demonstration projects; develop technologies; and provide education, technical assistance, and funding (Margheim, 1990).

USDA programs do not set specific regulatory controls on agricultural practices to prevent or reduce diffuse source pollution. Rather, they provide technical assistance and cost-sharing-based funding to farmers for implementing agricultural BMPs, such as animal waste control systems, conservation tillage, vegetative buffer strips, and filter strips. Also, informational and educational services are provided through these programs by the Cooperative Extension Service.

Examples of USDA pollution control activities include:

- *Conservation operations*: Provides basic funding for technical assistance to farmers, other landowners, and units of government.
- *Small watershed projects:* Provides planning, technical, and financial assistance for implementation of BMPs in small watersheds.
- *Resource conservation and development projects:* Provides funding for personnel to coordinate interorganizational cooperation and coordination on certain environmental activities in designated multicounty areas.
- *Hydrologic unit areas:* Provides technical assistance to targeted agricultural watersheds to improve and protect water quality.
- *Demonstration projects:* Provides funding for planning, educational, technical, and financial assistance in agricultural watersheds for demonstrating and accelerating the adoption and implementation of new and innovative technologies that emphasize protecting ground water from agrichemicals.
- *Agricultural conservation program:* Shares cost of implementing agricultural conservation practices (BMPs) on farmland
- *Special projects:* Shares cost of implementing water quality BMPs in identified watersheds.
- *Other:* Accelerate technical assistance to regional projects such as National Estuary Programs; develop and transfer water quality technology, training, and public involvement; promote many locally oriented and organized water quality projects (e.g., Lakes Lay Monitoring Program, educational programs for schools, conferences on wetlands and sludge, and certification programs for pesticide use).

Summary

As demonstrated in this chapter, numerous regulations address urban runoff pollution prevention and control at the federal, state, and local levels. In planning a program, all applicable regulations should be considered and integrated. For example, the planning process outlined in this handbook can be used to develop plans to address pollution from separated or combined systems, or where both systems exist. The process applies to BMP programs both for CSO problems and for separate storm water; in many instances, both sources exist within the same watershed. It can also be used in multijurisdictional planning efforts where storm water, CSO, drinking-water protection, or other elements are controlled by different levels of state, regional, or local government.

References

When an NTIS number is cited in a reference, that document is available from:
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161
703-487-4650

AWWA. 1990. American Water Works Association. Guidance manual for compliance with the filtration and disinfection requirements for public water systems using surface water sources. (NTIS PB90-148016). Washington, DC.

Federal Register. 1989. Fed. Reg. 54(173). September 8.

Margheim, G.A. 1990. Making nonpoint pollution control programs work, proceedings of a national conference, April 23-26, 1989. National Association of Conservation Districts. St. Louis, MO.

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U.S. EPA. 1993. U.S. Environmental Protection Agency. Guidance specifying management measures for sources of nonpoint pollution in coastal waters. EPA/840/B-92/002. Office of Water, Washington, DC.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

PUBLIC MEETING/HEARING

TRANSCRIPT OF MORNING PROCEEDINGS

January 26, 2000

9:15 A.M.

Holiday Inn
303 East Cordova Avenue
Pasadena, California

REPORTED BY:

Caroline Jetter,
CSR No. 11568
Our File No. 1-62540

automotive repair shops, retail gasoline outlets, restaurants and single-family homes on hillsides.

Once adopted, the SUSMP would be a set of standards or criteria that developers and architects could use to design their projects in ways that will result to those properties contributing inherently less pollution when it rains.

Cities would use the SUSMPs to adopt their own enforceable ordinances and then apply them in their review and approval of project plans. SUSMP standards only apply to new development or substantial redevelopment projects in the applicable SUSMP categories.

As a consequence, the applicability of SUSMPs is limited, and their consequent effect on storm water quality in our streams will, at first, be relatively small.

As years pass and more and more property is redeveloped, a greater percentage of urban land will be retrofitted with SUSMPs. Eventually much of the L.A. Basin will gain the benefit of some enhanced level of storm water management.

It must be remembered, however, that SUSMPs are only a small part of the 1996 storm water permit requirements. Many other aspects of that permit address other issues and current problems.

SUSMPs are simply one long-term approach to address the ubiquitous problem of pollution from storm

California Regional Water Quality Control Board
Los Angeles Region

Winston H. Hickox
Secretary for Environmental Protection

320 W. 4th Street, Suite 200, Los Angeles, CA 90013
Phone (213) 576-6600 FAX (213) 576-6640

Gray Davis
Governor

TO: Interested Parties (see attached distribution list), including:
Permittees – Count of Los Angeles Municipal Storm Water Permit;
Resource and Regulatory Agencies; Water Districts;
Environmental Organizations; Consultants; Other Local Agencies;
and Other Interested Parties

FROM: Dennis A. Dickerson
Executive Officer

DATE: June 29, 2001

SUBJECT: **Announcement of a Storm Water Workshop, and Transmittal of the Second Draft – County of Los Angeles Municipal Storm Water NPDES Permit**

ATTACHMENTS: Distribution List
Second Draft – Permit
Second Draft – Staff Report

The Regional Water Quality Control Board (Regional Board) will conduct a workshop before the Board during a public meeting on:

Thursday, July 26, 2001, starting at 9:00 a.m.
at the Metropolitan Water District (MWD) Building, Board Meeting Room
700 North Alameda, Los Angeles

The purpose of the workshop is for Regional Board staff to provide background and a brief overview of a proposed draft permit. A tentative agenda for this workshop will be posted on our web site by July 15, 2001. The public will have opportunity to orally comment on this draft before the Board on July 26, 2001.

By way of background, the County and Cities in Los Angeles County discharge storm water under a municipal storm water permit (Board Order No. 96-054), which expires on July 30, 2001. Following the workshop on July 26, 2001, and after consideration of the public input received, the Regional Board will consider adoption of a renewed permit at a public meeting on October 25, 2001. As part of the renewal process, we are pleased to transmit a second draft of the proposed new permit – the Municipal Storm Water NPDES Permit for the County of Los Angeles and incorporated cities (except for the City of Long Beach, which is covered under a separate permit). We are also enclosing a draft staff report, containing technical justifications for changes from the existing permit. Please submit your comments on this second draft in writing, to this office by August 6, 2001, to the attention of Xavier Swamikannu. Your submittal by this date will provide us sufficient time to evaluate and consider the comments prior to the issuance of the third draft, which we plan to issue by September 6, 2001.

R0003395

Thank you for your attention to renewal of this important permit. We appreciate the comments received to date, and look forward to the publics' oral comments at our workshop on July 26th, and written comments due August 6th. In the meantime, should you have questions regarding specific areas of the second draft, please feel free to contact the appropriate staff person, as listed below.

Findings and Discharge Prohibitions	Dan Radulescu (213) 576-6668 e-mail address - dradules@rb4.swrcb.ca.gov
Receiving Water Limitations	Wendy Phillips (213) 576-6618 e-mail address - wphillip@rb4.swrcb.ca.gov
Management Plan Implementation	Wendy Phillips (213) 576-6618 e-mail address - wphillip@rb4.swrcb.ca.gov
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Public Agency Activities Program	Carlos Urrunaga (213) 576-6655 e-mail address - currunag@rb4.swrcb.ca.gov
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Definitions and Monitoring and Reporting Program	Megan Fisher (213) 576-6790 e-mail address - mfisher@rb4.swrcb.ca.gov

R0003396

COUNTY OF LOS ANGELES
MUNICIPAL STORM WATER NPDES PERMIT
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	Gary Brougher, Health Hazmat Division

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MUNICIPAL STORM WATER NPDES PERMIT
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	Mark Mackowski, Asst. Watermaster
Water Replenishment Dist. of Southern California	Richard Nagler

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COUNTY OF LOS ANGELES
MUNICIPAL STORM WATER NPDES PERMIT
DISTRIBUTION LIST

OTHER INTERESTED PARTIES

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Second Draft (June 29, 2001)

LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

ORDER No. 01-XXX
(NPDES No. CAS004001)

WASTE DISCHARGE REQUIREMENTS

FOR

MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES

WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)

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Part 6. STANDARD PROVISIONS (continued)

STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 01-xxx
NPDES PERMIT NO. CAS004001
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES THEREIN, EXCEPT THE CITY OF LONG BEACH

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter referred to as the Regional Board) finds:

A. Existing Permit and Report of Waste Discharge

The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District (see Attachment A, List of Permittees), hereinafter referred to separately as Permittees and jointly as the Discharger, discharge or contribute to discharges of storm water and urban runoff from municipal separate storm sewer systems (MS4s), also called storm drain systems. The discharges flow to water courses within the Los Angeles County Flood Control District and into receiving waters of the Los Angeles region. These discharges are covered under countywide waste discharge requirements contained in Order No. 96-054 adopted by this Regional Board on July 15, 1996, and which replaced Order No. 90-079 adopted by this Regional Board on June 18, 1990. Order No. 96-054 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.

B. Nature of Discharges and Sources of Pollutant

1. Storm water discharges consist of surface runoff generated from various land uses in all the hydrologic drainage basins that discharge into water bodies of the State. The quality of these discharges varies considerably and is affected by the hydrology, geology, land use, season, and sequence and duration of hydrologic events. The primary constituents of concern currently identified by the Los Angeles County Flood Control District 1994-2000 Integrated Receiving Water Impacts Report are cyanide, indicator bacteria, total dissolved solids, turbidity, total suspended solids, nutrients, total aluminum, dissolved cadmium, copper, lead, total mercury, nickel, zinc, bis(2-ethylhexyl)phthalate, polycyclic aromatic hydrocarbons (PAHs), diazinon, and chlorpyrifos.

2. Certain pollutants present in storm water and/or urban runoff may be derived from extraneous sources that Permittees have no or limited

jurisdiction over. Examples of such pollutants and their respective sources are: PAHs which are products of internal combustion engine operation, nitrates from atmospheric deposition, heavy metals, lead from fuels, copper from brake pad wear, zinc from tire wear, dioxins as products of combustion, and bis (2-ethylhexyl) phthalate and mercury as resulting from atmospheric deposition, and natural-occurring minerals from local geology. However, the implementation of the measures set forth in this Order are intended to and will contribute to reduced entry of these pollutants into storm water and their discharge to receiving waters.

3. These compounds can have damaging effects on both human health and aquatic ecosystems. In addition, the high volumes of storm water discharged from MS4s in areas of urbanization can significantly impact aquatic ecosystems due to physical modifications such as bank erosion and widening of channels. It is anticipated that, due to the nature of storm water events (i.e., large volumes of water and high velocities) that there may be short-term, reversible impacts to beneficial uses that are not directly related to water quality.

4. Water quality assessments conducted by the Regional Board identified impairment, or threatened impairment, of beneficial uses of water bodies in the Los Angeles Region. The causes of impairments include pollutants of concern identified by the County of Los Angeles in the Integrated Receiving Water Impacts Report (1994-2000).

5. Studies and research conducted by other Regional agencies, academic institutions, and universities have also identified storm water and urban runoff as significant sources of pollutants to surface waters in Southern California., [*Surface Runoff to the Southern California Bight*, Southern California Coastal Water Research Project, (1992); *Impacts of Urban Runoff on Santa Monica Bay and Surrounding Ocean Waters* (Gersberg, R.M., 1995); *State of the Bay 1998*, Santa Monica Bay Restoration Project; *Storm Water Impact*, In, Southern California Environmental Report Card 1999, Institute of the Environment, University of California, Los Angeles (Stenstrom, M.S., 1999); *Distribution of Anthropogenic and Natural Debris on the Mainland Shelf of Southern California Bight,* Shelly L. Moore and M. James Allen (1999); *The Health Effects of Swimming in Ocean Water Contaminated by Storm Drain Runoff*, Haile, R.W. et al. (1999); *Huntington Beach Closure Investigation: Technical Review* (University of Southern California, 2000); *A Regional Survey of the Microbiological Water Quality Along the Shoreline of the Southern California Bight,* Rachel T. Noble et al. (2001).

R0003408

6. Development and urbanization increase pollutant load, volume, and discharge velocity. First natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification process. In contrast, pavement and concrete can neither absorb water

nor remove pollutants, and thus the natural purification characteristics are lost. Second, urban development creates new pollution sources as the density of human population brings with it proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage waste, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants. Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. These environmentally sensitive areas include Areas of Special Biological Significance, water bodies designated with a RARE beneficial use, Significant Natural Areas, and Significant Ecological Areas.

7. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development. (*Impervious Cover as An Urban Stream Indicator and a Watershed Management Tool*, Schueler, T. and R. Claytor, In, Effects of Water Development and Management on Aquatic Ecosystems (1995), ASCE, New York.)

8. The County of Los Angeles has identified as the five highest priority potential priority industrial and commercial critical source types, (I) wholesale trade (scrap recycling, auto dismantling); (ii) automotive repair/ parking; (iii) fabricated metal products; (iv) motor freight; and (v) chemical and allied products (*Critical Source Selection and Monitoring Report*, Los Angeles County Department of Public Works (Sept 1996). Monitoring conducted by Los Angeles County demonstrates that the priority industrial sectors and auto repair facilities (the only commercial sector) on the list, contribute significant concentrations of heavy metals to storm water (*Los Angeles County 1999-2000 Storm Water Monitoring Report*, Los Angeles County Department of Public Works (July 2000)).

9. A review of industrial waste/ pretreatment records performed in 1995 in the County of Los Angeles on illicit discharges indicates that automotive service facilities and food service facilities sometimes discharge polluted washwaters to the MS4. The pollutants of concern in such washwaters include food waste, oil and grease, and toxic chemicals. Other storm water/industrial waste programs in California have reported similar observations. Illicit discharges from automotive service facilities and food service facilities have been identified elsewhere as a major cause of widespread contamination and water quality problems (Washtenaw

County Statutory Drainage Board. 1987. Huron River Pollution Abatement Program)

C. Permit Background

1. The essential components of the Storm Water Management Program, as established by federal regulations [40 CFR 122.26(d)] are: (i) adequate legal authority, (ii) fiscal resources, (iii) SQMP - (Public Information and Participation Program, Industrial/Commercial Facilities Program, Development Planning Program, Development Construction Program, Public Agency Activities Program, Illicit Connection and Illicit Discharges Elimination Program), and (iv) monitoring and reporting program.

2. The Permittees have filed a Report of Waste Discharge (ROWD), dated February 1, 2001, and applied for renewal of their waste discharge requirements and a proposed NPDES permit to discharge wastes to surface waters. The ROWD includes a proposed Storm Water Quality Management Plan (SQMP) and a Monitoring Program. The proposed SQMP contains programs previously approved under Board Order No. 96-054 in the following areas:

   Public Information and Participation
   Development Planning
   Development Construction
   Public Agency Activities
   Illicit Connection/Illicit Discharge Elimination Program

   These programs are revised pursuant to the provisions of this Order after adoption.

3. The County of Los Angeles has previously conducted source identification and pollutant characterization consistent with 40 CFR 122.26(d)(1)(ii) and (iii) under its storm water monitoring program. The Monitoring Program submitted with the ROWD proposes to advance the assessment of receiving water impacts, identification of sources of pollution, evaluation of Best Management Practices (BMPs), and measurement of long term trends in mass emissions.

4. The Regional Board has reviewed the ROWD and has determined it to be complete under the reapplication policy of MS4s issued by the USEPA (61 *Fed. Reg.* 41697). The Regional Board finds that the Permittees' proposed Storm Water Management Plan, incorporating the additional provisions contained in this Order would meet the minimum requirements of federal regulations.

5. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as parking lots and fast food restaurants), or facilities that perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of pollutants of concern in storm

water. [References: Pitt *et al.*, *Urban Storm Water Toxic Pollutants: Assessment, Sources, and Treatability*, Water Environment Res., 67, 260 (1995); *Results of Retail Gas Outlet and Commercial Parking Lot Storm Water Runoff Study*, Western States Petroleum Association and American Petroleum Institute, (1994); *Action Plan Demonstration Project, Demonstration of Gasoline Fueling Station Best Management Practices*, Final Report, County of Sacramento (1993).]

6. Retail gasoline outlets are points of convergence for vehicular traffic and are similar to parking lots and urban roads. Studies indicate that storm water discharges from retail gasoline outlets have high concentrations of hydrocarbons and heavy metals. [*Schueler and Shepp* (1992)]. Pilot studies indicate that treatment control best management practices installed at retail gasoline stations are effective in removing pollutants, reasonable in capital cost, easy to operate, and do not present safety risks [*Rouge River National Wet Weather Demonstration Project, Task Product Memorandum – Evaluation of On-line Media Filters RPO-NPS-TPM59.00*, Wayne County, MI, March 1999]. The LA Regional Board and the San Diego Regional Board have jointly prepared a Technical Report on the applicability of new development BMP design criteria for retail gasoline outlets, (*Retail Gasoline Outlets: New Development Design Standards for Mitigation of Storm Water Impacts*, (June 2001)). Retail Gasoline Outlets in Western U.S. States (such as Washington and Oregon) are already subject to numerical BMP design criteria under the MS4 program, as well in other U.S. States.

7. The City of Los Angeles has conducted shoreline and nearshore water quality monitoring off the Santa Monica Bay since the 1950s under the monitoring program for the Hyperion Waste Water Treatment Plant (NPDES No. CA0109991). The monitoring results indicate that effluent from Hyperion's 5-Mile Outfall does not impinge the shoreline, and that elevated bacterial counts are associated with runoff from storm drains and discharges from piers. In 1994, the Regional Board approved the relocation of Hyperion's shoreline stations to implement a bay-wide, regional shoreline-monitoring program associated with storm drain outfalls in the Santa Monica Bay. The City of Los Angeles requested that the shoreline-monitoring requirement be incorporated in this Order. The shoreline pathogen monitoring requirements are outlined in the Monitoring Program for this Order.

D. Permit Coverage **R0003411**

1. The requirements in this Order cover all areas within the boundaries of the Permittee municipalities (see Attachment A) over which they have regulatory jurisdiction as well as unincorporated areas in Los Angeles County Flood Control District within the jurisdiction of the Regional Board. The Permittees serve a population of about 9.5 million [Reference: *2000 Census of Population and Housing,* Bureau of the Census, U.S.

Department of Commerce (2001)] in an area of approximately 3,100 square miles. Attachment B shows the map of the permitted area in Los Angeles County Flood Control District.

2. Federal, state, regional or local entities within the Permittees' boundaries or in jurisdictions outside the Los Angeles County Flood Control District, and not currently named in this Order, may operate storm drain facilities and/or discharge storm water to storm drains and watercourses covered by this Order. The Permittees may lack legal jurisdiction over these entities under state and federal constitutions. Consequently, the Regional Board recognizes that the Permittees will not be held responsible for such facilities and/or discharges. The Regional Board will coordinate with these facilities to implement programs that are consistent with the requirements of this Order. Regional Board will consider such facilities for coverage in 2003 under its NPDES permitting scheme pursuant to USEPA Phase II storm water regulations.

3. Sources of discharges into receiving waters in the County of Los Angeles but in jurisdictions outside its boundary include the following:

   About 34 square miles of unincorporated area in Ventura County, which drain into Malibu Creek and thence to Santa Monica Bay,

   About 9 square miles of the City of Thousand Oaks, which also drain into Malibu Creek and thence to Santa Monica Bay, and

   About 86 square miles of area in Orange County, which drain into Coyote Creek and thence into the San Gabriel River.

   The Regional Board will ensure that storm water management programs for the areas in Ventura County and the City of Thousand Oaks that drain into Santa Monica Bay are consistent with the requirements of this Order. The Regional Board will coordinate with the Santa Ana Regional Board so that storm water management programs for the areas in Orange County that drain into Coyote Creek are consistent with the requirements of this Order.

4. This permit is intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to control the discharge of pollutants in storm water to the maximum extent practicable (MEP) from the permitted areas in the County of Los Angeles to the waters of the United States.

5. Permittees have expressed their intention to work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system. Permittees may control the contribution of pollutants to the municipal separate storm sewer system from non-permittee dischargers such as Caltrans, the U.S. Department of Defense, and other state and federal facilities, through interagency agreements.

E. Federal, State, and Regional Regulations

1. The Water Quality Act of 1987 added Section 402(p) to the federal Clean Water Act (CWA) (33 U.S.C Section 1251-1387). This section requires the U.S. Environmental Protection Agency (USEPA) to establish regulations setting forth NPDES requirements for storm water discharges in two phases.

   - The USEPA Phase I storm water regulations were directed at municipal separate storm sewer systems (MS4) serving a population of 100,000 or more, including interconnected systems and storm water discharges associated with industrial activities, including construction activities. The Phase I Final Rule was published on November 16, 1990 (55 *Fed Reg.* 47990).

   - The USEPA Phase II storm water regulations are directed at storm water discharges not covered in Phase I, including small municipal MS4s (serving a population of less than 100,000), small construction projects (one to five acres), municipal facilities with delayed coverage under the Intermodal Surface Transportation Efficiency Act of 1991, and other discharges for which the USEPA Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard, or is a significant contributor of pollutants to waters of the United States. The Phase II Final Rule was published on December 8, 1999 (64 *Fed Reg.* 68722).

2. The USEPA published an 'Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits' on August 26, 1996 (61 Fed. Reg. 43761). This policy discusses the appropriate kinds of water quality based effluent limitations to be included in NPDES storm water permits to provide for the attainment of water quality standards.

3. The USEPA published an 'Interpretative Policy Memorandum on Reapplication Requirements' for MS4 permits on August 9, 1996 (61 *Fed. Reg.* 41697). This policy requires that MS4 reapplication for reissuance for a subsequent five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.

4. The USEPA has entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for enhancing coordination regarding the protection of endangered and threatened species under Section 7 of the Endangered Species Act (ESA) and the CWA's Water Quality Standards and NPDES programs. Among other actions, the MOA establishes a framework for coordination of actions by the USEPA, the Services, and CWA delegated States on CWA permit issuance under Section 402 of the CWA [66 Fed. Reg., 11202 – 11217].

5. USEPA regulations at 40 CFR 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that Permittees implement a program to

monitor and control pollutants in discharges to the municipal system from industrial and commercial facilities that contribute a substantial pollutant load to the MS4. The regulations require that Permittees establish priorities and procedures for inspection of industrial facilities and priority commercial establishments. This permit, consistent with the USEPA policy, incorporates a cooperative partnership, including the specifications of minimum expectations, between the Regional Board and the Permittees for the inspection of industrial facilities and priority commercial establishments to control pollutants in storm water discharges (58 *Fed. Reg.* 61157).

6. Section 402 (p) of the Clean Water Act (33 U.S.C. Section 1342(p) provides that MS4 permits must "require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design engineering method and such other provisions as the [EPA] Administrator or the State determines appropriate for the control of such pollutants." The State Board Office of Chief Counsel has issued a memorandum interpreting the meaning of MEP to include technical feasibility, cost, and benefit derived with the burden being on the municipality to demonstrate compliance (dated February 11, 1999).

7. Section 122.2 of the CWA authorizes the USEPA to delegate its NPDES permitting authority to states with an approved environmental regulatory program. The State of California is a delegated State. The Porter-Cologne Water Quality Control Act (California Water Code) authorized the State Water Resources Control Board (State Board), through the Regional Boards, to regulate and control the discharge of pollutants into waters of the State and tributaries thereto. The State Board entered into a Memorandum of Agreement [MOA] with the USEPA, on 22 September 1989, to administer the NPDES Program.

8. Section 303(d) of the CWA requires that the State identify a list of impaired water-bodies and develop and implement Total Maximum Daily Loads (TMDLs) for these waterbodies. A TMDL specifies the maximum amount of a pollutant that a water-body can receive and still protect beneficial uses. The USEPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This permit incorporates a provision to implement and enforce approved load allocations for municipal storm water discharges and require changes to the Storm Water Quality Management Plan after pollutants loads have been allocated and approved.

R0003414

9. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. CZARA (16 U.S.C. Sections 1451-1465), amends the Coastal Zone Management Act of 1972, to address five sources of non-point pollution: agriculture, silviculture, urban,

marinas, and hydromodification. This NPDES permit addresses the management measures required for the urban category, with the exception of septic systems. The Regional Board addresses septic systems through the administration of other programs.

10. On May 18, 2000, the USEPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule) 65 *Fed. Reg.* 31682, for the protection of human health and aquatic life. These apply as ambient water quality criteria for inland surface waters, and enclosed bays and estuaries. The State Board adopted the, *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California – 2000*) on March 2, 2000, for implementation of the California Toxics Rule (State Board Resolution No. 2000-15 as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL derived load allocations as soon as possible but no later than 20 years from the effective date of the policy. This Policy also establishes reporting protocols for the results on analytical determinations of chemical constituents and reporting levels (Minimum Level) in wastewater and storm water discharges.

11. The State Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) on July 23, 1997. The Ocean Plan contains water quality objectives for the coastal waters of California.

12. The State Board In Re: California Department of Transportation (State Board Order WQ 2001-08), determined that the discharge of storm water to Areas of Special Biological Significance (ASBS) are subject to the prohibition in the Ocean Plan against the discharge of wastes to an ASBS.

13. The Regional Board adopted an updated Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994, *'Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*, (1994).' The Basin Plan, and amendments thereto, which are incorporated in this Order by reference, designates beneficial uses of receiving waters and specifies both narrative and numerical water quality objectives for the receiving waters in Los Angeles County.

14. The Regional Board on April 13, 1998, approved best management practices for sidewalk washing to minimize the discharge of wash waters to the storm drain system (Resolution No. 98-08). By the same Resolution, the Regional Board prohibited the discharge of municipal street wash waters to the storm drain system.

15. The Regional Board on April 13, 1998, approved recommended best management practices for industrial/ commercial facilities (Resolution No. 98-08).

16. The Regional Board on April 22, 1999, approved a list of best management practices for use in development planning and development construction (Resolution No. 99-03)

17. The Regional Board adopted and approved requirements for new development and significant redevelopment projects in Los Angeles County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000. The State Board in large part affirmed the Regional Board action and SUSMPs in State Board Order No. WQ 2000-11 issued on October 5, 2000.

    - The State Board's Chief Counsel has issued a statewide policy memorandum (dated December 26, 2000,) which interprets the Order to provide broad discretion to Regional Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in environmentally sensitive areas, and water quality design criteria for retail gasoline outlets.

    - The State Board's Chief Counsel interprets the Order to encourage regional solutions and endorses a mitigation fund or "bank" that may be funded by developers who obtain waivers from the numerical design standards for new development and significant redevelopment.

18. The Regional Board has determined that the creation of structural or treatment control BMPs for storm water mitigation in waters of the U.S. is not permissible. 40 CFR Part 131.10(a) prohibits states from designating waste transport or waste assimilation as a use for any waters of the U.S. Authorizing the construction of a storm water/ urban runoff treatment facility in a jurisdictional water body would tantamount to accepting waste assimilation as an appropriate use for that water body. Furthermore, the construction and operation of a pollution control facility in a water body can impact the physical, chemical and biological integrity as well as the beneficial uses of the water body. Therefore, storm water treatment and/or mitigation in accordance with SUSMPs and any other requirements of this Order must occur prior to the discharge of storm water into a water of the U.S.

19. The Regional Board supports a Watershed Management Approach to address water quality protection in the region. The objective of the Watershed Management Approach should be to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It

emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources.

20. To promote a watershed management approach, the County of Los Angeles is divided into five Watershed Management Areas (WMAs) as follows:

    Malibu Creek and Rural Santa Monica Bay WMA
    Ballona Creek and Urban Santa Monica Bay WMA
    Los Angeles River WMA
    San Gabriel River WMA
    Dominguez Channel/Los Angeles Harbor WMA
    Santa Clara River WMA

    Attachment A shows the list of Permittees under each WMA and some Permittees have expressed an intent to form sub-watershed groups within the WMA to promote regional solutions for the mitigation of storm water discharge pollution.

21. To facilitate compliance with federal regulation, the State Board has issued two statewide general NPDES permits: one for storm water from industrial sites [NPDES No. CAS000001, General Industrial Activity Storm Water Permit (GIASP)] and the other for storm water from construction sites [NPDES No. CAS000002, General Construction Activity Storm Water Permit (GCASP)]. The GCASP was reissued on August 19, 1999. The GIASP was reissued on April 17, 1997. Facilities discharging storm water associated with industrial activities and construction projects with a disturbed area of five acres or more are required to obtain individual NPDES permits for storm water discharges, or be covered by these statewide general permits by completing and filing a Notice of Intent (NOI) with the State Board. The USEPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.

    The Regional Board is the enforcing authority in the Los Angeles Region for the two statewide general permits regulating discharges from industrial facilities and construction sites, and all NPDES storm water and non-storm water permits issued by the Regional Board. These industrial and construction sites and discharges are also regulated under local laws and regulations.

22. The State Board, on October 28, 1968, adopted Resolution No. 68-16, "Maintaining High Quality Water" which established an anti-degradation policy for State and Regional Boards. This Policy restricts the degradation of surface waters and protects waterbodies where existing water quality is higher than is necessary for the protection of beneficial uses.

23. The State Board, on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitations language to be included in all municipal storm water permits issued by the State and Regional Boards. The receiving water limitations included herein are consistent with the State Board Order, USEPA Policy, and the U.S. Appellate court decision in, *Defenders of Wildlife v. Browner* (9th. Cir, 1999). The State Board Office of Chief Counsel has determined that the federal court decision did not conflict with State Board Order No. WQ 99-05 (memorandum dated October 14, 1999)

24. California Water Code (CWC) Section 13263(a) requires that waste discharge requirements issued by the Regional Board shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; the need to prevent nuisance, and provisions of CWC Section 13241.

25. California Water Code Section 13370 *et seq.* requires that waste discharge requirements issued by the Regional Boards be consistent with provisions of the Federal Clean Water Act and its amendments.

F. Implementation

1. Permittees established an Executive Advisory Committee (EAC) to facilitate permit compliance and enhance consistency in program implementation. The EAC is formally incorporated within this permit as a representative committee of the Permittees.

2. The California Environmental Quality Act (CEQA) (Cal Pub Resources Code Section 21000 *et seq.*) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary and does not apply to ministerial projects, which involve the use of established standards or objective measurements. A ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion . In the alternative, standards and objective criteria may be established administratively for storm water mitigation for ministerial projects. For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements.

3. On March 12, 2001, the United States Court of Appeals ruled that it is necessary to obtain a NPDES permit for application of aquatic pesticides to waterways. (*Headwaters, Inc. vs. Talent Irrigation District, 9th Cir.)* This decision is controlling in California for nonagricultural applications of pesticides to waterways.

4. The objective of this Order is to protect the beneficial uses of receiving waters in Los Angeles County. To meet this objective, this Order requires that the SQMP specify BMPs that will be implemented to control the discharge of pollutants in storm water to the maximum extent practicable. Further, Permittees are to assure that storm water discharges from the MS4 shall neither cause or contribute to the exceedance of water quality standards and objectives nor create conditions of nuisance in the receiving waters, and that the discharge of non-storm water to the MS4 has been effectively prohibited.

5. The SQMP required in this Order builds upon the programs established in Order No. 90-079, and No. 96-054, consists of the components recommended in the USEPA guidance manual, and was developed with the cooperation of representatives from the regulated community and environmental groups. The SQMP includes provisions that promote customized initiatives, both on a countywide and watershed basis, in developing and implementing cost-effective measures to minimize discharge of pollutants to the receiving water. The various components of the SQMP, taken as a whole rather than individually, are expected to reduce pollutants in storm water and urban runoff to the maximum extent practicable. Provisions of the SQMP are fully enforceable under provisions of this Order.

6. The emphasis of the SQMP is pollution prevention through education, public outreach, planning, and implementation as source control BMPs first and then structural and treatment control BMPs next. Successful implementation of the provisions of the SQMP will require cooperation

and coordination of all public agencies in each Permittee's organization, among Permittees, and the regulated community.

7. The implementation of a Public Information and Participation Program is a critical component of a storm water management program. An informed and knowledgeable community is critical to the success of a storm water management program since it helps insure the following: (i) greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, and (ii) greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters.

8. This Order provides flexibility for Permittees to petition the Regional Board Executive Officer to substitute a BMP or requirement under the SQMP with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

9. This Order contemplates that the Permittees are responsible for considering potential storm water impacts when making planning decisions. This Order or any of its requirements are not intended to restrict or control local land use decision-making authority.

G. Public Process

1. The Regional Board has notified the Permittees and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to submit their written view and recommendations.

2. The Regional Board, in a public hearing, heard and considered all comments pertaining to the discharge and to the tentative requirements.

3. The Regional Board has conducted public workshops to discuss the draft permit.

4. The Los Angeles County Flood Control District, the County of Los Angeles and the other municipalities are Co-permittees as defined in 40 CFR 122.26 (b)(1). Los Angeles County Flood Control District will coordinate with the other municipalities and facilitate program implementation. Each Permittee is only responsible for discharge for which it is the operator.

5. This Order shall serve as a National Pollutant Discharge Elimination System (NPDES) Permit, pursuant to Section 402 of the Federal Clean Water Act, or amendments thereto, and shall take effect 50 days from Order adoption provided the Regional Administrator of the USEPA has no objections.

6. The action to adopt an NPDES permit is exempt from the provisions of Chapter 3 of CEQA (Cal Pub. Resources Code Section 21100 et seq.), in accordance with California Water Code Section 13389.

7. Pursuant to California Water Code Section 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board. A petition must be sent to the State Water Resources Control Board, P.O. Box 100, Sacramento, California, 95812, within 30 days of adoption of the Order by the Regional Board.

8. This Order may be modified or alternatively revoked or reissued prior to its expiration date, in accordance with the procedural requirements of the federal NPDES program, and the California Water Code for the issuance of waste discharge requirements.

IT IS HEREBY ORDERED that the Los Angeles County Flood Control District, Los Angeles County, and the Cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bell, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Cañada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act, as amended, and regulations and guidelines adopted thereunder, shall comply with the following:

Part 1. DISCHARGE PROHIBITIONS

Each Permittee shall effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are:

1. covered by a separate individual or general NPDES permit for non-storm water discharges; or

2. within one of the categories below, and meet all conditions specified by the Regional Board Executive Officer:

   a) Category A - Natural flow:

      (1) Natural springs and rising ground water;

      (2) Flows from riparian habitats or wetlands;

      (3) Stream diversions, permitted by the State Board; and

      (4) Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)].

b) Category B - Flows from emergency fire fighting activity.

c) Category C - Flows incidental to urban activities, all of which are subject to conditions that shall be approved by the Regional Board Executive Officer:

(1) Reclaimed and potable landscape irrigation runoff;

(2) Water line flushing of potable water distribution systems;

(3) Drains for foundations, footings, and crawl spaces;

(4) Air conditioning condensate;

(5) Dechlorinated swimming pool discharges;

(6) Dewatering of lakes and decorative fountains;

(7) Non-commercial car washing by residents or by non-profit organizations; and

(8) Sidewalk rinsing.

The Regional Board Executive Officer may add or remove categories of non-storm water discharges above. Furthermore, in the event that any of the above categories of non-storm water discharges are determined to be a source of pollutants by the Regional Board Executive Officer, the discharge will no longer be exempt from this prohibition unless the Permittee implements conditions approved by the Regional Board Executive Officer to ensure that the discharge is not a source of pollutants. Notwithstanding the above, the Regional Board Executive Officer may impose additional prohibitions of non-storm water discharges in consideration of anti-degradation policies.

Part 2. RECEIVING WATER LIMITATIONS

1. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.

2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible for, shall not cause or contribute to a condition of nuisance.

3. The Permittee shall comply with Part 2.1. and 2.2. through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SQMP and its components and other requirements of this Order including any modifications. The SQMP and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of water quality objectives or water quality standards (collectively, water quality standards) persist, notwithstanding implementation of the SQMP and its components and other requirements of this permit, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance of an applicable water quality standard, the Permittee shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of water quality standards. This report may be incorporated in the annual update of the SQMP and its components unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the Report.

b) Submit any modifications to the report required by the Regional Board within 30 days of notification.

c) Within 30 days following the approval of the report, the Permittee shall revise the SQMP and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.

d) Implement the revised SQMP and its components and monitoring program according to the approved schedule.

4. So long as the Permittee has complied with the procedures set forth above and is implementing the revised SQMP and its components, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

Part 3. STORM WATER QUALITY MANAGEMENT PLAN (SQMP) IMPLEMENTATION

A. General Requirements

1. Each Permittee shall, at a minimum, implement the SQMP. The SQMP is an enforceable element of this Order.

2. The SQMP shall, at a minimum, comply with the applicable storm water program requirements of 40 CFR 122.26(d)(2). The SQMP and its components shall be implemented so as to reduce the discharges of pollutants in storm water to the maximum extent practicable.

3. Each Permittee may develop a SQMP, incorporating the countywide SQMP, which identifies additional provisions intended to reduce the discharges of pollutants in storm water to the maximum extent practicable.

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B. Best Management Practice Implementation

The Permittees shall require implementation of the most effective BMPs for storm water/urban runoff pollution control benefits. When implemented, BMPs shall

result in the reduction of pollutants in storm water to the maximum extent practicable.

C. Modification of the Storm Water Quality Management Plan

The Permittees shall modify the SQMP, at the direction of the Regional Board Executive Officer, to incorporate additional provisions. Such provisions may include regional, watershed specific requirements, and/or waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Daily Maximum Loads (TMDLs) for impaired water bodies.

D. Designation and Responsibilities of the Principal Permittee

The Los Angeles County Flood Control District is hereby designated as the Principal Permittee. As such, The Principal Permittee shall:

1. Coordinate and facilitate activities necessary to comply with the requirements of this Order, but is not responsible for ensuring compliance of any individual Permittee.

1. Coordinate permit activities among Permittees and act as liaison between Permittees and the Regional Board on permitting issues.

2. Provide personnel and fiscal resources for compilation, evaluation and submittal of all reports required under this Order and updates of the SQMP and its components;

3. Provide technical and administrative support for committees that will be organized to implement the SQMP and its components;

4. Convene the Watershed Management Committees (WMCs) constituted pursuant to Part F, below, upon designation of representatives;

5. Implement the Countywide Monitoring Program required under this Order and evaluate, assess and synthesize the results of the monitoring program;

6. Provide personnel and fiscal resources for the preparation and submittal to the Regional Board of annual reports and summaries of other reports required under the SQMP; and

7. Comply with the "Responsibilities of the Permittees" in Part 3.E., below.

E. Responsibilities of the Permittees

Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries, and not for the implementation of the provisions applicable to the Principal Permittee or other Permittees. Each Permittee shall, within its geographic jurisdiction:

1. Comply with the requirements of the SQMP and any modifications thereto;

2. Coordinate among its internal departments and agencies, as appropriate, to facilitate the implementation of the requirements of the SQMP applicable to such Permittee in an efficient and cost-effective manner;

3. Designate a technically knowledgeable representative to the appropriate WMC; and

4. Participate in intra-agency coordination (e.g. Fire Department, Building and Safety, Code Enforcement, etc.)necessary to successfully implement the provisions of this Order and SQMP.

5. Prepare an annual summary of expenditures applied to the storm water management program. This summary of budget expenditures shall identify the storm water budget for the following year, using estimated percentages and written explanations where necessary, for the specific categories noted below:

   a) Program management

      (1) Administrative costs

      (2) Capital costs

   b) Illicit connection/illicit discharge

   c) Development planning

   d) Development construction

   e) Industrial/Commercial inspection/site visit activities

   f) Construction inspection activities

   g) Public Agency Activities

      (1) Maintenance of structural BMPs and treatment control BMPs

      (2) Municipal Street Sweeping

      (3) Catch basin clean-up

      (4) Trash collection

   h) Public Information and Participation

   i) Monitoring Program

   j) Miscellaneous Expenditures

6. Each Permittee, in addition to the budget summary, shall report any supplemental dedicated budgets, if any, for the same categories.

F. Watershed Management Committees (WMCs)

1. Each WMC shall be comprised of a voting representative from each Permittee in the Watershed Management Area (WMA).

2. The WMC's chair and secretary shall be chosen by the WMC upon Order adoption and on an annual basis, thereafter. In the absence of volunteer Permittee(s) for the positions, the Principal Permittee shall assume those roles until the WMC chooses members of the committee for the positions.

3. Each WMC shall:

   a) Facilitate cooperation and exchange of information among Permittees;

   b) Establish additional goals and objectives and associated deadlines for the WMA, as the program implementation progresses;

   c) Prioritize pollution control efforts based on beneficial use impairment(s), watershed characteristics and analysis of results from studies and the monitoring program;

   d) Develop and/or update and monitor the adequate implementation, on an annual basis, of the tasks identified for the WMA;

   e) Assess the effectiveness of, prepare revisions for, and recommend appropriate changes to the SQMP and its components;

   f) Continue to prioritize the Industrial/Commercial critical sources for investigation, outreach and follow-up.

   g) Conduct joint WMC meetings four times per year and, as necessary.

G. Executive Advisory Committee (EAC)

1. The EAC shall be composed of one representative from the Malibu Creek WMA, two representatives from each of the other WMAs, one representative from the City of Los Angeles, and one representative from the Los Angeles County Flood Control District.

2. The EAC shall facilitate program compliance in each watershed and enhance consistency among Permittees.

3. The EAC shall conduct its meetings in compliance with the Cal. Gov. Code § 54950 et seq.

H. Legal Authority

1. Permittees shall possess the necessary legal authority to prohibit non-storm water discharges, to the maximum extent practicable, to the storm drain system, including, but not limited to:

a) Prohibit illicit discharges and illicit connections and a requirement for removal of illicit connections;

b) Prohibit the discharge of wash waters to the MS4 from the cleaning of gas stations, auto repair garages, or other types of automotive service facilities;

c) Prohibit the discharge of runoff to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;

d) Prohibit the discharge of runoff to the MS4 from areas where repair of machinery and equipment which are visibly leaking oil, fluid or antifreeze, is undertaken;

e) Prohibit the discharge of runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;

f) Prohibit the discharge of chlorinated swimming pool water and filter backwash to the MS4;

g) Prohibit the discharge of runoff from the washing of toxic materials from paved or unpaved areas to the MS4;

h) Prohibit washing impervious surfaces in industrial/commercial areas that results in a discharge of runoff to the MS4; and

i) Prohibit the discharge of concrete or concrete laden wash water from concrete trucks, pumps, tools, and equipment to the MS4.

j) Prohibit spills, dumping, or disposal of materials into the MS4, other than storm water, such as:

(1) Litter, landscape debris and construction debris;

(2) Any state or federally banned pesticide, fungicide or herbicide;

(3) Food wastes; and

(4) Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials that have potential adverse impacts on water quality.

k) Comply with conditions in Permittees ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows);

l) Utilize enforcement mechanisms to require compliance with Permittees ordinances, permits, contracts, or orders;

m) Control of pollutants (including potential contribution) in discharges of storm water runoff associated with industrial

activities (including construction activities) to its MS4 and control the quality of storm water runoff from industrial sites (including construction sites). This requirement applies to source control, treatment control, and structural control BMPs; and,

n) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions, including the prohibition of illicit discharges to the MS4. Permittees must possess authority to enter, sample, inspect, review and copy records, and require regular reports from industrial facilities discharging polluted or potentially polluted storm water runoff into its MS4 (including construction sites).

o) Require the use of best management practices (BMPs) to prevent or reduce the discharge of pollutants to MS4s to the maximum extent practicable.

p) On or before July 1, 2002, if necessary, amend and adopt a Permittee-specific storm water and urban runoff ordinance to enforce all requirements of this permit.

2. The Principal Permittee shall, on or before July 1, 2002, amend the Los Angeles County Public Health Code to require inspections at restaurants that will address:

a) Oil and Grease residue to verify that it is not poured onto a parking lot, street or adjacent catch basin.

b) Dumpster areas to verify that the dumpster area is clean, dumpster lid closed, not filled with liquid or washed out.

c) Parking lot, alley, sidewalk and street areas to verify that floormats, filters and garbage containers are not washed in those areas and that no washwater is poured in those areas.

d) Parking lot area to verify that it is cleaned by sweeping and not by hosing down and that the facility operator uses dry methods for spill cleanup.

3. Each Permittee shall submit no later than July 31, 2002, a statement by the legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications.

Part 4. SPECIAL PROVISIONS

A. Best Management Practice Substitution

The Regional Board Executive Officer may approve any Best Management Practice (BMP) substitution upon petition by the Permittee(s), if the Permittee can document that:

1. The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of storm water pollutants; or

2. The fiscal burden of the original BMP or program is substantially greater than the proposed alternative and does not achieve a substantially greater improvement in storm water quality; and,

3. The proposed alternative BMP or program will be implemented within a similar period of time.

B. Public Information and Participation Program (PIPP)

The Principal Permittee shall implement a PIPP that incorporates the components of the five-year education plan and the provisions of this section.

Permittees shall work collaboratively to implement a comprehensive education/outreach program with the following objectives:

a) To measurably increase the knowledge of the target audiences regarding the MS4, the impacts of storm water pollution on receiving waters, and potential solutions to mitigate the problems caused;

b) To measurably change the behavior of target audiences by encouraging implementation of appropriate solutions;

c) To involve and engage all socio-economic and ethnic groups in Los Angeles County to participate in mitigating the impacts of storm water pollution.

The Principal Permittee shall submit the PIPP to the Regional Board Executive Officer for review and approval on or before December 31, 2001, and annually thereafter.

1. PIPP - Residential Program

a) The Principal Permittee shall implement the Public Education Program as outlined in the SQMP, including the continuation of the following activities:

Advertising
Media Relations
Public Service Announcements
"How To" Instructional Material Distributed in a Targeted and Activity-Related Manner
Corporate, Community Association, Environmental Organization and Entertainment Industry Tie-Ins
1-888-CLEAN-LA and 888CleanLA.com
Events Targeted to Specific Activities and Population Sub-groups

b) "No Dumping" Message

Each Permittee shall mark all storm drain inlets that they own with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping must be posted at designated public access points to creeks, other relevant water bodies, and channels by October 25, 2003. Legible signage and storm drain messages shall be maintained as necessary.

c) Countywide Hotline

The 888-CLEAN-LA hotline will serve as the general public reporting contact for reporting clogged catch basin inlets and illicit discharges/dumping, faded or lack of catch basin stencils, and general storm water management information. Each Permittee may establish its own hotline if preferred. Permittees shall include this information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed/published.

d) Outreach and Education

(1) The Principal Permittee shall implement the second Five-Year Education Plan as detailed in the SQMP.

(2) Each Permittee shall conduct educational activities within its jurisdiction and participate in countywide events.

(3) The Principal Permittee shall organize Public Outreach Strategy meetings with all Permittees on a quarterly basis. The Principal Permittee shall provide guidance for Permittees to augment the countywide outreach and education program. Permittees shall coordinate regional and local outreach and education to reduce duplication of efforts.

(4) The Principal Permittee shall ensure that a minimum of 35 million impressions per year are made on the general public about storm water quality via print, local TV access, local radio, or other appropriate media.

(5) The Principal Permittee in cooperation with the Permittees shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, and other media necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution. Permittees shall provide the contact information for their appropriate storm water staff to the Principal Permittee on November 25, 2001. Cooperative efforts with other agencies may also be used to accomplish this requirement.

e) Pollutant-Specific Outreach

Permittees shall coordinate to develop outreach programs that target the watershed-specific pollutants listed in Table 1on or before October 25, 2002. Metals may be appropriately addressed through the businesses program. Region-wide pollutants may be included in the Principal Permittee's mass media efforts. Programs shall focus on the anthropogenic sources of each pollutant.

Table 1.	
Watershed	***Target Pollutants for Outreach***
Ballona Creek	Trash, Indicator Bacteria, Metals, PAHs
Malibu Creek	Trash, Nutrients (Nitrogen), Indicator Bacteria, Sediments
Los Angeles River	Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals, Pesticides, PAHs
San Gabriel River	Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals
Santa Clara River	*Reserved*
Dominguez Channel	Trash, Indicator Bacteria, PAHs

Each Permittee shall make outreach materials available to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate public counters and events. Outreach material shall include information on pollutants, sources of concern, and source abatement measures.

2. Businesses Program

a) Corporate Outreach

The Principal Permittee shall develop and implement a Corporate Outreach program to educate and inform corporate environmental management about storm water regulations. The program shall target retail gasoline outlet and restaurant chains. At a minimum, this program shall include:

(1) Conferring with corporate environmental management to explain storm water regulations;

(2) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide environmental managers with suggestions to facilitate employee compliance with storm water regulations.

Corporate Outreach for all retail gasoline outlet and restaurant chain corporations shall occur once every 2 years, but not less than twice during the permit term.

b) Business Assistance Program

(1) The Principal Permittee and Permittees with the available resources, including but not limited to the City of Los Angeles, may implement a Business Assistance Program to provide confidential, technical resource assistance to small businesses to advise them in BMPs implementation to reduce the discharge of pollutants in storm water runoff. At a minimum, programs may include:

(i) On-site technical assistance or consultation via telephone to identify and implement storm water pollution prevention methods and best management practices; and

(ii) Availability, distribution, and discussion of applicable BMP and educational materials.

C. Industrial/Commercial Facilities Program

Each Permittee shall implement an Industrial and Commercial Program with the objective of controlling and reducing pollutants in storm water runoff from Phase I, Automotive, RGOs and Restaurants to the maximum extent practicable. At a minimum, the Program shall include the following requirements:

1. Restaurants

The Principal Permittee shall inspect all restaurants to determine that each restaurant is effectively implementing storm water BMPs.

a) Frequency: The Principal Permittee shall inspect each restaurant once every 24 months.

b) Level of inspection: The Principal Permittee shall confirm that BMPs are effectively implemented in accordance with County ordinances, Regional Board Resolution 98-08, and the SQMP.

2. Retail Gasoline Outlets

The Principal Permittee shall communicate appropriate BMPs to each RGO to help ensure that RGOs are effectively implementing BMPs in accordance with the SQMP and Regional Board Resolution 98-08.

3. Automotive Service Facilities

Each Permittee shall inspect all Automotive Service Facilities within its jurisdiction, to confirm that such facilities are effectively implementing storm water BMPs.

a) Frequency: Each automotive service facility shall be inspected once every 24 months. If an inspection shows non-compliance with the SQMP and local storm water ordinances (including failure

to implement pollution prevention BMPs), the facility shall be re-inspected within 90 days.

b) Level of inspection: The Permittees shall determine that BMPs are effectively implemented, in accordance with the SQMP, Regional Board Resolution 98-08, and storm water ordinances. As necessary, Permittees shall advise owners/operators of Automotive Service Facilities to implement additional BMPs, necessary to reduce the discharge of pollutants in storm water to the maximum extent practicable.

4. **USEPA Phase I Facilities**

a) Database for Source Identification: Each Permittee shall annually update a watershed-based inventory of all USEPA Phase I facilities, Retail Gasoline Outlets, Automotive Service Facilities, and Restaurants within its jurisdiction, regardless of whether or not the facility is subject to the GIASP or other individual or general NPDES permits. The update of the database may be accomplished through the collection of new information obtained through field activities or through other readily available intra-agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits). The inventory shall include the following minimum fields of information for each industrial and commercial facility:

(1) Name of facility and name of owner/operator;

(2) address;

(3) coverage under the GIASP or other individual or general NPDES permits; and

(4) a narrative description including SIC codes that best reflects the principal products or activities performed by each facility.

The use of an automated database system, such as Geographical Information System (GIS) or web-based system is highly recommended, but not required. The Permittees may add other fields of information, as necessary (e.g. to point out discrepancies between SIC Code designation and type of activities actually performed on-site, exposure of activities and/or materials to storm water, etc.).

b) Site Visits to USEPA Phase 1 Facilities: Based on the inventory developed under 4.a) above, each Permittee shall visit facilities that appear to be subject to requirements of USEPA Phase I storm water regulations, as specified below.

(1) Frequency: Each Permittee shall visit all facilities within 24 months from the Order adoption date.

(2) Level of visit: Each Permittee shall confirm that each owner/operator: (a) filed a Notice of Intent, and that a Storm Water Pollution Prevention Plan is available on-site, and (b) is in compliance with model programs for industrial and commercial facilities, with Permittees' storm water ordinances, and with Regional Board Resolution 98-08.

(3) Enforcement Referral: For any facility not enrolled under the GIASP (i.e. a non-filer), Permittees shall advise the owner/operator of such facility of its requirement to enroll in the GIASP, and shall document this action. On a quarterly basis, Permittees shall provide the Regional Board a copy of their records to identify non-filers.

c) Each Permittee shall develop a program to conduct spot checks of USEPA Phase I facilities, excluding those previously determined to pose no risk of exposure, in each year subsequent to the completion of the first inventory of USEPA Phase I facilities (i.e., first 24 months), but not less than 20% of the total number in each year. Facilities determined at no risk of exposure will be so identified in the inventory database.

d) In the event that particular minimum BMPs are infeasible at any site, Permittees shall require implementation of other equivalent BMPs. Furthermore, Permittees may require additional site-specific BMPs as necessary to comply with this Order, including BMPs that are more stringent than those required under the statewide GIASP. For industrial and specified commercial sites tributary to Clean Water Act section 303(d) impaired water bodies (where a site discharges pollutants for which the water body is impaired), Permittees may require implementation of additional controls as necessary to comply with this Order. For industrial and specified commercial sites within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas, Permittees may require implementation of additional controls as necessary to comply with this Order.

e) Nothing in this section precludes Permittees from performing additional activities to control storm water runoff from industrial and commercial facilities to their MS4, as they deem necessary, or through an already existing program. Also, nothing in this section precludes Permittees from enforcing their own municipal ordinances as they pertain to discharges of storm water runoff from industrial and commercial sites within their jurisdiction.

5. Interagency Coordination

In response to any complaint related to storm water or non-storm water discharges or a specific request by the Regional Board, a Permittee shall visit any facility, to determine if the facility is effectively complying with the SQMP and municipal storm water ordinances. In addition, Permittees

shall provide compliance assistance to the Regional Board through various supporting activities, including but not limited to: referrals of complaints, assisting in searches for current owners, operators, and leasees in conjunction with activities performed at any facility within its jurisdiction, appearing as witnesses in Regional Board enforcement hearings, and participating in joint inspections when requested by Regional Board staff.

Copies of the inspection/site visit report and any follow-up documentation performed as required in this section shall be provided to the Regional Board Executive Officer upon request.

D. Development Planning Program

1. The Permittees shall implement a development-planning program that will require all planning priority development and redevelopment projects to:

   a) Minimize impacts from storm water and urban runoff on the biological integrity of natural drainage systems and water bodies in accordance with requirements under CEQA, Section 404 of the CWA, local ordinances and other legal authorities;

   b) Maximize the percentage of permeable surfaces to allow more percolation of storm water into the ground;

   c) Minimize the quantity of storm water directed to impermeable surfaces and the MS4;

   d) Minimize pollution emanating from parking lots through the use of appropriate treatment control BMPs and good housekeeping practices;

   e) Provide for appropriate permanent measures to reduce storm water pollutant loads in storm water from the development site.

2. Peak Flow Control

   The Permittees shall develop and implement numerical criteria on or before October 31, 2002, to control the post-development peak storm runoff discharge rates in natural drainage systems to maintain or reduce pre-development peak discharge rates to prevent down-stream erosion, and to protect stream habitat. Natural drainage systems include the following:

   a) Malibu Creek

   b) Topanga Canyon Creek

   c) Upper Los Angeles River

   d) Upper San Gabriel River

   e) Santa Clara River

f) Named and unnamed coastal drainages

3. Standard Urban Storm Water Mitigation Plans

a) Each Permittee shall require that single-family hillside home developments:

(1) Conserve natural areas

(2) Protect slopes and channels

(3) Provide storm drain system stenciling and signage

(4) Divert roof runoff to vegetated areas before discharge

(5) Direct surface flow to vegetated areas before discharge

b) Each Permittee shall require that a Standard Urban Storm Water Mitigation Plan as approved by the Regional Board in Board Resolution No. R 00-02 be implemented for the following categories of developments with immediate effect:

(1) Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)

(2) A 100,000 or more square feet industrial/ commercial development

(3) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539)

(4) Retail gasoline outlets

(5) Restaurants (SIC 5812)

(6) Parking lots 5,000 square feet or more or with 25 or more parking spaces

c) The Permittees shall require the implementation of SUSMPs provisions for all projects located in or directly adjacent to or discharging directly to an environmentally sensitive area, where, the development will:

(1) create 2,500 square feet or more of impervious area, or

(2) alter the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and

(3) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat

4. Numerical Design Criteria

The Permittees shall require that post-construction treatment control BMPs incorporate, at a minimum, the following design criteria to mitigate (infiltrate, filter or treat) storm water runoff:

a) Volumetric Structural or Treatment Control BMP

(1) the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)*, or

(2) the volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in *California Stormwater Best Management Practices Handbook – Industrial/ Commercial,* (1993), or

(3) the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or

(4) the volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event,

and/or

b) Flow Based Structural or Treatment Control BMP

(1) the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity, or

(2) the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County

(3) the flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above,

5. Applicability of Numerical Design Criteria **R0003437**

The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment and structural controls to mitigate storm water pollution:

a) Single-family hillside residential developments of one acre or more

b) Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of one acre or more.

c) A 100,000 square feet or more industrial/ commercial development

d) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more]

e) Retail gasoline outlets [5,000 square feet or more and with projected Average Daily Traffic (ADT) of 100 or more vehicles]

f) Restaurants (SIC 5812) [5,000 square feet or more]

g) Parking lots 5,000 square feet or more or with 25 or more parking spaces

h) Projects located in, adjacent to or discharging directly to environmentally sensitive areas that meet threshold conditions identified above in 3.c.

6. Not later than March 9, 2003, each Permittee shall require the implementation of SUSMP and post-construction control requirements for the industrial/commercial category to projects one acre and greater to conform to USEPA Phase II storm water regulations.

7. Site Specific Mitigation

a) Each Permittee shall require the implementation of a site-specific plan to mitigate post-development storm water for developments not requiring a SUSMP but which may potentially have adverse impacts on post-development storm water quality, where the following project characteristics exist:

(1) Vehicle or equipment fueling areas;

(2) Vehicle or equipment maintenance areas, including washing and repair

(3) Commercial or industrial waste handling or storage

(4) Outdoor handling or storage of hazardous materials;

(5) Outdoor manufacturing areas

(6) Outdoor food handling or processing

(7) Outdoor animal care, confinement, or slaughter

(8) Outdoor horticulture activities

R0003438

8. Redevelopment Projects

The Permittees shall apply the SUSMP, or site specific requirements including post-construction storm water mitigation to all planning priority projects that undergo significant redevelopment in their respective categories. Significant redevelopment means land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Where

significant redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.

9. Maintenance Agreement and Transfer

Each Permittee shall require that all developments subject to SUSMP and site specific plan requirements provide verification of maintenance provisions for structural and treatment control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and or conditional use permits. Verification at a minimum shall include:

a) The developers signed statement accepting responsibility for maintenance until the responsibility is legally transferred, and either

b) A signed statement from the public entity assuming responsibility for structural or treatment control BMP maintenance and that it meets all local agency design standards, or

c) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year, or

d) Written text in project conditions, covenants and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the structural and treatment control BMPs; or

e) Any other legally enforceable agreement that assigns responsibility for the maintenance of post-construction structural or treatment control BMPs

10. Regional Storm Water Mitigation Program

A Permittee or Permittee group may apply to the Regional Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly SUSMP requirements for new development. Upon review and a determination by the Regional Board Executive Officer that the proposal is technically valid and appropriate, the Regional Board may consider for approval such a program if its implementation will result in equivalent or improved storm water quality and protect stream habitat.

11. Mitigation Funding

The Permittees may propose a management framework, for endorsement by the Regional Board Executive Officer, to support regional or sub-regional solutions to storm water pollution, where the following situations occur:

a) A waiver for impracticability is granted

b) Legislative funds become available

c) Off-site mitigation is required because of loss of environmental habitat

d) An approved watershed management plan exists that incorporates an equivalent or improved strategy for storm water mitigation for new development

12. California Environmental Quality Act (CEQA) Document Update

Each Permittee shall modify planning procedures for preparing and reviewing CEQA documents to consider potential storm water quality impacts and provide for appropriate mitigation, with immediate effect. The CEQA guidelines shall require consideration of the following:

a) Potential Impact of project construction on storm water runoff

b) Potential Impact of projects post-construction activity on storm water runoff.

c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.

d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit

e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies

f) Potential for significant changes in the flow velocity or volume of storm water runoff that can cause environmental harm

g) Potential for significant increases in erosion of the project site or surrounding areas

13. General Plan Update

a) Each Permittee shall amend, revise or update its General Plans to include watershed and storm water quality and quantity management considerations and policies when the following General Plans elements are updated or amended: (i) Land Use, (ii) Housing, (iii) Conservation, (iv) Open Space.

b) Each Permittee shall provide the Regional Board with the draft amendment or revision when a listed General Plan element or the

General Plan is noticed for comment in accordance with Govt. Code § 65350 et seq.

14. Targeted Employee Training

Each Permittee shall train its employees in targeted positions (whose jobs or activities are engaged in development planning) regarding the requirements of the development planning on an annual basis beginning no later than March 31, 2002, and more frequently if necessary.

15. Developer Technical Guidance and Information

a) Each Permittee shall develop and make available to developer development planning guidelines immediately.

b) The Principal Permittee in partnership with Permittees shall issue no later than March 31, 2003, a technical manual for the siting and design of BMPs for the development community in Los Angeles County. The technical manual may be adapted from the revised California Storm Water Quality Task Force Best Management Practices Handbooks scheduled for publication in September 2002. The technical manual shall at a minimum include:

(1) Specifications for treatment control BMPs based on flow-based and volumetric water quality design criteria for the purposes of countywide consistency,

(2) Criteria for control of peak discharge rates, velocities and duration,

(3) Expected pollutant removal performance ranges

(4) Maintenance considerations

(5) Cost considerations

E. Development Construction Program

Each Permittee shall implement a program to control runoff from construction activity at all construction sites within its jurisdiction. The program shall ensure the following minimum requirements are effectively implemented at all construction sites:

a) Sediments shall not be discharged to the MS4 or receiving waters. Sediments generated on the project site shall be retained using adequate structural drainage controls;

b) No construction-related materials, wastes, spills, or residues shall be discharged from the project site to streets, drainage facilities, receiving waters, or adjacent properties by wind or runoff;

c) Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at the project site; and

d) Erosion from slopes and channels will be prevented by implementing BMPs including, but not limited to: limiting of grading scheduled during the wet season; inspecting graded areas during rain events; planting and maintenance of vegetation on slopes; and covering erosion susceptible slopes; and

e) Discourage grading during the wet season. Proper justification for the need to grade during the wet season shall be provided to the Permittee. All erosion susceptible slopes shall be covered, netted, planted, or protected in any way that prevents sediment discharge from the site.

1. In addition, for construction sites one acre and greater, each Permittee shall require compliance with all conditions in section E. above and:

a) Shall require the preparation, submittal, and implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP), prior to issuance of a grading permit for construction projects, that meets one or more of the following criteria:

(1) Will result in soil disturbance of one acre or more in size;

(2) Is within, directly adjacent to, or is discharging directly to an environmentally sensitive area; or

(3) Is located in a hillside area.

The Local SWPPP shall include appropriate construction site BMPs and maintenance schedules. (A State required SWPPP may be substituted by a Local SWPPP if the Local SWPPP is at least as inclusive as the requirements for a State SWPPP). The Local SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

"As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

The landowner shall sign a statement to the effect: **R0003442**

"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for

gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/or adequately implement the Local SWPPP may result in revocation of grading and/or other permits or other sanctions provided by law."

The Local SWPPP certification shall be signed by the landowner as follows, for a corporation: by a responsible corporate officer which means (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; for a partnership or sole proprietorship: by a general partner or the proprietor; or for a municipality or other public agency: by an elected official, a ranking management official (e.g., County Administrative Officer, City Manager, Director of Public Works, City Engineer, District Manager), or the manager of the construction activity if authority to sign Local SWPPPs has been assigned or delegated to the manager in accordance with established agency policy.

b) Shall inspect all construction sites with Local SWPPPs for storm water quality requirements during routine inspections a minimum of once during the wet season. The Local SWPPP shall be reviewed for compliance with local codes, ordinances, and permits. For inspected sites that have not adequately implemented their Local SWPPP, a follow-up inspection to ensure compliance will take place within 2 weeks. If compliance has not been attained, the Permittee will take additional actions to achieve compliance (as specified in municipal codes). If compliance has not been achieved, and the site is covered under the State General Construction Activity Storm Water Permit, each Permittee shall enforce their local ordinance requirements, and if non-compliance continues the Regional Board shall be notified for further joint enforcement actions.

c) Commencing March 10, 2003, shall require, prior to issuing a grading permit for all projects requiring coverage under the state general permit, proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a certification that a SWPPP has been prepared by the project developer. The prepared SWPPP may satisfy the requirement under E.1. (in-lieu of Local SWPPP).

2. In addition, for sites five acres and greater, each Permittee shall:

a) Require, prior to issuing a grading permit for all projects requiring coverage under the state general permit, proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a certification that a SWPPP has been prepared by the project developer. The prepared SWPPP may satisfy the requirement under E.1. (in-lieu of Local SWPPP).

b) Each Permittee shall require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

c) Each Permittee shall use an effective system to track grading permits issued by each Permittee. A database or GIS system is encouraged, but not required, to be used to satisfy this requirement.

3. Each Permittee shall train employees in targeted positions (whose jobs or activities are engaged in construction activities including construction inspection staff) regarding the requirements of the storm water management program no later than March 31, 2002, and annually thereafter. A list of trained employees shall be maintained by each Permittee.

F. Public Agency Activities Program

1. Each Permittee shall implement a Public Agency program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:

Sewage Systems Operations
Public Construction Activities
Vehicle Maintenance/Material Storage Facilities Management
Landscape and Recreational Facilities Management
Storm Drain Operation and Management
Streets and Roads Maintenance
Parking Facilities Management
Public Industrial Activities
Emergency Procedures
Dry Weather Diversions

2. Each Permittee shall conduct an assessment of measures that can be implemented to reduce and/or prevent trash from entering the MS4 system. The Assessment and a schedule for implementation shall be submitted to the Regional Board Executive Officer for review by July 1, 2003.

3. Sewage System Operations

Each Permittee shall implement a response plan for overflows of the sanitary sewer system within their respective jurisdictions which shall consist at a minimum of the following:

R0003444

a) Investigation of any complaints received;

b) Immediate response to overflows by containment; and

c) Notification to appropriate sewer and public health agencies when a sewer overflows to the MS4.

In addition to 3.a, 3.b, and 3.c above, for those Permittees which own and/or operate a sanitary sewer system, each Permittee shall also implement the following requirements (until such time that the proposed Capacity, Management, Operation and Maintenance Regulations (CMOM) are promulgated by the USEPA. After which, the CMOM regulations shall be enforceable under this Order until such time they are added into an individual NPDES permit):

d) A program to prevent sewage spills or leaks from sewage facilities from entering the MS4; and

e) Identify, repair, and remediate sanitary sewer blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4.

4. Public Construction Activities Management

a) Each Permittee shall implement a program to control runoff from construction activity at all construction sites. To accomplish this, the Permittees shall revise their Development Construction Program in the SQMP no later than March 31, 2002. The revisions shall specify a schedule for implementation by each Permittee, and must contain the following minimum elements, including performance measures, schedules for implementation, and shall include the following categories of construction:

(1) Less than one acre;

(2) Between one and five acres; and

(3) Five or more acres.

b) Each Permittee shall comply with requirements in section E. and with the following conditions, at all public construction sites:

(1) Design and construction of public facilities shall be consistent with the requirements and dates specified for private development in Part 4.D.;

(2) Prepare and retain site-specific SWPPPs for municipal construction sites;

(3) Implement construction and post-construction storm water controls as required of private construction projects, including numerical mitigation criteria for post-construction BMPs;

(4) Implement a program to ensure that SWPPPs and BMPs implemented are effective;

(5) Inspect public construction sites and implement changes as necessary to maintain or replace ineffective BMPs in order to protect water quality; and

(6) Each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction sites for sites 5 acres or greater (or part of a larger area of development, etc...) except that a municipality under 100,000 in population need not obtain coverage under a separate permit until March 10, 2003.

c) No later than March 9, 2003, each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction sites for sites one acre or greater.

5. Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management

a) Each Permittee shall implement pollution prevention plans for public vehicle maintenance facilities and material storage facilities which have the potential to discharge pollutants into storm water.

b) Each Permittee shall implement BMPs to minimize pollutant discharges in storm water including but not be limited to:

(1) Good housekeeping practices;

(2) Material storage control;

(3) Vehicle leaks and spill control; and

(4) Illicit discharge control;

c) Each Permittee shall require that all vehicle/equipment wash areas be self-contained or covered, or equipped with a clarifier, or other pretreatment device, and properly connected to the sanitary sewer to prevent the discharge of pollutants to the MS4 for new facilities or during redevelopment of existing sites.

6. Landscape and Recreational Facilities Management

Each Permittee shall implement the following requirements:

a) A standardized protocol for the routine and non-routine application of pesticides, herbicides (including pre-emergents), and fertilizers;

b) Ensure no application of pesticides or fertilizers immediately before, during, or immediately after a rain event or when water is flowing off the area to be applied;

c) Ensure that no banned pesticides, herbicides, fungicides, or rodenticides are stored or applied;

d) Ensure that staff applying pesticides are certified by the California Department of Food and Agriculture, or are under the direct supervision of a certified pesticide applicator;

e) Implement procedures to encourage retention and planting of native vegetation and to reduce water, fertilizer, and pesticide needs;

f) Store fertilizers and pesticides indoors or under cover on paved surfaces or use secondary containment;

g) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills; and

h) Regularly inspect storage areas.

7. Storm Drain Operation and Management

Each Permittee shall:

a) designate catch basin inlets within its jurisdiction as one of the following:

Priority A – catch basins that are designated as consistently generating the highest volumes and trash and/or litter.

Priority B - catch basins that are designated as consistently generating moderate volumes and trash and/or litter

Priority C – catch basins that are designated as generating low volumes of trash and/or litter.

b) Clean catch basins according to the following schedule:

Priority A –at least once per month during the wet season.

Priority B - Between the effective date of this Order and July 1, 2003, each Permittee shall ensure that each catch basin is cleaned whenever the catch basin reaches 40% full during the wet season. From July 1, 2003 to the date this Order is renewed, each Permittee shall ensure that each catch basin is cleaned whenever the catch basin reaches 25% full during the wet season.

Priority C – as necessary but at least once per year.

c) For any special event that can be reasonably expected to generate quantities of trash and litter, the Permittee shall, as a condition of the special use permit issued for that event, include provisions that provide for the proper management of trash and litter generated from the event. At a minimum, the Permittee shall arrange for either temporary screens to be placed on catch basins or for catch basins in that area to be cleaned out subsequent to the event and prior to any rain.

d) For each Permittee subject to a trash TMDL, the Permittee may implement a program which maximizes trash removal by using an effective combination of street sweeping, catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve waste load allocations).

e) Each Permittee shall:

(1) Keep record of catch basins cleaned;

(2) Record the quantity of catch basin waste collected [The data shall be reported in a single unit of measure that is reproducible and measures the amount of trash, irrespective of water content (e.g., compacted volume based on a standardized compaction rate, dry weight, etc.). The Permittees may select the unit, but all Permittees shall use the same unit of measure.];

(3) Inspect the legibility of the catch basin stencil or label nearest the inlet. Illegible stencils shall be recorded and re-stenciled or re-labeled within 180 days of inspection; and

(4) Submit a record (preferably but not required, as a GIS layer) of all catch basins in a municipality and identify which are city-owned/county-owned, and which to note priority for more frequent cleaning.

f) Each Permittee shall implement BMPs for Storm Drain Maintenance that shall include:

(1) A program to visually monitor open channel storm drains for debris at least annually and identify and prioritize problem areas of illicit discharge for regular inspection;

(2) A review of current maintenance activities to assure that appropriate storm water BMPs are being utilized to protect water quality;

(3) Removal of trash and debris from open channel storm drains shall occur a minimum of once per year before the storm season;

(4) Minimize the discharge of contaminants during MS4 maintenance and clean outs;

(5) Record the quantity of open channel waste collected by stream or channel segment [The data shall be reported in a single unit of measure that is reproducible and measures the amount of trash, irrespective of water content (e.g., compacted volume based on a standardized compaction rate, dry weight, etc.). The Permittees may select the unit, but all Permittees shall use the same unit of measure.]; and

(6) Proper disposal of material removed.

8. Streets and Roads Maintenance

a) Each Permittee shall designate streets and/or street segments within its jurisdiction as one of the following:

Priority A – streets and/or street segments that are designated as consistently generating the highest volumes and trash and/or litter.

Priority B - streets and/or street segments that are designated as consistently generating moderate volumes and trash and/or litter.

Priority C – streets and/or street segments that are designated as generating low volumes of trash and/or litter.

b) Each Permittee shall perform street cleaning according to the following schedule:

Priority A – These streets and/or street segments shall be swept at least two times per month.

Priority B - Between the effective date of this Order and July 1, 2003, each Permittee shall ensure that each streets and/or street segments is cleaned at least once per month.

Priority C – These streets and/or street segments shall be cleaned as necessary but in no case less than once per year.

c) Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that in no case shall waste be left on a roadway or allowed to enter the storm drain.

d) Concrete and other street and road maintenance materials and wastes shall be managed to prevent pollutant discharges; and

e) The washout of concrete trucks and chutes shall only occur in designated areas and never into storm drains, open ditches, streets, or catch basins leading to the storm drain system.

f) Each Permittee shall implement a program which maximizes trash removal by using an effective combination of street sweeping,

catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve TMDL waste load allocations.

g) Each Permittee shall train their employees in targeted positions (whose interactions, jobs, and activities affect storm water quality) regarding the requirements of the storm water management program to:

(1) Promote a clear understanding of the potential for maintenance activities to pollute storm water; and

(2) Identify and select appropriate BMPs.

9. Parking Facilities Management

Permittee-owned parking lots shall be kept clear of debris and oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.

10. Public Industrial Activities

Each Permittee shall, for any municipal activity considered an industrial activity covered under USEPA Phase I storm water regulations, obtain separate coverage under the State of California General Industrial Activities Storm Water Discharge Permit no later than November 25, 2001, except that a municipality under 100,000 in population need not file the NOI until March 10, 2003.

11. Emergency Procedures

Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as: earthquakes; fires; floods; landslides; or windstorms. BMPs shall be implemented to the extent that measures do not compromise public health and safety. After initial emergency response or emergency repair activities have been completed, each Permittee shall implement BMPs as required under this Order.

12. Dry Weather Diversions **R0003450**

a) Each Permittee shall prioritize drains for possible diversion of dry weather flows from areas within their jurisdiction that flow to areas where the public may be impacted (for public health and safety and/or environmental reasons). The Permittees shall collectively review their individual prioritized lists and create a watershed based priority list of possible drains for diversion no later than March 31, 2002 and submit a listing of priority diversions to the Regional Board Executive Officer. The Permittees shall immediately begin a feasibility study and discussions with the appropriate sewer agency for diversion of selected dry weather

flows to the sanitary sewer for treatment, subject to approvals of the Regional Board and the appropriate sewer agency.

b) The Permittees shall investigate and determine the location of potential dry weather urban runoff treatment devices for strategic placements in areas of the watersheds where most appropriate. This information shall be submitted to the Regional Board Executive Officer no later than March 31, 2002.

G. Illicit Connections and Illicit Discharges Elimination Program

Permittees shall eliminate all illicit connections and illicit discharges to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.

1. General

a) Implementation: Each Permittee must develop an Implementation Program which specifies how each Permittee is implementing revisions to the IC/ID Program. This Implementation Program must be documented, and available for review and approval by the Regional Board Executive Officer, upon request.

b) Tracking: All Permittees shall develop and maintain a baseline map of their storm drain system, showing all storm drain connections permitted by the Permittee, at a scale and in a format specified by the Lead Permittee. On an annual basis, all Permittees shall map all illicit connections and discharges on their baseline maps, and shall transmit this information to, and in a format specified by, the Principal Permittee. No later than October 25, 2002, the Principal Permittee shall use this information as well as results of baseline and priority screening for illicit connections (as set forth in subsection 2 below) to start an annual evaluation of patterns and trends of illicit connections and illicit discharges, with the objectives of identifying priority areas for elimination of illicit connections and illicit discharges, and making recommendations for corrective action.

c) Training: All Permittees shall train all targeted employees who are responsible for identification, investigation, termination, cleanup, and reporting of illicit connections and discharges. For Permittees with a population of less than 250,000, training shall be completed no later than March 31, 2002. For Permittees with a population of 250,000 or more, training shall be completed no later than October 25, 2002. Furthermore, all Permittees shall conduct refresher training on an annual basis thereafter.

d) Documentation and Reporting: Document and report all illicit connections, illicit discharges, and hazardous substances that

"Anti-degradation policies" means the *Statement of Policy with Respect to Maintaining High Quality Water in California* (State Board Resolution No. 68-16) which protects surface and ground waters from degradation. In particular, this policy protects waterbodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water.

"Applicable Standards and Limitations" means all State, interstate, and federal standards and limitations to which a "discharge" or a related activity is subject under the CWA, including "effluent limitations, "water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403 and 404 of CWA.

"Authorized Discharge" means any discharge that is authorized pursuant to an NPDES permit or meets the conditions set forth in this Order.

"Automotive Service Facilities" means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 5511, 7532-7534, or 7536-7539.

"BAT/BCT Criteria" means treatment-based standards for reducing the discharge of pollutants, as defined in 40 CFR subchapter N, for specific categories of industrial facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards. Effluent limitations have been defined in 40 CFR for the reduction of toxic pollutants using Best Available Technology Economically Achievable (BAT) and for the reduction of conventional pollutants using Best Conventional Pollutant Control Technology (BCT).

"Basin Plan" means the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Board on June 13, 1994 and subsequent amendments.

"Beneficial Uses" means the existing or potential uses of receiving waters in the permit area as designated by the Regional Board in the Basin Plan.

"Best Management Practices (BMPs)" are methods, measures, or practices designed and selected to reduce or eliminate the discharge of pollutants to surface waters from point and nonpoint source discharges including storm water. BMPs include structural and nonstructural controls, and operation and maintenance procedures, which can be applied before, during, and/or after pollution producing activities.

"Commercial Development" means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, multi-apartment buildings, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

"Construction" means constructing, clearing, grading, or excavation that results in soil disturbance. Construction includes structure teardown. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it

enter the storm drain, within times specified in subsections 2 and 3 below.

2. Illicit Connections

a) Baseline Screening: All Permittees shall continue to screen the storm drain system for illicit connections during scheduled infrastructure maintenance. On an annual basis, Permittees shall report, to the Lead Permittee, on the location and length of open channels or closed storm drains that have been screened, and on the status of suspected, confirmed, and terminated illicit connections.

b) Priority Screening: In addition to the baseline screening that will occur during regularly scheduled maintenance, Permittees shall design and implement a plan on or before October 31, 2002, subject to Regional Board Executive Officer approval, for proactive storm drain screening of priority areas that are, or are suspected to be a source of non-storm water discharges.

c) Investigation: Upon discovery through either baseline or priority screening, or upon receiving a report of a suspected illicit connection, Permittees shall initiate an investigation within 21 days, to determine the source of the connection, the nature and volume of discharge through the connection, and the responsible party for the connection.

d) Termination: Upon confirmation of the illicit nature of a storm drain connection, Permittees shall ensure termination of the connection within 180 days, using enforcement authority as needed. For those cases of illicit connections that require more than 180 days to eliminate due to lengthy court proceedings, the Regional Board Executive Officer may grant time extensions on a case by case basis.

3. Illicit Discharges

a) Abatement and Cleanup: Respond, within 72 hours of discovery or a report of a suspected illicit discharge, with activities to abate, contain, and clean up all illicit discharges, including hazardous substances.

b) Investigation: As soon as practicable, during or immediately following containment and cleanup activities, take enforcement action as appropriate.

Part 5. DEFINITIONS

The following are definitions for terms applicable to this Order:

"Adverse Impact" means a detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants.

include emergency construction activities required to immediately protect public health and safety.

"Control" means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

"Dechlorinated Swimming Pool Discharge" means swimming pool discharges which have no measurable chlorine and do not contain any detergents, wastes, or additional chemicals not typically found in swimming pool water. The term does not include swimming pool filter backwash.

"Development" shall mean any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction.

"Directly Adjacent" means situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

"Director" shall mean the Director of Public Works of the County and Person(s) designated by and under the Director's instruction and supervision.

"Directly Discharging" means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

"Discharge" when used without qualification means the "discharge of a pollutant."

"Discharge of a Pollutant" means: Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source" or, Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect Discharger."

"Disturbed Area" means an area that is altered as a result of clearing, grading, and/or excavation.

"Effluent limitation" means any restriction imposed by the Regional Board on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

"Environmentally Sensitive Areas" means an area "in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments" (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are: areas designated as Significant Ecological Areas by the County of

Los Angeles (*Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976)* and amendments); an area designated as a Significant Natural Area by the California Department of Fish and Game, Significant Natural Areas Program; an area listed in the Regional Board Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" beneficial use; or an area identified by the Permittees as environmentally sensitive for water quality purposes[1]. See Attachment B for details of each listing.

"Executive Advisory Committee" means the committee composed of representatives of the Los Angeles County Flood Control District, the City of Los Angeles, and the five Watershed Management Areas.

"General Construction Activities Storm Water Permit (GCASP)" is the general NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water from construction activities under certain conditions.

"General Industrial Activities Storm Water Permit (GIASP)" is the general NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water from certain industrial activities under certain conditions.

"Hillside" means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25% or greater and where grading contemplates cut or fill slopes.

"Illicit Connection" shall mean any man-made conveyance that is connected to the storm drain system without a permit, excluding roof drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

"Illicit Discharge" means any discharge to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non storm-water discharges except discharges pursuant to an NPDES permit, discharges that are identified in Part 1 of this order, and discharges authorized by the Regional Board Executive Officer.

"Illicit Disposal" means any disposal, either intentionally or unintentionally, of material(s) or waste(s) that can pollute storm water.

"Industrial/Commercial Facility" means any facility involved and/or used in either the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. This category of facilities includes, but is not limited to, any facility defined by the Standard Industrial Classifications (SIC). Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

"Infiltration" means the downward entry of water into the surface of the soil. R0003455

"Large Municipal Separate Storm Sewer System (MS4)" means all MS4s that serve a population greater than 250,000. The complete definition is contained in 40 CFR Section 122.26 (b)(4). The Regional Board designated Los Angeles County as a large MS4 in 1990,

[1] Regional Board is currently working with the City of Rancho Palos Verdes to recognize their identified local conservation areas

based on: (i) the U.S. Census Bureau 1990 population estimate of 8.9 million, and (ii) the interconnectivity of the MS4s in the incorporated and unincorporated areas within the County.

"Local SWPPP" means the Storm Water Pollution Prevention Plan required by the local agency if the project is not subject to the Statewide Construction Activities General Permit.

"Maximum Extent Practicable (MEP)" means the standard for implementation of storm water management programs to reduce pollutants in storm water. It is the maximum extent possible taking into account equitable consideration and competing facts, including, but not limited to: the gravity of the problem, public health risk, societal concern, environmental benefits, pollutant removal effectiveness, regulatory compliance, public acceptance, implementability, cost and technical feasibility. Section 402(p)(3)(B)(iii) of the CWA requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"Method Detection Limit (MDL)" is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR 136, Appendix B.

"Minimum Level (ML)" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

"Municipal Separate Storm Sewer System (MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned by a State, city, county, town or other public body, that is designed or used for collecting or conveying storm water, which is not a combined sewer, and which is not part of a publicly owned treatment works, and which discharges to Waters of the United States.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program."

"New Development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

"Non-Storm Water Discharge" means any discharge to a storm drain that is not composed entirely of storm water.

"Nuisance" means anything that meets all of the following requirements: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent

of the annoyance or damage inflicted upon individuals may be unequal; (3) occurs during, or as a result of, the treatment or disposal of wastes.

"Parking Lot" means land area or facility for the parking or storage of motor vehicles used personally, for businesses or for commerce with a lot size of 5,000 square feet or more, or with 25 or more parking spaces.

"Permit" means an authorization, license, or equivalent control document issued by USEPA or an "approve State" to implement the requirements of 40 CFR Parts 122, 123, and 124. "Permit" includes an NPDES "general permit" (§ 122.28). Permit does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

"Permittee(s)" means Co-Permittees and any agency named in this Order as being responsible for permit conditions within its jurisdiction. Permittees to this Order include the Los Angeles County Flood Control District, Los Angeles County, and the cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Canada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier.

"Pollutants" means those "pollutants" defined in Section 502(6) of the federal Clean Water Act (33.U.S.C.§1362(6)), or incorporated into California Water Code §13373. Examples of pollutants include, but are not limited to the following:

- Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
- Metals such as cadmium, lead, zinc, copper, silver, nickel, chromium, and non-metals such as phosphorus and arsenic;
- Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease)
- Excessive eroded soils, sediment, and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the State;
- Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities);
- Substances having characteristics such as pH less than 6 or greater than 9, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;

The term "pollutant" shall not include uncontaminated storm water, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

The term "pollutant" also shall not include any substance identified in this definition, if through compliance with the best management practices available, the discharge of such substance has been eliminated to the maximum extent practicable. In an enforcement action, the burden shall

be on the person who is the subject of such action to establish the elimination of the discharge to the maximum extent practicable through compliance with the best management practices available.

"Potable Water Distribution Systems" means sources of flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, well development, pump testing fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and wells.

"Priority Pollutants" are those constituents referred to in 40 CFR 401.15 and listed in the USEPA NPDES Application Form 2C, pp. V-3 through V-9.

"Project" means all development and land disturbing activities. The term is not limited to "Project" as defined under California Environmental Quality Act (Pub Resources Code Section 21065).

"Rain Event" means any rain event greater than 0.1 inch in 24 hours.

"Receiving Waters" means all surface water bodies within the permit area that are identified in the Basin Plan.

"Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces. Where redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated. Where redevelopment results in an increase in less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the addition must be mitigated, and not the entire development.

"Regional Administrator" means the Regional Administrator of the Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

"Restaurant" means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812).

"Retail Gasoline Outlet" means any facility engaged in selling gasoline and lubricating oils.

"Runoff" means any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of many base flow components either contaminated with pollutants or uncontaminated.

"Side Walk Rinsing" means pressure washing of paved pedestrian walkways with average water usage of 0.006 gallons per square foot, with no cleaning agents, and properly disposing of all debris collected, as authorized under Regional Board Resolution No. 98-08.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Source Control BMP" means any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

"SQMP" shall mean the Los Angeles Countywide Stormwater Quality Management Program.

"Storm Water Pollution Prevention Plan (SWPPP)" shall mean a plan, as required by a State General Permit, identifying potential pollutant sources and describing the design, placement and implementation of BMPs, to effectively prevent non-stormwater Discharges and reduce Pollutants in Stormwater Discharges during activities covered by the General Permit.

"Storm Water" shall mean storm water runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater Quality Management Program" shall mean the Los Angeles Countywide Stormwater Quality Management Program, which includes descriptions of programs, collectively developed by the Permittees in accordance with provisions of the NPDES Permit, to comply with applicable federal and state law, as the same is amended from time to time.

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g. canopy, structural enclosure). The category may include both treatment control BMPs and source control BMPs.

"SUSMP" means the Los Angeles Countywide Standard Urban Stormwater Mitigation Plan. The SUSMP shall address conditions and requirements of new development.

"Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background.

"Toxicity Identification Evaluation" means a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.

"Toxicity Reduction Evaluation" is a study conducted in a step-wise process to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity.

"Treatment" means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

"Treatment Control BMP" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

"USEPA Phase I Facilities" are facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR 122.26(c). These categories include:

i. facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards (40 CFR N)
ii. manufacturing facilities
iii. oil and gas/mining facilities
iv. hazardous waste treatment, storage, or disposal facilities
v. landfills, land application sites, and open dumps
vi. recycling facilities
vii. steam electric power generating facilities
viii. transportation facilities
ix. sewage of wastewater treatment works
x. light manufacturing facilities

"Water Column Toxicity" means a 70 percent survival rate for a single test or an average of 90 percent survival for three consecutive tests.

"Water Quality Standards and Water Quality Objectives" applicable to the Permittee include those contained in the Los Angeles Regional Water Quality Control Plan (Basin Plan), the California Ocean Plan, the National Toxics Rule, the California Toxics Rule, and other state or federally approved surface water quality plans. Such plans are used by the Regional Board to regulate all discharges, including storm water discharges.

"Waters of the State" means any surface water or groundwater, including saline waters, within boundaries of the state.

"Waters of the United States" or "Waters of the U.S." means:

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
b. All interstate waters, including interstate "wetlands";
c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
    1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
    2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
    3. Which are used or could be used for industrial purposes by industries in interstate commerce;
d. All impoundments of waters otherwise defined as waters of the United States under this definition;

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e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
f. The territorial sea; and
g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraph (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.22(m), which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with US EPA.

"Wet Season" means the calendar period beginning October 1 through April 15.

"Whole Effluent Toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

Part 6. STANDARD PROVISIONS

A. Standard Requirements

1. The Permittees shall comply with all provisions and requirements of this permit.

2. Should the Permittees discover a failure to submit any relevant facts or that it submitted incorrect information in a report, it shall promptly submit the missing or correct information.

3. The Permittees shall report all instances of non-compliance not otherwise reported at the time monitoring reports are submitted.

4. This Order includes the attached Monitoring and Reporting Program, and Standard Urban Storm Water Mitigation Plan, which are a part of the permit and must be complied with in the same manner as with the rest of the requirements in the permit.

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B. Regional Board Review

1. Any formal determination or approval made by the Regional Board Executive Officer pursuant to the provisions of this Order may be reviewed by the Regional Board. Such review may be requested upon

petition by a Permittee(s) or a member of the public within 30 days of the effective date of the notification of such decision to the Permittee(s).

C. Public Review

1. All documents submitted to the Regional Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. Section 552 (as amended) and the Public Records Act (California Government Code Section 6250 *et seq.*).

2. All documents submitted to the Regional Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

D. Duty to Comply

1. The Principal Permittee must comply with all of the terms, requirements, and conditions of this Order. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance; or a combination thereof [40 CFR 122.41(a), CWC Section 13261, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350].

2. A copy of these waste discharge specifications shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees and members of the public.

3. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

E. Duty to Mitigate [40 CFR 122.41 (d)]

The Permittees shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

F. Inspection and Entry [40 CFR 122.41(i), CWC Section 13267]

The Regional Board, USEPA, and other authorized representatives shall be allowed:

1. Entry upon premises where a regulated facility is located or conducted, or where records are kept under conditions of this Order;

2. Access to copy any records that are kept under the conditions of this Order;

3. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and,

4. To photograph, sample, and monitor for the purpose of assuring compliance with this Order, or as otherwise authorized by the Clean Water Act and the California Water Code.

G. Proper Operation and Maintenance [40 CFR 122.41 (e), CWC Section 13263(f)]

The Permittees shall at all times properly operate and maintain all facilities and systems of treatment and (and related appurtenances) that are installed or used by the Permittees to achieve compliance with this Order. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar system that are installed by a Permittee only when necessary to achieve compliance with the conditions of this Order.

H. Signatory Requirements [40 CFR 122.41(k)]

Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Board shall be signed by the Director of Public Works, City Engineer, or authorized designee under penalty of perjury.

I. Reopener and Modification [40 CFR 122.41(f)]

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Board, in accordance with the procedural requirements of the Water Code and Title 23 of the California Code of Regulations for the issuance of waste discharge requirements, and upon prior notice and hearing, to:

   a) Address changed conditions identified in the required reports or other sources deemed significant by the Regional Board;

   b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan;

c) Comply with any applicable requirements, guidelines, and/or regulations issued or approved pursuant to CWA Section 402(p); and/or,

d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.

2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

a) Violation of any term or condition contained in this Order;

b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts; or,

c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

3. This Order may be modified, revoked and reissued, or terminated for cause.

4. The filing of a request by the Principal Permittee for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

5. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR Part 122.63, if processed as a minor modification. Minor modifications may only:

a) Correct typographical errors, or

b) Require more frequent monitoring or reporting by the Permittee.

J. Severability

The provisions of this permit are severable; and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected.

K. Duty to Provide Information [40 CFR 122.41(h)]

The Permittees shall furnish, within a reasonable time, any information the Regional Board or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Permittees shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.

L. Twenty-four Hour Reporting [40 CFR 122.41(l)(6)][2]

1. The Permittees shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time any Permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. The Regional Board may waive the required written report on a case-by-case basis.

M. Bypass [40 CFR 122.41(m)][3]

Bypass (the intentional diversion of waste streams from any portion of a treatment facility) is prohibited. The Regional Board may take enforcement action against Permittees for bypass unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.);

2. There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that could occur during normal periods of equipment downtime or preventive maintenance;

3. The Permittee submitted a notice at least ten days in advance of the need for a bypass to the Regional Board; or,

4. Permittees may allow a bypass to occur that does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to

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[2] This provision applies to incidents where effluent limitations (numerical or narrative) as provided in this Order or in the Los Angeles County SQMP are exceeded, and which endanger public health or the environment.

[3] This provision applies to the operation and maintenance of storm water controls and BMPs as provided in this Order or in the SQMP.

assure efficient operation. In such a case, the above bypass conditions are not applicable. The Permittee shall submit notice of an unanticipated bypass as required.

N. Upset [40 CFR 122.41(n)][4]

1. A Permittee that wishes to establish the affirmative defense of an upset in an action brought for non compliance shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a) An upset occurred and that the Permittee can identify the cause(s) of the upset;

   b) The permitted facility was being properly operated by the time of the upset;

   c) The Permittee submitted notice of the upset as required; and,

   d) The Permittee complied with any remedial measures required.

2. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.

3. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

O. Property Rights [40 CFR 122.41(g)]

This Order does not convey any property rights of any sort, or any exclusive privilege.

P. Enforcement

1. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The Clean Water Act provides the following:

   a) Criminal Penalties for:

      (1) Negligent Violations:

      The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

[4] *Supra*. See footnote number 2.

(2) Knowing Violations:

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment:

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement:

The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed of required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309(c)(4) of the Clean Water Act.)

b) Civil Penalties

The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation.

2. The California Water Code provides that any person who violates a waste discharge requirement provision of the California Water Code is subject to civil penalties of up to $5,000 per day, $10,000 per day, or $25,000 per day of violation; or when the violation involves the discharge of pollutants, is subject to civil penalties of up to $10 per gallon per day or $25 per gallon per day of violation; or some combination thereof, depending on the violation or combination violations.

Q. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41(c)]

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

R0003467

R. Modifications to this Order

This Order may be modified, revoked, or reissued, prior to the expiration date as follows:

1. To address changed conditions identified in the required technical reports or other sources deemed significant by the Regional Board;

2. To incorporate applicable requirements or statewide water quality control plans adopted by the State Board, or amendments to the Basin Plan;

3. To comply with any applicable requirements, guidelines, or regulations issued or approved under Section 402(p) of the CWA, if the requirement, guideline, or regulation so issued or approved contains different conditions or additional requirements not provided for in this Order. The Order as modified or reissued under this paragraph shall also contain any other requirements of the CWA then applicable; or,

4. Any amendments under the Clean Water Act.

S. Rescission

Regional Board Order No. 96-054 is hereby rescinded.

T. Expiration

This Order expires on [October 25, 2006]. The Principal Permittee must submit a Storm Water Quality Management Plan in accordance with Title 23, California Code of Regulation, not later than 180 days in advance of such date as application for reissuance of waste discharge requirements.

I, Dennis A. Dickerson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on October 25, 2001.

_____

Dennis A. Dickerson
Executive Officer

ATTACHMENT A
LIST OF PERMITTEES
BY
WATERSHED MANAGEMENT AREAS

Santa Monica Bay

Malibu Creek and Other Rural
Agoura Hills
*Calabasas
Los Angeles County Flood Control
Los Angeles County
Malibu
Westlake Village

Ballona Creek and Other Urban
Beverly Hills
Culver City
El Segundo
Hermosa Beach
Los Angeles
Los Angeles County Flood Control

Los Angeles County
Manhattan Beach
Palos Verdes Estates
Rancho Palos Verdes
Redondo Beach
Rolling Hills
Rolling Hills Estates

*Santa Monica
West Hollywood

Dominguez Channel/ Los Angeles Harbor Drainage

Carson
Gardena
Hawthorne
Inglewood
Lawndale
Lomita
Los Angeles
Los Angeles County Flood Control

Los Angeles County
*Torrance

Los Angeles River

Alhambra
Arcadia
Bell
Bell Gardens
Burbank
Commerce
Compton
Cudahy
El Monte
*Glendale
Hidden Hills
Huntington Park
La Canada Flintridge
Los Angeles
Los Angeles County Flood Control
Los Angeles County
Lynwood
Maywood
Monrovia
Montebello
Monterey Park
Paramount
Pasadena

Rosemead
San Fernando
San Gabriel
San Marino
Sierra Madre
Signal Hill
South El Monte
South Gate
South Pasadena
Temple City
Vernon

San Gabriel River

Artesia
Azusa
Baldwin Park

Bellflower
Bradbury
Cerritos
Claremont
Covina
Diamond Bar
Downey
Duarte
Glendora
Hawaiian Gardens

Industry
Irwindale
La Habra Heights
La Mirada
La Puente
La Verne
Lakewood
Los Angeles County Flood Control
Los Angeles County
Norwalk
Pomona
Pico Rivera
San Dimas
Santa Fe Springs
Walnut
West Covina
Whittier

Santa Clara River

*Santa Clarita
Los Angeles County Flood Control
Los Angeles County

*Italicized agencies are present in more than one Watershed Management Area. *Indicates City with the largest watershed population other than County of Los Angeles and the City of Los Angeles.*

R0003469

ATTACHMENT B

DESCRIPTIONS OF ENVIRONMENTALLY SENSITIVE AREAS

Significant Ecological Areas (Table B-1, Figure B-1)

Definition: Significant Ecological Areas (SEAs) are defined and delineated in conjunction with the Land Use and Open Space Elements of the Los Angeles County General Plan. An area qualifies for recognition as an SEA if it possesses one or more of the following features, or classes:

1. The habitat of core populations of endangered or threatened plant or animal species.
2. On a regional basis, biotic communities, vegetative associations, and habitat of plant or animal species that are either unique or are restricted in distribution.
3. Biotic communities, vegetative associations, or habitat of plant or animal species that are either unique or are restricted in distribution.
4. Habitat that at some point in the life cycle of a species or group of species, serves as a concentrated breeding, feeding, resting, migrating grounds and is limited in availability either regionally or within Los Angeles County.
5. Biotic resources that are of scientific interest because they are either an extreme in physical/geographical limitations, or represent an unusual variation in a population or community.
6. Areas that would provide for the preservation of relatively undisturbed examples of the original natural biotic communities in Los Angeles County.

Description: Current SEAs are listed in Table B-1[1]. Los Angeles County has conducted a study to update the SEA designations. Proposed boundaries of SEAs are shown on Figure B-1[2]. When the proposed SEAs included in the SEA Update Study 2000 are finalized, they will replace the current SEAs. The SEA Update Study 2000, and individual reports for each SEA are posted on the Los Angeles County Department of Regional Planning website at http://planning.co.la.ca.us/drp_revw.html#SEA

Rare, Threatened, or Endangered Species (Table B-2)

Definition: Rare, Threatened, or Endangered Species (RARE) is a beneficial use for waterbodies in the Los Angeles Region that support habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened, or endangered.

Description: Specific waterbody reaches that support the RARE beneficial use are listed in Table B-2[3]. The accompanying maps depict reach areas in each watershed.

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[1] Same as Table 1-1 from the Regional Board Basin Plan

[2] Map from the Los Angeles County SEA Update Study

[3] Same as Table 2-1, Beneficial uses of Inland Surface Waters from the Regional Board Basin Plan

Significant Natural Areas (Figure B-2)

Definition: Significant Natural Areas (SNAs), defined by the Department of Fish and Game (DFG), Significant Natural Areas Program, are areas that contain important examples of California's biological diversity. These areas are identified using the following biological criteria only, irrespective of any administrative or jurisdictional considerations:

1. Areas supporting extremely rare species or habitats.
2. Areas supporting associations or concentrations of rare species or habitats.
3. Areas exhibiting the best examples of rare species and habitats in the state.

These criteria are strictly biological and do not account for levels of protection or threat. Sites may or may not be well protected. Detailed information on site protection, quality, and conservation needs is most readily available at the local level. The DFG Significant Natural Areas Program states that the purpose of identifying these areas is to draw the attention of planners and managers to these areas. The identification of SNAs does not imply any additional authority by the DFG.

Description: See Figure B-2 for a map of SNAs in Los Angeles County. Detailed descriptions of each area are attached. SNA maps, reports, and shape files can be downloaded from the DFG website at ftp://maphost.dfg.ca.gov/outgoing/whdab/sna/.

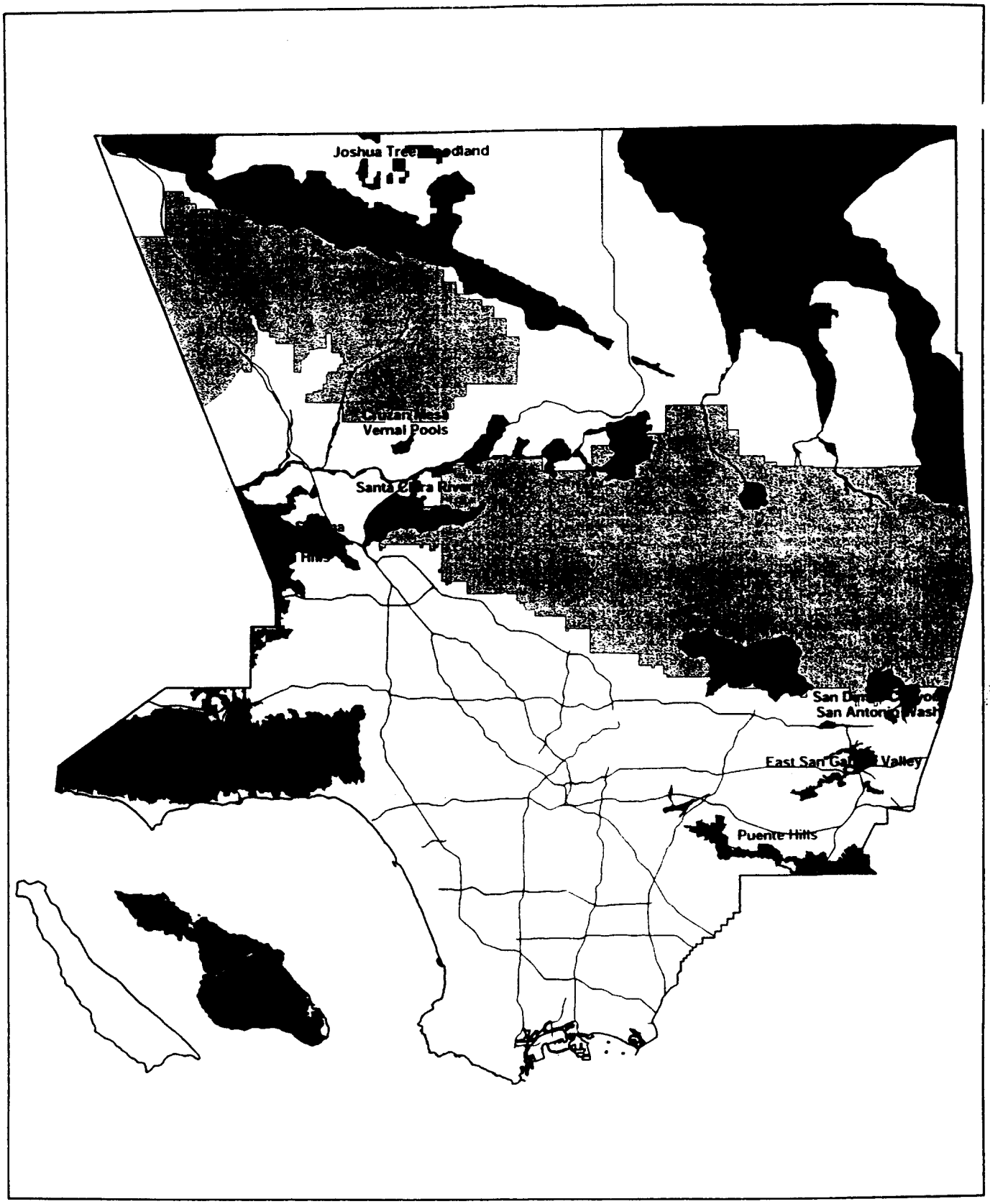
TABLE B-1

Significant Ecological Areas (SEAs) in Los Angeles County.[1]

No.	Significant Ecological Area (SEA)	No.	Significant Ecological Area (SEA)
1	Malibu Coastline	33	Terminal Island
2	Point Dume	34	Palos Verdes Peninsula Coastline
3	Zuma Canyon	35	Harbor Lake Regional Park
4	Upper Sierra Canyon	36	Madrona Marsh
5	Malibu Canyon and Lagoon	37	Griffith Park
6	Las Virgenes	38	Baldwin Hills[2]
7	Hepatic Gulch	39	Encino Reservoir
8	Malibu Creek State Park Buffer Area	40	Verdugo Mountains
9	Cold Creek	41	Rio Hondo Spreading Grounds[2]
10	Tuna Canyon	42	Whittier Narrows Dam County Recreation Area
11	Temescal–Rustic–Sullivan Canyons	43	Rio Hondo College Wildlife Sanctuary
12	Palo Comado Canyon	44	Sycamore and Turnbull Canyons
13	Chatsworth Reservoir	45	*Dudleya densiflora* Population
14	Simi Hills	46	Tujunga Spreading Grounds[2]
15	Tonner Canyon/Chino Hills	47*	Edwards Air Force Base
16	Buzzard Peak/San Jose Hills	48*	Big Rock Wash
17	Powder Canyon/Puente Hills	49*	Little Rock Wash
18	Way Hill	50*	Rosamond Lake
19	San Francisquito Canyon	51*	Saddleback Butte State Park
20	Santa Susana Mountains	52*	Alpine Butte
21	Santa Susana Pass	53*	Lovejoy Butte
22	Santa Fe Dam Floodplain	54*	Piute Butte
23	Santa Clara River	55*	Desert-Montane Transect
24	Tujunga Valley/Hansen Dam	56*	Ritter Ridge
25	San Dimas Canyon	57*	Fairmont and Antelope Buttes
26	San Antonio Canyon Mouth	58*	Portal Ridge/Liebre Mountain
27	Portuguese Bend Landslide	59*	Tehachapi Foothills
28	El Segundo Dunes	60*	Joshua Tree Woodland Habitat
29	Ballona Creek	61*	Kentucky Springs[2]
30	Alamitos Bay	62*	Galium grande Population
31	Rolling Hills Canyons	63	Lyon Canyon
32	Agua Amarga Canyon	64	Oak Savannah

1 Descriptions of these areas can be found in the Los Angeles County General Plan (1976)
2 These are also designated as open spaces.
* Outside of the Los Angeles Region

B-3
295



Proposed Significant Ecological Areas
Angeles National Forest

Significant Ecological Areas
Update Study 2000
Proposed Boundaries

0 55000 Feet

N

FORMA Systems
09/07/00

R0003473

TABLE B-2

Los Angeles Regional Water Quality Control Board

Table 2-1. Beneficial Uses of Inland Surface Waters.

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
VENTURA COUNTY COASTAL STREAMS																									
Los Sauces Creek	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Poverty Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Madrano Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
Javon Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		E
Padre Juan Canyon	401.00	P*	I	I	I	I				I	I			I	I				E			I	I		
McGrath Lake c	403.11									Ed	Ed	P					E		E		Ee				E
Big Sycamore Canyon Creek	404.47	P*				I				I	I			I	E				E			P	P		E
Little Sycamore Canyon Creek	404.45	P*								I	I			I					E		E		P		
VENTURA RIVER WATERSHED												E													
Ventura River Estuary c	402.10							E		E	E	E		E			E	E	E		E	E	E	E	E
Ventura River	402.10	P*	E		E	E	E			E	E			E	E				E		E	E	E		E
Ventura River	402.20	E	E	E	E	E	E			E	E			E	E				E		Eg	E	E		E
Cañada Larga	402.10	P*		I	I	I	I			I	I			I					E						
Lake Casitas	402.20	E	E	E	E	P	P		P	Ph	E			E	E				E		E				
Lake Casitas tributaries	402.20	E*			P	E				E	E			E	E				E		P	E	E		E
Coyote Creek below dam	402.20	P*				E				P				E	E				E			E	E		E
San Antonio Creek	402.20	E	E	E	E	E				E	E			E	E				E			E	E		E
San Antonio Creek	402.32	E	E	E	E	E	E			E	E			E	E				E			E	E		E
Lion Creek	402.31	I*	I	I	I					I	I			I	I				E						
Reeves Creek	402.32	I*	I	I	I	I				I	I			I	I				E			I	I		
Mirror Lake	402.20	P*				E				P	E			E					E						E
Ojai Wetland	402.20	P*								P	E			E					E						E
Matilija Creek	402.20	P*				E				E	E				E				E			E	E		E
Murietta Canyon Creek	402.20	P*				E				E	E				E				E			E	E		E
North Fork Matilija Creek	402.20	E*	E	E	E	E				E	E			E	E				E		E	E	E		E
Matilija Reservoir	402.20	E	E	E	E	E	E			E	E			E	E				E		E	E	E		E
SANTA CLARA RIVER WATERSHED																									
Santa Clara River Estuary c	403.11							E		E	E	E		E			E	E	E		Ee	El	El		E
Santa Clara River	403.11	P*	E	E	E	E	E			E	E			E					E		E	E			E
Santa Clara River	403.21	P*	E	E	E	E	E			Ed	E			E					E		E	E			E
Santa Clara River	403.31	P*	E	E	E	E	E			Ed	E			E					E		E	E			E
Santa Clara River	403.41	P*	E	E	E	E	E			E	E			E					E		E	E			E
Santa Clara River	403.51	P*	E	E	E	E	E			E	E			E					E		E	E			E
Santa Clara River (Soledad Cyn)	403.55	E*	E	E	E	E	E			E	E			E					E		El				E
Santa Paula Creek	403.21	P	E	E	E	E	E			E	E			E	E				E		E	E	E		

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
d Limited public access precludes full utilization.
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
g Condor refuge.
h Water contact recreational activities prohibited by Casitas MWD.
i Soledad Canyon is the habitat of the Unarmored Three-Spine Stickleback.

TABLE B-2

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
SANTA CLARA RIVER WATERSHED (CONT)																									
Sisar Creek	403.21	P	E	P	E	E				E	E			E	E				E		Eg		E		E
Sespe Creek	403.31	P*	E	P	E	E				E	E			E	E				E		Eg		E		E
Sespe Creek	403.32	P	E	P	E	E				E	E			E	E				E	E	Eg	E	E		E
Timber Creek	403.32	P*				E				E	E				E				E	E	E	E	E		E
Bear Canyon	403.32	P*				E				E	E			E	P				E	E	E	E	E		E
Trout Creek	403.32	P*				E				E	E			E	E				E	E	E	E	E		E
Piedra Blanca Creek	403.32	P*				E				E	E				E				E		E	E	E		E
Lion Canyon	403.32	P*				E				E	E			E	E				E			E	E		E
Rose Valley Creek	403.32	P*				E				E	E			E	E				E			E	E		E
Howard Creek	403.32	P*				E				E	E			E	E				E	E	E	E	E		E
Tule Creek	403.32	P*				E				P	E				P				E	E	E	E	E		E
Potrero John Creek	403.32	P*				E				E	E				P				E		E	E	E		E
Hopper Creek	403.41	P*	E	E	E	E	E			E	E			E	E				E		Eg				E
Piru Creek	403.41	P*	E	E	E	E	E			E	E			E	E				E		E	E	E		E
Piru Creek	403.42	P	E	E	E	E	E			E	E			E	E				E		Eg		E		E
Lake Piru	403.41	P	E	E	E	E	P			E	E			E	E				E		E		E		
Lake Piru	403.42	P*	E	E	E	E	P		P	E	E			E	E				E		E		E		
Pyramid Lake	403.42	P*	E	E	E	E	P		P	E	E			E	E				E		E		E		
Cañada de los Alamos	403.43	I*			I	I	I			I	I			I	I				E		E				
Gorman Creek	403.43	I*			I	I				I	I			I	I				E		P				
Lockwood Creek	403.43	I*			I	I				I	I			I	I				E						
Lockwood Creek	403.44	I*			I	I				I	I			I	I				E						
Tapo Canyon	403.41	P*			P					P	E			E					E						
Castaic Creek	403.51	I	I	I	I	I	I			I	E			I					E		E				
Castaic Lagoon	403.51	E	E	E	E	E	E			E	E			E					E						
Castaic Lake	403.51	E	E	E	E	E	E		E	E	E			E					E		E				
Elderberry Forebay	403.51	E	E	E	E	E	E		E	Ek	E			E					E		E		E		
Elizabeth Lake Canyon	403.51	I	I	I	I	I	I			I	E			I					E						
Southfork Santa Clara River	403.51	P*				E				Pk	E			P					E		E				E
Drinkwater Reservoir	403.51	P*				E				Pk	E			P					E		E				E
Bouquet Canyon	403.51	E I	EI	PI	P I	E	P			Em	E			E	E				E				P		E
Bouquet Canyon	403.51	P*				E	P			Em	E			E	E				E		E				E
Dry Canyon Creek	403.51	P*				E	P			Em	E			E	E				E		E				E
Dry Canyon Reservoir [j]	403.51	E	E	E	E	P	P		P	Pk	E			E					E						
Bouquet Reservoir	403.52	E	E	E	E	E	E		P	Pk	E			E					E						

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.

g Condor refuge.

j Out of service

k Public access to reservoir and its surrounding watershed is prohibited by Los Angeles County Department of Public Works

l The majority of the reach is intermittent, there is a small area of rising ground water creating perennial flow.

m Access prohibited by Los Angeles County Department of Public Works in the concrete-channelized areas.

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
SANTA CLARA RIVER WATERSHED (CONT)																									
Mint Canyon Creek	403.51	I	I	I	I	I	I			Im	I			I					E						
Mint Canyon Creek	403.53	I*	I	I	I	I	I			Im	I			I					E						
Agua Dulce Canyon Creek	403.54	I*			I	I	I			I	I			I					E		E				
Agua Dulce Canyon Creek	403.55	I*			I	I	I			I	I			I					E						
Allso Canyon Creek	403.55	P*			P	E				E	E			E					E						E
Lake Hughes	403.51	P*	P	P	P	P	P			E	E			E					E						
Munz Lake	403.61	P*			P	E	P			E	E			E					E						
Lake Elizabeth	403.51	P	P	P	P	P	P			E	E			E					E		E				
CALLEGUAS-CONEJO CREEK WATERSHED																									
Mugu Lagoon c	403.11							E		Pn	E	Ed					E	E	Eo	E	Ee,p	Ef	Ef	Ed	E
Calleguas Creek Estuary c	403.11							P		Pn	E	E					E		E		Ee,p	Ef	Ef		E
Calleguas Creek	403.11	P*			E	E	E			E	E			E	E				E		Ep				E
Calleguas Creek	403.12	P*	E	E	E	E				Eq	E			E					E						
Revolon Slough	403.11	P*	P		E	E				Eq	E			E					E						E
Beardsley Wash	403.61	P*					E			E	E			E					E						
Conejo Creek	403.12	P*	E	E	E	E				Eq	E			E					E						
Conejo Creek	403.63	P*				I	I			I	I			I					E		E				
Arroyo Conejo	403.64	P*				I	I			I	I			I					E						
Arroyo Conejo	403.68	P*				I	I			I	I			I					E						
Arroyo Santa Rosa	403.63	P*				I	I				I			I					E						
Arroyo Santa Rosa	403.66	P*				I	I				I			I					E						
North Fork Arroyo Conejo	403.64	P*			E	E				E	E			E					E				E		
Arroyo Las Posas	403.12	P*	P	P	P	E				E	E			E	P				E						
Arroyo Las Posas	403.62	P*	P	P	P	E	E			E	E			E	P				E						
Arroyo Simi	403.62	P*				I					I								E		E				
Arroyo Simi	403.67	I*	I			I	I			I	I			I					E						
Tapo Canyon Creek	403.66	I*		P	P	I				I	I			I					E						
Tapo Canyon Creek	403.67	I*		P	P	I				I	I			I					E						
Gillibrand Canyon Creek	403.66	P*				I					I								E						
Gillibrand Canyon Creek	403.67	P*				I				I	I			I					E						
Lake Bard (Wood Ranch Reservoir)	403.67	E	E	E	E	P				Pr	Er			E					E						
LOS ANGELES COUNTY COASTAL STREAMS																									
Arroyo Sequit	404.44	P*				I				E	E			E	E				E		E	E	E		E
San Nicholas Canyon Creek	404.43	P*				I					I			I					E		E				

E Existing beneficial use
P Potential beneficial use
I Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
d Limited public access precludes full utilization.
e One or more rare species utilize all ocean, bays, esturaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs
m Access prohibited by Los Angeles County DPW in the concrete-channelized areas.
n Area is currently under control of the Navy: swimming is prohibited.
o Marine habitats of the Channel Islands and Mugu Lagoon serve as pinniped haul-out areas for one or more species (i.e., sea lions)
p Habitat of the Clapper Rail.
q Whenever flow conditions are suitable.
r Public access prohibited by Calleguas MWD

Table 2-1. Benefical Uses of Inland Surface Waters (Continued)

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
LA COUNTY COASTAL STREAMS (CONT)																									
Los Alisos Canyon Creek	404.42	P*								I	I			I					E		E				
[illegible]																									
Piedra Gorda Canyon Creek	404.41	P*								I	I			I					E		E				
Trancas Canyon Creek	404.37	E*								Em	E			E					E		E				
Dume Lagoon c	404.36							E		E	E	E					E		E		Ee	Pf	Pf		E
Dume Creek (Zuma Canyon)	404.36	P*								E	E			E	E				E		E	P	P		
Ramirez Canyon Creek	404.35	P*																	E						
Escondido Canyon Creek	404.34	I*								I	I			I					E		E				
Latigo Canyon Creek	404.33	I*								I	I			I					E		E				
Solstice Canyon Creek	404.32	E								E	E			E					E			P	P		
Puerco Canyon Creek	404.31	I*								I	I			I					E						
Corral Canyon Creek	404.31	I*								I	I			I					E		E				
Carbon Canyon Creek	404.16	P*								I	I			I					E		E				
Las Flores Canyon Creek	404.15	P*								I	I			I					E						
Piedra Gorda Canyon Creek	404.14	P*								I	I			I					E						
Pena Canyon Creek	404.13	P*								I	I			I	E				E						
Tuna Canyon Creek	404.12	P*								I	I			I					E						
Topanga Lagoon c	404.11	E						E		E	E	E		E			E		E		Ee	Ef	Ef		E
Topanga Canyon Creek	404.11	P*								I	I			I	E				E						
Santa Ynez Canyon	405.13	P*								I	E			E					E		E				
Santa Ynez Lake (Lake Shrine)	405.13	P*								Pk	E			E					E						
Santa Ynez Canyon Channel	405.13	E								Ps	I			P					P						
Rustic Canyon Creek	405.13	P*								I	I			I					E						
Sullivan Canyon Creek	405.13	P*								I	I			I					E						
Mandeville Canyon Creek	405.13	P*								I	I			I					E						
Coastal Streams of Palos Verdes Peninsula and Canyon Streams trib to Coastal	405.12	E								I	I			I					E		E				
Streams of Palos Verdes	405.12	P*				I				I	I			I					E		Et				
Bixby Slough and Harbor Lake	405.12	P*								E	E			E					E		E				E
Los Cerritos Channel Estuary c	405.16	E						E		E	E	E					E		E		Ee	Pf	Pf		E
Sims Pond	405.15	P*								P	E			P			E	E	E		E				
Los Cerritos Channel to Estuary	405.16	P*								P	I			I					E						E
Malaga Creek	405.17	P*								E	E	E		P					E						
Stone Canyon Reservoir	405.13	E*	E	E		P				Pk	E			E					E						
Hollywood Reservoir	405.14	E*	E	E		P				Pk	E			E					E						
Franklin Canyon Reservoir	405.15	E								Pk,u				Pu											
Upper Franklin Canyon Reservoir	405.15	P*								Pk,u	E			E					E						

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details)

Footnotes are consistent on all benefical use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4)
e One or more rare species utilize all ocean, bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
k Public access to reservoir and its surrounding watershed is prohibited by the Los Angeles Department of Water and Power.
m Access prohibited by Los Angeles County DPW in the concrete-channelized areas
s Access prohibited by Los Angeles County DPW
t Rare applies only to Agua Magna Canyon & Sepulveda Canyon areas
u These reservoirs are covered and thus inaccessible.

Table 2-1. Benefical Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
MALIBU CREEK WATERSHED																									
Malibu Lagoon c	404.21							E		E	E						E	E	E		Ee	Ef	Ef		E
Malibu Creek	404.21	P*								E	E			E	E				E		E	E	E		E
Cold Creek	404.21	P*								E	E			E	P						E	E	E		E
Las Virgenes Creek	404.22	P*								Em	E			E	P				E		E	P	P		E
Century Reservoir	404.21	P*								E	E			E					E						E
Malibou Lake	404.24	P*						E		E	E			E					E		E				E
Medea Creek	404.23														P										E
Medea Creek	404.24	I*				I				Em	E			E					E						E
Lindero Creek	404.23	P*								I	I			I					E						
Triunfo Creek	404.24	P*								Im	I			I					E						
Triunfo Creek	404.23																								
Westlake Lake	404.25	P*						E		E	E			E					E						
Potrero Valley Creek	404.25	P*				I				I	I			P					E						
Lake Eleanor Creek	404.25	P*				I				I	I			I					E						
Lake Eleanor	404.25	P*				E				E	E			E					E		E				E
Las Virgenes (Westlake) Reservoir	404.25	E	E	E	E					Pk,v	E			P					E						
Hidden Valley Creek	404.26	I*				I				I	I			I					E						
Lake Sherwood	404.26	P*				E		E		E	E			E					E						E
BALLONA CREEK WATERSHED																									
Ballona Creek Estuary c,w	405.13							E		E	E	E					E	E	E		Ee	Ef	Ef	E	
Ballona Lagoon/ Venice Canals c	405.13							E		E	E	E					E	E	E		Ee	Ef	Ef	E	E
Ballona Wetlands c	405.13									E	E						E		E		Ee	E	E		E
Del Rey Lagoon c	405.13							E		E	E	E					E		E		Ee	Ef	Ef		E
Ballona Creek to Estuary	405.13	P*								Ps	E			P					P						
Ballona Creek	405.15	P*								Ps	E			P					E						
DOMINGUEZ CHANNEL WATERSHED																									
Dominguez Channel Estuary c,w	405.12							P		Es	E	E					E	E	E		Ee	Ef	Ef		
Dominguez Channel to Estuary	405.12	P*								Ps	E			P					P		E				
LOS ANGELES RIVER WATERSHED																									
Los Angeles River Estuary c,w	405.12		E					E		E	E	E					E	E	E		Ee	Ef	Ef	P	E
Los Angeles River to Estuary	405.12	P*	P			E				E	E			E				E	E		E	P	P	P	
Los Angeles River	405.21	P*	P			E				E	E			E					E						E
Compton Creek	405.15	P*				E				Es	E			E					E						E

E. Existing beneficial use
P. Potential beneficial use
I. Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages for more details).

Footnotes are consistent on all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.

c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).

e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.

f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by fr[illegible] inputs.

k Public access to reservoir and its surrounding watershed is prohibited by LADWP.

m Access prohibited by Los Angeles County DPW in the concrete-channelized areas.

v Public water supply reservoir. Owner prohibits public entry.

w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionally equivalent to estuaries.

s Access prohibited by Los Angeles County DPW.

Table 2-1. Benefical Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET
LA RIVER WATERSHED (CONTINUED)																									
Rio Hondo below Spreading Grounds	405.15	P*				I				Pm	E			P					I						
Rio Hondo to Spreading Grounds	405.15	P*				I				Im	E			P					I						
Rio Hondo	405.15	P*				I				Im	E			P					I						
Alhambra Wash	405.41	P*				I				Pm	I			P					P		E				
Rubio Wash	405.41	P*				I				Im	I			I					E		P				
Rubio Canyon	405.31	P*				E				I	I			I					E		E				E
Eaton Wash	405.41	P*				I				I	I			I					E		E				E
Eaton Wash (below dam)	405.31	P*				I				Im	I			I					E						
Eaton Wash (above dam)	405.31	P*				I				I	I			I					E						
Eaton Dam and Reservoir	405.31	P*				I				P	Id			I					E						
Eaton Canyon Creek	405.31	P*				E				E	E			E					E		E				E
Arcadia Wash (lower)	405.41	P*				I				Pm	I			P					P						
Arcadia Wash (upper)	405.33	P*				I				Pm	I			P					P						
Santa Anita Wash (lower)	405.41	P*				I				Pm	E			P					P		E				
Santa Anita Wash (upper)	405.33	P*				E				Em	E			E					E		E				
Little Santa Anita Canyon Creek	405.33	P*				I				I	I			I					E						
Big Santa Anita Reservoir	405.33	P*				E				Px	E			E	E				E						
Santa Anita Canyon Creek	405.33	E				E				E	E			E	E				E		E		E		E
Winter Creek	405.33	P*				I				I	E			E					E						
East Fork Santa Anita Canyon	405.33	P*				E				E	E			E	E				E				E		E
Sawpit Wash	405.41	I				I				Im	I			I					E						
Sawpit Canyon Creek	405.41	P*				I				I	I			I					E		E				
Sawpit Dam And Reservoir	405.41	P*				I				Px	I			I					E						
Monrovia Canyon Creek	405.41	I				I				I	I			I					E						E
Arroyo Seco S. Of Devil's Gates (L)	405.15	P*								I	I			P					P						
Arroyo Seco S. Of Devil's Gates (U)	405.31	P*								Ig	I			P					P		E				
Devil's Gate Reservoir (lower)	405.31	P*				I				Im	I			I					E						
Devil's Gate Reservoir (upper)	405.32	I*				I				I	I			I					E						
Arroyo Seco	405.32	E	E	E		E				Em	E			E	E				E						E
Millard Canyon Creek	405.32	E				E				E	E			E					E		E				E
El Prieto Canyon Creek	405.32	P*				I				I	I			I	I				E						
Little Bear Canyon Creek	405.32	P*				I				I	I			I					E						E
Verdugo Wash	405.24	P*				I				Pm	I			P					P						
Hails Canyon Channel	405.24	P*				I				Im	I			I					E						
Sopwer Canyon	405.32	P*				I				Im	I			I					E						
Pickens Canyon	405.24	I*				I				Im	I			I					E						
Shields Canyon	405.24	I	I	I		I				Im	I			I					E						

E Existing beneficial use
P Potential beneficial use
I Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.
a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
m Access prohibited by Los Angeles County DPW in concrete-channelized areas.
x Owner prohibits entry.

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Table 2-1. Benefical Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
LA RIVER WATERSHED (CONT)																									
Dunsmore Canyon Creek	405.24	I	I	I		I				I	I			I					E						
Burbank Western Channel	405.21	P*								Pm	I			P					P						
La Tuna Canyon Creek	405.21	P*								Im	I			I					E						
Tujunga Wash	405.21	P*				I				Pm	I			P	P				P						
Hansen Flood Control Basin & Lakes	405.23	P*				E				E	E			E	E				E		E				
Lopez Canyon Creek	405.21	P*				I				Im	I			I					E						
Little Tujunga Canyon Creek	405.21	P*				I				Im	I			I					E		E				
Kagel Canyon Creek	405.23	P*				I				Im	I			I					E						
Big Tujunga Canyon Creek	405.23	P*				E				E	E			E	E				E		E		E		E
Upper Big Tujunga Canyon Creek	405.23	P*				E				E	E			I	P				E						E
Haines Canyon Creek	405.23	P*				I				Im	I			I					E		E				
Vasquez Creek	405.23	P*				E				E	E			P	P				E						E
Clear Creek	405.23	P*				E				E	E			E	E				E						E
Big Tujunga Reservoir	405.23	P*				E				Pk	E			E	P				E				E		
Mill Creek	405.23	P*				E				E	E			E	E				E						E
Pacoima Wash	405.21	P*				E				Pm	E			E					E		E				
Pacoima Reservoir	405.22	P*				E				E	E			E					E						
Pacoima Canyon Creek	405.22	P*				E				E	E			E	E				E		E		E		E
Stelson Canyon Creek	405.22	P*				I				Pm	E			P					P						
Wilson Canyon Creek	405.22	P*				I				Em	E			I					E						
May Canyon Creek	405.22	P*				I				I	E			I					E						
Sepulveda Flood Control Basin	405.21	P*				E				E	E			E					E						E
Bull Creek	405.21	P*				I				Im	I			I					E						
Los Angeles Reservoir	405.21	E	E	E		P				Pk	E			E					E		E				
Lower Van Norman Reservoir	405.21	E*	E	E		E				E	E			E					E		E				
Solano Reservoir	405.21	E*								Pk,u				Pu					E						
Caballero Creek	405.21	P*				I				Im	I			I					E						
Aliso Canyon Wash and Creek	405.21	P*				I				Im	I			I					E						
Limekiln Canyon Wash	405.21	P*				I				Im	I			I					E						
Browns Canyon Wash and Creek	405.21	P*				I				Im	I			I					E						
Arroyo Calabasas	405.21	P*				I				Pm	I			P					P						
McCoy Canyon Creek	405.21	P*				I				I	I			I					E						
Dry Canyon Creek	405.21	P*				I				Im	I			I					E						
Bell Creek	405.21	P*				I				Im	I			I					E						
Chatsworth Reservoir	405.21	P*				E				P	E			E					E						
Dayton Canyon Creek	405.21	P*				I				I	I			I					E						

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages for more details).

Footnotes are consistent on all beneficial use tables.
a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
k Public access to reservoir and its surrounding watershed is prohibited by Los Angeles Department of Water and Power.
m Access prohibited by Los Angeles County DPW in concrete-channelized areas.
u This reservoir is covered and thus inaccessible.
y Currently dry and no plans for restoration.

Table 2-1. Benefical Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET
LOS ANGELES RIVER WATERSHED (CONT)																									
ISOLATED LAKES AND RESERVOIRS:																									
Eagle Rock Reservoir	405.26	P								Pk,u	E			Pu					E						
Echo Lake	405.15	P*								E	E			P					E						
El Dorado Lakes	405.15	P*								E	E			P					E						E
Elysian Reservoir	405.15	E*	E	E						Pk	E			P					E						
Encino Reservoir	405.21	P	E	E						Pk	E			P					E						
Ivanhoe Reservoir	405.15	E	E	E						Pk	E			P					E						
Lincoln Park Lake	405.15	P*								P	E			P					E						
Silver Lake Reservoir	405.15	E*	E	E						Pk	E			P					E						
Toluca Lake	405.21	P								Pk	E			P					E						
SAN GABRIEL RIVER WATERSHED																									
San Gabriel River Estuary c,w	405.15	P	E					E		E	E	E					E	E	E		Ee	E[f]	E[f]	P	
San Gabriel River: Firestone Blvd-Estuary	405.15	P*	P	P		I				Em	E			P					E		E				
San Gabriel River: Whittier N-Firestone	405.15	P*				I				Em	E			I					E						
San Gabriel River	405.41	P*				I				Im	I			I					E						
San Gabriel River	405.42	E	E	E	E	E				E	E			E	E				E		E				
San Gabriel River: Main Stem z	405.43	E	E	E	E	E				E	E			E	E				E		E				
North Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below																							
West Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below																							
East Fork San Gabriel River	405.43	For uses please see UPPER SAN GABRIEL TRIBUTARIES below																							
Coyote Creek to Estuary	405.15	P*	P	P						Pm	I			P					P		E				
Whittier Narrows Flood Control Basin	405.41	P*				E				E	E			E					E		P				
Legg Lake	405.41	P*				E				E	E			E	E				E						E
San Jose Creek	405.41	P				I				Pm	I			I					E						
San Jose Creek	405.51	P				I				Pm	I			I					E						
Puente Creek	405.41	P*				I				P	I			P					P						
Thompson Wash	405.52	P*				I				Im	I			I					E						
Thompson Creek	405.53	P				I				Im	I			I					E		E				
Thompson Creek Dam & Reservoir	405.53	P				I				Im	I			I					E		E				
Walnut Creek Wash	405.41	P*				I				Im	I			I					E						E
Big Dalton Wash	405.41	P*				I				Pm	I			P					P						
Big Dalton Canyon Creek	405.41	P				I				Pm	I			I					E						E
Mystic Canyon	405.41	P				I				Pm	I			I					E						
Big Dalton Dam & Reservoir	405.41	P*				E				Px	E			E					E						

E Existing beneficial use
P Potential beneficial use
I Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03 Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details)

Footnotes are consistent on all beneficial use tables.

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c Coastal waterbodies which are also listed in Coastal Features Table (2-3) or in Wetlands Table (2-4).
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
k Public access to reservoir and its surrounding watershed is prohibited by the Los Angeles Department of Water and Power
w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionaly equivalent to estuaries
m Access prohibited by Los Angeles County DPW in concrete-channelized areas
x Owner prohibits entry
u This reservoir is covered and thus inaccessible
z Listed twice in this table (see next page)

Table 2-1. Benefical Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET
SAN GABRIEL RIVER WATERSHED (CONT)																									
Bell Canyon Creek	405.41	P*				I				I	I			I					E						
Little Dalton Wash	405.41					I				Pm	I			P					P						
Little Dalton Canyon Creek	405.41					I				I	I			I					E						E
San Dimas Wash (lower)	405.41	P*				I				Im	I			I					E		E				
San Dimas Wash (upper)	405.44	P*				E				Im	I			I					E						
San Dimas Dam and Reservoir	405.44	E*				E				Px	E			E	E				E						
San Dimas Canyon Creek[z]	405.44	E*				E				E	E			E	E				E						E
West Fork San Dimas Canyon	405.44	E*				E				E	E			E	P				E						E
Wolfskill Canyon	405.44	E*				E				E	E			E	P				E		E				E
Puddingstone Dam and Reservoir	405.52	E*			E	E				E	E			E	E				E		E				
Puddingstone Wash	405.41	E*				I				Im	I			I					E						
Marshall Creek and Wash	405.41	E*				I				Im	I			I					E						
Marshall Creek and Wash	405.53	E*				I	I			Im	I			I					E		E				E
Live Oak Wash	405.62	E*				I	I			I	I			I					E						
Live Oak Creek And Wash	405.63	E*				I	I			I	I			I					E						
Live Oak Dam and Reservoir	405.53	E*				E	E			E	E			E					E						
Emerald Creek And Wash	405.53	E*				I	I			Im	I			I					E						
Santa Fe Flood Control Basin	405.41	P*				I				P	I			I					E						E
Bradbury Canyon Creek[z]	405.41	P*				I				I	I			I					E						
Spinks Canyon Creek	405.41	P*				I				I	I			I					E						
Maddock Canyon Creek	405.43	P*				I				I	I			I					E						
Van Tassel Canyon	405.43	P*				I				I	I			I					E		E				
Fish Canyon Creek	405.43	P*	I	I	I	E				E	E			E					E		E		E		E
Roberts Canyon Creek	405.43	P*				I				I	I			I					E		E				E
Morris Reservoir	405.43	E	E	E	E	E			E	P	E			E	E				E				E		
San Gabriel Reservoir	405.43	E	E	E	E	E			E	E	E			E	E				E						
UPPER SAN GABRIEL RIVER TRIBUTARIES																									
San Gabriel River: Main Stem z	405.43	E	E	E	E	E				E	E			E	E				E						E
Cattle Canyon Creek	405.43	P*				E				E	E			E	E				E		E		E		E
Coldwater Canyon Creek	405.43	E				E				E	E			E	E				E		E		E		E
Cow Canyon Creek	405.43	P*				E				P	E			E	E				E		E		E		E
East Fork San Gabriel River	405.43	P*				E				E	E			E	E				E		E		E		E
Allison Gulch	405.43	P*				E				E	E			E	E				E				E		E
Fish Fork	405.43	P*				E				E	E			E	E				E				E		E

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages [illegible] more details).

Footnotes are consistent on all benefical use tables.
a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
m Access prohibited by Los Angeles County DPW in concrete channelized areas.
x Owner prohibits entry.
z Also listed on previous page.

Table 2-1. Beneficial Uses of Inland Surface Waters (Continued).

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
SAN GABRIEL RIVER WATERSHED (CONT)																									
North Fork San Gabriel River	405.43	P*				E				E	E			E	E				E		E		E		E
Bichota Canyon	405.43	P*				E				E	E			E	E				E		E		E		E
Coldbrook Creek	405.43	P*				E				E	E			E	E				E		P		E		
Cedar Creek	405.43	P*				E				E	E			E	E				E		E		E		E
Crystal Lake	405.43	P*								E	E			E	E				E				E		
Soldier Creek	405.43	P*								I	I			I					E				E		
West Fork San Gabriel River	405.43	EPW				E				E	E			E	E				E		E		E		E
Bear Creek	405.43	P*				E				E	E			E	E				E		E		E		E
Cogswell Reservoir	405.43	P*				E				E	E			E	E				E				E		
Devils Canyon Creek	405.43	P*				E				E	E			E	E				E				E		E
ISLAND WATERCOURSES																									
Anacapa Island	406.10	P*								P				P					E		E				
San Nicolas Island	406.20	P*								P				P					E		Eaa				
Santa Barbara Island	406.30	P*								E	E			P					E		E				
Santa Catalina Island	406.40	E*				E				E	E			E					E		E				
Middle Ranch System	406.40	P*				E				E	E			E					E		E				
San Clemente Island	406.50	E*				E				E	E			E					E		E				
SAN ANTONIO CREEK WATERSHED ab																									
San Antonio Dam And Reservoir	481.23	E*				E				E	E			E					E						
San Antonio Canyon Creek	481.23	E		E	E	E			E	E	E			E	E				E				E		

E Existing beneficial use
P Potential beneficial use
I Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB 89-03. Some designations may be considered for exemptions at a later date. (See pages 2-3,4 for more details).

Footnotes are consistent on all beneficial use tables.
a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
aa Habitat of the Channel Island Fox.
ab This watershed is also in Region 8 (801.23).

Table 2-2. Beneficial Uses of Ground Waters.[ac]

DWR Basin No.[ad]	BASIN	MUN	IND	PROC	AGR	AQUA
	PITAS POINT AREA[ae]	E	E	P	E	
4-1	OJAI VALLEY					
	Upper Ojai Valley					
	West of Sulfur Mountain Road	E	E	E	E	
	Central area	E	E	E	E	
	Sisar area	E	E	E	E	
4-2	Lower Ojai Valley					
	West of San Antonio--Senior Canyon Creeks	E	E	E	E	
	East of San Antonio--Senior Canyon Creeks	E	E	E	E	
4-3	VENTURA RIVER VALLEY					
	Upper Ventura	E	E	E	E	
	San Antonio Creek area	E	E	E	E	
	Lower Ventura		E	P	P	
	VENTURA CENTRAL[af]					
4-4	Santa Clara--Piru Creek area					
	Upper area (above Lake Piru)		E	E	E	
	Lower area east of Piru Creek	E	E	E	E	
	Lower area west of Piru Creek	E	E	E	E	
	Santa Clara--Sespe Creek area					
	Topa Topa (upper Sespe) area	P	E	P	E	
	Fillmore area					
	Pole Creek Fan area	E	E	E	E	
	South side of Santa Clara River					
	Remaining Fillmore area	E	E	E	E	E
	Santa Clara--Santa Paula area					
	East of Peck Road					
	West of Peck Road	E	E	E	E	
	Oxnard Plain	E	E	E	E	
	Oxnard Forebay					
	Confined aquifers	E	E	E	E	
	Unconfined and perched aquifers	E	P		E	

DWR Basin No.[ad]	BASIN	MUN	IND	PROC	AGR	AQUA
	VENTURA CENTRAL (CONT.)					
4-6	Pleasant Valley					
	Confined aquifers	E	E	E	E	
	Unconfined and perched aquifers	E	E	E	E	
4-7	Arroyo Santa Rosa	E	E	E	E	
4-8	Las Posas Valley					
	South Las Posas area					
	NW of Grimes Cyn Rd. and LA Ave. & Somis Rd	E	E	E	E	
	E of Grimes Cyn Rd and Hitch Blvd	E	E	E	E	
	S of LA Ave between Somis Rd and Hitch Blvd	E	E	P	E	
	Grimes Canyon Rd. and Broadway area	E	E	E	E	
	North Las Posas area	E	E	E	E	
4-5	UPPER SANTA CLARA					
	Acton Valley	E	E	E	E	
	Sierra Pelona Valley (Agua Dulce)	E	E		E	
	Upper Mint Canyon	E	E	E	E	
	Upper Bouquet Canyon	E	P	P	E	
	Green Valley	E	P	P	E	
	Lake Elizabeth-Lake Hughes area	E	P	P	E	
4-4.07	EASTERN SANTA CLARA					
	Santa Clara-Mint Canyon	E	E	E	E	
	South Fork	E	E	E	E	
	Placerita Canyon	E	E	E	E	
	Santa Clara-Bouquet and San Francisquito Canyons	E				
	Castaic Valley	E	E	E	E	
	Saugus Aquifer	E				
4-9	SIMI VALLEY					
	Simi Valley Basin					
	Confined aquifers	E	E	E	E	
	Unconfined aquifers	E	E	E	E	
	Gillibrand Basin	E	E	P	E	
4-10	CONEJO VALLEY	E	E	E	E	

E: Existing beneficial use
P: Potential beneficial use
See pages 2-1 to 2-3 for descriptions of beneficial uses.

Footnotes are consistent for all beneficial use tables.

ac Beneficial uses for ground waters outside of the major basins listed on this table and outlined in Fig. 1-9 have not been specifically listed. However, ground waters outside of the major basins are, in many cases, significant sources of water. Furthermore, ground waters outside of the major basins are either potential or existing sources of water for downgradient basins, and as such, beneficial uses in the downgradient basins shall apply to these areas.

ad Basins are numbered according to California Department of Water Resources (DWR) Bulletin No. 118-80 (DWR, 1980).

ae Ground waters in the Pitas Point area (between the lower Ventura River and Rincon Point) are not considered to comprise a major basin and, accordingly, have not been designated a basin number by the DWR or outlined on Fig. 1-9.

af The Santa Clara River Valley (4-4), Pleasant Valley (4-6), Arroyo Santa Rosa Valley (4-7), and Las Posas Valley (4-8) Ground Water Basins have been combined and designated as the Ventura Central Basin (DWR, 1980).

Table 2-2. Beneficial Uses of Ground Waters (Continued). ac

DWR Basin No. ad	BASIN	MUN	IND	PROC	AGR	AQUA
4-11	LOS ANGELES COASTAL PLAIN					
	[illegible]	[illegible]	[illegible]	E	E	
	[illegible]	[illegible]	E	[illegible]	E	
	Hollywood Basin	E	E	E	E	
	Santa Monica Basin	E	E	E	E	
	[illegible]					
4-12	SAN FERNANDO VALLEY					
	Sylmar Basin	E	E	E	E	
	[illegible]	[illegible]	[illegible]	E	E	
	San Fernando Basin					
	West of Highgway 405	E	E	E	E	
	East of Highway 405 (overall)	[illegible]	E	E	E	
	Sunland-Tujunga area ah	[illegible]	E	E	E	
	Foothill area ag	E	E	E	E	
	Area encompassing RT-Tujunga-Erwin- [illegible] Crystal Springs-Headworks-Glendale/Burbank Well Fields	E	E	E	E	
	Narrows area (below confluence of Verdugo [illegible]	[illegible]	[illegible]	[illegible]	E	
	Eagle Rock Basin	E	E	E	E	
4-13	SAN GABRIEL VALLEY					
	Raymond Basin					
	Monk Hill sub-basin	E	E	E	E	
	Santa Anita area	E	E	E	E	
	[illegible]	[illegible]	[illegible]	E	E	
	Main San Gabriel Basin					
	Western area ai	E	E	E	E	
	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
	Puente Basin	E	E	E	E	

Table Page 2

DWR Basin No. ad	BASIN	MUN	IND	PROC	AGR	AQUA
4-14	UPPER SANTA ANA VALLEY					
8-2aj	Live Oak area	E	E	E	E	
	Claremont Heights area	[illegible]	[illegible]	[illegible]	[illegible]	
	Pomona area	E	E	E	E	
	Chino area	E	E	E	E	
	Spadra area	E	E	E	E	
4-15	TIERRA REJADA	E	P	P	E	
4-16	HIDDEN VALLEY	E	P		E	
4-17	LOCKWOOD VALLEY	E	E		E	
4-18	HUNGRY VALLEY AND PEACE VALLEY	E	P	E	E	
4-19	THOUSAND OAKS AREA	E	E	E	E	
4-20	RUSSELL VALLEY					
	Russell Valley	E	P		E	
	Triunfo Canyon area	P	P		E	
	Lindero Canyon area	P	P		E	
	Las Virgenes Canyon area	E	P		E	
4-21	CONEJO-TIERRA REJADA VOLCANIC AREA ak	E			E	
	SANTA MONICA MOUNTAINS SOUTHERN SLOPES al					
	Camarillo area	E	P		E	
	Point Dume area	E	P		E	
4-22	Malibu Valley	P	P		E	
	Topanga Canyon area	[illegible]	[illegible]		E	
	SAN PEDRO CHANNEL ISLANDS am					
	Anacapa Island	P	P			
	San Nicolas Island	E	[illegible]		[illegible]	
	Santa Catalina Island	E	P		E	
	San Clemente Island	P	P			
	Santa Barbara Island	P	P			

E Existing beneficial use
P Potential beneficial use
See pages 2-1 to 2-3 for descriptions of beneficial uses.

Footnotes are consistent for all beneficial use tables.

ac Beneficial uses for ground waters outside of the major basins listed on this table and outlined in Fig 1-9 have not been specifically listed. However, ground waters outside of the major basins are, in many cases, significant sources of water. Furthermore, ground waters outside of the major basins are either potential or exisitng sources of water for downgradient basins, and as such, beneficial uses in the downgradient basins shall apply to these areas.

ad Basins are numbered according to DWR Bulletin No. 118-80 (DWR, 1980).

ag The category for the Foothill Wells area in the old Basin Plan incorrectly grouped ground water in the Foothill area with ground water in the Sunland-Tujunga area. Accordingly, the new categories, Foothill area and Sunland-Tujunga area, replace the Foothill Wells area.

ah Nitrite pollution in the groundwater of the Sunland-Tujunga area currently precludes direct MUN uses. Since the ground water in this area can be treated or blended (or both), it retains the MUN designation.

ai All of the ground water in the Main San Gabriel Basin is covered by the beneficial uses listed under Main San Gabriel Basin-eastern area and western area. Walnut Creek, Big Dalton Wash and Little Dalton Wash separate the eastern area from the western area (see dashed line on Fig 2-17). Any ground water upgradient of these areas is subject to downgradient beneficial uses and objectives, as explained in Footnote ac.

aj The border between Regions 4 and 8 crosses the Upper Santa Ana Valley Ground Water Basin.

ak Ground water in the Conejo-Tierra Rejada Volcanic Area occurs primarily in fractured vocanic rocks in the western Santa Monica Mountains and Conejo Mountain areas. These areas have not been delineated on Fig 1-9.

al With the exception of ground water in Malibu Valley (DWR Basin No. 4-22), ground waters along the southern slopes of the Santa Monica Mountains are not considered to comprise a major basin and accordingly have not been designated a basin number by DWR or outlined on Fig 1-9.

am DWR has not designated basins for ground waters on the San Pedro Channel Islands.

R0003485

Table 2-3. Benefical Uses of Coastal Features.

COASTAL FEATURE [a]	Hydro. Unit No.	MUN	IND	PROC	NAV	POW	REC1	REC2	COMM	WARM	COLD	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET [b]
VENTURA COUNTY COASTAL																				
Nearshore Zone *					E		E	E	E				E	E	Ean	Ee,n	Ef,n	Ef,n	E	
Offshore Zone *					E		E	E	E				E	E		Ee,n	Ef,n	Ef,n	E	
Rincon Beach	401.00				E		E	E	E				E	E			E		E	
Ventura River Estuary c	403.11				E		E	E	E	E		E	E	E		Ee	Ef	Ef	E	E
Ventura Keys (Marina) c	403.11				E		E	E	E				E	E						
Ventura Marina	403.11		E		E		E	E	E				E	E					E	
Santa Clara River Estuary c	403.11				E		E	E	E			E	E	E		Ee	Ef	Ef		E
Mandalay Beach	403.11				E		E	E	E				E	E		Ee,r			E	
McGrath Lake c	403.11						Eq	Eq	P			E		E		Ee,r				
Edison Canal Estuary	403.11		E				Eao	E					E	E		Ee				
Channel Islands Harbor	403.11		E		E		Eap	E	E				E	E						
Mandalay Beach (Marina)	403.11				E		E	E	E				E	E						
Port Hueneme (Harbor)	403.11				E		E	E	E				E	E						
Ormond Beach	403.11		E		E	E	E	E	E				E	E		Ee		P	E	
Ormond Beach Wetlands c	403.11						E	E				E		E		Ee				E
Mugu Lagoon c	403.11				E		Em	E	Eo			E	E	E	E	Ee,p	Ef	Ef	Ed	E
Calleguas Creek Estuary c	403.11				E		Em	E	E			E		E	E	Ee,p	Ef	Ef		E
LOS ANGELES COUNTY COASTAL																				
Nearshore Zone *					E		E	E	E				E	E	Ean	Ee	Ef,n	Ef,n	E	
Offshore Zone *					E		E	E	E				E	E		Ee	Ef,n	Ef,n	E	
Nicholas Canyon Beach	404.43				E		E	E	E				E	E				P	E	
Trancas Beach	404.43				E		E	E	E				E	E				P	E	
Zuma County Wetland c	404.43				E		E	E	E				E	E				P	E	
Dume State Beach	404.36				E		E	E	E				E	E				P	E	
Dume Lagoon c	404.36				E		E	E	E			E		E		Ee	Pf	Pf		E
Escondido Beach	404.36				E		E	E	E				E	E				P	E	
Point Dume (Marine Reserve)	404.36				E		E	E	E				E	E				P	E	

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required
* Nearshore is defined as the zone bounded by the shoreline and a line 1000 feet from the shoreline or the 30-foot depth contours, whichever is further from the shore line. Longshore extent is from Rincon Creek to the San Gabriel River Estuary.

Footnotes are consistent for all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea bounderies. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed seperately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Inland Surface Waters Table (2-1) or in Wetlands Table (2-4).
d Limited public access precludes full utilization.
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
n Area is currently under control of the Navy; swimming is prohibited.
o Marine Habitats of the Channel Islands and Mugu Lagoon serve as pinniped haul-out areas for one or more species (i.e., sea lions).
p Habitat of the Clapper Rail.
an Areas of Special Biological Significance (along coast from Latigo Point to Laguna Point) and Big Sycamore Canyon and Abalone Cove Ecological Reserves and Point Fermin Marine Life Refuge.
ao Water contact recreation activities are prohibited by the Southern California Edison Co.
ap Water contact recreational activities are limited to the beach area at the harbor by Marina Authorities.
aq Water contact recreational activities are limited by City of Oxnard to within the easement area of each home.
ar Areas exhibiting large shellfish populations include Malibu, Dume, Point Fermin, White Point and Zuma Beach.

Table 2-3. Benefical Uses of Coastal Features (Continued).

COASTAL FEATURE [a]	Hydro. Unit No.	MUN	IND	PROC	NAV	POW	REC1	REC2	COMM	WARM	COLD	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET [b]
LOS ANGELES COUNTY COASTAL (CONT)																				
Amarillo Beach					E		E	E	E				E	E				E	E	
Malibu Beach	404.21				E		E	E	E				E	E			E	Eas	Ear	
Malibu Lagoon c	404.21				E		E	E				E	E	E		Ee	Ef	Ef		E
Carbon Beach					E		E	E	E				E	E				P	E	
La Costa Beach					E		E	E	E				E	E				P	E	
Las Flores Beach	404.15				E		E	E	E				E	E				P	E	
Las Tunas Beach	404.12				E		E	E	E				E	E				P	E	
Topanga Beach					E		E	E	E				E	E				P	E	
Topanga Lagoon c					E		E	E	E			E	E	E		Ee	Ef	P	E	E
Will Rogers State Beach	405.13				E		E	E	E				E	E				P	E	
Santa Monica Beach	405.13				E		E	E	E				E	E			E	Eas	E	
Venice Beach					E		E	E	E				E	E		E	E	Eas	E	
Marina Del Rey							E													
Harbor	405.13				E		E	E	E				E	E						
Public Beach Areas	405.13				E		E	E	E				E	E					E	
All other Areas																E				
Entrance Channel					E		E	E	E				E	E		E			E	
Ballona Creek Estuary c,w	405.13				E		E	E	E			E	E	E		Ee	Ef	Ef	E	
Ballona Lagoon/Venice Canals c	405.13				E		E	E	E			E	E	E		Ee	Ef	Ef	E	E
Ballona Wetlands																Ee	Ef			
Del Rey Lagoon c					E		E	E	E			E		E		Ee	Ef	E	E	E
Dockweiler Beach	405.12		E		E		E	E	E				E	E				P		
Manhattan Beach	405.12				E		E	E	E				E	E				P	E	
Hermosa Beach																				
Kiwi Harbor					E		E						E			E				
Redondo Beach	405.12		E		E		E	E	E				E	E		E	E	Eas	E	
Torrance Beach	405.12				E		E	E	E				E	E			E	Eas	E	
Point Vicente Beach																				
Royal Palms Beach																				

E: Existing beneficial use
P: Potential beneficial use
I: Intermittent beneficial use
E, P, and I shall be protected as required

Footnotes are consistent for all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.

c Coastal waterbodies which are also listed in Inland Surface Waters Table (2-1) or in Wetlands Table (2-4)

e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting

f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs

sr Areas exhibiting large shellfish populations include Malibu, Point Dume, Point Fermin, White Point and Zuma Beach

ss Most frequently used grunion spawning beaches. Other beaches may be used as well.

w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionally equivalent to estuaries

Table 2-3. Benefical Uses of Coastal Features (Continued).

COASTAL FEATURE [a]	Hydro. Unit No.	MUN	IND	PROC	NAV	POW	REC1	REC2	COMM	WARM	COLD	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET [b]
LOS ANGELES COUNTY COASTAL (CONT)																				
[illegible]	[illegible]																			
Los Angeles-Long Beach Harbor																				
Outer Harbor	405.12				E		E	E	E				E			E			P	
[illegible]	[illegible]																			
All Other Inner Areas	405.12		E		E		P	E	E				E			Ee			P	
Dominguez Channel Estuary c,w	405.12				P		E	E	E			E	E	E		Ee	Ef	Ef		
[illegible]	[illegible]																			
Los Cerritos Wetlands c	405.15				E		E	E	E			E		E		Ee	Pf	Pf	E	E
Los Cerritos Channel Estuary c	405.12		E		E		E	E	E			E	E	E		Ee	Ef	Ef	E	
[illegible]	[illegible]																			
Public Beach Areas	405.12				E		E	E	E				E			E		P		
All other Areas	405.12						P	E	E				E			E			P	
[illegible]	[illegible]																			
[illegible]	[illegible]																			
ISLANDS: NEARSHORE ZONES+																				
[illegible]	[illegible]																			
Begg Rock Nearshore Zone	406.20						E	E	E				E	Eo	Eat	E		P	E	
Santa Barbara Island	406.30				E		E	E	E				E	Eo	Eat	E		P	E	
[illegible]	[illegible]																			
[illegible]	[illegible]																			
[illegible]	[illegible]																			
[illegible]	[illegible]																			

E. Existing beneficial use
P. Potential beneficial use
I. Intermittent beneficial use
E, P, and I shall be protected as required
* Asterixed MUN designations are designated under SB 88-63 and RB-03 Some designations may be considered for exemptions at a later date (See pages 2-3 and 2-4 for more details).
+ Nearshore is defined as the zone bounded by the shoreline and a line 1000 feet from the shoreline or the 30-foot depth contours, whichever is further from the shore line.

Footnotes are consistent for all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.
b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.
c Coastal waterbodies which are also listed in Inland Surface Waters Table (2-1) or in Wetlands Table (2-4).
e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.
f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.
o Marine Habitats of the Channel Islands and Mugu Lagoon serve as pinniped haul-out areas for one or more species (i.e., sea lions).
w These areas are engineered channels. All references to Tidal Prisms in Regional Board documents are functionally equivalent to estuaries.
ss Most frequently used grunion spawning beaches. Other beaches may be used as well.
st Areas of Special Biological Significance or ecological reserves.

Table 2-4. Beneficial Uses of Significant Coastal Wetlands *.

WATERSHED[a]	Hydro. Unit No.	MUN	IND	PROC	AGR	GWR	FRSH	NAV	POW	REC1	REC2	COMM	AQUA	WARM	COLD	SAL	EST	MAR	WILD	BIOL	RARE	MIGR	SPWN	SHELL	WET[b]
Ventura River Estuary c	402.10							E		E	E	E		E			E	E	E		Ee	Ef	Ef	E	E
Santa Clara River Estuary c	403.11							E		E	E	E					E	E	E		Ee	Ef	Ef		E
McGrath Lake c	403.11									Ed	Ed	P					E		E		Ee				E
Ormond Beach Wetlands c	403.11									E	E						E		E		Ee				E
Mugu Lagoon c	403.11							E		Pn	E	Ed					E	E	Eo	E	Ee,p	Ef	Ef	Ed	E
Dume Lagoon c	403.36							E		E	E	E					E		E		Ee	Pf	Pf		E
Malibu Lagoon c	404.21							E		E	E						E	E	E		Ee	Ef	Ef		E
Topanga Lagoon c	404.11							E		E	E	E					E		E		Ee	Ef	Ef		E
Ballona Lagoon/Venice Canals c	405.13							E		E	E	E					E	E	E		Ee	Ef	Ef	E	E
Ballona Wetlands c	405.13									E	E						E		E		Ee	Ef	Ef		E
Del Rey Lagoon c	405.12							E		E	E	E					E		E		Ee	Ef	Ef		E
Los Cerritos Wetlands c	405.15							E		E	E	E					E		E		Ee	Pf	Pf	E	E

* This list may not be all inclusive. More areas may be added as information becomes available.

E: Existing beneficial use

P: Potential beneficial use

I: Intermittent beneficial use

E, P, and I shall be protected as required

Footnotes are consistent for all beneficial use tables.

a Waterbodies are listed multiple times if they cross hydrologic area or subarea boundaries. Beneficial use designations apply to all tributaries to the indicated waterbody, if not listed separately.

b Waterbodies designated as WET may have wetlands habitat associated with only a portion of the waterbody. Any regulatory action would require a detailed analysis of the area.

c Coastal waterbodies which are also listed in Inland Surface Waters Table (2-1) or in Coastal Features Table (2-3)

d Limited public access precludes full utilization.

e One or more rare species utilize all ocean, bays, estuaries, and coastal wetlands for foraging and/or nesting.

f Aquatic organisms utilize all bays, estuaries, lagoons and coastal wetlands, to a certain extent, for spawning and early development. This may include migration into areas which are heavily influenced by freshwater inputs.

n Area is currently under control of the Navy: swimming is prohibited.

o Marine Habitats of the Channel Islands and Mugu Lagoon serve as pinniped haul-out areas for one or more species (i.e., sea lions).

p Habitat of the Clapper Rail.

Figure 2-1. Miscellaneous streams and coastal features, Ventura County.

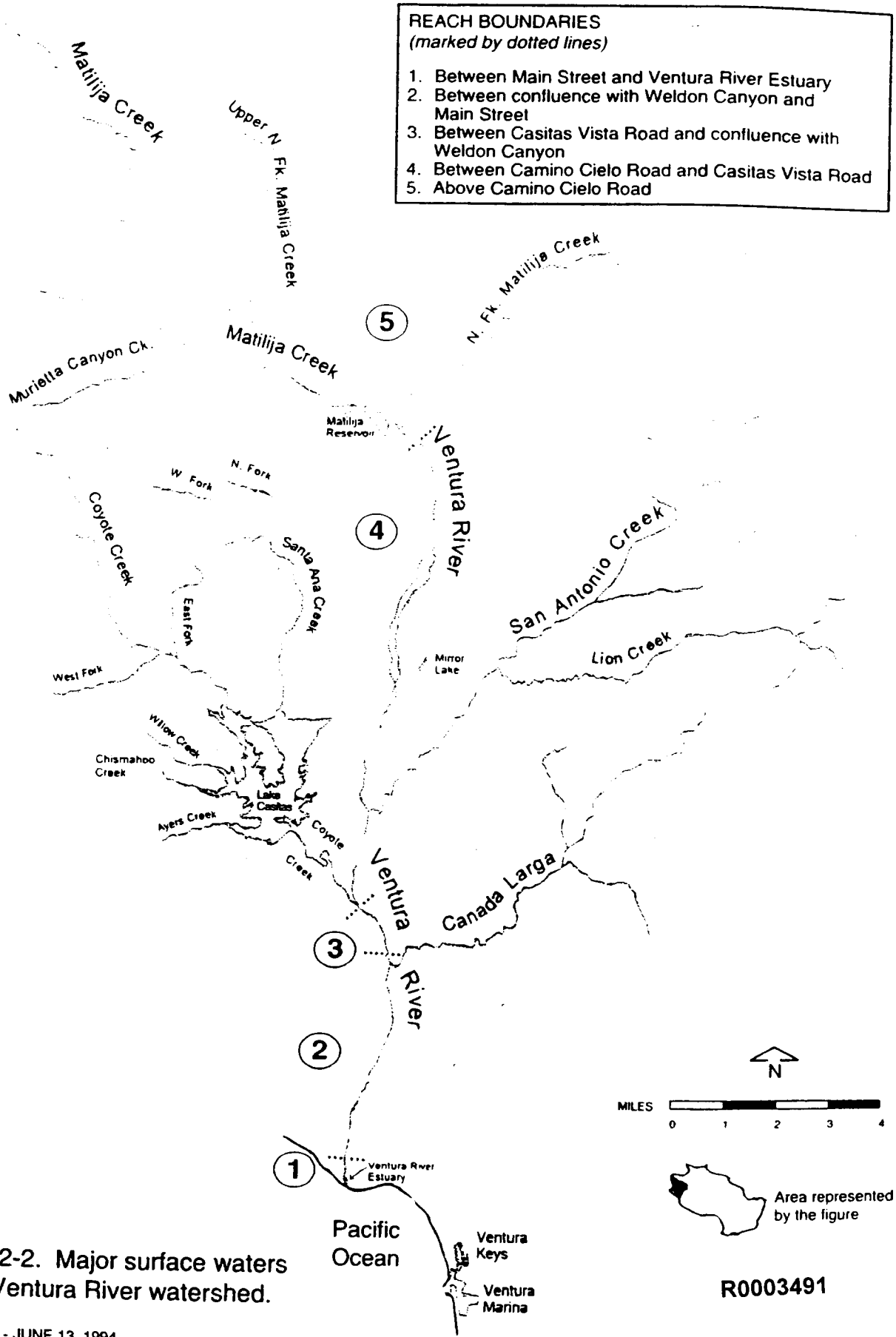
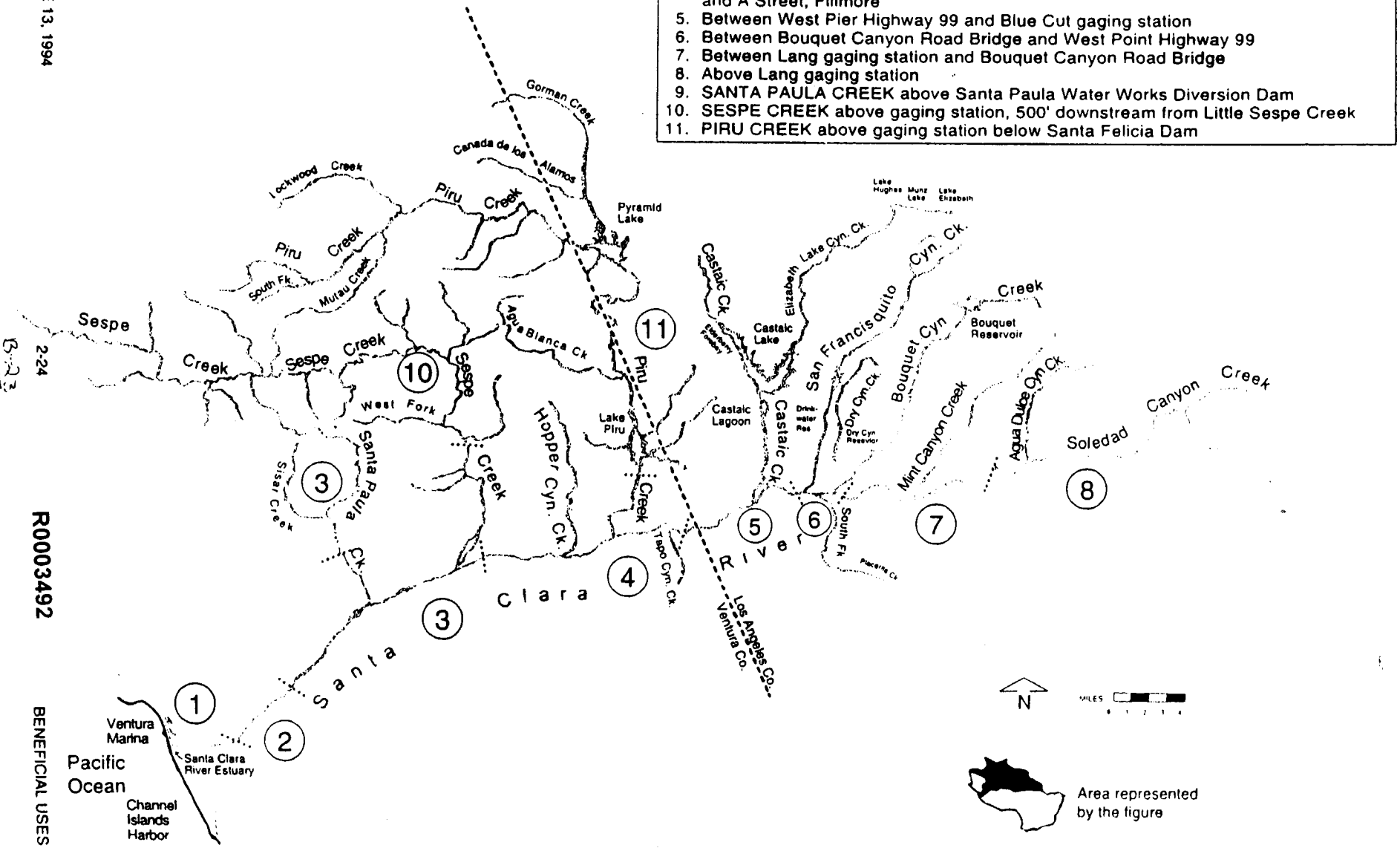


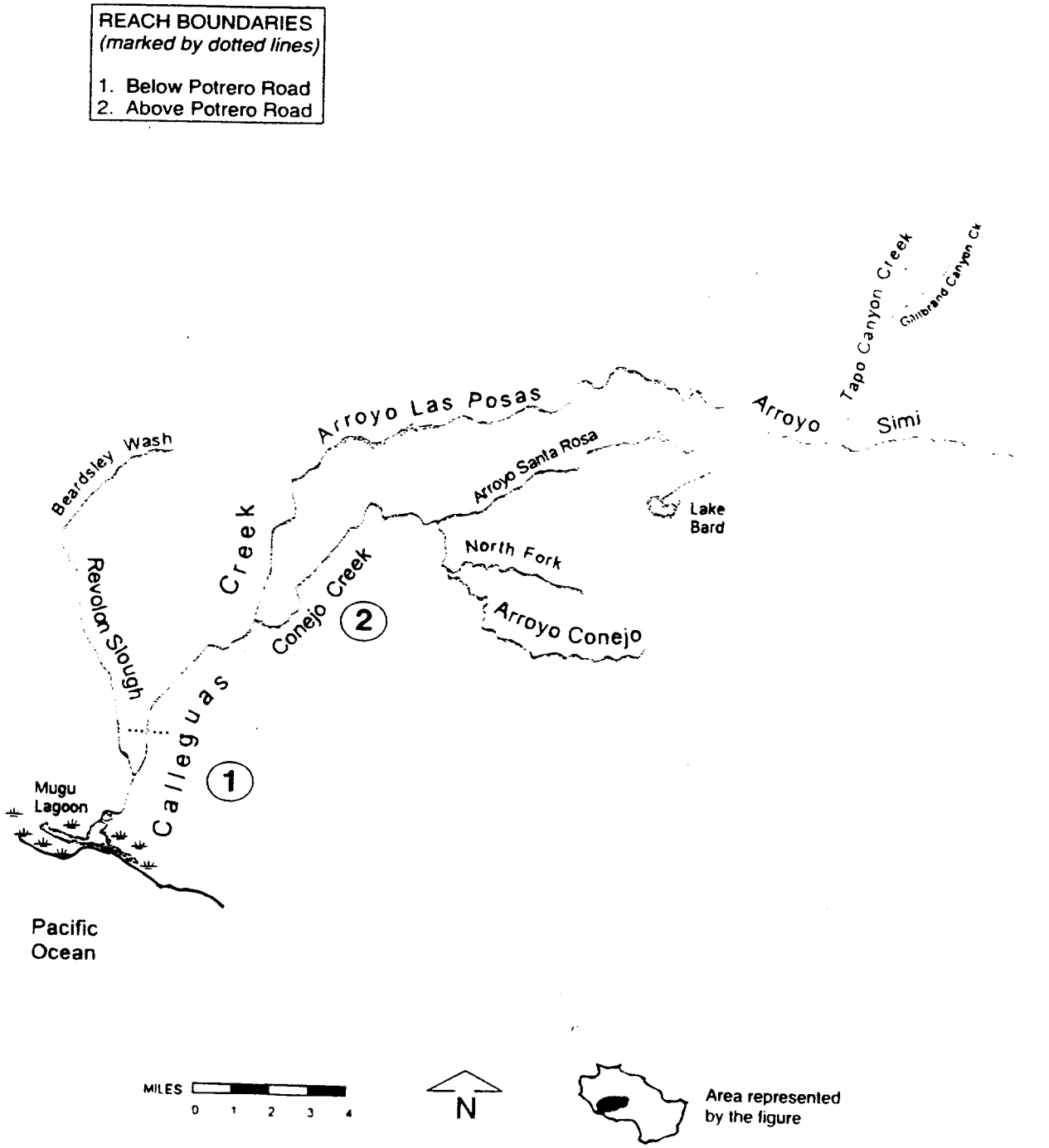
Figure 2-2. Major surface waters of the Ventura River watershed.

REACH BOUNDARIES
(marked by dotted lines)

SANTA CLARA RIVER
1. Between Highway 101 Bridge and Santa Clara River Estuary
2. Between Freeman Diversion "Dam" near Saticoy and Highway 101 Bridge
3. Between A Street, Fillmore and Freeman Diversion "Dam" near Saticoy
4. Between Blue Cut gaging station (approx. 1 mile west of LA/Ventura county line) and A Street, Fillmore
5. Between West Pier Highway 99 and Blue Cut gaging station
6. Between Bouquet Canyon Road Bridge and West Point Highway 99
7. Between Lang gaging station and Bouquet Canyon Road Bridge
8. Above Lang gaging station
9. SANTA PAULA CREEK above Santa Paula Water Works Diversion Dam
10. SESPE CREEK above gaging station, 500' downstream from Little Sespe Creek
11. PIRU CREEK above gaging station below Santa Felicia Dam



ure 2-3. Major surface waters of the Santa Clara R[illegible]r watershed.



R0003493

Figure 2-4. Major surface waters of the Calleguas-Conejo Creek watershed.

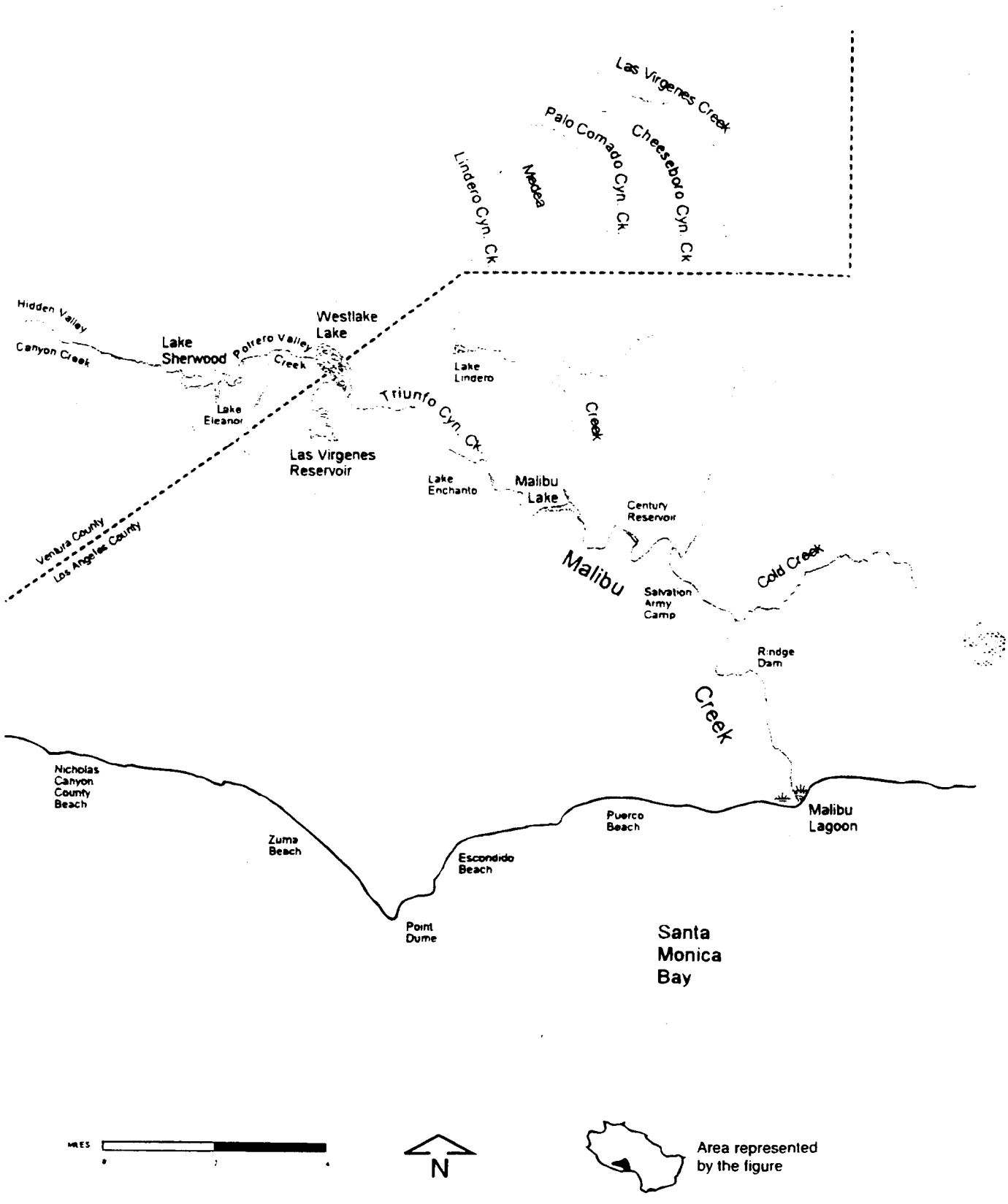


Figure 2-5. Major surface waters of the Malibu Creek watershed.

R0003494

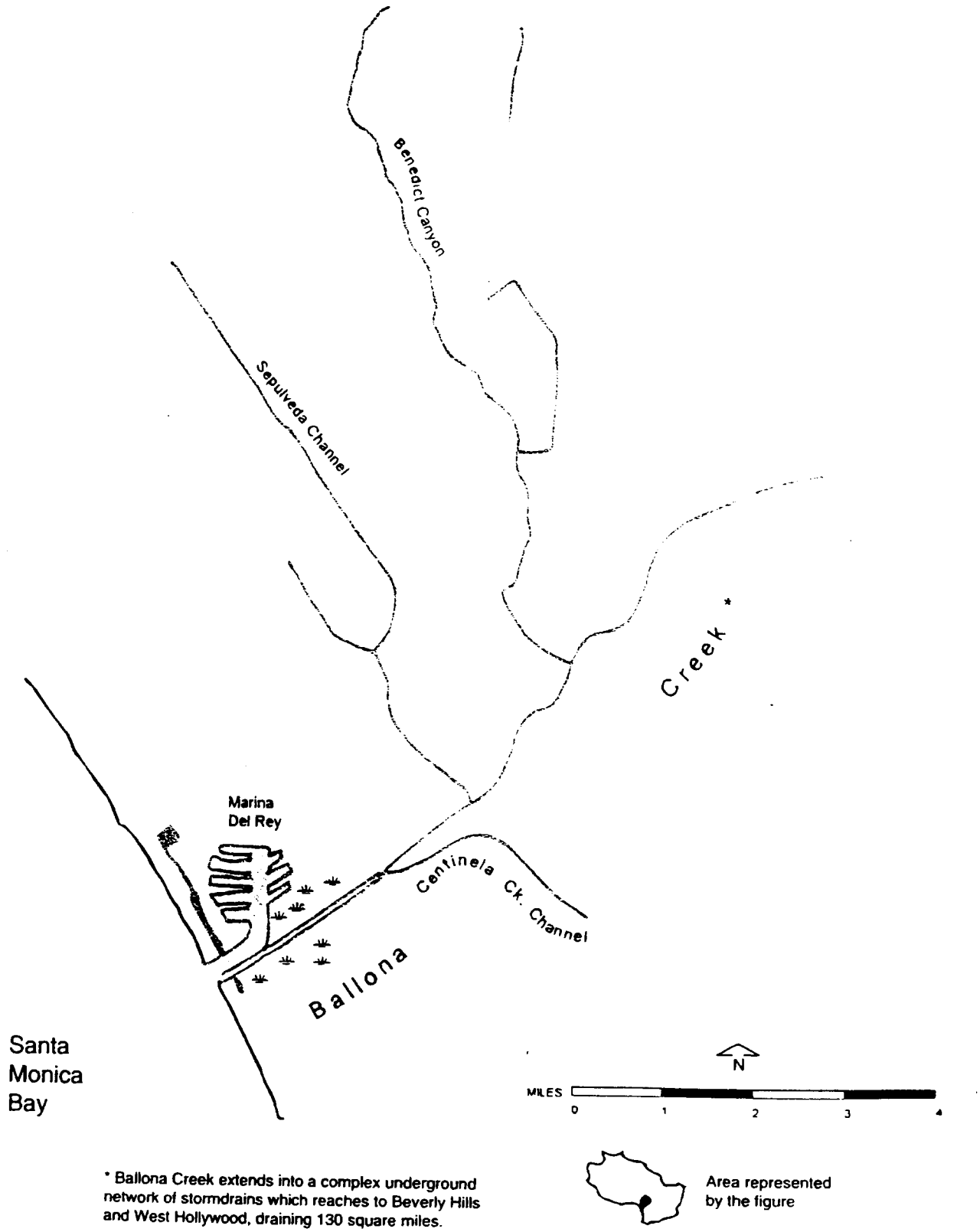


Figure 2-6. Major surface waters of the Ballona Creek watershed.

R0003495

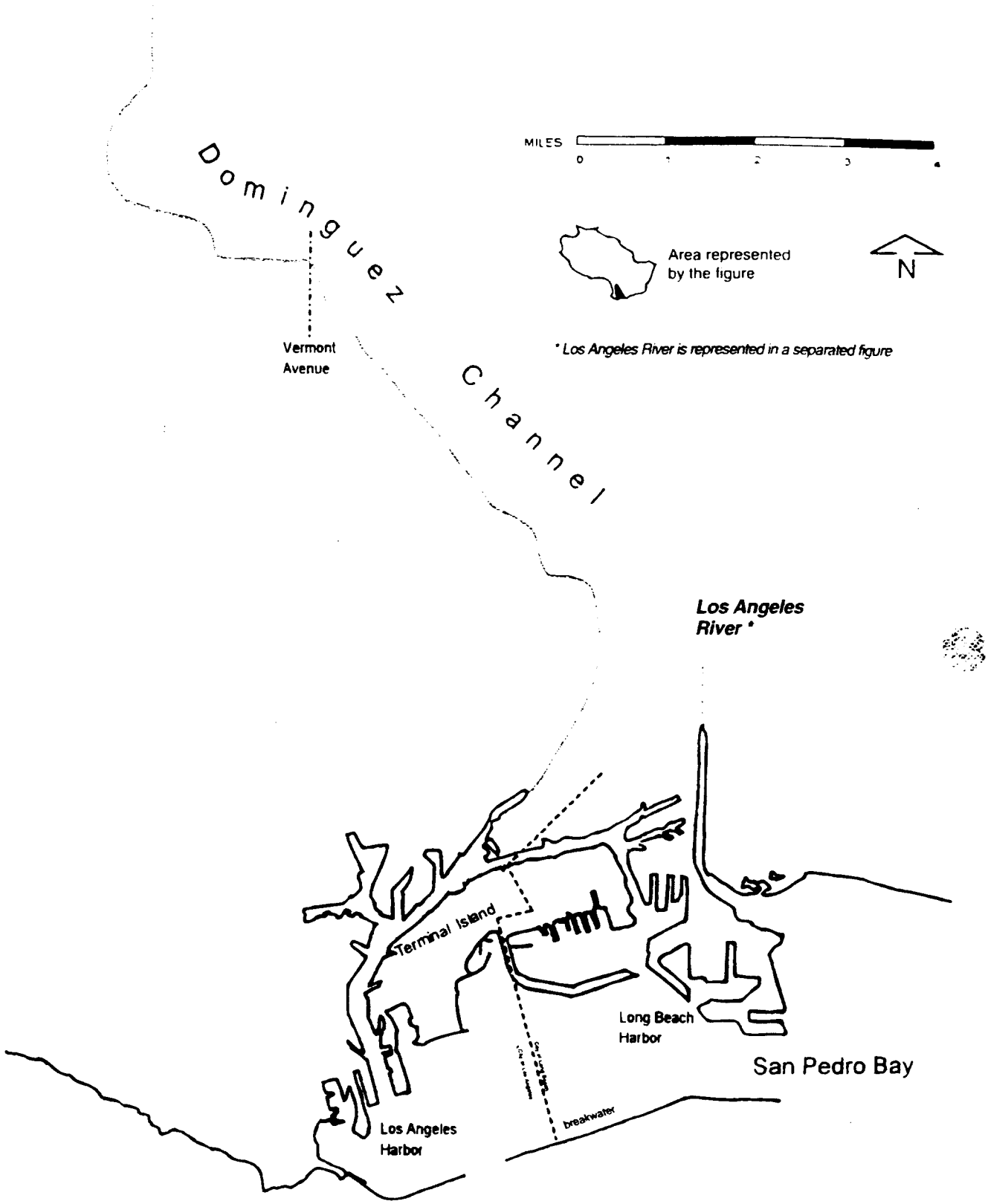
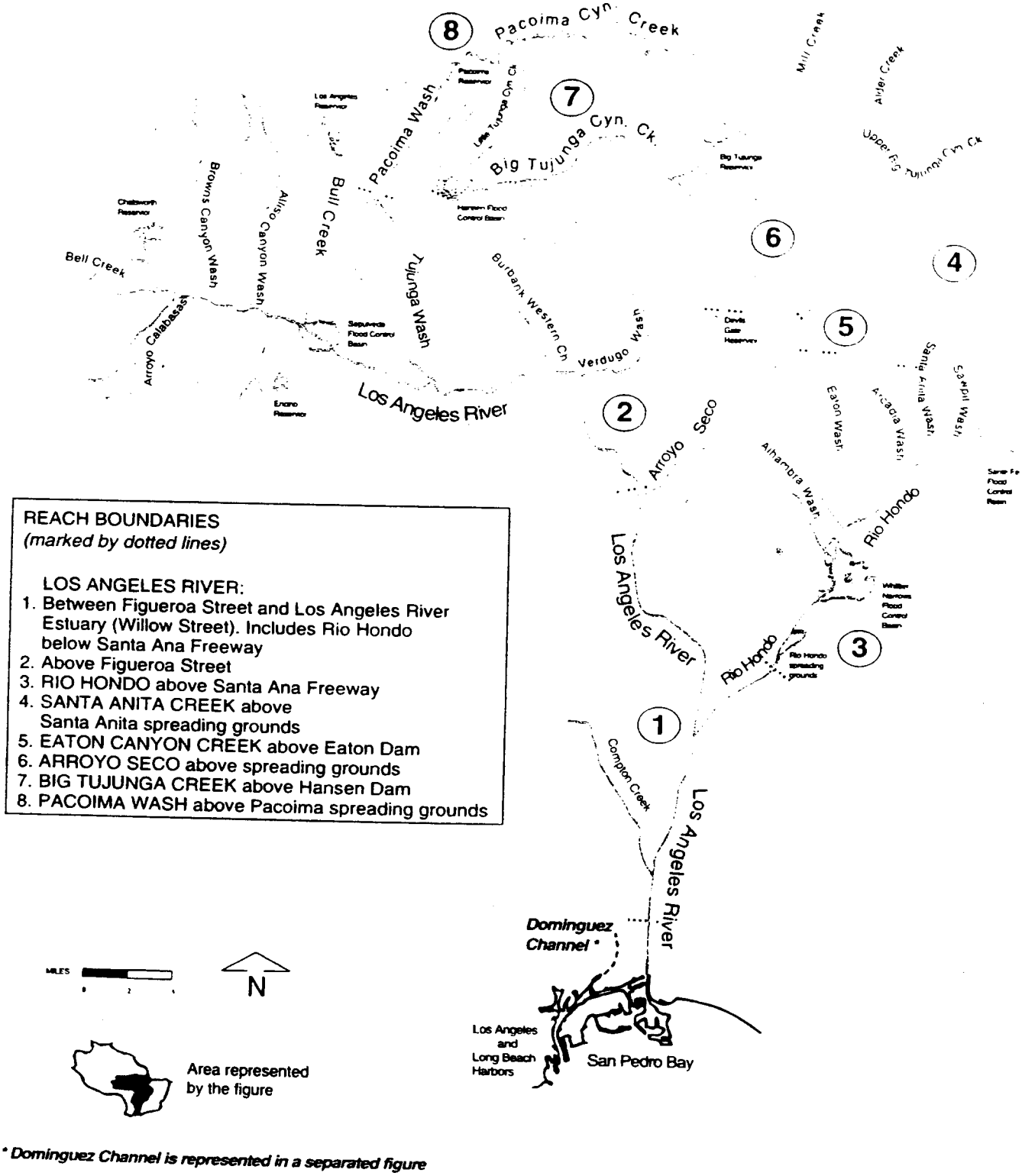


Figure 2-7. Major surface waters of the Dominguez Channel watershed.



R0003497

Figure 2-8. Major surface waters of the Los Angeles River watershed.

B-326

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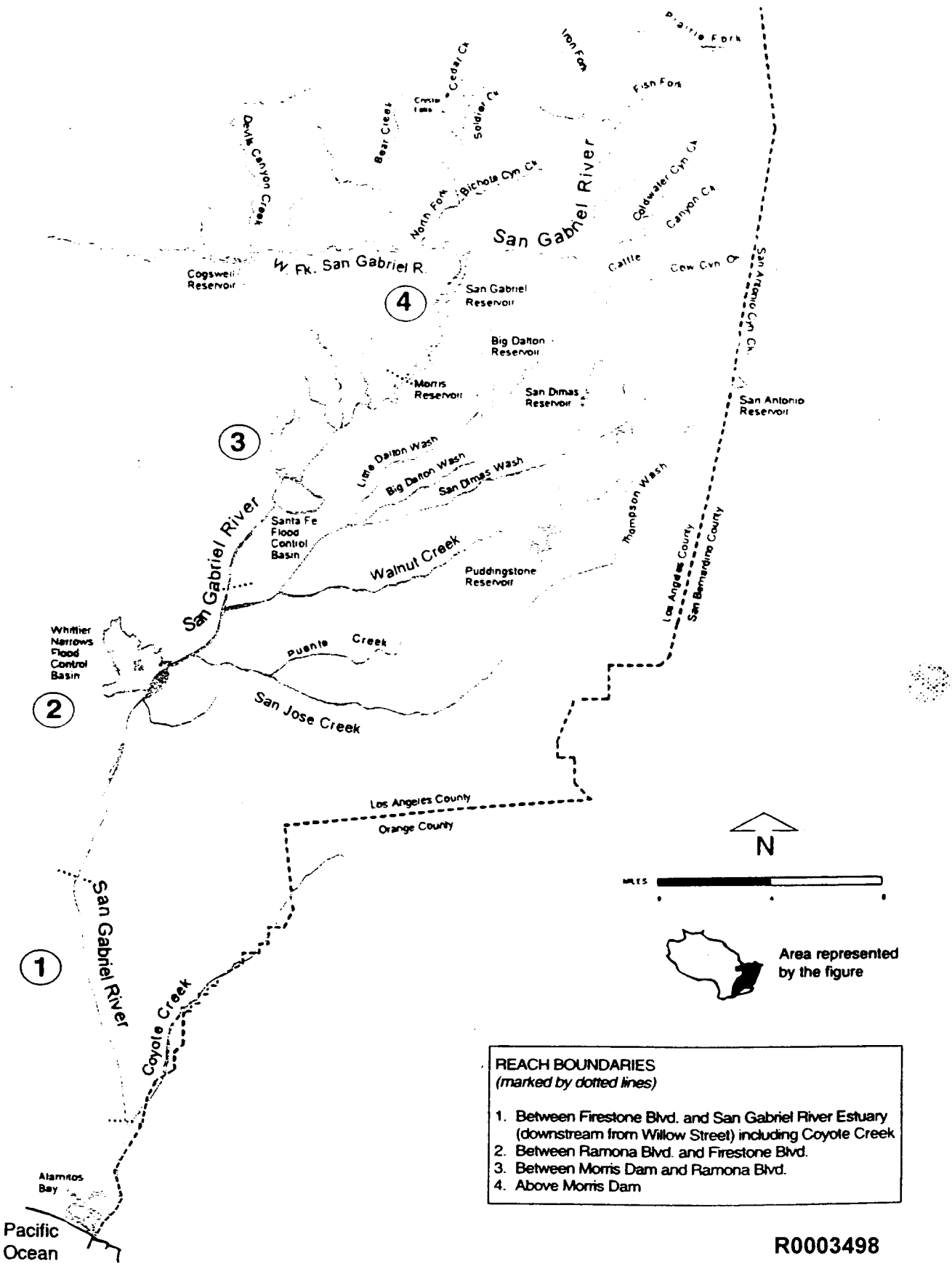


Figure 2-9. Major surface waters of the San Gabriel River watershed.

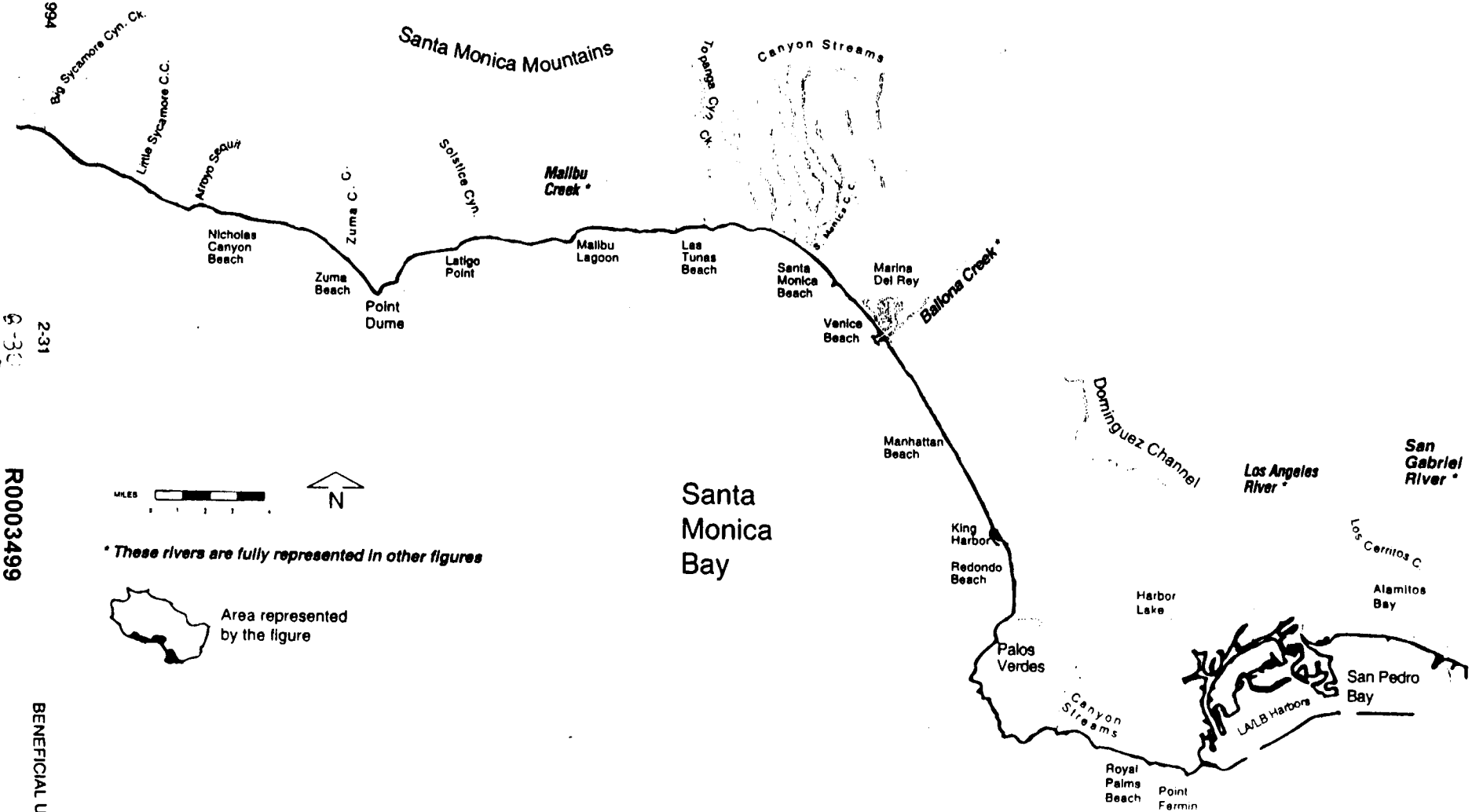
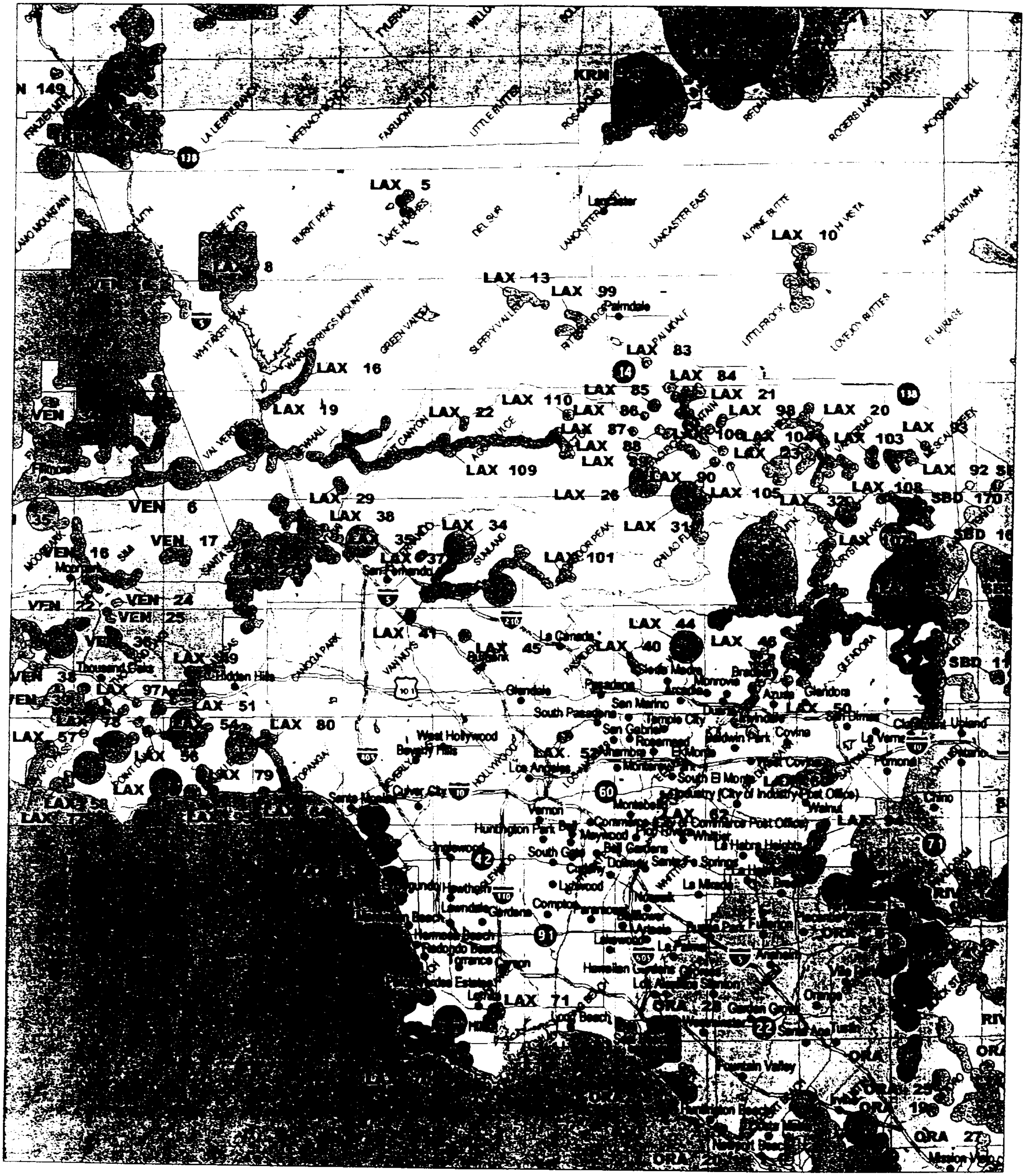


Figure 2-10. Miscellaneous streams and coastal features, Los Angeles County.

FIGURE B-2



Significant Natural Areas

0 2 4 6 8 10 Miles

Significant Natural Areas Los Angeles County

March 2001

Note: Fish and Game Code Sections 1930-1933 direct the Department of Fish and Game to identify and ensure recognition of the State's most significant natural areas. Identification of a Significant Natural Area does not, in itself, prevent a change in the use of the area.

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R0003500

L. Kenner

FIGURE B-2

California Department of Fish and Game
Significant Natural Areas Program

2001

For more information please call (916) 327-5956

For information about these species or natural communities, or other species or natural communities, please contact the Natural Diversity Database at (916) 324-3812

Significant Natural Areas of LOS ANGELES COUNTY

SITE NUMBER LAX 5

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,363	California Dept. of Parks and Recreation	LAKE HUGHES	Total # of Elements =	3
	Private		Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Southern willow scrub* SOUTHERN WILLOW SCRUB	1	None	None		
EC	*Valley needlegrass grassland* VALLEY NEEDLEGRASS GRASSLAND	1	None	None		
EC	*Wildflower field* WILDFLOWER FIELD	1	None	None		

end of LAX 5

SITE NUMBER LAX 8

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
15,263	Angeles National Forest	BURNT PEAK	Total # of Elements =	7
	Private	LIEBRE MTN.	Extremely Rare Elements (S1) =	1
		WARM SPRINGS MOUNTAIN	Best Example Elements (BX) =	0
		WHITAKER PEAK		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Bufo microscaphus californicus* ARROYO TOAD	1	Endangered	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	1	None	None	SC	
EC	*Falco mexicanus (nesting)* PRAIRIE FALCON	2	None	None	SC	
S1	*Gymnogyps californianus* CALIFORNIA CONDOR	1	Endangered	Endangered		
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	4	None	None		
EC	*Southern mixed riparian forest* SOUTHERN MIXED RIPARIAN FOREST	1	None	None		

end of LAX 8

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 10

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
5.105	Private	ALPINE BUTTE	Total # of Elements =	3
	US Bureau of Land Management	HI VISTA	Extremely Rare Elements (S1) =	0
		LITTLEROCK	Best Example Elements (BX) =	0
		LOVEJOY BUTTES		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Falco mexicanus (nesting)* PRAIRIE FALCON	2	None	None	SC	
EC	*Toxostoma lecontei* LE CONTE'S THRASHER	10	None	None	SC	
EC	*Spermophilus mohavensis* MOHAVE GROUND SQUIRREL	2	None	Threatened		

end of LAX 10

SITE NUMBER LAX 13

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2.248	Private	RITTER RIDGE	Total # of Elements =	6
	US Bureau of Land Management	SLEEPY VALLEY	Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Rana aurora draytonii* CALIFORNIA RED-LEGGED FROG	1	Threatened	None	SC	
EC	*Anniella pulchra pulchra* SILVERY LEGLESS LIZARD	1	None	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	2	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	2	None	None	SC	
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	1	None	None		

end of LAX 13

SITE NUMBER LAX 16

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2.260	Angeles National Forest	NEWHALL	Total # of Elements =	1
	Private	WARM SPRINGS MOUNTAIN	Extremely Rare Elements (S1) =	0
	US Bureau of Land Management		Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	1	None	None		

end of LAX 16

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 19

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
827	Private	NEWHALL	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		

end of LAX 19

SITE NUMBER LAX 20

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
6,276	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	3
	Private	VALYERMO	Extremely Rare Elements (S1) =	2
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	3	None	None		1B
EC	*Canyon live oak ravine forest* CANYON LIVE OAK RAVINE FOREST	1	None	None		
S1	*Mojave riparian forest* MOJAVE RIPARIAN FOREST	5	None	None		

end of LAX 20

SITE NUMBER LAX 21

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
4,306	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	4
	Private	PACIFICO MOUNTAIN	Extremely Rare Elements (S1) =	2
	US Bureau of Land Management	PALMDALE	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	10	None	None		1B
EC	*Bufo microscaphus californicus* ARROYO TOAD	1	Endangered	None	SC	
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	1	None	None	SC	
S1	*Mojave riparian forest* MOJAVE RIPARIAN FOREST	2	None	None		

end of LAX 21

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 22

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
451	Private	AGUA DULCE	Total # of Elements =	3
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Gasterosteus aculeatus williamsoni* UNARMORED THREESPINE STICKLEBACK	1	Endangered	Endangered		
EC	*Gila orcutti* ARROYO CHUB	1	None	None	SC	
EC	*Southern riparian scrub* SOUTHERN RIPARIAN SCRUB	1	None	None		

end of LAX 22

SITE NUMBER LAX 23

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2,629	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Mojave riparian forest* MOJAVE RIPARIAN FOREST	2	None	None		

end of LAX 23

SITE NUMBER LAX 26

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
4,554	Angeles National Forest	CHILAO FLAT	Total # of Elements =	3
	Private	PACIFICO MOUNTAIN	Extremely Rare Elements (S1) =	2
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Arctostaphylos gabrielensis* SAN GABRIEL MANZANITA	1	None	None		1B
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	2	None	None		1B
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	1	None	None		

end of LAX 26

SITE NUMBER LAX 27

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
26,201	Private	CALABASAS	Total # of Elements =	11
	US Bureau of Land Management	CANOGA PARK	Extremely Rare Elements (S1) =	0
		NEWHALL	Best Example Elements (BX) =	0
		OAT MOUNTAIN		
		SANTA SUSANA		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Deinandra minthornii* SANTA SUSANA TARPLANT	14	None	Rare		1B
EC	*Dudleya multicaulis* MANY-STEMMED DUDLEYA	1	None	None		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Scaphiopus hammondii* WESTERN SPADEFOOT	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
EC	*Neotoma lepida intermedia* SAN DIEGO DESERT WOODRAT	4	None	None	SC	
EC	*California walnut woodland* CALIFORNIA WALNUT WOODLAND	12	None	None		
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	2	None	None		
EC	*Southern mixed riparian forest* SOUTHERN MIXED RIPARIAN FOREST	3	None	None		
EC	*Southern willow scrub* SOUTHERN WILLOW SCRUB	1	None	None		
EC	*Valley oak woodland* VALLEY OAK WOODLAND	1	None	None		

end of LAX 27

SITE NUMBER LAX 29

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
762	Private	MINT CANYON	Total # of Elements =	1
	US Bureau of Land Management	NEWHALL	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	2	None	None		1B

end of LAX 29

SITE NUMBER LAX 31

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
5,346	Angeles National Forest	CHILAO FLAT	Total # of Elements =	5
	Private	JUNIPER HILLS	Extremely Rare Elements (S1) =	1
		PACIFICO MOUNTAIN	Best Example Elements (BX) =	0
		WATERMAN MTN.		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Calochortus palmeri var palmeri* PALMER'S MARIPOSA LILY	1	None	None		1B
EC	*Calochortus striatus* ALKALI MARIPOSA LILY	1	None	None		1B
EC	*Castilleja gleasonii* MT. GLEASON INDIAN PAINTBRUSH	3	None	Rare		1B
EC	*Linanthus concinnus* SAN GABRIEL LINANTHUS	1	None	None		1B
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 31

SITE NUMBER LAX 32

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
238	Angeles National Forest	VALYERMO	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Orobanche valida ssp valida* ROCK CREEK BROOMRAPE	1	None	None		1B

end of LAX 32

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 33

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
94,210	Angeles National Forest	AZUSA	Total # of Elements =	18
	Private	CRYSTAL LAKE	Extremely Rare Elements (S1) =	7
	San Bernardino National Forest	CUCAMONGA PEAK	Best Example Elements (BX) =	0
		GLENDORA		
		MESCAL CREEK		
		MOUNT SAN ANTONIO		
		MT. BALDY		
		ONTARIO		
		VALYERMO		
		WATERMAN MTN.		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Berberis nevinii* NEVIN'S BARBERRY	1	Endangered	Endangered		1B
S1	*Dudleya densiflora* SAN GABRIEL MOUNTAINS DUDLEYA	1	None	None		1B
S1	*Eriogonum microthecum var johnstonii* JOHNSTON'S BUCKWHEAT	1	None	None		1B
EC	*Lilium parryi* LEMON LILY	5	None	None		1B
EC	*Monardella macrantha ssp hallii* HALL'S MONARDELLA	1	None	None		1B
S1	*Orobanche valida ssp valida* ROCK CREEK BROOMRAPE	1	None	None		1B
EC	*Parnassia cirrata* FRINGED GRASS-OF-PARNASSUS	1	None	None		1B
S1	*Catostomus santaanae* SANTA ANA SUCKER	2	Threatened	None	SC	
EC	*Gila orcutti* ARROYO CHUB	2	None	None	SC	
S1	*Rhinichthys osculus ssp 3* SANTA ANA SPECKLED DACE	2	None	None	SC	
S1	*Batrachoseps gabrieli* SAN GABRIEL SLENDER SALAMANDER	5	None	None		
EC	*Rana muscosa* MOUNTAIN YELLOW-LEGGED FROG	6	Proposed Endangered	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	2	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
EC	*Ovis canadensis nelsoni* NELSON'S BIGHORN SHEEP	2	None	None		
EC	*Canyon live oak ravine forest* CANYON LIVE OAK RAVINE FOREST	41	None	None		
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	3	None	None		

end of LAX 33

SITE NUMBER LAX 34

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
14,479	Angeles National Forest	CONDOR PEAK	Total # of Elements =	10
	Private	SAN FERNANDO	Extremely Rare Elements (S1) =	4
		SUNLAND	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Calochortus plummerae* PLUMMER'S MARIPOSA LILY	1	None	None		1B
S1	*Dodecahema leptoceras* SLENDER-HORNED SPINEFLOWER	1	Endangered	Endangered		1B
S1	*Malacothamnus davidsonii* DAVIDSON'S BUSH MALLOW	1	None	None		1B
S1	*Catostomus santaanae* SANTA ANA SUCKER	1	Threatened	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Cnemidophorus hyperythrus* ORANGE-THROATED WHIPTAIL	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	3	None	None		
EC	*Southern mixed riparian forest* SOUTHERN MIXED RIPARIAN FOREST	2	None	None		

end of LAX 34

SITE NUMBER LAX 35

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
3,710	Angeles National Forest	SAN FERNANDO	Total # of Elements =	2
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Malacothamnus davidsonii* DAVIDSON'S BUSH MALLOW	1	None	None		1B
EC	*Vireo bellii pusillus (nesting)* LEAST BELL'S VIREO	1	Endangered	Endangered		

end of LAX 35

SITE NUMBER LAX 37

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
392	Angeles National Forest	SAN FERNANDO	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Malacothamnus davidsonii* DAVIDSON'S BUSH MALLOW	1	None	None		1B

end of LAX 37

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 38

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
355	Private	OAT MOUNTAIN	Total # of Elements =	1
		SAN FERNANDO	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Calochortus clavatus var gracilis* SLENDER MARIPOSA LILY	2	None	None		1B

end of LAX 38

SITE NUMBER LAX 40

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
727	Angeles National Forest	MT. WILSON	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		

end of LAX 40

SITE NUMBER LAX 41

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
588	Private	VAN NUYS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		

end of LAX 41

SITE NUMBER LAX 44

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
3,285	Angeles National Forest	MT. WILSON	Total # of Elements =	3
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Galium grande* SAN GABRIEL BEDSTRAW	2	None	None		1B
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
EC	*Cypseloides niger (nesting)* BLACK SWIFT	1	None	None	SC	

end of LAX 44

SITE NUMBER LAX 45

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
515	County-City-Regional Parks and Preserves	BURBANK	Total # of Elements =	2
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Malacothamnus davidsonii* DAVIDSON'S BUSH MALLOW	1	None	None		1B
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	

end of LAX 45

SITE NUMBER LAX 46

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
4,985	Angeles National Forest	AZUSA	Total # of Elements =	4
	Private	BALDWIN PARK	Extremely Rare Elements (S1) =	3
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Dudleya cymosa ssp crebrifolia* SAN GABRIEL RIVER DUDLEYA	1	None	None		1B
S1	*Dudleya densiflora* SAN GABRIEL MOUNTAINS DUDLEYA	4	None	None		1B
EC	*Vireo bellii pusillus (nesting)* LEAST BELL'S VIREO	2	Endangered	Endangered		
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		

end of LAX 46

SITE NUMBER LAX 49

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
4,345	County-City-Regional Parks and Preserves	CALABASAS	Total # of Elements =	4
	National Seashore or National Recreation Area		Extremely Rare Elements (S1) =	1
	Private		Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Chorizanthe parryi var fernandina* SAN FERNANDO VALLEY SPINEFLOWER	1	Candidate	Candidate		1B
EC	*California walnut woodland* CALIFORNIA WALNUT WOODLAND	1	None	None		
EC	*Valley needlegrass grassland* VALLEY NEEDLEGRASS GRASSLAND	1	None	None		
EC	*Valley oak woodland* VALLEY OAK WOODLAND	3	None	None		

end of LAX 49

SITE NUMBER LAX 50

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
357	Angeles National Forest	AZUSA	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Dudleya densiflora* SAN GABRIEL MOUNTAINS DUDLEYA	1	None	None		1B

end of LAX 50

SITE NUMBER LAX 51

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
831	California Dept. of Parks and Recreation	CALABASAS	Total # of Elements =	2
	Private	POINT DUME	Extremely Rare Elements (S1) =	2
		THOUSAND OAKS	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Dudleya cymosa ssp agourensis* SANTA MONICA MTNS. DUDLEYA	2	Threatened	None		1B
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	2	Endangered	Endangered		1B

end of LAX 51

SITE NUMBER LAX 52

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
621	Private	LOS ANGELES	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Walnut forest* WALNUT FOREST	1	None	None		

end of LAX 52

SITE NUMBER LAX 54

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
5,864	California Dept. of Parks and Recreation	CALABASAS	Total # of Elements =	6
	County-City-Regional Parks and Preserves	MALIBU BEACH	Extremely Rare Elements (S1) =	2
	National Seashore or National Recreation Area	POINT DUME	Best Example Elements (BX) =	0
	Other Conservancy; Land Trust; Private University			
	Private			
	Water Districts etc.			

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Baccharis malibuensis* MALIBU BACCHARIS	5	None	None		1B
EC	*Calochortus plummerae* PLUMMER'S MARIPOSA LILY	1	None	None		1B
EC	*Dudleya cymosa ssp marcescens* MARCESCENT DUDLEYA	3	Threatened	Rare		1B
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	1	Endangered	Endangered		1B
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	2	None	None	SC	
EC	*Valley oak woodland* VALLEY OAK WOODLAND	1	None	None		

end of LAX 54

SITE NUMBER LAX 56

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
434	County-City-Regional Parks and Preserves	POINT DUME	Total # of Elements =	1
	National Seashore or National Recreation Area		Extremely Rare Elements (S1) =	1
	Private		Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Baccharis malibuensis* MALIBU BACCHARIS	1	None	None		1B

end of LAX 56

SITE NUMBER LAX 57

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
238	Other Conservancy; Land Trust; Private University	POINT DUME	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	1	Endangered	Endangered		1B

end of LAX 57

SITE NUMBER LAX 58

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,544	California Dept. of Parks and Recreation	POINT DUME	Total # of Elements =	7
7,406	County-City-Regional Parks and Preserves	TRIUNFO PASS	Extremely Rare Elements (S1) =	1
	National Seashore or National Recreation Area		Best Example Elements (BX) =	0
	Other Conservancy; Land Trust; Private University			
	Private			
	Water Districts etc.			

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Calochortus plummerae* PLUMMER'S MARIPOSA LILY	2	None	None		1B
EC	*Deinandra minthornii* SANTA SUSANA TARPLANT	3	None	Rare		1B
EC	*Dudleya cymosa ssp marcescens* MARCESCENT DUDLEYA	1	Threatened	Rare		1B
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	2	Endangered	Endangered		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Cnemidophorus tigris multiscutatus* COASTAL WESTERN WHIPTAIL	1	None	None		

end of LAX 58

SITE NUMBER LAX 60

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
5,248	Private	BALDWIN PARK	Total # of Elements =	4
		SAN DIMAS	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Campylorhynchus brunneicapillus couesi* COASTAL CACTUS WREN	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
EC	*California walnut woodland* CALIFORNIA WALNUT WOODLAND	6	None	None		
S1	*Walnut forest* WALNUT FOREST	3	None	None		

end of LAX 60

SITE NUMBER LAX 61

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
6,774	Private	BEVERLY HILLS	Total # of Elements =	10
		VENICE	Extremely Rare Elements (S1) =	3
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Centromadia parryi ssp australis* SOUTHERN TARPLANT	1	None	None		1B
EC	*Tryonia imitator* MIMIC TRYONIA (=CALIFORNIA BRACKISHWATER SNAIL)	1	None	None		
S1	*Trigonoscuta dorothea dorothea* DOROTHY'S EL SEGUNDO DUNE WEEVIL	1	None	None		
S1	*Brennania belkini* BELKIN'S DUNE TABANID FLY	1	None	None		
EC	*Danaus plexippus* MONARCH BUTTERFLY	2	None	None		
S1	*Panoquina errans* WANDERING (=SALTMARSH) SKIPPER	3	None	None		
EC	*Athene cunicularia (burrow sites)* BURROWING OWL	1	None	None	SC	
EC	*Passerculus sandwichensis beldingi* BELDING'S SAVANNAH SPARROW	1	None	Endangered		
EC	*Sterna antillarum browni (nesting colony)* CALIFORNIA LEAST TERN	1	Endangered	Endangered		
EC	*Southern coastal salt marsh* SOUTHERN COASTAL SALT MARSH	1	None	None		

end of LAX 61

SITE NUMBER LAX 62

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
491	Private	EL MONTE	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Ribes divaricatum var parishii* PARISH'S GOOSEBERRY	2	None	None		1B

end of LAX 62

SITE NUMBER LAX 64

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
482	Private	TOPANGA	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Neduba longipennis* SANTA MONICA SHIELDBACK KATYDID	1	None	None		

end of LAX 64

SITE NUMBER LAX 70

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
15.037	California Dept. of Fish and Game	REDONDO BEACH	Total # of Elements =	8
	Private	SAN PEDRO	Extremely Rare Elements (S1) =	3
		TORRANCE	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Aphanisma blitoides* APHANISMA	2	None	None		1B
EC	*Atriplex pacifica* SOUTH COAST SALTSCALE	1	None	None		1B
S1	*Dudleya virens ssp virens* BRIGHT GREEN DUDLEYA	2	None	None		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Campylorhynchus brunneicapillus couesi* COASTAL CACTUS WREN	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	5	Threatened	None	SC	
EC	*Neotoma lepida intermedia* SAN DIEGO DESERT WOODRAT	1	None	None	SC	
S1	*Southern coastal bluff scrub* SOUTHERN COASTAL BLUFF SCRUB	1	None	None		

end of LAX 70

SITE NUMBER LAX 71

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1.618	Private	TORRANCE	Total # of Elements =	5
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Centromadia parryi ssp australis* SOUTHERN TARPLANT	1	None	None		1B
S1	*Glaucopsyche lygdamus palosverdesensis* PALOS VERDES BLUE BUTTERFLY	1	Endangered	None		
EC	*Agelaius tricolor (nesting colony)* TRICOLORED BLACKBIRD	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
EC	*Sterna antillarum browni (nesting colony)* CALIFORNIA LEAST TERN	1	Endangered	Endangered		

end of LAX 71

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 75

Approximate Acreage
60.937

Owner / Management

7.5' Quads
SANTA CATALINA EAST
SANTA CATALINA NORTH
SANTA CATALINA SOUTH
SANTA CATALINA WEST

Element Totals
Total # of Elements = 20
Extremely Rare Elements (S1) = 11
Best Example Elements (BX) = 0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Graphis saxorum* BAJA ROCK LICHEN	2	None	None		
EC	*Arctostaphylos catalinae* SANTA CATALINA ISLAND MANZANITA	2	None	None		1B
EC	*Atriplex pacifica* SOUTH COAST SALTSCALE	1	None	None		1B
EC	*Bergerocactus emoryi* GOLDEN-SPINED CEREUS	3	None	None		2
EC	*Centromadia parryi ssp australis* SOUTHERN TARPLANT	1	None	None		1B
S1	*Cercocarpus traskiae* CATALINA ISLAND MOUNTAIN-MAHOGANY	1	Endangered	Endangered		1B
S1	*Dendromecon harfordii var rhamnoides* ISLAND TREE POPPY	1	None	None		1B
S1	*Dudleya virens ssp virens* BRIGHT GREEN DUDLEYA	1	None	None		1B
EC	*Euphorbia misera* CLIFF SPURGE	1	None	None		2
EC	*Galvezia speciosa* ISLAND SNAPDRAGON	1	None	None		1B
EC	*Lavatera assurgentiflora ssp glabra* SOUTHERN ISLAND MALLOW	4	None	None		1B
S1	*Lyonothamnus floribundus ssp floribundus* SANTA CATALINA ISLAND IRONWOOD	3	None	None		1B
EC	*Scrophularia villosa* SANTA CATALINA FIGWORT	1	None	None		1B
S1	*Radiocentrum (=oreohelix) avalonense* CATALINA MOUNTAINSNAIL	1	None	None		
S1	*Sterkia clementina* SAN CLEMENTE ISLAND BLUNT-TOP SNAIL	1	None	None		
S1	*Thamnophis couchi ssp* SANTA CATALINA GARTER SNAKE	1	None	None		
EC	*Haliaeetus leucocephalus (nesting & wintering)* BALD EAGLE	4	Threatened	Endangered		
S1	*Sorex ornatus willetti* SANTA CATALINA SHREW	1	None	None	SC	
S1	*Urocyon littoralis* ISLAND FOX	1	None	Threatened		
S1	*Maritime succulent scrub* MARITIME SUCCULENT SCRUB	1	None	None		

end of LAX 75

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 76

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
49.696		SAN CLEMENTE ISLAND CENTRAL	Total # of Elements =	45
		SAN CLEMENTE ISLAND NORTH	Extremely Rare Elements (S1) =	22
		SAN CLEMENTE ISLAND SOUTH	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Aphanisma blitoides* APHANISMA	3	None	None		1B
EC	*Astragalus nevinii* SAN CLEMENTE ISLAND MILK-VETCH	15	None	None		1B
EC	*Atriplex coulteri* COULTER'S SALTBUSH	1	None	None		1B
EC	*Bergerocactus emoryi* GOLDEN-SPINED CEREUS	11	None	None		2
EC	*Brodiaea kinkiensis* SAN CLEMENTE ISLAND BRODIAEA	10	None	None		1B
S1	*Camissonia guadalupensis ssp clementina* SAN CLEMENTE ISLAND EVENING-PRIMROSE	6	None	None		1B
EC	*Castilleja gnsea* SAN CLEMENTE ISLAND INDIAN PAINTBRUSH	41	Endangered	Endangered		1B
EC	*Cryptantha traskiae* TRASK'S CRYPTANTHA	4	None	None		1B
S1	*Delphinium variegatum ssp kinkiense* SAN CLEMENTE ISLAND LARKSPUR	12	Endangered	Endangered		1B
S1	*Delphinium variegatum ssp thornei* THORNE'S ROYAL LARKSPUR	7	None	None		1B
S1	*Dudleya virens ssp virens* BRIGHT GREEN DUDLEYA	4	None	None		1B
EC	*Eriogonum giganteum var formosum* SAN CLEMENTE ISLAND BUCKWHEAT	18	None	None		1B
EC	*Eriophyllum nevinii* NEVIN'S WOOLLY SUNFLOWER	24	None	None		1B
EC	*Euphorbia misera* CLIFF SPURGE	1	None	None		2
EC	*Galium catalinense ssp acrispum* SAN CLEMENTE ISLAND BEDSTRAW	18	None	Endangered		1B
EC	*Galvezia speciosa* ISLAND SNAPDRAGON	28	None	None		1B
EC	*Hazardia cana* SAN CLEMENTE ISLAND HAZARDIA	8	None	None		1B
EC	*Lavatera assurgentiflora ssp glabra* SOUTHERN ISLAND MALLOW	5	None	None		1B
S1	*Linanthus pygmaeus ssp pygmaeus* PYGMY LINANTHUS	1	None	None		1B
S1	*Lithophragma maximum* SAN CLEMENTE ISLAND WOODLAND STAR	3	Endangered	Endangered		1B
S1	*Lotus argophyllus var adsurgens* SAN CLEMENTE ISLAND BIRD'S-FOOT TREFOIL	8	None	Endangered		1B
EC	*Lotus dendroideus var traskiae* SAN CLEMENTE ISLAND LOTUS	12	Endangered	Endangered		1B
EC	*Lupinus guadalupensis* GUADALUPE ISLAND LUPINE	10	None	None		1B
EC	*Lyonothamnus floribundus ssp aspleniifolius* SANTA CRUZ ISLAND IRONWOOD	15	None	None		1B
S1	*Malacothamnus clementinus* SAN CLEMENTE ISLAND BUSH MALLOW	6	Endangered	Endangered		1B
EC	*Muhlenbergia appressa* APPRESSED MUHLY	1	None	None		2
S1	*Nama stenocarpum* MUD NAMA	2	None	None		2
S1	*Phacelia floribunda* MANY-FLOWERED PHACELIA	8	None	None		1B
EC	*Scrophularia villosa* SANTA CATALINA FIGWORT	12	None	None		1B
S1	*Sibara filifolia* SANTA CRUZ ISLAND ROCK CRESS	3	Endangered	None		1B
EC	*Stephanomeria blainii* BLAIR'S STEPHANOMERIA	21	None	None		1B

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Triteleia clementina* SAN CLEMENTE ISLAND TRITELEIA	6	None	None		1B
S1	*Micrarionta gabbi* SAN CLEMENTE ISLANDSNAIL	1	None	None		
S1	*Xerarionta intercisa* HORSESHOE SNAIL	1	None	None		
S1	*Xerionata redimita* WREATHED ISLAND SNAIL	1	None	None		
S1	*Xantusia riversiana* ISLAND NIGHT LIZARD	1	Threatened	None		
S1	*Amphispiza belli clementeae* SAN CLEMENTE SAGE SPARROW	1	Threatened	None		
EC	*Charadrius alexandrinus nivosus (nesting)* WESTERN SNOWY PLOVER	1	Threatened	None	SC	
S1	*Lanius ludovicianus mearnsi* SAN CLEMENTE LOGGERHEAD SHRIKE	1	Endangered	None		
S1	*Urocyon littoralis* ISLAND FOX	1	None	Threatened		
EC	*Island cherry forest* ISLAND CHERRY FOREST	13	None	None		
EC	*Island ironwood forest* ISLAND IRONWOOD FOREST	11	None	None		
S1	*Southern coastal bluff scrub* SOUTHERN COASTAL BLUFF SCRUB	21	None	None		
S1	*Southern dune scrub* SOUTHERN DUNE SCRUB	4	None	None		
EC	*Southern foredunes* SOUTHERN FOREDUNES	12	None	None		

end of LAX 76

SITE NUMBER LAX 77

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2.890	California Dept. of Parks and Recreation	TRIUNFO PASS	Total # of Elements =	3
	County-City-Regional Parks and Preserves		Extremely Rare Elements (S1) =	0
	National Seashore or National Recreation Area		Best Example Elements (BX) =	0
	Other Conservancy; Land Trust; Private University			
	Private			

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Calochortus plummerae* PLUMMER'S MARIPOSA LILY	1	None	None		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Oncorhynchus mykiss irideus* SOUTHERN STEELHEAD - SOUTHERN CALIFORNIA ESU	1	Endangered	None	SC	

end of LAX 77

SITE NUMBER LAX 78

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
339	Private	POINT DUME	Total # of Elements =	3
		THOUSAND OAKS	Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Cnemidophorus tigris multiscutatus* COASTAL WESTERN WHIPTAIL	1	None	None		
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	1	None	None	SC	

end of LAX 78

SITE NUMBER LAX 79

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,868	California Dept. of Parks and Recreation	MALIBU BEACH	Total # of Elements =	6
	Private		Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Dudleya cymosa ssp ovatifolia* SANTA MONICA MOUNTAINS DUDLEYA	1	Threatened	None		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Eucyclogobius newberryi* TIDEWATER GOBY	1	Endangered	None	SC	
EC	*Oncorhynchus mykiss irideus* SOUTHERN STEELHEAD - SOUTHERN CALIFORNIA ESU	1	Endangered	None	SC	
EC	*Diadophis punctatus modestus* SAN BERNARDINO RINGNECK SNAKE	1	None	None		
EC	*Southern coastal salt marsh* SOUTHERN COASTAL SALT MARSH	1	None	None		

end of LAX 79

SITE NUMBER LAX 80

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
7,614	California Dept. of Parks and Recreation	MALIBU BEACH	Total # of Elements =	9
	County-City-Regional Parks and Preserves	TOPANGA	Extremely Rare Elements (S1) =	2
	National Seashore or National Recreation Area		Best Example Elements (BX) =	0
	Other Conservancy; Land Trust; Private University			
	Private			
	Water Districts etc.			

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Deinandra minthornii* SANTA SUSANA TARPLANT	1	None	Rare		1B
EC	*Dudleya cymosa ssp ovatifolia* SANTA MONICA MOUNTAINS DUDLEYA	1	Threatened	None		1B
S1	*Coelus globosus* GLOBOSE DUNE BEETLE	1	None	None		
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		
EC	*Oncorhynchus mykiss irideus* SOUTHERN STEELHEAD - SOUTHERN CALIFORNIA ESU	1	Endangered	None	SC	
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Cnemidophorus tigris multiscutatus* COASTAL WESTERN WHIPTAIL	1	None	None		
S1	*Lampropeltis zonata pulchra* SAN DIEGO MOUNTAIN KINGSNAKE	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	2	None	None	SC	

end of LAX 80

SITE NUMBER LAX 83

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
338	Private	PALMDALE	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 83

SITE NUMBER LAX 84

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
408	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
	Private	PALMDALE	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	2	None	None		1B

end of LAX 84

SITE NUMBER LAX 85

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
520	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 85

SITE NUMBER LAX 86

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
235	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 86

SITE NUMBER LAX 87

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
266	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 87

SITE NUMBER LAX 88

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
667	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	2
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B
EC	*Thamnophis hammondii* TWO-STRIPED GARTER SNAKE	1	None	None	SC	

end of LAX 88

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SITE NUMBER LAX 89

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
863	Angeles National Forest	PACIFICO MOUNTAIN	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	3	None	None		1B

end of LAX 89

SITE NUMBER LAX 90

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
311	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 90

SITE NUMBER LAX 92

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2,002	Angeles National Forest	MESCAL CREEK	Total # of Elements =	1
		VALYERMO	Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	2	None	None		1B

end of LAX 92

SITE NUMBER LAX 93

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
271	Angeles National Forest	MESCAL CREEK	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 93

SITE NUMBER LAX 94

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
7.831	Army	LA HABRA	Total # of Elements =	4
	Private	SAN DIMAS	Extremely Rare Elements (S1) =	0
		YORBA LINDA	Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Clemmys marmorata pallida* SOUTHWESTERN POND TURTLE	1	None	None	SC	
EC	*Polioptila californica californica* COASTAL CALIFORNIA GNATCATCHER	1	Threatened	None	SC	
EC	*Vireo bellii pusillus (nesting)* LEAST BELL'S VIREO	1	Endangered	Endangered		
EC	*California walnut woodland* CALIFORNIA WALNUT WOODLAND	11	None	None		

end of LAX 94

SITE NUMBER LAX 95

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
927	California Dept. of Parks and Recreation	MALIBU BEACH	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	0
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Neotoma lepida intermedia* SAN DIEGO DESERT WOODRAT	1	None	None	SC	

end of LAX 95

SITE NUMBER LAX 96

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
3.821	California Dept. of Parks and Recreation	MALIBU BEACH	Total # of Elements =	2
	County-City-Regional Parks and Preserves	POINT DUME	Extremely Rare Elements (S1) =	1
	Private		Best Example Elements (BX) =	0
	Water Districts etc.			

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Pentachaeta lyonii* LYON'S PENTACHAETA	1	Endangered	Endangered		1B
EC	*Danaus plexippus* MONARCH BUTTERFLY	1	None	None		

end of LAX 96

SITE NUMBER LAX 97

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
236	Private	THOUSAND OAKS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Dudleya cymosa ssp agourensis* SANTA MONICA MTNS. DUDLEYA	1	Threatened	None		1B

end of LAX 97

SITE NUMBER LAX 98

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
457	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	0
	US Bureau of Land Management		Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Southern riparian scrub* SOUTHERN RIPARIAN SCRUB	1	None	None		

end of LAX 98

SITE NUMBER LAX 99

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
2.115	Private	RITTER RIDGE	Total # of Elements =	2
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	4	None	None		1B
EC	*Athene cunicularia (burrow sites)* BURROWING OWL	1	None	None	SC	

end of LAX 99

SITE NUMBER LAX 100

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
3.690	Private	VENICE	Total # of Elements =	4
			Extremely Rare Elements (S1) =	4
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Brennania belkini* BELKIN'S DUNE TABANID FLY	2	None	None		
S1	*Eucosma hennei* HENNE'S EUCOSMAN MOTH	1	None	None		
S1	*Euphilotes battoides allyni* EL SEGUNDO BLUE BUTTERFLY	2	Endangered	None		
S1	*Southern dune scrub* SOUTHERN DUNE SCRUB	1	None	None		

end of LAX 100

SITE NUMBER LAX 101

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1.050	Angeles National Forest	CONDOR PEAK	Total # of Elements =	2
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Catostomus santaanae* SANTA ANA SUCKER	1	Threatened	None	SC	
EC	*Southern mixed riparian forest* SOUTHERN MIXED RIPARIAN FOREST	2	None	None		

end of LAX 101

SITE NUMBER LAX 103

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
984	Angeles National Forest	VALYERMO	Total # of Elements =	1
	Private		Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 103

SITE NUMBER LAX 104

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,537	Angeles National Forest	VALYERMO	Total # of Elements =	3
	Private		Extremely Rare Elements (S1) =	0
	The Nature Conservancy		Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Linanthus concinnus* SAN GABRIEL LINANTHUS	1	None	None		1B
EC	*Rana muscosa* MOUNTAIN YELLOW-LEGGED FROG	1	Proposed Endangered	None	SC	
EC	*Falco mexicanus (nesting)* PRAIRIE FALCON	3	None	None	SC	

end of LAX 104

SITE NUMBER LAX 105

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
206	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 105

SITE NUMBER LAX 106

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
310	Angeles National Forest	JUNIPER HILLS	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Opuntia basilaris var brachyclada* SHORT-JOINT BEAVERTAIL	1	None	None		1B

end of LAX 106

SITE NUMBER LAX 107

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,565	Angeles National Forest	CRYSTAL LAKE	Total # of Elements =	3
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Lilium parryi* LEMON LILY	5	None	None		1B
EC	*Linanthus concinnus* SAN GABRIEL LINANTHUS	2	None	None		1B
S1	*Potentilla glandulosa ssp ewanii* EWAN'S CINQUEFOIL	1	None	None		1B

end of LAX 107

SITE NUMBER LAX 108

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
1,959	Angeles National Forest	CRYSTAL LAKE	Total # of Elements =	4
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
EC	*Eriogonum kennedyi var alpigenum* SOUTHERN ALPINE BUCKWHEAT	1	None	None		1B
EC	*Lilium parryi* LEMON LILY	1	None	None		1B
EC	*Linanthus concinnus* SAN GABRIEL LINANTHUS	1	None	None		1B
S1	*Potentilla glandulosa ssp ewanii* EWAN'S CINQUEFOIL	2	None	None		1B

end of LAX 108

Significant Natural Areas of
LOS ANGELES COUNTY

SITE NUMBER LAX 109

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
15,102	Angeles National Forest	ACTON	Total # of Elements =	13
	Private	AGUA DULCE	Extremely Rare Elements (S1) =	5
	US Bureau of Land Management	MINT CANYON	Best Example Elements (BX) =	0
		NEWHALL		

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Calochortus clavatus var gracilis* SLENDER MARIPOSA LILY	1	None	None		1B
S1	*Dodecahema leptoceras* SLENDER-HORNED SPINEFLOWER	1	Endangered	Endangered		1B
EC	*Navarretia fossalis* SPREADING NAVARRETIA	2	Threatened	None		1B
EC	*Orcuttia californica* CALIFORNIA ORCUTT GRASS	1	Endangered	Endangered		1B
S1	*Catostomus santaanae* SANTA ANA SUCKER	1	Threatened	None	SC	
S1	*Gasterosteus aculeatus williamsoni* UNARMORED THREESPINE STICKLEBACK	1	Endangered	Endangered		
EC	*Gila orcutti* ARROYO CHUB	1	None	None	SC	
EC	*Scaphiopus hammondii* WESTERN SPADEFOOT	1	None	None	SC	
EC	*Phrynosoma coronatum blainvillei* SAN DIEGO HORNED LIZARD	1	None	None	SC	
S1	*Riversidian alluvial fan sage scrub* RIVERSIDIAN ALLUVIAL FAN SAGE SCRUB	1	None	None		
EC	*Southern cottonwood willow riparian forest* SOUTHERN COTTONWOOD WILLOW RIPARIAN FOREST	4	None	None		
EC	*Southern riparian scrub* SOUTHERN RIPARIAN SCRUB	5	None	None		
EC	*Southern willow scrub* SOUTHERN WILLOW SCRUB	2	None	None		

end of LAX 109

SITE NUMBER LAX 110

Approximate Acreage	Owner / Management	7.5' Quads	Element Totals	
417	Private	ACTON	Total # of Elements =	1
			Extremely Rare Elements (S1) =	1
			Best Example Elements (BX) =	0

Element Type	Element Name	Element Occurrences	STATUS: Federal	California	CDFG	CNPS
S1	*Stylocline masonii* MASON'S NESTSTRAW	1	None	None		1B

end of LAX 110

ATTACHMENT U-1
LIST OF CONSTITUENTS IN MONITORING PROGRAM
AND ASSOCIATED METHOD DETECTION LIMITS (MDLs)

CONSTITUENTS	USEPA METHOD	MDL A[1]	MDL B[2]
Conventional Pollutants		**mg/L**	**mg/L**
Oil and Grease	413.2	1	1
Total Phenols	420.1	0.1	0.1
Cyanide	335.2	0.01	0.01
pH	150.1	0 - 14	0 - 14
Temperature		None	None
Dissolved Oxygen		Sensitivity to 5 mg/L	Sensitivity to 5 mg/L
Bacteria			
Total Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Streptococcus	9221B	<20mpn/100ml	<20mpn/100ml
General		**mg/L**	**mg/l**
Dissolved Phosphorus	300	0.05	0.05
Total Phosphorus	300	0.05	0.05
Turbidity	180.1	0.1NTU	0.1NTU
Total Suspended Solids	160.2	2	2
Total Dissolved Solids	160.1	2	2
Volatile Suspended Solids	160.4	2	2
Total Organic Carbon	415.1	1	1
Total Petroleum Hydrocarbon	418.1	1	1
Biochemical Oxygen Demand	405.1	2	2
Chemical Oxygen Demand	410.4	20-900	20-900
Total Ammonia-Nitrogen	350.2	0.1	0.1
Total Kjeldahl Nitrogen	351.2	0.1	0.1
Nitrate-Nitrite	4110	0.1	0.1
Alkalinity	310.1	2	2
Specific Conductance	120.1	1umho/cm	1umho/cm
Total Hardness	130.2	2	2
MBAS	425.1	<0.5	<0.5
Chloride	4110	2	2
Fluoride	4110	0.1	0.1
Sulfate	4110	2	2

[1] Detection limits lower than or equal to the Minimum Levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California
[2] Detection limits from Order 96-054

Metals		µg/L	µg/L
Aluminum	202.1	100	100
Antimony	204.2	**0.5**	10
Arsenic	206.2	**1**	10
Barium	208.2	100	100
Beryllium	210.2	**0.5**	5
Boron	212.3	250	250
Cadnium	213.2	**0.25**	10
Calcium	215.2	200	200
Chromium	218.2	**0.5**	10
Copper	219.2	**0.5**	10
Hex. Chromium	7196	**5**	<10
Iron	236.2	100	100
Lead	239.2	0.5	10
Magnesium	242.1	200	200
Manganese	243.2	30	30
Mercury	245.1	**0.2**	1
Nickel	249.2	**1**	10
Potassium	258.1	100	100
Selenium	270.2	**1**	5
Silver	272.2	**0.25**	10
Sodium	273.1	50	50
Thallium	279.2	**1**	10
Zinc	289.2	**1**	50
Semivolatile Organic Compounds		µg/L	µg/L
Acids	**8250**		
Benzoic Acid	8250	<5	<5
Benzyl Alcohol	8250	<5	<5
2-Chlorophenol	8250	<2	<2
2, 4-Dichlorophenol	8250	**1**	<2
2, 6-Dichlorophenol	8250	<2	<2
4-Dimetylphenol	8250	<2	<2
4, 6-Dinitro-2-metylphenol	8250	<3	<3
2, 4-Dinitrophenol	8250	<3	<3
2-Methylphenol	8250	<3	<3
4-Methylphenol	8250	<3	<3
2-Nitrophenol	8250	<3	<3
4-Nitrophenol	8250	<3	<3
4-Chloro-3-methylphenol	8250	**1**	<3
Pentachlorophenol	8250	**1**	<2
Phenol	8250	<1	<1
2,3,4,6-Tetrachlorophenol	8250	<1	<1
2,4,5-Trichlorophenol	8250	<1	<1
2,4,6-Trichlorophenol	8250	<1	<1

Base/Neutral	8250	µg/L	µg/L
Acenapthene		<0.5	<0.5
Acenapthylene		**0.2**	<0.5
Acetophenone-		<3	<3
Aniline		<3	<3
Anthracene		2.0	<0.5
4-Aminobiphenyl		<3	<3
Benzidine		<3	<3
Benzo(a)anthracene		<1	<1
4-Chloroaniline		<1	<1
1-Chloronapthalene		<1	<1
p-Dimethylaminoazobenzene		<3	<3
7,12-Dimethylbenz(a)-anthracene		<1	<1
a-,a-Dimethylphenethylamine		<3	<3
Benzo(a)pyrene		<1	<1
Benzo(b)flouranthene		<1	<1
Benzo(k)flouranthene		<1	<1
Chlordane		<1	<1
Bis(2-chloroethoxy)methane		<1	<1
Bis(2-chlorisopropyl)ether		<1	<1
Bis(2-chloroethyl)ether		<1	<1
Bis(2-ethylhexl)phtalate		<3	<3
4-Bromophenyl phenyl ether		<1	<1
Butyl benzyl phthalate		<3	<3
2-Chloronapthalene		<1	<1
4-Chlorophenyl phenyl ether		<1	<1
Chrysene		<1	<1
Dibenz(a,j)acridine		<3	<3
Dibenz(a,h)anthracene		**0.1**	<1
1,3-Dichlorobenzene		<0.5	<0.5
1,4-Dichlorobenzene		<0.5	<0.5
1,2-Dichlorobenzene		<0.5	<0.5
3,3-Dichlorobenzidine		<3	<3
Diethylphthalate		<0.5	<0.5
Dimethylphthalate		<0.5	<0.5
Di-n-butylphthalate		<3	<3
2,4-Dinitrotoluene		<0.5	<0.5
2,6-Dinitrotoluene		<0.5	<0.5
Diphenylamine		<3	<3
1,2-Diphenylhydrazine		**1**	<3
Di-n-octylphtalate		<3	<3
Ethyl methanesulfonate		<3	<3
Fluoranthene		**0.05**	<1
Fluorene		**0.1**	<1
Hexachlorobenzene		<0.5	<0.5
Hexachlorobutadiene		<1	<1
Hexochlorocyclopentadiene		<3	<3
Hexochloroethane		<1	<1

Indeno(1,2,3-cd)pyrene		**0.05**	<1
Isophorone		<0.5	<0.5
3-Methylcholanthrene		<3	<3
Methyl methanesesulfonate		<3	<3
Napthalene		**0.2**	<0.5
1-Napthylamine		<3	<3
2-Napthalamine		<3	<3
2-Nitroaniline		<3	<3
3-Nitroaniline		<3	<3
4-Nitroaniline		<3	<3
Nitrobenzene		<0.5	<0.5
N-Nitroso-di-n-butylamine		<3	<3
N-Nitrosodimethylamine		<3	<3
N-Nitrosodiphenylamine		**1**	<3
N-Nitroso-di-N-propylamine		<1	<1
N-Nitrosopiperidine		<3	<3
Pentachlorobenzene		<3	<3
Phenacitin		<3	<3
Phenanthrene		**0.05**	<0.5
2-Picoline		<3	<3
Pronamide		<5	<5
Pyrene		**0.05**	<0.5
5-Tetrachlorobenzene		<3	<3
1,2,4-Trichlorobenzene		<0.5	<0.5
Pesticides	**608**	µg/L	µg/L
Aldrin	608	**0.005**	0.05
alpha-BHC	608	0.05	0.05
beta-BHC	608	0.05	0.05
delta-BHC	608	0.05	0.05
gamma-BHC (lindane	608	0.05	0.05
Carbofuran	531.1	<5	<5
Chlordane	608	0.05	0.05
4,4'-DDD	608	**0.05**	<0.1
4,4'-DDE	608	**0.05**	<0.1
4,4'-DDT	608	**0.01**	<0.1
Benzaton	515.1	<2	<2
Dieldron	608	**0.01**	<0.1
Endosulfan I	608	<0.1	<0.1
Endosulfan II	608	<0.1	<0.1
Endosulfan sulfate	608	**0.05**	<0.1
Endrin	608	**0.01**	<0.1
Endrin aldehyde	608	**0.01**	<0.1
Glyphosate	547	<0.5	<0.5
Heptachlor	608	**0.01**	0.05
Heptachlor epoxide	608	**0.01**	0.05
Methoxychlor	608	<0.5	<0.5
Toxaphene	608	**0.5**	<1.0

2,4-D	515.1	<0.02	<0.02
2,4,5-TP-SILVEX	515.1	<0.2	<0.2
Polychlorinated Biphenyls	**608**	µg/L	µg/L
Aroclor-1016	608	**0.5**	<1
Aroclor-1221	608	**0.5**	<1
Aroclor-1232	608	**0.5**	<1
Aroclor-1242	608	**0.5**	<1
Aroclor-1248	608	**0.5**	<1
Aroclor-1254	608	**0.5**	<1
Aroclor-1260	608	**0.5**	<1
Herbicides		µg/L	µg/L
Diazinon		**0.01**	0.01
Chlorpyrifos		**0.05**	0.05
Diuron		**1**	1
Malathion		**1**	1
Prometryn	507	**2**	2
Atrazine	507	**2**	2
Simazine	507	<2	<2
Cyanazine	507	**2**	2
Molinate	507	<0.01	<0.01
Thiobencarb	507	<0.1	<0.1
Volatile Organic Compounds	**8240A**	µg/L	µg/L
Acetonitrile		10.0	10.0
Acrolein		**2**	10.0
Acrylonitrile		0.5	0.5
Benzene		0.5	0.5
Bromoform		0.5	0.5
2-Butanone		10.0	10.0
Carbon Disulfide		10.0	10.0
Carbon Tetrachloride		0.5	0.5
Chlorobenzene		0.5	0.5
Chlorodibronmethane		0.5	0.5
Chloroethane		0.5	0.5
2-Chloroethyl vinyl ether		1.0	1.0
Chloroform		0.5	0.5
Dibromomethane		0.5	0.5
1,2-Dibromo-3Chloropropane		<0.01	<0.01
1,4-Dichloro-2-butene		10.0	10.0
Dichlorobromomethane		0.5	0.5
Dichlorodifluoromethane		0.5	0.5
1,1-Dichloroethane		0.5	0.5
1,2-Dichloroethane		0.5	0.5
1,1-Dichloroethene		0.5	0.5

trans-1,2-Dichloroethene		0.5	0.5
1,2-Dichloropropane		0.5	0.5
cis-1,3-Dichloropropene		0.5	0.5
Trans-1,3-Dichloropropene		0.5	0.5
Ethanol		10.0	10.0
Ethylbenzene		**0.5**	1.0
Ethylene Dibromide		<0.01	<0.01
Ethylene Oxide		10.0	10.0
Ethyl Metcrylate		0.5	0.5
2-Hexanone		5.0	5.0
Iodomethane		0.5	0.5
Methyl Bromide		5.0	5.0
Methyl Chloride		5.0	5.0
Methylene Chloride		1.0	1.0
4-Methyl-2-pentanone		5.0	5.0
Styrene		0.5	0.5
1,1,2,2-Tetrachloroethane		0.5	0.5
Tetrachloroethane		0.5	0.5
Toluene		**0.5**	1.0
Trichlorofluoromethane		1.0	1.0
1,2,3-Trichloropropane		0.5	0.5
Trichloroethene		0.5	0.5
1,1,1-Trichloroethane		1.0	1.0
1,1,2-Trichloroethane		1.0	1.0
1,2,2-Trifluoroethane		<0.5	<0.5
Vinyl acetate		5.0	5.0
Vinyl chloride		0.5	0.5
Xylene (Total)		0.5	0.5

ATTACHMENT U-2
SHORELINE MONITORING STATIONS

Station	Location[1]	Latitude	Longitude
S1	Surfrider Beach, Malibu, 50 yds E. of breech	34.03500	118.67833
S2	Topanga Point, Malibu, seaward of lifeguard station	34.03833	118.58083
S3	Pulga storm drain, Pacific Palisades, 50 yds E. of drain	34.03361	118.53417
S4	Santa Monica Canyon storm drain, Pacific Palisades, 50 yds E. of drain	34.02639	118.51861
S5	Santa Monica Pier, Santa Monica, 50 yds S. of pier	34.00833	118.49667
S6	Pico-Kenter storm drain, Santa Monica, 50 yds S. of drain	34.00583	118.49250
S7	Ashland storm drain, Santa Monica, 50 yds S. of drain	33.99639	118.48472
S8	Windward storm drain, Los Angeles, 50 yds S. of drain	33.98778	118.47750
S9	Marina Del Rey Beach, Marina Del Rey, at lifeguard tower.	33.98139	118.45833
S10	Ballona Creek, Playa Del Rey, 50 yds S. of south jetty	33.96083	118.45611
S11	Culver Blvd., extended, Playa Del Rey, N side of Culver storm drain	33.95639	118.45167
S12	Imperial Hwy. Storm drain, Playa Del Rey, 50 yds S. of drain	33.93028	118.43722
S13	El Porto, Manhattan Beach, 40th St. extended	33.90389	118.42250
S14	Manhattan Beach Pier, Manhattan Beach, 50 yds S. of pier	33.88360	118.41278
S15	Hermosa Beach Pier, Hermosa Beach, 50 yds S. of pier	33.86111	118.40278
S16	Redondo Pier, Redondo Beach, 50 yds S. of pier	33.83833	118.39111
S17	Ave. I storm drain, Redondo Beach, Ave. I extended, 50 yds S. of drain	33.81889	118.39111
S18	Malaga Cove, Palos Verdes Estates, Arroyo Circle extended	33.80500	118.39467

[1] Station locations from *Ocean Water Regulatory & Monitoring Protocol*, County of Los Angeles, Department of Health Services, May 5, 1999.

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

MONITORING AND REPORTING PROGRAM - CI 6948

FOR

MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES, EXCEPT THE CITY OF LONG BEACH

(NPDES PERMIT NO. CAS004001)

I. Program Reporting Requirements

A. Program Management

Permittees shall submit, no later than (3 months following the adoption of this Order), the Annual Storm Water Report and Assessment (Annual Report) for the period July 1, 2000, through October 25, 2001 documenting the status of the storm water management program (Program) up to permit reissuance and the results of analyses from the monitoring and reporting program.

The Principal Permittee shall submit, by October 15 of each year beginning the year 2002, an Annual Report documenting the progress of Permittee implementation of the Storm Water Quality Management Plan (SQMP) and the requirements of this Order. An integrated summary of the results of analyses from the Monitoring Program described under *II. Monitoring Requirements* shall also be included. The Principal Permittee shall evaluate the Annual Report with the results of analyses from the Monitoring Program (e.g. if the monitoring results show a particular constituent consistently at elevated levels, that may be a trigger for Permittees to address their programs specifically for that particular situation and change them accordingly to address the problem).

The Annual Report shall cover each fiscal year from July 1 through June 30. At a minimum, the Annual Report will include the following:

1. All proposed changes to the SQMP as approved by the Executive Advisory Committee (EAC).

2. A comparison of program implementation results to performance standards established in this Order and in the SQMP.

3. Status of compliance with permit requirements including implementation dates for all time-specific deadlines. If permit deadlines are not met, Permittees shall report the reasons why the requirement was not met, how the requirements will be met in the future, including projected implementation date.

4. An assessment of the effectiveness of SQMP requirements to reduce storm water pollution. This assessment will be based upon the specific record-keeping information requirement in each major section of the

permit, monitoring data, and any other information related to program effectiveness. Beginning in the Year 2002, to the extent that data collected in monitoring requirements included herein and existing monitoring data allows, the Principal Permittee shall include an analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses.

5. An analysis of the data to identify areas of the Program coverage which cause or contribute to exceedances of water quality standards or objectives, predominate land uses in these areas, and potential sources of pollutants in those areas.

6. Discussion of the compliance record and the corrective actions taken or planned that may be needed to bring the discharge into full compliance with the waste discharge requirements.

B. Public Information and Participation Program (PIPP)

The Principal Permittee shall submit an annual PIPP Update to the Regional Board Executive Officer for approval. The PIPP Update shall include a summary of the overall strategy and any updates or modifications to the PIPP.

Programs for Residents

1. Number of storm drain inlets and designated public access points to creeks, channels, and other relevant water bodies in each Permittees' systems that are marked or posted with a no dumping message. If the requirement that 100 percent of storm drains inlets are marked/signed is not met, each Permittee shall report the reasons why, and how the requirement will be met in the future, including the implementation date.

2. Description of activities on distributing brochures, community outreach efforts, public communication efforts and educational programs in schools including an estimate of the number of impressions per year made on the general public about storm water quality via print, local TV access, local radio presentations, meetings or other appropriate media.

3. Description of the quarterly Public Outreach Strategy meetings, including percentage of Permittee attendance, effectiveness at coordinating Permittee education programs, and overall effectiveness based on Permittee evaluations. Also, a description of each Permittee's participation in and contribution to the PIPP.

4. Description of activities for the Pollutant-Specific Outreach programs, including creating and distributing outreach materials to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate counters and events.

Programs for Businesses

1. Description of the Corporate Outreach program, including the number of consultations with corporate-level management of gas stations and restaurant chains and the percentage of the total.

2. Description of the Business Assistance Program, including the number of businesses that requested assistance and the number that were assisted through site visits, telephone consultations, presentations, or material distribution.

C. Industrial/Commercial Facilities Program

1. An annual update of the watershed-based inventory of all Industrial/Commercial sites identified as a threat to water quality. This includes all Phase I industrial facilities, motor vehicle repair shops, motor vehicle body shops, motor vehicle parts and accessories facilities, restaurants, and other facilities that contribute or have the potential to contribute to impairments of receiving waters. The inventory shall include at a minimum: facility name, site address, SIC code and narrative description of activities performed at each facility.

2. Number of restaurants, automotive businesses, industrial facilities, and other commercial facilities targeted under the program. During the past year, the number of industrial and commercial inspections conducted, the number of non-compliant sites, and the number of industrial facilities the Permittees have identified that have failed to file an NOI.

3. The percentage of targeted staff trained annually.

D. Development Planning Program

1. Total number and percent of all development projects reviewed and conditioned to meet SUSMP requirements by category such as residential, commercial, and industrial.

2. Total square feet of impervious area conditioned for mitigation by development and redevelopment category.

3. Significant date rewrite completed of General Plan with storm water considerations.

4. Percent and total number of targeted staff trained annually [100 percent].

5. Date CEQA guidelines revision completed to include storm water mitigation conditions.

6. Date BMP design and sizing technical manual completed and made available electronically.

E. Construction Development Program

1. Number of construction projects requiring local SWPPPs in the past year and the percentage of projects in categories requiring submittal of a local SWPPP for which local SWPPPs were completed.

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2. Number and type of enforcement actions, applicable to storm water enforcement, taken at construction sites during the past year.

3. Description of the outreach program to the construction community and assessment of its effectiveness; This assessment should include a discussion of the number of inspections, or other meetings conducted.

4. The percentage of targeted staff trained annually.

F. Illicit Connections and Illicit Discharges Elimination Program

1. Annual update of the analytical tool used to manage and track illicit connections and discharges, including an evaluation of patterns and trends of illicit connections and illicit discharges in the entire storm drain system.

2. Location and length of open channels and closed storm drains that were screened by all Permittees, and the status of all suspected, confirmed, and terminated illicit connections.

3. Number of reports of illicit discharges that Permittees responded to, percentage that were identified as actual illicit discharges, and percentage of the actual illicit discharges where the incident was either cleaned up, referred to another responsible agency and/or follow up/education with the discharger was conducted.

4. Percentage of cleanup and abatement activities that occurred within 72 hours of discovery or report of a suspected illicit discharge and justification for response activities that exceeded 72 hours.

5. For groups of identified illicit discharge types where the probable causes for the discharge can be identified, report probable causes and the actions taken to prevent similar discharges from occurring.

6. Number of illicit connections identified in the past year.

7. Percentage of investigations that were initiated within 21 days of identification or a report of an illicit connection and justification for those that exceeded 21 days.

8. Number of illicit connections eliminated in the past year.

9. Percentage of illicit connections terminated within 180 days of identification and justification for terminations that exceeded 180 days.

10. Number and type of enforcement actions for storm water illicit discharges and/or illicit connections taken in the past year.

11. A summary from records on illicit discharges and connections which includes description of discharge, source, and enforcement action taken.

12. A summary from records on illicit connections which includes the number of illicit connections terminated by the issuance of a connection permit and those terminated by removal of the connection. This summary shall also include a breakdown of identified illicit connections by land use.

13. The percentage of targeted employees trained annually.

G. Programs for Facilities Maintenance

1. A summary which at a minimum includes the quantity, predominant types and likely sources of trash removed from catch basin inlets.

2. A summary of the total curb miles of streets swept annually and the percentage of total curb miles swept annually as a function of total curb miles.

3. The percentage of targeted staff trained annually.

H. Pollutants of Concern

1. A progress report on sources of pollutants of concern, BMPs for their control, and implemented BMP effectiveness.

I. Monitoring Program Management

1. The Principal Permittee shall submit a Storm Water Monitoring Report (Monitoring Report) on August 15, 2002, and annually on August 15, thereafter. The report shall include:

   a) Status of implementation of the monitoring program

   b) Results of the monitoring program

   c) A general interpretation of the results

   d) Data, results, methods of evaluating the data, graphical summaries of the data, and an explanation/discussion of the data for each component of the monitoring program, including any specific reporting requirements included in Section II. Monitoring Program

   e) An analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses

   f) Suggestions for improvements to the SQMP based on the analysis

   g) All monitoring reports shall be submitted in both electronic and paper formats

2. The Principal Permittee shall

3. The Principal Permittee shall submit, no later than (3 months following the adoption of this Order), the results of analyses from the monitoring and reporting program for the period July 1, 2000 through October 25, 2001 together with the Annual Report for the same period.

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J. All applications, reports, or information submitted to the Regional Board shall be signed and certified pursuant to EPA regulations 40 CFR 122.41 (k). Each report shall contain the following completed declaration:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility, of a fine and imprisonment for knowing violations.

Executed on the ___ day of _____ , 20_,

at _____.

(Signature)_____(Title)_____";

Permittee submittals to the Principal Permittee shall also be signed and certified pursuant to EPA regulations 40 CFR 122.41 (k).

The Principal Permittee shall mail the original of each annual report to:

INFORMATION TECHNOLOGY
CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD - LOS ANGELES REGION
320 W. 4TH STREET, SUITE 200
LOS ANGELES, CA 90013

A copy of the annual report shall also be mailed to:

REGIONAL ADMINISTRATOR
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105

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II. Monitoring Program

The primary objectives of the Los Angeles County Storm Water Quality Monitoring Program include, but are not limited to: 1) assessing compliance with this Order; 2) measuring and improving the effectiveness of the SQMPs; 3) assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff; 4) characterization of storm water

discharges; 5) identifying sources of pollutants; and 6) assessing the overall health and evaluating long-term trends in receiving water quality. Ultimately, the results of the monitoring requirements outlined below should be used to refine the SQMPs for the reduction of pollutant loadings and the protection and enhancement of the beneficial uses of the receiving waters in Los Angeles County.

The Principal Permittee shall implement the Countywide Storm Water Monitoring Program as follows:

A. Mass Emissions

The Principal Permittee shall monitor mass emissions to accomplish the following objectives: 1) estimate the mass emissions from the MS4; 2) assess trends in the mass emissions over time; and 3) determine if the MS4 is contributing to exceedances of water quality objectives by comparing results to objectives in the Basin Plan, Ocean Plan, and with emissions from other dischargers.

1. The Principal Permittee shall monitor mass emissions from the following seven mass emission stations: Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, Coyote Creek, Dominguez Channel, and the Santa Clara River (location to be determined prior to the adoption of this Order). The Principal Permittee shall monitor the first storm event and a minimum of 2 additional storm events for each season. A minimum of two dry weather samples per year at each mass emission station shall also be analyzed.

2. All storms, in addition to those required above, totaling at least 0.25 inches of rainfall shall be sampled and analyzed for TSS. Results shall be used to assess the variability of storm water constituents and provide a more accurate estimate of median mass emissions (pollutant correlation with TSS). This requirement does not apply to manual sampling stations.

3. Samples for mass emission station monitoring may be taken with the same type of automatic sampler used under Order 96-054. Grab samples shall be taken for pathogen indicators and oil and grease. The samplers shall be set to monitor storms totaling 0.25 inches or greater of rainfall. Samples taken at mass emission stations during the first storm event should be analyzed for all constituents listed in Attachment U-1. The Principal Permittee may elect not to sample Volatile Organic Compounds from the list of constituents for mass emission stations.

4. Manual samples shall be collected from mass emission stations where it is not feasible to install an automatic sampler (Santa Clara River). Manual samples shall be time-weighted composites, collected during the first 3 hours, or for the duration of the storm if it is less than 3 hours. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge[1], unless the Regional Board Executive Officer approves alternate protocol.

[1] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

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5. For the first storm of each year, method detection limits (MDLs) lower than or equal to the minimum levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000 (SIP) shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year. If a constituent has been detected in 100 percent of samples during the last 2 years of monitoring, the Principal Permittee may continue to use the MDLs listed in column B until the constituent is not detected, afterwhich, the method detection limits shall be lowered to those in column A.

6. If a constituent is not detected at the method detection limit for its respective test method listed in Attachment U-1 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it need not be further analyzed, with the exception of the first storm of each season, unless the observed occurrences show high concentrations and are cause for concern.

B. Water Column Toxicity Monitoring

The Principal Permittee shall analyze mass emission samples for toxicity to evaluate the extent and causes of toxicity in receiving waters and to modify and utilize the SQMP to implement practices that eliminate or reduce sources of toxicity in storm water.

1. The Principal Permittee shall analyze two wet weather samples and two dry weather samples from each mass emission station for toxicity per year. A minimum of one freshwater and one marine species shall be used for toxicity testing. Specifically, Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization shall be used. Only Ceriodaphnia dubia shall be used for toxicity testing of samples from the Santa Clara mass emission station. If toxicity is not detected in either of the dry weather samples for any given mass emission station, the Principal Permittee may reduce dry weather toxicity testing to one sample per year at that station. If toxicity is not detected in either of the wet weather samples for any given mass emission station, wet weather toxicity testing may be reduced to one sample from the first storm of the wet season per year at that station.

2. Toxicity Identification Evaluations (TIE)

The Principal Permittee shall conduct Phase I TIEs on wet weather samples when two consecutive samples from the same monitoring station show toxicity and on dry weather samples when two consecutive dry weather samples from the same monitoring station show toxicity.

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3. Toxicity Reduction Evaluations (TRE)

a) The Principal Permittee shall perform a TRE for each pollutant or pollutant class that is identified as toxic. TREs shall include the following:

(1) An analysis of possible sources of toxicity, the identification of appropriate BMPs to eliminate toxicity and a time schedule for toxicity reduction that considers BMP implementation and effectiveness time. The Principal Permittee, Regional Board staff, and a third party will collaborate to develop and evaluate the analysis and recommendations.

(2) Submittal of the analysis to the Regional Board Executive Officer for approval.

The Principal Permittee may use EPA manual EPA/833B-99/002 (municipal) as guidance for TRE preparation.

b) Upon approval by the Regional Board Executive Officer, each Permittee having jurisdiction over sources causing or contributing to storm water toxicity shall be responsible for implementing the recommended BMPs to reduce toxicity.

c) During TRE development and implementation, the Principal Permittee shall continue monitoring the first storm and one dry weather event per year for toxicity at the subject station. According to the time schedule included in the TRE, the Principal Permittee shall analyze two wet weather and two dry weather samples for toxicity to evaluate the effectiveness of the TRE.

d) The Principal Permittee shall conduct a maximum of two TREs per year. If applicable, the Principal Permittee may use the same TRE for the same toxic pollutant or pollutant class in different watersheds.

e) The Principal Permittee shall report on the development, implementation, and results for each TRE in the annual Monitoring Reports, beginning the year following the identification of each pollutant or pollutant class causing toxicity.

C. Tributary/Source Identification Monitoring

The Principal Permittee shall monitor select tributaries to identify sources of pollutants in subwatersheds, prioritize locations that need management actions, provide baseline information for TMDL development and allocate pollutant loads for TMDL development. An additional purpose of this monitoring is to validate the Land Use Model.

1. The Principal Permittee shall develop and implement a tributary/source identification monitoring program[2]. The following tributaries which have

[2] The Principal Permittee is currently working with Regional Board staff to modify this program

been identified as contributing the greatest loads of metals per acre in each subwatershed (based on the last four years of data for land use type, area, and rainfall) shall be monitored:

a) Centinela Creek (Ballona Creek WMA)
b) Kenter Canyon (Ballona Creek WMA)
c) Aliso Creek (Los Angeles River WMA)
d) Bull Creek (Los Angeles River WMA)
e) Compton Creek (Los Angeles River WMA)
f) Los Cerritos Channel (San Gabriel River WMA)
g) San Jose Creek (San Gabriel River WMA)

2. The Principal Permittee shall begin monitoring in the Los Angeles River watershed in the 2001-2002 storm season, and the San Gabriel River and Ballona Creek watersheds no later than the 2002-2003 storm season.

3. The Principal Permittee shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

4. Samples shall be time-weighted composites, collected during the first 3 hours, or for the duration of the storm if it is less than 3 hours. Samples may be collected manually or automatically. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge[3], unless the Regional Board Executive Officer approves alternate protocol. Samples shall be taken just upstream of the tributary's confluence with the mainstem. Constituents to be analyzed for each location shall include the following:

   a) pH, dissolved oxygen, temperature, conductivity, and total suspended solids

   b) Metals: aluminum, arsenic, beryllium, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

   c) All other constituents for which the water body is impaired[4].

   d) Flow (flow may be estimated using EPA methods[5] at sites where flow measurement devices are not in place).

5. For the first storm of each year, MDLs lower than or equal to the minimum levels identified in the SIP shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year.

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[3] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

[4] The 1998 California 303(d) List and TMDL Priority Schedule lists pollutants for which each water body is impaired, www.swrcb.ca.gov/tmdl/docs/303d98.pdf#reg4

[5] NPDES Storm Water Sampling Guidance Document, EPA 833-B-92-001, July 1992

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6. The Principal Permittee shall submit a report identifying sources and/or source areas of pollutants within each watershed and priority management actions as part of the fourth Monitoring Report, to be submitted in 2005. The SQMP shall be modified to reflect the identified priority management actions.

D. Shoreline Monitoring

The City of Los Angeles shall monitor shoreline stations to evaluate the impacts to coastal receiving waters and the loss of recreational beneficial uses resulting from urban runoff. This component should be integrated and coordinated with similar monitoring programs in the region.

1. The City of Los Angeles shall monitor eighteen water quality sampling stations along the shoreline of the Pacific Ocean within the Santa Monica Bay to determine compliance with the State of California's bathing water standards for public beaches and ocean water-contact sport areas[6], and the related impacts of discharges from storm drains and piers. The shoreline monitoring program shall be implemented as follows:

   a) The eighteen established shoreline water quality stations listed in Attachment U-2 shall be monitored. Station locations may be modified based on recommendations from the Santa Monica Bay Restoration Project (SMBRP) and approval from the Regional Board Executive Officer;

   b) Three indicator groups shall be tested for using either membrane filtration, multiple tube fermentation, or chromogenic substrate test kits. Monitoring shall include the following types and frequencies of sampling:

Parameter	Units	Sample Frequency
Total coliforms	CFU or MPN/100 ml	6/week (Mon-Sat)[7]
Fecal Coliform[8]	CFU or MPN/100 ml	6/week (Mon-Sat)[5]
Enterococcus	CFU or MPN/100 ml	6/week (Mon-Sat)[5]

[6] California Department of Health Services, Health and Safety Code §115880 (Assembly Bill 411, Statutes of 1997, Chapter 765

[7] Samples will be collected on Sundays preceding Monday holidays

[8] *Escherichia Coli (E. Coli)* may be substituted for Fecal Coliform if chromogenic substrate test kits are used

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c) Shoreline monitoring shall occur during daylight hours. Samples may be omitted in the event of hazardous weather;

d) Shoreline monitoring frequencies at certain stations may be modified based on the use of the adjacent beaches and their proximity to storm drains, as recommended by the SMBRP's Technical Advisory Committee and the Los Angeles County Department of Health Services (DHS).

e) Data collected shall be transmitted daily to the Los Angeles County DHS. Data shall be assessed annually and presented in the Annual Report;

f) When exceedances of public health standards for bacteria occur, the Principal Permittee shall notify the appropriate Permittees. Permittees shall initiate an investigation to determine the source, as required in the Program to Eliminate Illicit Connections and Discharges (Part 4.F.2.c.).

g) The City of Los Angeles will continue to conduct all monitoring, testing, and data transferring actions as part of the Santa Monica Bay Restoration Project regional program for the Santa Monica Bay.

E. Trash Monitoring

The Principal Permittee and the Permittees in the Los Angeles River and Ballona Creek WMAs (listed in Attachment A) shall develop and implement a trash monitoring program for the Los Angeles River and Ballona Creek watersheds. The Principal Permittee is encouraged to implement the program in the watersheds that are not presently listed on the 303(d) list for impairment for trash.

The Principal Permittee shall participate on regional monitoring committees to help establish on-going regional programs that address public health concerns, monitor trends in natural resources and nearshore habitats, and assess regional impacts from all pollutant sources. Regional Monitoring participation shall include, but not necessarily be limited to, the efforts described below.

F. Estuary Sampling

The Southern California Coastal Waters Research Project (SCCWRP), in conjunction with the USEPA, the State Board, three Regional Boards, and participating dischargers, has organized an effort to implement a regional monitoring program for the southern California bight. Previous studies (in 1994 and 1998) included microbiology, water quality, sediment chemistry, sediment toxicity testing, benthic infauna, demersal fish, and bioaccumulation. A similar bight-wide monitoring effort is planned to be conducted in 2003. The Principal Permittee shall participate on the Steering Committee for this bight-wide monitoring project, and should complete the estuary sampling requirement described below in parallel with this effort.

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In addition to participation in the Bight-wide study, the goal of this requirement is to sample estuaries for sediment chemistry, sediment toxicity, and benthic macroinvertibrate community to determine the spatial extent of sediment fate from storm water, and the magnitude of its effects. A map of each estuary which depicts the impacted areas shall be produced. The maps shall provide the information necessary to conduct effective sediment monitoring to determine trends and accumulation, as a future permit requirement.

1. The Principal Permittee shall sample a maximum of 25 sites in each estuary/mouth (Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, and Dominguez Channel) once during the permit cycle. Sediment samples shall be taken at each station by means of a $0.1m^2$ ($1.1 ft^2$) modified Van Veen sediment grab sampler.

2. The Principal Permittee shall also sample a total of 25 sites outside of the direct outfalls to assess cumulative effects.

3. All samples shall be analyzed for the following:
   a) Sediment Chemistry (priority pollutants)
   b) Total Organic Carbon (TOC)
   c) Grain size
   d) Sediment Toxicity
      (1) Amphipod survival bioassays shall be conducted on each sediment sample. Toxicity shall be indicated by an amphipod survival rate of 70% or less in a single test.
      (2) Phase I TIEs of interstitial water, using Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization, shall be conducted for samples from stations identified to be toxic in a single amphipod survival bioassay.
   e) Benthic Macroinvertibrates
      (1) All sediment samples shall be passed through a 1.0mm (0.039 in) screen to retrieve the benthic organisms. Benthic epifauna and infauna shall be analyzed to determine the structure of the benthic community.
      (2) The Principal Permittee shall identify all organisms to lowest possible taxon.
      (3) The Principal Permittee shall determine the Total Biomass of:
         (i) Mollusks
         (ii) Echinoderms
         (iii) Annelids/polychaetes
         (iv) Crustaceans
         (v) All other macroinvertebrates

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(4) The Principal Permittee shall determine the community structure analysis, including wet weight of each taxonomic group (listed above), number of species, number of individuals per species, total numerical abundance, species abundance per grab, species richness, species diversity, species evenness and dominance, similarity analysis, cluster analyses, or other appropriate multivariate statistical techniques approved by the Regional Board Executive Officer, and the Infaunal Index[9].

4. The Principal Permittee shall create a map of each estuary depicting degraded areas and the spatial distribution of sediment from storm water.

G. Bioassessment

The Principal Permittee shall continue participation on the Southern California Stormwater Research/Monitoring Program committee (coordinated by SCCWRP). The Regional Board anticipates that this program will organize an effort to evaluate the biological index approach for southern California and to design a research project for developing an Index of Biological Integrity (IBI) for this region. The Principal Permittee shall participate in this regional effort at least to the extent described below.

The purpose of this requirement is to detect biological trends in receiving waters and to collect data for the development of an IBI for southern California.

1. The Principal Permittee shall coordinate with the Southern California Stormwater Research/Monitoring Program and with the Surface Water Ambient Monitoring Program (SWAMP) being developed by the Regional Board to identify the most appropriate locations for bioassessment stations within Los Angeles County.

2. Station selection shall be complete within one year from the date this Order is adopted, and sampling shall begin in October of 2003.

3. The Principal Permittee shall monitor a minimum of 20 station events per year (either 20 stations in October of each year, or 10 stations in May and October of each year). A minimum of three replicate samples shall be collected at each station during each sampling event.

4. Sampling, laboratory, quality assurance, and analysis procedures shall follow the standardized "Non-point Source Bioassessment Sampling Procedures" for professional bioassessment as set forth in the California Department of Fish and Game California Stream Bioassessment Procedure (CSBP)[10]. The following results shall be included in the annual Monitoring Report:

[9] Benthic Response Index for Assessing Infaunal Communities on the Mainland Shelf of Southern California, the SCCWRP
[10] California Stream Bioassessment Procedure (Protocol Brief for Biological and Physical/Habitat Assessment in Wadeable Streams), California Department of Fish and Game - Aquatic Bioassessment Laboratory, May 1999. Located at www.dfg.ca.gov/cabw/protocols.html.

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a) All physical, chemical and biological data collected in the assessment;

b) Photographic documentation of assessment and reference stations;

c) Documentation of quality assurance and control procedures;

d) Analysis that shall include calculation of the metrics used in the CSBP;

e) Comparison of mean biological and habitat assessment metric values between stations and year-to-year trends;

f) Electronic data formatted to the California Department of Fish and Game Aquatic Bioassessment Laboratory for inclusion in the Statewide Access Bioassessment Database.

5. A professional environmental laboratory shall perform all sampling, laboratory, quality assurance, and analytical procedures.

H. New Development Impacts Study in the Santa Clara Watershed

The Principal Permittee and the City of Santa Clarita shall monitor tributaries in the Santa Clara watershed to determine impacts from new development and to compare storm water quality between subwatersheds with and without SUSMPs.

1. The Principal Permittee and the City of Santa Clarita shall select one station that is representative of a subwatershed in which the majority of development has occurred without SUSMP implementation, and one station (SUSMP station) in a subwatershed in which the majority of the development has/will include SUSMP implementation. Other inputs to runoff, such as septic systems, in the two subwatersheds should be similar.

2. The Principal Permittee shall coordinate with the City of Santa Clarita and the Regional Board to develop a proposed study design, including a description of the drainage areas to be monitored and sampling locations, no later than 180 days from the date this Order is adopted. If appropriate, this study may be conducted in conjunction with the Peak Discharge Impact Study, described in Section I.

3. The Principal Permittee and the City of Santa Clarita shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

4. Samples shall be time-weighted composites, collected during the first 3 hours, or for the duration of the storm if it is less than 3 hours. Samples may be collected manually or automatically. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within

each hour of discharge[11], unless the Regional Board Executive Officer approves alternate protocol. Constituents to be analyzed for each location shall include the following:

a) pH, dissolved oxygen, temperature, conductivity, chloride, nitrogen, and TSS

b) Metals: aluminum, arsenic, beryllium, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

c) Pathogen Indicators (Coliform)

d) Flow (flow may be estimated using EPA methods at sites where flow measurement devices are not in place)

5. For the first storm of each year, MDLs lower than or equal to the minimum levels identified in the SIP shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year.

6. The Principal Permittee and the City of Santa Clarita shall submit an analysis of the data, including a description of each subwatershed, year-to-year changes compared to the amount of development that occurred in each, comparisons between stations, and an analysis of SUSMP effectiveness, with the fifth year Monitoring Report.

I. Peak Discharge Impact Study

The Principal Permittee shall participate in a study to evaluate peak storm water discharge rate (PDR) control and to determine numeric criteria to prevent or minimize erosion of natural stream channels and banks caused by urbanization (Part 4.C.2.). The Principal Permittee may partner with the Ventura County Flood Control District to extend their stream erosion study to the Santa Clara River watershed. The study shall begin no later than 360 days from the date this Order is adopted.

J. BMP Effectiveness Study

The Principal Permittee shall conduct or participate in studies to evaluate the effectiveness of structural and treatment control storm water best management practices. The objectives of this study shall include the following:

[11] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

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1. Monitor the reduction of pollutants of concern in storm water (including, but not limited to: trash, suspended sediment, pathogen indicators, nutrients, heavy metals, and oil and grease) from five or more different types of BMPs that have been properly installed within the year proceeding monitoring. Monitoring shall be continued until the effectiveness of the BMP can be determined.

2. Evaluate the requirements, feasibility and cost of maintenance for each BMP.

3. Develop recommendations for appropriate BMPs for the reduction of pollutants of concern in storm water in Los Angeles County.

The Principal Permittee may participate in the Santa Monica Bay Restoration Foundation's proposed study, "Performance Evaluation of Structural BMPs for Storm water Pollution Control in the Santa Monica Bay Watershed" to meet this requirement. Participation includes collaboration and resource contribution to expand the scope of the proposed study.

K. Standard Monitoring Provisions

1. The Principal Permittee shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.

   Records of monitoring information shall include:

   a) The date, exact place, and time of sampling or measurements;

   b) The individual(s) who performed the sampling or measurements;

   c) The date(s) analyses were performed;

   d) The individual(s) who performed the analyses;

   e) The analytical techniques or methods used; and,

   f) The results of such analyses.

2. All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order.

3. All chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency.

4. If no flow occurred during the reporting period, the Monitoring Report shall so state.

5. For any analyses performed for which no procedure is specified in the EPA guidelines or in this Monitoring Program, the constituent or parameter analyzed and the method or procedure used must be specified in the Monitoring Report.

6. The Regional Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring Program, after providing the opportunity for public comment, either:

   a) By petition of the Principal Permittee or by petition of interested parties after the submittal of the annual Monitoring Report. Such petition shall be filed not later than 60 days after the Monitoring Report submittal date, or

   b) As deemed necessary by the Regional Board Executive Officer following notice to the Principal Permittee.

Ordered by:

Dennis A. Dickerson
Executive Officer
Date:

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ATTACHMENT U-1
LIST OF CONSTITUENTS IN MONITORING PROGRAM AND ASSOCIATED METHOD DETECTION LIMITS (MDLs)

CONSTITUENTS	USEPA METHOD	MDL A[1]	MDL B[2]
Conventional Pollutants		**mg/L**	**mg/L**
Oil and Grease	413.2	1	1
Total Phenols	420.1	0.1	0.1
Cyanide	335.2	0.01	0.01
pH	150.1	0 - 14	0 - 14
Temperature		None	None
Dissolved Oxygen		Sensitivity to 5 mg/L	Sensitivity to 5 mg/L
Bacteria			
Total Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Coliform	9221B	<20mpn/100ml	<20mpn/100ml
Fecal Streptococcus	9221B	<20mpn/100ml	<20mpn/100ml
General		**mg/L**	**mg/l**
Dissolved Phosphorus	300	0.05	0.05
Total Phosphorus	300	0.05	0.05
Turbidity	180.1	0.1NTU	0.1NTU
Total Suspended Solids	160.2	2	2
Total Dissolved Solids	160.1	2	2
Volatile Suspended Solids	160.4	2	2
Total Organic Carbon	415.1	1	1
Total Petroleum Hydrocarbon	418.1	1	1
Biochemical Oxygen Demand	405.1	2	2
Chemical Oxygen Demand	410.4	20-900	20-900
Total Ammonia-Nitrogen	350.2	0.1	0.1
Total Kjeldahl Nitrogen	351.2	0.1	0.1
Nitrate-Nitrite	4110	0.1	0.1
Alkalinity	310.1	2	2
Specific Conductance	120.1	1umho/cm	1umho/cm
Total Hardness	130.2	2	2
MBAS	425.1	<0.5	<0.5
Chloride	4110	2	2
Fluoride	4110	0.1	0.1
Sulfate	4110	2	2

[1] Detection limits lower than or equal to the Minimum Levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California
[2] Detection limits from Order 96-054

Metals		µg/L	µg/L
Aluminum	202.1	100	100
Antimony	204.2	**0.5**	10
Arsenic	206.2	**1**	10
Barium	208.2	100	100
Beryllium	210.2	**0.5**	5
Boron	212.3	250	250
Cadnium	213.2	**0.25**	10
Calcium	215.2	200	200
Chromium	218.2	**0.5**	10
Copper	219.2	**0.5**	10
Hex. Chromium	7196	**5**	<10
Iron	236.2	100	100
Lead	239.2	0.5	10
Magnesium	242.1	200	200
Manganese	243.2	30	30
Mercury	245.1	**0.2**	1
Nickel	249.2	**1**	10
Potassium	258.1	100	100
Selenium	270.2	**1**	5
Silver	272.2	**0.25**	10
Sodium	273.1	50	50
Thallium	279.2	**1**	10
Zinc	289.2	**1**	50
Semivolatile Organic Compounds		µg/L	µg/L
Acids	**8250**		
Benzoic Acid	8250	<5	<5
Benzyl Alcohol	8250	<5	<5
2-Chlorophenol	8250	<2	<2
2, 4-Dichlorophenol	8250	**1**	<2
2, 6-Dichlorophenol	8250	<2	<2
4-Dimetylphenol	8250	<2	<2
4, 6-Dinitro-2-metylphenol	8250	<3	<3
2, 4-Dinitrophenol	8250	<3	<3
2-Methylphenol	8250	<3	<3
4-Methylphenol	8250	<3	<3
2-Nitrophenol	8250	<3	<3
4-Nitrophenol	8250	<3	<3
4-Chloro-3-methylphenol	8250	**1**	<3
Pentachlorophenol	8250	**1**	<2
Phenol	8250	<1	<1
2,3,4,6-Tetrachlorophenol	8250	<1	<1
2,4,5-Trichlorophenol	8250	<1	<1
2,4,6-Trichlorophenol	8250	<1	<1

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Base/Neutral	8250	µg/L	µg/L
Acenapthene		<0.5	<0.5
Acenapthylene		**0.2**	<0.5
Acetophenone-		<3	<3
Aniline		<3	<3
Anthracene		2.0	<0.5
4-Aminobiphenyl		<3	<3
Benzidine		<3	<3
Benzo(a)anthracene		<1	<1
4-Chloroaniline		<1	<1
1-Chloronapthalene		<1	<1
p-Dimethylaminoazobenzene		<3	<3
7,12-Dimethylbenz(a)-anthracene		<1	<1
a-,a-Dimethylphenethylamine		<3	<3
Benzo(a)pyrene		<1	<1
Benzo(b)flouranthene		<1	<1
Benzo(k)flouranthene		<1	<1
Chlordane		<1	<1
Bis(2-chloroethoxy)methane		<1	<1
Bis(2-chlorisopropyl)ether		<1	<1
Bis(2-chloroethyl)ether		<1	<1
Bis(2-ethylhexl)phtalate		<3	<3
4-Bromophenyl phenyl ether		<1	<1
Butyl benzyl phthalate		<3	<3
2-Chloronapthalene		<1	<1
4-Chlorophenyl phenyl ether		<1	<1
Chrysene		<1	<1
Dibenz(a,j)acridine		<3	<3
Dibenz(a,h)anthracene		**0.1**	<1
1,3-Dichlorobenzene		<0.5	<0.5
1,4-Dichlorobenzene		<0.5	<0.5
1,2-Dichlorobenzene		<0.5	<0.5
3,3-Dichlorobenzidine		<3	<3
Diethylphthalate		<0.5	<0.5
Dimethylphthalate		<0.5	<0.5
Di-n-butylphthalate		<3	<3
2,4-Dinitrotoluene		<0.5	<0.5
2,6-Dinitrotoluene		<0.5	<0.5
Diphenylamine		<3	<3
1,2-Diphenylhydrazine		**1**	<3
Di-n-octylphtalate		<3	<3
Ethyl methanesulfonate		<3	<3
Fluoranthene		**0.05**	<1
Fluorene		**0.1**	<1
Hexachlorobenzene		<0.5	<0.5
Hexachlorobutadiene		<1	<1
Hexochlorocyclopentadiene		<3	<3
Hexochloroethane		<1	<1

Indeno(1,2,3-cd)pyrene		**0.05**	<1
Isophorone		<0.5	<0.5
3-Methylcholanthrene		<3	<3
Methyl methanesesulfonate		<3	<3
Napthalene		**0.2**	<0.5
1-Napthylamine		<3	<3
2-Napthalamine		<3	<3
2-Nitroaniline		<3	<3
3-Nitroaniline		<3	<3
4-Nitroaniline		<3	<3
Nitrobenzene		<0.5	<0.5
N-Nitroso-di-n-butylamine		<3	<3
N-Nitrosodimethylamine		<3	<3
N-Nitrosodiphenylamine		**1**	<3
N-Nitroso-di-N-propylamine		<1	<1
N-Nitrosopiperidine		<3	<3
Pentachlorobenzene		<3	<3
Phenacitin		<3	<3
Phenanthrene		**0.05**	<0.5
2-Picoline		<3	<3
Pronamide		<5	<5
Pyrene		**0.05**	<0.5
5-Tetrachlorobenzene		<3	<3
1,2,4-Trichlorobenzene		<0.5	<0.5
Pesticides	**608**	**µg/L**	**µg/L**
Aldrin	608	**0.005**	0.05
alpha-BHC	608	0.05	0.05
beta-BHC	608	0.05	0.05
delta-BHC	608	0.05	0.05
gamma-BHC (lindane	608	0.05	0.05
Carbofuran	531.1	<5	<5
Chlordane	608	0.05	0.05
4,4'-DDD	608	**0.05**	<0.1
4,4'-DDE	608	**0.05**	<0.1
4,4'-DDT	608	**0.01**	<0.1
Benzaton	515.1	<2	<2
Dieldron	608	**0.01**	<0.1
Endosulfan I	608	<0.1	<0.1
Endosulfan II	608	<0.1	<0.1
Endosulfan sulfate	608	**0.05**	<0.1
Endrin	608	**0.01**	<0.1
Endrin aldehyde	608	**0.01**	<0.1
Glyphosate	547	<0.5	<0.5
Heptachlor	608	**0.01**	0.05
Heptachlor epoxide	608	**0.01**	0.05
Methoxychlor	608	<0.5	<0.5
Toxaphene	608	**0.5**	<1.0

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2,4-D	515.1	<0.02	<0.02
2,4,5-TP-SILVEX	515.1	<0.2	<0.2
Polychlorinated Biphenyls	**608**	**µg/L**	**µg/L**
Aroclor-1016	608	**0.5**	<1
Aroclor-1221	608	**0.5**	<1
Aroclor-1232	608	**0.5**	<1
Aroclor-1242	608	**0.5**	<1
Aroclor-1248	608	**0.5**	<1
Aroclor-1254	608	**0.5**	<1
Aroclor-1260	608	**0.5**	<1
Herbicides		**µg/L**	**µg/L**
Diazinon		**0.01**	0.01
Chlorpyrifos		**0.05**	0.05
Diuron		**1**	1
Malathion		**1**	1
Prometryn	507	**2**	2
Atrazine	507	**2**	2
Simazine	507	<2	<2
Cyanazine	507	**2**	2
Molinate	507	<0.01	<0.01
Thiobencarb	507	<0.1	<0.1
Volatile Organic Compounds	**8240A**	**µg/L**	**µg/L**
Acetonitrile		10.0	10.0
Acrolein		**2**	10.0
Acrylonitrile		0.5	0.5
Benzene		0.5	0.5
Bromoform		0.5	0.5
2-Butanone		10.0	10.0
Carbon Disulfide		10.0	10.0
Carbon Tetrachloride		0.5	0.5
Chlorobenzene		0.5	0.5
Chlorodibronmethane		0.5	0.5
Chloroethane		0.5	0.5
2-Chloroethyl vinyl ether		1.0	1.0
Chloroform		0.5	0.5
Dibromomethane		0.5	0.5
1,2-Dibromo-3Chloropropane		<0.01	<0.01
1,4-Dichloro-2-butene		10.0	10.0
Dichlorobromomethane		0.5	0.5
Dichlorodifluoromethane		0.5	0.5
1,1-Dichloroethane		0.5	0.5
1,2-Dichloroethane		0.5	0.5
1,1-Dichloroethene		0.5	0.5

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trans-1,2-Dichloroethene		0.5	0.5
1,2-Dichloropropane		0.5	0.5
cis-1,3-Dichloropropene		0.5	0.5
Trans-1,3-Dichloropropene		0.5	0.5
Ethanol		10.0	10.0
Ethylbenzene		**0.5**	1.0
Ethylene Dibromide		<0.01	<0.01
Ethylene Oxide		10.0	10.0
Ethyl Metcrylate		0.5	0.5
2-Hexanone		5.0	5.0
Iodomethane		0.5	0.5
Methyl Bromide		5.0	5.0
Methyl Chloride		5.0	5.0
Methylene Chloride		1.0	1.0
4-Methyl-2-pentanone		5.0	5.0
Styrene		0.5	0.5
1,1,2,2-Tetrachloroethane		0.5	0.5
Tetrachloroethane		0.5	0.5
Toluene		**0.5**	1.0
Trichlorofluoromethane		1.0	1.0
1,2,3-Trichloropropane		0.5	0.5
Trichloroethene		0.5	0.5
1,1,1-Trichloroethane		1.0	1.0
1,1,2-Trichloroethane		1.0	1.0
1,2,2-Trifluoroethane		<0.5	<0.5
Vinyl acetate		5.0	5.0
Vinyl chloride		0.5	0.5
Xylene (Total)		0.5	0.5

R0003558

ATTACHMENT U-2
SHORELINE MONITORING STATIONS

Station	Location[1]	Latitude	Longitude
S1	Surfrider Beach, Malibu, 50 yds E. of breech	34.03500	118.67833
S2	Topanga Point, Malibu, seaward of lifeguard station	34.03833	118.58083
S3	Pulga storm drain, Pacific Palisades, 50 yds E. of drain	34.03361	118.53417
S4	Santa Monica Canyon storm drain, Pacific Palisades, 50 yds E. of drain	34.02639	118.51861
S5	Santa Monica Pier, Santa Monica, 50 yds S. of pier	34.00833	118.49667
S6	Pico-Kenter storm drain, Santa Monica, 50 yds S. of drain	34.00583	118.49250
S7	Ashland storm drain, Santa Monica, 50 yds S. of drain	33.99639	118.48472
S8	Windward storm drain, Los Angeles, 50 yds S. of drain	33.98778	118.47750
S9	Marina Del Rey Beach, Marina Del Rey, at lifeguard tower.	33.98139	118.45833
S10	Ballona Creek, Playa Del Rey, 50 yds S. of south jetty	33.96083	118.45611
S11	Culver Blvd., extended, Playa Del Rey, N side of Culver storm drain	33.95639	118.45167
S12	Imperial Hwy. Storm drain, Playa Del Rey, 50 yds S. of drain	33.93028	118.43722
S13	El Porto, Manhattan Beach, 40th St. extended	33.90389	118.42250
S14	Manhattan Beach Pier, Manhattan Beach, 50 yds S. of pier	33.88360	118.41278
S15	Hermosa Beach Pier, Hermosa Beach, 50 yds S. of pier	33.86111	118.40278
S16	Redondo Pier, Redondo Beach, 50 yds S. of pier	33.83833	118.39111
S17	Ave. I storm drain, Redondo Beach, Ave. I extended, 50 yds S. of drain	33.81889	118.39111
S18	Malaga Cove, Palos Verdes Estates, Arroyo Circle extended	33.80500	118.39467

[1] Station locations from *Ocean Water Regulatory & Monitoring Protocol*, County of Los Angeles, Department of Health Services, May 5, 1999.

Second Draft (June 29, 2001)

FACT SHEET/STAFF REPORT

FOR THE

COUNTY OF LOS ANGELES MUNICIPAL STORM WATER NPDES PERMIT (CAS004001)

Los Angeles Regional Water Quality Control Board

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Second Draft – FACT SHEET/STAFF REPORT

State of California
California Regional Water Quality Control Board Los Angeles Region
National Pollutant Discharge Elimination System (NPDES)
Permit No. CAS004001, CI 6948
Regional Board Order No. 01-XXX

I. PURPOSE

The purpose of this Fact Sheet/Staff Report is to give the Permittees and interested parties an overview of the proposed permit as well as to provide the technical basis for the permit requirements. Sections I through IV describe water quality problems from urban runoff, and permit conditions to address these problems. Sections V and VI contain discuss each major element of the Permittees' Storm Water Quality Management Plan (SQMP), and is meant to be used as a reference document during review of the permit.

II. INTRODUCTION - THE NEED TO REGULATE STORM WATER DISCHARGES

A. Impacts

The quality of storm water and urban runoff are fundamentally important to the health of the environment and the quality of life in Southern California. Polluted storm water runoff is a leading cause of water quality impairment in the Los Angeles Region. Storm water and urban runoff, during dry and wet weather, are often contaminated with pesticides, fertilizers, animal droppings, trash, food wastes, automotive byproducts, and many other toxic substances generated by our urban environment. Water that flows over streets, parking lots, construction sites, and industrial, commercial, residential, and municipal areas carries these untreated pollutants through the storm drain networks directly into the receiving waters of the Region. Several of the documented water quality impacts and increased public health risks from Municipal Separate Storm Sewer System (MS4) discharges that affect receiving waters nationwide and Los Angeles County and its coastline are listed below.

The **National Urban Runoff Program** (NURP) Study (USEPA 1983) showed that MS4 discharges draining from residential, commercial, and light industrial areas contain more than ten times the annual loading of total suspended solids. Although the NURP Study did not target industrial sites, the study suggested that runoff from industrial sites may have significantly higher contaminant levels than runoff from other urban land use sites. Several studies tend to support this suggestion, such as the Fresno, California NURP project, which showed that industrial areas had the poorest storm water quality of the four land-uses evaluated. The study also found that pollutant levels from illicit discharges were high enough to significantly degrade receiving water quality, and threaten aquatic life, wildlife, and human health.

The **1998 National Water Quality Inventory** (305(b) Report)[1] showed that urban runoff/storm sewer discharges affect 11% of rivers, 12% of lakes, and 28% of estuaries.

[1] *Quality of Our Nation's Waters: Summary of the National Water Quality Inventory 1998 Report to Congress* - USEPA 841-S-00-001 - June 2000; *Water Quality Conditions in the United States: Profile from the 1998 National Water Quality Inventory Report to Congress* - USEPA 841-F-00-006 - June 2000

The report states that there was an increase in the impairment of ocean shoreline due to urban runoff/storm sewers from 55% in 1996 to 63% in 1998. The report notes that urban runoff and storm sewer discharges are the leading source of pollution and the main factor in the degradation of surface water quality[1] in California's coastal waters, rivers and streams.

The Natural Resources Defense Council (NRDC) 1999 Report, **"Stormwater Strategies, Community Responses to Runoff Pollution"**[2] identifies two main causes of the storm water pollution problem in urban areas. Both components are directly related to development in urban and urbanizing areas:

1. Increased volume and velocity of surface runoff. There are three types of human-made impervious covers that increase the volume and velocity of runoff: (i) rooftop, (ii) transportation imperviousness, and (iii) non-porous (impervious) surfaces. As these impervious surfaces increase, infiltration will decrease, forcing more water to run off the surface, picking up speed and pollutants.

2. The concentration of pollutants in the runoff. Certain activities, such as those from industrial sites, are large contributors of pollutant concentrations to the storm water system.

The report also identified several activities causing storm water pollution from urban areas, practices of homeowners, businesses, and government agencies.

More recent studies conducted by **United States Geological Service** (USGS)[3] confirms the link between urbanization and water quality impairments in urban watersheds due to contaminated storm water runoff.

Other studies proved a direct link between polluted urban runoff and adverse health effects to humans.[4]

B. Benefits of Permit Program Implementation

Implementation of the MS4 permit requirements should significantly reduce pollutants in urban storm water in a cost-effective manner. Implementation of Best Management Practices (BMPs) should also reduce pollutant discharges, and improve surface water quality. The expected benefits of implementing the minimum measures of an MS4 NPDES permit include:

- **Enhanced Aesthetic Value**: Storm water affects the appearance and quality of a water body, and the desirability of working, living, traveling, or owning property near that water body. Reducing storm water pollution will increase benefits as these water bodies recover and become more desirable.
- **Enhanced Opportunities for Boating**: reducing sediment and other pollutants, and increasing water clarity, which enhances the boating experience for users, offer additional benefits.

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[1] *Quality of Our Nation's Waters: Summary of the National Water Quality Inventory 1998 Report to Congress,* Chapter 12 State and Territory Summaries, California., pp. 282-83: 1998.
[2] *Clean Water & Oceans: Water Pollution: In Depth Report Stormwater Strategies, Community Responses to Runoff Pollution.* Natural Resources Defense Council (NRDC), 1999.
[3] *Water Quality in the Puget Sound Basin, Washington and British Columbia, 1996-98,*Circular 1216 - USGS 2000; *Water Quality in the Long Island-New Jersey Coastal Drainages, New Jersey and New York, 1996-98,* Circular 1201 - USGS 2000
[4] *An Epidimiological Study Of Possible Adverse Health Effects Of Swimming In Santa Monica Bay* - Haile, R. W. et al, Santa Monica Bay Restoration Project, 1996

- **Enhanced Commercial Fishing**: Important because commercial fisheries are a significant part of the nation's economy, and 28% of the estuaries in the 305(b) Report were impacted by storm water/urban runoff.
- **Enhanced Recreational and Subsistence Fishing**: Pollutants in storm water can eliminate or decrease the numbers, or size, of sport fish and shell fish in receiving waters.
- **Reduced Flood Damage**: Storm water runoff controls may mitigate flood damage by addressing problems due to the diversion of runoff, insufficient storage capacity, and reduced channel capacity from sedimentation.
- **Reduced Illness from Consuming Contaminated Seafood**: Storm water controls may reduce the presence of pathogens in seafood caught by commercial or recreational anglers.
- **Reduced Illness from Swimming in Contaminated Water**: Epidemiological studies indicate that swimmers in water contaminated by storm water runoff are more likely to experience illness than those who swim farther away from a storm water outfall.
- **Enhanced Opportunities for Non-contact Recreation**: Storm water controls reduce turbidity, odors, floating trash, and other pollutants, which then allow waters to be used as focal point for recreation, and enhance the experience of the users.
- **Drinking Water Benefits**: Pollutants from storm water runoff, such as solids, toxic pollutants, and bacteria may pose additional costs for treatment, or render the water unusable for drinking.
- **Water Storage Benefits**: Storm water is a major source of impairment for reservoirs. The heavy load of solids deposited by storm water runoff can lead to rapid sedimentation of reservoirs and the loss of needed water storage capacity.[1]

III. STATUTORY AND REGULATORY HISTORY OF THE STORM WATER PROGRAM

Over the past 29 years, water pollution control efforts have focused primarily on certain process water discharges from facilities such as factories and sewage treatment plants, with less emphasis on diffuse sources. The 1972 amendments to the federal Clean Water Act (CWA) prohibit the discharge of any pollutant to waters from a point source, unless a NPDES permit authorizes the discharge. Because the focus on reducing pollutants was centered on industrial and sewage treatment discharges, Congress amended the CWA in 1987, requiring the USEPA to create phased NPDES requirements for storm water discharges.

In response to the 1987 Amendments to the CWA, EPA developed Phase I of the NPDES Storm Water Program in 1990. Phase I requires NPDES permits for storm water discharges from: (i) "medium" and "large" MS4s generally serving, or located in incorporated places or counties with, populations of 100,000 or more people; and (ii) eleven categories of industrial activity, one of which is construction activity that disturbs five acres or greater of land.

Phase II, adopted in December 1990 and scheduled to be in full effect in March 2003, requires operators of small MS4s and small construction sites (construction activity disturbing between 1 and 5 acres of land) in urban areas to control storm water runoff discharges. Phase II establishes a cost-effective approach for reducing environmental harm caused by storm water discharges from previously unregulated diffuse sources.

[1] *Report to Congress on Phase II Storm Water Regulations*. USEPA, Office of Water. EPA-833-R-99-001, Oct. 1999.

A. Basis for Permit Conditions

1. **Statutory basis for permit conditions.** The conditions established by this permit are based on Section 402(p)(3)(B) of the CWA which mandates that a permit for discharges from MS4s must: effectively prohibit the discharges of non-storm water to the MS4; and require controls to reduce pollutants in discharges from MS4 to the maximum extent practicable (MEP) including best management practices, control techniques, and system, design and engineering methods, and such other provisions determined to be appropriate. MS4s are not exempted from compliance with Water Quality Standards. Section 301(b)(1)(C) of the CWA requiring that NPDES permits include limitations, including those necessary to meet water quality standards, applies. The intent of the permit conditions is to meet the statutory mandate of the CWA.

   As authorized by 40 CFR 122.44(k), the permit will be utilizing BMPs, a comprehensive Storm Water Quality Management Plan (SQMP), as the mechanism to implement statutory requirements. Section 402(p)(3)(B)(iii) of the CWA clearly includes structural controls as a component of maximum extent practicable requirement.

2. **Regulatory basis for permit conditions.** As a result of the statutory requirements of the CWA the USEPA promulgated the MS4 Permit application regulations, 40 CFR 122.26(d). These regulations described in detail the permit application requirements for MS4s operators. The information in the Report of Waste Discharge (ROWD) was utilized to develop the permit conditions and determine permittees status in relationship to these conditions.

3. **Discharge limitations.** No numeric limitations are proposed at this time. In accordance with 40 CFR 122.44(k), the USEPA has required a series of increasingly more effective BMPs[1], in the form of a comprehensive SQMP, performance standards, in lieu of numeric limitations.[2]

B. Public Review and Participation Process

Since the Regional Board received the ROWD for Los Angeles County on January 31, 2001, Regional Board staff has dedicated significant time and effort to the public review and participation process. Many meetings, workshops, and other outreach efforts were organized to ensure that the public, the Permittees, and other interested parties had ample opportunity to participate in the development and comment on draft permit requirements and language prior to the proposed adoption by the Regional Board.

To invite public comment at the beginning of the renewal process, a preliminary draft, dated March 16, 2001, was issued to a working group of interested parties. This draft was used as a starting point for discussion. Recipients had approximately 30 days to review it prior to the issuance of the first draft, on April 13, 2001. The first draft was sent to all Permittees, storm water consultants, environmental organizations, and other

[1] *Interpretative Policy Memorandum on Reapplication Requirements* of MS4s issued by USEPA (61 Fed. Reg. 41697)
[2] *Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits* (61 Fed. Reg. 43761)

interested parties. It was also available on the Regional Board Storm Water web page at www.swrcb.ca.gov/rwqcb4/html/programs/Stormwater/renewal.html. Again, more than one month was provided for the submittal of written comments. The renewal schedule also included the issuance of a second draft, followed by over 30 days for review and comments, and an additional 45 days between the issuance of the final draft and the proposed permit adoption, on October 25, 2001.

Furthermore, Regional Board staff conducted separate meetings to discuss each individual Special Provision as necessary. In addition to these meetings, Regional Board staff held two workshops to review the permit and listen to comments, including one formal workshop with the Board members. Regional Board staff also participated in the monthly Executive Advisory Committee meetings to answer questions and discuss permit issues. Staff was also available for public outreach via telephone. The following table outlines the public review process.

Date	Public Involvement Activity
January 31, 2001	Application for permit renewal (ROWD)
February 27, 2001	Inspections Working Group Meeting
February 28, 2001	Illicit Connection/Discharge Working Group Meeting
March 1, 2001	Monitoring Working Group Meeting
March 12, 2001	Public Information and Participation Working Group Meeting
March 20, 2001	Inspections Working Group Meeting
March 20, 2001	Construction Working Group Meeting
March 22, 2001	Preliminary Draft Working Group Meeting
April 9, 2001	Monitoring Working Group Meeting
April 13, 2001	Issuance of First Draft
April 24, 2001	Public Workshop
April 24, 2001	Construction Meeting with Building Industry Association
April 27, 2001	Monitoring Working Group Meeting
May 9, 2001	Monitoring Working Group Meeting
May 16, 2001	First Draft Comments Due
May 24, 2001	Construction Meeting with BIA
June 4, 2001	Monitoring Working Group Meeting
June 14, 2001	Monitoring Station Identification Field Trip
June 25, 2001	Monitoring Working Group Meeting
June 29, 2001	Issuance of Second Draft
July 26, 2001	Formal Workshop with Regional Board
September 7, 2001	Issue Final Draft
October 25, 2001	Proposed Permit Adoption at Board Meeting

IV. BACKGROUND - LOS ANGELES COUNTY MS4

A. Los Angeles County MS4 Permit History

In 1990, the Los Angeles Regional Water Quality Control Board (Regional Board) adopted Order No. 90-079, the Los Angeles County Municipal Storm Water Permit. That permit required the County of Los Angeles and the incorporated cities to implement pollution controls including amending ordinances, optimizing existing pollutant controls such as street sweeping, construction site controls, and others. The 1990 permit also required all Permittees to implement a minimum 13 BMPs for consistency across the County. The 1990 permit was issued on a system wide basis due to the highly interconnected storm drain system serving a population well in excess of 100,000 inhabitants. An NPDES permit is valid for a five-year period after the date is issued[1].

On July 15, 1996, the Regional Board adopted Order No. 96-054 that revised the 1990 permit. The 1996 permit required model programs be developed and implemented by the Permittees for Public Information and Public Participation, Industrial/Commercial Activities, Development Construction, Illicit Connections and Illicit Discharges, Public Agency Activities, and Development Planning. These dynamic model programs are modified with the changing needs of the SQMP.

Following the adoption of Order 96-054, the City of Long Beach submitted a ROWD as an application for its own MS4 permit. The City of Long Beach Municipal Storm Water Permit (Order No. 99-060) was adopted on June 30, 1999. This Order superseded the countywide permit, allowing Long Beach to operate under separate waste discharge requirements.

On January 31, 2001, the Los Angeles County Department of Public Works submitted an application for renewal of their MS4 permit in the form of an ROWD for Los Angeles County and the incorporated cities, except for the City of Long Beach. This application started the process of renewing the permit, which enters in its third cycle since the initial one was adopted in 1990.

B. Los Angeles County Storm Drain System

The storm drain system covered by this proposed permit for the County of Los Angeles and 83 incorporated cities drains the coastal slopes of the Transverse Mountain Ranges, and flows into the Santa Monica Bay and the Los Angeles/Long Beach Harbor. The storm drain structure consists of thousands of catch basins, thousands of miles of underground storm drains, as well as open channels, all owned and operated separately by Permittees. The length of the system, and the locations of all storm drain connections, is not known, as a comprehensive map for the storm drain system does not exist. Rough estimates, based on information from large municipalities (population > 100,000), indicates that the length exceeds 4,300 miles, as shown below.

[1] 40 CFR §122.46 (a)

Permittee	Area (Square Miles)	Catch Basins	Storm Drain Length	Open Channel Length
LA County		73,000	2,650 miles	450 miles
City of LA	469	30,000	1,600 miles	31 miles
El Monte	10	316	11 miles	0.4 mile
Glendale	30.6	1,100	Unknown	Unknown
Inglewood	9	1,157	12 miles	
Pasadena	26	1,050	30	
Santa Monica	8.3	850		
Torrance	20	2,000	20 miles	3 miles
TOTAL		**109,473**	**4,323**	**484.4**

C. Summary of Problems in the Los Angeles County Watersheds

Watersheds are geographic areas draining into a river system, ocean or other body of water through a single outlet. There are five Watershed Management Areas (WMAs) that represent the five major watersheds covered by the Los Angeles County MS4 NPDES permit. The following is a summary of some significant issues in each watershed.[1]

Dominguez Channel/Los Angeles-Long Beach Harbor Watershed

Permitted discharges

- 415 dischargers covered under an industrial storm water permit
- 69 dischargers covered under a construction storm water permit

Potential sources of pollution

- Historical deposits of DDT and PCBs in sediment
- Spills from ships and industrial facilities
- Leakages contaminating groundwater
- **Urban and storm water runoff**
- Impairments: metals, PCBs, PAHs, historic pesticides, coliform, trash, and nitrogen

Los Angeles River Watershed

Permitted discharges

- 1,327 dischargers covered under an industrial storm water permit

[1] *Watershed Management Initiative Chapter*. California Regional Water Quality Control Board – Los Angeles Region. Dec. 2000.

- 147 dischargers covered under a construction storm water permit

Potential sources of pollution

- Nitrogen and coliform contributions from septic systems
- Other nonpoint sources (horse stables, golf courses)
- Leakage of MTBE from underground storage tanks
- **Urban and storm water runoff**
- Impairments: nitrogen, trash, selenium, other metals, coliform, PCBs, historic pesticides, chlorpyrifos

San Gabriel River Watershed[1]

Permitted discharges

- 549 dischargers covered under an industrial storm water permit
- 175 dischargers covered under a construction storm water permit

Potential sources of pollution

- Excessive trash in recreational areas of upper watershed
- Nonpoint source loadings from nurseries and horse stables
- **Urban and storm water runoff**
- Impairments: nitrogen and effects, trash, metals, historic pesticides, coliform, chlorides, and PCBs

Santa Monica Bay Watershed

- 549 dischargers covered under an industrial storm water permit
- 175 dischargers covered under a construction storm water permit

Potential sources of pollution

- Discharges from Ballona and Malibu Creeks contribute to impairments in the Santa Monica Bay and its beaches.
- Impairments: mercury, selenium, other metals, historical pesticides, PAHs, PCBs, nitrogen, coliform, trash, TBT, habitat alteration, exotic vegetation, and salts

Coastline

- **Acute health risk associated with swimming in runoff contaminated surfzone waters**
- Chronic risk associated with consuming seafood from areas impacted by DDT and PCB contamination
- Historic deposits of DDT and PCBs in sediment

Ballona Creek Watershed

- Trash loading from creek

[1] *San Gabriel Watershed State of The Watershed* - RWQCB - LA Region - June 2000

- Sediment contamination by heavy metals form creek to Marina del Rey Harbor and offshore
- **Toxicity of both dry weather and storm water runoff in creek**
- High bacterial indicators at mouth of creek

Malibu Creek Watershed

- Excessive freshwater, nutrients, and coliform in lagoon; contribution from POTW and other sources
- **Urban runoff from upper watershed**
- Septic tanks in lower watershed

V. DISCUSSION OF SPECIAL PROVISIONS

A. Public Information and Participation Program (PIPP)

Legal Authority:

CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(I)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(6) provides that the proposed management program include "A description of a program to reduce to the maximum extent practicable, pollutants in discharges from MS4s associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(6) provides that the proposed management program include " A description of education activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials."

To satisfy the Public Education and Outreach minimum control measure, the Permittees need to: (i) implement a public education program to distribute educational materials to the community, or conduct equivalent outreach activities about the impacts of storm water discharges on local waterbodies and the steps that can be taken to reduce storm water pollution; and (ii) determine the appropriate BMPs and measurable goals for this minimum control measure.

Background:

Implementation of a PIPP is a critical BMP and a necessary component of a storm water management program. The State Board Technical Advisory Committee "recognizes that education with an emphasis on pollution prevention is the fundamental basis for solving nonpoint source pollution problems." The USEPA Phase II Fact Sheet 2.3 (Fact Sheet 2.3) finds that "An informed and knowledgeable community is critical to the success of a storm water management program since it helps insure the following: (i) greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, and (ii) greater compliance with the program as the

public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters."[1]

Furthermore, the public can provide valuable input and assistance to a municipal storm water management program and, therefore, should play an active role in the development and implementation of the program. An active and involved community is essential to the success of a storm water management program because it allows for:

- Broader public support since citizens who participate in the development and decision making process are partially responsible for the program and, therefore, may be less likely to raise legal challenges to the program and are more likely to take an active role in its implementation;
- Shorter implementation schedules due to fewer obstacles in the form of public and legal challenges and increased sources in the form of citizen volunteers;
- A broader base of expertise and economic benefits since the community can be a valuable, and free, intellectual resource; and
- A conduit to other programs as citizens involved in the storm water program development process provides important cross-connections and relationships with other community and government programs. This benefit is particularly valuable when trying to implement a storm water program on a watershed basis, which is encouraged by the USEPA.

Discussion:

Based on the background information, the County should continue its comprehensive educational storm water and urban runoff outreach program, which is designed to measurably increase public knowledge and change behavior regarding storm water pollution. The first five-year public education plan was successful at studying segmentations of Los Angeles County residents to identify those who pose the greatest threat to storm water quality and those who represent the greatest opportunity to respond to a public education program, as well as providing a baseline measurement of residents' storm water-related practices and habits. This information was used to target the residents who are most likely to change their behaviors to improve storm water quality. Using various communication tactics and activities, the program successfully reached 83% of County residents with pollution prevention messages through the Storm Water/Urban Runoff Public Education Program Five-Year Storm Water Public Education Strategic Analysis (Five-Year Strategy).[2]

Although the Program has been successful at certain goals it must be augmented to continue increasing public awareness of specific storm water issues. According to the USEPA, materials and activities should be relevant to local situations and issues, and incorporate a variety of strategies to ensure maximum coverage. This is addressed in Part P.4 of the Five-Year Strategy by

[1] *Storm Water Phase II Final Rule - Public Education and Outreach Minimum Control Measure.* USEPA Fact Sheet 2.3, January 2000.

[2] *Storm Water/Urban Runoff Public Education Program Five-Year Storm Water Public Education Strategic Analysis*, Los Angeles County of Public Works, July 31, 2000.

requiring the development of watershed and pollutant-specific education programs.

Also, the USEPA encourages partnerships and cooperation, and quarterly meetings will provide the opportunity for Permittees to coordinate their outreach efforts and efficiently build on the County's existing program with local, watershed-specific efforts.

Furthermore, "Directing materials or outreach programs toward specific groups of commercial, industrial, and institutional entities likely to have significant storm water impacts is recommended" (Fact Sheet 2.3). The Permittee conducted educational site visits to Phase I industrial facilities, auto repair shops, retail gasoline outlets, and restaurants during the last 5-year permit cycle. The next step in this targeted outreach program is education at the corporate level to facilitate employee compliance, as described in Part P.5 of Five-Year Strategy. Also, a non-regulatory business assistance program will encourage small businesses that lack access to the expertise necessary to comply with storm water regulations to implement pollution prevention measures.

Specific significant changes in the draft permit and their justifications are described below:

1. Program for Residents

NEW REQUIREMENT: The Principal Permittee shall organize Public Outreach Strategy meetings with all Co-permittees on a quarterly basis. The Principal Permittee shall provide guidance for Co-permittees to augment the regional outreach and education program. Co-permittees shall coordinate regional and local outreach and education to reduce duplication of efforts.

JUSTIFICATION: This requirement is based on the need for coordination between all Permittees. Since the Program's inception, Permittees have been required to conduct education activities within their own jurisdictions. The lack of guidance and coordination has led to duplicate efforts and confusion about developing appropriate programs that are consistent with, and enhance, the Principal Permittee's regional education program. This requirement will ensure that all Permittees are coordinated for the most efficient and effective Program. It will also help identify Permittees with insufficient Programs.

Fact Sheet 2.3 states that it is generally more cost-effective to have numerous operators coordinate to use an existing program than all developing their own local programs. Therefore, Permittees should build on the regional program with additional information specific to local needs.

NEW REQUIREMENT: The Principal Permittee and Co-permittees shall coordinate to develop outreach programs that target the watershed-specific pollutants listed in Table 1 within 6 months of the permit adoption date. It may be appropriate to address metals in the Industrial/Commercial businesses program. Region-wide pollutants may be included in the Principal Permittee's mass media efforts.

Table 1. Target Pollutants for Outreach

Watershed	Target Pollutants for Outreach
Ballona Creek	*Trash, Indicator Bacteria, Metals, PAHs*
Malibu Creek	*Trash, Nutrients (Nitrogen), Indicator Bacteria*
Los Angeles River	*Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals, Pesticides, PAHs*
San Gabriel River	*Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals*
Santa Clara River	*Nutrients (Nitrogen), Indicator Bacteria*
Dominguez Channel	*Trash, Indicator Bacteria, PAHs*

JUSTIFICATION: This requirement will allow the Program and/or local efforts to focus on target pollutants. Citizens must be aware of priority pollutants and their causes for any improvement to occur. Page 3 of the SQMP states that the components within the phases that roll-out over the next four years will be fluid to reflect the evolving message for each targeted audience. This implies that the Permittee realizes the need to target pollutants and specific audiences and has already planned to address this issue. This is a necessary step in the implementation of current and future total maximum daily loads (TMDLs) requirements.

Fact Sheet 2.3 states that municipalities should strive to make their materials and activities relevant to local situations and issues, and to incorporate a variety of strategies to ensure maximum coverage. It also recommends directing materials or outreach programs toward specific groups of commercial, industrial, and institutional entities likely to have significant storm water impacts.

Although it may not be appropriate to target heavy metals through the Program for Residents, it may be accomplished through the site inspection program. The Industrial/Commercial Program will prioritize facilities by their threat to water quality and whether or not they generate pollutants for which the water body is impaired, so it will be consistent with this requirement and Table 1.

2. Programs for Businesses

NEW REQUIREMENT: The Principal Permittee shall develop and implement a Corporate Outreach Program to educate corporate environmental managers about storm water regulations. The Program shall target retail gasoline outlets (gas stations) and restaurant chains.

JUSTIFICATION: Facility owners and representatives at the corporate level are not typically present during site visits or inspections. They need to be educated about applicable storm water regulations so they can set rules and direct management to ensure compliance at the facility level.

This has already been discussed as the next step following the last five years of outreach to these businesses.

NEW REQUIREMENT: Permittees may develop and implement a Business Assistance Program to provide technical resource assistance to small businesses to help them understand and comply with storm water regulations.

JUSTIFICATION: Many small businesses do not have the resources or expertise necessary to understand and implement storm water regulations. And hiring consultants and implementing structural BMPs can put many small operators out of business. Therefore, a non-regulatory assistance program that educates businesses about pollution prevention will help them comply, and cut costs, so they can continue to be competitive. This is encouraged, but is not a requirement.

The City of Los Angeles has been implementing a successful business outreach program through the Hazardous and Toxic Materials Office since 1988.

Fact Sheet 2.3 recommends directing materials or outreach programs toward specific groups of commercial, industrial, and institutional entities likely to have significant storm water impacts.

Alternative funding sources, such as grants and loans may be available to fund such a program.

3. Performance Standards

NEW PERFORMANCE STANDARD: The discharger shall ensure that a minimum of 35 million impressions per year are made on the general public about storm water via print, local TV access, local radio, or other appropriate media.

JUSTIFICATION: According to the Principal Permittee's Year Four (1999-2000) Highlights, approximately 85 million impressions were made through advertising, media relations, customized coffee jackets, corporate partnerships, special events, and business outreach. Hits on the www.888CleanLA.com website have been consistently increasing, indicating a growing public interest, as well as greater impressions. It can be anticipated that mass media coverage will become more efficient after the final Program study is complete in the summer of 2001. Also, increased media attention and public interest in current issues, such as trash TMDLs, is expected. The County originally proposed that it would make a minimum of 50 million impressions per year; however, this number has been reduced to 35 due to the increasing cost of advertising.

The requirement is consistent with the number of impressions required in the City of Long Beach Municipal Storm Water Permit Order (99-060) and the Ventura County Municipal Storm Water Permit. The City of Long Beach is required to make a minimum of 1.5 million impressions per year. With a total population of approximately 426, 000 people, they must impress each person approximately 3.5 times per year. Ventura County is also required to impress every resident approximately 3 times. The 9.5 million people in Los Angeles County[1] must be impressed approximately 3 times per year.

[1] 2000 U.S. Census Bureau

NEW PERFORMANCE STANDARD: The discharger shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, and other media necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution. All Co-permittees shall cooperate with funding and implementing this requirement. Cooperative efforts with other agencies may also be used to accomplish this requirement.

JUSTIFICATION: This requirement is consistent with the City of Long Beach Municipal Storm Water Permit.

It is also justified by the performance of Los Angeles County's School Environmental Education Program. According to data provided by the County, the Program has been reaching approximately 50 percent of elementary and secondary schools in the County every 2 years. It is also expected that the required coordination among permittees will increase the effectiveness and range of this Program.

NEW PERFORMANCE STANDARD: Corporate Outreach for all gas station and restaurant chain corporations shall occur once every 2 years, not less than twice during the permit cycle.

JUSTIFICATION: This performance standard is required because it is consistent with the frequency of previous and current inspections. This program will replace the need for educational site visits or inspections of gas stations. The resources saved by not inspecting gas stations can be used to fund this program. Also, a corporation can encompass many gas stations or restaurants, so the number of consultations will be significantly less than that of previously required educational site visits.

B. Industrial/Commercial Facilities Program

Legal Authority:

The Phase I 40 CFR 122.26(d)(2) regulations require, in part, that the applicant (i) develop adequate legal authority, (ii) perform a source identification, and (iv) develop a management program to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system design and engineering methods, and such other provisions which are appropriate. Specifically, with regards to industrial controls, the management plan shall include the following.

40 CFR 122.26(d)(2)(iv)(C), A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and **industrial facilities** that the municipal permit applicant determines are **contributing a substantial pollutant loading to the municipal storm sewer system**. The program shall:

*(1) Identify priorities and procedures for **inspections** and **establishing and implementing control measures** for such discharges;*

*(2) Describe a **monitoring program** for storm water discharges associated with industrial facilities [...]*

Background:

The municipality is ultimately responsible for discharges from their municipal storm sewer system (MS4). Because industrial awareness of the program may not be complete, there may be facilities within the MS4 area that should be permitted but are not (non-filers). In addition, the Phase I regulations that require industries to obtain permits is based on SIC Code. This has been shown to be incomprehensive in identifying industries that may be significant sources of storm water pollution (*by industries we also mean commercial businesses. "Industries" is intended as a generic term*) that should be permitted. Another concern is that the permitting authority **may not have adequate resources** to provide the **necessary oversight** of permitted facilities. Therefore, it is in the municipality's best interest to assess the specific situation and implement an industrial/commercial inspection/site visit and enforcement program to control the contribution of pollutants to and through their MS4 to the maximum extent practicable from all high risk sources.

In the preamble for its 1990 regulations, the USEPA clearly states the intended strategy for discharges of storm water associated with industrial activity: *"...Municipal operators of large and medium municipal separate storm sewer systems are responsible for obtaining system-wide or area permits for their system's discharges. These permits are expected to require that **controls** be placed on **storm water discharges associated with industrial activity** which discharge through the municipal system."* The USEPA also notes in the preamble that *"... municipalities will be required to meet the terms of their permits related to industrial dischargers."*

In the Chapter 3.0 of the USEPA's Guidance Manual[1], it is specified that municipal applicants must demonstrate that they possess adequate legal authority to:

- Control construction site and other **industrial discharges** to MS4s;
- Prohibit illicit discharges and control spills and dumping;
- Carry out **inspection, surveillance, and monitoring** procedures.[1]

The document goes on to explain that **"control"**, in this context means not only to require disclosure of information, but also to **limit, discourage, or terminate** a storm water discharge to the MS4. Also, to satisfy its permit conditions, a municipality **may need to impose additional requirements on discharges from permitted industrial facilities, as well as discharges from industrial facilities and construction sites *not* required to obtain permits.**

In the same Guidance Manual, Chapter 6.3.3, it is stated that the municipality is ultimately responsible for discharges from their MS4. Consequently, the proposed storm water management program should describe how the municipality **will help** the USEPA and authorized NPDES States to:

- **Identify** priority industries discharging to their systems;

[1] *Guidance Manual For the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems* - USEPA -November 1992

- **Review and evaluate** storm water pollution prevention plans (SWPPPs) and other procedures that industrial facilities must develop under general or individual permits;
- **Establish and implement** BMPs to reduce pollutants from these industrial facilities (or require industry to implement them); and
- **Inspect and monitor** industrial facilities discharging storm water to the municipal systems to ensure these facilities are in compliance with their NPDES storm water permit, if required.

Discussion:

Recognizing that the municipality is ultimately responsible for the quality of storm water discharges in the MS4, the municipalities should evaluate the industrial/commercial facilities and determine their compliance with the permit requirements, as well as their contribution to the MS4 and potential impacts to the receiving waters. The following areas must be addressed in order to implement a meaningful industrial/commercial inspection/site visit and enforcement program, which has the ability to **control and reduce** the contribution of pollutants from industrial/commercial sites to the MEP.

- **Source Identification**
  - Identification of industrial/commercial sites discharging to the MS4 (by SIC codes and narrative if needed)
  - Characterization of activities, materials used, and potential for contributing pollutants along with the type of pollutants

- **Pollution Prevention**
  - Key concepts are many times overlooked: **Prevent, before it happens**, and be **Pro-active** rather than **Reactive**. It is more difficult to treat after the pollutant is released or mixed with runoff. BMPs and other site-specific controls are often most appropriate for reducing pollutants in storm water discharges associated with industrial activity.

- **Threat to Water Quality Prioritization**
  - Identify impaired water bodies and link with activities and industrial/commercial sites that may contribute specific pollutants creating (or potentially contributing to) the water quality impairment

- **Through existing ordinance, order, or similar means, the ability to**
  - enter premises;
  - conduct inspections;
  - review and evaluate SWPPPs;
  - require minimum BMP implementation and monitoring results review; and,
  - take appropriate enforcement procedures and actions

  in order to address the following elements:

  - minimum BMP Implementation
  - monitoring of Industrial/Commercial sites
  - inspection/site visit of Industrial/Commercial sites
  - enforcement measures for Industrial/Commercial sites

It may be necessary to update existing ordinances if they do not provide sufficient legal authority to implement the above mentioned components.

Strategy and Coordination with State activities

Recognizing the dual coverage envisioned by the USEPA regulations, and suggested partnership between local and State authorities, municipalities shall coordinate with State activities for the implementation of the General Industrial Activities Storm Water Permit (GIASP) and the control of other sources not specifically covered under Phase I storm water regulations but identified as significant contributors of pollutants by the municipalities through their identification and prioritization process. The net result should be a better and improved coordinated program with greater impact on limiting and eliminating (as a final goal) the contribution of pollutants to the receiving water while maintaining and/or restore the capacity of the receiving water to sustain the beneficial uses without impairments.

During the previous permit cycle the Los Angeles County conducted a Critical Source Study (1998-2000) as required by the permit conditions. The objective of the study was to identify five priority industrial and/or commercial critical source types, and monitor each source type for two years. The *Critical Source Selection and Monitoring Report* (Woodward-Clyde, 1997) identified as the five highest ranked pollution potential activities to be, in order of ranking: (i) wholesale trade (scrap, auto dismantling), (ii) automotive repair/parking, (iii) fabricated metal products, (iv) motor freight (including trucking), (v) chemical and allied products. The report also outlined a complete study plan to be implemented by the Permittees during the permit cycle. It is significant to note that four out of five categories of activities are subject to Phase I storm water regulations while automotive repair/parking category was not the focus of Phase I, but the study identified this category as a significant contributor based on the criteria developed in the report.

Rank (pollution potential)[1]	Industrial Category	SIC Code	No. Facilities
1	Wholesale trade (scrap, auto dismantling)	50	587
2	Automotive repair/parking	75	6,067
3	Fabricated metal products	34	3,283
4	Motor freight (including trucking)	42	872
5	Chemical and allied products	28	1,069

Based on the dual coverage and partnership approach between permitting authority and municipalities intended by the USEPA in the storm water regulations (see letters from Alexis Strauss, USEPA Water Division Director)[2,3], and in order to best use limited resources at the State and Municipal level, Regional Board staff requires the following improvements:

Recognizing that this permit represents a third generation permit, and building upon the experience and tools developed under the previous permits, the Industrial/Commercial program must be elevated to an Inspection/Site visits and

[1] *Critical Source Selection and Monitoring Report (Table 1-3)* - Woodward-Clyde 1996
[2] Letter dated December 19, 2000, from Alexis Strauss, Director, Water Division, USEPA Region IX, to Dennis Dickerson, Executive Officer, Regional Water Quality Control Board-Los Angeles Region.
[3] Letter dated April 30, 2001, from Alexis Strauss, Director, Water Division, USEPA Region IX, to Honorable Stephen Horn, U.S. House of Representatives

enforcement program, in order to have the municipalities control the storm water discharges associated with industrial activities from industrial/commercial facilities to the MEP while assisting the Regional Board to implement the general permit for industrial activities. The business PIPP component should be continued under the auspices of the Public Education program.

The strategy as outlined in the permit builds on the State/Municipalities partnership by focusing their limited resources on the following activities:

- The Permittees will take a lead role in inspecting restaurants, automotive service facilities and site visits at Phase I facilities while
- Regional Board will be the lead for facilities covered or in need of coverage under GIASP
- The Permittees will assist Regional Board in its activities to fully implement the GIASP through spot check inspections, referrals, data information search, joint inspections
- The Regional Board and Permittees will coordinate their informational systems and task scheduling to avoid duplication and strengthen harmonization of activities

C. Construction Sites Program

Legal Authority:

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D) provides that a proposed management program must include "A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system."

In this Permit renewal, Regional Board staff have drafted language that provides more consistency among the Permittees and that distinguishes among the different types and sizes of construction activity that occur within our Region.

Background:

There are different environmental impacts of construction activity.

As stated in the *California Storm Water Best Management Practice Handbook for Construction Activity* (BMP Handbook), "Construction usually increases the amount of impervious area causing more of the rainfall to runoff, and increasing the speed at which runoff occurs. Unless properly managed, this increased runoff will erode natural and/or unprotected watercourses causing the watercourse to widen...Sedimentation can also contribute to accelerated filling of reservoirs, harbors, and drainage systems.[1]

Discussion:

The prevention of erosion is a key objective to the proposed modifications to the construction program under this draft Order. The Permittees currently oversee

[1] *California Storm Water Best Management Practice Handbook for Construction Activity.* 1993

construction sites within their respective jurisdiction. The oversight of smaller construction sites (those sites under five acres) is inconsistent among Permittees. Some Permittees have incorrectly assumed that responsibility begins only after a discharge of pollutants, sediments for example, has left the site. This was not intended in either the Phase I Federal Regulations promulgated on November 16, 1990, or in Board Order 96-054. In this permit reissuance, Regional Board staff proposes to eliminate these inconsistencies and require that the municipalities better coordinate oversight of construction activity within their jurisdiction. The Permittees are ultimately responsible for what enters and exits the portion of the storm drain system that they own and/or operate. It is in the best interest of the Permittees to become familiar with what enters their system and to control as necessary the discharges allowed into their storm drain system.

Specific significant changes in the draft permit and their justifications are described below:

NEW REQUIREMENT: Regional Board staff propose that the Permittees implement requirements for the use of effective erosion and sediment controls at construction sites regardless of size, wherever applicable.

JUSTIFICATION: The need for proper erosion and sediment controls is very apparent during, and immediately after, the rains that we experience in Southern California. The environmental effects of erosion are well documented and erosion is something that can be prevented or reduced with the proper foresight and implementation of suitable BMPs.

NEW REQUIREMENT: Requirements for structural source control and non-structural BMPs for controlling runoff at construction sites.

JUSTIFICATION: The need to properly control runoff at construction sites is great. When erosion occurs the sediments generated begin to flow down hill. With adequately engineered and implemented structural or non-structural BMPs, the detrimental environmental effects can be eliminated or minimized. Currently, there are many manuals and guidance handbooks available to lead a developer. The municipalities, in general, are aware of these BMPs, and working with Regional Board staff facilitates the requirements being quickly implemented.

NEW REQUIREMENT: Each Permittee shall require the preparation, submittal, and implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP), or compliance with a minimum set of BMPs for construction sites of less than 1 acre.

JUSTIFICATION: This requirement is intended to bring the smaller sites into environmental compliance by requiring the implementation of erosion and sediment control or pollution prevention BMPs on smaller sites that other wise would potentially not have any requirements for pollution control. This, however, does not necessarily require that a permit be issued to the small site operator.

NEW REQUIREMENT: Each Permittee shall require the preparation, submittal, and implementation of a Local SWPPP prior to issuance of a grading permit for construction projects that meet one or more of the following criteria: will result in soil disturbance of one acre or more in size; is within, directly adjacent to, or is

discharging directly to an environmentally sensitive area; or is located in a hillside area.

JUSTIFICATION: This is to ensure that a site that is being graded, but is less than the size requirements for a General Construction Activities Storm Water Permit (GCASP) have oversight by the local permitting authority. Currently, there are inconsistent requirements for grading among the Permittees and this change would bring consistency and environmental protection for smaller sites conducting grading activities.

NEW REQUIREMENT: The Permittees shall have a mechanism to review, approve, and enforce any erosion control plan submitted to the Permittee for implementation at construction sites within the legal boundary of the Permittees jurisdiction, regardless of size and regardless of whether a GCASP exists for the sites. This mechanism shall be available through the requirement of Local SWPPPs on projects within the Permittees jurisdiction of one acre or more.

JUSTIFICATION: The Permittees need to take an active role in what the operators of construction sites are doing to prevent erosion and not wait for the detrimental effects of a rain on a site with inadequate erosion controls and the flow of sediments off site to react with an enforcement action.

NEW REQUIREMENT: The Permittees, on those sites that need a GCASP shall not issue a grading permit until such time that the Notice of Intent (NOI) to comply with the State Permit and a copy of the SWPPP is submitted to the local authority. This also applies to property transfers between developers.

JUSTIFICATION: This is currently a requirement in Board Order No. 96-054, but not all Permittees have completely or consistently implemented this. Regional Board staff inspect construction sites covered by a GCASP. The Permittees are optimizing the implementation of the State Permit when they implement this requirement. Regional Board staff has found that on occasion, a Permittee issues a grading permit where no state permit has been obtained. State-municipal coordination reduces the amount of sites that Regional Board staff inspects for State requirements. With this requirement fully implemented, Regional Board staff believe that the number of construction sites covered by a State Permit will increase from approximately 1000 to 1500, solely as a result of consistency among the Permittees in issuing grading permits.

NEW REQUIREMENT: Wet weather inspections are required of all construction sites one acre or greater. The Permittees need to conduct wet weather inspections to ensure compliance with local ordinances.

JUSTIFICATION: If all sites are inspected, this allows the Permittees to ascertain compliance and focus educational and enforcement efforts on those that most need it. Additionally, Regional Board staff can assist the Permittees in compliance oversight by conducting joint inspections. The City of Los Angeles estimates that there will be an increase of 15,000 sites. As this is the largest Permittee it is anticipated that this new requirement will not be as burdensome on the rest of the Permittees. Nonetheless, these inspections will be essential to reducing the discharge of pollutants to waters of the United States to the maximum extent practicable.

D. Illicit Connections and Illicit Discharges Elimination Program

Legal Authority:

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(B) provides that the proposed management program "shall be based on a description of a program, including a schedule, to detect and remove (or require the discharger to the municipal storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(1) provides that the Copermittee include in its proposed management program "a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal storm sewer system."

Background:

During dry weather, much of the discharge to storm drain systems consists of wastes and wastewater from non-storm water sources. A significant amount of such discharges may be from illicit discharges or connections, or both. Illicit discharges may occur either through direct connections, such as deliberate or mistaken piping, or through indirect connections, such as dumping, spillage, subsurface infiltration, and washdowns.

The objective of a municipality's illicit connection/illicit discharge (IC/ID) elimination program should be to detect illicit connections and illicit discharges to the storm drain system, and to promptly eliminate such discharges and connections. Municipalities typically employ the approaches listed below to achieve this objective:

1. Mapping locations of outfalls of the MS4 and the names and locations of all waters of the U.S. that receive discharges from the outfalls.
2. Adopting a storm water/ urban runoff ordinance to prohibit unauthorized non-storm water discharges into the MS4, and implementing appropriate enforcement procedures and actions.
3. Implementing a program to detect and eliminate non-storm water discharges to the MS4, including illegal dumping.
4. Educating public employees, businesses, and the general public about the dangers associated with illegal discharges and improper disposal.
5. Establishing a public reporting hotline or other mechanism to report illicit discharges and illegal dumping.
6. Establishing measurable goals to evaluate successful program implementation.

Discussion:

Existing IC/ID Elimination Program

The Regional Board approved a model IC/ID elimination program for the Permittees' SQMP on March 23, 1999. Only vague performance standards are specified in this model program. By July 1999, all Permittees reported that they implemented this program. Permittees' estimates of fiscal resources required to implement their programs ranged widely, with two cities, Culver City and Hermosa Beach, estimating expenditures of $4.2 million and $2.8 million, respectively. At the other end, four cities estimated $0 expenditures, namely La Habra Heights, Lawndale, Maywood (which does not operate a storm drain system), and West Covina. Based on the Permittees' estimates of expenditures, the Permittees expended an average of $113,900 in 1999/00. Removing the anomalous estimates for Culver City and Hermosa Beach, the high ranges up to $564,809, as estimated by the City of Los Angeles, and averaged $32,500.

The Permittee's IC/ID activities are summarized in Tables 1 through 12. The reports of suspected illicit discharges and connections, as summarized in the tables, do not appear to bear a relationship with IC/ID expenditures by each Permittee.

Illicit Connections: As designed in the model program, Permittees with storm drain systems under their management rely upon field screening, during regularly scheduled maintenance of the storm drain system, to locate illicit connections. However, most Permittees cannot estimate the length of the storm drain system that was field-screened; nor did the Regional Board require reporting such information.

For the 1999/00 annual reporting period, very few Permittees reported illicit connections. The attached tables show that the numbers of illicit connections varied widely among Permittees, with about half reporting no illicit connections, and with the County reporting 877 suspected illicit connections. Part of the reason for this range is that the County is responsible for maintaining over half[1] of the storm drain system. Also, several Permittees believe that few – if any – illicit connections have been identified in many cities because: (a) many cities are primarily residential, and illicit connections are unlikely to occur from residential land use; and (b) cities in the County of Los Angeles are relatively new vis a vis their eastern counterparts, and adequate controls were in place at the time storm drain connections were installed.

Table 1: Illicit Connections 1999/00 -- County of Los Angeles, and Ballona Creek and Urban Santa Monica Bay Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharges Terminated	Removed	Other
County of Los Angeles	877	124	0	336	417[2]
Beverly Hills	0				
Culver City	None				
El Segundo	0	0	0	0	0
Hermosa Beach	None				

[1] The exact length of storm drain systems operated by most cities is unknown.
[2] The County of Los Angeles reported under the "Other" category of illicit connections that 126 connections were already permitted but not properly identified and those 291 illicit connections are still under investigation.

Manhattan Beach	0				
Palos Verdes Estates	0	1	3	3	0
Rancho Palos Verdes	None				
Redondo Beach	0				
Rolling Hills	0	0	0	0	
Rolling Hills Estates	0				
Santa Monica	70	10	50	10	0
West Hollywood	None				
Total	947	135	53	349	417

Table 2: Illicit Discharges 1999/00 -- County of Los Angeles, and Ballona Creek and Urban Santa Monica Bay Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
County of Los Angeles	788	95	15	2	411	265
Beverly Hills	700	70[1]	35[2]	35[2]	525	35[2]
Culver City	25	0	0	0	25	0
El Segundo	10	7	1	0	2	0
Hermosa Beach	10	2	0	0	8	0
Manhattan Beach	1	0	0	0	1	0
Palos Verdes Estates	6	2	1	0	3	0
Rancho Palos Verdes	6	0	0	0	6	0
Redondo Beach	31	3	0	0	25	3
Rolling Hills	0	N/A	N/A	N/A	N/A	N/A
Rolling Hills Estates	1				1	
Santa Monica	450	5	22	5	398	20
West Hollywood	9	1	0	0	8	0
Total	2037	185	74	42	1413	323

Table 3: Illicit Connections 1999/00 -- Dominguez Channel and Los Angeles Harbor Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharges	Removed	Other
Carson	8	0	0	0	0
Hawthorne	None				

[1] Documented as percentage.

Inglewood	3				3[1]
Lawndale	None				
Lomita	1	0	1	0	0
Torrance	0				
Total	12	0	1	0	3

Table 4: Illicit Discharges 1999/00
Dominguez Channel and Los Angeles Harbor
Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
Carson	24	12	0	0	0	24
Hawthrone	10	0	1	0	9	0
Inglewood	3				3	
Lawndale	2	1	0	0	1	0
Lomita	14	0	0	0	14	0
Torrance	0					
Total	53	13	1	0	27	24

Table 5: Illicit Connections 1999/00 -- Los Angeles River Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharges Terminated	Removed	Other
Alhambra	0	0	0	0	0
Arcadia	0	0	0	0	0
Bell	0	N/A	N/A	N/A	N/A
Bell Garden	0	0	0	0	0
Burbank	4		3	1	
Commerce	14	8	6	0	0
Compton	8	6	2	0	0
Cudahy	0	N/A	N/A	N/A	N/A
El Monte	None				
Glendale					
Hidden Hills	0	N/A	N/A	N/A	N/A
Huntington Park	2			2	
La Canada Flintridge	0				
Los Angeles	29	7	8	11	3
Lynwood	0	0	0	0	0
Maywood	0	0			
Monrovia	0	N/A	N/A	N/A	N/A

[1] The City of Inglewood reports that 3 illicit connections are to be eliminated.

Montebello	21	0	11	1	9
Monterey Park	2	0	0	2	0
Paramount	0				
Pasadena	None				
Rosemead	0				
San Fernando	None				
San Marino	0	N/A			
Sierra Madre	None				
Signal Hills	None				
South El Monte	None				
South Gate	2	0	1	1	
South Pasadena					
Temple City					
Vernon	1	0	0	0	1
Total	83	21	31	18	13

Table 6: Illicit Discharges 1999/00 -- Los Angeles River Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
Alhambra	0	0	0	0	0	0
Arcadia	11	1	0	0	10	0
Bell	0	N/A	N/A	N/A	N/A	N/A
Bell Garden	0	0	0	0	0	0
Burbank	47	2	1	0	43	1
Commerce	21	4	8	0	9	0
Compton	17	9	5	0	3	0
Cudahy	0	N/A	N/A	N/A	N/A	N/A
El Monte	50	0	0	0	48	2
Glendale	?	?	?	?	?	?
Hidden Hills	0	N/A	N/A	N/A	N/A	
Huntington Park	2				2	
La Canada Flintridge	75	15	0	0	60	0
Los Angeles	1896	227	2	5	700	962
Lynwood	0	0	0	0	0	0
Maywood	1		1			
Monrovia	0	N/A	N/A	N/A	N/A	
Montebello	13	12	11	0	0	1
Monterey Park	19	0	0	0	18	1
Paramount	0					
Pasadena	39	1	0	0	37	1
Rosemead	0					
San Fernando	12	1	0	0	11	0

San Marino	0	N/A				
Sierra Madre	3	0	0	0	3	0
Signal Hills	13	3	0	0	10	0
South El Monte	15	0	0	0	15	0
South Gate	28	3	1	0	22	2
South Pasadena						
Temple City						
Vernon	10	0	0	0	9	0
Total	2271	278	29	5	1000	970

Table 7: Illicit Connections 1999/00
Malibu Creek and Rural Santa Monica Bay
Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharges Terminated	Removed	Other
Agoura Hills	0	0	0	0	
Calabasas	2				2
Malibu	15	0	7	0	
Total	17	0	7	0	2

Table 8: Illicit Discharges 1999/00 -- Malibu Creek and Rural Santa Monica Bay
Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
Agoura Hills	11	1	0	0	10	0
Calabasas	12	1			10	
Malibu	15	7	0	0	7	8
Total	38	9	0	0	27	8

Table 9: Illicit Connections 1999/00 -- San Gabriel River Watershed Management Areas

Permittee	Number of Illicit Connections:				
	Investigated	Exempt	Discharged Terminated	Removed	Other
Artesia	0				
Azusa	0				
Baldwin Park	None				
Bellflower	0	0	0	0	0
Bradbury	0				
Cerritos	0	0	0	0	0
Claremont	0				
Covina	0				
Diamond Bar	0				
Duarte	3	0	1	0	2
Glendora	4	0	1	0	3
Hawaiian Garden	0				
City of Industry	None				
Irwindale	9	0	9	0	0
La Habra Heights	0				
La Mirada	1	1			
La Puente	0				
La Verne	0				
Lakewood	11	5	6	0	0
Norwalk	6	0	6	0	N/A
Pico Rivera	0				
Pomona	12	10	2	0	0
San Gabriel	2	0	0	2	0
Santa Fe Spring	0	N/A	N/A	N/A	N/A
Walnut	0				
West Covina	0				
Whittier	8	3	5	2	0
Total	56	19	30	4	5

Table 10: Illicit Discharges 1999/00 -- San Gabriel River Watershed Management Areas

Permittee	Number of Illicit Discharges:					
	Investigated	No Evidence	Exempt	Under Different NPDES Permit	Discontinued	Source Not Determined
Artesia	10	4	0	0	4	2
Azusa	1				1	
Baldwin Park	27	5	0	0	20	2
Bellflower	8	8	0	0	0	0
Bradbury	0					
Cerritos	8	0	0	0	8	0
Claremont	4	1	0	0	3	
Covina	32	5	4	0	18	5
Diamond Bar	1					1
Duarte	3	3	0	0	0	3
Glendora	14	13	0	0	12	0
Hawaiian Garden	0					
City of Industry	None					
Irwindale	23	0	0	0	20	3
La Habra Heights	1			1		
La Mirada	16		3		13	
La Puente	1				1	
La Verne	1				1	
Lakewood	17	0	2	0	9	6
Norwalk	6	0	0	0	6	0
Pico Rivera	12	6	0	0	6	0
Pomona	78	18	8	10	16	26
San Gabriel	4	0	0	0	3	1
Santa Fe Spring	12	3	0	0	0	9
Walnut	2			1	1	0
West Covina	48	6	0	0	7	35
Whittier	32	12	18	15	17	3
Total	361	84	35	27	166	96

Illicit Discharges: As designed in the model program, Permittees eliminate illicit discharges by preventing spills and, for those that do occur, by responding promptly. To prevent spills, Permittees enacted ordinances prohibiting non-storm water runoff, and are following spill prevention guidance. To respond to discharges, Permittees implement containment and cleanup procedures, coordinate with other agencies, investigate the cause of the discharge and – when the source and responsible party is know – take enforcement action. Additionally, employee training is provided on all of the above.

As with illicit connections, the numbers of illicit discharges varies widely for the annual reporting period 1999/00. The County reported a total of 788 suspected illicit discharges. Among the Cities, results at the high end include 1,876 in the

City of Los Angeles, 700 in the City of Beverly Hills, and 450 in Santa Monica. At the other end of the range, many cities reported no incidents of suspected illicit discharges. Based on information provided to date, staff cannot account for this wide range. Audits of the Permittees' programs should help clarify this.

Reporting: As designed in the model program, Permittees have implemented procedures to receive reports of illicit discharge and disposal incidents, and to promptly respond and report such incidents. Most rely upon the countywide hotline system, which is maintained by the County. For hazardous substances, Permittees implement additional reporting procedures.

Proposed IC/ID Elimination Program

The Special Provisions Section of the proposed permit requires the Permittees to revise their IC/ID Elimination Program in the SQMP within 180 days of adoption. As specified in the proposed permit, the key revision to the IC/ID Elimination Program shall include a proactive screening program for illicit discharges in priority areas. As Permittees have pointed out, and as staff acknowledges, residential land uses are less likely to have illicit connections. However, staff remains concerned that adequate controls have been in place at all times for proper connections to the storm drain system. Staff's concern is based upon the wide range of illicit connections reported by Permittees with no apparent relation to land use, and also incidents of illicit connections reported separately to the Regional Board. Accordingly, the proposed permit specifies that the Permittees shall revise the SQMP to evaluate illicit connections, prioritize suspected problem areas, and implement a proactive field screening program for such areas (that does not rely upon screening during Permittees' regularly scheduled maintenance of the storm drain system). As set forth on page 3-3 and in Appendix I of the Permittees' model program, screening tools for the proactive program will include dye tests, smoke tests, and TV inspections.

E. Public Agency Activities Program

Legal Authority:

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A)(1,3,4,5,and 6). Each Copermittee must develop a program to reduce the discharge of pollutants to and from the MS4 to the maximum extent practicable for all urban land uses and activities, including municipal areas and activities.

Background:

Many Permittees conduct activities that ultimately result in the enhancement of the lives of the residents of the cities in which they live. Some of these activities include but are not limited to: sewage system operations; public construction activities; vehicle maintenance; material storage; street and road maintenance; landscaping; recreational facility management; parking facility management; public industrial activities; and many other activities. These are essential services that unfortunately have potential side effects, albeit they are preventable or treatable. The Permittees also conduct some activities that are required to have separate coverage under the 1990 storm water regulations. These services or

activities undertaken by the Permittees, or by their contractors, sometimes mirror industrial activities and construction activities that a Permittee would actually place requirements upon, if the work were undertaken by and for a private party. The changes proposed by Regional Board staff are to bring consistency to requirements in this draft permit so that the end effect is pollution prevention.

Specific significant changes in the draft permit and their justifications are described below:

NEW REQUIREMENT: In sewage system operations, the proposed change is that each Permittee will be required to implement a response plan in case of an overflow of the sewage system to the storm drain system.

JUSTIFICATION: The response plan will have different requirements dependent upon whether the Permittee neither owns nor operates or maintains the sewer system to whether the Permittee owns and operates the sewer system. Because the responsibilities are different, the expectations of the Regional Board should therefore be different and the proposed language reflects this.

NEW REQUIREMENT: In public construction activity management, the proposed changes include generally, that the requirements in the construction section of the draft permit also apply to the Permittees public construction sites.

JUSTIFICATION: This is proposed to reduce the possibility of a public construction site from becoming a source of pollutants. A public construction site should be a model of what to do efficiently and effectively.

NEW REQUIREMENT: Each Permittee with a construction site that meets the size requirements for a GCASP shall obtain a permit from the State for the construction activity. Currently the size threshold is 5 acres but will change to 1 acre on March 10, 2003. However, a municipality of less than 100,000 people need not apply for the state permit for a construction activity until March 10, 2003.

JUSTIFICATION: This change is for consistency and will assist in the tracking of construction sites operated by Permittees.

NEW REQUIREMENT: For each Permittee owned construction site, the Permittee shall inspect and replace any ineffective BMPs when found.

JUSTIFICATION: This is to ensure that a properly designed and implemented BMP is properly maintained and is in proper working order during rains.

NEW REQUIREMENT: Each Permittee will be required to design and construct public facilities using construction and post-construction BMPs consistent with the Standard Urban Storm Water Mitigation Plans (SUSMPs) required under the Construction Planning section of the draft permit.

JUSTIFICATION: This is to be consistent with private projects and their planning, design, and construction requirements.

NEW REQUIREMENT: For Permittee owned or operated vehicle maintenance, material storage areas, and corporation yards the Permittees will implement site

specific SWPPPs to minimize pollutant discharges in storm water discharges. Vehicle and equipment wash areas will be required to be self contained or covered, equipped with a clarifier, or other pretreatment device, and or properly connected to the sanitary sewer. This requirement will take effect when a new facility is constructed or when an existing site is remodeled or reconstructed.

JUSTIFICATION: This is to be consistent with private projects and their planning, design, and construction requirements.

NEW REQUIREMENT: For landscape and recreational facilities the changes proposed include the handling and storage of materials under cover, or on secondary containment, and the inspection of such areas.

JUSTIFICATION: These changes are minimal, and simply reflect good house keeping practices that are easily and inexpensively made.

NEW REQUIREMENT: For storm drain operation and maintenance the changes proposed are the inspection and clean out of catch basin inlets between May 1 and September 30 of each year, and the classification of priority catch basins as those 40% or more full for additional cleaning between October 1 and April 30.

JUSTIFICATION: This is to be consistent with the Ventura County Municipal Storm Water Permit.

NEW REQUIREMENT: The Permittees shall keep records of catch basins cleaned and record overall quantity of wastes collected.

JUSTIFICATION: This change is a tool to assist the Permittees in tracking cleaning and amounts of wastes collected that can also be reported to the public and to federal and state agencies as to what was prevented from flowing to waters of the U.S.

NEW REQUIREMENT: For storm drain maintenance each Permittee must visually monitor their open channels for debris and identify and prioritize areas of illicit discharge for regular inspection and at least annually remove trash and debris from the channels. Permittees will review existing maintenance activities. After clean out, the material will be properly disposed of.

JUSTIFICATION: The annual clean out is a continuation of the 1996 Permit but the visual monitoring is a new requirement to assist the Permittees in prioritizing clean outs and mobilizing cleaning crews.

NEW REQUIREMENT: For street and road maintenance each Permittee will conduct street sweeping on curbed public streets in their permitted area at a monthly average, not less than four times per month, in areas generating high volumes of trash, and at a monthly average not less than two times per month in areas generating moderate volumes of trash on traffic collector streets and residential areas (except that for any Permittee within an area subject to a trash TMDL, the Permittee may implement a program which maximizes trash removal by using an effective combination of street sweeping, catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve waste load allocations).

JUSTIFICATION: The changes in frequency are to be consistent with the Ventura County Municipal Storm Water Discharge Permit. The language pertaining to complying with a TMDL Waste Load Allocation (WLA) is new and was created to provide the Permittees subject to TMDLs flexibility in complying with both the TMDL and this Order. By complying with the TMDL, the Permittee will be complying with this Order as it pertains to the listed sections only.

NEW REQUIREMENT: Permittee-owned parking lots shall be kept clear of debris and oil buildup and cleaned no less than two times per month and/or inspected no less than two times per month to determine if cleaning is necessary.

JUSTIFICATION: The proposed change is to require the inspection of the lots and to clean them when necessary. The proposed cleanup of oil spots and debris is to keep lots from becoming significant sources of pollutants.

NEW REQUIREMENT: Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that in no case shall waste be allowed to enter the storm drain.

JUSTIFICATION: Previously the requirement was that sawcutting not occur during a rain except by emergency. This requirement provides flexibility in implementation of BMPs with the ultimate result being no discharge of pollutants allowed to enter the storm drain system.

NEW REQUIREMENT: Concrete and other street and road maintenance materials and wastes shall be managed to prevent pollutant discharges

JUSTIFICATION: This requirement provides flexibility in implementation of BMPs with the ultimate result being no discharge of pollutants allowed to enter the storm drain system.

NEW REQUIREMENT: The washout of concrete trucks and chutes shall only occur in designated areas and never into storm drains, open ditches, streets, or catch basins leading to the storm drain system.

JUSTIFICATION: Regional Board staff have seen inconsistent implementation of this requirement and have revised the language to be clearer while providing flexibility in implementation of BMPs with the ultimate result being no discharge of pollutants allowed to enter the storm drain system.

F. New Development And Significant Redevelopment Program

Water Quality and Storm Water

The water quality impacts of urbanization and urban storm water discharges have been summarized by several recent USEPA reports.[1] Urbanization causes changes in hydrology and increases pollutant loads which adversely impact water quality and impairs the beneficial uses of receiving waters. Increases in population density and imperviousness result in changes to stream hydrology including:

[1] *Storm Water Phase II Report to Congress* (USEPA 1995); Report to Congress on the Phase II Storm Water Regulations (USEPA1999); Coastal Zone Management Measures Guidance (USEPA 1992)

1. increased peak discharges compared to predevelopment levels;
2. increased volume of storm water runoff with each storm compared to pre-development levels;
3. decreased travel time to reach receiving water; increased frequency and severity of floods;
4. reduced stream flow during prolonged periods of dry weather due to reduced levels of infiltration;
5. increased runoff velocity during storms due to a combination of effects of higher discharge peaks, rapid time of concentration, and smoother hydraulic surfaces from chanellization, and
6. decreased infiltration and diminished groundwater recharge.

The Los Angeles County municipal storm water management MS4 program conducts monitoring to:

1. quantify mass emissions for pollutants,
2. identify critical sources for pollutants of concern in storm water;
3. evaluate BMP effectiveness, and
4. evaluate receiving water impacts.

The monitoring indicates that instream concentrations of pathogen indicators (fecal coliform and streptococcus), heavy metals (such as Pb, Cu, Zn,) and pesticides (such as diazinon) exceed state and federal water quality criteria.[1] The mass emissions of pollutants to the ocean are significant from the urban Watershed Management Areas (WMAs) such as the Los Angeles River WMA, Ballona Creek WMA, and Coyote Creek WMA, with the Los Angeles River WMA providing more than seventy percent of the loadings. Critical source data for facilities (such as auto-salvage yards, primary metal facilities, and automotive repair shops) showed that total and dissolved heavy metals (Pb, Cu, Zn, and Cd), and total suspended solids (TSS) exceeded state and federal water quality criteria by as much as one hundred times. The results are consistent with a limited term study conducted by the Regional Board to characterize storm water runoff in the Los Angeles region before the issuance of MS4 permits.[2] Storm water runoff data from predominant land uses showed similar patterns. Light-industrial, commercial and transportation land uses showed the highest range of exceedances. A pesticide (diazinon) showed higher ranges from residential land use. The data for polycyclic aromatic hydrocarbons (PAHs), a known pollutant of concern in urban storm water runoff, is inconclusive but improved analytical methods may yield more definitive results next year. Receiving water impacts studies found that storm water discharges from urban watersheds exhibit toxicity that are attributable to heavy metals. Biosurveys of the sea-bottom showed bioaccumulation of toxicants. Sediment analysis showed higher concentrations of pollutants, such as Pb and PAHs, in urban watersheds rather than rural watersheds (2 to 4 times higher). In addition, toxicity of dry weather flows was

[1] *Los Angeles County 1998-1999 Storm water Monitoring Report*, Los Angeles County Department of Public Works (1999). Data summarizes results of storm water monitoring for the most recent year and the past five years.
[2] *Storm Water Runoff in Los Angeles and Ventura Counties, Final Report* (1988), California Regional Water Quality Control Board, Los Angeles, SCCWRP Contribution C292. This study found the highest mean concentrations of pollutants of concern such as heavy metals in the urban watershed rivers and that they contributed significant loads to the ocean.

observed with the cause of toxicity undetermined.[1] Previous studies have found chemical concentration of pollutants that exceed state and federal water quality criteria in storm drains flowing to the ocean,[2] and that there are adverse health impacts from swimming near them.[3]

Treatment BMP requirements on new development and redevelopment offer the most cost effective strategy to reduce pollutant loads to surface waters. Retrofit of existing development will be expensive and may be considered on a targeted basis. Studies on the economic impacts of watershed protection indicate that storm water quality management has a positive or at least neutral economic effect while greatly improving the quality of surface waters.[4]

Municipal storm water regulations at 40 CFR 122.26 require that pollutants in storm water be reduced to the MEP. The USEPA's definition is intentionally broad to provide maximum flexibility in MS4 permitting and to give municipalities the opportunity to optimize pollutant reductions on a program-to-program basis.[5] The definition of MEP has generally been applied to mean implementation of economically achievable management practices. Because storm water runoff rates can vary from storm to storm, the statistical probabilities of rainfall or runoff events become economically significant and are central to the control of pollutants through cost effective BMPs. Further, it is recommended that storm water BMPs be designed to manage both flows and water quality for best performance. [6] It is equally important that treatment BMPs once implemented be routinely maintained.

Financing the MS4 program offers a considerable challenge for municipalities. A proven successful financing mechanism is the establishment of a storm water utility.[7] Utility fees, which are assessed on the property owner based on some estimate of storm water runoff generated for the site, are a predictable and dedicated source of funds. Utility fees can also provide a mechanism to provide incentives to commercial and industrial property owners to reduce impervious surface areas. Such incentives offer flexibility to property owners to choose the better economic option – paying more fees or making improvements to reduce runoff from the site.

REVIEW OF DESIGN STANDARDS

The American Society of Civil Engineers (ASCE) and the Water Environment Federation (WEF) have recommended a numerical BMP design standard for storm water that is derived from a mathematical equation to maximize treatment of runoff volume for water quality based on rainfall/ runoff statistics and which is

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[1] *Toxicity of Dry Weather Flow from the Santa Monica Bay Watershed*, Bay, S. et al (1996), Bull. Southern California Acad. Sci. 5(1), pp. 33-45. The paper describes preliminary results on dry weather toxicity which have been confirmed by the MS4 monitoring program.

[2] *Chemical Contaminant Release into Santa Monica Bay, Final Report*, American Oceans Campaign , Santa Monica (1993)

[3] *The Health Effects of Swimming in Ocean Water Contaminated by Storm Drain Runoff*, Haile, R.W. et al. (1999), Epidemiology 10: 355-363). The study found higher risks of respiratory and gastrointestinal symptoms from swimmers.

[4] *The Economics of Watershed Protection*, T. Schueler (1999), Center for Watershed Protection, Endicott, MD. The article summarizes nationwide studies to support the statement that watershed planning and storm water management provides positive economic benefits.

[5] *Storm Water Phase II Final Rule* – Pre-Federal Register Version, p 87 (USEPA 1999). See USEPA's discussion in response to challenges that the definition is sufficiently vague to be deemed adequate notice for purposes of compliance with the regulation.

[6] *Urban Runoff Pollution – Summary Thoughts* – The State of Practice Today and For the 21st Century. Wat. Sci. Tech. 39(2) pp. 353-360. L.A. Roesner (1999)

[7] *Preliminary Data Summary of Urban Storm Water Best Management Practices* (1999), Report No. USEPA-821-R-99-012, USEPA.. The document reviews municipal financing mechanisms and summarizes experience in the U.S. to date.

economically sound.[1] The maximized treatment volume is cut-off at the point of diminishing returns for rainfall/ runoff frequency. On the basis of this equation the maximized runoff volume for eighty-five percent treatment of annual runoff volumes in California can range from 0.08 to 0.86 inches depending on the imperviousness of the watershed area and the mean rainfall.[2]

Other methods of establishing numerical BMP design standards include: (i) Percent treatment of the annual runoff; (ii) Full treatment of runoff from rainfall event equal to or less than a predetermined size; (iii) Percent reduction in runoff based on a rainfall event of standard size.[3] These numerical design standards have been applied to Development Planning in Puget Sound, WA; Alexandria, VA; Montgomery County, MD; Denver, CO; Orlando, FL; Portland, OR; and Austin, TX.

The City of Seattle requires that where new development coverage is 750 square feet or more, storm water detention be provided based on a 25 year storm return frequency, and a peak discharge rate not to exceed 0.2 cubic feet per second.[4] Additionally, for projects that add more than 9,000 square feet in developmental coverage, the peak drainage water discharge rate is limited to 0.15 cubic feet per second per acre for a two-year storm. The City of Denver requires new residential, commercial, and industrial developments to capture and treat the 80th percentile runoff event. This capture and proper treatment is estimated to remove 80 to 90 percent of the annual TSS load which is a surrogate measure for heavy metal and petroleum hydrocarbon pollutants.[5]

Some States have established numerical standards for sizing storm water post-construction BMPs for new development and significant redevelopment. The State of Maryland has established storm water numerical criteria for water quality of 0.9 to 1 inch, and BMP design standards in a unified approach combining water quality, stream erosion potential reduction, groundwater recharge, and flood control objectives.[6] The State of Florida has used numerical criteria to require treatment of storm water from new development since 1982, including BMPs sized for 80 percent reduction (95 percent for impaired waters) in annual TSS loads derived from the 90 percent (or greater for impaired waters) annual runoff treatment volume method for water quality.[7] The State of Washington has proposed at least six different approaches of establishing storm water numerical mitigation criteria for new development, which add 10,000 square feet of impervious surface or more for residential development, and 5,000 square feet of impervious surface or more for other types of development[8]. The mitigation

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[1] *In Urban Runoff Quality Management, WEF Manual of Practice No. 23, ASCE Manual and Report on Engineering Practice No. 87.* WEF, Alexandria, VA; ASCE, Reston, VA. 259 pp. (1998).

[2] *Sizing and Design Criteria for Storm Water Treatment Controls, Presentation to California Storm Water Quality Task Force,* November 13, 1998, Sacramento, CA. L.A. Roesner, Camp Dresser McKee.

[3] *Sizing and Design Criteria for Storm water Quality Infrastructure, Presentation at California Regional Water Quality Control Board Workshop on Standard Urban Storm Water Mitigation Plans,* August 10, 1999, Alhambra, CA., R.A. Brashear, Camp Dresser McKee.

[4] *City of Seattle Municipal Code, Chapter 22.802.015* – Storm water, drainage and erosion control requirements.

[5] *Urban Storm Drainage, Criteria Manual – Volume 3, Best Management Practices, Urban Drainage and Flood Control District, Denver,* CO (1999). Manual provides detail design criteria for new development for the Denver Metropolitan area.

[6] *Maryland Storm Water Design Manual* - (Maryland Department of the Environment 2000).

[7] *Florida Development Manual: A Guide to Sound Land and Water Management* (Florida Department of Environmental Protection 19xx). The manual describes structural and non-structural construction and post construction BMPs design criteria.

[8] *Storm Water Management in Washington State Volumes 1 – 5.* Public Review Draft (Washington Department of Ecology 1999). The volumes 1,3 and 5 are most relevant to new development standards and cover Hydrologic and Flow Control Designs, Minimum Technical Requirements and Treatment BMPs. The volumes will be adopted as statewide standards in early 2000 after completion of public hearings according to the agency.

criteria options include the 90th percentile 24-hour rainfall event and the six month 24 hour rainfall event. The State of Maryland

On a national level, the USEPA is planning to standardize minimum BMP design and performance criteria for post-construction BMPs under Title III of the Clean Water Act, and will likely build from the experience of effective state and local programs to establish national criteria.[1] The USEPA, based on the National Urban Runoff Program, supports the first half-inch of rainfall as generating first flush runoff.[2] First flush runoff is associated with the highest pollutant concentrations, and not pollutant load. The USEPA considers the first flush treatment method, the rainfall volume method, and the runoff capture volume method as common approaches for sizing of water quality BMPs.

BACKGROUND IN THE LOS ANGELES REGION

Los Angeles County and municipalities within the County (except the City of Long Beach) implement a municipal storm water program to reduce storm water and urban runoff pollution under the requirements of Board Order No. 96-054. The Los Angeles County Municipal Storm Water Permit includes requirements that SUSMPs be prepared for priority planning projects and that they include appropriate BMPs and guidelines to reduce pollutants in storm water to the MEP.[3]

On April 22, 1999, the Regional Board approved a List of BMPs for MS4 Permittees to select from and required implementation of the most effective BMPs in their Development Planning and Development Construction programs.[4]

Los Angeles County Department of Public Works (LACDPW), on behalf of the Permittees, submitted SUSMPs for the Regional Board Executive Officer on July 22, 1999, which was revised and resubmitted on August 12, 1999.

The Regional Board on January 26, 2000 approved a Final SUSMP, which included requirements for the following categories. The Regional Board Executive Officer issued a Board Approved Final SUSMP on March 8, 2000, which established new development and significant redevelopment conditions for all projects in the following categories,

10 or more home subdivision;
100,000+ square-foot commercial development;
automotive repair facilities;
retail gasoline outlets;
restaurants;
parking lots more than 5,000 square feet or more than 25 parking spaces
hillside located single-family dwelling,
construction projects adjacent to, in, or discharging directly to environmentally sensitive areas

[1] *Storm Water Phase II Final Rule* – 64 Fed. Reg. 68759. See USEPA's discussion on construction and post-construction BMP requirements for Phase II.
[2] *A Watershed Approach to Urban Runoff: Handbook for Decisionmakers*, Terene Institute and USEPA Region 5 (1996). See discussion on sizing rules for water quality purposes, p 36.
[3] The Los Angeles County Municipal Storm Water Permit (Permit Pt. 2. III.A.)
[4] (Board Resolution No. 99-03).

The SUSMP included numerical design criteria for structural and treatment control BMPs.

Numerical Design Standard

Mitigate (infiltrate or treat) storm water runoff from either:

a) each runoff event up to and including the 85th percentile 24-hour runoff event, determined as the maximized capture storm water volume for the area from the formula recommended by the WEF and ASCE study[1] or

b) the annual runoff volume, based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in the BMP Handbook[2], or

c) the volume of runoff produced from each and every storm event up to and including 0.75 inch of rainfall, prior to its discharge to a storm water conveyance system, or

d) the volume of runoff produced from each and every storm event up to and including a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.

The Regional Board action was appealed to the State Water Resources Control Board by a coalition of cities, the Building Industry Association of Southern California (BIA), and the Western States Petroleum Association (WSPA). The State Board issued a precedential decision[3] on the matter in Order WQ 2000-11, largely sustaining the SUSMP as approved by the Regional Board. The State Board amended the SUSMP to limit its application to discretionary projects as defined by CEQA, eliminated the category for projects in environmentally sensitive areas, and set aside the requirement for retail gasoline outlets to treat storm water until a threshold is developed in the future. In addition the State Board articulated its support for regional solutions and the mitigation banking.

The Regional Board staff proposes to modify SUSMP requirements to clarify implementation, make it consistent with recent Regional Board actions, and where appropriate cure procedural and other deficiencies identified by the State Board in its SUSMP ruling. In the revised permit, staff proposes to:

require SUSMPs for hillside developments that are 10,000 square feet or more. Hillside residential homes below the threshold would be required to incorporate

[1] *In Urban Runoff Quality Management, WEF Manual of Practice No. 23, ASCE Manual and Report on Engineering Practice No. 87.* WEF, Alexandria, VA; ASCE, Reston, VA. (1998).
[2] *California Storm water Best Management Practices Handbook – Industrial/ Commercial.* (1993)
[3] *State Water Board Order WQ 2000-11:* SUSMP; Memorandum from Chief Counsel to Regional Board Executive Officers, (December 26, 2000) discusses statewide policy implications of the decision.

BMPs to facilitate drainage and pollutant removal but would not be subject to the numerical mitigation criteria. Currently, all hillside developments regardless of size are subject to the numerical mitigation criteria.

require retail gasoline stations be subject to the numerical mitigation criteria, where they meet certain thresholds such as: (i) projected gasoline output of 25,000 gallons per month or more; (ii) four or more fueling dispensers, (iii) 24 or more dispensing meters; (iv) projected average daily traffic of 100 cars or more; and (v) 5,000 square feet or more of surface area.

amend the 100,000 square feet commercial development to include heavy industrial development. The category will be designated 'industrial/commercial'.

lower the industrial/commercial category threshold from 100,000 square feet to 1-acre (40,000 square feet) beginning March 9, 2003, to be consistent with the USEPA Phase 2 Final Rule for small construction projects.

require the application of new development requirements to all developments, both ministerial and discretionary. As presently implemented the SUSMP requirements apply to only discretionary projects as defined under the California Environmental Quality Act.

require to include as a category projects situated in, adjacent to, or discharging directly to environmentally sensitive areas where the development (a) creates 2,500 square feet or more of impervious area, or (b) alters the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and (c) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat.

include numerical mitigation criteria for flow-based structural and treatment BMPs to be consistent with recent municipal storm water permits issued by the Regional Board.[1] These criteria are:

the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity, or
the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County
the flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above

In addition staff propose that under the New Development Requirements Permittees update CEQA Documents with immediate effect and General Plans no later than 18 months from permit adoption to address storm water considerations. Both these requirements currently exist in the permit but there is no firm deadline for complying with the requirement.

The attached technical papers provide more detail.

VI. MONITORING PROGRAM

[1] *Board Order No. 00-018; NPDES Permit No. CAS004002.* Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within Ventura County Flood Control District, County of Ventura, and the Cities of Ventura County

Background:

Using data collected from a monitoring program, storm water management efforts can be prioritized, helping limited resources be most effective in improving receiving water quality. For example, a monitoring program can provide data that can allow for specific receiving waters and watersheds to be targeted for urban runoff management and education efforts based on their need. Particular pollutants and their sources can also be identified and targeted using monitoring data. In addition, monitoring data can be useful in assessing the effectiveness of an urban runoff management program. Successful efforts that have resulted in receiving water quality improvements can be analyzed for application elsewhere, while areas that need greater efforts can also be identified. In general, a comprehensive monitoring program can supply a wealth of data that can be used in a wide range of applications for improving water quality.

Storm Water Monitoring History:

In the 1994-95 storm season, the Los Angeles County Department of Public Works began monitoring storm water quality in Los Angeles County. The first two years of monitoring were conducted pursuant to the 1990 permit. Over the past five years, the Los Angeles County storm water monitoring program consisted of four main components: mass emission monitoring, land use monitoring, critical source monitoring, and a Santa Monica Bay receiving water study. The results of each objective are summarized below.

- **Mass Emission Monitoring**

  Mass emissions were monitored for four major watersheds: Ballona Creek, Malibu Creek, Los Angeles River, and San Gabriel River. The County also monitored mass emissions from Coyote Creek, although it was not a requirement of Order 96-045. The mass emission monitoring successfully identified 32 pollutants of concern, including toxic levels of zinc and copper from Ballona Creek discharge, toxicity in the Los Angeles and San Gabriel Rivers, and the extent of severity of bacterial indicators in both dry and wet weather. The Los Angeles River was found to consistently contribute the most zinc, copper and suspended solids.

- **Land Use Monitoring**

  The County selected eight land use types to be monitored to identify sources of pollutants in storm water monitoring. These land uses include retail/commercial, vacant, high-density single family residential, transportation, light industrial, education, multifamily residential, and mixed residential. Light industrial, transportation, and retail/commercial land uses were identified as producing the highest median concentrations for total and dissolved zinc. Light industrial and transportation displayed the highest median concentrations for total and dissolved copper, and light industrial produced the highest concentrations of suspended solids. The land use monitoring data has not provided significant information to the storm water management program. However, the required event mean concentrations were not all derived during the last five years of monitoring, so the program will be continue until it is complete.

- **Critical Source Monitoring**

  Five critical sources, including industrial and commercial facilities, were monitored to evaluate the effectiveness of voluntary good housekeeping and preventative BMPs. The critical sources included in the study were motor freight, auto dealers, chemical

manufacturing, machinery manufacturing, and rubber/plastics. No significant difference in storm water quality was found between critical source industries that implemented BMPs and those that did not. A significant finding was that the metal fabrication industry was identified as producing the highest median concentrations for zinc, copper, and suspended solids. Due to the inability to require or control the implementation of BMPs, this study was ineffective at evaluating BMP effectiveness.

- **Receiving Water Study**

  A three-year study was conducted to assess the impacts of urban storm water runoff, specifically ecosystem health, on the receiving waters of the Santa Monica Bay. The study examined plume characteristics, water column and seafloor biology. Ballona and Malibu Creek were compared to evaluate the effects of different watershed types. The study discerned the presence of well-developed plumes containing toxic materials, identified zinc and copper as contaminants in Ballona Creek, and concluded that sediments offshore of Ballona Creek generally had higher concentrations of urban contaminants. These findings demonstrate the need for further studies.

Proposed Storm Water Monitoring Program:

The objectives of this program include, but are not limited to: 1) assessing compliance with the MS4 permit; 2) measuring and improving the effectiveness of the SQMP; 3) assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff; 4) characterization of storm water discharges; 5) identifying sources of pollutants; and 6) assessing the overall health and evaluating long-term trends in receiving water quality.

Mass Emissions Monitoring

The Principal Permittee shall monitor mass emissions from seven stations, as opposed to four in Order 96-054. The Principal Permittee proposed to continue monitoring the Coyote Creek station, and new stations were required in Dominguez Channel, and the Santa Clara River.

The Dominguez Channel watershed contains the highest percentage of impervious area. The Center for Watershed Protection has linked overall watershed imperviousness to storm water quality problems.[1] Also, the Dominguez Channel Watershed is a highly industrialized area and the storm water runoff needs to be characterized to determine its contribution of pollutants in the San Pedro Bay.

A new mass emission station in the Santa Clara watershed is also required. The purpose of this station is to characterize mass emissions from Los Angeles County and to monitor the impacts from new development. Therefore, the station should be located as close to the Ventura County line as practicable. The Santa Clara watershed is currently the most natural and least impacted by development in the County. However, it is rapidly developing and contains a significant amount of proposed development. Several factors, including the natural state of the river and the lack of accessibility, have made it difficult to select a location for a sampling station. The Principal Permittee and the County are currently working together to find an appropriate location.

Method Detection Limits

[1] need citation for CWP

For the first storm of each year, method detection limits (MDLs) lower than or equal to the minimum levels in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000 (SIP) shall be used. If minimum levels are not detected, the MDLs from Order 96-054 may be used. The purpose of this new requirement is to detect toxic levels of constituents. If the lower MDLs are not used, toxic levels may not be detected.

TSS Monitoring

Every storm greater than .25 inch shall be sampled and analyzed for TSS. The purpose of this requirement is to consider the high variability of storm water discharges and determine more accurate average mass emission values. The high variability of storm water makes it unlikely to characterize a storm season based on a few mass emission samples. Studies show that the median event mean concentration for storm water programs that do not sample every storm is consistently biased low, relative to the annual flow-weighted mean[1]. To adequately characterize a storm and capture central tendencies, many storms would need to be sampled. However, this is cost-prohibitive. Therefore, the correlation between TSS and trace metals should be used. Studies have indicated that runoff contaminants tend to be highly correlated with suspended solids in large rivers and creeks throughout southern California[2]. TSS measurements are one-tenth the cost of trace metal analyses. However, TSS concentrations accounted for up to 95% of the variability in some trace metal concentrations in a study of the Santa Ana River (urbanized watershed in Orange County) conducted by the Southern California Coastal Water Research Project (SCCWRP)[2].

Water Column Toxicity Monitoring

Previous storm water quality monitoring provides justification for this requirement. Storm water samples were found to be toxic in the Los Angeles River, the San Gabriel River, Ballona Creek, and the Santa Monica Bay, demonstrating the need for continued studies and source identification.

Furthermore, previous toxicity testing was only conducted using the Stronglyocentrotus purpuratus (sea urchin) fertilization test, a marine species. In order to assess the impacts that storm water has on the inland receiving waters before it reaches the ocean, toxicity testing must also be conducted on a fresh water organism. Therefore, all tests will be conducted using the sea urchin and the Ceriodaphnia dubia (water flea). Sea urchins are sensitive to metals, while the Ceriodaphnia is sensitive to pesticides. Both of these are known impairments in this region. Samples from the Santa Clara mass emission station only need to be analyzed for toxicity to the freshwater species, because the station is located inland. Two wet weather and two dry weather samples will be analyzed for toxicity from each mass emission station every year.
Toxicity Identification Evaluations (TIE) will be conducted when two consecutive samples show toxicity. The rationale for using two toxicity hits as a trigger is based on the toxicity guidelines and requirements for NPDES permits, developed by this Regional Board. Also, storm water discharges are highly variable and requiring a TIE whenever a single sample shows toxicity, which could be a one-time event, is not cost-effective.

Furthermore, when a toxic pollutant is identified, Toxicity Reduction Evaluations (TRE) will be conducted. The purpose of this requirement is to evaluate the extent and causes

[1] Temporal variability patterns of stormwater concentrations in urban stormwater runoff. Leisl L. Tiefenthaler, Kenneth C. Schiff, and Molly Leecaster, Southern California Coastal Water Research Project (SCCWRP) annual Report 2000.
[2] SCCWRP. 1992. Surface runoff to the Southern California Bight.

of toxicity in inland and coastal receiving waters, and to eliminate or reduce the sources of toxicity in storm water. TRE development and implementation is directly tied to the SQMP, to ensure that management actions are taken when problems are identified. The Principal Permittee expressed concern to Regional Board staff that the TRE requirement could potentially be too involved and costly to be completed with the available funds and resources during the course of the Order. To address this concern, the Regional Board clarified the TRE language. It was decided that a third party should be involved in the source analysis and BMP recommendations, and that each Permittee shall be responsible for the implementation of BMPs in their areas of jurisdiction that are causing or contributing to toxicity. The Principal Permittee is responsible for conducting an analysis of possible sources of toxicity and the identification of appropriate BMPs, based on available information. Regional Board staff also agreed with the Principal Permittee's proposed funding limit for this requirement, to ensure that the majority of the monitoring budget is not used.

Overall, the toxicity monitoring program will assess the impact of storm water on the overall quality of aquatic systems and implement measures to ensure that those impacts are eliminated or reduced. Chemical monitoring does not necessarily reveal the impacts of storm water on aquatic life or beneficial uses of water bodies. Therefore, toxicity monitoring is a necessary component of a storm water monitoring program.

Tributary/Source Identification Monitoring

Based on the results of previous storm water quality monitoring and toxicity testing, there is a need to monitor subwatersheds to determine pollutant sources, prioritize management actions, and provide information for TMDL development and implementation. Regional Board staff worked with Los Angeles County staff to design a tributary monitoring program.

Due to the great number of tributaries and limited resources for monitoring, the goals of the tributary monitoring program were prioritized. Regional Board staff decided to focus on metals in the Los Angeles River, San Gabriel River, and Ballona Creek because of existing data and the TMDL schedule[1]. Staff requested that the Principal Permittee conduct an analysis of the last four years of data for land use type, area, and rainfall to determine the major tributaries with the highest loads of metals per acre. Based on the analysis, Regional Board staff selected the following tributaries to be monitored:

- Centinela Creek (Ballona Creek WMA)
- Kenter Canyon (Ballona Creek WMA)
- Aliso Creek (Los Angeles River WMA)
- Bull Creek (Los Angeles River WMA)
- Compton Creek (Los Angeles River WMA)
- Los Cerritos Channel (San Gabriel River WMA)
- San Jose Creek (San Gabriel River WMA)

The data from the tributary monitoring program will also be used to validate the Land Use Model that the County has been developing.

Shoreline Monitoring

[1] Current TMDL schedule can be found on the Regional Board website at www.swrcb.ca.gov/rwqcb4/docs/table7_wmi_appdx.pdf

The City of Los Angeles has conducted shoreline and nearshore water quality monitoring off the Santa Monica Bay since the 1950s under the monitoring program for the Hyperion Waste Water Treatment Plant (NPDES No. CA0109991). The monitoring results indicate that effluent from Hyperion's 5-Mile Outfall does not impinge the shoreline, and that elevated bacterial counts are associated with runoff from storm drains and discharges from piers. In 1994, the Regional Board approved the relocation of Hyperion's shoreline stations to implement a bay-wide, regional shoreline monitoring program associated with storm drain outfalls in the Santa Monica Bay. The City of Los Angeles requested that the shoreline monitoring requirement be incorporated in this Order. Regional Board staff and the County of Los Angeles determined that the shoreline monitoring is an appropriate requirement for the storm water monitoring program, per the conditions listed in Section D of the draft Monitoring Program.

Trash Monitoring

Trash is a storm water pollutant, and a monitoring program should be developed. The language in the draft is general so that details of the monitoring program can be determined through the TMDL process. A specific trash monitoring program will be required through a 13267[1] letter related to the TMDL. The Regional Board does not intend to require two separate monitoring programs through the MS4 permit and the TMDL.

Regional Monitoring

Regional Monitoring efforts address public health concerns, monitor trends in natural resources and nearshore habitats, and assess regional impacts from all pollutant sources. Los Angeles County is a major discharger in this region and should participate in regional programs. Also, participation in Regional Monitoring, such as the SCCWRP Bight-wide study in 2003, can accomplish several goals of the Monitoring Program.

Estuary Sampling

The main goal of the estuary sampling is to determine the spatial extent of sediment fate from storm water, and the magnitude of its effects. Form this information, a map of each estuary that depicts the impacted areas will be produced. Such a map will be used to direct future monitoring efforts. Once the impacted areas are identified, regular monitoring can be conducted to determine trends and accumulation of sediment from storm water. The specific sampling requirements are consistent with the Hyperion Waste Water Treatment Plant NPDES permit. This sampling program is also consistent with the objectives of the SCCWRP Bight-wide 2003 study. The results will be incorporated into a larger study of the entire coast of Southern California, from Santa Barbara to the boarder of Mexico. This will also provide a comparison of the storm water impacts from Los Angeles County to other larger MS4s.

Bioassessment

Bioassessment data can be an important indicator of stream health and storm water impacts. It can detect impacts that chemical and physical monitoring cannot. In the Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems, EPA encourages permitting authorities to consider requiring biological monitoring methods to fully characterize the nature and extent of storm water problems. Therefore, this Regional Board and other Regional Boards commonly require bioassessment monitoring in storm water and point source NPDES permits.

[1] Section 13267 of the Porter-Cologne Water Quality Act

However, the fact that a biological index does not yet exist for this region is an issue that Regional Board staff took into consideration for this requirement. Without a biological index, including reference conditions and knowledge of background variability, data cannot be fully analyzed to accurately indicate stream health or impacts. However, it can be used to determine trends in the biological community, and it is necessary for index development. Also, bioassessment data can be analyzed in the future, after an index is developed.

Considering the importance of bioassessment and the need for an index, the Principal Permittee is required to develop a bioassessment program as part of a regional effort (Southern California Stormwater Research/Monitoring Program) and to coordinate with the Surface Water Ambient Monitoring Program (SWAMP), organized by the Regional Board. This is to ensure that the most useful data is collected for the purposes of detecting biological trends in receiving waters and for developing a biological index.

New Development Impact Study in the Santa Clara Watershed

The Santa Clara River is the largest river system in southern California that remains in a relatively natural state. For much of its length, it is a high quality natural resource[1]. There is also a great amount of current and future development in the watershed. Therefore, it is important to monitor this watershed to detect water quality impacts from new development and implement measures to prevent degradation from occurring. To accomplish this, a special study in addition to the two mass emission stations is appropriate.

The special study will consist of monitoring tributaries in the Santa Clara watershed to accomplish two goals. The first is to determine impacts from new development. The second is to assess the effectiveness of SUSMPs by comparing storm water quality between subwatersheds with and without post-construction storm water BMPs. Two tributary stations will be selected and monitored for this study. One will be chosen that is representative of a subwatershed in which the majority of development has occurred without SUSMP implementation. The second station will be representative of a subwatershed in which the majority of development has/will include SUSMP implementation.

Due to the similarities in sites to be monitored, it may be appropriate to combine this study with the Peak Discharge Impact Study.

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Peak Discharge Impact Study

The Development Planning section (Part 4.C.2) of the draft permit requires that the Principal Permittee determine numeric criteria to prevent or minimize erosion of natural stream channels and banks caused by urbanization. The purpose of the Peak Discharge Impact Study is to help meet that requirement. The Ventura County MS4 permit contains a similar requirement. The Ventura County Flood Control District has designed a study that can be extended to a watershed in Los Angeles County.

[1] Watershed Management Initiative Chapter, January 2000. California Regional Water Quality Control Board, Los Angeles Region

BMP Effectiveness Study

The BMP Effectiveness Study is an integral part of the storm water monitoring program. It is necessary to determine the reduction of pollutants from different BMPs so that the storm water management agency can make educated determinations about appropriate locations and types of BMPs.

RETAIL GASOLINE OUTLETS: NEW DEVELOPMENT DESIGN STANDARDS FOR MITIGATION OF STORM WATER IMPACTS

Technical Report

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Introduction

On March 8, 2000, the California Regional Water Quality Control Board, Los Angeles Region (LA Regional Board) issued requirements for new development and significant redevelopment consolidated in a Standard Urban Storm Water Mitigation Plan (SUSMP). The SUSMP included requirements for retail gasoline outlets (RGOs), commonly referred to as "gas stations", among several other development categories. Several municipalities, the Building Industry of Southern California (BIA), and the Western States Petroleum Association (WSPA) appealed the action of the LA Regional Board to the State Water Resources Control Board (State Board) for review. The State Board issued its decision *In Re City of Bellflower et al.* (SUSMP Decision) in large part upholding the action of the LA Regional Board.

In its Order, the State Board set aside the numerical mitigation requirement for RGOs explaining that the decision did not preclude future inclusion of numerical mitigation standards for RGOs with proper justification.

On February 21, 2001, the California Regional Water Quality Control Board, San Diego Region (SD Regional Board) issued an MS4 permit for San Diego County and Cities which includes requirements for new development and significant redevelopment. The MS4 permit requires Permittees to develop a model SUSMP no later than February 21, 2002, that will establish new development controls for project categories including RGOs. The SD Regional Board did not propose a threshold for RGOs to apply numerical design standards, giving the MS4 permittees the first option to develop the threshold criterion for RGOs and the justification. On March 22, WSPA filed an appeal of the SD Regional Board action for review before the State Board contending that RGOs were being improperly subject to numerical design standards in the MS4 permit for San Diego County and cities.

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Urbanization and Storm Water Quality

Urbanization alters the natural infiltration capability of the land and generates a host of pollutants that are entrained in storm water and urban runoff. These pollutants such as heavy metals and petroleum hydrocarbons result from the activities of dense human populations. The overall impact is an increase in storm water runoff volumes and pollutant loading in storm water discharged to receiving water-bodies.[1]

Urban development increases the amount of impervious surface in a watershed as farmland, forests, and meadowlands with natural infiltration characteristics are converted into buildings with rooftops, driveways, sidewalks, roads, and parking lots with virtually no ability to absorb storm water. Storm water and snow-melt runoff wash over these impervious areas, picking up pollutants along the way while gaining speed and volume because of their inability to disperse and filter into the ground. What results are storm water flows that are higher in volume, pollutants, and temperature than the flows in less impervious areas, which have more natural vegetation and soil to filter the runoff.[2] In addition to impervious areas increase, urban development brings with it proportionately high levels of car emissions, car maintenance waste, pet waste, litter, pesticides, and household hazardous wastes, which may be washed into receiving waters by storm water or dumped directly into storm drains designed to discharge to receiving waters.

Most organic compounds found in storm water are associated with various human-related activities, especially automobile use, or are associated with plastics.[3] Heavy metals found in storm water also mostly originate from automobile use activities, including gasoline combustion, brake lining, fluids, undercoatings, and tire wear.[4]

More recently, studies reveal a connection between urban development and contamination of local waterbodies. Studies found the highest levels of organic contaminants, known as polycyclic aromatic hydrocarbons (PAHs) (products of combustion including fossil fuels combustion), in the reservoirs of urbanized watersheds.[5] Studies also established a clear

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[1] U.S. EPA (1992). *Environmental Impacts of Storm Water Discharges: A National Profile*. EPA 841-R-92-001. Office of Water. Washington, DC.

[2] U.S. EPA (1997). *Urbanization and Streams: Studies of Hydrological Impacts*. EPA 841-R-97-009. Office of Water. Washington, DC.

[3] Field, Richard, James P. Heaney and Robert Pitt. (2000). *Innovative Urban Wet-Weather Flow Management Systems*. Technomic Publishing Co., Inc. Lancaster.

[4] See, Durum, W.H. (1974), *Occurrence of some trace metals in surface waters and groundwaters*. In Proceeding of the Sixteenth Water Quality Conference. Am. Water Works Assoc., et al. Univ. of Illinois Bull. 71(108). Urbana, IL.; Koeppe, D.E. (1977). Comp. Vol. IV: *Soil-water-air-plant studies*. In: Environmental Contamination by Lead and Other Heavy Metals. G.L Rolfe and K.A. Peinbold, eds. Institute for Environmental Studies. Univ. of Illinois. Urbana-Champaign, IL. July.; Rubin, A.J., ed. (1976). *Aqueous-Environmental Chemistry of Metals*. Ann Arbor Science Publishers. Ann Arbor, MI; Shaheen, D.G. (1975). *Contributions of Urban Roadway Usage to Water Pollution*. 600/2-75-004. U.S. Environmental Protection Agency. Washington, DC.; Solomon, R.L. and D.F.S. Natusch. (1977). Vol. III: *Distribution and characterization of urban dists*. In: Environmental Contamination by Lead and Other heavy Metals. G.L. Rolfe and K.G. Reinbold, eds. Institute for Environmental Studies. Univ. Of Illinois. Urbana-Champaign, IL.; and Wilber, W.G. and J.V. Hunter. (1980). *The Influence of Urbanization on the Transport of Heavy Metals in New Jersey Streams*. Water Resources Research Institute. Rutgers University. New Brunswick, NJ.

[5] USGS (1998). *Research reveals link between development and contamination in urban watersheds*. USGS news release. USGS National Water-Quality Assessment Program.

relationship between the adverse impact of urbanization and impairment of aquatic communities in receiving waterbodies.[6]

Federal Storm Water Regulations

Federal regulations require that MS4 permittees implement a program to control storm water pollution from new developments during and post-construction. Because there is no express national standard for the control of storm water pollutants from new developments, the permitting authority must defer to statements of policy and intent made by the U.S.EPA.

The U.S.EPA under Phase I regulations did not fully describe the expectations for MS4 Permittees in controlling post construction storm water discharges from new development and significant redevelopment except that "a comprehensive master plan" was required [55 *Fed Reg.* 48054]. For a better understanding of the regulatory expectation, we look to the Final Rule for Phase II storm water regulations. Therein, the U.S.EPA notes that "prior planning and designing for the minimization of pollutants in storm water is the most cost-effective approach to storm water quality management" [64 *Fed Reg.* 68759], and identifies four essential elements to control storm water from new development and redevelopment. These are, (i) to develop and implement strategies that include a combination of structural and non-structural BMPs; (ii) adopt an ordinance to address post construction runoff; (iii) ensure long term operation and maintenance of the BMPs; and (iv) ensure that controls are in place that will *minimize* water quality impacts. [Emphasis added] EPA goes on to say:

> "The requirements .....[are] consistent with the permit application requirements for large MS4s for post-construction controls for new development and redevelopment."

The permitting authority in order to comply with federal regulations must thus require the implementation of an MS4 program that will achieve all four enumerated objectives for new development and redevelopment. In order for the program to be enforceable, the program for new development and significant redevelopment must include objective criteria such as water quality design standards for treatment-control BMPs, for significant categories of development such as RGOs.

Further, the Federal Court of Appeals has unequivocally stated that Congress intended for "the Administrator or a State to design [substantive] controls" for storm water discharges from MS4s but did not mandate a particular approach [*NRDC v. USEPA*, 966 F.2d 1292 (9th Cir. 1992)]. The court held that it is appropriate to defer to U.S.EPA [and the State] where the agency supplied a "reasoned explanation".

Also, the USEPA is currently in the process of developing effluent guidelines for the construction and development industry, which will include controls for new development and significant redevelopment.[7]

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[6] USGS (2000). *Water Quality in the Long Island-New Jersey Coastal Drainages, New York and New Jersey, 1996-98.* USGS Circular 1201.

[7] See, Fact Sheet: Effluent Guidelines for the Construction and Development Industry, USEPA, 1999, 3 pp.

Retail Gasoline Outlets

RGOs can range in size from about 3,000 square feet to more than 200,000 square feet. The median size of new RGOs in Los Angeles County is about 13,000 square feet.[8] There are about 2,133 RGOs in Los Angeles County servicing a population of 9.5 million, and nearly six million registered motor vehicles.[9] In San Diego County there are about 700 RGOs serving a population of 2.8 million, and nearly 2 million registered vehicles.

RGOs are points of confluence for motor vehicles for automotive related services such as repair, refueling, and ancillary services such as tire air inflation and radiator fillup. The vehicular traffic patterns at RGOs are similar to those on parking lots and on highways. Researchers have identified RGOs as toxic pollutant hotspots.[10]

Storm Water Quality

RGOs are a well identified source of urban storm water pollutants that impair receiving waters. WSPA has acknowledged that storm water discharges from even "normally operated and maintained" RGOs are no worse than discharges from commercial parking lots and diffuse urban runoff.[11] The reason that "normally operated and maintained" RGOs do not demonstrate any improvement in storm water discharge quality is because existing BMPs do not address pollutants generated by motor-vehicle traffic.[12] Heavy metals, significant concentrations of which occur in storm water discharges from RGOs, have been demonstrated to be the main cause of toxicity in Santa Monica Bay during wet weather.[13] Oil and grease in the storm water discharges from RGOs are also of concern.[14]

In a study conducted in Maryland, RGOs were identified to generate significantly higher concentrations of hydrocarbon and heavy metals than parking lots, convenience store lots, and streets.[15] A study conducted in Sacramento County, California, identified heavy metals such as

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[8] Data Base Summary Report, New Gas Station Permits issued between Jan 1, 1999 and Dec 31, 2000, City of Los Angeles, Department of Building and Safety (2001)

[9] California Energy Commission, Fuels Office, 1999.

[10] Schueler, T. and D. Shepp (1992). *The Quality of Trapped Sediments and Poor Water within Oil Grit Separators in Suburban MD.* Metropolitan Washington Council of Governments.

[11] See, Results of a Retail Gasoline Outlet and Commercial Parking Lot Storm Water Runoff Study, Western States Petroleum Association and American Petroleum Institute (1994) at p 13. The study concludes that pollutant concentrations in storm water discharges from RGOs are similar to concentrations from commercial parking lots and diffuse urban runoff. See also June 7 State Board Hearing Transcript at p 231; comment by WSPA witness, that "concentrations of metals, hydrocarbons, and solids were no higher than.... roads and parking lots".

[12] See June 8 State Board Hearing Transcript at p 136, Regional Board staff testimony that current BMPs at RGOs do not address pollution associated with vehicular traffic.

[13] See "Study of the Impact of Storm Water Discharge on Santa Monica Bay – Executive Summary", Los Angeles County Department of Public Works (1999), which identifies Zn and Cu as principal pollutants that cause storm water toxicity.

[14] Rouge River National Wet Weather Demonstration Project, MI, - Evaluation of On-line Media Filters in the Rouge River Watershed, Report No. RPO-NPS-TPM59.00 (1999), 36 pp.

[15] *Hydrocarbon Hotspots in the Urban Landscape, Shueler T., and Shepp, D., (1995), pp. 259-264, National Conference on Urban Runoff Management: Enhancing Urban Watershed Management at the Local, County and State Levels, Chicago, IL,* Report No. EPA/625/R-95/003. A survey of oil and grit separators in suburban Maryland indicated that RGOs and convenience stores had much higher levels of hydrocarbons and metals both in the water column and the sediments.

lead, copper, and zinc, as significant in storm water from RGOs.[16] Volatile organic compounds (VOCs) such as benzene, toluene, ethylbenzene, and xylene are rarely detected in storm water because of their volatility. In contrast, gasoline and other solvents, because of their physical and chemical characteristics, may present a significant risk for groundwater contamination, if underground and aboveground storage tanks leak.

The sources of storm water pollutants at RGO are from tail-pipe exhaust particles, fluid losses, drips, spills, and mechanical, brakepad and tire wear products, which build up on impervious surfaces at RGOs.[17] The pollutants of most concern in storm water are heavy metals such as Pb, Cu, and Zn and petroleum hydrocarbons such as PAHs.[18] The concentration and loads of these pollutants in storm water runoff from RGOs depends on the surface deposition and removal rates, and permanent storage. The permanent storage on surfaces is a function of surface area texture and condition and is literally trapped in the texture or cracks of the surface area. Pollutants are deposited any where vehicles travel, park, or are serviced, including RGOs.[19]

Review of New Development Design Standards

WSPA represents petroleum industry members in the States of Arizona, Hawaii, Nevada, Oregon, in addition to California. WSPA in its Petitions before the State Board has contended that new development standards that include numerical design standards for BMPs are impracticable and unnecessary at RGOs, and so we focussed the review on development standards that new RGOs are subject to in Western U.S. States. We are aware that new RGO developments in other States such as Maryland, Virginia, Florida, Alabama, Tennessee, Georgia, Oklahoma and Texas, are also subject to numerical mitigation requirements for storm water pollutants, but we did not review their programs for this technical report.

In Washington, RGOs in the western region that create impervious surfaces of 5,000 square feet or more are required to mitigate the 6 month 24 hour storm (about 1.2 inches of rainfall). In addition to the standard treatment menu based on a water quality design storm, RGOs that are expected to generate ADT of 100 vehicles or more per 1,000 square feet of gross building area are required separately to treat to remove oil.[20] The City of Portland in Oregon under its MS4 program requires RGOs to mitigate storm water runoff from impervious areas equal to or greater than 500 square feet using any one of three different design

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[16] *Action Plan Demonstration Project (APDP) - Demonstration of Gasoline Fueling Station Best Management Practices, County of Sacramento, (1994)*, pp. 30 Submitted to US EPA Region IX, San Francisco Estuary Project.. This study funded by the USEPA and conducted by Sacramento County identified heavy metals such as lead, copper, and zinc in significant concentrations in storm water runoff from RGOs. Volatile Organic Compounds (VOCs) from fueling areas were rarely detected because of their volatility. Data on Polycyclic Aromatic Hydrocarbons (PAHs) was inconclusive because analytical detection limits used were higher than regulatory action levels.

[17] Shaheen, D.G. (1975). *Contributions of Urban Roadway Usage to Water Pollution*. 600/2-75-004. U.S. Environmental Protection Agency. Washington, DC.

[18] Field, Richard, James P. Heaney and Robert Pitt. (2000). *Innovative Urban Wet-Weather Flow Management Systems*. Technomic Publishing Co., Inc. Lancaster.

[19] County of Sacramento, (1994). *Action Plan Demonstration Project (APDP) - Demonstration of Gasoline Fueling Station Best Management Practices*. Submitted to US EPA Region IX, San Francisco Estuary Project.

[20] Such sites are considered "high use sites" because they typically generate high concentrations of oil from traffic turnover. See Stormwater Management Manual for Western Washington, Vol. V, Runoff Treatment BMPs, (2000), Washington Department of Ecology, p 145.

approaches.[21] One of the choices is the 24-hour rainfall event standard (0.83 inch of rainfall). In addition, RGOs that are expected to generate 100 vehicles or more ADT per 1000 square feet of gross building area are subject to separate treatment controls for oil using a water quality design standard of a two year 24 hour storm.[22] In both Washington and Oregon, storm water treatment is required in addition to the source control BMPs identified by WSPA for implementation at its facilities in California.[23]

Treatment Control BMPs

The U.S. EPA funded a demonstration project to evaluate the effectiveness of on-line media filter media to treat pollutants from storm discharges at RGOs.[24] Four on-line media filter systems were tested and the study concluded that the treatment systems had sufficient ability to remove pollutants without risk of flooding, were easy to operate and maintain, and reasonable in capital cost.

We also reviewed storm water quality data results evaluating the pollutant removal effectiveness of a proprietary on-line filter media device located at a large RGO in Washington.[25] The device was installed underground and thus occupied no surface area. The treatment device was effective in removing between 50 and 90 percent of pollutants of concern in storm water discharges from RGOs. We note with interest that in perusing the treatment devices installation list of this proprietary manufacturer between 1997 and 2001 in the Western U.S., California had not a single installation at an RGO but Oregon and Washington had a combined total of 13 RGO sites where the treatment devices were installed. Considering that RGOs in the State of Washington and Oregon have ADT that is much less than in California, the aberration can only be explained by the lack of rigorous storm water regulatory controls in California to control the discharge of pollutants in storm water discharges from RGOs.[26]

Our review indicates that effective treatment devices for RGOs include on-line media filter systems with a combination of media placed in series to remove the pollutants of concern. Sand filters are another option. There may be other treatment control BMPs that may be equally if not more effective.[27]

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[21] Stormwater Management Manual, City of Portland, OR, (2000), p 1-11.

[22] Ibid. at page 9-47. Sites that meet the threshold are considered "higher risk categories".

[23] Cf. BMP Guide for Retail Gasoline Outlets, CA Storm Water Quality Task Force, and WSPA (1997); Storm Water Manual for Western Washington Vol. IV and V, Washington Dept. Ecology (2000).

[24] See, Rouge River National Wet Weather Demonstration Project, MI, - Evaluation of On-line Media Filters in the Rouge River Watershed, Report No. RPO-NPS-TPM59.00 (1999), 36 pp.

[25] See, Stormwater Sampling – StormFilter Performance Results: Burwell-Straley's Union 76 Station, Bremerton, WA (2000). 7 pp.

[26] Report, Database Summary List of Treatment Devices installed between 1997 and 2001, Provided by StormFilter, OR.

[27] For a list of potential treatment options see, Storm Water Manual for Western Washington Vol. V, - Runoff Treatment BMPs, Washington Dept. Ecology (2000).

Economic Considerations

A review of costs of storm water treatment controls for RGOs indicates that the cost of storm water treatment is reasonable.[28] In addition, a demonstration project sponsored by the USEPA to evaluate the effectiveness and costs of on-line media filters placed the first year capital cost between $250 and $900 and an operations and maintenance cost of $240 annually.[29]

Justification

The State Board in its SUSMP Decision temporarily excluded RGOs from the numerical mitigation standard until Regional Boards provided proper justification and established appropriate thresholds. Issues to be considered included presumptions that RGOs were, (i) already heavily regulated; (ii) limited in their ability to construct infiltration BMPs; (iii) generally small in size; and (iv) storm water treatment may not be feasible or safe.

Over-regulation:[30] Under State law, the State Board and Regional Boards are the primary authorities for implementation of the federal Clean Water Act, and for matters related to water quality within the State.[31] There is no basis in federal or State statute that permits the State Board or Regional Boards to abdicate their water quality authority because discharges from facilities that impact water quality are already regulated for other purposes. Attainment and maintenance of receiving water objectives and the protection of beneficial uses are the paramount considerations.

Limitations of space or ability: Our review indicates that RGOs appear not to be limited by space or ability to treat storm water. The surface area of RGO developments is generally greater than 5000 square feet. The fabricated storm water treatment systems we reviewed generally do not exceed 128 square feet in surface area when installed and do not impede traffic flow because they are situated sub-surface. While opportunities for infiltration practices may be limited, it is but one type of option for mitigation of pollutants in storm water. The SUSMP does not mandate infiltration BMPs. Other treatment options exist such as fabricated treatment control BMPs to remove storm water runoff pollutants using physical, biological, or chemical processes. Also treatment control BMPs can be installed sub-surface without interfering with surface use. RGOs situated in other Western U.S. States, which have lower impervious surface area and higher water quality treatment volume criteria thresholds already implement storm water treatment controls at new facilities.

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[28] See "Cost and Benefits of Storm Water BMPs", Preliminary Data Summary of Urban Storm Water Best Management Practices, USEPA, (1999) Report No. EPA-821-R-99-0012, pp. 6-1 – 6-44.

[29] Rouge River National Wet Weather Demonstration Project, MI, - Evaluation of On-line Media Filters in the Rouge River Watershed, Report No. RPO-NPS-TPM59.00 (1999), at p 15-18.

[30] The Regional Board's review of regulations that affect RGOs identified, (i) business license for business operation, (ii) Fire Department for tank/ piping integrity and gasoline storage; (iii) County Public Works for underground storage of hazardous chemicals; (iv) Air Quality Management District for VOC emissions; (v) Sanitation District for any sanitary sewer discharges; (vi) County Weights and Measures for sale of gasoline; (vi) Department of Toxics Substance Control for waste motor oil disposal; (vii) County Health for food and beverage sale; and (viii) Regional Board for regulation of leaking tanks to protect groundwater.

[31] Cal. Wat. Code § 13160 states that, "the State Board is designated as the state water pollution control authority for all purposes.... in federal act." Cal. Pub. Res. Code § 30412 states that, "other State agencies shall not modify, adopt conditions, or take any action in conflict with any determination by the State Board in matters relating to water quality".

Feasibility of storm water treatment: Our review of implementation of storm water treatment control requirements in other Western U.S. States indicates that storm water treatment at RGOs is both feasible and safe. In California, sub-surface fabricated treatment systems have been commonly used at RGOs to separate waste-oil before discharge to the sanitary sewer system. Safety or feasibility has not been an issue when sanitation districts required RGOs to install treatment systems in order to obtain connection permits to the sanitary sewer system. As previously mentioned storm water treatment controls are installed as a matter of practice by RGOs in other Western U.S. States. There is no reason to suppose that storm water treatment in California introduces new and different safety and feasibility considerations, as when compared to wastewater treatment systems which RGOs have readily installed in California and storm water treatment systems installed in other Western U.S. States.

Suggested criteria

Storm water pollution at RGOs is primarily a function of the number of motor vehicles that are refueled or serviced. Ancillary services such as auto repair may additionally contribute significant pollutant loads. A WSPA study concluded that the storm water runoff quality from well-maintained RGOs is comparable in pollutant concentrations to runoff from commercial parking lots.[32]

The State Board recommended that the Regional Boards undertake further consideration of a threshold relative to size of RGOs for application of the numerical design standard for storm water. Our analysis indicated the following criteria for thresholds may be appropriate.

Land area: 5,000 square feet or more of impervious area. RGOs in Portland, Oregon and Western Washington that meet this land area threshold are currently subject to storm water treatment requirements based on the water quality design storm.[33]

Projected Average Daily Traffic (ADT): 100 or more vehicles fueled per day. The projection for the number of vehicle trips a RGO can expect may be estimated using information published by the Institute of Transportation Engineers. The vehicular traffic at an RGO is a good determinant for the quantity of storm water pollutants generated at the site. RGOs in Oregon and Washington are subject to two tiers of threshold for treatment of storm water, the first based on the impervious area threshold, and an additional tier storm water treatment requirement for sites that expect 100 vehicles or more ADT per 1,000 square feet of gross building area. [34]

Projected volume of gasoline sale: 25,000 gallons or more of gasoline sale per month. [35] The projected volume of gasoline sales is directly correlated with vehicular trips. 25,000 gallons of gasoline sale per month is equivalent to an average daily traffic of about 100 vehicles.[36]

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[32] See 'Results of a Retail Gasoline Outlet and Commercial Parking Lot Storm Water Runoff Study (1994)', Western States Petroleum Association, and American Petroleum Institute, 49 p. Commercial parking lots 5,000 square feet or more are presently subject to the SUSMP numerical mitigation standard.

[33] WSPA represents companies that explore, produce, refine, transport and market petroleum in six western states including Oregon, Washington, and California. See www.wspa.org

[34] See, Storm Water Management Manual (August 2000), City of Portland, Oregon, (p 9-10) additional thresholds for fuel dispensing facilities. Also, Storm Water Management Manual for Western Washington, Vol. V, Runoff Treatment BMPs, Washington Department of Ecology, p 9-10, additional requirement thresholds for high-use sites.

[35] The average volume of gasoline sales at a RGO in California is approximately 100,000 gallons per month. Gasoline stations with outputs of 200,000 or more gallons a month are considered high output facilities by the industry.

Although other criteria such as the number of fueling dispensers ("nozzles"-4 or more) and the number of dispenser meters (12 or more assuming one meter per octane grade), were considered for thresholds, the relationship of such criteria to predict the potential for pollutant generation at RGOs is less direct.

It is recommended that numerical mitigation standards be made applicable, if the RGO development meets the following thresholds, (i) creates 5,000 square feet or more of impervious surface; and (ii) has a projected trip generation of 100 or more motor vehicles ADT.

Conclusion

RGOs have been well documented in the scientific literature as significant sources of storm water pollutants. These pollutants such as heavy metals and PAHs have been know to cause the impairment of beneficial uses in receiving waters. As a source of pollutants, storm water from RGOs is similar to runoff from driveways, roads, highways and parking lots.

In order to reduce the discharge of pollutants in storm water to the MS4, it is technically appropriate to require that new RGOs and significantly redeveloped RGOs be subject to the SUSMP numerical mitigation criteria. RGOs in other Western U.S. States already comply with higher numerical mitigation standards than those established by the LA Regional Board and the SD Regional Board. The treatment of storm water for RGOs is technically feasible, safe, and of reasonable cost.

[36] A typical "full" tank gas refueling is around 8 gallons delivered at a pump. Many RGOs use this benchmark for discount offerings or other type of incentives associated with refueling. 100 cars x 8 gallons per car x 30 days = 24,000 gallons of gasoline per month.

Table 1. Characterization of Pollutant Concentrations in the OGS Water Column: Effect of Land-Use Condition (Mean Values)[37]

Sampled Parameter	All-Day Parking (N = 8)	Convenience Commercial (N = 6)	Gas Stations (N = 7)	Streets (N = 6)	Townhouse/ Garden Apartments (N = 6)
OP (mg/L)	0.23	0.16	0.11	ND	0.11
TP (mg/L)	0.30	0.50	0.53	0.06	0.19
NH3-N (mg/L)	0.20	1.58	0.11	0.19	0.20
TKN (mg/L)	1.18	4.94	2.5	0.84	1.00
OX-N (mg/L)	0.65	0.01	0.21	0.92	0.17
TOC (mg/L)	20.60	26.80	**95.51**	9.91	15.75
Hydrocarbons (mg/L)	15.40	10.93	21.97	2.86	2.38
TSS (mg/L)	4.74	5.70	--	9.60	7.07
ECd (µg/L)	6.45	7.92[a]	**15.29**[a]	ND	ND
SCd (µg/L)	3.40[a]	ND	6.34[a]	ND	10.34[a]
ECr (µg/L)	5.37	13.85	**17.63**[a]	5.52[a]	ND
SCr (µg/L)	ND	ND	6.40[a]	ND	4.79[a]
ECu (µg/L)	11.61	22.11	**112.63**	9.50[a]	3.62
SCu (µg/L)	8.22[a]	ND	25.64	ND	2.40
EPb (µg/L)	13.42	28.87	**162.38**	8.23	ND
SPb (µg/L)	8.10[a]	ND	26.90[a]	ND	ND
EZn (µg/L)	190.00	201.00	**554.00**	92.00	NA
SZn (µg/L)	106.70	43.70	471.00	69.00	59.00

[a]Mean is for all observations in which the indicated parameter was actually detected.

ND = not detected; NA = not applicable.

Hydrocarbons = total hydrocarbons
TSS = total suspended solids
ECd = extractable cadmium

OP = ortho phosphate phosphorus
TP = total phosphorus
NH3-N = ammonia nitrogen
TKN = total Kjeldahl nitrogen
OX-N = oxidized nitrogen
TOC = total organic carbon

SCd = soluble cadmium
ECr= extractable chromium
SCr= soluble chromium
ECu = extractable copper
SCu = soluble copper
EPb = extractable lead
SPb = soluble lead
EZn = extractable zinc
SZn = soluble zinc

[37] *Hydrocarbon Hotspots in the Urban Landscape, Shueler T., and Shepp, D., (1995), pp. 259-264*, National Conference on Urban Runoff Management: Enhancing Urban Watershed Management at the Local, County and State Levels, Chicago, IL, Report No. EPA/625/R-95/003.

Table 2. Data Comparison – RGO Studies

Constituent (ug/l)	Study 1[38]	Study 2[39]	Study 3[40]	Effluent Criteria[41,42] (ug/l)	
Aluminum	**829**	ND	ND	750	--
Cadmium	0.7	ND	**15.29**	15.9	4.3
Chromium	4.2	ND	**17.63**	--	16[43]
Copper	**25.2**	**200**	**112.63**	63.6	13
Lead	33.4	ND	**162.38**	81.6	65
Nickel	4.7	ND	ND	1417	470
Zinc	**379**	**200 to 600#**	**554**	117	120
Oil & Grease (mg/l)	4.6	1 to **34**	**95.5**[44]	15	--
TSS (mg/l)	59	10 to ?	ND	100	--

= range; ND = No Data;

[38] *Demonstration of Gasoline Fueling Station Best Management Practices* - Uribe & Associates, Larry Walker Associates - Final Report - October 1994

[39] *Retail Gasoline Outlet Storm Water Runoff Study* - Western States Petroleum Association (WSPA), Draft Report, prepared by Hart-Crowser 1993

[40] *Hydrocarbon Hotspots in the Urban Landscape* - Schueler T. and Shepp D., Metropolitan Washington Council of Governments - Washington DC in Seminar Publication National Conference on Urban Runoff Management: Enhancing Urban Watershed Management at the Local, County, and State Levels - Chicago 1993 [EPA/625/R-95/003]

[41] *Parameter Benchmark Values* - Final Reissuance of National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities; Notice - Federal Register/ Vol. 65, No 210/ October 30, 2000. 64767

[42] *Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California; Rule* - 40 CFR Part 131 Federal Register/ Vol. 65, No 97/ May 18, 2000 pag. 31682 et. Seq.

[43] Chromium (VI)

[44] TOC

Environmentally Sensitive Areas – Technical Report

[to be transmitted later]

California Environmental Quality Act – Technical Report

[to be distributed later]

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 96-054
(NPDES NO. CAS614001)

WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 96-054
NPDES NO. CAS614001 (CI 6948)

WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES

Findings

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter referred to as the Regional Board), finds:

Existing Permit and Report of Waste Discharge

1. The County of Los Angeles and 85 incorporated cities within the County of Los Angeles (see Attachment A, List of Permittees), hereinafter referred to as Permittees, discharge or contribute to discharges of storm water and urban runoff from municipal separate storm sewer systems (MS4s), also called storm drain systems, and water courses within the County of Los Angeles into receiving waters of the Los Angeles Basin under countywide waste discharge requirements contained in Order No. 90-079 adopted by this Regional Board on June 18, 1990. That Order also serves as a National Pollutant Discharge Elimination System (NPDES) permit (CA0061654).

2. On December 21, 1994, the Permittees submitted a Report of Waste Discharge (ROWD) as an application for re-issuance of waste discharge requirements and an NPDES permit.

Nature of Discharges and Sources of Pollutants

3. The discharges consist of surface runoff (non-storm water and storm water) from various land uses in all the hydrologic drainage basins that discharge into water bodies in Los Angeles County. The quality and quantity of these discharges vary considerably and are affected by the hydrology, geology, and land use characteristics of the watersheds; seasonal weather patterns; and frequency and duration of storm events.

4. Studies have shown that storm water runoff from urban and industrial areas typically contains the same general types of pollutants that are often found in wastewater in industrial discharges. Pollutants commonly found in storm water runoff include heavy metals, pesticides, herbicides, and synthetic organic compounds such as fuels, waste oils, solvents, lubricants, and grease. [References: *'Surface Runoff to the Southern California Bight'* and, *'Characteristics of Effluents from Large Municipal Wastewater Treatment Facilities in 1990*

and 1991,' SCCWRP Annual Report 1990-1991 and 1991-1992 (1993); Pitt and Field, *Hazardous and Toxic Wastes Associated with Urban Storm Water Runoff*, In Proceedings of the Sixteenth Annual RREL Hazardous Waste Reduction Symposium, Document No. EPA 600-9-90-037 (1990); *Storm Runoff in Los Angeles and Ventura Counties, Final Report*, California Regional Water Quality Control Board, Los Angeles Region (1988).]

These compounds can have damaging effects on both human health and aquatic ecosystems. In addition to pollutants, the high volumes of storm water discharged from MS4s in areas of rapid urbanization have had significant impacts on aquatic ecosystems due to physical modifications such as bank erosion and widening of channels. [References: *Fundamentals of Urban Storm Water Management*, Terrene Institute and USEPA, (1994); *Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems*, USEPA, Document No. EPA 833-B-92-002 (1992).]

5. Water Quality Assessments conducted by the Regional Board identified impairment of a number of water bodies in Los Angeles County. [Reference: *Water Quality Assessment 1996*, Regional Water Quality Control Board, Los Angeles Region (1996).] The beneficial uses of certain water bodies specifically identified in these assessments are either impaired or threatened to be impaired. Pollutants found causing impairment include: heavy metals, coliform, enteric viruses, pesticides, nutrients, polycyclic aromatic hydrocarbons, polychlorinated biphenyls, organic solvents, sediments, trash, debris, algae, scum, and odor.

6. An epidemiological study conducted during the summer of 1995 for the Santa Monica Bay Restoration Project (SMBRP) demonstrated that there is an increased risk of acute illnesses caused by swimming near flowing storm drain outlets in Santa Monica Bay. [Reference: *An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay*, SMBRP (1996).]

   Previous investigations conducted for the SMBRP showed pathogens were detected in summer runoff at four storm drain locations. [References: *Pathogens and Indicators in Storm Drains within the Santa Monica Bay Watershed*, SMBRP (1992); *Storm Drains as a Source of Surf Zone Bacterial Indicators and Human Enteric Viruses to Santa Monica Bay*, SMBRP (1991), *An Assessment of Inputs of Fecal Indicator Organisms and Human Enteric Viruses from Two Santa Monica Storm Drains*, SMBRP (1990).]

   Possible sources of pathogen contamination include pet and livestock feces, illicit sewer connections to the storm drains, leaking sewer lines, malfunctioning septic systems, and improper waste disposal by recreational vehicles, campers or transients. Additional potential sources of human pathogens in nearshore waters include sewage overflows into storm drains, small boats waste discharges, and bathers themselves.

7. The Regional Board therefore considers storm water/urban runoff discharges to be significant sources of pollutants that may be causing, threatening to cause, or contributing

to the impairment of the water quality and beneficial uses of the receiving water bodies in Los Angeles County, and, as such, need to be regulated.

Coverage and Exemptions

8. The requirements in this Order cover all areas within the boundaries of the cities as well as unincorporated areas in Los Angeles County within the jurisdiction of the Los Angeles Regional Board except the City of Avalon. The Permittees serve a population of about 11.4 million [Reference: *1990 Census of Population and Housing,* Bureau of the Census, U.S. Department of Commerce (1992)] in an area of approximately 3,100 square miles. Attachment B shows the map of the permitted area in Los Angeles County.

9. Federal, state, regional or local entities within the Permittees' boundaries or in jurisdictions outside the County of Los Angeles, and not currently named in this Order, may operate storm drain facilities and/or discharge storm water to storm drains and watercourses covered by this Order. The Permittees may lack legal jurisdiction over these entities under state and federal constitutions. Consequently, the Regional Board recognizes that the Permittees will not be held responsible for such facilities and/or discharges.

   For those entities within the Permittees' boundaries, the Regional Board may consider designating them as Permittees under this Order or issuing separate NPDES permits consistent with this Order. The California Department of Transportation (Caltrans), currently a Co-Permittee to Order No. 90-079, submitted an ROWD on July 3, 1995, for separate waste discharge requirements for its discharges in the County of Los Angeles and the County of Ventura. The waste discharge requirements to be issued to Caltrans will be consistent with this Order.

10. Sources of discharges into receiving waters in the County of Los Angeles but in jurisdictions outside its boundary include the following:

    a. About 34 square miles of unincorporated area in Ventura County drain into Malibu Creek, thence to Santa Monica Bay,

    b. About 9 square miles of the City of Thousand Oaks also drain into Malibu Creek, thence to Santa Monica Bay, and

    c. About 86 square miles of area in Orange County drain into Coyote Creek, thence into the San Gabriel River Watershed in the County of Los Angeles.

    The Regional Board will insure that storm water management programs for the areas in Ventura County and the City of Thousand Oaks that drain into Santa Monica Bay are consistent with the requirements of this Order. The Regional Board will coordinate with the Santa Ana Regional Board so that storm water management programs for the areas in Orange County that drain into Coyote Creek are consistent with the requirements of this

Order.

11. The City of Santa Clarita and some unincorporated areas of Los Angeles County drain into the Santa Clara River Watershed, a portion of which is located in Ventura County. Discharges of municipal storm water in Ventura County are regulated under NPDES permit CAS063339 (Order No. 94-082). Successful management of the entire watershed needs coordination among the City of Santa Clarita, the County of Los Angeles, and Ventura County in developing and implementing the storm water management plan for the watershed.

12. Certain pollutants present in storm water and/or urban runoff may be contributed by activities which the Permittees cannot control. Examples of such pollutants and their respective sources are: polycyclic aromatic hydrocarbons which are products of internal combustion engine operation, nitrates from atmospheric deposition, lead from fuels, copper from brake pad wear, zinc from tire wear, and natural-occurring minerals from local geology. However, Permittees can implement measures to minimize entry of these pollutants into storm water.

Bases of Waste Discharge Requirements

Federal Statutes and Regulations

13. Section 402(p) of the federal Clean Water Act (CWA), as amended by the Water Quality Act of 1987, requires NPDES permits for storm water discharges from MS4s to waters of the United States. Section 402(p)(3)(B) requires that permits for MS4s: ..... "(i) may be issued on a system- or jurisdiction-wide basis; (ii) shall include a requirement to effectively prohibit non-storm water discharges into the storm sewers; and (iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

14. On November 16, 1990, pursuant to Section 402(p) of the CWA, the USEPA promulgated 40 Code of Federal Regulations (CFR) Part 122.26 which established requirements for storm water discharges under the NPDES program. The regulations recognize that certain categories of non-storm water discharges may not be prohibited if they have been determined not to be significant sources of pollutants.

15. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. As required by CZARA, USEPA issued *Guidance Specifying Management Measures For Sources of Non-point Pollution In Coastal Waters*, Document No. EPA-840-B-92-002 (1993). The guidance focuses on five major categories of non-point sources that impair or threaten coastal waters

nationally: (a) agricultural runoff; (b) silvicultural runoff; (c) urban runoff (including developing and developed areas); (d) marinas and recreational boating; and (e) hydromodification. This Order includes management measures for pollution from urban runoff. Thus, it provides the functional equivalence for compliance with CZARA in this area.

State Statutes and Permits

16. To facilitate compliance with federal regulations, in 1992 the State Water Resources Control Board (State Board) issued two statewide general NPDES permits: one for storm water from industrial sites [NPDES No. CAS000001, General Industrial Activities Storm Water Permit (GIASP)] and the other for storm water from construction sites [NPDES No. CAS000002, General Construction Activity Storm Water Permit (GCASP)]. "Industrial Activities," as defined in 40 CFR § 122.26(b)(14)(i) through (xi), and construction activities with a disturbed area of five acres or more are required to obtain individual NPDES permits for storm water discharges, or be covered by these statewide general permits by completing and filing a Notice of Intent with the State Board.

17. California Water Code (CWC) Section 13263(a) requires that waste discharge requirements issued by Regional Boards shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; and, the need to prevent nuisance.

Regional Board Water Quality Control Plans and Policies

18. The Regional Board adopted an updated Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994, *'Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*, (1994). 'The Basin Plan, which is incorporated in this Order by reference, specifies the beneficial uses of receiving waters and contains both narrative and numerical water quality objectives for the receiving waters in the County of Los Angeles.

19. This Regional Board has implemented a Watershed Management Approach to address water quality protection in the region. The objective of the Watershed Management Approach is to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with the resources available.

20. To implement the Watershed Management Approach, as well as facilitate compliance with this Order, the County of Los Angeles is divided into six Watershed Management Areas (WMAs) as follows:

a. Malibu Creek and Rural Santa Monica Bay WMA
b. Ballona Creek and Urban Santa Monica Bay WMA
c. Los Angeles River WMA
d. San Gabriel River WMA
e. Dominguez Channel/Los Angeles Harbor WMA
f. Santa Clara River WMA

Attachment A, shows the list of Permittees under each Watershed Management Area.

Other Bases

21. The SMBRP developed a Bay Restoration Plan to serve as a blueprint for Santa Monica Bay's recovery, *'The Santa Monica Bay Restoration Plan*, SMBRP (1994).' The Plan recommends actions that the Regional Board should integrate into the storm water permit and provides guidance to the Regional Board for the development of a strong, environmentally sound storm water program.

22. The Regional Board is the enforcing authority in the Los Angeles region for the two statewide general permits, described in Finding 16, which regulate discharges from industrial facilities and construction sites, and all NPDES storm water and non-storm water permits issued by the Regional Board. These industrial and construction sites are also regulated under local laws and regulations.

23. The ROWD submitted by the Permittees includes:

a. Summary of Best Management Practices (BMP) implemented;
b. Storm water management plans for the six WMAs;
c. Countywide evaluation of existing storm water quality data; and
d. Monitoring Program.

The ROWD served as partial basis for the development of the Storm Water Management Program (SWMP) requirements of this Order.

24. A USEPA review of activities conducted by the automotive service sector indicates that automotive service facilities present a significant potential for the discharge of pollutants into storm water. [Reference: *Storm Water Discharges Potentially Addressed by Phase II of the NPDES, Report to Congress*, USEPA (1995).]

25. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as parking lots and retail gasoline stations), or facilities which perform vehicle repair, maintenance, or fueling (such as retail gasoline outlets with service bays) are potential sources of pollutants of concern in storm water. [References: Pitt *et al.*, *Urban Storm Water Toxic Pollutants: Assessment, Sources, and Treatability*, Water Environment Res., 67, 260 (1995); *Results of Retail Gas Outlet and Commercial Parking Lot Storm Water*

Runoff Study, Western States Petroleum Association and American Petroleum Institute, (1994); Action Plan Demonstration Project, Demonstration of Gasoline Fueling Station Best Management Practices, Final Report, County of Sacramento (1993).]

Studies also suggest that the implementation of best management practices can reduce storm water pollutants from these types of facilities. [References: *Storm Water Best Management Practices for Retail Gasoline Outlets*, Western States Petroleum Association, (1996); and *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*, Document No. EPA 840-B-92-002 (1992).]

26. A review of industrial waste/pretreatment records in Los Angeles County on illicit discharges indicate that automotive service facilities and food service facilities sometimes discharge polluted washwaters to the MS4. The pollutants of concern in such washwaters include food waste, oil and grease, and toxic chemicals. Other storm water/industrial waste programs in California have reported similar observations.

Objectives and Requirements of this Order

27. The objective of this Order is to protect the beneficial uses of receiving waters in Los Angeles County. To meet this objective, this Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters.

28. The Regional Board recognizes the challenges unique to regulating storm water discharges through municipal storm sewer systems, including intermittent and variable nature of discharges, difficulties in monitoring, and limited physical control over the discharge, and that it will require adequate time to implement and evaluate the effectiveness of best management practices required in this Order and to determine whether they will adequately protect the receiving water.

29. This Order designates the County of Los Angeles as the Principal Permittee. The Principal Permittee will coordinate and facilitate activities necessary to comply with the requirements of this Order, but is not responsible for insuring compliance of any individual permittee.

30. Each Permittee is only responsible for the implementation of the appropriate storm water management program developed pursuant to the requirements of this Order, and not for the implementation of the provisions applicable to the Principal Permittee or other Permittees. A Permittee is required to comply only with the requirements of this Order applicable to discharges which originate from places within its boundaries over which it has authority to enforce the requirements of this Order.

31. In the ROWD, the Permittees proposed the formation of a countywide Executive Advisory Committee (EAC), and a Watershed Management Committee (WMC) for each of the WMAs.

The EAC and the six WMCs are now functional.

The EAC's main role is to facilitate programs within each watershed and to enhance consistency among all of the programs. Similar to the Principal Permittee, the EAC is not responsible for insuring compliance of any individual permittee with the requirements of this Order.

The WMCs, as required in this Order, will provide the leadership framework to facilitate development of the Watershed Management Area Plans and foster cooperation among Permittees.

32. The USEPA issued a guidance manual for submittal of a Part II application for MS4s. [Reference: *Guidance Manual for the Preparation of Part of the NPDES Applications for Discharges from Municipal Separate Storm Sewer Systems*, EPA Document No. 833-B-92-002 (1992).] The manual describes the components of a municipal storm water program that will meet the requirements of 40 CFR Part 122.26.

33. The SWMP required in this Order builds upon the foundation established in Order No. 90-079, consists of the components recommended in the USEPA guidance manual, and was developed with the cooperation of representatives from the regulated community and environmental groups. The SWMP includes requirements with compliance dates to provide specificity and certainty of expectations. It also includes provisions that promote customized initiatives, both on a countywide and watershed basis, in developing and implementing cost-effective measures to minimize discharge of pollutants to the receiving water. The various components of the SWMP, taken as a whole rather than individually, are expected to reduce pollutants in storm water and urban runoff to the maximum extent practicable.

34. The main focus of the SWMP is pollution prevention through education, public outreach, planning, and implementation of BMPs. Successful implementation of the provisions of the SWMP will require cooperation and coordination of all public agencies in each Permittees' organization, among Permittees, and the regulated community. To minimize cost, the Permittees are encouraged to utilize their existing organizational framework to implement the various activities required in this Order.

35. As required in Order No. 90-079 and pursuant to 40 CFR Part 122.26(d)(2)(i), this Order requires Permittees to demonstrate that they possess the legal authority to implement and enforce the storm water programs within their respective jurisdictions. If Permittees decide that the legal authority will be through ordinances, Permittees are encouraged to develop a model ordinance to minimize cost and promote countywide consistency.

The Permittees are encouraged to enter into interagency or interjurisdictional agreements or other means to control the discharge of pollutants from one portion of the MS4 to another portion of the MS4.

36. Order 90-079 required the development and implementation of BMPs to minimize pollutants in storm water. In 1993, the Regional Board approved 13 baseline BMPs to facilitate the implementation of countywide minimum requirements, encourage countywide consistency, and provide a minimum measure of progress. These BMPs were selected from Permittees' MS4 programs. Twelve of these 13 BMPs have been incorporated into this Order: a) catch basin labeling; b) public illicit discharges reporting; c) construction storm water ordinance; d) public education and outreach; e) catch basin cleanout; f) roadside trash receptacles; g) street sweeping; h) proper disposal of litter, lawn clippings, pet feces; i) removal of dirt, rubbish and debris at homes and businesses; j) oil, glass, and plastics recycling; k) proper disposal of household hazardous wastes; and l) proper water use and conservation. The thirteenth BMP (inspections of vehicle repair shops, vehicle body shops, vehicle parts and accessories, gasoline stations, and restaurants) has been changed to educational site visits.

37. Each Permittee owns and operates facilities within its jurisdiction that may impact storm water quality. Each Permittee, under this Order is required to implement BMPs to reduce pollutant discharges from these activities and/or facilities.

38. This Order provides the flexibility for the Permittees to petition the Regional Board Executive Officer to substitute a BMP or requirement under the SWMP with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

39. This order contemplates that the Permittees are responsible for considering potential stormwater impacts when making planning decisions. However, neither this order nor any of its requirements are intended to restrict or control local land use decision-making authority.

Others

40. The Regional Board will provide the Principal Permittee with an updated list of NPDES permits on a quarterly basis through the Regional Board's electronic bulletin board which may be accessed at (213) 266-7663, or other available methods, for use by each Permittee to identify permitted sources of active non-storm water discharges into the MS4.

41. This action to adopt and issue waste discharge requirements and a NPDES permit is exempt from the provisions of the California Environmental Quality Act; Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code in accordance with Section 13389 of the California Water Code.

Public Process

42. The Regional Board will notify interested agencies and interested persons of the availability of reports, plans, and/or schedules of implementation submitted pursuant to the requirements of this Order. The Regional Board will consider comments prior to taking any

action on the submitted documents as provided for in this Order.

43. This Order may be modified or alternatively revoked or reissued prior to its expiration date, in accordance with the procedural requirements of the federal NPDES program, and the California Water Code and Title 23 of the California Code of Regulations for the issuance of waste discharge requirements.

44. The Regional Board staff solicited comments on early drafts of this Order from Permittees, interested agencies, and interested persons. In addition, Regional Board staff met with representatives from Permittees, business associations, environmental groups, and other interested persons to discuss permit requirements and attempt to resolve critical issues. Regional Board staff also solicited feedback from the SMBRP Oversight Committee on early drafts of the Order, attended Permittee watershed meetings, made presentations to government officials, and conducted and/or participated in public workshops to hear concerns.

The Regional Board has notified Permittees, interested agencies, and interested persons of its intent to prescribe waste discharge requirements and an MS4 NPDES permit for storm water discharges, and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.

The Board, in a public hearing, heard and considered all comments pertaining to the tentative waste discharge requirements. This order shall serve as a National Pollutant Discharge Elimination System (NPDES) Permit pursuant to Section 402 of the federal Clean Water Act, or amendments thereto, and shall take effect at the end of 15 days from the date of its adoption, provided the Regional Administrator of the U.S. Environmental Protection Agency, Region IX, has no objections.

Requirements

IT IS HEREBY ORDERED that the County of Los Angeles and the Cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bell, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Cañada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Long Beach, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act, as amended, and regulations and guidelines adopted thereunder, shall comply with the following for the areas within their boundaries and subject to their regulatory jurisdiction, in the County of Los Angeles.

Part 1. DISCHARGE PROHIBITIONS AND RECEIVING WATER LIMITATIONS

I. **Discharge Prohibition**

Each Permittee shall, within its jurisdiction, effectively prohibit non-storm water discharges into the municipal separate storm sewer system (MS4) and watercourses, except where such discharges are:

A. In compliance with a separate individual or general NPDES permit; or

B. Identified and in compliance with Part 2.II.C (Non-storm Water Discharges), of this Order; or

C. Discharges originating from federal, state or other facilities which the Permittee is pre-empted from regulating.

Compliance with this Order through timely development and implementation of programs described herein shall constitute compliance with this prohibition.

II. Receiving Water Limitations

The water quality objectives and water quality standards applicable to receiving waters in Los Angeles County contained in the Basin Plan, '*Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*, California Regional Water Quality Control Board, Los Angeles Region, Monterey Park (1994),' and amendments thereto, shall serve as receiving water limitations for discharges covered under this Order. It is the purpose of this Order that the discharge of storm water, or non-storm water, from a municipal separate storm sewer system (MS4) for which a Permittee is responsible not cause nuisance, continuing or recurring impairment of beneficial uses, or exceedances of water quality objectives in the receiving waters.

Timely and complete implementation by a Permittee of the storm water management programs prescribed in this Order shall satisfy the requirements of this section and constitute compliance with receiving water limitations. However, if the Integrated Receiving Waters Impact Report required in this Order (Part 2.VII.D.) and/or other available information show that discharges authorized under this Order still cause or contribute to the impairment of the beneficial uses or exceedances of water quality objectives, Permittees, as part of their Report of Waste Discharge for the renewal of this Order, shall submit revised storm water management programs that are watershed-specific and will increase the likelihood of preventing future exceedances of water quality objectives.

Part 2. STORM WATER MANAGEMENT PROGRAM REQUIREMENTS

The objective of the Storm Water Management Program requirements prescribed in this Order is to reduce pollutants in discharges to the maximum extent practicable in order to attain the water quality objective and protect the beneficial uses of receiving waters in Los Angeles County. Each Permittee shall implement within its jurisdiction the Storm Water Management Program requirements of this Order and those of the Countywide Storm Water Management Plan (CSWMP) or Watershed Management Area Plan (WMAP) that will be developed pursuant to this Order.

The CSWMP is the unified plan consisting of programs developed under the Storm Water Management Program Requirements of this Order.

The WMAP is the comprehensive implementation plan for a specific Watershed

Management Area (WMA) based on the requirements of this Order, the CSWMP, and any other applicable actions that address pollutants of concern and other water quality issues unique to that WMA toward the objective of reducing pollutants in discharges to the maximum extent practicable. Upon approval by the Executive Officer, the WMAP will supersede the CSWMP.

If there is any conflict or discrepancy between information in the tables and the narrative provisions of this Order, the narrative provisions prevail.

I. Program Management

Table 1 shows the summary of program management requirements and their corresponding compliance dates.

Table 1
Program Management Requirements and Compliance Dates

Requirement	Permit Section	Principal Permittee	Permittees	Months from Effective Date of Order (Compliance Date)	For Approval By
Submit completed CSWMP	I.A.8	✓		Upon completion of development of all programs but not later than July 30, 1999.	Executive Officer
Develop a WMAP for the WMA	I.C.3.d	✓	(through WMCs)	Within 180 days prior to expiration of Order (February 1, 2001) (pending the approval of the CSWMP by Executive Officer)	Executive Officer
Identify additional SIC groups	I.C.3.g		(through WMCs)	Established through WMCs	N/A
Prepare budget summary format	I.D.1	✓		3 (October 30, 1996)	Executive Officer
Submit annual budget summary to Principal Permittee	I.D.2		✓	60 days after budget adoption	Executive Officer
Demonstrate legal authority	I.E.2		✓	120 days (November 28, 1996)	Executive Officer

A. Responsibilities of the Principal Permittee

The County of Los Angeles is hereby designated as the Principal Permittee, and as such shall:

1. Coordinate permit activities among permittees and act as liaison between Permittees and the Regional Board on general permit issues;

2. Provide personnel and fiscal resources for the development and update of the CSWMP and WMAPs and their components;

3. Convene the Watershed Management Committees (WMCs) constituted pursuant to Part 2.I.C upon designation of representatives;

4. Provide technical and administrative support for committees that will be organized to implement this Order;

5. Implement the Countywide Monitoring Program required in this Order;

6. Provide personnel and fiscal resources for the preparation and submittal to the Regional Board of annual reports, and summaries of other reports required under this Order;

7. Comply with the "Responsibilities of the Permittees" in Part 2.I.B; and

8. Submit to the Regional Board the CSWMP upon completion of the development of all programs under the SWMP requirements.

B. Responsibilities of the Permittees

Each Permittee shall, within its geographic jurisdiction:

1. Comply with the requirements of SWMP and CSWMP and their amendments;

2. Coordinate among its internal departments and agencies, as appropriate, to facilitate the implementation of the requirements of this Order applicable to such Permittee in an efficient and cost-effective manner;

3. Participate in the development and, if necessary, the update of the CSWMP;

4. Submit in a timely manner to the Principal Permittee an annual report on its implementation of the SWMP and CSWMP;

5. Appoint a technically knowledgeable representative to the appropriate WMC;

6. Participate in the development of the WMAP for its respective watershed management area through its WMC, and shall implement said WMAP upon approval by the Executive Officer; and

7. Work with other agencies, to the extent necessary, and submit a report to the Executive Officer on recommendations to resolve any conflicts identified between the provisions of this Order and the requirements of

other regulatory agencies, if the Permittee considers it necessary.

C. Watershed Management Committees (WMCs)

1. Each WMC shall be comprised of a voting representative from each Permittee in the WMA.

2. The WMC's chair and secretary shall be chosen by the WMC. In the absence of volunteer Permittee(s) for the positions, the Principal Permittee shall assume those roles until the WMC chooses members of the committee for the positions.

3. Each WMC shall:

   a. Facilitate cooperation and exchange among Permittees;

   b. Establish goals and objectives for the WMA;

   c. Prioritize pollution control efforts considering beneficial use impairment as a basis;

   d. Participate in the development of the WMAP for its respective WMA after the CSWMP is completed;

   e. Assess the effectiveness of, prepare revisions for, and recommend appropriate changes to the CSWMP and the WMAP;

   f. Coordinate and facilitate the submittal of completed reporting forms to the Principal Permittee for report integration, and assist in the preparation of Annual Reports by the Principal Permittee on storm water management activities within the WMA for submittal to the Executive Officer;

   g. Identify, as part of the industrial/commercial Source Identification program, additional SIC industrial/commercial groups selected as priority to be included in the database described in Part 2.V.B.1.a. The following criteria shall be considered in the identification process:

      i. Extent of exposure of the industrial/commercial activity to storm water;

      ii. Types and quality of non-storm water discharges;

      iii. Similarity of industrial/commercial activity to industrial activity

regulated under the USEPA Phase 1 facilities;

iv. Types of chemicals and wastes generated that can contaminate storm water;

v. Existence of duplicate regulatory programs with other agencies that emphasize waste management and minimize exposure of the industrial/commercial activity to storm water;

vi. Number of facilities in the WMA;

vii. Professional understanding of the industrial/commercial sector's waste management practices;

viii. Experience of local agency industrial waste inspection programs; and

ix. Any other information that indicates a significant potential for contamination of storm water.

D. Fiscal Resources

1. The Principal Permittee, in consultation with the Permittees, shall prepare a budget summary format not later than October 30, 1996, for use by each Permittee to report resources available to implement the SWMP.

2. Each Permittee shall submit to the Principal Permittee a summary of resources dedicated for storm water program implementation, not later than 60 days after budget adoption by the Permittee's elected local governing body. A Permittee may provide all necessary data in an alternate format which includes the same information unless directed otherwise by the Executive Officer.

E. Legal Authority

1. Pursuant to the time frame established in E.2, each Permittee shall demonstrate that it possesses the legal authority necessary to control discharges to and from those portions of the Municipal Separate Storm Sewer System (MS4) over which it has jurisdiction so as to comply with this Order. This legal authority may be demonstrated by either a single ordinance or a single guidance document containing all the applicable statutes, ordinances, permits, contracts, orders or agreements which govern a Permittee's storm water management activities, as required by 40 CFR 122.26(d)(2)(i).

Each Permittee shall either individually or collectively possess the legal authority to:

a. Control the contribution of pollutants to the MS4 by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity, unless permitted under a separate NPDES permit, through the following prohibitions and requirements:

i. Prohibit the discharge of untreated wash waters to the MS4 when gas stations, auto repair garages, or other types of automotive service facilities are cleaned;

ii. Prohibit the discharge of untreated wastewater to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;

iii. Prohibit to the maximum extent practicable, discharges to the MS4 from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluid or antifreeze is undertaken;

iv. Prohibit the discharges of untreated runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;

v. Prohibit the discharge of commercial/municipal swimming pool filter backwash to the MS4;

vi. Prohibit the discharge of untreated runoff from the washing of toxic materials from paved or unpaved areas to the MS4;

vii. Prohibit or control to the maximum extent practicable washing impervious surfaces in industrial/commercial areas which results in a discharge of untreated runoff to the MS4, unless specifically required by State or local health and safety codes;

viii. Prohibit the discharge from washing out of concrete trucks to the MS4;

ix. Require regular sweeping or other equally effective measures to remove debris from industrial/commercial motor vehicle parking lots with more than twenty-five parking spaces that are

located in areas potentially exposed to storm water; and,

x. Require the use of BMPs or placement of machinery/ equipment that is to be repaired or maintained such that leaks, spills and other maintenance-related pollutants are not discharged to the MS4;

b. Prohibit illicit discharges and illicit connections to the MS4 and require removal of illicit connections.

c. Control spills, dumping, or disposal of materials, including the following, to the MS4 through the following prohibitions and requirements:

i. Prohibit littering;

ii. Prohibit the disposal of leaves, dirt, or other landscape debris into a storm drain;

iii. Prohibit the discharge to the MS4 of any pesticide, fungicide, or herbicide banned by the USEPA or the California Department of Pesticide Regulation;

iv. Require proper disposal of food wastes;

v. Prohibit the disposal of hazardous wastes into trash containers used for municipal trash disposal so as not to cause a discharge to the MS4; and

vi. Require, in areas exposed to storm water, the use of BMPs and/or removal and lawful disposal of all fuels, chemicals, fuel and chemical wastes, animal wastes, garbage, batteries, and other materials which have potential adverse impacts on water quality.

The above requirements (Part 2.I.E.1.) do not require inspection of private property. Legal authority is necessary, however, so that if the Permittee becomes aware of situations associated with private property that cause obvious discharges of prohibited materials to the MS4 or pose the potential for such discharges, the Permittee has the legal authority to abate such discharges.

2. Each Permittee shall:

Provide to the Principal Permittee for submittal to the Executive Officer, not later than November 28, 1996, copies of ordinances, regulations, and other legal documents establishing legal authority, or in the alternative:

a. A statement by its legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order, referencing that legal authority with specificity; and/or

b. If Part 2.I.E.2.a. is only partially fulfilled, a timely schedule for obtaining adequate legal authority to comply with this Order, enumerating, with specificity, the legal authority that remains to be obtained.

F. Best Management Practice (BMP) or Program Substitution or Elimination

A Permittee may petition the Executive Officer to:

1. Substitute any BMP or program identified in this Order, the CSWMP, or the WMAP, if the Permittee can document that:

   a. The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of storm water pollutants; or

   b. The fiscal burden of the original BMP or program is substantially greater than the proposed alternative, but does not achieve a substantially greater improvement in storm water quality; and,

   c. The proposed alternative BMP or program will be implemented within a similar period of time.

2. Eliminate any BMP or program identified in this Order, the CSWMP, and/or the WMAP, if the Permittee can document that:

   a. The BMP or program is not technically feasible and no substitute is available; or

   b. The cost of implementation outweighs the pollution control benefits; or

   c. The BMP or program is not applicable in the Permittee's jurisdiction.

The Executive Officer may approve or disapprove the petition in accordance with

Part 2.I.G and 2.I.H.

G. Administrative Review

The administrative review process formalizes the procedure for review and acceptance of reports and documents submitted to the Regional Board under this Order. In addition, it provides a method to resolve any differences in compliance expectations between the Regional Board and Permittees, prior to initiating enforcement action.

1. Storm water program documents, including progress reports, guidelines checklists, BMPs, databases, program summaries, and implementation and compliance schedules, developed by the Principal Permittee or a Permittee under the provisions of this Order, shall be submitted to the Executive Officer or the Regional Board, where required for approval. The process is as follows:

   a. For documents that require Executive Officer's approval, the Executive Officer will notify the Principal Permittee and/or Permittee of the results of the review and approval or disapproval within 120 days. If the Executive Officer has not responded within 120 days following submittal, the Permittee shall notify the Regional Board of its intent to implement the program components as submitted. If after 10 days the Executive Officer has not responded, the Permittee will implement the submitted program and the Executive Officer may not make modifications; and,

   b. Documents that require formal Regional Board approval will undergo public review and comment before Board consideration at a public meeting.

2. If the Executive Officer determines that a Permittee's storm water program is insufficient to meet the provisions of this Order, the Executive Officer shall send a "Notice of Intent to Meet and Confer (NIMC)" to the Permittee, with specific information in support of the determination. The NIMC shall include a time frame by which the Permittee must meet with Regional Board staff. The processes are as follows:

   a. The Permittee, upon receipt of a NIMC, shall meet and confer with Regional Board staff to demonstrate that the Permittee's program is sufficient to meet the requirements of this Order; and, if not, seek clarification on the steps to be taken to completely meet the provisions of this Order. The meet and confer period will conclude with either a notice of program sufficiency to the Permittee, or the

submittal to and acceptance by the Executive Officer of a written "Storm Water Program Compliance Amendment (SPCA)" which shall include implementation deadlines. The Executive Officer may terminate the meet and confer period after a reasonable period due to a lack of progress on issues and may order submittal of the SPCA by a specified date. Failure to submit an acceptable SPCA by the specified date shall constitute a violation of this Order;

b. The Executive Officer will approve or reject the submitted SPCA or an amended SPCA within 120 days. Rejection of an SPCA by the Executive Officer shall state the reasons for the failure to approve the SPCA. A Permittee that receives a rejection of an SPCA shall have sixty (60) days to remedy the specified deficiency and resubmit the SPCA. If the Executive Officer has not responded within 120 days following submittal of an SPCA, the Permittee shall notify the Executive Officer of its intent to implement the SPCA as submitted. If after 10 days the Executive Officer has not responded, the Permittee will implement the submitted SPCA and the Executive Officer may not make modifications;

c. The Permittee shall comply with the terms of the SPCA. The Permittee shall submit reports to the Executive Officer on progress made under the SPCA. The frequency of progress report submittal shall be quarterly unless otherwise prescribed by the Executive Officer. Failure to comply with the terms and conditions of the SPCA shall constitute a violation of this Order and shall be cause for enforcement action by the Regional Board; and,

d. The Executive Officer shall not take enforcement action against a Permittee until the Executive Officer has notified the Permittee in writing that the Administrative Review Process has been exhausted and that the Executive Officer has determined that a violation exists warranting enforcement.

H. Public Review

1. The Principal Permittee shall maintain a current mailing list of interested parties, organized by WMAs, for distribution of documents that require the Executive Officer's approval. The Executive Officer will provide the Principal Permittee with the initial list of interested parties.

2. The Principal Permittee shall distribute for public comment the initial CSWMP, WMAPs, and other storm water program requirements that are submitted to the Executive Officer or the Regional Board for approval.

Interested parties wishing to have their comments considered prior to Regional Board action on these documents must submit their comments in writing to the Regional Board not later than 45 days after the Principal Permittee has made the document available to the public. The date of public release is also the date of submittal to the Regional Board. This 45-day comment period is part of the 120 day review period for documents submitted for Executive Officer's approval.

II. Illicit Connections and Illicit Discharges

Table 2 on the following page shows the summary of requirements under this section and corresponding compliance dates.

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Table 2
Illicit Connections and Discharges Requirements and Compliance Dates

Requirement	Permit Section	Principal Permittee	Permittees	Months from Effective Date of Order (Compliance Date)	For Approval By
Develop model illicit connection elimination program	II.A.1	✓		8 months (March 31, 1997)	Executive Officer
Implement illicit connection elimination program	II.A.2		✓	≤ 36 months (July 30, 1999)	N/A
Develop model illicit discharge elimination program	II.B.1	✓		8 months (March 31, 1997)	Executive Officer
Implement illicit discharge elimination program	II.B.2		✓	≤ 36 months (July 30, 1999)	N/A
Conduct a study of municipal street and municipal sidewalk washing	II.C.3		✓ City of Los Angeles	Within 12 months from Executive Officer date of determination	Executive Officer
Submit BMPs and schedule for implementation	II.C.3		✓ City of Los Angeles	Within 12 months from Executive Officer date of determination	Regional Board
Implement non-storm water management program BMPs	II.C.3		✓	In accordance with RB approved schedule ≤ 36 months (July 30, 1999)	N/A
Develop standard program for public reporting of illicit discharges and illicit disposal practices	II.D.1	✓		8 months (March 31, 1997)	Executive Officer
Implement standard program to facilitate public reporting of illicit discharges and illicit disposal practices	II.D.2		✓	≤ 36 months (July 30, 1999)	N/A
Develop standard program for reporting hazardous substances	II.D.3	✓		8 months (March 31, 1997)	Executive Officer
Implement standard program for reporting hazardous substances	II.D.4		✓	≤ 36 months	N/A

A. Illicit Connections

1. The Principal Permittee, in consultation with the Permittees, shall develop a countywide model program for elimination of illicit connections to the MS4 not later than March 30, 1997. The program shall include, at a minimum:

   a. Standardized storm drain inspection procedures, and illicit connection identification and elimination procedures;

   b. Methods to prioritize potential problem areas, including, but not limited to old commercial/industrial areas, and areas with heavy industry listed under subchapter N of 40 CFR Parts 405 - 471;

   c. Methods to utilize results of field screening activities, and other appropriate information;

   d. Standardized record keeping to document illicit connections; and

   e. Enforcement procedures to terminate illicit connections.

2. Each Permittee, based on the countywide model program, shall develop and implement as appropriate a program to identify and eliminate illicit connections to the maximum extent practicable not later than four (4) months after the commencement of its next fiscal year following approval of the model program by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999.

B. Illicit Discharges

The primary responsibility for cleanup and removal of illicit discharges of pollutants to the MS4 shall be with the owner/operator of the discharging facility or site. Nothing in this Order shall be interpreted to limit or in any way prevent action by a Permittee against the party responsible for the illicit discharge.

1. The Principal Permittee, in consultation with the Permittees, shall develop a countywide model illicit discharges elimination program not later than March 31, 1997. The program shall include, at a minimum:

   a. Standardized enforcement procedures, including administrative and judicial, to eliminate illicit discharges;

b. Standardized procedures for investigation, containment and cleanup of spills, which include a procedure to ensure that sewage treated with disinfection agents will not be discharged into the storm drain system to the extent practicable;

c. Methods to prioritize problem areas of illicit disposal where inspection, cleanup, and enforcement are necessary to prevent the discharge of contaminants;

d. Standardized procedures to educate inspectors, maintenance workers, and other field staff to notice illicit discharges during the course of their daily activities, and report such occurrences;

e. Standardized record keeping system to document illicit discharges; and,

f. Industrial/commercial education and outreach materials to inform businesses about the problem of illicit discharges/dumping and proper discharge/disposal practices.

2. Each Permittee shall, based on the countywide model program, develop and implement, as appropriate, a program to identify and eliminate illicit discharges not later than four (4) months after commencement of its next fiscal year following approval of the model program by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval, but in no event shall implementation be later than July 30, 1999.

C. Non-Storm Water Discharges

Non-storm water discharges in compliance with a separate NPDES permit/Waste Discharge Requirements (WDR) or granted a discharge exemption by the Regional Board, the Executive Officer, or the State Water Resources Control Board are not prohibited under this Order.

1. Exempted Discharges

The following non-storm water discharges need not be prohibited:

a. Flows from riparian habitats or wetlands;
b. Diverted stream flows;

c. Springs;
d. Rising ground waters;
e. Uncontaminated groundwater infiltration; and
f. Discharges or flows from emergency fire fighting activities.

The Executive Officer, upon presentation of evidence in accordance with Part 2.II.C.4., may include other categories of non-storm water discharges under this subsection.

2. Conditionally Exempted Discharges

The following non-storm water discharges need not be prohibited. However, if they are identified by either a Permittee or the Executive Officer as being significant sources of pollutants to receiving waters, then appropriate BMPs to minimize the adverse impacts of these sources shall be developed and implemented under the CSWMP or the WMAPs:

a. Landscape irrigation;
b. Water line flushing;
c. Potable water sources provided the discharges are managed in accordance with an approved Industry-wide Standard Pollution Prevention Practices developed by the American Water Works Association, California-Nevada Section, or equivalent document; and in compliance with any requirements established by the Permittee(s);
d. Foundation drains;
e. Footing Drains;
f. Air conditioning condensate;
g. Irrigation water;
h. Lawn watering;
i. Water from crawl space pumps;
j. Dechlorinated swimming pool discharges;
k. Individual residential car washing; and,
l. Street washing (including sidewalk washing).

The Executive Officer, upon presentation of evidence in accordance with Part 2.II.C.4., may include other categories of non-storm water discharges under this subsection.

3. Designated Discharges

Municipal street washing and municipal sidewalk washing discharges have been determined by the Executive Officer to be potential sources of pollutants of concern. The City of Los Angeles will conduct a study to characterize municipal street washing and sidewalk washing, assess the

impacts of such activities, and recommend appropriate BMPs to control any adverse impact. The City of Los Angeles will submit its recommendations to the Executive Officer not later than one year from adoption of this Order. A BMP implementation schedule shall be included where appropriate.

The Regional Board will determine within four (4) months of the City of Los Angeles' submittal which BMPs, if any, the Permittees shall implement, and approve any necessary schedule of implementation, provided the implementation date is not later than July 30, 1999.

The Executive Officer, upon presentation of evidence, may include other categories of non-storm water discharges under this subsection.

4. Procedures for Exemption

A Permittee may identify and describe additional categories of non-storm water discharges to be considered by the Executive Officer for exemption from the Discharge Prohibitions. The criteria to be considered for a request for exemption include one or more of the following:

a. Documentation that the discharge is not a significant source of pollutants to receiving waters or does not cause impairment of beneficial uses of receiving waters;

b. Special circumstances that have been defined in which the discharge has been found not to be a significant sources of pollutants to, or does not cause impairment of beneficial uses of receiving waters;

c. Specific BMPs, where determined feasible, that have been identified to reduce pollutants in the discharge to the maximum extent practicable and minimize adverse impacts of such source, with an implementation schedule; or

d. Established procedures to ensure BMP implementation, including an implementation schedule, performance standards, monitoring and record keeping.

The exemption request for additional non-storm water discharges may be submitted, beginning with the first Annual Report. The exemption becomes effective upon approval by the Executive Officer.

D. Public Reporting

1. The Principal Permittee, in consultation with the Permittees, shall develop

a countywide standard program to promote, publicize, and facilitate public reporting of illicit discharges and illicit disposal practices not later than March 31, 1997. The program may include, but not be limited to:

a. A system to receive incoming complaints;

b. A communication network to link Permittees so that action can be coordinated and complaints can be investigated promptly; and

c. A system to notify the complainant of any action taken, if appropriate.

2. Each Permittee shall implement the countywide illicit discharges and illicit disposal reporting program not later than four months after commencement of its next fiscal year following approval of the program by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999.

3. The Principal Permittee, in consultation with the Permittees, shall develop a countywide program not later than March 31, 1997, for reporting incidents of "reportable quantity" of hazardous substances entering the MS4. The incidents shall be reported to the State of California Office of Emergency Services (OES) [current number, (800) 852-7550] and the Federal Hazardous Response Center [current number, (800) 424-8802].

4. Each Permittee shall implement the countywide program for reporting hazardous substances entering the MS4, not later than four months after commencement of its next fiscal year following approval of the program by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999.

III. Development Planning and Construction

A. Development Planning

Table 3 on the following page shows the summary of requirements under this section and corresponding compliance dates.

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Table 3
Development Planning Requirements and Compliance Dates

Requirement	Permit Section	Principal Permittee	Permittees	Months from Effective Date of Order (Compliance Date)	For Approval By
Develop a model system for prioritization of development projects	III.A 1.a	✓		18 (January 30, 1998)	Executive Officer
Implement a system for prioritization of development projects	III.A.1.a		✓	≤ 36 months (July 30, 1999)	N/A
Develop list of recommended BMPs for development projects (countywide guidelines)	III.A.1.b	✓		18 (January 30, 1998)	Regional Board
Develop Standard Urban Storm Water Mitigation Plans (SUSMP)	III.A.1.c	✓		6 months after Regional Board approval of countywide guidelines	Executive Officer
Develop and submit a schedule of implementation for a program for planning measures consistent with the Standard Urban Storm Water Mitigation Plan (SUSMP) for priority projects	III.A.2		✓	≤ 36 months (July 30, 1999)	N/A
Develop guidelines for preparing/reviewing CEQA documents	III.A.3.a	✓		18 (January 30, 1998)	Executive Officer
Incorporate CEQA guidelines into internal procedures	III.A.3.a		✓	≤ 36 months (July 30, 1999)	N/A
Include watershed and storm water management consideration into General Plan revisions	III.A.4 3.b		✓	During General Plan revisions	N/A
Develop model program for developers	III.A.4	✓		18 (January 30, 1998)	Executive Officer
Implement developer information program	III.A.4		✓	≤ 36 months (July 30, 1999)	N/A

1. Countywide Development Planning Guidance

The Principal Permittee, in consultation with the Permittees, shall develop the following development planning guidance materials for use during planning and permitting of all development projects requiring discretionary approval:

a. A model documented system, such as a checklist, for determining priority projects as well as a list of specifically exempt projects not later that January 30, 1998. Priority and exempt projects are defined as follows:

i. Priority Projects are development and redevelopment projects requiring discretionary approval which the Building Official (or equivalent municipal authority) determines may have a potential significant effect on storm water quality.

ii. Exempt Projects are development and redevelopment projects which the Building Official (or equivalent municipal authority) determines will not have a potential significant impact on storm water quality.

The documented system shall consider location of the project with respect to designated environmentally sensitive areas and the slope and erosion potential of the site and surrounding areas.

Each Permittee shall incorporate a substantially similar system into its procedures not later than six months after commencement of its next fiscal year following approval of the of the documented system by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999.

b. A list of recommended BMPs not later than January 30, 1998. The list of BMPs shall include:

i. Site planning practices;
ii. Post-construction best management practices; and
iii. Redevelopment and infill practices.

Consideration shall be given to the type of development and the potential for storm water pollution when determining the applicability of BMPs. Cost effectiveness, ease of maintenance, and consistency with other environmental mandates may also be considered.

For developments where increased storm water discharge rates will result in an increase in downstream erosion potential, the list of recommended BMPs shall include those BMPs which can be used to maintain peak runoff rates at pre-development levels to the maximum extent feasible.

The list of recommended BMPs shall be submitted to the Regional Board for approval.

c. Standard Urban Storm Water Mitigation Plans (SUSMPs) and guidelines for their preparation not later than six months after Regional Board approval of the BMPs in Part 2.III.A.1.b. The SUSMPs shall incorporate the appropriate elements of the recommended BMPs list. At the minimum, SUSMPs and guidelines shall be prepared for the following development categories:

i. a 100+ home subdivision;
ii. a 10-home subdivision;
iii. a 100,000+ square-foot commercial development;
iv. an automotive repair shop;
v. a retail gasoline outlet;
vi. a restaurant; and
vii. a hillside-located single-family dwelling.

2. Planning Control Measures

Each Permittee shall develop a program on planning control measures for priority projects (Part 2.III.A.1.a) consistent with the programs developed under Part 2.III.A.1.b. & c. Each Permittee shall initiate implementation of its program not later than six months after commencement of its next fiscal year following approval of the model Standard Urban Storm Water Mitigation Plans by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be initiated later than July 30, 1999. Each Permittee shall require that the project applicant submit an Urban Storm Water

Mitigation Plan appropriate and applicable to the project, and that the Permittee approve the Plan prior to the issuance of any grading or building permit. The Urban Storm Water Mitigation Plan shall incorporate by detail or reference appropriate post-construction BMPs to:

a. Implement, to the maximum extent practicable, requirements established by appropriate governmental agencies under CEQA, Section 404 of the Clean Water Act, local ordinances and other legal authorities intended to minimize impacts from storm water runoff on the biological integrity of natural drainage systems and water bodies;

b. Maximize, to the maximum extent practicable, the percentage of permeable surfaces to allow more percolation of storm water into the ground;

c. Minimize, to the maximum extent practicable, the amount of storm water directed to impermeable areas and to the MS4;

d. Minimize, to the maximum extent practicable, parking lot pollution through the use of appropriate BMPs such as retention, infiltration, and good housekeeping;

e. Establish reasonable limits on the clearing of vegetation from the project site including, but not limited to, regulation of the length of time during which soil may be exposed and, in certain sensitive cases, the prohibition of bare soil; and

f. Provide for appropriate permanent controls to reduce storm water pollutant load produced by the development site to the maximum extent practicable.

The Permittee may refer applicants to the *'California Storm Water Best Management Practice Handbooks,* California Storm Water Quality Task Force, Sacramento, CA (1992)' and its revisions; the Countywide Storm Water Management Plan; *'USEPA Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters, Issued under the Authority of Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990,* Document No. EPA 840 B 92-002 (1993),'; and similar manuals for specific guidance on selecting post-construction BMPs for reducing pollutants in storm water discharges.

3. Planning Process

In order to integrate storm water management considerations into

discretionary development projects at the time that they are first proposed to jurisdictions, and to support other provisions of this Order:

a. The Principal Permittee, in consultation with the Permittees, shall develop storm water management guidelines for use in preparing/reviewing CEQA documents, and in linking storm water quality mitigation conditions to local discretionary project approvals not later than January 30, 1998.

The guidelines shall address the preservation of areas that provide water quality benefits such as riparian corridors and wetlands and shall promote protection of the biological integrity of drainage systems and water bodies.

Each Permittee shall review the guidelines for the purpose of making appropriate modifications in their internal procedures not later than six months after commencement of its next fiscal year following approval of the program by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999.

b. Each Permittee shall include watershed and storm water management considerations in the appropriate elements of the Permittee's General Plan, whenever said elements are significantly rewritten. Appropriate elements may include the following:

i. Conservation; and/or
ii. Open space; and/or
iii. Land-use; and/or
iv. Public utilities; and/or
v. Infrastructure; and/or
vi. Other appropriate elements.

4. Developer Information Program

The Principal Permittee, in consultation with the Permittees, shall develop a model program not later than January 30, 1998, to inform developers seeking discretionary approvals about:

a. Development and construction storm water management;

b. Maximization of pervious areas and storm water infiltration (where geology and topography permit); and

c. Cost effective storm water pollution control measures.

The program shall provide specific guidance on selecting BMPs to reduce pollutants in storm water discharges from urbanized areas, and include appropriate BMPs, educational materials, and handbooks and guidelines described in Part 2. III.A.3.

Each Permittee shall implement a developer information program consistent with the model program not later than six months after commencement of its next fiscal year following approval of the model by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999. Each Permittee's program shall include information about its legal authorities. Permittees are encouraged to engage in joint efforts in implementing the program.

B. Development Construction

Table 4 on the following page shows the summary of requirements and corresponding compliance dates under this section.

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Table 4
Development Construction Requirements and Compliance Dates

Requirement	Permit Section	Principal Permittee	Permittees	Months from Effective Date of Order (Compliance Date)	For Approval By
Develop minimum requirements, recommended BMPs, and design checklists for construction	III.B.1	✓		14 (September 30, 1998)	Regional Board
Develop and implement a program for construction control measures	III.B.2.a		✓	≤ 36 months (July 30, 1999)	N/A
Require applicants to demonstrate coverage under State Construction General Permit prior to issuance of grading permits	III.B.2.b		✓	6 (January 31, 1997)	N/A
Develop a model construction inspection program	III.B.3.a	✓		14 (September 30, 1997)	Executive Officer
Implement a construction inspection program	III.B.3.b		✓	≤ 36 months (July 30, 1999)	N/A

1. Countywide Development Construction Guidance

The Principal Permittee, in consultation with the Permittees and appropriate stakeholder organizations, shall develop not later than September 30, 1998, the following development construction guidance materials for all development project construction activities: minimum recommended requirements, BMPs appropriate for various activities, and checklists for use in design and inspection. The Countywide minimum requirements and recommended BMPs shall:

a. Include erosion and sediment control practices;

b. Address multiple construction activity-related pollutants;

c. Focus on BMPs such as source minimization, education, good housekeeping, good waste management, and good site planning;

d. Target construction areas and activities with the potential to generate significant pollutant loads;

e. Require retention on the site, to the maximum extent practicable, of sediment, construction waste, and other pollutants from construction activity;

f. Require, to the maximum extent practicable, management of excavated soil on site to minimize the amount of sediment that escapes to streets, drainage facilities, or adjoining properties;

g. Require, to the maximum extent practicable, use of structural drainage controls to minimize the escape of sediment and other pollutants from the site.

h. Require, to the maximum extent practicable, containment of runoff from equipment and vehicle washing at construction sites, unless treated to remove sediments and pollutants.

The lists of BMPs shall be submitted to the Regional Board for approval.

2. Construction Control Measures

a. Each Permittee shall develop a regulatory program for construction activities as defined in Part 2.III.A.1.a. consistent with the Countywide Development Construction Guidance not later than six months after commencement of its next fiscal year following approval of the minimum recommended requirements and BMPs in Part 2.III.B.1. by the Regional Board , provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999.

The Program shall require, prior to the issuance of any building or grading permit, preparation of appropriate wet weather erosion control and storm water pollution prevention plans which include, by detail or reference, all appropriate construction BMPs developed under Part 2.III.B.1.

Priority Project plans must include a narrative discussion of the reasons used for selecting or rejecting BMPs. In lieu of a narrative, the project architect or engineer of record may sign a statement on the plan to the effect: "As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activities."

b. Each Permittee shall implement a procedure not later than January 31, 1997, whereby the Permittee shall not issue a grading permit for developments with disturbed areas of five acres or greater unless the applicant can show that (i) a Notice of Intent (NOI) to comply with the State Construction Activity Storm Water Permit has been filed and (ii) a Storm Water Pollution Prevention Plan (SWPPP) has been prepared.

3. Site Inspection

a. The Principal Permittee, in consultation with the Permittees, shall develop a model construction activity inspection program, which includes checklists, not later than September 30, 1997. The model program shall include but not be limited to:

i. Procedures for construction site inspections;

ii. Procedures to require corrective action be undertaken by contractors at noncomplying sites;

iii. Procedures for enforcement action against noncomplying construction activity; and

iv. Appropriate training for program staff.

b. Each Permittee shall implement a construction activities inspection program based on the model program not later than six months after commencement of its next fiscal year following approval of the model program by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such

program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999. The program may be integrated with the Permittees regular program of construction inspection for maximum efficiency.

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IV. Public Agency Activities

Table 5 shows the summary of requirements under this section and their corresponding compliance dates.

Table 5
Public Agency Activities Requirements and Compliance Dates

Requirement	Permit Section	Principal Permittee	Permittees	Months from Effective Date of Order (Compliance Date)	For Approval By
Evaluate existing public agency activities and develop a model program to reduce storm water impacts	IV.A	✓		16 (December 1, 1997)	Executive Officer
Develop a program to reduce storm water impacts from public agency activities with a schedule for implementation	IV.B		✓	4 months after Executive Officer approval of model ≤ 36 months (July 30, 1999)	N/A

A. Public Agency Model Program

The Principal Permittee, in consultation with the Permittees, shall develop a model program to reduce the impact of public agency activities on storm water quality not later than December 1, 1997. The model program shall include a discussion of the on-going investigation of the feasibility of dry weather flow diversion from the MS4 to municipal waste water treatment plants, where appropriate. The model shall be submitted to the Regional Board for approval.

To minimize costs and avoid duplication of effort, it is encouraged to incorporate and recognize in the model program existing regulations, requirements and plans, such as waste minimization plans, spill prevention control and countermeasures, and business plans.

B. Permittee Public Agency Programs

Each Permittee shall develop and implement a Public Agency Program based on the model program developed by the Principal Permittee not later than four

months after commencement of its next fiscal year following approval of the model program by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999.

C. Program Requirements

Both the model program and the Permittee programs shall at a minimum include, where applicable:

1. Sewage Systems Operations

   a. Procedures to keep sewage spills or leaks from facilities operated by a Permittee from entering the MS4 to the maximum extent practicable;

   b. Procedures to identify, repair, and remediate sanitary sewer blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers operated by a Permittee to the MS4;

   c. Procedures to respond to overflows and investigate complaints;

   d. Procedures to insure that the Permittee is able to investigate any suspected connections or cross connections from the sanitary sewer systems to the MS4; and

   e. Procedures to notify public health agencies with discretionary decision authority on beach closures when there is a threat to public health.

2. Public Construction Activities Management

   a. Storm water management requirements for the design and construction of public facilities consistent with the requirements and time lines specified for private development in Part 2.III.A and III.B. ;

   b. Procedures to seek coverage, as an option, under this Order for construction activity with a disturbed area of five acres or more (Phase 1, 40 CFR 122.26) which is under taken by or on behalf of the Permittee, if the Permittee develops:

i. A process for notifying the Executive Officer of Permittee's construction activity;

ii. A checklist of construction activity BMPs using BAT/BCT criteria for public construction activity;

iii. A procedure to verify implementation of construction activity BMPs;

iv. A requirement to prepare and retain site-specific SWPPPs;

v. A procedure to report annually on the effectiveness of SWPPPs at public construction activity sites, and certify compliance with the requirements in this Order.

3. Vehicle Maintenance/Material Storage Facilities Management

a. Model pollution prevention plan for public vehicle maintenance/material storage facilities which have the potential to discharge pollutants into storm water. A public vehicle maintenance/material storage facility is any Permittee-owned or operated facility or portion thereof that:

i. Conducts industrial activity, operates equipment, handles materials, and provides services similar to Federal Phase 1 facilities;

ii. Performs fleet vehicle maintenance on ten or more vehicles per day including repair, maintenance, washing, and fueling;

iii. Performs maintenance and/or repair of heavy industrial machinery/equipment; and

iv. Stores chemicals, raw materials, or waste materials in quantities that require a hazardous materials business plan or a Spill Prevention, Control, and Counter-measures (SPCC) plan.

b. BMPs to improve site specific pollutant control including but not be limited to:

i. Good housekeeping practices;

ii. Material storage control;

iii. Vehicle leaks and spill control;

iv. Illicit discharge control;

v. Training for employees on proper outdoor loading/unloading of materials;

vi. Vehicle and equipment washing area control;

vii. Regular maintenance of treatment structures such as sumps, oil/water separators, or equivalent; and

viii. Proper waste handling disposal.

4. Landscape and Recreational Facilities Management

a. Procedures for application of pesticides, herbicides, and fertilizers that will include:

i. List of approved pesticides and selective and environmentally responsible uses;

ii. Product and application information;

iii. Application equipment use and maintenance; and

iv. Record keeping.

b. Procedures to minimize storm water pollution by pesticides and fertilizers used for landscape maintenance, including the utilization of Integrated Pest Management (IPM) techniques to the maximum extent practicable;

c. Procedures to prevent the disposal of landscape waste into the MS4;

d. Procedures to encourage retention and planting of native vegetation to reduce water, fertilizer, and pesticide needs;

e. BMPs to reduce exposure of fertilizers and pesticides to storm water during storage, to include as applicable, the following:

i. Storage indoors or under cover on paved surfaces;

ii. Secondary containment;

iii. Reduction in storage and handling of hazardous materials;

iv. Regular inspection of storage areas;

f. Guidelines to schedule irrigation and fertilization to minimize:

i. Chemical application during wet season and to terminate chemical application during storm events; and

ii. Over-watering and nutrients/pesticides entrainment.

g. Procedures to manage discharges of municipal swimming pool water into the MS4, including dechlorination practices, proper disposal of clean-out waters, and piping of filter backwash to the sanitary sewer;

h. BMPs to minimize trash, debris, and other pollutants from entering Permittee-owned recreational water bodies, to include:

i. Routine trash collection along, on, and/or in, water bodies, where feasible; and

ii. Public outreach to educate the public about impacts of illicit disposal.

5. Storm Drain Operation and Management

a. BMPs for Inlet Maintenance to be implemented to the maximum extent practicable, including but not be limited to:

i. Inspection and cleaning of catch basins between May 1 and September 30 of each year;

ii. Additional cleaning of catch basins, as necessary, between October 1 and April 30;

iii. Record keeping of catch basins cleaned; and

iv. Recording of the overall quantity of catch basin waste collected.

b. BMPs for Storm Drain Maintenance to be implemented to the maximum extent practicable, including but not be limited to:

i. Proper disposal of material removed;

ii. Removal of trash and debris from open channel storm drains at least annually between May 1 and September 30 of each year;

iii. Surveillance for debris buildup in open channels during the rainy season.

c. Waste Management program to include:

i. Procedures to identify problem areas of illicit discharge for regular inspection;

ii. Procedures to minimize to the maximum extent practicable the discharge of contaminants during MS4 cleanup to maintain optimum channel capacity; and

iii. A review of current maintenance activities to assure that appropriate storm water BMPs are being utilized.

6. Streets and Roads Maintenance

a. Program to sweep curbed streets at a targeted frequency of:

i. At least monthly; and,

ii. Where feasible, more frequently in areas generating significant refuse.

b. Streets and roads maintenance program including:

i. BMPs for existing saw-cut management and paving practices to include but not be limited to:

aa. Avoidance during wet weather to the extent feasible; and

bb. Material storage away from drainage areas to prevent storm water pollution or other equally effective BMPs.

ii. Good housekeeping practices to insure proper management of any wastes that are generated;

iii. Collection, transport, and disposal of maintenance waste at appropriate disposal facilities in accordance with applicable federal, state, and local laws and regulations;

iv. Management of concrete materials and wastes including but not limited to:

aa. Washout of concrete trucks off- or on-site in designated areas and not into storm drains, open ditches, streets, or catch basins;

bb. Material storage under cover, away from drainage areas or other equally effective BMPs; and

cc. Avoidance of excess mixing of concrete or cement on-site.

v. Employee training to:

aa. Promote a clear understanding of the potential for maintenance activities to pollute storm water; and

bb. Identify and select appropriate BMPs.

7. Parking Facilities Management

Parking Facilities Management Plan to include sweeping or other equally effective measures to remove debris from Permittee-owned parking lots with more than twenty-five parking spaces that are located in areas potentially exposed to storm water.

8. Public Industrial Activities

a. Procedures to seek coverage, as an option, under this Order for Phase I industrial facilities which are owned or operated by a Permittee, if the Permittee develops:

i. A process for notifying the Executive Officer of public industrial facilities owned or operated by the Permittee;

ii. A checklist of BMPs using BAT/BCT criteria for public industrial facilities;

iii. A procedure to verify implementation of industrial facility BMPs;

iv. A requirement to prepare and retain site specific SWPPPs; and

v. A procedure to report annually on the effectiveness of SWPPPs and the results of the facility monitoring programs at public

Phase 1 industrial facilities, and certify compliance with the requirements of this Order.

9. Emergency Procedures

Procedures for addressing emergency repairs of essential public services and infrastructure and responding to natural disasters.

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V. Public Information and Participation

To reach as many Los Angeles County residents as possible, a comprehensive educational outreach approach shall be undertaken under this Order. In recognition of the importance of public education to effective storm water management solutions, this Order calls for immediate Permittee public outreach efforts at a specified minimum level as well as a longer term effort to develop an integrated, comprehensive outreach program. As part of the immediate effort, each Permittee is expected to choose an appropriate combination of outreach tools and activities to raise public awareness of storm water issues and improve water quality in its own individual jurisdiction, with efforts at a prescribed minimum level as described below. As part of the longer term effort, each Permittee is expected to work collaboratively to develop a comprehensive outreach/education program countywide and within its watershed management area.

The objectives of the public education program are: (i) to measurably increase the knowledge of the target audiences regarding the MS4, the impacts of storm water pollution on receiving waters, and potential solutions for the target audiences to implement BMPs to reduce the problems caused; and (ii) to measurably change the behavior of target audiences by encouraging those audiences to implement appropriate solutions.

Table 6 on the following page shows the summary of requirements and corresponding compliance dates under this section.

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Table 6
Public Information and Education Requirements and Compliance Dates

Requirement	Permit Section	Principal Permittee	Permittees	Months from Effective Date of Order (Compliance Date)	For Approval By
Have outreach materials available for distribution	V.A.1		✓	8 (March 31, 1997)	N/A
Demonstrate outreach materials are being distributed	V.A.2.a		✓	12 (July 30, 1997)	N/A
Demonstrate appropriate Permittee employees are being trained	V.A.2.b		✓	12 (July 30, 1997)	N/A
Develop industrial/commercial facility database format	V.B.1.a	✓		6 (January 31, 1997)	N/A
Collect information based on database format	V.B.1.b		✓	12 months from WMC designation	N/A
Compile information from Permittees into industrial/commercial site visits	V.B.1.c	✓		22 (June 1, 1998)	N/A
Develop a checklist of BMPs for industrial/commercial site visits	V.B.2	✓		10 (May 30, 1997)	Regional Board
Implement an Industrial/Commercial facility site visit program	V.B.3.a		✓	Upon Regional Board approval of BMP checklist and in accordance with Table 7	N/A
Provide list of facilities visited	V.B.3.c		✓	Quarterly	N/A
Begin use of BMP checklists	V.B.3.b		✓	Upon Regional Board approval	N/A
Develop a 5 year public education strategy	V.C.1	✓		12 (July 30, 1997)	Executive Officer
Implement the strategy	V.C.2		✓	Based upon implementation schedule to be included in the strategy	

A. Immediate Outreach

1. Each Permittee shall, at a minimum, have available for distribution or reference as appropriate, not later than March 31, 1997, the following:

a. Written Material

i. Written materials (minimum of three types) to convey pertinent information to meet program objectives. Examples of written materials include flyers, brochures, door-hangers, newspaper articles, mail-inserts, and newsletters;

ii. Documentation that a reasonable effort was made to list pertinent city phone numbers under the government pages of phone directories. This should be updated as necessary and should include telephone numbers for reporting clogged catch basin inlets and/or illicit discharges/dumping, and a general number for storm water management program information. These phone numbers may be city-specific or countywide;

iii. Training materials for educating appropriate Permittee employees regarding compliance with applicable storm water permits;

iv. An up-to-date listing of contractor and developer storm water management training programs available in the area. This list should be updated annually;

v. An up-to-date checklist and a brochure explaining contractor and developer needs as they relate to Development Planning and Construction (Part 2.III) of this Order for use at a Permittee's planning/permitting counter. They should be updated annually; and

vi. Education materials (a minimum of three types) for targeted business sector audiences for use in site visits as per provisions in Part 2.V.B.2 of this Order.

b. Audio Material

Documentation that a reasonable effort was made by the Principal Permittee or on behalf of the Permittees as a whole to obtain radio broadcast public service announcements to convey information regarding storm water management.

c. Visual Material

A catch basin labeling program, including label installation and maintenance schedules, to educate the public on the ultimate destination of storm drain flows.

2. Each Permittee shall demonstrate by July 30, 1997, that it has undertaken the following activities:

a. Distribution of outreach materials to the general public, or targeted audiences such as schools, community groups, contractors and developers at the appropriate public counters and public events; and,

b. Training of the appropriate Permittee employees (those whose jobs or activities directly affect storm water quality, or those who respond to questions from the public) regarding the requirements of the storm water management program.

B. Industrial/Commercial Educational Program

Each Permittee shall develop an industrial/commercial site visit program. The purpose of such site visits will be solely educational and to provide industrial/commercial facilities with information regarding the Permittee's storm water program, and to provide advice when requested in understanding and complying with the Permittee's storm water regulations. To minimize cost, each Permittee is encouraged to coordinate its site visit program with existing fire, health, industrial wastes and/or other inspection type programs so that the Permittee need not institute new and separate site visit programs. The program shall contain the following components:

1. Identification of Sources

a. The Principal Permittee in consultation with the Permittees shall develop a database format for listing industrial/commercial facilities by four digit SIC Industry Numbers not later than January 31, 1997. This database will serve as a reference resource for the public, business, industry, local government, the Regional Board, and other public agencies on storm water program participation. The initial accuracy of the database will be dependent on the accuracy of electronic and information sources used to establish the database, but the accuracy is expected to improve after Permittees begin to implement the industrial/commercial site visit program. No legal import is to be attributed to the database developed by the Permittees. The database format shall include at a minimum:

i. Facility name;
ii. Site address;
iii. Watershed Management Area;
iv. Applicable SIC code(s); and
v. NPDES storm water permit coverage status, if applicable.

b. Each Permittee shall collect information based on the format developed by the Principal Permittee to identify industrial/commercial facilities within its jurisdiction and submit to the Principal Permittee not later than one year after the Principal Permittee provides the database format to the Permittees or for "iii" below not later than one year after designation of groups by the WMC. The list of facilities shall include, at a minimum:

i. All industrial groups regulated under Phase I of the Federal storm water program (40 CFR 122.26; Phase I Facilities);

ii. Motor vehicle repair shops, motor vehicle body shops, motor vehicle parts and accessories facilities, gas stations, and restaurants; and

iii. Additional SIC industrial/commercial groups identified as priorities by each WMC pursuant to this Order.

c. The Principal Permittee shall compile the information submitted by each Permittee into a database of industrial/commercial facilities not later than June 1, 1998. This database shall include:

i. For each four-digit SIC Industry Number, primary activities that might impact runoff discharges (from national or commercial database sources); and

ii. For each four-digit SIC Industry Number, primary materials that might impact runoff discharges (from national or commercial database).

2. Source Control Measures

The Principal Permittee, in consultation with the Permittees, shall develop a list of specific storm water BMPs for each industrial/commercial SIC group of facilities requiring educational site visits under Part 2.V.B.3. not later than May 30, 1997. The BMPs shall:

a. Address multiple pollutants;

b. Initially focus on pollutant source minimization, education, good housekeeping, and site design alternatives; and

c. Target source areas and activities with the highest potential to generate substantial pollutant loads.

The BMP lists shall be submitted to the Regional Board for approval, after which the Principal Permittees shall distribute them to the Permittees to be incorporated in each Permittee's outreach measures conducted during industrial/commercial site visits.

3. Educational Site Visits

a. Each Permittee shall implement an industrial/commercial educational site visit program according to the following schedule in Table 7, upon Regional Board approval of BMP checklists:

Table 7
Schedule of Educational Site Visits

FACILITIES	SITE VISIT FREQUENCY (No. of Contacts / Time period)
i) Phase I*, [i]-[ix] and [xi] with waste discharge or pretreatment permit	1 / 24 months **
ii) Phase I, [i]-[ix] and [xi] with no waste discharge or pretreatment permit but with GIASP	1 / 24 months**
iii) Phase I, [i]- [ix] with no waste discharge or pretreatment permit, and no GIASP	1 / 24 months**
iv) Phase I [xi] with no GIASP	1 / 5 years***
v) Vehicle repair shops, vehicle body shops, vehicle parts and accessories facilities	1 / 24 months**
vi) Gas stations	1 / 24 months**
vii) Restaurants	1 / 24 months**
viii) Facilities selected by WMCs	1 / 36 months

* See Glossary of Terms for definition
** Once in 24 months with a minimum of two site visits during the five-year term of this Order
*** See exception in text below

i. Phase 1 facilities in categories [i] through [ix] and [xi] which have an industrial waste discharge permit or a pretreatment permit, once every twenty-four months;

ii. Phase 1 facilities in categories [i] through [ix] and [xi], which do not have an industrial waste discharge permit or a pretreatment permit but have obtained coverage under the GIASP, once every twenty-four months;

iii. Phase 1 facilities in categories [i] through [ix], which do not have an industrial waste discharge permit, a pretreatment permit or GIASP coverage, once every twenty-four months;

iv. Phase 1 facilities in category [xi] without an industrial waste discharge permit, a pretreatment permit, or GIASP coverage. In lieu of a site visit, contact by phone, mail-out of questionnaire and educational materials, or other similar method to inform the facilities of notice of intent (NOI) requirements and encourage good storm water quality control measures (non-responders to be identified in annual report), once in five years;

v. Vehicle repair shops, vehicle body shops, vehicle parts and accessories (SIC Industry Major Group 75); once every twenty-four months;

vi. Gasoline stations (SIC Industry Number 5541); once every twenty-four months;

vii. Restaurants (SIC Industry Number 5812), once every twenty-four months; and,

viii. Additional SIC industrial/commercial groups identified by the WMC for the watershed in which the Permittee is located, once in thirty-six months, with a maximum limit of 3,000 additional site visits per Permittee during the term of this Order.

b. During the educational site visit, the Permittee shall:

i. Consult with a representative of the facility to explain applicable storm water regulations;

ii. Distribute and discuss applicable BMP and educational materials, including information regarding the codes, regulations, ordinances, and permits applicable to the category of the facility. In the case of

Phase I facilities, notify the facility of specific requirements under the Statewide Industrial General Permit including that such facilities must file an Notice of Intent (NOI) with the State Water Resources Control Board and that a Storm Water Pollution Prevention Plan (SWPPP) must be available on the site; and

iii. Follow-up with facilities, as deemed necessary and appropriate by the Permittee, to provide advice in complying with the Permittee's storm water ordinances, prohibitions, and other legal instruments.

c. Each Permittee shall submit to the Principal Permittee, on a quarterly basis, the lists of visited facilities identified by category. The Principal Permittee shall compile the submitted lists and submit them to the Executive Officer on a quarterly basis.

4. Alternative Programs

A Permittee may petition the Executive Officer to substitute the industrial/commercial educational program with an alternative industrial/commercial educational program that will achieve greater or substantially similar educational goals and which will be implemented within a similar period of time.

C. Five-Year Storm Water Public Education Strategy

A Five-Year Storm Water Public Education Strategy, which elaborates steps for implementing public education programs, shall be developed by the Principal Permittee. The strategy shall: communicate key educational information; develop educational programs for target audiences; utilize various innovative educational tools and incentives for participation; employ effective outreach to the region's multi-ethnic communities; and conduct opinion surveys to assist in evaluating public awareness both before and after implementation of the public education programs.

The Permittees shall endeavor to coordinate public outreach efforts among themselves, with environmental groups, and pertinent public and private agencies.

1. The Principal Permittee, in consultation with Permittees, shall develop not later than July 30, 1997, a Five-Year Countywide Storm Water Education Strategy which addresses education/outreach issues countywide as well as by watershed, including a schedule for implementation. The strategy shall include a full range of outreach tools, from simple brochures to sophisticated media. The strategy shall identify the Permittee's responsibilities for implementation, including specific objectives for changing knowledge and behavior.

The Principal Permittee shall submit the strategy to the Executive Officer for approval. Each Permittee shall implement the strategy not later than four months after commencement of its next fiscal year following approval of the strategy by the Executive Officer, provided, however, that such approval is issued not later than 90 days prior to the commencement of the Permittee's fiscal year. If such approval is given within 90 days of the commencement of a Permittee's fiscal year, such program shall be implemented in the second fiscal year following approval but in no event shall implementation be later than July 30, 1999.

At a minimum, the Five-Year Storm Water Education Strategy shall include actions for:

a. Identification of land uses and activities that have a higher potential for storm water pollution and will include and/or accomplish the following:

   i. Pollutants: The reduction of targeted pollutants of concern in a particular watershed; and

   ii. Activity-specific: Activity-specific outreach programs shall be developed and implemented using written, audio, or visual outreach tools.

   The strategy shall include activity-specific outreach programs that inform residents about the problem of illicit discharges and dumping and shall promote, publicize, and facilitate public reporting of these activities. The program shall also include continuing operation, maintenance, and promotion of the countywide reporting hotline.

b. Emphasis on the importance of pollution prevention for a variety of audiences, including local residents, school-aged children, businesses, and public employees whose job functions and daily lives may impact storm water quality. Efforts will include and/or accomplish the following:

   i. For Residents

      aa. Educate residents on recycling and household hazardous waste disposal options. The program shall provide information on collection services, including locations and schedule; provide outreach materials on source reduction and proper use, storage, and disposal methods for household hazardous wastes; and continue to encourage residents to recycle, e.g., oil, antifreeze, glass, plastics, and batteries.

      bb. Encourage residents to participate in specific storm water outreach programs. Residents shall be informed of and provided with the opportunity to share ideas and comments about the programs. Each Permittee shall demonstrate that a good faith effort has been made

to outreach to different communities within the watershed management area or region and to receive feedback from the communities while measuring success of the program.

cc. Educate do-it-yourselfers regarding pollution prevention strategies. Each Permittee shall demonstrate that a good faith effort has been made to outreach to different communities within the watershed management area or region.

dd. Promote public participation through cooperative programs to foster awareness and identification of storm water pollution issues among residents in a watershed. Catch basin labeling and other established sign programs are examples of this type of cooperative effort. Another example for cooperative outreach is an "Adopt-A-" program. Residents can "adopt" highways, storm drains, catch basins, or streams to monitor, restore, and protect them.

ee. Residents shall be encouraged to mow vegetation surrounding their residence rather than disk.

ii. For School Children

School programs shall be developed and implemented wherever possible to include information on MS4s, the difference between sanitary sewers and storm drains, the importance of preventing storm water pollution, and provide illicit discharges/disposal and reporting procedures, source minimization, and general pollution prevention. Acquisition and/or development of classroom materials and their distribution to teachers are encouraged.

iii. For Businesses

aa. An education and outreach program shall be developed and implemented for business activities identified as having greater potential of discharging pollutants into the MS4. This includes sidewalk washing by individual merchants. The program shall encourage employee training on the effectiveness of storm water pollution prevention practices. In addition to written, audio, and visual materials, other possible means of focused outreach may include: conducting workshops, mass mailings, and submitting informational articles to trade/industry magazines. Each Permittee shall provide outreach materials through business license renewal counters and/or make efforts to outreach through professional and business associations or industrial/commercial site visits.

bb. Construction

An education program shall be developed and implemented for construction contractors, owners, builders, and do-it-yourselfers on proper BMP implementation and maintenance, and pollution prevention.

iv. Appropriate Permittee Employees

Permittee employees involved in storm water related activities shall be trained on storm water management and pollution prevention practices. Cooperative efforts among enforcement agencies should be encouraged.

Training programs shall include, but not be limited to, articles in city newsletters, training classes, checklists for field personnel, and interdepartmental forums or committees to the extent the Permittee utilizes any of the foregoing. Materials developed for other audiences may also be used in Permittee employee training programs. Appropriate public agency employees shall be trained in:

aa. Emergency spill cleanup procedures and hotline phone numbers;

bb. Environmentally sensitive alternative products;

cc. Good housekeeping practices; and,

dd. Municipal NPDES and other permitting requirements.

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VI. Monitoring Program

A. Objectives

The overall goal of this monitoring program is to develop and support effective watershed storm water quality management programs towards reduction of pollutants to the maximum extent practicable.

The major specific objectives of program are as follows:

1. To track water quality status, pollutant trends and pollutant loads, and identify pollutants of concern;

2. To monitor and assess pollutant loads from specific land uses and watershed areas;

3. To identify, monitor, and assess significant water quality problems related to storm water discharges within the watershed;

4. To identify sources of pollutants in storm water runoff;

5. To identify and eliminate illicit discharges;

6. To evaluate the effectiveness of management programs, including pollutant reductions achieved by implementation of BMPs; and,

7. To assess the impacts of storm water runoff on receiving waters.

B. Monitoring Program Requirements

The Principal Permittee shall implement the monitoring program described in Attachment C, Monitoring Program Requirements. The summary of the monitoring program requirements and compliance dates are given in Table 8 on the following page.

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Table 8
Monitoring Requirements And Compliance Dates

Requirement	Permit Attachment	Principal Permittee	Permittees	Months from Order Adoption Compliance Date)
Begin re-evaluation of land use monitoring station locations	C.1.a	✓		
Complete re-evaluation of land use monitoring station locations	C.1.a	✓		Upon EO* approval- Sept 1, 1996
Monitor land use stations at prescribed storm event frequency	C.1.c	✓		0
Implement a pilot study monitoring program from one sampler at a land use station to sample storm greater than .1 inches of rainfall	C.1.d	✓		0
Monitor at mass emission stations	C.2.a	✓		0
Submit a report for characterizing critical sources and BMPs	C.3.b	✓		Sept 1, 1996
Conduct a program for characterizing critical sources and BMPs	C.3.b	✓		Upon EO* approval
Install and evaluate BMPs appropriate to the critical sources	C.3.d	✓		Second full rainy season
Re-evaluate progress made by other entities within the state to evaluate critical sources and BMPs	C.3.e	✓		Third full rainy season
Submit a workplan for Loads Assessment model	C.4	✓		18 (January 30, 1998)
Fund a receiving waters study	C.5	✓		
Prepare, retain, and revise a Monitoring Plan	VI.C.1	✓		Submit to the EO* when so requested

* Executive Officer

VII. Program Reporting and Evaluation

Table 9 shows the summary of requirements under this section with corresponding compliance dates.

Table 9
Program Evaluation and Reporting Requirements and Compliance Dates

Requirement	Permit Section	Principal Permittee	Permittees	Months from Effective Date of Order (Compliance Date)	For Approval By
Develop standard Annual Reporting format, including reporting forms	VII.A.1	✓		6	Executive Officer
Submit Annual Report to Regional Board	VII.A.2	✓		Every October 15	N/A
Submit an Annual Monitoring Report	VII.B	✓		Every July 15	N/A
Submit a Program Evaluation Report of 5-Year Strategy	VII.C.1	✓		48 (July 31, 2000)	N/A
Submit Assessment of Effectiveness of CSWMP Components	VII.C.2	✓		48 (July 31, 2000)	N/A
Submit Recommendations for Development of Performance Standards for selected CSWMP Components	VII.C.3	✓		54 (February 1, 2001)	N/A
Submit a Receiving Water Impacts Report	VII.D	✓		48 (July 31, 2000)	N/A
Submit WMAPs	Part 3.VI		✓	To be included with ROWD. (February 1, 2001)	Executive Officer

A. Annual Program Report

1. The Principal Permittee shall, not later than January 31, 1997, develop a standard annual program reporting format for use by Permittees, including reporting forms.

2. The Principal Permittee, in coordination with the Permittees, shall submit an Annual Program Report to the Executive Officer on or before October 15 of each year. The first Annual Report is due October 15, 1997. The Annual Program Report shall comply with 40 CFR §122.42(c) and include, at a minimum:

   a. The implementation status of program tasks contained in this Order, CSWMP, and/or WMAP, as applicable to each Permittee;

   b. The status of, or statement of completion of all components and milestones described in this Order, CSWMP, and/or WMAP, as applicable to each Permittee;

   c. Results of program tasks contained in this Order; CSWMP, and/or WMAP, as applicable to each Permittee;

   d. Program accomplishments and self-assessment of strategy effectiveness (including how the Permittee arrived at new program elements, if any) by each Permittee, organized by Watershed Management Areas, in the areas of (i) Program Management; (ii) Illicit Connections/Discharges; (iii) Development Planning/Construction; (iv) Public Agency Activities; (v) Public Education/Public Participation;

   e. A summary of BMP implementation, Permittee level of effort, and other such measures of achieving storm water program objectives, utilizing uniform information and data collection methodology to support area-to-area, and year-to-year comparisons;

   f. The names, titles, and telephone numbers of personnel responsible for supervising implementation of the program tasks contained in this Order, CSWMP, and/or WMAP, as applicable to each Permittee.

   g. Recommended changes and/or modifications to the programs identified in this Order, CSWMP, and/or WMAP.

B. Annual Monitoring Report

The Principal Permittee shall submit a separate Annual Monitoring Report by July 15 of each year. The first Annual Monitoring Report is due on July 15, 1997. The report shall include status of implementation of the monitoring program, results of the monitoring program and interpretation thereof, and suggested modifications or amendments to the Monitoring Program with relevant justifications.

C. Program Evaluation Report

1. The Principal Permittee, shall, not later than July 31, 2000, complete an analysis of the general success of the Five-Year Storm Water Public Education Strategy and identify its accomplishments. This report shall serve as the basis for the next Five-year Storm Water Public Education Strategy that will be part of the ROWD.

2. The Principal Permittee shall, not later than July 31, 2000, and in consultation with the Permittees, prepare and submit a report on the assessment of the effectiveness of the CSWMP components (except that identified in C.1.).

3. The Principal Permittee shall, not later than February 1, 2001, submit a report on the identification of CSWMP components for which performance standards will be developed and implemented during the next term of the permit. The report shall include a schedule of development of performance standards. The performance standards will indicate the level of implementation necessary to demonstrate that efforts are being made to reduce the discharge of pollutants in storm water to the maximum extent practicable. This report will be an integral part of the ROWD.

D. Integrated Receiving Water Impacts Report

The Principal Permittee shall not later than July 31, 2000, prepare and submit an Integrated Receiving Water Impacts Report. The report shall include, but not be limited to a comprehensive analysis of the results of the different monitoring data (land use, mass emissions, critical source, load assessment, receiving waters, and other pertinent studies available), and feasible environmental indicators. It should also include recommendations on future monitoring requirements, e.g., integration of storm water receiving water monitoring with regional receiving water monitoring, if applicable. This report will be an integral part of the ROWD.

Part 3. STANDARD PROVISIONS

I. The initial storm water management program, as delineated in the CSWMP or WMAPs may need to be modified, revised, or amended periodically to respond to changed conditions and to incorporate more effective approaches to pollutant controls. Minor changes may be made at the direction of the Executive Officer. Minor changes requested by the Permittees shall become effective upon written approval of the Executive Officer. If proposed changes involved a major revision in the overall scope of the program, such changes must be approved by the Regional Board as amendments to this Order.

II. Except as otherwise provided in this Order, all reports or submittals made directly to the Executive Officer or through the Principal Permittee shall be signed under penalty of perjury by the principal executive officer or the ranking elected official of the Permittee or a duly authorized representative if:

A. The authorization is made in writing by a person described above;

B. The authorization specifies either an individual or a position having responsibility for the overall operation of the Permittee's storm water management program, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the Permittee. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

C. The written authorization is submitted to the Executive Officer.

III. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Board, in accordance with the procedural requirements of the Water Code and Title 23 of the California Code Regulations for the issuance of waste discharge requirements, and upon prior notice and hearing, to:

A. Address changed conditions identified in the required reports or other sources deemed significant by the Regional Board;

B. Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan;

C. Comply with any applicable requirements, guidelines, and/or regulations issued or approved pursuant to CWA Section 402(p); and/or

D. Consider any other federal, or state laws or regulations that became effective after adoption of this Order.

IV. The Permittees shall continue to implement the BMPs and/or programs that were required pursuant to Order No. 90-079 until such time that replacement BMPs/programs are implemented under this Order. Except for the foregoing, enforcement purposes, and applicability to the State of California Department of Transportation (Caltrans), Order No. 90-079 (NPDES Permit No. CA0061654) is hereby superseded and replaced by this Order.

V. The issuance of this Order is not intended to, and does not, absolve any Permittee of liability for conduct which may have constituted a violation of Order 90-079 (CA0061654, CI 6948) adopted by this Regional Board on June 18, 1990, nor is it intended to impose any liability on any Permittee or person for any conduct prior to the effective date of this Order.

VI. This Order expires on July 30, 2001. The Principal Permittee and Permittees must submit complete Reports of Waste Discharge (ROWD) in accordance with Title 23, California Code of Regulations, not later than 180 days in advance of such date as application for reissuance of waste discharge requirements. The ROWD shall include watershed-specific WMAPs.

I, Robert P. Ghirelli, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on July 15, 1996.

Robert P. Ghirelli

ROBERT P. GHIRELLI, D.Env.
Executive Officer

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 96-054
(NPDES NO. CAS614001)

ATTACHMENTS
TO
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES
WITHIN THE COUNTY OF LOS ANGELES

514

ATTACHMENT A
LIST OF PERMITTEES
BY
WATERSHED MANAGEMENT AREAS

Santa Monica Bay

Malibu Creek and Other Rural

Agoura Hills
*Calabasas
Los Angeles County
Malibu
Westlake Village

Ballona Creek and Other Urban

Beverly Hills
Culver City
El Segundo
Hermosa Beach
Los Angeles
Los Angeles County
Manhattan Beach
Palos Verdes Estates
Rancho Palos Verdes
Redondo Beach
Rolling Hills
Rolling Hills Estates
*Santa Monica
West Hollywood

Dominguez Channel/ Los Angeles Harbor Drainage

Carson
Gardena
Hawthorne
Inglewood
Lawndale
Lomita
Los Angeles
Los Angeles County
*Torrance

Los Angeles River

Alhambra
Arcadia
Bell
Bell Gardens
Burbank
Commerce
Compton
Cudahy
El Monte
Glendale
Hidden Hills
Huntington Park
La Canada Flintridge
Long Beach
Los Angeles
Los Angeles County
Lynwood
Maywood
Montebello
Monterey Park
Paramount
Pasadena
Rosemead
San Fernando
San Gabriel
Sierra Madre
Signal Hill
South Gate
South Pasadena
Temple City
Vernon

San Gabriel River

Artesia
Azusa
Baldwin Park
Bellflower
Bradbury
Cerritos
Claremont
Covina
Diamond Bar
Downey
Duarte
Glendora
Hawaiian Gardens
Industry
Irwindale
La Habra Heights
La Mirada
La Puente
La Verne
Lakewood
Long Beach
Los Angeles County
Monrovia
Norwalk
Pomona
Pico Rivera
San Dimas
San Marino
Santa Fe Springs
South El Monte
Walnut
West Covina
Whittier

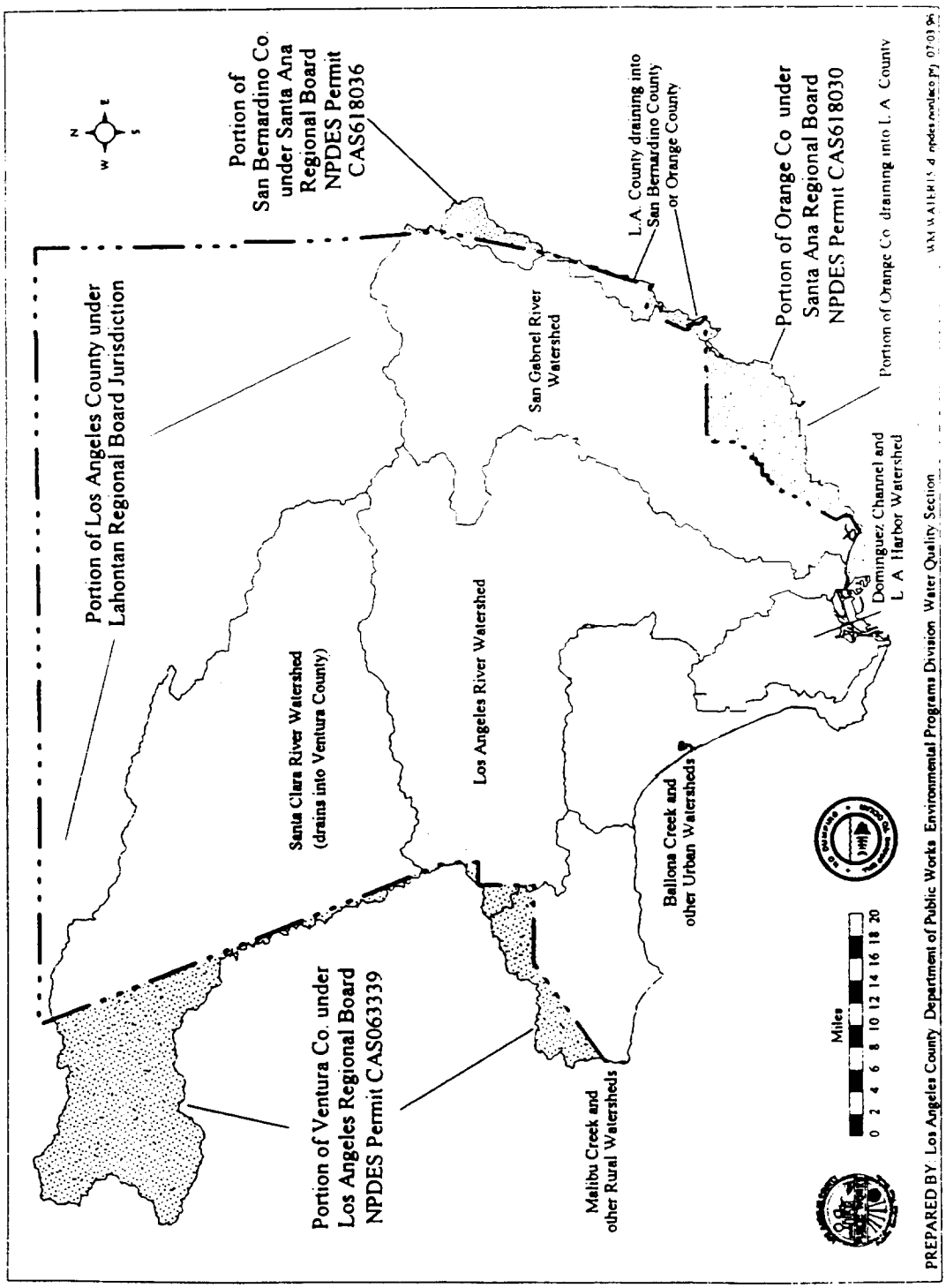
Santa Clara River

Los Angeles County
*Santa Clarita

*Italicized agencies are present in more than one Watershed Management Area. *Indicates City with the largest watershed population other than the County of Los Angeles and the City of Los Angeles.*

ATTACHMENT B

MAP OF LOS ANGELES COUNTY PERMITTED AREA



ATTACHMENT C

MONITORING PROGRAM REQUIREMENTS

A. MONITORING PLAN

The Principal Permittee shall prepare, maintain, and update, if necessary, a monitoring plan which shall include at a minimum, the following:

1. Quality control, quality assurance, data collection, storage and analyses, and detection limits;

2. All sample collection, handling, storage, and analyses in accordance with 40 CFR 136;

3. Location of monitoring stations, constituents, and sampling frequency;

4. Targeted monitoring indicators (e. g., ecosystem, biological diversity, in stream toxicity, habitat, chemical, sediment, stream health) chosen for monitoring;

5. Statistical methods used to design studies, conduct sampling, and interpret data;

6. A description of the role and responsibilities of all the participants in monitoring studies;

7. A description of computer software and modelling programs that will be utilized to assess data, interpret information; and

8. A general description of how data are intended to be utilized for feedback into the storm water management program.

An up-to-date Monitoring Plan shall be submitted to the Executive Officer, when so requested.

B. MONITORING PROGRAM

The following monitoring program is designed to meet the objectives stated under Part 2.VI of this Order:

1. Land Use Station Monitoring

   a. The Principal Permittee shall reevaluate the location of existing monitoring stations (established under Order No. 90-079) reflecting specific land uses ("land use stations") consistent with the cost-benefit methodology described in Attachment C-1. Upon completion of Step 6 of the reevaluation process, but not later than

September 1, 1996, the Principal Permittee shall submit a report to the Executive Officer outlining the steps taken in the reevaluation process, and recommend land use categories to be monitored. Based on results of the reevaluation process, existing land use stations established pursuant to Order 90-079, may be moved to monitor recommended land use categories for monitoring. Existing land use stations under Order 90-079 which do not reflect land use categories recommended for monitoring under the cost-benefit analysis or which are duplicative of other stations will be decommissioned.

b. Upon approval of the report by the Executive Officer, the Principal Permittee shall complete Steps 7-8 of the reevaluation process in Attachment C-1.

c. The Principal Permittee shall monitor land use stations according to the following schedule provided there are sufficient storm events during the season:

Storm Season	Number of Station Events/Storm Season
1996-97	100
1997-98, and thereafter	200

A station event is defined as one sampling event per station.

The land use stations shall be monitored during the term of this Order or until such time that event mean concentrations (EMC) are derived, at the 25% error rate, for the following constituents of concern:

PAHs (total)	Chlordane	Cadmium
Copper	Nickel	Lead
Chromium	Silver	Zinc
Selenium	Mercury	Total Nitrogen
Total Phosphorus	Total Suspended Solids	Diazinon
Chlorpyrifos	Malathion	Simazine
Total DDT	Total PCBs	

The Executive Officer may add or delete constituents of concern. However, for constituents added after the commencement of the second rainy season under the Order, the Principal Permittee need not derive an EMC at an error rate of 25% prior to closing a land use station.

d. All samples for land use station monitoring may be taken with the same type of automatic sampler used under Order 90-079. The samplers shall be set to monitor storms totalling 0.25 inches or greater of rainfall. The constituents to be analyzed are listed in Attachment C-3. The Principal Permittee, for land use sites,

may exclude constituents from the list that require grab sampling.

In addition, the Principal Permittee shall, as a pilot study, set one land use sampler to monitor storms from 0.1 inch of rainfall. Based upon an assessment of the following, a decision will be made as to whether to set some or all of the remaining land use samplers to monitor storms totalling 0.1 inches of rainfall or greater: 1) the operational effectiveness of the sampler; 2) the feasibility and effectiveness of sample retrieval and transport; and 3) the ability to reprogram and maintain this setting at other samplers.

e. If a constituent is not detected at the method detection limit (MDL) for its respective test method listed in Attachment C-3 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it will not be further analyzed unless the observed occurrences show high concentrations and are cause for concern. The Principal Permittee will also conduct annual confirmation sampling for non-detected constituents at each station for as long as the station is monitored.

2. Mass Emission Station Monitoring

a. The Principal Permittee shall monitor a total of four mass emission stations. During the 1995-96 storm season, monitoring shall be conducted only at the Ballona Creek and Malibu Creek monitoring stations established under Order 90-079. During the 1996-97 storm season, monitoring shall begin at the San Gabriel River and Los Angeles River (downstream of Wardlow Road) stations. The Principal Permittee shall monitor at the Ballona Creek and Malibu Creek monitoring stations during the 1995-1996 storm season up to ten station events per year including dry weather sampling. Thereafter, monitoring shall be reduced at all stations to a maximum of five events per year. Mass emission station monitoring frequency will be evaluated after the 1998-1999 storm season. However, regardless of the results, monitoring shall not exceed five storm events per station for the 1999-2000 storm season.

b. Samples for mass emission station monitoring shall be taken with the same type of automatic sampler used under Order 90-079, as well as through grab sampling. The samplers shall be set to monitor storms totalling 0.25 inches or greater of rainfall. The constituents to be analyzed for samples taken at mass emission stations are listed in Attachment C-3. The Principal Permittee may elect not to sample Volatile Organic Compounds from the list of constituents for mass emission stations.

c. If a constituent is not detected at the method detection limit for its respective test method listed in Attachment C-3 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it will not be

further analyzed unless the observed occurrences show high concentrations and are cause for concern.

d. With the exception of the stations noted in (2)(a) above, monitoring at other mass emission stations installed under Order 90-079 shall be discontinued and the stations decommissioned.

3. Critical Source/Best Management Practice Monitoring

The Principal Permittee shall conduct a program for monitoring critical sources to characterize sources of storm water pollutants and assess effectiveness of BMPs. The program shall be consistent with the following:

a. Selection of Critical Sources: The Principal Permittee will select critical sources for monitoring based on the methodology described in Attachment C-4 (Critical Source/BMP Monitoring). A total of five (5) critical sources will be monitored over six rainy seasons commencing with the 1996-97 rainy season, subject to the provisions of (3)(d) below.

b. Not later than September 1, 1996, the Principal Permittee shall submit a report to the Executive Officer for approval on the critical source selection process and recommend critical sources for evaluation. Upon approval of the report, the Principal Permittee shall proceed to conduct the activities set forth in (3)(c-f).

c. Characterization of Critical Sources: Commencing with the 1996-97 rainy season, the Principal Permittee shall commence the characterization of critical sources. A total of six (6) representative sites of each critical source will be characterized through analysis of runoff. Fewer representative sites may be selected due to distance considerations and/or the unavailability of sufficient source locations willing to participate in the program. A total of at least five (5) storms will be used to characterize the critical source runoff. Samples will be analyzed for those pollutants anticipated to be found in the critical source storm runoff and such analytes will be partitioned, as appropriate, to determine the soluble and suspended fractions.

d. Evaluation of BMPs: In the year after a critical source has been characterized, a BMP or BMPs appropriate to the critical source will be selected and installed at up to half of the critical source examples (the "test sites"). Flow from the remaining source representative sites (the "control sites") will continue to be analyzed. A total of ten (10) targeted storm events will be monitored to assess the effectiveness of the BMPs. If there are insufficient storm events during the year, the evaluation may be continued during the next storm season. The Principal Permittee's monitoring of critical sources and evaluation of BMPs will be concluded by the end of the sixth full rainy season after the adoption of this Order, provided that sufficient number of storms have occurred.

e. Additional Evaluation: After the third full rainy season following the adoption of the Order, the Principal Permittee will reevaluate, the progress made by other public entities in the State to evaluate critical sources and BMPs. If after the evaluation, the Principal Permittee determines that there are either additional critical sources, or BMPs associated with identified significant critical sources which have not been monitored and/or evaluated, the Principal Permittee, subject to the approval of the Executive Officer, will undertake "Additional Monitoring". The Additional Monitoring will consist of monitoring up to three (3) additional critical sources, or evaluate up to an additional three (3) BMP sets, or some combination thereof totalling three. The extent of Additional Monitoring will be dependent on the Principal Permittee's ability to complete the monitoring/evaluation described in(3)(c-d) above; if more time is needed to complete such monitoring, the extent of the Additional Monitoring shall be accordingly reduced.

4. Loads Assessment Model

The Principal Permittee shall, not later than January 15, 1998, submit to the Executive Officer for approval a workplan for performing a loads assessment analysis for each of the six WMAs to determine pollutant loads entering the ocean from receiving waters in the county. The assessment shall be conducted following the third full rainy season after adoption of this Order using the collected monitoring data from the land use and mass emission stations (including data collected from stations monitored under Order No. 90-079) and employing the USEPA simplified model.

5. Receiving Waters Study

The Principal Permittee, in conjunction with other participants that it may choose, will fund a study of receiving waters impacted by storm water described in Attachment C-5, subject to revisions as set forth below in (5)(d). The purpose of the study will be to study the impacts, if any, of storm water/non-storm water discharges on the beneficial uses of Santa Monica Bay and to assist the Permittees in developing storm water management programs. The obligation of the Principal Permittee under this Order with respect to the receiving waters study shall consist of the following:

a. Plume Study: The Principal Permittee will support a plume study to evaluate the dispersion, fate, and transport of storm water pollutants in Ballona Creek and Malibu Creek, through a contribution of up to a maximum of $145,000.

b. Benthic Study: The Principal Permittee will support a study to assess impacts of storm water on the marine benthic community near the mouths of Ballona Creek and Malibu Creek, through a contribution of up to a maximum of $205,000. If it is the consensus of project scientists that a third year of benthic study is advisable to meet the goals of the receiving waters study, the Principal Permittee will contribute up to a maximum of an additional $80,000 for the third year of study.

c. Toxicity Study: The Principal Permittee will support a study to evaluate sediment and water column toxicity in Ballona Creek and Malibu Creek through a contribution of up to a maximum of $118,500. If it is the consensus of the project scientists that a third year of toxicity studies is advisable to meet the goals of the receiving waters study, the Principal Permittee will contribute up to a maximum of $80,500 to fund a third year of study.

d. River Study: The Principal Permittee will take a total of three (two storm weather and one dry weather) water samples at each of the Los Angeles and San Gabriel River mass emission stations during the 1997-98 and 1998-99 seasons. The samples will be subjected to sea urchin fertilization bioassays to evaluate water column toxicity, with the Principal Permittee's out-of-pocket expenses for the study not to exceed $3,600.

e. Project Design: The receiving waters study shall initially contain the elements established in Attachment C-5. However, the scientists conducting the receiving waters study may alter the parameters of the second and (if necessary) the third year of the receiving waters study so as to meet the objectives of the study. Such alterations may include changing of sampling locations, use of different sampling techniques, or other pertinent redirection of resources. The Principal Permittee shall notify the Executive Officer of any revisions to the second and (if necessary) third years of the receiving waters study for review and approval.

f. Study Reports: The Principal Permittee shall require the project scientists conducting the study to prepare an annual report covering study activities of the previous year, and any interim/final assessments. Such reports shall be submitted by the Principal Permittee to the Executive Officer with the Annual Monitoring Report.

g. Principal Permittee Responsibilities: The commitments of the Principal Permittee toward performance of a receiving waters study are: providing funding, and submittal of progress and final reports.

ATTACHMENT C-1

LAND USE SITE SELECTION PROCESS OUTLINE

Step 1

The Principal Permittee will take the Southern California Association of Governments ("SCAG") categories listed below as an initial list of land use categories. The Principal Permittee will use its best efforts to obtain overlays (or similar information) for use in the land use selection process. However, these overlays or information must be usable County-wide in the SCAG database and the Principal Permittee shall not be required to look for or use overlays or information which cannot be so used. The Principal Permittee also shall not be required to create overlays. Some of these categories may not be important (very small area represented in study area, and/or known very low EMC or runoff mass). The initial number of categories will be reduced at this step.

For each remaining category, the Principal Permittee will identify eight (8) representative locations. The eight (8) locations in each category would be relatively small areas, such as a square block for residential areas, a single school or church, a few blocks of strip commercial, etc. These sites would be selected, where possible, over a wide geographical area of the study area to include a range of topographical characteristics such as distance from ocean, etc.

Step 2

In this step, the Principal Permittee should perform a site survey of ground conditions. For each of the eight (8) locations identified for each category, the Principal Permittee will collect information, to the extent such information is available, including: type of roof connections, type of drainage, age of development, housing density, type of landscaping, condition of pavement, soils, and existing storm water control practices.

These are simple field surveys that can be completed by a team of two people at the rate of about 5-6 (maximum) locations a day, depending on navigation problems, traffic delays, and the proximity of the sites. Several photographs should be made of each site and archived with the field sheets for future reference.

Step 3

In this step, currently available and usable aerial photographs taken in the past five years are used to measure the percent impervious area associated with rooftops, streets, driveways, sidewalks, parking areas, storage areas, decks and sheds, swimming pools, alleyways, and other paved areas. Photographic prints for each of the homogeneous neighborhoods examined on the ground in step 2 are needed. The actual measurements require about an hour per site.

Step 4

In this step, the Principal Permittee will compile the information collected in the previous steps and use it to determine which land use categories should be monitored. This refinement step will result in a final list of categories to be examined, based on the actual measured values.

Some of the sites selected for field measurement may actually belong in another category and would be reassigned to that category before the data were evaluated. In addition, development characteristics and areas of important elements may indicate greater variability within an initial category than between other categories in the same land use. If there is no other reason to suspect differences that would affect drainage quality or quantity, these areas could be combined to reduce the total number of individual land use categories used in subsequent evaluations.

On the basis of Step 2 and Step 3, the Principal Permittee will measure the percent of directly connected impervious area for each of the eight neighborhoods surveyed. The Principal Permittee will then compare the percent of impervious area using simple non-parametric statistics to see how differences within a single land use category compare with differences between land use categories. Based on this analysis, the Principal Permittee will aggregate or subdivide land use categories as appropriate. Subdivisions of land use categories shall correspond to those in the SCAG database.

Step 5

Next, the Principal Permittee will rank the selected land use categories according to their predominance and pollutant generation. As part of its analysis, the Principal Permittee will perform a marginal cost/benefit analysis as to which land use categories should be monitored.

For each land use category the following will be estimated based on existing data: drainage area, runoff quantity and an EMC value for each of four indicator pollutants (preliminarily, copper, pyrene, total suspended solids and diazinon). The product of runoff quantity and EMC is the estimated total annual pollutant loading associated with each land use category and indicator pollutant. These sums are then ranked, from the largest to the lowest, and an accumulated percentage contribution is then produced for each pollutant. These accumulated percentage values are plotted against the number of land use categories. The graph will be relatively steep initially and then level off as it approaches 100%. A marginal cost-benefit analysis can then be used to select the number of land uses that should be monitored, which will take into account all four of the indicator pollutants.

The list of County-wide land use categories to be evaluated in Step 5 will be reviewed for each of the six watersheds in the Permit area. If there is a land use category in an individual watershed which may be feasibly monitored and is in the top five land uses in terms of total area in the watershed and is otherwise an important contributor of constituents of concern, but which would not be monitored based on the County-wide marginal cost-benefit analysis, up to two such land uses shall be monitored after the first year of the monitoring program, subject to the station event cap.

Step 6

The Principal Permittee will take the top ranked land uses and if the total number of categories exceed ten, select ten monitoring sites for monitoring the first year. All of the remaining top-ranked land uses will need

to be monitored in future years, subject to the station event cap. In selecting those sites for initial monitoring, the Principal Permittee should look for homogeneous areas that are self-contained in a drainage area. In addition, monitoring locations will need to be selected along storm drains that are able to accommodate the sampling equipment, have sampling access, no safety problems, etc.

Step 7

Next, the monitoring stations are installed. The monitoring equipment will include automatic water samplers and, if surcharging flow problems are anticipated, flow sensors measuring velocity and depth of flow. The samples collected at the automatic samplers should all be flow-weighted composites, requiring only one sample to be analyzed per event at each monitoring station. Each sampler site will need to be visited periodically to ensure that everything is ready to sample.

Step 8

The Principal Permittee will continue down the list of priority land use categories and install additional monitoring stations in subsequent years. At some point, the marginal benefit from monitoring an additional land use category will not be sufficient to justify the cost, as determined from the marginal cost-benefit analysis in step 5, and no additional sites will need to be installed. The land use sampling program will end when sufficient storms have been sampled to obtain the desired error level in the EMC values for the constituents of concern.

ATTACHMENT C-2

SCAG LAND USE CLASSIFICATIONS

1. Single Family Residential
   - High Density
   - Low Density
2. Multi-Family Residential
3. Mobile Homes and Trailer Parks
4. Mixed Residential
5. Rural Residential
6. General Office Use
7. Retail Stores and Commercial Services
8. Other Commercial
9. Public Facilities
10. Special Use Facilities
11. Educational Institutions
12. Military Installations
13. Light Industrial
14. Heavy Industrial
15. (Mineral) Extraction
16. Wholesaling and Warehousing
17. Transportation
18. Communication Facilities
19. Utility Facilities
20. Maintenance Yards
21. Mixed Transportation
22. Mixed Transportation and Utility
23. Mixed Commercial and Industrial
24. Mixed Urban
25. Under Construction
26. Golf Courses
27. Local Parks and Recreation
28. Regional Parks and Recreation
29. Cemeteries
30. Wildlife Preserves and Sanctuaries
31. Specimen Gardens and Arboreta
32. Beach Parks
33. Other Open Space and Recreation
34. Urban Vacant
35. Irrigated Cropland and Improved Pasture Land
36. Non-Irrigated Cropland and Improved Pasture Land
37. Orchards and Vineyards
38. Nurseries
39. Dairy and Intensive Livestock, and Associated Facilities
40. Poultry Operations
41. Other Agriculture
42. Horse Ranches
43. Vacant Undifferentiated
44. Abandoned Orchards and Vineyards
45. Vacant with Limited Improvements

ATTACHMENT C-3

LIST OF CONSTITUENTS IN MONITORING PROGRAM AND ASSOCIATED DETECTION LIMITS

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Conventional Pollutants		(mg/L)
Oil and Grease	413.2	1
Total Phenols	420.1	0.1
Cyanide	335.2	0.01
pH	150.1	0 - 14
Temperature		None
Dissolved Oxygen	---	Sensitivity to 5 mg/L
Bacteria		
Total Coliform	9221B	<20mpn/100ml
Fecal Coliform	9221B	<20mpn/100ml
Fecal Streptococcus	9221B	<20mpn/100ml
General		(mg/L)
Dissolved Phosphorus	300	0.05
Total Phosphorus	300	0.05
Turbidity	180.1	0.1NTU
Total Suspended Solids	160.2	2
Total Dissolved Solids	160.1	2
Volatile Suspended Solids	160.4	2
Total Organic Carbon	415.1	1
Total Petroleum Hydrocarbon	418.1	1
Biochemical Oxygen Demand	405.1	2
Chemical Oxygen Demand	410.4	20-900
Total Ammonia-Nitrogen	350.2	0.1
Total Kjeldahl Nitrogen	351.2	0.1
Nitrate-Nitrite	4110	0.1
Alkalinity	310.1	2
Specific Conductance	120.1	1umho/cm
Total Hardness	130.2	2
MBAS	425.1	<0.5
Chloride	4110	2
Fluoride	4110	0.1
Sulfate	4110	2

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Metals (Total and Soluble)		(µg/L)
Aluminum	202.1	100
Antimony	204.2	10
Arsenic	206.2	10
Barium	208.2	100
Beryllium	210.2	5
Boron	212.3	250
Cadmium	213.2	10
Calcium	215.2	200
Chromium	218.2	10
Copper	219.2	10
Hex. Chromium	7196	<10
Iron	236.2	100
Lead	239.2	10
Magnesium	242.1	200
Manganese	243.2	30
Mercury	245.1	1
Nickel	249.2	10
Potassium	258.1	100
Selenium	270.2	5
Silver	272.2	10
Sodium	273.1	50
Thallium	279.2	10
Zinc	289.2	50
Semivolatile Organic Compounds		(µg/L)
Acids	8250	
Benzoic Acid	8250	<5
Benzyl Alcohol	8250	<5
2-Chlorophenol	8250	<2
2, 4-Dichlorophenol	8250	<2
2, 6-Dichlorophenol	8250	<2
4-Dimetylphenol	8250	<2
4, 6-Dinitro-2-metylphenol	8250	<3
2,4-Dinitrophenol	8250	<3
2-Methylphenol	8250	<3
4-Methylphenol	8250	<3
2-Nitrophenol	8250	<3
4-Nitrophenol	8250	<3
4-Chloro-3-methylphenol	8250	<3
Pentachlorophenol	8250	<2
Phenol	8250	<1

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Acids (continued)	8250	(µg/L)
2,3,4,6-Tetrachlorophenol	8250	<1
2,4,5-Trichlorophenol	8250	<1
2,4,6-Trichlorophenol	8250	<1
Base/Neutral	8250	
Acenapthene	8250	<0.5
Acenapthylene	8250	<0.5
Acetophenone-	8250	<3
Aniline	8250	<3
Anthracene	8250	<0.5
4-Aminobiphenyl	8250	<3
Benzidine	8250	<3
Benzo(a)anthracene	8250	<1
4-Chloroaniline	8250	<1
1-Chloronapthalene	8250	<1
p-Dimethylaminoazobenzene	8250	<3
7,12-Dimethylbenz(a)-anthracene	8250	<1
a-,a-Dimethylphenethylamine	8250	<3
Benzo(a)pyrene	8250	<1
Benzo(b)flouranthene	8250	<1
Benzo(k)flouranthene	8250	<1
Chlordane	8250	<1
Bis(2-chloroethoxy)methane	8250	<1
Bis(2-chlorisopropyl)ether	8250	<1
Bis(2-chloroethyl)ether	8250	<1
Bis(2-ethylhexyl)phtalate	8250	<3
4-Bromophenyl phenyl ether	8250	<1
Butyl benzyl phthalate	8250	<3
2-Chloronapthalene	8250	<1
4-Chlorophenyl phenyl ether	8250	<1
Chrysene	8250	<1
Dibenz(a,j)acridine	8250	<3
Dibenz(a,h)anthracene	8250	<1
1, 3-Dichlorobenzene	8250	<0.5
1, 4-Dichlorobenzene	8250	<0.5
1, 2-Dichlorobenzene	8250	<0.5
3, 3-Dichlorobenzidine	8250	<3
Diethylphthalate	8250	<0.5
Dimethylphthalate	8250	<0.5
Di-n-butylphthalate	8250	<3
2,4-Dinitrotoluene	8250	<0.5
2, 6-Dinitrotoluene	8250	<0.5

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Base/Neutral (continued)	8250	(µg/L)
Diphenylamine	8250	<3
1, 2-Diphenylhydrazine	8250	<3
Di-n-octylphtalate	8250	<3
Ethyl methanesulfonate	8250	<3
Fluoranthene	8250	<1
Fluorene	8250	<1
Hexachlorobenzene	8250	<0.5
Hexachlorobutadiene	8250	<1
Hexachlorocyclopentadiene	8250	<3
Hexachloroethane	8250	<1
Indeno(1, 2, 3-cd)pyrene	8250	<1
Isophorone	8250	<0.5
3-Methylcholanthrene	8250	<3
Methyl methanesulfonate	8250	<3
Napthalene	8250	<0.5
1-Napthylamine	8250	<3
2-Napthylamine	8250	<3
2-Nitroaniline	8250	<3
3-Nitroaniline	8250	<3
4-Nitroaniline	8250	<3
Nitrobenzene	8250	<0.5
N-Nitroso-di-n-butylamine	8250	<3
N-Nitrosodimethylamine	8250	<3
N-Nitrosodiphenylamine	8250	<3
N-Nitroso-di-N-propylamine	8250	<1
N-Nitrosopiperidine	8250	<3
Pentachlorobenzene	8250	<3
Phenacitin	8250	<3
Phenanthrene	8250	<0.5
2-Picoline	8250	<3
Pronamide	8250	<5
Pyrene	8250	<0.5
5-Tetrachlorobenzene	8250	<3
1, 2, 4,-Trichlorobenzene	8250	<0.5
Pesticides	608	µg/L
Aldrin	608	0.05
alpha-BHC	608	0.05
beta-BHC	608	0.05
delta-BHC	608	0.05
gamma-BHC (Lindane)	608	0.05
Carbofuran	531.1	<5

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Pesticides (continued)	8250	(µg/L)
Chlordane	608	0.05
4, 4'-DDD	608	<0.1
4, 4'-DDE	608	<0.1
4, 4'-DDT	608	<0.1
Benzaton	515.1	<2
Dieldrin	608	<0.1
Endosulfan I	608	<0.1
Endosulfan II	608	<0.1
Endosulfan sulfate	608	<0.1
Endrin	608	<0.1
Endrin aldehyde	608	<0.1
Glyphosate	547	<.5
Heptachlor	608	0.05
Heptachlor epoxide	608	0.05
Methoxychlor	608	<0.5
Toxaphene	608	<1.0
2,4-D	515.1	<.02
2,4,5-TP-SILVEX	515.1	<0.2
Polychlorinated Biphenyls	608	(µg/l)
Aroclor-1016	608	<1
Aroclor-1221	608	<1
Aroclor-1232	608	<1
Aroclor-1242	608	<1
Aroclor-1248	608	<1
Aroclor-1254	608	<1
Aroclor-1260	608	<1
Herbicides		(µg/L)
*Diazinon		
*Chlorpyrifos		
*Diuron		
*Malathion		
*Prometryn	507	
*Atrazine	507	
Simazine	507	<2
*Cyanazine	507	
Molinate	507	<.01
Thiobencarb	507	<.1

* Method or Detection Limits to be determined

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CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Volatile Organic Compounds (VOCs)	8240A	(µg/L)
Acetonitrile	8240A	10.0
Acrolein	8240A	10.0
Acrylonitrile	8240A	0.5
Benzene	8240A	0.5
Bromoform	8240A	0.5
2-Butanone	8240A	10.0
Carbon Disulfide	8240A	10.0
Carbon Tetrachloride	8240A	0.5
Chlorobenzene	8240A	0.5
Chlorodibronmethane	8240A	0.5
Chloroethane	8240A	0.5
2-Chloroethyl vinyl ether	8240A	1.0
Chloroform	8240A	0.5
Dibromomethane	8240A	0.5
1,2-Dibromo-3Chloropropane	8240A	<.01
1, 4-Dichloro-2-butene	8240A	10.0
Dichlorobromomethane	8240A	0.5
Dichlorodifluoromethane	8240A	0.5
1, 1-Dichloroethane	8240A	0.5
1, 2-Dichloroethane	8240A	0.5
1, 1-Dichloroethene	8240A	0.5
trans-1, 2-Dichloroethene	8240A	0.5
1, 2-Dichloropropane	8240A	0.5
cis-1, 3-Dichloropropene	840A	0.5
trans-1, 3-Dichloropropene	8240A	0.5
Ethanol	8240A	10.0
Ethylbenzene	8240A	1.0
Ethylene Dibromide	8240A	<.01
Ethylene Oxide	8240A	10.0
Ethyl Metcrylate	8240A	0.5
2-Hexanone	8240A	5.0
Iodomethane	8240A	0.5
Methyl Bromide	8240A	5.0
Methyl Chloride	8240A	5.0
Methylene Chloride	8240A	1.0
4-Methyl-2-pentanone	8240A	5.0
Styrene	8240A	0.5
1, 1, 2,2-Tetrachloroethane	8240A	0.5
Tetrachloroethane	8240	0.5
Toluene	8240A	1.0
Trichlorofluoromethane	8240A	1.0
1, 2,3-Trichloropropane	8240A	0.5
Trichloroethene	8240A	0.5

(federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

Integrated Pest Management (IPM): Pest management practice that considers the whole ecosystem when determining potential pest control strategies. IPM emphasizes use of a hierarchy of controls, with a preference for mechanical controls (e.g., mowing) and biological controls (e.g., beneficial insects, pheromones) before chemical controls (e.g., pesticides).

Jurisdiction: Means the geographic area within the Permittee's boundaries that are required under this Order to be under the Permittee's regulatory control. The term is not intended to include facilities which the Permittee is preempted or otherwise precluded from regulating, such as federal and state facilities, school districts, and similar governmental (non-municipally owned or operated) entities.

Legal Authority: The ability of a Permittee to impose and enforce statutes, ordinances, and regulations to require control of pollutant sources and regulate the discharge of pollutants to the storm drain system, and to enter into interagency agreements, contracts, and memorandums of understanding. These powers are granted to the Permittees by the Constitution of the State of California and the General Laws of the State (for General Law Cities/Counties) or individual constitutions (for Charter Cities/Counties). These powers are promulgated by the Permittee through their municipal codes, ordinances, and statutes duly adopted by their governing body.

MS4: See Municipal Separate Storm Sewer System

Maximum Extent Practicable (MEP): The standard for implementation of storm water management programs to reduce pollutants in storm water. MEP refers to storm water management programs taken as a whole. It is the maximum extent possible taking into account equitable consideration and competing facts, including, but not limited to: the gravity of the problem, public health risk, societal concern, environmental benefits, pollutant removal effectiveness, regulatory compliance, public acceptance, implementability, cost and technical feasibility. Section 402(p)(3)(B)(iii) of the Clean Water Act requires that municipal permits "...shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

Municipal Separate Storm Sewer System (MS4): See Storm Drain System.

NPDES: See National Pollutant Discharge Elimination System

National Pollutant Discharge Elimination System: A permit issued by the USEPA, SWRCB, or CRWQCB pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.

Non-Storm Water Discharge: Any discharge to a municipal storm drain system that is not composed entirely of storm water.

Notice of Intent to Meet and Confer (NIMC): A letter sent to a Permittee or Permittees by the Regional Board Executive Officer as an invitation to discuss the implementation of requirements under this Order and is made when it is suspected that a Permittee or Permittees has/have an insufficient program based upon performance and submittals made under this Order. The NIMC is a part of the Administrative Review section of this Order and provides an opportunity for the Permittee(s) to meet with Regional Board staff to

clarify any potential misunderstandings prior to, or in lieu of the Regional Board taking enforcement action for "non-compliance".

Nuisance: Anything which meets all of the following requirements: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; (3) occurs during, or as a result of, the treatment or disposal of wastes.

Permittee(s): Any agency named in the NPDES storm water permit as being responsible for permit conditions within its jurisdiction. Permittees to the NPDES storm water permit presently include the County of Los Angeles and the cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bell, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Canada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Long Beach, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier.

Pervious: Natural or man-made surfaces that allow the entry of water into the underlying soil, resulting in less runoff from the surface when compared to impervious surfaces. Examples of pervious surfaces include vegetated areas, most undeveloped areas, uncompacted earth surfaces, and lattice type modular pavements.

Phase I Facilities: This term refers to categories of facilities which are required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for storm water discharges associated with "industrial activity" as required by 40 CFR 122.26(c). The term "industrial activity" is defined in 40 CFR 122.26(b)(14) and in general refers to 11 categories of activities. These categories include:

i. FACILITIES SUBJECT TO STORM WATER EFFLUENT LIMITATIONS GUIDELINES, NEW SOURCE PERFORMANCE STANDARDS, OR TOXIC POLLUTANT EFFLUENT STANDARDS (40 CFR SUBCHAPTER N). Currently, categories of facilities subject to storm water effluent limitations guideline are Cement Manufacturing (40 CFR Part 411), Feedlots (40 CFR Part 412), Fertilizer Manufacturing (40 CFR Part 418), Petroleum Refining (40 CFR Part 419), Phosphate Manufacturing (40 CFR Part 422), Steam Electric (40 CFR Part 423), Coal Mining (40 CFR Part 434), Mineral Mining and Processing (40 CFR Part 436), Ore Mining and Dressing (40 CFR Part 440), and Asphalt Emulsion (40 CFR Part 442). The fact sheet accompanying this general permit contains additional information pertaining to facilities subject to new source performance standards or toxic pollutant effluent standards.

ii. MANUFACTURING FACILITIES: Standard Industrial Classifications (SICs) 24 (except 2411 and 2434), 26 (except 265 and 267), 28 (except 283 and 285) 29, 311, 32 (except 323), 33, 3441, and 373.

iii. OIL AND GAS/MINING FACILITIES: SICs 10 through 14 including active or inactive mining operations (except for areas of coal mining operations meeting the definition of a reclamation area under 40 CFR 434.11(1) because of performance bond issued to the facility by the appropriate Surface Mining Control and Reclamation Act (SMCRA) authority has been released, or except for area of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment

operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with any overburden, raw material, intermediate products, finished products, by products, or waste products located on the site of such operations. Inactive mining operations are mined sites that are not being actively mined, but which have an identifiable owner/operator. Inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined material, or sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.

iv. HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES: Includes those operating under interim status or a general permit under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA).

v. LANDFILLS, LAND APPLICATION SITES, AND OPEN DUMPS: Sites that receive or have received industrial waste from any of the facilities covered by this general permit, sites subject to regulation under Subtitle D of RCRA, and sites that have accepted waste from construction activities (construction activities include any clearing, grading, or excavation that results in disturbance of five acres or more).

vi. RECYCLING FACILITIES: SICs 5015 and 5093. These codes include metal scrap yards, battery reclaimers, salvage yards, motor vehicle dismantlers and wreckers, and recycling facilities that are engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste material such as bottles, wastepaper, textile wastes, oil waste, etc.

vii. STEAM ELECTRIC POWER GENERATING FACILITIES: Includes any facility that generates steam for electric power through the combustion of coal, oil, wood, etc.

viii. TRANSPORTATION FACILITIES: SICs 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or other operations identified herein that are associated with industrial activity.

ix. SEWAGE OR WASTEWATER TREATMENT WORKS: Facilities used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of one million gallons per day or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens, or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with Section 405 of the CWA.

xi. MANUFACTURING FACILITIES WHERE MATERIALS ARE EXPOSED TO STORM WATER: SICs 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-4225.

Note: Category x, Construction activity, is covered by a separate general permit.

Pollutant: Those "pollutants" defined in Section 502(6) of the federal Clean Water Act (33 U.S.C.§1362(6)), or incorporated into California Water Code §13373. Examples of pollutants include, but are not limited to the following:

- Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);

- Metals such as cadmium, lead, zinc, copper, silver, nickel, chromium, and non-metals such as phosphorus and arsenic;

- Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease);

- Excessive eroded soils, sediment, and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the State;

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▪Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities);

▪Substances having characteristics such as pH less than 6 or greater than 9, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;

The term "Pollutant" shall not include uncontaminated storm water, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

The term "Pollutant" also shall not include any substance identified in this definition, if through compliance with the best management practices available, the discharge of such substance has been eliminated to the maximum extent practicable. In an enforcement action, the burden shall be on the person who is the subject of such action to establish the elimination of the discharge to the maximum extent practicable through compliance with the best management practices available.

Pollutant Loading: The quantity of a pollutant found in storm water and/or non-storm water expressed in mass per unit of time. Pollutant loadings are commonly expressed in units of tons/year or pounds/year.

Pollutants of Concern: Pollutants that exhibit one or more of the following characteristics:

▪Current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water,

▪Elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein, or

▪The detectable inputs of the pollutant are at a level high enough to be considered potentially toxic to humans and/or flora and fauna.

Pollutants of concern may be different for each receiving water.

For example, Pollutants of concern for the Santa Monica Bay Watershed Management Area include, DDT, PCBs, PAHs, Chlordane, TBT, cadmium, chromium, copper, lead, nickel, silver, zinc, pathogens, TSS (sediment), nutrients, trash and debris, chlorine, oxygen demanding substances, and oil and grease.

Pollution Prevention: Includes any planning, schedules of activities, prohibitions of practices, implementation maintenance procedures, and other management practices, to prevent or reduce pollutants in storm water / urban runoff discharges.

Potable Water Sources: Means flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, well development, pump testing, fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and wells.

Principal Permittee: The agency named in the NPDES storm water permit to serve as permit coordinator, responsible for general administration of the permit, and coordinating cooperation by other Permittees, including but not limited to the implementation of local self-monitoring programs and BMPs, and preparation and submittal of reports required by the permit. The Principal Permittee under this Order is the County of Los Angeles.

Proper Disposal: The act of disposing of material(s) in a lawful manner and which ensures the protection of water quality and beneficial uses of receiving waters.

Public Agency Vehicle Maintenance/Material Storage Facility: Any Permittee-owned and/or operated facility that is: used for vehicle or equipment maintenance, repair, washing, or fueling; and/or is required to prepare a hazardous materials business plan.

Regional Board: The Governing Board of the California Regional Water Quality Control Board State agency with primary responsibility for the coordination and control of water quality. This means the California Regional Water Quality Control Board, Los Angeles Region. The Los Angeles Region, is comprised of all basins draining into the Pacific Ocean between the southeasterly boundary, located in the westerly part of Ventura County, of the watershed of Rincon Creek and a line which coincides with the southeasterly boundary of Los Angeles County from the ocean to San Antonio Peak and follows thence the divide between San Gabriel River and Lytle Creek drainage to the divide between Sheep Creek and San Gabriel River drainage.

Reportable Quantity: Means that quantity of a hazardous substance, as set forth in 40 CFR 302, which requires notification pursuant to 40 CFR 302 in event of that quantity release.

Receiving Waters: All surface water bodies within the permit area that are identified in the Basin Plan.

Runoff: Means any runoff including storm water and dry-weather flows from a drainage area that reaches a receiving water body or sub-surface. During dry weather it is typically comprised of many base flow components either contaminated with pollutants or uncontaminated.

SIC: See Standard Industrial Classification.

SPCA: See Storm Water Program Compliance Amendment

SWRCB: State Water Resources Control Board

Secondary Containment: Structures, usually dikes or berms, surrounding tanks or other storage containers to catch spilled or leaked materials to prevent their discharge to the MS4.

Sediment: Organic or inorganic material that is carried by or suspended in water and settles to form deposits in the storm drain system or receiving waters.

Source Minimization: Planning or operational practices that reduce the amount of materials stored at a site.

Standard Industrial Classification (SIC): The statistical classification standard, organized by industry, underlying all establishment-based federal economic statistics. The SIC of a particular industry is determined using the latest Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget.

Storm Drain System: Streets, gutters, conduits, natural or artificial drains, channels and watercourses, or other facilities that are owned, operated, maintained or controlled by any Permittee and used for the purpose of collecting, storing, transporting, or disposing of storm water.

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Storm Water: Water which originates from atmospheric moisture (rainfall or snowmelt) and that falls onto land, water, or other surfaces.

Storm Water Management Program: This is the sum of all requirements of this Order. This is not be confused with the CSWMP.

Storm Water Pollution Prevention Plan (SWPPP): A plan required by and for which contents are specified in the State of California General Permit for Storm Water Discharges Associated with Industrial Activities, and the General Permit for Storm Water Discharges Associated with Construction Activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of storm water discharges from a site and to describe and ensure the implementation of practices to reduce pollutants in storm water discharges.

Storm Water Program Compliance Amendment (SPCA): The SPCA is a report prepared by a Permittee if directed to by the Regional Board Executive Officer for insufficient submittals made under this Order. The SPCA is a part of the Administrative Review section of this Order and will include additions and enhancements to the jurisdiction's storm water program with enforceable implementation deadlines.

Storm Water Runoff: That part of precipitation (rainfall or snowmelt) which travels via flow across a surface to the storm drain system or receiving waters. Examples of this phenomenon include: the water that flows from a building's roof when it rains (runoff from an impervious surface); the water that flows into streams when snow on the ground begins to melt (runoff from a semi-pervious surface); and the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the underlying soil (runoff from a pervious surface). When all other factors are equal, runoff increases as the perviousness of a surface decreases.

Storm Water Runoff Mitigation Plan: A plan, to be submitted prior to the submittal of an application for the first planning or building approval for a new development project, that sets forth storm water pollution controls to be incorporated into development projects. The plan shall:

■be designed to reduce the runoff volume from the site and the pollutant load contributed by the site through incorporation of design elements and practices that address each of the following goals:

■maximize, to the extent practicable, the percentage of permeable surfaces in order to allow more percolation,

■minimize, to the extent practicable, the amount of runoff directed to impermeable areas to the storm drain system,

■maximize, to the extent practicable, storm water filtration and storage for reuse through the use of sediment traps, cisterns or other means,

■minimize, to the extent practicable, parking lot pollution through the use of porous materials to allow percolation of storm water, through the installation of appropriate treatment controls, or through other means.

Street Washing: The practice of washing of streets and sidewalks using water or other cleaning fluids.

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Toxic Materials: For the purposes of this Order, toxic materials means any material(s) or combination of materials which directly or indirectly cause(s) either acute or chronic toxicity in the water column.

Toxic Pollutant: Those "pollutants", or combinations of pollutants, defined in Section 502(13) or 307(a)(1) of the federal Clean Water Act (33 U.S.C.§1362(13)).

Undesirable Coloration: See "Color" in the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (page 3-9) June 13, 1994.

USEPA: United States Environmental Protection Agency

Waste Minimization: Operational practices that reduce the amount of waste materials generated. Practices may include recycling and reuse.

Watershed Management Area (WMA): Any one of the six general watershed areas covered by this NPDES storm water permit consisting of the: Malibu Creek and other rural areas discharging to Santa Monica Bay, Santa Clara River, Dominguez Channel/Los Angeles Harbor, San Gabriel River, Los Angeles River, and Ballona Creek and other urban areas discharging to the Santa Monica Bay watersheds.

Watershed Management Area Plan (WMAP): A plan for implementation of permit requirements that is based on the Countywide Storm Water Management Plan (CSWMP) but further addresses specific issues, pollutants of concern, and BMPs that are unique to the specific Watershed Management Area.

Watershed Management Committee (WMC): A committee composed of representatives from each Permittee in a Watershed Management Area. Duties include establishing goals and objectives for the Watershed; prioritizing pollution control efforts; developing a specific Watershed Management Plan; coordinating and facilitating annual reports for the watershed; and facilitating compliance by Permittees in the watershed.

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
VOCs (continued)	8240A	(µg/L)
1, 1, 1-Trichloroethane	8240A	1.0
1, 1,2-Trichloroethane	8240A	1.0
1,1,2-Trichloro- 1,2,2 trifluoroethane	8240A	<.5
Vinyl acetate	8240A	5.0
Vinyl chloride	8240A	0.5
Xylene (Total)	8240A	0.5

ATTACHMENT C-4

CRITICAL SOURCE/ BMP MONITORING

Selection of Initial Critical Sources to be Studied: The selection of initial critical sources will be made using the following steps:

Step 1: The Principal Permittee first will develop an initial list of candidate critical sources, including industrial and commercial sources that are regulated under the state's General Permit and those which are not.

Step 2: The Principal Permittee next will develop a list of criteria for prioritizing the candidate critical sources developed pursuant to Step 1, including the following: number and/or total area associated with each critical source; runoff pollutants associated with each source; the impact of non stormwater discharges associated with each source; whether or not the source is regulated under the General Permit; and, ease of implementation of monitoring and BMPs.

Step 3: The Principal Permittee next will prioritize the candidate critical sources based on the selection criteria develop under Step 2.

Step 4: The Principal Permittee next will conduct a literature review and contact other state municipal stormwater programs to identify what critical sources have been (or are planned in the next five years) to be studied elsewhere. Where studies have been conducted or are planned to be conducted elsewhere, such studies will be reviewed to assess whether the hydrologic conditions in the study area are representative of those in Los Angeles County, the quality of the study, and any conclusions from studies already conducted. This evaluation will be coordinated with the State Stormwater Quality Task Force.

Step 5: The Principal Permittee next will take the list developed in Step 3 and refine and finalize it based upon the review conducted pursuant to Step 4.

Selection of Additional Critical Sources/BMPs: The selection of additional critical sources or BMPs for monitoring following the third rainy season from the adoption of this Order will follow the steps noted above, except that BMPs be evaluated in addition to critical sources.

ATTACHMENT C-5

RECEIVING WATERS STUDY

A receiving waters study will be a joint effort among the University of Southern California, the University of California at Santa Barbara and the Southern California Coastal Water Research Project ("SCCWRP"). In addition, the study will be done in cooperation with an ongoing toxicity study by investigators at UCLA. Co-funding, either direct or in terms of vessel support, will be provided by the federal government through the Sea Grant program, and by the City of Los Angeles through SCCWRP. It must be noted that while the Principal Permittee is committed to funding a receiving waters study, the scope of that study will be affected by the availability of non-Principal Permittee funding sources, as discussed below. The Principal Permittee's commitment is limited to the provision of funds.

A. Outline of Study: The receiving waters study includes a plume study to determine the dispersion of stormwater runoff and associated sediment, a study of the benthic environment near two principal storm drains, Malibu and Ballona Creeks, and an assessment of the toxicity of storm drain waters and affected sediments near Malibu and Ballona Creeks. The plume study will be carried out by the USC Sea Grant program. The benthic and toxicity studies will be carried out by SCCWRP. All of these studies will be carried out over two storm seasons, with the third year used for analysis of the data obtained in the previous years. If it is the consensus of the project scientists that a third year of research is appropriate for the benthic and toxicity studies, such study shall be carried out. Each element of these studies is outlined below.

1. Plume Study: The plume study will be conducted over two storm seasons to, at a minimum, accomplish the following:

   - Map the spatial and temporal structure of the runoff plumes from Ballona and Malibu Creeks as they flow into Santa Monica Bay following strong winter storms.
   - Examine the interaction between the runoff plume and ocean processes as they affect the advection, dispersion, and mixing of the plume.
   - Evaluate the impact of storm runoff plumes on beneficial uses of the coastal ocean.
   - Characterize the optical properties of the suspended particulate material ("SPM") and dissolved organic material ("DOM") associated with runoff sources.
   - Examine the effects of DOM and SPM on the water column optics and the distribution of nutrient concentrations, as the same may affect phytoplankton productivity.
   - Assist in establishing appropriate locations for benthic study stations.

2. Benthic Study: The benthic study will measure the following parameters:

   - Water quality (dissolved oxygen, salinity, density, temperature, light transmissivity and pH).
   - Sediment grain size, sediment organic concentrations and sediment contaminant concentrations.
   - The structure of the benthic invertebrate community.

   The benthic study will employ the same methods used in studies of dry weather impacts in river discharge areas carried out by SCCWRP in 1994 and 1995 in the entire Southern California Bight.

3. Toxicity Study: The toxicity study will involve the following proposed annual elements:
   Water Column Toxicity

   - 30 sea urchin fertilization bioassays taken during two storm and one dry weather event off each of Ballona and Malibu Creeks (including reference sites).
   - 3 Phase I TIE tests on up to 3 samples showing toxicity in the sea urchin fertilization bioassays

   Sediment Toxicity

   - Amphipod survival bioassays of sediment samples from 10 stations (including reference sites) will be taken 2 times (1 storm and 1 dry weather period) in Year 1.
   - Amphipod survival bioassays of sediment samples from 10 stations (including reference sites) will be taken 2 times (1 storm and 1 dry weather period) in Year 2.
   - Sea urchin growth bioassays will be conducted for chronic toxicity in sediment samples from 6 stations, plus 1 reference site, with the locations to be determined by project scientists based on existing data and best scientific judgment. Biological effects only (survival, growth, sediment avoidance) will be measured for all sites in Year 2.
   - Chemical analysis of sea urchin growth test tissue samples (gonad) will be conducted for organics and metals. Duplicate samples from 4 stations (including one reference) will be analyzed in Year 2.
   - Phase I TIE tests using sea urchin fertilization of interstitial water from up to 4 stations identified to be toxic in amphipod survival bioassays (4 samples total) will be conducted in Year 2.
   - Additional interstitial water testing intended to coordinate with the UCLA study

noted below may also be carried out.

B. Project Flexibility: The exact parameters of Year 2 (and Year 3, if necessary) testing will be determined through a review by the project scientists of the results of Year 1 and Year 2 testing. Thus, the steps outlined above may be modified following the reviews.

C. Coordination with UCLA Toxicity Study: UCLA researchers are involved in an ongoing Santa Monica Bay Restoration Project study of the toxicity of stormwater runoff in Ballona and Malibu Creeks. The receiving waters study shall be coordinated, to the extent possible, with the UCLA study to maximize the utility of information obtained by both studies.

D. Los Angeles and San Gabriel River Study: In addition, the Principal Permittee will take a total of three (two storm weather and one dry weather) water samples taken at each of the Los Angeles and San Gabriel River mass emission stations during each of the first two years that those stations are monitored. The samples will be analyzed using the sea urchin fertilization bioassay, with the bioassay costs not to exceed $3,600.

ATTACHMENT D

GLOSSARY OF TERMS

40 CFR: Title 40 of the Code of Federal Regulations, which is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

Adverse Impact: A detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants. See also "Impact".

Authorized Discharge: Any discharge that is authorized pursuant to an NPDES permit or meets the conditions set forth in this Order.

Basin Plan: Refers to the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Board on June 13, 1994 and subsequent amendments.

Beneficial Uses: Existing or potential uses of receiving waters in the permit area as designated by the Regional Board in the Basin Plan.

BAT/BCT Criteria: Treatment-based standards for reducing the discharge of pollutants, as defined in 40 CFR subchapter N, for specific categories of industrial facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards. Effluent limitations have been defined in 40 CFR for the reduction of toxic pollutants using Best Available Technology Economically Achievable (BAT) and for the reduction of conventional pollutants using Best Conventional Pollutant Control Technology (BCT).

BMP: See Best Management Practice

Best Management Practice (BMP): Activities, practices, facilities, and/or procedures that when implemented to their maximum efficiency will prevent or reduce pollutants in discharges. Examples of BMPs may include public education and outreach, proper planning of development projects, proper clean out of catch basin inlets, and proper sludge or waste handling and disposal, among others.

Bioaccumulate: The build up of a substance in the tissues of an organism to a higher concentration than in the surrounding environment, generally as a result of the organism's ingestion and internal storage of the substance over time.

Biostimulatory: An agent, action, or condition that arouses, elicits or accelerates physiological or organic activity. For example, the introduction of excessive nutrients to an aquatic system has a biostimulatory effect which manifests itself as excessive growth of algae in the aquatic systems. As the algae decomposes, dissolved oxygen in the water column is depleted, potentially leading to excessively low dissolved oxygen levels which can lead to suffocation of aquatic life, i.e., fish kills.

CFR: See Code of Federal Regulations.

CRWQCB: The California Regional Water Quality Control Board, Los Angeles Region. See also Regional Board.

CSWMP: See Countywide Storm Water Management Plan

California Storm Water Best Management Practice Handbooks: The technical manuals prepared under direction of the Storm Water Quality Task Force, representing California members of the American Public Works Association (APWA). Comprising three volumes—Municipal, Industrial, and Construction—they provide guidance for selecting BMPs to reduce pollutants in storm water discharges. These manuals are currently available from Blue Print Service, 1700 Jefferson Street, Oakland, CA 94612, (510) 444-6771 or Fax (510) 444-1262.

Clean Water Act (CWA): The Federal Water Pollution Control Act enacted in 1972 by Public Law 92-500 and amended by the Water Quality Act of 1987. The Clean Water Act prohibits the discharge of pollutants to Waters of the United States unless said discharge is in accordance with an NPDES permit. The 1987 amendments include guidelines for regulating municipal, industrial, and construction storm water discharges under the NPDES program.

Code of Federal Regulations: A codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government.

Construction Activity: Clearing, grading, or excavation that results in soil disturbance. Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Control: To minimize, reduce or eliminate by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

Countywide Storm Water Management Plan (CSWMP): A single comprehensive plan for implementation of the requirements of this Order that are applicable to all Permittees and all Watershed Management Areas. The CSWMP is a storm water management implementation plan for the entire drainage area within the jurisdiction of the Permittees under this Order. The Countywide Storm Water Management Plan will be developed as a single document by the Principal Permittee, with assistance and participation from the Permittees, according to the schedule prescribed in the permit. The CSWMP shall be used as a tool to develop a watershed specific Watershed Management Area Plan (WMAP).

Dechlorinated Swimming Pool Discharges: Means swimming pool discharges which have no measurable chlorine and do not contain any detergents, wastes, or additional chemicals not typically found in swimming pool water. The term swimming pool discharges does not include swimming pool filter backwash.

Discharge: Any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid or solid substance.

Disposal: Affirmative act in the placement of wastes or other materials to be thrown out or thrown away.

Disturbed Area: Means that area altered as a result of clearing, grading, and/or excavation of earth.

Do-it-yourselfers: Means any person or persons who repair or maintain their own vehicle(s) and/or home(s).

Effectively Prohibit: Means prohibit through legal authority or control through requirements, conditions, or other limitation. Control may include best management practices.

Effectiveness: A direct or indirect measure or indicator of how well a program, plan, or best management practice achieves its intended purpose. Measures or indicators of effectiveness include, but are not limited to, detailed accounting of program accomplishments, funds expended, staff hours utilized, field surveys, amount of pollutants reduced, biosurveys, and quantitative data from water quality and sediment sampling.

Erosion: The wearing away of land surface primarily by wind or water. Erosion occurs naturally as a result of weather or runoff but can be intensified by clearing, grading, or excavation of the land surface.

Executive Advisory Committee (EAC): A committee composed of representatives of the County of Los Angeles, the City of Los Angeles, and the six Watershed Management Areas.

Executive Officer: The Executive Officer of the California Regional Water Quality Control Board, Los Angeles Region, or an authorized representative.

Food Distribution Industry: Establishments primarily engaged in the warehousing and storage of perishable goods under refrigeration described by SIC 4222, and establishments primarily engaged in retail selling of food for home preparation and consumption described by SIC Major Group 54.

Food Service Industry: Establishments primarily engaged in the retail sale of prepared food and drinks for on-premise consumption or immediate consumption described by SIC 5812

GCASP: See General Construction Activity Storm Water Discharge Permit.

GIASP: See General Industrial Activity Storm Water Discharge Permit.

General Construction Activity Storm Water Discharge Permit (GCASP). The NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water under certain conditions.

General Industrial Activity Storm Water Discharge Permit (GIASP). The NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water under certain conditions.

Good Housekeeping Practice: A common practice related to the storage, use, or cleanup of materials, performed in a manner that minimizes the discharge of pollutants. Examples include purchasing only the quantity of materials to be used at a given time, use of alternative and less harmful products, cleaning up spills and leaks, and storing materials in a manner that will contain any leaks or spills.

Hazardous Material: Any material defined as hazardous by Chapter 6.95 of the California Health and Safety Code.

Hazardous Substance: Any substance designated pursuant to 40 CFR 302. This also includes unlisted

hazardous substances which is a solid waste, as defined in 40 CFR 261.2, which is not excluded from regulation as a hazardous waste under 40 CFR 261.4(b), is a hazardous substance under section 101(14) of the CWA if it exhibits any of the characteristics identified in 40 CFR 261.20 through 261.24. Examples of hazardous substances include any substance or chemical product for which one or more of the following applies:

- A material safety data sheet (MSDS) is required
- The substance is listed as radioactive by the Nuclear Regulatory Commission
- The substance is listed as hazardous by the U.S. Department of Transportation
- The material is listed in Labor Code §6382(b).

Hazardous Waste: Means a 'Hazardous Substance' or 'Hazardous Material' which is to be discharged, discarded, recycled, or processed.

IPM: See Integrated Pest Management.

Illicit Connection: Any human-made conveyance that is connected to the storm drain system without a permit, excluding roof-drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

Illicit Discharge: Any discharge to the storm drain system that is prohibited under local, state or federal statutes, ordinances, codes or regulations. This includes all non-storm water discharges except discharges pursuant to an NPDES permit and discharges that are exempted or conditionally exempted in accordance with Section II of this Order.

Illicit Disposal: Any disposal, either intentionally or unintentionally, of material(s) or waste(s) that can pollute storm water or urban runoff.

Impact: Any actual or potential effect caused either directly or indirectly by the discharge of pollutants.

Impervious Surface: Surface that prevents or significantly reduces the entry of water into the underlying soil, resulting in runoff from the surface in greater quantities and/or at an increased rate when compared to natural conditions prior to development. Examples of places that commonly exhibit impervious surfaces include parking lots, driveways, roadways, storage areas, and rooftops. The imperviousness of these areas commonly results from paving, compacted gravel, compacted earth, and oiled earth.

In Consultation With: Means that the Principal Permittee and Permittees work cooperatively towards the development of programs.

Industrial Activity: The term "industrial activity" is defined in 40 CFR 122.26(b)(14) and refers to 11 categories of activities required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for storm water discharges associated with "industrial activity" as required by 40 CFR 122.26(c). See Phase I Facilities.

Industrial/Commercial Facility: Any facility involved and/or used in either the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. This category of facility includes, but is not limited to, any facility defined by the Standard Industrial Classifications (SIC). Facility ownership

Executive Advisory Committee
Stormwater Program - Los Angeles County

April 26, 2001

Mr. H. David Nahai, Chair
California Regional Water Quality
Control Board - Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Nahai:

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MUNICIPAL STORM WATER PERMIT FOR LOS ANGELES COUNTY

On February 1, 2001, the Los Angeles County Permitees submitted a Report of Waste Discharge (ROWD) to the Regional Board in accordance with the requirements of our National Pollutant Discharge Elimination System (NPDES) Municipal Storm Water Permit. The ROWD was the subject of many months' effort on the part of the Permitees. We believe the ROWD, which was the formal application for the next phase of the NPDES Storm Water Permit, to be a well-founded document. It incorporates all of the model programs and watershed management plans developed under the current Permit, and expanded on the implementation and further development of these plans during the next phase of the Municipal Storm Water Permit. Urban runoff water quality is a critical issue, and the permit application we submitted goes a long way toward improving storm water quality.

We fully anticipated working with Regional Board staff on fine tuning our application to come up with a workable permit that would enable us to continue our efforts to improve urban runoff water quality. To this end, a subcommittee of the Executive Advisory Committee was formed and met with Regional Board staff to address issues where a difference of opinion exists as to what would be the best approach to achieve this goal. We felt that open negotiations would be in the best interests of all parties. However, we were surprised when your Executive Officer informed us on March 14 that the discussions between Regional Board staff and the Permitees' subcommittee were just "discussions" to better familiarize Regional Board staff with key issues concerning permit implementation

from the Permitees' point of view, and stated that it is not the Regional Board's intent to negotiate the next Municipal Stormwater Permit. We believe that this is an unfortunate position. The result is a draft permit issued on April 13 which contains many requirements that we believe are inappropriate and without legal merit. The Permitees would like to work with you to negotiate a permit that makes sense and is in the best interests of Los Angeles County.

The draft permit sets numeric water quality criteria for urban runoff and requires the Permitees to control the contribution or potential contribution of pollutants in stormwater. The draft permit assumes that the storm drain system can be operated as a closed system, and that treatment processes can be installed to effectively meet numerical water quality criteria. However, a storm drain system is neither designed nor operated like a sanitary sewer system. The storm drain system is an open system, not a closed system such as a sewer system. Thus, the Permittees do not have the level of control assumed in the draft permit over material entering a storm drain system.

The draft permit transfers to Permitees responsibilities that clearly belong to the State, such as inspection of industrial facilities and construction sites permitted by the State. This shift of responsibility is statutorily unworkable and patently unfair. The State collects fees and issues NPDES permits for these activities and now is asking the cities to step in and take over the State's inspections and enforcement responsibilities. The Permittees are not technically equipped and do not have the financial resources to inspect and enforce the State permits.

There are many other areas where we have significant differences of opinion with regard to the language and the requirements in the draft permit. We ask that you direct staff to negotiate with the Permitees in good faith to develop a Permit that we can all embrace and that will truly cleanup urban runoff. Earnest negotiations that recognize the financial and legal limitations of the Permitees, and are clear and consistent with the Clean Water Act and the Porter Cologne Act, are in your and our best interest. There is no purpose served in developing a permit that we do not believe is proper and end up in an adversarial situation that may result in litigation and the diversion of limited resources in a manner not beneficial to anyone.

A negotiated permit will avoid having the Permittees appearing before you on July 26 when your Board considers adopting the permit with all of our objections. At that point, it will be very difficult for you to consider and address our concerns since you will be facing time constraints to adopt a permit.

We trust that we will receive a favorable response. Thank you for your consideration.

Sincerely,

Des! Alvarez
Chair
Executive Advisory Committee

DA:sv
WM-9\A:/EAC_NPDESLETTER WPD

cc: All Permittees
California Regional Water Quality Control Board (Dennis A. Dickerson)
Los Angeles Regional Water Quality Control Board Members
State Water Resources Control Board Members

Executive Advisory Committee

Stormwater Program - Los Angeles County

May 16, 2001

Mr. Dennis A. Dickerson, Executive Officer
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

APRIL 13, 2001, "DRAFT WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORMWATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES, EXCEPT FOR THE CITIES OF LONG BEACH AND SANTA CLARITA"

The Executive Advisory Committee has reviewed the April 13, 2001, "Draft Waste Discharge Requirements for Municipal Stormwater and Urban Runoff Discharges Within the County of Los Angeles and the Incorporated Cities, except for the Cities of Long Beach and . As you are aware, the Los Angeles County Permittees submitted a Report of Waste Discharge (ROWD) and to the Regional Board on February 1, 2001. We believe that our ROWD, as submitted, provided a sound basis for the issuance of the new Permit incorporating all of the Model Programs and watershed management plans developed under the current Permit, and expanding on the implementation of these plans.

We appreciate that the April 13 Draft Permit incorporates many of the proposals in the ROWD. However, the April 13 Draft Permit also contains many requirements with which we do not concur. The Los Angeles County's Permittees would like to take this opportunity to request that the Regional Board strictly adhere to Section 402 (P) (3) of the Federal Clean Water Act which clearly establishes that the standard compliance for municipal stormwater discharge is the reduction of stormwater pollutants to the maximum extent practicable (MEP).

The April 13 Draft Permit does not adhere to this requirement, but instead institutes unreasonable, non-practicable numerical water quality limitations. This includes the automatic imposition of water quality standards and Total Maximum Daily Loads within the Draft Permit. These requirements go beyond the requirement to reduce storm water pollutants to the maximum extent practicable and fail to address the fiscal limitations faced by the County and Cities and the fiscal responsibility standards set forth in the Clean Water Act.

The Clean Water Act establishes the "maximum extent practicable" as the standard for municipal storm water discharges. Congress recognized that traditional end of pipe numerical standards applied to waste water treatment plants and industrial process waste waters were not practical for municipal storm water systems as they collect urban runoff and storm water runoff from a wide variety of non-point sources. The MEP standard prescribes the use of Best Management Practices that are technically and financially achievable. This is a critical requirement for municipalities

The responsibilities of the Regional Board, County, and the Cities under the permit need clarification. The permit should clearly delineate the responsibilities of the individual Permittee vis-à-vis the Principal Permittee, and the Regional Board should also clearly identify its role. In the Draft Permit, it appears that the Board intends to retain enforcement authority while ultimately requiring that Permittees be responsible for any corrections and or violations in the Permit.

The Draft Permit fails to comply with the requirements of the Clean Water Act as it is not based on quantitative data, and as the management programs in the Draft Permit have not been developed based on such quantitative data and formulated to identify and thereafter address the types and sources of pollutants in the affected receiving waters. The Draft Permit was not developed based on data showing the pollutants of concern, and the sources of those pollutants.

Economic considerations were not taken into account as required by State and Federal law in developing the Permit. The Water Board, under both State and Federal law, is required to take a balanced approach to regulating water quality—this means taking into account economic considerations in issuing its permits. No cost/benefit analysis has been conducted in developing the Draft Permit.

The Draft Permit improperly seeks to change the scope of CEQA by requiring the adoption of an Ordinance to transform ministerial projects into discretionary projects.

The Development Planning (SUSMP) requirements in the Permit are in conflict with State Board Order No. 2000-11, and contravene other legal prohibitions and requirements.

The Draft Permit seeks to impose "waste discharge requirements" that contravene the requirements of California Water Code Sections 13263 and 13241, by ignoring housing needs in the region and economic considerations.

The Draft Permit improperly attempts to amend the statutory and regulatory requirements of CEQA, in violation of CEQA and the requirements of the Administrative Procedures Act.

The Draft Permit improperly invades the local land use authority of municipalities, and the State regulatory and legislative process, by requiring amendments to the Cities' General Plans without following State law.

The Draft Permit seeks to impose an order, rule, or standard of general application, again without complying with the requirements of the Administrative Procedures Act.

The Draft Permit fails to include a finding of consistency with the Area-Wide Waste Treatment Management Plan, a finding the Clean Water Act expressly requires before the subject NPDES Permit can be issued (33 U.S.C. § 1288 (e)), and a finding required under State Law (Water Code § 13225 (h)).

The Draft Permit fails to include appropriate "safe harbor" language particularly for alleged exceedences of water quality objectives; and rather than acting as a "permit" to allow for "discharges" of pollutants in accordance with the Clean Water Act and to "control" pollutants "to the maximum extent practicable," the Draft Permit is open-ended, generally prohibiting all discharges from the MS4 that cause or contribute to a violation of water quality standards or water quality objectives.

The Draft Permit improperly flip-flops the burden of proof on to Cities, and requires the Cities to prove the elimination of a discharge to the maximum extent practicable through compliance with BMPs.

The Draft Permit contains monitoring requirements that are excessive and unnecessary. The cost of implementing the monitoring program in the Draft Permit far outweighs any benefits that will be gained from the data collection. The Regional Board has failed to provide adequate justification for the extensive data collection called for in the Draft Permit. Specific comments on language and requirements of the Draft Permit are enclosed.

The EAC would refer you to our April 26, 2001, letter to Mr. H. David Nahai and request that you reconsider your position on setting a process whereby we can come to a mutual resolution on the areas where we have differences of opinion. In the past, Permittee comments that were contrary to Regional Board staff views were rejected without compelling reason, ignoring the Permittees' legitimate concerns for cost and the reasonableness of Permit requirements.

We appreciate the opportunity to submit these comments and look forward to working cooperatively with you in developing the second draft of the Permit.

Sincerely,

Desi Alvarez
Chairman
Executive Advisory Committee

DA:sv
WM-9A /EAC_LTR_APRIL 13 WPD

Enc.

cc: All Permittees
Chief Administrative Office (John Lounsbery)
State Water Resources Control Board

EAC SUMMARY OF COMMENTS IN RE: PROPOSED DRAFT FOR NEW LOS ANGELES COUNTY MUNICIPAL NPDES PERMIT

1. Findings (changes indicated in bold)	**Finding #10 (add language)** • The Regional Board has reviewed the ROWD and has determined it to be complete under the reapplication policy of MS4s issued by the USEPA (61 *Fed. Reg.* 41697). The Regional Board finds that the Permittee's proposed Storm Water Management Plan is acceptable **and when fully implemented will be consistent with the statutory standard of Maximum Extent Practicable (MEP) and in compliance with the Federal Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act.** **Finding #21 (delete language)** • US EPA regulations at 40 CFR 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that Permittees implement a program to monitor and control pollutants in discharges to the municipal system from industrial and commercial facilities that contribute a substantial pollutant load to the MS4. The regulations require that Permittees establish priorities and procedures for inspection of industrial facilities. ~~**This permit consistent with the regulations incorporates a requirement that Permittees conduct an industrial/ commercial inspection program to control pollutants in storm water discharges from industrial facilities.**~~ **Finding #41 (reconsider intent)** • Suggests that permittees should adopt ordinances enabling to make ministerial projects discretionary ones, thereby facilitating CEQA evaluations of new development/redevelopment projects for storm water mitigation measures. This is an unrealistic requirement. If a development/redevelopment project were required by municipal ordinance to implement storm water mitigation measures, there would be no reason to subject them to discretionary review. Municipalities – such Santa Monica being the obvious example – are at liberty to impose more stringent storm water management standards if they wish. Further, this finding seems to be at odds with the draft municipal permit's intention of eliminating discretionary approval from Standard Urban Storm Water Mitigation Plan (SUSMP) requirements. This raises the question: what development/redevelopment projects would require CEQA review or conditional use approval? (Note: Regional Board storm water staff should consult with planning unit or with in-house legal counsel on this).
2. Discharge Prohibitions - Part 1	• Provide all exempted non-storm discharges, including street wash water and potable water

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2. Discharge Prohibitions - Part 1 (cont.)	discharge as conferred upon municipalities under 40 CFR 122.26 and restated in the Phase II rule, as it relates to illicit discharges. Also add, as an exempted discharge: **(1) wash water runoff of blood and other human tissues from the cleaning of accident sites or accidental spills; (2) any other non-storm discharge that enters a detention/retention basin or spreading ground, provided that it does not have an adverse impact on a beneficial use of a receiving water.** • Receiving Water Limitations text should be revised as follows: ~~**1. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.**~~ ~~**2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance.**~~ The Permittee shall comply with the permit through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the Storm Water Quality Management Plan (SQMP) and its components and other requirements of this permit including any modifications. The SQMP and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of applicable water quality objectives or applicable water quality standards (collectively, water quality standards) persist, notwithstanding implementation of the SQMP and its components and other requirements of this permit, the Permittee shall assure compliance. **(Note: Other permittees have suggested additional language to define more clearly this provision. Once the "essence" of the requirement is determined, specifics can be dealt with later).**
3. Water Management Committee – Part 3.C	• Concern has been expressed by the City of Los Angeles about the manner in which WMC voting authority is assigned. This is an issue that should be resolved among the permittees.
4. Legal Authority – Part 3.G	• This section differs from the legal authority section of the Ventura Municipal NPDES permit, in that it is used to contain discharge prohibitions as well. The legal authority section should be restricted to stating that each permittee should have adequate legal authority to comply with permit requirements through ordinance, contract, or other means per 40 CFR 122.26. This should be done in the interest of consistency with other permits.
5. Storm Water Management Program	• The principal permittee, with the concurrence of the other permittees, would like the following

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Budget (Part 3.I) 5. Storm Water Management Program Budget - Part 3.I (cont.)	cost items removed from annual reporting: **(a) operations and maintenance; (b) municipal street sweeping; (c) fleet and public agency facilties; (d) landscape and recreational facilities; and (e) capital costs**. None of these cost items would be of use to the regional board in evaluating permittee compliance efforts. For example, if a permittee meets the minimum requirement for street sweeping, the cost of that activity should not be an issue.
6. Public Information and Participation I– Part 4.A.1d	• Proposes that permittees provide unified school districts within their jurisdictions materials, live presentations, brochures, a.d other media necessary to storm water-educate a minimum of 50% of all school children (K-12 to 12), every 2 years. Currently, this responsibility is performed by the principal permittee. It should remain that way.
7. Public Information and Participation – Part 4.2.b	• Adds a Business Assistance Program (BAP), a requirement that would incur an added cost to permittees by (a) enlarging the scope of regulation from gas stations, automotive repair facilities, and restaurants to a broad category of "small businesses," and (b) requiring the additional distribution of public education and BMPs materials, telephone consultation, and on-site technical assistance (thereby expanding the educational site visit program. Most permittees are opposed to this requirement.
8. Programs for Industrial/Commercial Inspections – Part 4.2.B	• Transfers, unilaterally, the responsibility for inspecting GIASWP-subject industrial facilities from the regional board to the permittees without compensation. It also proposes to enlarge the definition of "commercial" to include businesses other than gas stations, auto repair, and restaurants -- without any justification. Most permittees are opposed to this proposed requirement.
9. Programs for Development Planning – Part 4.2.C.1	• Refers to "priority planning" (a carry-over from the current permit), but does not explain which development/redevelopment projects would be subject. **(Note: The SUSMP was intended to provide guidelines for determining priority projects (viz., through the discretionary approval process), but regional board staff has removed this provision from the permit. How will, therefore, priority projects be determined here and for what project types?)** • Eliminates Maximum Extent Practicable (MEP) qualifiers that exist under the current municipal NPDES permit. They should not be taken out.
10. Programs for Development Planning – Part 4.2.C.2	• Establishes "peak flow" criteria to meet the post-development runoff discharge requirement , to be developed 90 days from permit adoption. The principal permittee has indicated that it would like to extend the completion date to 2 years from permit adoption. Other permittees agree.

11. Programs for Development Planning – Part 4.2.C.5	• Eliminates discretionary approval as a criterion for determining SUSMP-project applicability. Except for the principal permittee, most permittees are opposed to this revised requirement.
12. Programs for Development Planning – Part 4.2.C.8	• Revises the SUSMP requirement for redevelopment projects to include "replacement" of 5,000 f^2 of impervious surface -- instead of only creating or adding it, thereby making this requirement more stringent than it is now. There is no justification for this.
13. Programs for Development Planning – Part 4.2.C.?	• Per the State Water Resources Board recommendation to include regional solutions in the SUSMP assessment process, add the following provision after "10. Mitigation Funding:" Regional Storm Water Mitigation Program A Permittee or Permittee group may apply to the Regional Board for approval of a regional storm water mitigation program. The Executive Officer in the exercise of his discretion shall approve such a regional program if he determines that it is likely to result in equal or greater water quality benefit than project-by-project mitigation, as described above. Permittees and project proponents that participate in any approved regional storm water mitigation program shall in so doing satisfy the requirement for the application of the numerical design criteria.
14. Programs for Development Planning – Part 4.2.C.11	• Pertains to California Environmental Quality Act (CEQA) relative to projects, but does not provide clarity as to which projects are to be subject and to what extent. Further, this requirement seems to duplicate the SUSMP – which was initially intended to meet the CEQA requirement by using discretionary approval to determine priority projects. Restoring discretionary approval to the SUSMP should correct this problem.
15. Programs for Development Planning – Part 4.2.C.12	• Requires permittees to update general plans with storm water quality elements 540 days from the permit adoption date. The current permit requires incorporating this element only when general plans are updated. In either case, updating general plans is unnecessary because development planning and the SUSMP accomplishes the same purpose. The requirement, therefore, should be eliminated.
16. Programs for Construction Sites – Part 4.D.1	• Adds the requirement of providing public education for contractors engaged in 1 acre (soil disturbing) construction projects. Includes distributing public education materials during community meetings, workshops, pre-constructions, and inspections. Requirement is unnecessary because information regarding construction projects (requirements and BMPs) is provided over-the-counter and enforced by inspections.
17. Programs for Construction Sites – Part	Transfers, unilaterally, the responsibility for inspecting GCASWP-subject construction sites (5 acres

4.D.2	from the regional board to the permittees without compensation.
18. Public Agency (Part 4.E.5.a)	• Proposes to increase the frequency of street sweeping to at least 4 times per month "in areas generating high volumes of trash and "an average not less the twice per month in areas that generate moderate volumes of trash on traffic collector streets and residential areas." The current permit calls for a minimum of sweeping once a month. Street sweeping is essentially a trash-reducing BMP and, therefore, is unnecessary for Ballona Creek and Los Angeles River watershed-situated cities. Further, it does not give permittees the option of resorting to more cost effective trash reducing BMPs.
19. Public Agency (Part 4.E.5.b)	• Proposes to increase the frequency of priority catch basin clean-outs (40% full) from once a year, just prior to the wet season (October 1 to April 30), to twice a year, from May 1 to September 30. Requirement would incur a significant added cost while doing little to reduce the transport of trash to receiving waters during season.
20. Public Agency (Part 4.E.5.c)	• Proposes permit proposes to increase the frequency of parking lot cleanings from once a month to twice a month. Thus, the scope of this requirement is enlarged to include every municipal parking lot, regardless of size, and increases the cleaning and inspection frequency from once a month to twice a month. The justification for making this requirement more stringent is not clear.
21. Various Program Provisions	• Proposes that permittees implement revised programs (construction, development planning, etc.) within 180 days after permit adoption. This is not enough time because permittees need to budget new costs at least one or two years in advance.
22. Administrative Review (no reference)	• The proposed permit lacks the "notice to meet and confer" provision contained in the existing permit. This provision is intended to, among other things, resolve compliance issues prior to the regional board taking enforcement action. Most compliance issues -- as recently demonstrated by the Notices of Violations issued by the regional board to several municipal permittees -- are the result of misinterpretation or misunderstanding on the part of regional board staff, especially new staff. The meet and confer provision is intended to allow the resolution of disagreements arising out of misinterpretation or misunderstanding before issuing NOVs -- in itself an enforcement action. Since it is likely that the draft permit will contain provisions that are open to interpretation, it makes sense to retain the meet and confer provision.
23. Various Legal Comments	• See legal comments in re: the draft permit prepared by Mr. Rufus Young, Esq., Burke, Williams, and Soresen, directed to Mr. Dennis Dickerson, dated May 14, 2001.

24. Watershed Management Area Plan	• Several permittees note the absence of the Watershed Management Area Plan (WMAP) in the draft permit. Is this is an accidental omission? Is there a mechanism in the draft permit that it is intended to replace the WMAP? There is also a reference to the creation of sub-watersheds? How this is to be achieved? More discussion on this subject is needed.
25. Monitoring Program Requirements (I)	• EAC agrees with the principal permittee's concerns regarding the proposed monitoring and reporting program.

CITY OF LOS ANGELES
CALIFORNIA

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433 SOUTH SPRING ST., SUITE 400
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May 16, 2001

Mr. Dennis Dickerson
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

CITY OF LOS ANGELES REVIEW COMMENTS ON THE FIRST DRAFT OF THE 2001 LOS ANGELES COUNTY MUNICIPAL STORM WATER NPDES PERMIT

Thank you for the opportunity to comment on the first draft of the 2001 Los Angeles County Municipal Storm Water National Pollutant Discharge Elimination System (NPDES) Permit issued by the Regional Water Quality Control Board (Regional Board) on April 13, 2001. The City of Los Angeles (City) appreciates the Regional Board working with all stakeholders to develop an effective municipal stormwater program and to resolve issues prior to releasing the final Permit.

At this time, the City is transmitting comments that address technical issues only. We are concurrently preparing additional comments that address issues that are broader in scope and need to be reviewed with respect to City policy. Any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must first be adopted in the form of a Resolution by the City Council with the concurrence of the Mayor. We anticipate that this resolution process will be completed within the next two to four weeks and the remaining comments will then be forwarded to the Regional Board.

The City appreciates that the Regional Board will give due consideration to incorporating the City's comments into the final draft Permit.

If you have any questions, please contact me at (213) 473-7999 or Gary Lee Moore, of my staff, at (213) 847-6346.

Sincerely,

James F. Langley for

Judith A. Wilson, Director
Bureau of Sanitation

JAW/GLM/MFS/SHN/AAS:ema
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Enclosure

cc: James F. Langley, Assistant Director, Bureau of Sanitation
Gary Lee Moore, Stormwater Program Manager

CITY OF LOS ANGELES: BUREAU OF SANITATION, STORMWATER MANAGEMENT PROGRAM
Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Location	Passage	Comments/Recommendations
Page 4,Findings Item 6	"These environmentally sensitive area include . . . Significant Natural Areas, and impaired water bodies listed under Clean Water Act Section 303(d)."	Recommend modifying as follows: "These environmentally sensitive area include . . . Significant Natural Areas~~, and impaired water bodies listed under Clean Water Act Section 303(d)~~." Impaired water bodies are not necessarily synonymous with environmentally sensitive areas. The City believes that there are separate regulatory provisions to address and deal with impaired water bodies such as the TMDL process, which takes into consideration point and non-point source pollution for these waters.
Page 4, Findings Item 7	"The increased volume, increased velocity, and..."	Recommend adding to the end of this sentence: "**in water bodies susceptible to these effects**".
Page 4, Findings Item 7	"Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces."	Recommend rewording this text as follows because 10% may not be the standard: "Studies have demonstrated that increasing impervious cover can lead to declines in habitat quality and associated biodiversity."
Page 5, Findings Item 11	"Studies indicate that facilities...fueling (automotive...)..."	Delete typographical error in parenthesis (...service facilities**0**)
Page 8, Findings Item 25	"...These criteria apply to discharges...."	Recommend the sentence be changed: "These apply as ambient criteria for inland surface waters". The current language inaccurately describes the legal requirements. The CTR criteria apply as ambient criteria for surface waters, the criteria do not apply directly to discharges as stated here. Also, the State Implementation Policy (SIP) specifically states in footnote 1 on page 1 that "This Policy does not apply to regulation of storm water discharges."
Page 9, Findings Item 37	"California Water Code (CWC) Section 13263(a) requires that...."	Water Code Section 13263(a), in addition to the requirements listed, requires the Regional Board when setting waste discharge requirements to take into consideration "the provisions of Section 13241 including economic considerations." The Los Angeles Superior Court in the permit appeals for the Los Angeles-Glendale, Tillman, and Burbank Water Reclamation Plants confirmed this requirement in the final Statement of Decision issued on April 4, 2001. This decision is binding on the Regional Board. "...other waste discharges; ~~and~~ the need to prevent nuisance~~.~~ **,and the provisions of Section A 132 and 1.**"
Page 10, Findings Item 38	"California Water Code (CWC) Section 13370 et seq. Requires...".	Recommend changing "comply" to "**be consistent**...". California operates an in-lieu permitting program, waste discharge requirements must merely "be consistent" with CWA requirements.
Page 10, Findings Item 39	The Regional Board is the...."	Recommend replacement of word "or" with "**for**" in the first sentence.
Page 10, Findings Item 43	"To meet this objective, this Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters."	Recommend modifying as follows: "To meet this objective, this Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff **to the Maximum Extent Practicable (MEP)** such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters."

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CITY OF LOS ANGELES: BUREAU OF SANITATION, STORMWATER MANAGEMENT PROGRAM
Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Location	Passage	Comments/Recommendations
Page 11, Findings	Add a new finding (presumably between Items #45-47).	Recommend reference to non-chapter 3 CEQA requirements for the adoption of waste discharge requirements. Chapter 1 of CEQA requires the Regional Board explore alternatives and mitigation measures that might cause less impact on the environment than the action/Order proposed. Recommend modyifying as follows: "The action to adopt a NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21100, et seq.), in accordance with Section 13389 of the California Water Code."
Page 12, Part 1	"Each Permittee shall effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are: 1. covered by a separate individual or general NPDES permit for . . ."	Recommend modifying as follows: " ...covered by a separate individual or general NPDES permit, **or granted an exemption by the Regional Board, the Executive Officer, or the State Water Resources Control Board,** for . . . " This modification would maintain the intent of the current Permit and include sources previously granted an exemption from the Regional Board or State Water Resources Control Board.
Page 12, Part 1.2	".... and meet all the conditions specified by the Regional Board Executive Officer (and which must be included in the revised SQMP)..."	We recommend reinstating Part 2, Section II.C.4 (p. 33-34) of Order 96-054, which describes the procedures to obtain additional categories of exemptions.
Page 12, Part 1.2.a	"a) Categories of natural flow: . . ."	Recommend modifying as follows: "a) Categories of ~~natural~~ flow: (1) Natural springs and ~~rising~~ **natural** ground water; . . . Uncontaminated **natural** ground water . . ."
Page 12, Part 1.2.c	Add new reference items.	9) Washing of fire/emergency vehicles; and 10) Potable water sources with appropriate BMPs applied.
Page 12, Part 1.2.c.1 & 2	Discharge Prohibitions: "Reclaimed and potable landscape irrigation runoff;" "Water line flushing of potable water distribution systems;"	Recommend modifying as follows: "Reclaimed and ~~potable~~ landscape irrigation runoff;" "Water line flushing ~~of potable water distribution systems~~;" Line flushing within the system is necessary to protect the health and safety of the public. In some cases, when flushing occurs within the distribution system, chlorination is increased and then the water is dechlorinated. However, during the flush, the water may not be to potable water standards.
Page 13, Part 1.2.c.6	"Dewatering of lakes and decorative fountains;"	Recommend modifying as follows: "Dewatering of lakes, **reservoirs, potable water tanks,** and decorative fountains **with appropriate BMPs applied**;"
Page 13, Part 1.2 Last paragraph	"The Regional Board Executive Officer may add or remove categories of non-stormwater discharges above. Furthermore, in the event that any of the above categories of non-	Recommended modifying as follows: " . . . in the event that any of the above categories of non-stormwater discharges are determined to be a **significant** source of pollutants and **cause an adverse significant impact** . . . the discharge will no

Location	Passage	Comments/Recommendations
	stormwater discharges are determined . . . in consideration of anti-degradation policies."	longer be exempt . . ."
Page 13, Part 2	"Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited."	An intro sentence needs to be added that says before paragraph 1, "Except in accordance with this Order:" This is an extremely important change to protect from citizen enforcement over an alleged violation of the Receiving Water Limitations.
Page 13, Part 2.1 and 2.2	"1. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited." "2. Discharges from the MS4 of storm water, or non-stormwater, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance."	The Order includes the "cause or contribute to" language taken from 40 CFR §122.44(d), which is arguably not applicable to stormwater discharges as stormwater is regulated under §122.44(k), which allows BMPs where effluent limitations are not feasible. The language should at least be changed to read: "1. Discharges from the MS4 that **are demonstrated to** cause ~~or contribute to~~ the violation of **applicable** water quality standards or water quality objectives are prohibited." "2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause ~~or contribute to~~ a condition of nuisance."
Page 13, Part 3	"The Permittee shall comply with the permit through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the Storm Water Quality Management Plan (SQMP) and its components and other requirements of this permit including any modifications. If exceedances of water quality objectives.... by complying with the following procedures."	To protect from enforcement jeopardy, the language must read: "The Permittee shall **be deemed to be in compliance** ~~comply~~ with the requirements of this permit through timely implementation of control measures and other actions to **reduce to the Maximum Extent Practicable** pollutants.... the Permittee shall ~~assure~~ **attempt to come into** compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:" The current wording is not protective against potential enforcement actions and is not consistent with the SWRCB Policy set forth in Order 99-05.
Page 13, Part 3.a	" a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance...The Regional Board may require modifications to the Report."	Remove the "or contributing to" language.
Page 17, Part 3.F.2	"The Principal Permittee shall modify the SQMP to comply with waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Maximum Daily Loads (TMDLs) for impaired water bodies."	Include discussion of the process for that modification and the timeline for compliance, which must include a public review.
Page 18, Part 3.G.1.b and g	Prohibit the discharge of "untreated" runoff.	Modify by adding the word "untreated" for each paragraph as follows: "b) Prohibit the discharge of **untreated** wash waters to the MS4 from the cleaning of gas stations...or other automotive facilities." "c) Prohibit the discharge of **untreated** runoff to the MS4 from mobile auto washing, steam cleaning..." "e) Prohibit the discharge of **untreated** runoff to the MS4 from storage areas of materials containing grease, oil..." "g) Prohibit the discharge of **untreated** runoff from the washing of toxic materials from paved or unpaved areas to the MS4..."

Location	Passage	Comments/Recommendations
		"h) Prohibit washing impervious surfaces in industrial/commercial areas that result in a discharge of **untreated** runoff to..." In the existing permit, paragraphs b & g prohibit the discharge of "untreated" runoff.
Page 18, Part 3.G.1.e	"Prohibit the discharge of runoff to the MS4 from storage areas of materials containing..."	Recommend modify as follows: "Prohibit the discharge of runoff to the MS4 from storage areas of materials containing grease, . . . and uncovered receptacles containing hazardous materials **unless such containers are new and unopened**;"
Page 18, Part 3.G.1.j	"Prohibit spills, dumping, or disposal of materials into the MS4, other than storm water, such as:"	Recommend modifying as follows: "Prohibit ~~spills,~~ dumping~~,~~ or disposal of materials into the MS4, . . ." Spills are not deliberate, intentional acts whereas dumping and disposal are.
Page 18, Part 3.G.1	Add a new reference item after j).	"Control spills to the maximum extent practicable."
Page 18, Part 3.G.1.j.4	"Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials . . ."	Recommend modifying as follows: "Fuel and chemical wastes, animal wastes, garbage, **and** batteries~~, and other materials~~ that have potential adverse . . . " "other materials" is overly broad, too open-ended, and redundant with the phrase "such as" that prefaces this subsection.
Page 19, Part 3.G.1.k-p	Paragraphs (k) through (p) are not related to (a) through (j) in that they do not reflect a category of prohibitions or controls.	Recommend adding another appropriate topic heading for items (k) through (p) and renumbering as appropriate.
Page 19, Part 3.G.1.p	"Adopt and implement an agency-specific storm water and urban runoff ordinance or amend an existing one, if necessary, to be able to enforce all requirements of the permit, effective immediately upon the adoption of this Order."	The City is unable to adopt a new or amend a current ordinance immediately upon the adoption of this Order. The City recommends modifying as follows: "Adopt and implement an agency-specific storm water and urban runoff ordinance or amend an existing one, if necessary, to be able to enforce all requirements of the permit, effective ~~immediately upon~~ **9 months after** the adoption of this Order."
Page 19, Part 3.H	"...Permittees to address their programs specifically for that particular situation and change them accordingly to address the problem.)"	Recommend modifying as follows: "...for that particular situation and change them accordingly to address the problem **if continued implementation of the SQMP is not expected to address the situation**)."
Page 20, Part 3.J	"The Principal Permittee shall submit a Storm Water Monitoring Report on August 15, 2002 and annually on August 15 thereafter..."	Although not specifically specified, it appears from this passage that the reporting period for monitoring requirements is based on the fiscal year (July 1 through June 30 of each year). The Storm Water Monitoring Report for this period is then due on August 15, only about six weeks later. This time period is too short to perform thorough assessments and reporting of the vast array of data that will be collected during the year. This report should be due six months after the conclusion of the year's sampling.
Page 24. Part 4.A.2. a and 1	Corporate Outreach	The phrase "corporate heads" is too limiting, especially for large corporations whose officers are located out of the areas. Therefore, change "corporate heads" to "**corporate or management company**."

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Location	Passage	Comments/Recommendations
Page 24, Part 4.A.2.b	"Permittees shall develop and implement a Business Assistance Program . . . "	Change to "Permittees shall implement a Business Assistance Program..." Permittees may be able to establish cooperative efforts with existing business assistance programs to accomplish this requirement without undue burden of developing a brand new program. It may also be more cost effective for them to partner with other organizations.
Page 24, Part 4.A.2.b.1	"On-site technical assistance or consultation via telephone to identify and implement pollution prevention methods and best management practices"	Recommend the insertion of the word "stormwater" in front of "pollution prevention".
Page 25, Part 4.A.2.b.4	"Permittees shall conduct follow-up independent of the Business Assistance Program, based on the priorities of the Industrial/Commercial Inspection Program"	Move "Permittees shall conduct follow-up independent of the Business Assistance Program, based on the priorities of the Industrial/Commercial Inspection Program" to P. 28 Part B 5. C). The placement of this statement implies that some type of follow-up is required by the Business Assistance Program. After "The Business Assistance Program shall be a confidential and non-enforcement program", add the following: "The Business Assistance Program shall operate independently of the Industrial/Commercial Inspection Program".
Page 27, Part 4.B.3.d	"Other Commercial facilities (contributing or potentially contributing to the impairments of receiving waters)"	We recommend the "other commercial" sites to be defined as follows: Those facilities having activities corresponding to SIC codes 33XX, 34XX, 35XX, 4612, 4613, 4619, 4731, 4783, 4789, 4925, 4932, 5031, 5039, 5051, 5082, 5083, 5084, 5085, 5172, 5211, 5989, 7221, 7212, 7213, 7217, 7218, 7219, 7261, 7622, 7623, 7692, 7693, and 9629.
Page 28, Part 4.B.5.b	"Automotive Service Facilities"	We recommend defining "Automotive Service Facilities" as SIC codes 75XX, and 5014.
Page 28, Part 4.B.7.a	"Each Permittee shall provide oral notification to the Regional Board of non-compliance with existing storm water regulations (within 3 days of discovery) or create an adverse impact or nuisance as it relates to the quality of the receiving waters of the State within its jurisdiction, within 24 hours of the discovery. Such oral notification shall be followed up by a written report to be submitted to the Regional Board within 5 days of the incidence of non-compliance."	Our enforcement staff deals with nuisance discharges almost on a daily basis. These flows are stopped and appropriate enforcement actions are taken. Reporting all incidents would not be practical. We recommend reporting only serious discharges of sewage or hazardous material to the RWQCB as detailed in the draft permit language. All other discharges should be reported in writing by the 10th day of each month. Replace passage with, " For discharges to the MS4 of sewage and hazardous materials that are a threat to public health and safety, and the quality of receiving waters, each permittee shall provide verbal notification to the Regional Board of non-compliance within 24 hours of discovery followed by a written report within 5 working days. All other discharges will be reported in writing to the Regional Board by the 10th day of each month.
Page 28, Part 4.B.7.b	"Permittees shall develop and submit criteria by which to evaluate events of non-compliance to determine whether they create an adverse impact or nuisance. These criteria shall be submitted in the SQMP and Annual Report for Regional Board review and subject to Regional Board Executive Officer's approval."	Recommend modifying as follows: "~~Permittees~~ **The Principal Permittee in conjunction with the co-Permittees** shall develop and submit ~~criteria~~ **procedures** ~~by which~~ to evaluate . . ."
Page 29, Part 4.C.1	Programs for Development Planning	Recommend modifying as follows: "...require all planning priority development and redevelopment projects, **to the maximum extent practicable,** to,"

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Location	Passage	Comments/Recommendations
Page 29, Part 4.C.1	Programs for Development Planning	Define planning priority projects. Definition must be consistent with the Development Planning Model Program.
Page 29, Part 4.C.1.b	"Maximize the percentage of permeable surfaces to allow more percolation of storm water into the ground;"	Recommend modifying as follows: "Maximize the percentage of permeable surfaces to allow percolation of storm water into the ground, **except in the Harbor area and in the San Fernando Valley (SFV), where prior approval by the SFV Watermaster, also known as the Upper Los Angeles River Area (ULARA) Watermaster, is required**;" The Upper Los Angeles River Area (ULARA) Watermaster is concerned with percolation of storm water into the ground in the San Fernando Valley area. The Port of Los Angeles has also expressed concerns of the feasibility in the Harbor area due to the high groundwater table.
Page 29, Part 4.C.1.d	"Minimize pollution emanating from parking lots through the use of appropriate treatment control BMPs and good house keeping practices;"	Recommend deleting this subsection. It is redundant with the SUSMP requirement.
Page 30, Part 4.C.3.a.4 and 5	"Divert roof runoff to vegetated areas before discharge"	This violates section 91.7013.9 of the building code, which requires all roof water be delivered through a non-erosive via gravity to a street or watercourse if the slope of the underlying natural ground exceeds 3%. Under Finding #7 (page 4 of the draft permit) the major concern with urban developments in hillside areas is the potential for increase volume and velocity of storm water runoff that will greatly accelerates downstream erosion and impairs stream habitat. This will be true in rural areas where there are no concrete curbs, gutters, or storm drains. Under section 91.7013.9 there will not be any downstream erosion and impairs stream habitat because all the roof drainage will be carried to the City's storm drain system via non-erosive devices. Therefore, it is recommended that item (4), "Divert roof runoff to vegetated areas before discharge" be deleted.
Page 30, Part 4.C.3.b	SUSMP	Since this permit is supposed to consider watershed solutions and that in some cases it may make more sense to develop regional solutions that could address existing as well as new development. The following change is suggested: After (7) add in the following paragraph: "Or the Permittee shall demonstrate how a watershed solution using regional controls has been developed that would lead to better water quality results than individual new and redevelopment sites meeting the SUSMP standards".
Page 30, Part 4.C.3.b	SUSMP Project Categories	Recommend changing title of item (4) to "Automotive Repair Shops" to be consistent with the definition title on Part 5 of page 46, or vice versa.
Page 31, Part 4.C.4	Numerical Design Criteria	Include "Structural BMPs" in 1st paragraph. The revised paragraph shall read as follows: "The Permittees shall require that post-construction **structural or** treatment control BMPs incorporate..."
Page 31, Part 4.C.4.b.2	"....for Los Angeles County"	Recommended change: "...for Los Angeles County, or"
Page 32, Part 4.C.6	Definition of Acre	Define acre as 43,560.

Location	Passage	Comments/Recommendations
Page 32, Part 4.C.6.a	USEPA Phase II requirements	Change sentence to read as, "One acre **or greater**..."
Page 34, Part 4.C.10	Mitigation Funding	Please explain what this entire section means. Are subsections a through c identified as potential funding sources? Define items a through c. In item (a), define conditions of impracticability. (Same as existing permit?) Granting of waivers, including waivers of impracticability, shall be the responsibility of the Regional Board. Item (b) needs clarification. "Legislative funds become available"...to who?
Page 35, Part 4.C.12	General Plan Update	Under the State of California General Plan Guidelines, each City is given 5 years to update the General Plan. This item gives each Permittee 540 days from permit adoption date. In order to effect a complete and appropriately detailed update to the General Plan, it is suggested that the time allowed should reflect the State General Plan Guidelines of 5 years. Therefore, change the deadline of 540 days to 5 years from permit adoption date.
Page 35, Part 4.C.14.	Developer Technical Guidance and Information	The City of Los Angeles has developed three technical guidance manuals, which are entitled, "REFERENCE GUIDE FOR STORMWATER BEST MANAGEMENT PRACTICES", "DEVELOPMENT BEST MANAGEMENT PRACTICES HANDBOOK, PART A – CONSTRUCTION ACTIVITIES", AND "DEVELOPMENT BEST MANAGEMENT PRACTICES HANDBOOK, PART B – PLANNING ACTIVITIES". The City's technical manuals already provide such information as identified on Page 35 Part 4C14b1-5 for development projects with the exception of the Peak Flow Control numerical criteria (referred to on Page 29 Part 4C2). The Peak Flow Control numerical criteria will be developed by the Permittees upon the adoption of the Permit as described in Page 29 Part 4C2. If the Board determines that the City's technical manuals are not sufficient to meet the requirements enumerated in Part 4C14, then for the purposes of countywide consistency, the Principal Permittee should develop the technical guidance manual. Recommend modifying as follows: "b) Principal Permittees shall develop...."
Pg. 39, Part 4.E.1	Public Agency Activities	Please revise the listing of Public Agency requirements to be consistent with the succeeding Sections and Topics.
Page 40, Part 4.E.3.a	"Each Permittee shall...from construction activity at all construction sites."	Change sentence to read: Each Permittee shall...from construction ~~activity~~ **activities** at all **public** construction sites.
Page 40, 41		There are two subsections under Part 4.E numbered "3", one on page 40 and one on page 41.
Page 41, Part 4.E.3.b.4 and 5	Public Construction Activities Management	Items 4 and 5 address City staff ensuring effectiveness of BMPs. It has always been the City's contention that staff is not responsible for ensuring BMPs are effective. Staff may be responsible for ensuring BMPs are in place and operational, but should not be liable for "effectiveness."
Page 41, Part 4.E.3.b and c	"Each Permittee shall obtain coverage...under separate permit until March 10, 2003."	Delete b) and c). Replace with "Each Permittee shall comply with Part 4.D of this Order."
Page 41, Part 4.E.3.b	Vehicle Maintenace/Material Storage... "Each Permittee shall implement BMPs to minimize pollutant discharges in storm water..."	Recommend modifying as follows: "Each Permittee shall implement BMPs to minimize pollutant discharges **to the maximum extent practicable** in storm water . . ."

Location	Passage	Comments/Recommendations
Page 42, Part 4.E.3.c	"Each Permittee shall require that all vehicle/equipment wash areas..."	Recommend modifying as follows: "...for new facilities or during redevelopment of existing ~~sites~~ **wash areas.**"
Page 42, Part 4.E.3.d	"Each Permittee shall, for each municipal yard...obtain separate coverage under the State of California General Industrial Activities Storm Water Discharge Permit"	We would like to maintain the current Permit provisions (Part 2.IV.C.8 of Order 96-054), which allow municipal yards covered under Phase I of the Federal Storm Water Regulations, to seek coverage under the municipal permit.
Page 42, Part 4.E.4.g	"Each Permittee shall regularly inspect storage areas."	Revise to read: "Each Permittee shall ~~regularly~~ annually inspect storage areas."
Page 42, Part 4.E.5.b	"Classify priority catch-basins to be those that are 40 percent full"	Please clarify how the 40 percent full figure came about---is there any science behind it. This figure is very subjective to individual judgement, especially in the field.
Page 43. Part 4.E.5.a	"Inspect and clean catch basins between..."	Change to "Inspect **and if necessary** clean catch basins...."
Page 43. Part 4.E.5. Second b	"A review of current storm drain maintenance...appropriate storm water BMPs are being utilized to water quality;"	Change to ".... appropriate storm water BMPs are being utilized to **protect** water quality;"
Page 44, Part 6.c	"Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that no case shall waste be allowed to enter the storm drain."	Change paragraph to read:" Each Permittee shall require that sawcutting wastes be recovered and disposed of properly."
Page 44, Part 4.E.7	"Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as: earthquakes, . . ."	Recommend modifying as follows: "Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as, **but not limited to**: earthquakes, . . ."
Page 44, Part 4.F	"Permittees shall eliminate all illicit connections and illicit discharges to the storm drain, and shall document and report all such cases. To accomplish this, the Permittees shall revise their Program for Elimination of illicit Connection and Illicit Discharge...including performance measures and schedules."	Does this mean revising the Model Program?
Page 45, Part 4.F.1.a	"Implementation: Upon Executive Officer approval of the revised IC/ID Program...and available for review and approval by the Regional Board when requested."	Does this mean "Upon Executive Officer approval of the revised Model IC/ID Program" ?
Page 45, Part 4.F.1.b	General Elements – "...the Lead Permittee shall have the capability to locate all permitted discharges..."	The term "Lead Permittee" is not defined in the permit. Are we to assume this is the "Principal Permittee?"
Page 46, Part 4.F.3.a	"Respond, within 72 hours of discovery or a report of a suspected illicit discharge, with activities ..."	It is our recommendation that the response time be changed to three (3) business days instead of 72 hours.

Location	Passage	Comments/Recommendations
Page 48	"Environmentally Sensitive Areas"	"...Natural Area by the California Department of Fish and Game... or Endangered Species (RARE) beneficial use~~; or an area identified by the Permittees as environmentally sensitive for water quality purposes, based on the Regional Board Basin Plan and Clean Water Act Section 303(d) Impaired Water-bodies List for Los Angeles County~~."
Page 51	Definitions	Add new term, "Pollution Prevention" and definition, which emphasizes source reduction methods for reduction and elimination of pollutants entering stormwater. The restricted definition will more clearly define what is being required of the regulated community and what is being enforced by regulators. If undefined, the term will default to include multi-media source reduction, in process recycling, conservation of energy and natural resources.
Page 57, Item F Page 59, Item L	Proper Maintenance and Operation Bypass	These requirements seem to have been copied from an NPDES permit for a wastewater treatment plant. They are not applicable to a stormwater permit. "Facilities and systems of treatment" have not even been proven to be effective. How can it be that the non-operation or bypassing of such facilities can be deemed harmful or non-compliant? Please ensure that these sections are deleted.
Page 73, Monitoring and Reporting Program, IIC1	"The Principal Permittee shall develop and implement a tributary/source identification monitoring program."	The RWQCB should have more mass emission sites up each of the 5 major watersheds instead of just measuring concentration in various tributaries. Data from each of these proposed mass emission stations represents the contribution from the next upstream mass emission station and all the ancillary storm drain contributions. Watershed-based source control should be targeted in the proposed mass emission reaches that contribute the most pollutant of concern. If the RWQCB still wants to have these tributary stations, then flow should be added to the requirements so that the different tributaries could be compared to each other based on pollutant loads.
Page 75, Monitoring and Reporting Program, IIE2	" Reference stations shall be selected in stream reaches that are not listed as impaired on the 303(d) list and that are not representative of urban stream conditions, based on surrounding land uses and a lack of upstream point source discharges."	These reference stations will be difficult to find and are probably not comparable to the more urban downstream reaches.

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CITY OF LOS ANGELES
CALIFORNIA

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June 29, 2001

Mr. Dennis Dickerson
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

CITY OF LOS ANGELES ADDITIONAL REVIEW COMMENTS ON THE FIRST DRAFT OF THE 2001 LOS ANGELES COUNTY MUNICIPAL STORM WATER NPDES PERMIT

We are transmitting the attached additional comments on the first draft of the 2001 Los Angeles County Municipal Storm Water National Pollutant Discharge Elimination System Permit. These comments deal with issues that are governed by official policies of the City of Los Angeles and are impacted by the draft Permit.

As we noted when we submitted comments on technical issues on May 16, 2001, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must first be adopted in the form of a resolution by the City Council with the concurrence of the Mayor. Attached please find the City's position on the draft Permit with supporting documentation.

Once again, the City appreciates that the Regional Board will give due consideration to incorporating the City's comments into the final Permit.

R0003752

If you have any questions, please contact me at (213) 473-7999 or Gary Lee Moore, of my staff, at (213) 847-6346.

Sincerely,

James F. Langley for
Judith A. Wilson, Director
Bureau of Sanitation

JAW/GLM/MFS/SHN/AAS:lm
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Attachments

cc: Xavier Swamikannu, Los Angeles Regional Water Quality Control Board
James F. Langley, Assistant Director, Bureau of Sanitation
Gary Lee Moore, Stormwater Program Manager

FORM GEN. 160 (Rev. 6-80)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

DATE: June 18, 2001

TO: Councilmember Mark Ridley-Thomas, Chair
Environmental Quality and Waste Management Committee

FROM: Ronald F. Deaton
Chief Legislative Analyst

William T. Fujioka, Director
Office of Administrative and Research Services

SUBJECT: POLICY ISSUES RELATED TO THE DRAFT 2001 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) MUNICIPAL STORMWATER PERMIT

BACKGROUND: The Los Angeles Regional Water Quality Control Board (Regional Board) recently issued a draft 2001 NPDES Municipal Stormwater Permit for review and comment. The NPDES permit is reissued every five years and the existing permit expires on July 31, 2001. This permit identifies the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles and the incorporated cities (except Long Beach and Santa Clarita). The County of Los Angeles is the principal permittee and the City of Los Angeles and 82 other jurisdictions are co-permittees.

A Council Motion regarding the 2001 NPDES Municipal Stormwater Permit was introduced on May 18, 2001 (CF#01-1020). This motion directed the CLA and OARS to prepare a report for the Environmental Quality and Waste Management Committee on various policy implications of the draft 2001 NPDES permit.

The deadline for the receipt of comments was May 16, 2001. City staff prepared and submitted technical comments to the Regional Board on that date (see attached). There were, however, several substantive policy issues associated with the proposed permit. In light of the new charter, which states that any official position of the City of Los Angeles with respect to pending agency regulations must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor, this report has been prepared.

The Regional Board has issued a schedule that states that there will be two more draft permits; a second draft of the permit will be issued on June 29, 2001 and a final draft will be issued on September 6, 2001. The proposed adoption date by the Regional Board is scheduled for October 25, 2001.

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ENV QUAL & WASTE MGT

JUN 2 1 2001

ANALYSIS: The proposed permit contains the following major new requirements for cities:

1. **Public Agency Activities**

Proposed Permit – Stormwater runoff from urban streets is a contributing factor in the contamination of coastal waters and beaches. Pollutants, litter and debris on city streets enter the storm drain system and are channeled directly to the ocean. Street sweeping has been identified as a best management practice to reduce storm water pollution. The proposed permit contains language that would require all jurisdictions to conduct bi-weekly street sweeping. The Regional Board's fact sheet states that the change in frequency for street sweeping has been included to be consistent with the Ventura County Municipal Storm Water Discharge Permit.

Current Practice - The existing permit requires a municipality to implement a street sweeping program that sweeps the streets at least monthly, and where feasible, more frequently in areas generating significant refuse. The Bureau of Street Services sweeps approximately 40% of the City's 13,100 curb miles of paved dedicated streets weekly and the remainder once a month. In commercial areas where persistent litter is a problem, the streets are swept weekly or daily. The annual current cost for the street sweeping activities is approximately $7.5 million of which $4.9 is paid from the Stormwater Pollution Abatement Fund (SPAF). The current discretion given to municipalities allows the City of Los Angeles to provide street sweeping services more frequently in areas that generate more debris and less sweeping in areas that are less populated.

Impact on City - Staff estimates that bi-weekly street sweeping will increase the City's cost by an additional $4.6 million annually, $3.6 million in staff costs and $985,334 in expense costs. Additionally, a one-time capital cost for the purchase of additional street sweeping equipment is estimated at around $7 million. The cost to the ratepayer would be an additional charge of $4 a year for the annual costs alone, and the average residential Stormwater Pollution Abatement Charge would need to increase from $23 to $27 a year. This would increase another $7 or more if the equipment was purchased with SPAF funds. Moreover, the South Coast Air Quality Management District's fleet rules require the City to replace its street sweepers with ones that use alternative fuels when new equipment is purchased. The cost of new and upgraded facilities for natural gas sweepers has not been estimated at this time, however, it is expected to be substantial.

The proposed permit states that the increased street sweeping requirement apply until the implementation of a trash total maximum daily load (TMDL) program, which is currently under development for the Los Angeles River and Ballona Creek. Compliance with the trash TMDL will require the City to develop a plan to reduce trash in the waterways by the implementation of new structural devices to capture litter before it reaches the waterways. Although difficult to estimate, capital and operation/maintenance cost estimates are in the neighborhood of $900 million for full capture devices. The proposed permit would require the City to spend millions of dollars to implement bi-weekly street sweeping, which will be necessary only until the trash TMDL is finalized.

Recommended City Position – Delete the requirement for bi-weekly street sweeping.

2. Programs for industrial/commercial inspections

Proposed Permit - The proposed permit includes language that would require the City to move from educational visits to site inspections and require the City to inspect all industrial/commercial sites under the Regional Board's jurisdiction, in addition to the City's jurisdiction. Additionally, the proposed permit would add categories of industrial and commercial businesses within the City, almost doubling the list from 13,000 to 23,000 businesses. The required inspections would involve a thorough review of the physical structure and layout of the business, as well as a review of their common practices. It is estimated that, depending on the type of business, the new inspections would average two hours, not including expected follow-up visits, which may be necessary for a majority of the businesses.

Current Practice - The existing NPDES permit requires the City to conduct educational site visits, which are typically brief in duration. Staff activities are limited to distributing brochures and other informational handouts.

Impact on City - Staff supports moving from site visits to full inspections of industrial/commercial sites. This will allow the City to thoroughly review industrial/commercial stormwater impacts and begin enforcement actions on violators. Additionally, staff is supportive of increasing the number of industrial/commercial sites that are under the jurisdiction of the permittees. It is estimated that an additional two new inspectors would be necessary to fulfill the new NPDES requirements to inspect industrial/commercial sites under the City's jurisdiction, which would cost $175,081 per year. Additional attorney costs for anticipated legal actions, which are difficult to estimate, may also be necessary. The SPAF anticipated some additional costs associated with the proposed NPDES permit and included $530,000 in the 2001-02 budget (See Table 1).

The proposed permit, however, also assigns the responsibility for industrial/commercial inspections currently under the Regional Board's jurisdiction to the City. The Regional Board receives permit fees from between $250 and $500 from General Industrial Activities Stormwater Permits for their industrial/commercial inspections. Staff strongly opposes the requirements of the draft permit that passes these responsibilities to the City. These responsibilities clearly belong to and should remain with the Regional Board. Staff estimates that an additional four new inspectors, beyond the previously mentioned two inspectors, would be necessary to carry out this requirement, at a cost of $350,000 per year.

Recommended City Position – Support the Regional Board's responsibility for inspections of industrial/commercial sites that are under their General Industrial Activities Stormwater Permit.

3. Standard Urban Storm Water Mitigation Plans (SUSMPs)

Proposed Permit – Include administrative projects in the SUSMP project categories.

Current Practice - on January 25, 2000, the City Council adopted a policy position that endorsed, in concept, the SUSMP requirement for developments as proposed by the Regional

Board. The Regional Board's proposal included discretionary and ministerial (administratively approved) projects. Although the SUSMP requirements ultimately adopted by the State Water Resources Control Board (State Board) for the current NPDES permit apply only to discretionary projects, the Regional Board has the authority to add ministerial projects when the NPDES permit is re-issued. As a result, the draft NPDES permit expands this section to include ministerial projects.

Impact on City - The inclusion of ministerial projects in the draft NPDES permit for SUSMP project categories is estimated to require four additional staff at a cost of $432,779. The Stormwater Pollution Abatement Fund (SPAF) anticipated some additional costs associated with the proposed NPDES permit and included $530,000 in the SPAF 2001-02 budget (see Table 1).

Recommended City Position – Support the requirements for Standard Urban Storm Water Mitigation Plans (SUSMP).

4. **Implement Requirements for Peak Flow Control.**

Proposed Permit – The proposed permit requires all development that drains to soft-bottom channels, including the entire upper Los Angeles River region (the San Fernando Valley), to show that a post-development peak runoff discharge rate does not exceed the pre-development runoff discharge rate.

Current Practice – The current peak flow control requirements are implemented as part of the existing SUSMP requirements imposed through the CEQA review process. This condition is applicable to the SUSMP project categories where developments will result in increased potential for downstream erosion. It is applied to only developments that have site runoff discharge ***directly*** to soft-bottom channels.

Impact on City - Typical peak flow control measures include detention, retention, or infiltration systems. These measures, however, are limited for new developments in the San Fernando Valley, due to the Watermaster's restriction against any infiltration systems. Staff prepared a sample peak flow calculation, assuming the need for detention/retention, which resulted in a system the size of an average swimming pool for a one-acre development. If this example is accurate, the need for additional open spaces for detention, retention and infiltration systems will severely constrain development in the San Fernando Valley.

Recommended City Position – Since this requirement is not defined in detail and may have significant impact, staff recommends the Peak Flow Control requirement be deleted until consensus language is developed.

5. **Small Construction Site Requirements.**

Proposed Permit - The proposed permit states that for construction sites of less than one acre, the proposed permit would require the implementation of structural and non-structural BMPs, as well as site inspections.

Current Practice – Under the current permit, for sites less than two acres of disturbed soil, construction projects are required to implement minimum BMPs, which consist of good housekeeping practices. During routine inspections, City inspectors observe practices for compliance with minimum requirements. There are no inspections specifically conducted to look for storm water compliance.

Impact on City - In essence, this proposed requirement would make *every* project subject to storm water conditions, which would be over 30,000 projects per year in the City of Los Angeles. "Less than one acre" does not have a lower limit and goes significantly beyond the intent of the upcoming federal stormwater regulations. Many projects less than one acre do not cause an adverse impact on water quality. Those that do not cause an adverse impact are not being regulated at the state or federal level and will not be regulated in the immediate future. If a site that is less than one acre does cause an adverse impact on water quality, then current local, state and/or federal ordinances, laws and regulations give the authority for agencies to take enforcement action.

Staff estimates that an additional eight staff would be necessary to conduct this activity at a cost of approximately $809,456. This would increase the stormwater pollution abatement charge by about a dollar a year for residents.

Recommended City Position – Delete the additional requirements on the City to require structural and non-structural BMPs and site inspections on construction sites less than one acre.

6. **Larger Construction Site Requirements.**

Proposed Permit - For construction sites greater than one acre, the proposed permit would require the review and inspection of BMP implementation plans during construction and a Storm Water Pollution Prevention Plan (SWPPP) on site.

Current Practice - Currently, the City is required to inspect construction sites of two acres and above for compliance with a SWPPP. Should violations be discovered on sites between two and five acres, the City conducts follow-up activities. If the construction project site is five acres or over, the City notifies the Regional Board for follow-up activities. The Regional Board is responsible for issuing State General Construction Permits and conducting follow-up activities for sites five acres and above. Beginning in 2003, however, federal regulations will require the Regional Board issue General Construction Permits for sites one acre and above. The issuance of these permits will allow the Regional Board to collect fees for site inspection activities. As the proposed permit is currently written, however, cities will be required to inspect these sites, while the Regional Board collects the fees. It is more appropriate for the Regional Board to begin this activity in 2003 and fund their work through their permit fees.

Impact on the City – It is estimated that the cost to hire an additional two staff to review and inspect BMP implementation plans and SWPPPs would cost approximately $188,339. This would cost the ratepayers an increase of several cents on their Stormwater Pollution Abatement Charge.

Recommended City Position – Until March 2003, current permit requirements should be maintained, whereby permittees are responsible only for SWPPPs for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre. If the Regional Board is willing to transfer the funding from permit fees to the City for the responsibility of inspection of construction sites greater than one acre, the City may want to reconsider this position.

7. Responsibilities of the Principal Permitee

Proposed Permit - Assigns Los Angeles County, as the Principal Permittee, the responsibility of coordinating permit activities and negotiate NPDES requirements with the Regional Board. The proposed permit identifies the Executive Advisory Committee (EAC) representatives and the County as the agencies who will conduct formal discussions with the Regional Board on behalf of the permitees.

Current Practice – The existing permit does not give a formal role to the EAC.

Impact on the City – The proposed language will not allow the City an independent voice when permit coordinating activities take place. As the largest jurisdiction in the region, it is reasonable to provide a separate, permanent voice to the City of Los Angeles on this body.

Recommended City Position – In addition to the Principal Permittee and the EAC, add the City of Los Angeles as the agencies to conduct formal discussions with the Regional Board on behalf of the permittees.

RECOMMENDATION:

That the Council:

1. Forward the attached policy comment matrix to the Regional Board, which details the City's recommended changes for the draft 2001 NPDES Municipal Stormwater Permit, specifically, the Council's positions to:

2. Request deletion of the requirement for bi-weekly street sweeping;

3. Support the Regional Board's responsibility for inspections of industrial/commercial sites that are under the General Industrial Activities Stormwater Permit;

4. Support the requirements for Standard Urban Storm Water Mitigation Plans (SUSMP);

5. Request deletion of the requirement for peak flow control until consensus language is developed;

6. Request deletion of the additional requirements on City to require structural and non-structural BMPs and inspect construction sites less than one acre;

7. Request that until March 2003, current permit requirements be maintained, whereby the City is responsible only for SWPPPs for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre;

8. Add the City of Los Angeles to the Principal Permittee and the Executive Advisory Committee (EAC) as the agencies to conduct formal discussions with the Regional Board on behalf of the permitees.

FISCAL IMPACT STATEMENT:

The total cost of the proposed permit, as written, would cost the City over $13.4 million (see Table 3). The staff recommendations for the proposed 2001 NPDES Municipal Stormwater Permit will cost a total of $607,860 (see Table 2). This total cost includes additional staff costs of $432,779 for the expanded SUSMP implementation requirements and $175,081 for the addition of two inspectors to conduct expanded industrial/commercial site inspections. Any increase in attorney costs have not been calculated at this time, however, it is not expected to be significant the first year of the permit and may be revisited in future years if costs escalate substantially.

The 2001-02 Stormwater Pollution Abatement Fund included $530,000 for expected new NPDES permit requirements. The estimated staff costs of $607,000 will leave a shortfall of approximately $70,000 in the SPAF for these activities. All of the staff will not be necessary the first year of the NPDES permit implementation. In future years, however, the SPAF was budgeted to absorb an increase of $200,000, which will leave the SPAF short by $400,000 annually for permit implementation activities.

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Location	Passage	Comments/Recommendations
Page 4,Findings Item 6	"These environmentally sensitive area include . . . Significant Natural Areas, and impaired water bodies listed under Clean Water Act Section 303(d)."	Recommend modifying as follows: "These environmentally sensitive area include . . . Significant Natural Areas, and impaired water bodies ~~listed under Clean Water Act Section 303(d)~~." Impaired water bodies are not necessarily synonymous with environmentally sensitive areas. The City believes that there are separate regulatory provisions to address and deal with impaired water bodies such as the TMDL process, which takes into consideration point and non-point source pollution for these waters
Page 4, Findings Item 7	"The increased volume, increased velocity, and..."	Recommend adding to the end of this sentence: "**In water bodies susceptible to these effects**".
Page 4, Findings Item 7	"Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces."	Recommend rewording this text as follows because 10% may not be the standard: "Studies have demonstrated that increasing impervious cover can lead to declines in habitat quality and associated biodiversity."
Page 5, Findings Item 11	"Studies indicate that facilities...fueling (automotive...)..."	Delete typographical error in parenthesis (...service facilities0)
Page 8, Findings Item 25	"...These criteria apply to discharges...."	Recommend the sentence be changed: "These apply as ambient criteria for inland surface waters". The current language inaccurately describes the legal requirements. The CTR criteria apply as ambient criteria for surface waters, the criteria do not apply directly to discharges as stated here. Also, the State Implementation Policy (SIP) specifically states in footnote 1 on page 1 that "This Policy does not apply to regulation of storm water discharges."
Page 9, Findings Item 37	"California Water Code (CWC) Section 13263(a) requires that...."	Water Code Section 13263(a), in addition to the requirements listed, requires the Regional Board when setting waste discharge requirements to take into consideration "the provisions of Section 13241 including economic considerations." The Los Angeles Superior Court in the permit appeals for the Los Angeles-Glendale, Tillman, and Burbank Water Reclamation Plants confirmed this requirement in the final Statement of Decision issued on April 4, 2001. This decision is binding on the Regional Board. "...other waste discharges; and the need to prevent nuisance. **,and the provisions of Section A 132 and 1.**"
Page 10, Findings Item 38	"California Water Code (CWC) Section 13370 et seq. Requires...".	Recommend changing "comply" to "**be consistent**...". California operates an in-lieu permitting program, waste discharge requirements must merely "be consistent" with CWA requirements.
Page 10, Findings Item 39	The Regional Board is the...."	Recommend replacement of word "or" with "**for**" in the first sentence.
Page 10, Findings Item 43	"To meet this objective, this Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters."	Recommend modifying as follows: "To meet this objective, this Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff **to the Maximum Extent Practicable (MEP)** such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters."

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Location	Passage	Comments/Recommendations
Page 11, Findings	Add a new finding (presumably between Items #45-47).	Recommend reference to non-chapter 3 CEQA requirements for the adoption of waste discharge requirements. Chapter 1 of CEQA requires the Regional Board explore alternatives and mitigation measures that might cause less impact on the environment than the action/Order proposed. Recommend modyifying as follows: "The action to adopt a NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21100, et seq.), in accordance with Section 13389 of the California Water Code."
Page 12, Part 1	"Each Permittee shall effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are: 1. covered by a separate individual or general NPDES permit for . . ."	Recommend modifying as follows: " ...covered by a separate individual or general NPDES permit, or **granted an exemption by the Regional Board, the Executive Officer, or the State Water Resources Control Board**, for . . . " This modification would maintain the intent of the current Permit and include sources previously granted an exemption from the Regional Board or State Water Resources Control Board.
Page 12, Part 1.2	".... and meet all the conditions specified by the Regional Board Executive Officer (and which must be included in the revised SQMP)..."	We recommend reinstating Part 2, Section II.C.4 (p. 33-34) of Order 96-054, which describes the procedures to obtain additional categories of exemptions.
Page 12, Part 1.2.a	"a) Categories of natural flow: . . ."	Recommend modifying as follows: "a) Categories of natural flow: (1) Natural springs and rising **natural** ground water; . . . Uncontaminated **natural** ground water . . ."
Page 12, Part 1.2.c	Add new reference items.	9) Washing of fire/emergency vehicles; and 10) Potable water sources with appropriate BMP's applied.
Page 12, Part 1.2.c.1 & 2	Discharge Prohibitions: "Reclaimed and potable landscape irrigation runoff;" "Water line flushing of potable water distribution systems;"	Recommend modifying as follows: "Reclaimed and potable landscape irrigation runoff;" "Water line flushing of potable water distribution systems;" Line flushing within the system is necessary to protect the health and safety of the public. In some cases, when flushing occurs within the distribution system, chlorination is increased and then the water is dechlorinated. However, during the flush, the water may not be to potable water standards.
Page 13, Part 1.2.c.6	"Dewatering of lakes and decorative fountains;"	Recommend modifying as follows: "Dewatering of lakes, **reservoirs, potable water tanks**, and decorative fountains **with appropriate BMPs applied;**"
Page 13, Part 1.2 Last paragraph	"The Regional Board Executive Officer may add or remove categories of non-stormwater discharges above. Furthermore, in the event that any of the above categories of non-	Recommended modifying as follows: " . . . in the event that any of the above categories of non-stormwater discharges are determined to be a **significant** source of pollutants and **cause an adverse significant impact** . . . the discharge will no

Location	Passage	Comments/Recommendations
	stormwater discharges are determined . . . in consideration of anti-degradation policies."	longer be exempt . . ."
Page 13, Part 2	"Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited."	An intro sentence needs to be added that says before paragraph 1, "Except in accordance with this Order." This is an extremely important change to protect from citizen enforcement over an alleged violation of the Receiving Water Limitations.
Page 13, Part 2.1 and 2.2	"1. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited." "2. Discharges from the MS4 of storm water, or non-stormwater, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance."	The Order includes the "cause or contribute to" language taken from 40 CFR §122.44(d), which is arguably not applicable to stormwater discharges as stormwater is regulated under §122.44(k), which allows BMPs where effluent limitations are not feasible. The language should at least be changed to read: "1. Discharges from the MS4 that **are demonstrated to** cause ~~or contribute to~~ the violation of **applicable** water quality standards or water quality objectives are prohibited." "2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause ~~or contribute to~~ a condition of nuisance."
Page 13, Part 3	"The Permittee shall comply with the permit through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the Storm Water Quality Management Plan (SQMP) and its components and other requirements of this permit including any modifications. If exceedances of water quality objectives.... by complying with the following procedures."	To protect from enforcement jeopardy, the language must read: "The Permittee shall **be deemed to be in compliance** ~~comply~~ with the requirements of this permit through timely implementation of control measures and other actions to **reduce to the Maximum Extent Practicable** pollutants.... the Permittee shall ~~assure~~ **attempt to come into** compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:" The current wording is not protective against potential enforcement actions and is not consistent with the SWRCB Policy set forth in Order 99-05.
Page 13, Part 3.a	" a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance...The Regional Board may require modifications to the Report."	Remove the "or contributing to" language.
Page 17, Part 3.F.2	"The Principal Permittee shall modify the SQMP to comply with waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Maximum Daily Loads (TMDLs) for impaired water bodies."	Include discussion of the process for that modification and the timeline for compliance, which must include a public review.
Page 18, Part 3.G.1.b and g	Prohibit the discharge of "untreated" runoff.	Modify by adding the word "untreated" for each paragraph as follows: "b) Prohibit the discharge of **untreated** wash waters to the MS4 from the cleaning of gas stations...or other automotive facilities." "c) Prohibit the discharge of **untreated** runoff to the MS4 from mobile auto washing, steam cleaning " "e) Prohibit the discharge of **untreated** runoff to the MS4 from storage areas of materials containing grease, oil..." "g) Prohibit the discharge of **untreated** runoff from the washing of toxic materials from paved or unpaved areas to the MS4..."

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Location	Passage	Comments/Recommendations
		"h) Prohibit washing impervious surfaces in industrial/commercial areas that result in a discharge of **untreated** runoff to..." In the existing permit, paragraphs b & g prohibit the discharge of "untreated" runoff.
Page 18, Part 3.G.1.e	"Prohibit the discharge of runoff to the MS4 from storage areas of materials containing..."	Recommend modify as follows: "Prohibit the discharge of runoff to the MS4 from storage areas of materials containing grease, . . . and uncovered receptacles containing hazardous materials **unless such containers are new and unopened.**"
Page 18, Part 3.G.1.j	"Prohibit spills, dumping, or disposal of materials into the MS4, other than storm water, such as:"	Recommend modifying as follows: "Prohibit ~~spills, dumping,~~ or disposal of materials into the MS4, . . ." Spills are not deliberate, intentional acts whereas dumping and disposal are.
Page 18, Part 3.G.1	Add a new reference item after j).	"Control spills to the maximum extent practicable."
Page 18, Part 3.G.1.j.4	"Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials . . ."	Recommend modifying as follows: "Fuel and chemical wastes, animal wastes, garbage, **and** batteries, ~~and~~ other materials that have potential adverse . . . " "other materials" is overly broad, too open-ended, and redundant with the phrase "such as" that prefaces this subsection.
Page 19, Part 3.G.1.k-p	Paragraphs (k) through (p) are not related to (a) through (j) in that they do not reflect a category of prohibitions or controls.	Recommend adding another appropriate topic heading for items (k) through (p) and renumbering as appropriate.
Page 19, Part 3.G.1.p	"Adopt and implement an agency-specific storm water and urban runoff ordinance or amend an existing one, if necessary, to be able to enforce all requirements of the permit, effective immediately upon the adoption of this Order."	The City is unable to adopt a new or amend a current ordinance immediately upon the adoption of this Order. The City recommends modifying as follows: "Adopt and implement an agency-specific storm water and urban runoff ordinance or amend an existing one, if necessary, to be able to enforce all requirements of the permit, effective immediately upon **9 months after** the adoption of this Order."
Page 19, Part 3.H	"...Permittees to address their programs specifically for that particular situation and change them accordingly to address the problem.)"	Recommend modifying as follows: "...for that particular situation and change them accordingly to address the problem if **continued implementation of the SQMP is not expected to address the situation**)."
Page 20, Part 3.J	"The Principal Permittee shall submit a Storm Water Monitoring Report on August 15, 2002 and annually on August 15 thereafter..."	Although not specifically specified, it appears from this passage that the reporting period for monitoring requirements is based on the fiscal year (July 1 through June 30 of each year). The Storm Water Monitoring Report for this period is then due on August 15, only about six weeks later. This time period is too short to perform thorough assessments and reporting of the vast array of data that will be collected during the year. This report should be due six months after the conclusion of the year's sampling.
Page 24. Part 4.A.2. a and 1	Corporate Outreach	The phrase "corporate heads" is too limiting, especially for large corporations whose officers are located out of the areas. Therefore, change "corporate heads" to "**corporate or management company**."

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Location	Passage	Comments/Recommendations
Page 24, Part 4.A.2.b	"Permittees shall develop and implement a Business Assistance Program . . . "	Change to "Permittees shall implement a Business Assistance Program..." Permittees may be able to establish cooperative efforts with existing business assistance programs to accomplish this requirement without undue burden of developing a brand new program. It may also be more cost effective for them to partner with other organizations.
Page 24, Part 4.A.2.b.1	"On-site technical assistance or consultation via telephone to identify and implement pollution prevention methods and best management practices"	Recommend the insertion of the word "stormwater" in front of "pollution prevention".
Page 25, Part 4.A.2.b.4	"Permittees shall conduct follow-up independent of the Business Assistance Program, based on the priorities of the Industrial/Commercial Inspection Program"	Move "Permittees shall conduct follow-up independent of the Business Assistance Program, based on the priorities of the Industrial/Commercial Inspection Program" to P. 28 Part B 5. C). The placement of this statement implies that some type of follow-up is required by the Business Assistance Program. After "The Business Assistance Program shall be a confidential and non-enforcement program", add the following: "The Business Assistance Program shall operate independently of the Industrial/Commercial Inspection Program".
Page 27, Part 4.B.3.d	"Other Commercial facilities (contributing or potentially contributing to the impairments of receiving waters)"	We recommend the "other commercial" sites to be defined as follows: Those facilities having activities corresponding to SIC codes 33XX, 34XX, 35XX, 4612, 4613, 4619, 4731, 4783, 4789, 4925, 4932, 5031, 5039, 5051, 5082, 5083, 5084, 5085, 5172, 5211, 5989, 7221, 7212, 7213, 7217, 7218, 7219, 7261, 7622, 7623, 7692, 7693, and 9629.
Page 28, Part 4.B.5.b	"Automotive Service Facilities"	We recommend defining "Automotive Service Facilities" as SIC codes 75XX, and 5014.
Page 28, Part 4.B.7.a	"Each Permittee shall provide oral notification to the Regional Board of non-compliance with existing storm water regulations (within 3 days of discovery) or create an adverse impact or nuisance as it relates to the quality of the receiving waters of the State within its jurisdiction, within 24 hours of the discovery. Such oral notification shall be followed up by a written report to be submitted to the Regional Board within 5 days of the incidence of non-compliance."	Our enforcement staff deals with nuisance discharges almost on a daily basis. These flows are stopped and appropriate enforcement actions are taken. Reporting all incidents would not be practical. We recommend reporting only serious discharges of sewage or hazardous material to the RWQCB as detailed in the draft permit language. All other discharges should be reported in writing by the 10th day of each month. Replace passage with, " For discharges to the MS4 of sewage and hazardous materials that are a threat t public health and safety, and the quality of receiving waters, each permittee shall provide verbal notification to the Regional Board of non-compliance within 24 hours of discovery followed by a written report within 5 working days. All other discharges will be reported in writing to the Regional Board by the 10th day of each month.
Page 28, Part 4.B.7.b	"Permittees shall develop and submit criteria by which to evaluate events of non-compliance to determine whether they create an adverse impact or nuisance. These criteria shall be submitted in the SQMP and Annual Report for Regional Board review and subject to Regional Board Executive Officer's approval."	Recommend modifying as follows: "~~Permittees~~ **The Principal Permittee In conjunction with the co-Permittees** shall develop and submit ~~criteria~~ **procedures ~~by which~~** to evaluate . . ."
Page 29, Part 4.C.1	Programs for Development Planning	Recommend modifying as follows: "...require all planning priority development and redevelopment projects, **to the maximum extent practicable,** to,"

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Location	Passage	Comments/Recommendations
Page 29, Part 4.C.1	Programs for Development Planning	Define planning priority projects. Definition must be consistent with the Development Planning Model Program.
Page 29, Part 4.C.1.b	"Maximize the percentage of permeable surfaces to allow more percolation of storm water into the ground;"	Recommend modifying as follows: "Maximize the percentage of permeable surfaces to allow percolation of storm water into the ground, **except in the Harbor area and in the San Fernando Valley (SFV), where prior approval by the SFV Watermaster, also known as the Upper Los Angeles River Area (ULARA) Watermaster, is required.**" The Upper Los Angeles River Area (ULARA) Watermaster is concerned with percolation of storm water into the ground in the San Fernando Valley area. The Port of Los Angeles has also expressed concerns (the feasibility in the Harbor area due to the high groundwater table.
Page 29, Part 4.C.1.d	"Minimize pollution emanating from parking lots through the use of appropriate treatment control BMPs and good house keeping practices;"	Recommend deleting this subsection. It is redundant with the SUSMP requirement.
Page 30, Part 4.C.3.a.4 and 5	"Divert roof runoff to vegetated areas before discharge"	This violates section 91.7013.9 of the building code, which requires all roof water be delivered through a non-erosive via gravity to a street or watercourse if the slope of the underlying natural ground exceeds 3%. Under Finding #7 (page 4 of the draft permit) the major concern with urban developments in hillside areas is the potential for increase volume and velocity of storm water runoff that will greatly accelerates downstream erosion and impairs stream habitat. This will be true in rural areas where there are no concrete curbs, gutters, or storm drains. Under section 91.7013.9 there will not be any downstream erosion and impairs stream habitat because all the roof drainage will be carried to the City's storm drain system via non-erosive devices. Therefore, it is recommended that item (4), "Divert roof runoff to vegetated areas before discharge" be deleted.
Page 30, Part 4.C.3.b	SUSMP	Since this permit is supposed to consider watershed solutions and that in some cases it may make more sense to develop regional solutions that could address existing as well as new development. The followir change is suggested: After (7) add in the following paragraph: "Or the Permittee shall demonstrate how a watershed solution using regional controls has been developed that would lead to better water quality results than individual new and redevelopment sites meeting the SUSMP standards".
Page 30, Part 4.C.3.b	SUSMP Project Categories	Recommend changing title of item (4) to "Automotive Repair Shops" to be consistent with the definition title on Part 5 of page 46, or vice versa.
Page 31, Part 4.C.4	Numerical Design Criteria	Include "Structural BMPs" in 1st paragraph. The revised paragraph shall read as follows: "The Permittees shall require that post-construction **structural or** treatment control BMPs incorporate..."
Page 31, Part 4.C.4.b.2	"....for Los Angeles County"	Recommended change: "...for Los Angeles County, or"
Page 32, Part 4.C.6	Definition of Acre	Define acre as 43,560.

Location	Passage	Comments/Recommendations
Page 32, Part 4.C.6.a	USEPA Phase II requirements	Change sentence to read as, "One acre or greater..."
Page 34, Part 4.C.10	Mitigation Funding	Please explain what this entire section means. Are subsections a through c identified as potential funding sources? Define items a through c. In item (a), define conditions of impracticability. (Same as existing permit?) Granting of waivers, including waivers of impracticability, shall be the responsibility of the Regional Board Item (b) needs clarification. "'Legislative funds become available"...to who?
Page 35, Part 4.C.12	General Plan Update	Under the State of California General Plan Guidelines, each City is given 5 years to update the General Plan. This item gives each Permittee 540 days from permit adoption date. In order to effect a complete and appropriately detailed update to the General Plan, it is suggested that the time allowed should reflect the State General Plan Guidelines of 5 years. Therefore, change the deadline of 540 days to 5 years from permit adoption date.
Page 35, Part 4.C.14.	Developer Technical Guidance and Information	The City of Los Angeles has developed three technical guidance manuals, which are entitled, "REFERENCE GUIDE FOR STORMWATER BEST MANAGEMENT PRACTICES", "DEVELOPMENT BEST MANAGEMENT PRACTICES HANDBOOK, PART A – CONSTRUCTION ACTIVITIES", AND "DEVELOPMENT BEST MANAGEMENT PRACTICES HANDBOOK, PART B – PLANNING ACTIVITIES". The City's technical manuals already provide such information as identified on Page 35 Part 4C14b1-5 for development projects with the exception of the Peak Flow Control numerical criteria (referred to on Page 29 Part 4C2). The Peak Flow Control numerical criteria will be developed by the Permittees upon the adoption of the Permit as described in Page 29 Part 4C2. If the Board determines that the City's technical manuals are not sufficient to meet the requirements enumerated in Part 4C14, then for the purposes of countywide consistency, the Principal Permittee should develop the technical guidance manual. Recommend modifying as follows: "b) Principal Permittees shall develop...."
Pg. 39, Part 4.E.1	Public Agency Activities	Please revise the listing of Public Agency requirements to be consistent with the succeeding Sections and Topics.
Page 40, Part 4.E.3.a	"Each Permittee shall...from construction activity at all construction sites."	Change sentence to read: Each Permittee shall...from construction activity **activities** at all **public** construction sites.
Page 40, 41		There are two subsections under Part 4.E numbered "3", one on page 40 and one on page 41.
Page 41, Part 4.E.3.b.4 and 5	Public Construction Activities Management	Items 4 and 5 address City staff ensuring effectiveness of BMPs. It has always been the City's contention that staff is not responsible for ensuring BMPs are effective. Staff may be responsible for ensuring BMPs are in place and operational, but should not be liable for "effectiveness."
Page 41, Part 4.E.3.b and c	"Each Permittee shall obtain coverage...under separate permit until March 10, 2003."	Delete b) and c). Replace with "Each Permittee shall comply with Part 4.D of this Order."
Page 41, Part 4.E.3.b	Vehicle Maintenace/Material Storage... "Each Permittee shall implement BMPs to minimize pollutant discharges in storm water..."	Recommend modifying as follows: "Each Permittee shall implement BMPs to minimize pollutant discharges to the **maximum extent practicable** in storm water . . ."

Location	Passage	Comments/Recommendations
Page 42, Part 4.E.3.c	"Each Permittee shall require that all vehicle/equipment wash areas..."	Recommend modifying as follows: "...for new facilities or during redevelopment of existing sites **wash areas**."
Page 42, Part 4.E.3.d	"Each Permittee shall, for each municipal yard...obtain separate coverage under the State of California General Industrial Activities Storm Water Discharge Permit"	We would like to maintain the current Permit provisions (Part 2.IV.C.8 of Order 96-054), which allow municipal yards covered under Phase I of the Federal Storm Water Regulations, to seek coverage under the municipal permit.
Page 42, Part 4.E.4.g	"Each Permittee shall regularly inspect storage areas."	Revise to read: "Each Permittee shall regularly annually inspect storage areas."
Page 42, Part 4.E.5.b	"Classify priority catch-basins to be those that are 40 percent full"	Please clarify how the 40 percent full figure came about---is there any science behind it. This figure is very subjective to individual judgement, especially in the field.
Page 43. Part 4.E.5.a	"Inspect and clean catch basins between..."	Change to "Inspect **and if necessary** clean catch basins...."
Page 43. Part 4.E.5. Second b	"A review of current storm drain maintenance...appropriate storm water BMPs are being utilized to water quality;"	Change to ".... appropriate storm water BMPs are being utilized to **protect** water quality;"
Page 44, Part 6.c	"Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that no case shall waste be allowed to enter the storm drain."	Change paragraph to read:" Each Permittee shall require that sawcutting wastes be recovered and disposed of properly."
Page 44, Part 4.E.7	"Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as: earthquakes, . . ."	Recommend modifying as follows: "Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as, **but not limited to**: earthquakes, . . ."
Page 44, Part 4.F	"Permittees shall eliminate all illicit connections and illicit discharges to the storm drain, and shall document and report all such cases. To accomplish this, the Permittees shall revise their Program for Elimination of Illicit Connection and Illicit Discharge...including performance measures and schedules."	Does this mean revising the Model Program?
Page 45, Part 4.F.1.a	"Implementation: Upon Executive Officer approval of the revised IC/ID Program...and available for review and approval by the Regional Board when requested."	Does this mean "Upon Executive Officer approval of the revised Model IC/ID Program" ?
Page 45, Part 4.F.1.b	General Elements – "...the Lead Permittee shall have the capability to locate all permitted discharges..."	The term "Lead Permittee" is not defined in the permit. Are we to assume this is the "Principal Permittee?"
Page 46, Part 4.F.3.a	"Respond, within 72 hours of discovery or a report of a suspected illicit discharge, with activities ..."	It is our recommendation that the response time be changed to three (3) business days instead of 72 hours.

Location	Passage	Comments/Recommendations
Page 48	"Environmentally Sensitive Areas"	"...Natural Area by the California Department of Fish and Game... or Endangered Species (RARE) beneficial use~~; or an area identified by the Permittees as environmentally sensitive for water quality purposes, based on the Regional Board Basin Plan and Clean Water Act Section 303(d) Impaired Water-bodies List for Los Angeles County~~."
Page 51	Definitions	Add new term, "Pollution Prevention" and definition, which emphasizes source reduction methods for reduction and elimination of pollutants entering stormwater. The restricted definition will more clearly define what is being required of the regulated community and what is being enforced by regulators. If undefined, the term will default to include multi-media source reduction, in process recycling, conservation of energy and natural resources.
Page 57, Item F Page 59, Item L	Proper Maintenance and Operation Bypass	These requirements seem to have been copied from an NPDES permit for a wastewater treatment plant They are not applicable to a stormwater permit. "Facilities and systems of treatment" have not even been proven to be effective. How can it be that the non-operation or bypassing of such facilities can be deemed harmful or non-compliant? Please ensure that these sections are deleted.
Page 73, Monitoring and Reporting Program, IIC1	"The Principal Permittee shall develop and implement a tributary/source identification monitoring program."	The RWQCB should have more mass emission sites up each of the 5 major watersheds instead of just measuring concentration in various tributaries. Data from each of these proposed mass emission stations represents the contribution from the next upstream mass emission station and all the ancillary storm drain contributions. Watershed-based source control should be targeted in the proposed mass emission reaches that contribute the most pollutant of concern. If the RWQCB still wants to have these tributary stations, then flow should be added to the requirements so that the different tributaries could be compared to each other based on pollutant loads.
Page 75, Monitoring and Reporting Program, IIE2	" Reference stations shall be selected in stream reaches that are not listed as impaired on the 303(d) list and that are not representative of urban stream conditions, based on surrounding land uses and a lack of upstream point source discharges."	These reference stations will be difficult to find and are probably not comparable to the more urban downstream reaches.

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R0003769

TABLE 1

SPECIAL PURPOSE FUND SCHEDULES

SCHEDULE 7

STORMWATER POLLUTION ABATEMENT FUND

The Water Quality Act of 1987, adding Section 402(P) to the Federal Water Pollution Control Act, provides that the Environmental Protection Agency shall establish regulations setting forth requirements for stormwater discharges from large municipal storm drain systems. The City enacted a Stormwater Pollution Abatement Charge (Article 4.2 of Chapter 6 of the Los Angeles Municipal Code) on all properties in the City in order to treat and abate stormwater. The charge is based on stormwater runoff and pollutant loading associated with property size and land use.

Actual 1999-00	Estimated 2000-01		Budget 2001-02
		REVENUE	
$ 6,302,128	$ 12,035,806	Cash Balance, July 1	$ 12,225,806
		Less:	
		Prior Year's Unexpended Appropriations	9,011,275
$ 6,302,128	$ 12,035,806	Balance Available, July 1	$ 3,214,531
27,819,609	28,000,000	Stormwater Pollution Abatement Charge	28,000,000
3,481,859	–	General Fund	1,000,000
180,270	250,000	Interest	250,000
294,534	1,690,000	Grant Reimbursement	2,333,623
7,577	55,000	Reimbursement from Other Funds	–
183,750	1,550,000	Other	755,000
$ 38,269,827	$ 43,580,806	Total Revenue	$ 35,553,154
EXPENDITURES		APPROPRIATIONS	
143,744	157,000	Environmental Affairs	160,517
406,241	473,000	General Services	472,750
51,594	75,000	Planning	78,872
		Public Works:	
101,962	116,000	Board Office	68,515
–	–	Director of Public Works	119,534
59,818	74,000	Accounting	–
189,040	189,000	Contract Administration	239,151
4,163,559	4,649,000	Engineering	5,368,187
7,119,710	7,915,000	Sanitation	8,115,002
4,638,354	4,880,000	Street Services	4,879,818
70,000	--	Recreation and Parks	–
3,014,682	4,270,000	CIEP Physical Plant	4,637,000
–	321,000	CIEP Municipal Facilities	100,000
–	–	Unappropriated Balance - Civilian Contract Negotiations	339,075
		Special Purpose Fund Appropriations:	
5,192,168	6,374,000	Related Costs	6,374,201
--	--	General Services	361,000
--	--	Reserve for Future Capital Projects	1,900,000
--	162,000	Unallocated NPDES Implementation	50,000
–	--	New Stormwater Permit Requirements	530,000
–	610,000	Emergency Construction Contingency	–
77,949	890,000	On Call Contractors (Emergency Funds)	1,759,532
$ 26,234,021	$ 31,355,000	Total Appropriations	$ 35,553,154

R0003770

TABLE 2

DRAFT STORM WATER PERMIT: ADDITIONAL REQUIREMENTS AND ESTIMATED COSTS

New Requirement	Dept./Bur.	Position	Class. #	No. of Positions	Base Salary/Position	Related Costs/Position	Total Cost
PROGRAMS FOR INDUSTRIAL/COMMERCIAL INSPECTIONS							
Inspect industrial/commercial sites, City jurisdiction, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	Bur. San., SMD	Industrial Waste Inspector	4292	2	$57,566	$29,975	$175,081
Legal action pursuant to inspections of industrial/commercial sites, general, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	City Attorney						
PROGRAMS FOR DEVELOPMENT PLANNING and CONSTRUCTION							
Implement requirement for Standard Urban Storm Water Mitigation Plans (SUSMP) for ministerial projects for the SUSMP project categones. (Part 4.C)	Dept. Bldg. & Safety	Associate Engineer	7240	4	$65,876	$42,319	$432,779
Total Annual Cost:							**$607,860**

GENERAL NOTE: This cost estimate does not include costs related to implementing TMDLs.

TABLE 3

DRAFT STORM W/ 'R PERMIT: ADDITIONAL REQUIREMENTS AN' 'STIMATED COSTS

New Requirement	Dept./Bur.	Position	Class. #	No. of Positions	Base Salary/Position	Related Costs/Position	Total Cost
PROGRAMS FOR INDUSTRIAL/COMMERCIAL INSPECTIONS							
Inspect industrial/commercial sites, City jurisdiction, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	Bur. San., SMD	Industrial Waste Inspector	4292	2	$57,566	$29,975	$175,081
Inspect Industrial/commercial sites, State jurisdiction, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	Bur. San., SMD	Industrial Waste Inspector	4292	4	$57,566	$29,975	$350,162
Legal action pursuant to inspections of industrial/commercial sites, general, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	City Attorney						
PROGRAMS FOR DEVELOPMENT PLANNING and CONSTRUCTION							
Implement requirement for Standard Urban Storm Water Mitigation Plans (SUSMP) for ministerial projects for the SUSMP project categories. (Part 4.C)	Dept. Bldg. & Safety	Associate Engineer	7240	4	$65,876	$42,319	$432,779
For construction sites less than 1 acre, implement requirements for structural and non-structural BMPs and inspect sites during wet weather. (Part 4.D)	Dept. Bldg. & Safety	Associate Engineer	7240	6	$65,876	$42,319	$649,168
		Building Inspector	4211	2	$48,797	$31,347	$160,288
For construction sites greater than 1 acre, review and inspect BMP implementation plans and Local Storm Water Pollution Prevention Plan (Local SWPPP). (Part 4.D)	Dept. Bldg. & Safety	Associate Engineer	7240	1	$65,876	$42,319	$108,195
		Building Inspector	4211	1	$48,797	$31,347	$80,144
PUBLIC AGENCY ACTIVITIES							
Sweep streets that generate low volumes of trash not less than two times per month. (Part 4.E)	Bur. St. Services	Motor Sweeper Operator	3585	23	$48,414	$69,372	$2,709,088
		HD Truck Operator	3584	7	$41,380	$59,293	$704,714
		Truck Operator	3583	2	$40,639	$58,232	$197,741
General Services Inter-Departmental Expense: Estimated annual costs for General Services for fuel, maintenance (labor and materials) related to additional sweepers, trucks, and loaders.*							$985,334
Total Annual Cost:							**$6,377,614**

Capital costs for purchase of equipment for Bureau of Street Services to perform additional street sweeping (24 Compressed Natural Gas (CNG) powered motor sweepers, 3 Tractors, 1 Pushback Trailer, 3 Lt. Over-the-cab-Loaders, and 6-HD Over-the-cab Loaders).	$7,065,000
Total Capital Cost:	**$7,065,000**

Total Costs, Annual and Capital:	**$13,442,614**

* The cost of facilities for the CNG powered equipment has not been estimated at this time. Additional overnight parking for the equipment may be required at the Northridge Facility.

GENERAL NOTE: This cost estimate does not include costs related to implementing TMDLs.

R0003772

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
General Comment R0003773 544	The City strongly opposes the requirements of the draft Permit that pass responsibilities of the State to the Permittees for the inspection of industrial/commercial sites and construction sites. We are pleased to hear that the Executive Officer has taken the same position as the City against the proposed transfer of responsibilities. These responsibilities clearly belong to and should remain with the State and the Regional Water Quality Control Board. Specifically, for: <u>Industrial/Commercial Sites:</u> Inspections would include Phase I facilities that operate under NPDES permits issued by the Regional Board. Shifting responsibilities for inspections will put the Permittees in the position of acting as agents of the State, create significant financial burdens for the Permittees, and expose the facilities to being regulated at both the State and local levels. This will create situations where inconsistencies in the interpretation and application of regulations can double the potential liability of a given facility. <u>Construction Sites:</u> a) Less than 1 acre - Regulations for sites less than 1 acre are unnecessary. "Less than 1 acre" does not have a lower limit and is beyond the intent of the Federal Phase II program. Many projects less than 1 acre do not cause an adverse impact on water quality; those that do not cause an adverse impact are not being regulated at the State or Federal level and will not be regulated in the immediate future. If a site that is less than 1 acre does cause an adverse impact on water quality, then current local, State and/or Federal ordinances/laws/regulations give the authority for agencies to take enforcement action. b) Between 1 and 5 acres - Federal regulations (Phase II) for sites 1 acre and greater will be in effect beginning March 2003. Therefore, increases in regulations for sites 1 - 5 acres should be deferred until that time, when the State will modify its General Construction Permit to include these sites and take on the responsibilities to inspect them. Until March 2003, current Permit requirements should be maintained, whereby Permittees are responsible only for Local SWPPPs for sites 2 - 5 acres. c) Five or more acres - Regulating these sites belongs with the State under the Statewide General Construction program.	
Page 10, Findings Item 39	"These industrial and construction sites and discharges are also regulated under local laws and regulations."	The responsibilities for State General Industrial and General Construction Permits should remain with the State (please reference General Comment above). Recommend modifying as follows: "These industrial and construction sites and discharges are also can also be regulated under local laws and regulations."
Page 10, Findings Item 41	"A ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion."	The California CEQA defines which projects require discretionary actions. A ministerial project cannot be made discretionary by adopting local ordinance. Any modifications and/or additions to CEQA must be done at the state level. Recommend deleting this sentence.
Page 14, Part 3.A.1	Second paragraph, second sentence: " However, the Principal Permittee..."	Recommend changing the language to "However, the Principal Permittee, the City of Los Angeles, and five representatives of the Watershed Management Committees designated by the Executive Advisory Committee (EAC) will conduct formal discussions with the Regional Board on behalf of the Permittees."

Policy Issues

Location	Passage	Comments/Recommendations
Page 19, Part 3.G.1.m and n	"m) Control the contribution, or potential contribution..." "n) Carry out all inspection, surveillance..."	These paragraphs overlap the responsibilities of the State-wide General Storm Water Permits associated with Industrial Activities and Construction Activities. Recommend modifying as follows: "m) ...discharges of storm water runoff associated with industrial activities (including construction activities) not already covered by the State General Industrial Activities Storm Water Permit or the State General Construction Activities Storm Water Permit to its MS4... " "n) ...and require regular reports from industrial facilities, not already covered by the State General Industrial Activities Storm Water Permit, discharging..."
Page 23, Part 4.A.1.d	"Each Permittee shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, and other media necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution."	Revise to read: "~~Each~~ The Principal Permittee in cooperation and coordination with the other Permittees shall provide all School Districts within its their jurisdiction with materials, including ~~videos,~~ live presentations with visual media, brochures, and other media necessary to educate a minimum of 50 percent of all school children (Grades K-12) every 2 years on storm water pollution."
Page 25 Part 4.B	6th Bullet "Enforcement of Pollution Prevention and enforcement control measures at Industrial/Commercial sites."	Change to "~~Enforcement~~ The implementation of proper stormwater Pollution Prevention source reduction and control measures at Industrial/Commercial sites".
Page 26, Part 4.B.3.a	NEW: ""All industrial groups regulated under Phase I..."	NEW: In accordance with the General Comment on Page 1, this item should be deleted.
Page 26, Part 4.B.3.c	"Restaurants. The County Health Department Code shall be amended to facilitate compliance with this Order. At a minimum, the Code shall be modified to require inspections for ..."	The passage appears to imply assigning County Health inspectors the task of inspecting restaurants for BMPs. It is our recommendation that a more direct sentence be added. For example, "Restaurant. The Principal Permittee shall inspect restaurants and other food establishments to ensure compliance with this Order, and the County Health Department Code shall be amended to facilitate the implementation of this requirement."

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
Page 26-28, Part 4.B.2 & 5	"Source Identification (Industrial/Commercial Sites)"	In accordance with the General Comment on page 1, the Permittees are responsible for the updating of their data bases and the Regional Board is responsible for maintaining its data base. This item should be deleted. Facilities that are already covered under both the General Industrial and Construction permits should not also be covered under the Municipal permit. Inspection and BMP requirements for these permits should remain the responsibility primarily of the RWQCB.
Page 27, Part 4.B.4.a	"Each Permittee shall implement, or require the implementation of, the designated minimum BMPs, as approved in Resolution No. 98-08, at each industrial/commercial site within its jurisdiction."	Please reference General Comment, located at the top of Page 1 Recommend modifying as follows: "Each Permittee shall implement, or require the implementation of, the designated minimum BMPs, as approved in Resolution No. 98-08, at each industrial/commercial site, other than those facilities that have a State General Industrial Activities Storm Water Permit, within its jurisdiction."
Page 27, Part 4.B.4.b R0003775	"Each Permittee shall implement, or require implementation of, additional controls for Industrial/Commercial sites tributary to Clean Water Act section 303(d) water bodies (where a site discharges pollutants for which the water body is impaired) as necessary to comply with this Order. Each Permittee shall implement, or require implementation of, additional controls for Industrial/Commercial sites within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas as necessary to comply with this Order."	Please reference General Comment, located at the top of Page 1. Recommend modifying first half of Part 4.B.4.b as follows: "Each Permittee shall implement . . . for Industrial/Commercial sites, other than those facilities that have a State General Industrial Activities Storm Water Permit, tributary to Clean Water Act . . . " Recommend separating and modifying second half of Part 4.B.4.b into Part 4.B.4.c as follows: "c) Each Permittee shall implement, or require implementation of, additional controls for Industrial/Commercial sites, other than those facilities that have a State General Industrial Activities Storm Water Permit, within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas as necessary to comply with this Order."
Page 27, Part 4.B.5.a	"Each Permittee shall conduct Industrial site inspections..."	In accordance with the General Comment on page 1, we recommend that Item 5a be modified by the addition of the following: "other than those facilities that have a State General Industrial Activities Storm Water Permit."

Policy Issues

Location	Passage	Comments/Recommendations
Page 27, Part 4.B.5.b	"Each Permittee shall establish inspection frequencies for facilities...	In accordance with the General Comment on page1 and the revised Part 4.B.3.a we recommend that the 4th row of the table be deleted. The following inspection schedule is recommended: 1. Automotive Facilities – twice during the permit cycle. 2. Industrial/Commercial – once during the permit for all; second visit to those with exposure. 3. Restaurants – will be done by Principal Permittee.
Page 28, Part 4.B.5.b	Table	Add asterisk to "other commercial" in the table.
Page 28, Part 4.B.5.d	"To the extent that Regional Board staff has conducted an inspection of an Industrial/Commercial site during a particular year, the requirement for the responsible Permittee to inspect this site during the same year will be satisfied."	In accordance with the General Comment on page 1, this item should be deleted.
Page 29, Part 4.C.2	Peak Flow Control	This item requires that all projects, regardless of size or types, must show that the post-development peak discharge rate must not exceed the pre-development rate. This will cause undue hardship for developments, particularly in the Upper Los Angeles River Area where there is limited open space for detention/retention. Typical peak flow control measures include detention, retention, or infiltration systems. In addition, the Upper Los Angeles River Area (ULARA) Watermaster is concerned with potential ground water contamination from stormwater infiltration in the San Fernando Valley and will not allow any infiltration systems. The result can be a limit on or stopping new developments in the Upper LA River Area (See Exhibit 1). In addition, the Principal Permittee needs to be involved to ensure countywide consistency. We are also unclear as to what peak flows are intended to be controlled. For estimating purposes, we calculated the amount of runoff generated by 0.75 inch of rainfall on a 1-acre apartment building development. It was assumed that the site was 100% pervious prior to development and 90% impervious after development. Calculations show that the amount of runoff would increase by approximately 16,700 gallons, which would require a capture system with a capacity equivalent to an average-sized (15 ft. x 23 ft. x 6 ft.) residential swimming pool. If this assumption is correct, then the capture system for bigger sites would be several times larger than one swimming pool. Therefore, the need for additional open space for capture systems will put severe constraints on new developments and place an onerous burden on developers that may result in reducing the number of development projects.

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
		Since this requirement is not defined in detail and may have significant impact, we recommend the Peak Flow Control requirement be deleted until consensus language is developed.
Page 30, Part 4.C.2.e	"Soft-bottom segments of other receiving waters within Los Angeles County"	Replace phrase to read as, "unlined reaches of streams, creeks or rivers within Los Angeles County." This is consistent with Xavier Swamikannu of LARWQCB in his description of natural fresh water streams. (Need to attach map that shows which reaches are soft-bottom segments)
Page 32, Part 4.C.5 548	"Applicability of Numerical Design Criteria"	Change item (a) to read as follows: "Single-family hillside home developments that result in the creation of 10,000 square feet or more of impervious surface area." Change item (c) to read as follows: "Industrial/Commercial developments that result in the creation of 100,000 square feet or more of impervious surface area." Change item (d) to "Automotive Repair Shops" The criteria specified for retail gasoline outlets in item (e) should be required and not suggested. However, remove the 2 criteria where values are projected. The revised sentence should read as follows: "Retail gasoline outlets with six or more fueling dispensers, or with 24 or more dispensing meters, or 5,000 square feet or more of impervious surface area." For restaurants in item (f) change to "5,000 square feet or more of impervious surface area."
Page 32-33, Part 4.C.7.a.1-8	"Site Specific Mitigation"	These added categories have gone beyond the scope of Phase II. In addition, many of these categories are being dealt with in other regulations. The federal regulation for stormwater is to control pollutants via application of BMPs to the MEP if the discharge is a significant pollutant source that creates an adverse impact to the environment, an individual NPDES permit is required and it is no longer regulated by the Municipal permit. The City recommends that these categories be removed and allow the other regulations already set such as the Federal Phase I and Phase II programs to regulate these sites.
Page 33, Part 4.C.8	"Redevelopment Projects" "Significant redevelopment means the creation or addition or replacement of 5,000 square eet of impervious surface area on an already	Delete the term "replacement" because replacement should not trigger SUSMP requirements. It is not consistent with the text in the SUSMP Board Order and will significantly increase redevelopment costs, and impede redevelopment. Economic Impacts should be evaluated and taken into account.

R0003777

Policy Issues

Location	Passage	Comments/Recommendations
	developed site."	
Pages 36-39, Part 4.D	"Programs for Construction Sites"	Modify the text in this section in accordance with the General Comment on page 1. The General Construction Activities Storm Water Permit (GCASP) and the General Industrial Activities Storm Water Permit (GIASP) should be referenced in this Municipal permit, not restated or modified by this municipal permit. These activities are already regulated under the respective permits and should not be additionally regulated under the Municipal NPDES Permit.
Page 36, Part 4.D	"D. Programs for Construction Sites"	Add Exempt Projects in the categories of construction: Permittees may exempt certain types of Development Construction Projects from the program that pose a minimum risk of storm water pollution. These projects are exempt from any storm water construction control measures including the minimum BMP requirements. A specific listing of exempt projects is included in this section. Additional exemptions may be determined by the Permittee and shall be provided to the Regional Board with a justification for their designation (for purposes of notification). A list of specific types of Development Construction Projects that are deemed to be exempt include: • Routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility; • Emergency construction activities required to immediately protect public health and safety; • Interior remodeling with no outside exposure of construction materials or construction waste to storm water; • Mechanical permit work; • Electrical permit work; • Sign permit work. Other types of Development Construction projects may be designated as exempt if all three of the following criteria are met: • No significant soil disturbing activity (unless adequate controls are provided); • No outside storage or exposure to storm water of construction materials or construction wastes (unless adequate controls are provided); and • The activity poses a minimal risk of storm water pollution. •
Page 36, Part 4.D.a, b, c	"D. Programs for Construction Sites"	Modify the text in this section in accordance with the General Comment on page 1. Additionally, it should be clearly stated that the three size categories of the construction

Policy Issues

Location	Passage	Comments/Recommendations
R0003779		sites refer to areas of disturbed soil. For example, 5 or more acres means a construction site with 5 or more acres of disturbed soil. Otherwise the specified designations will encompass ALL projects, including projects where only interior work is involved with no outside exposure of materials, or others such as mechanical/electrical permit work. These types of projects do not have any impact to storm water pollution and should be exempted from the requirements of this permit. Hence, a category for exempted projects should be included for these activities that are determined to have no potential significant effect on storm water quality to include emergency activities required for public safety and routine maintenance to maintain original grade line or hydraulic capacity. Include a category for exempt projects and change the categories to read as follows: Construction sites with 5 or more acres of disturbed soil Construction sites with 1 to 5 acres of disturbed soil Construction sites with less than 1 acre of disturbed soil Exempt Projects
Page 36, Part 4.D.1	"For construction sites less than 1 acre...."	Modify the text in this section in accordance with the General Comment on page 1. Change title to read, "For construction sites with less than 1 acre of disturbed soil..." Most of the projects under this category of construction sites with one acre or less of disturbed soil have minimum, if any, impact to storm water pollution. With limited resources, we should focus on construction sites with one acre or greater of disturbed soil for BMP implementation that have greater impact on storm water pollution. The section Part 4D1c-bulleted items are not consistent with the Model Program. Therefore, section 4D1c should be remove in its entirety and replaced with a minimum set of requirements in accordance with the Model Program.
Page 36, Part 4.D.1.b	"Train employees in targeted positions . . . (180 days from adoption of this Order), and . ."	Sufficient time should be allowed for the accomplishment of the training requirements following the revised Construction Development Program in the SQMP. Recommend revising Part 4.D.1.b to read as follows: "Train employees in targeted positions . . . (one (1) year from adoption of the Order), and . . ."
Page 37, Part 4.D.2	"For construction sites one acre and greater..."	Modify the text in this section in accordance with the General Comment on page 1. Recommend changing the 1st paragraph to read as follows: "For construction sites with one acre or more of disturbed soil and greater, each Permittee shall require that in addition to the requirements of D.1 above, and require the preparation, submittal, and

Policy Issues

Location	Passage	Comments/Recommendations
		implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP).
Page 37, Part 4.D.2.a	"Will result in soil disturbance of one acre or more in size;"	Change the phrase to read, "Will result in one acre or more of disturbed soil..."
Page 37, Part 4.D.2.e	"No construction-related materials, wastes..."	Recommend modifying as follows: "~~No c~~Construction-related materials, wastes, spills, ~~or~~ and residues shall be ~~discharged from the project site to streets, drainage facilities or adjacent properties by wind or runoff~~ kept onsite to the maximum extent practicable;"
Page 37, Part 4.D.2.d-g	"In addition, each Permittee shall ensure the following minimum requirements are effectively implemented at all construction sites regardless of size: d, e, f, g"	Recommend moving Parts 4.D.2.d-g to follow immediately after Part 4.D.1 because Part 4.D.4, the category for construction sites of five acres and greater, refers to the requirements of Part 4.D.1, not Part 4.D.2. Recommend modifying as follows: "d) Sediments generated on the project site shall be retained ~~using adequate structural drainage controls~~ onsite to the maximum extent practicable;"
Page 37, Part 4.D.2.f	"Non-storm water runoff from equipment and vehicle washing and any other activity shall be . . ."	Recommend modifying as follows: "Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained ~~at the project site~~ and treated before discharge and/or contained and hauled off site to an approved disposal facility; and"
Page 37, Part 4.D.2.g	"Erosion from slopes and channels will be prevented by implementing BMPs including, but not limited to: . . ."	Recommend modifying as follows: . . . BMPs including~~,~~ but not limited to such as: limiting of grading... and covering erosion susceptible slopes."
Page 38, Part 4.D.2 (after g)	"The landowner shall sign a statement to the effect:"	Recommend modifying as follows: "The landowner or agent of the landowner shall sign a statement to the effect"
Page 38-39, Part 4.D.3	For sites one acre and greater...	Recommend modifying sentence to read as follows: "For construction sites with one acre of disturbed soil and greater, each Permittee shall inspect..." Modify the text in this section in accordance with the General Comment on page 1.
Page 39, Part 4.D.4	"For sites 5 acres and greater, . . ."	Recommend modifying as follows: "For construction sites with 5 acres and greater of disturbed soil, each Permittee shall require that the conditions in D.1 above and:" Modify the text in this section in accordance with the General Comment on page 1.

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R0003780

Comments on the First Draft of the 2001 NPDES Municipal Stormwater Permit

Policy Issues

Location	Passage	Comments/Recommendations
Page 39, Part 4.D.4.a	"On March 10, 2003, for sites one acre and greater, each Permittee..."	Change the sentence to read, "On March 10, 2003, for sites one acre and greater of disturbed soil, each Permittee..." Modify the text in this sectidn in accordance with the General Comment on page 1.
Page 40, Part 4.E.3.b	"Each Permittee shall comply with requirements 1,2, and 3 in the Construction...at all public construction sites:"	Paragraph should read:" Each Permittee shall comply with requirements of D.1, D.2, and D.3 (Page 36-39) in the Construction...at all public construction sites:" Delete 4.E.3.b.2 through 4.E.3.b.6 because they are already covered under D.2 and D.3.
Page 44, Part 4.E.6.a.2	"At a monthly average not less than 2 times per month in areas generating moderate volumes of trash on traffic collector streets and residential areas."	The Regional Board has not provided any data that supports a blanket requirement for bi-weekly street sweeping. Also, no analysis has been done at the state level on merging the efforts of the Permit and the proposed Trash TDML to ensure a comprehensive, cost-efficient approach that will result in real water quality benefits. Recommend modifying as follows: "At a monthly average not less than ~~2 times~~ **once** per month in areas generating **low or** moderate volumes of trash on traffic collector streets and residential areas."
Page 44, Part 6.b	"Permittee –owned parking lots shall be kept clear of debris and oil buildup and cleaned no less than 2 times per month and /or inspected no less than 2 times per month to determine if cleaning is necessary."	Change Paragraph to read: " Permittee-owned parking lots shall be inspected no less than 2 times per month to determine if cleaning is necessary. If cleaning is necessary, it shall be performed within one business day of inspection."
Page 73, Monitoring and Reporting Program, IIC3	"Permittees shall participate in tributary monitoring when the majority of a monitoring station sub-watershed is located in their jurisdiction."	Level of participation, financial or otherwise, is not defined. This scheme creates a negative incentive for Permittees who have the majority area of a monitoring station sub-watershed.
Page 76, Monitoring and Reporting Program, IIF	"The Principal Permittee and the City of Los Angeles shall participate in the SCCWRP's development and calibration of water quality models . . ."	The City has voluntarily participated in the development of the coliform bacteria TMDL by providing over $500,000 in monies and in-kind testing services. No mention is made of other cities that have runoff entering the Los Angeles River and Santa Monica Bay. Also, no limits are put on the extent of participation. According to the language as written, the City could be required to participate for the entire 5-year span of the Permit, if SCCWRP is unsuccessful at calibrating the model.

602

R0003781

COMMUNICATION

TO: LOS ANGELES CITY COUNCIL File No. 01-1020

FROM: COUNCIL MEMBER MARK RIDLEY-THOMAS, CHAIR
ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT COMMITTEE

	Yes	No
Public Comments	___	XX

COMMUNICATION FROM CHAIR, ENVIRONMENTAL QUALITY AND WASTE MANAGEMENT COMMITTEE relative to the draft 2001 National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit.

Recommendation for Council action, as initiated by Motion (Ridley-Thomas - Galanter), SUBJECT TO THE APPROVAL OF THE MAYOR:

DIRECT the Chief Legislative Analyst (CLA) to forward the policy comment matrix (attached on the Council file in the joint CLA and Office of Administrative and Research Services (OARS) report dated June 18, 2001) to the Los Angeles Regional Water Quality Control Board (Regional Board), which details the City's recommended changes for the draft 2001 NPDES Municipal Stormwater Permit, specifically, the Council's position to:

a. Request deletion of the requirement for bi-weekly street sweeping.

b. Support the Los Angeles Regional Water Quality Control Board's (Regional Board) responsibility for inspections of industrial/commercial sites that are under the General Industrial Activities Stormwater Permit.

c. Support the requirements for Standard Urban Storm Water Mitigation Plans (SUSMP) for discretionary and ministerial projects.

d. Request a clarification of new Peak Flow Control requirements for all development that drains to soft-bottom channels.

e. Request deletion of the additional requirements on the City to require structural and non-structural Best Management Practices (BMP) and inspection of construction sites that are less than one acre.

f. Request that until March 2003, maintain current permit requirements, whereby the City is responsible only for Storm Water Pollution Prevention Plans (SWPPP) for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre.

g. Add the City of Los Angeles to the Principal Permittee and the Executive Advisory Committee (EAC) as the agencies to conduct formal discussions with the Regional Board on behalf of the permitees.

h. Request an exemption to the storm drain discharge prohibition requirements to allow the washing down of residual blood from trauma scenes.

Fiscal Impact Statement: The Chief Legislative Analyst (CLA) and the Office of Administrative and Research Services (OARS) reports that the total cost of the proposed permit, as written, would cost the City over $13.4 million (Table 3 of the joint CLA and OARS report dated June 18, 2001, contained on the Council file). The staff recommendations for the proposed 2001 NPDES Municipal Stormwater Permit will cost a total of $607,860 (see Table 2). This total cost includes additional staff costs of $432,779 for the expanded SUSMP implementation requirements and $175,081 for the addition of two inspectors to conduct expanded industrial/commercial site inspections. Any increase in attorney costs have not been calculated at this time, however, it is not expected to be significant the first year of the permit and may be revisited in future years if costs escalate substantially.

The 2001-02 Stormwater Pollution Abatement Fund (SPAF) included $530,000 for expected new NPDES permit requirements. The estimated staff costs of $607,000 will leave a shortfall of approximately $70,000 in the SPAF for these activities. All of the staff will not be necessary the first year of the NPDES permit implementation. In future years, however, the SPAF was budgeted to absorb an increase of $200,000, which will leave the SPAF short by $400,000 annually for permit implementation activities.

SUMMARY

On May 15, 2001, Council referred Motion (Ridley-Thomas - Galanter), relative to the draft 2001 NPDES Municipal Stormwater Permit, to the Environmental Quality and Waste Management Committee for consideration. Said Motion directed the CLA and OARS to prepare a report for the Environmental Quality and Waste Management Committee on various policy implications of the draft 2001 NPDES permit.

The Los Angeles Regional Water Quality Control Board (Regional Board) recently issued a draft 2001 NPDES Municipal Stormwater Permit for review and comment. The NPDES permit is reissued every five years and the existing permit expires on July 31, 2001. This permit identifies the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles and the incorporated cities (except Long Beach and Santa Clarita). The County of Los Angeles is the principal permittee and the City of Los Angeles and 82 other jurisdictions are co-permittees.

The proposed permit contains the following major new requirements for cities: Public Agency Activities, Programs for industrial/commercial inspections; Standard Urban Storm Water Mitigation Plans (SUSMPs), Implement Requirements for Peak Flow Control, Small Construction Site Requirements, Larger Construction Site Requirements, and Responsibilities of the Principal Permittee.

In their joint transmittal dated June, 18, 2001, the CLA and OARS reports that of the seven new requirements, the City will be most impacted by the Public Agency Activities requirement which contains language that would require all jurisdictions to conduct bi-weekly street sweeping. The existing permit requires a municipality to implement a street sweeping program that sweeps the streets at least monthly, and where feasible, more frequently in areas generating significant refuse. The Bureau of Street Services sweeps approximately 40% of the City's 13,100 curb miles of paved dedicated streets weekly and the remainder once a month. In commercial areas where persistent litter is a problem, the streets are swept weekly or daily. The annual current cost for the street sweeping activities is approximately $7.5 million of which $4.9 million is paid from the Stormwater Pollution Abatement Fund (SPAF). The current discretion given to municipalities allows the City of Los Angeles to provide street sweeping services more frequently in areas that generate more debris and less sweeping in areas that are less populated.

The CLA and OARS further report that bi-weekly street sweeping will increase the City's cost by an additional $4.6 million annually, $3.6 million in staff costs and $985,334 in expense costs. Additionally, a one-time capital cost for the purchase of additional street sweeping equipment is estimated at around $7 million. The cost to the ratepayer would be an additional charge of $4 a year for the annual costs alone, and the average residential Stormwater Pollution Abatement Charge would need to increase from $23 to $27 a year. This would increase another $7 or more if the equipment was purchased with SPAF funds. Moreover, the South Coast Air Quality Management District's fleet rules require the City to replace its street sweepers with ones that use alternative fuels when new equipment is purchased. The cost of new and upgraded facilities for natural gas sweepers has not been estimated at this time, however, it is expected to be substantial.

The proposed permit states that the increased street sweeping requirement apply until the implementation of a trash total maximum daily load (TMDL) program, which is currently under development for the Los Angeles River and Ballona Creek. Compliance with the trash TMDL will require the City to develop and implement a plan to reduce trash in the waterways. Although difficult to estimate, capital and operation/maintenance cost estimates are in the neighborhood of $900 million for full capture devices. The proposed new permit would require the City to spend millions of dollars to implement bi-weekly street sweeping, which will be necessary only until the trash TMDL is finalized.

The Regional Board has issued a schedule that states that there will be two more draft permits; a second draft of the permit will be issued on June 26, 2001 and a final draft will be issued on September 6, 2001. The proposed adoption date by the Regional Board is scheduled for October 25, 2001.

At its regular meeting held June 20, 2001, the Environmental Quality and Waste Management Committee Chair discussed this matter with City staff. The CLA reported that the Fire Department was seeking an exemption to the storm drain discharge prohibition requirements to allow the continued practice of washing down residual blood from trauma scenes. The CLA reports that data from the Los Angeles County Department of Health Services indicates that the small amounts of fluid from this practice will have no negative health effects. The Chair asked staff to explain why their recommendation was to delete the requirement regarding Peak Flow Control when their report indicates that they were uncertain about the intent. The Chair suggested that, procedurally, staff should first seek clarification regarding the requirement prior to taking a position on it.

The Environmental Quality and Waste Management Committee Chair concluded his consideration of this matter and recommended that Council approve the recommendations of the CLA and OARS as amended. The Chair recommended that Council request a clarification of the new Peak Flow Control requirements for all development that drains to soft-bottom channels, rather than approving staff's recommendation to delete them. The Chair further recommended that Council request an exemption to the Storm Drain Discharge Prohibition requirements to allow the washing down of residual blood from trauma scenes, as requested by the Fire Department. This matter is now submitted to Council for consideration.

Respectfully Submitted,

Council Member Mark Ridley-Thomas, Chair
Environmental Quality and Waste Management Committee

AA:
6/20/01
#011020

ADOPTED
MOTION ADOPTED TO APPROVE COMMUNICATION RECOMMENDATION
JUN 27 2001
LOS ANGELES CITY COUNCIL

FORTHWITH TO THE MAYOR

R0003785

Mayor With File

606

Mayor's Time Stamp

RECEIVED
'01 JUN 27 P2:13

FORTHWITH

City Clerk's Time Stamp

2:50

CITY CLERK

BY

SUBJECT TO MAYOR'S APPROVAL

COUNCIL FILE NO. 01-1020 COUNCIL DISTRICT NO. _____

COUNCIL APPROVAL DATE June 27, 2001

RE: DRAFT 2001 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) MUNICIPAL STORMWATER PERMIT

RECEIVED
CITY CLERK'S OFFICE
2001 JUN 29 PM 4:29
CITY CLERK
BY _____ DEPUTY

JUL 09 2001

LAST DAY FOR MAYOR TO ACT _____
(10 Day Charter requirement as per Charter Section 341)

DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY

APPROVED ✓

*DISAPPROVED

*Transmit objections in writing pursuant to Charter Section 341

JUN 29 2001

DATE OF MAYOR APPROVAL OR DISAPPROVAL _____

MAYOR

R0003786

COUNCIL VOTE

27-Jun-01 12:57:03 PM, #21

ITEM NO. (39)
Voting on Item(s): 39
Roll Call

BERNSON	Absent
CHICK	Yes
FEUER	Yes
GARCETTI	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Absent
WACHS	Absent
WALTERS	Absent
*GALANTER	Yes
	Absent

Present: 10, Yes: 10 No: 0

MAY 15 2001

MOTION

Any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

The Los Angeles Regional Water Quality Control Board recently issued a draft National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit for review and comment; and

The County of Los Angeles is the principal permitee and the City of Los Angeles and 83 other jurisdictions are co permitees of this permit; and

This permit identifies the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles and the incorporated cities (except Long Beach and Santa Clarita); and

It is critical that the City monitor the various regulatory actions and provide input to ensure that federal, state, and regional programs integrate with one another, are reasonable, include appropriate source control by state and federal agencies, and are consistent with the City's water quality improvement goals and policies; and

The City supports the implementation of programs that reduce water pollution and protect the beneficial uses of the region's water bodies; and

The City must ensure that water pollution control strategies and mandates can be realistically and cost efficiently implemented and funded, result in real water quality benefits, and successfully integrate with other environmental mandates and considerations.

NOW, THEREFORE, I MOVE that by adoption of this Resolution, the Office of Administrative and Research Services (OARS) and the Office of the Chief Legislative Analyst (CLA) are directed to prepare a report for the Environmental Quality and Waste Management Committee on the following issues regarding the draft 2001 NPDES Municipal Stormwater Permit:

1. The City of Los Angeles' role in formal discussions with the Regional Board, along with the Principal Permitee and the Watershed Management Committee representatives on the Executive Advisory Committee (EAC), regarding stormwater quality management plan implementation, monitoring and reporting;
2. The cost and appropriateness of an increased street sweeping program and its connection to the upcoming Trash Total Maximum Daily Load (TMDL) program;
3. New obligations assigned to the cities for additional inspection and enforcement activities on industrial/commercial and construction sites and appropriate permit fees funding;
4. A proposed new inspection program timeline and its consistency with the upcoming Los Angeles Standard Urban Stormwater Mitigation Plan (SUSMP) requirements; and
5. The accurate incorporation of federal and state rules.

PRESENTED BY: _____
MARK RIDLEY-THOMAS
COUNCILMEMBER, CD- 8

SECONDED BY: _____
RUTH GALANTER
COUNCILMEMBER, CD-6

R0003788

Coalition for Practical Regulation

Arcadia
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Bell Gardens
Burbank
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Downey
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Industry
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Lakewood
Lawndale
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Pomona
Rancho Palos Verdes
Rosemead
Santa Fe Springs
San Gabriel
Sierra Madre
Signal Hill
South Gate
Temple City
Vernon
Walnut
Whittier

15 May 2001

Dr. Xavier Swamikannu
Chief, LA/Long Beach Storm Water Unit
California Regional Water Quality Control Board, Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: First Draft–Los Angeles County Municipal Storm Water NPDES Permit
(Draft Board Order, NPDES Permit No. CAS614001)

Dear Dr. Swamikannu:

Pursuant to your notice of April 13, 2001, the Coalition for Practical Regulation (CPR) is pleased to submit the following comments on the first draft of the renewed Los Angeles County Municipal Storm Water NPDES Permit. Our member cities have several concerns with the initial draft and would like to work with the Regional Board and other interested parties to develop a practical and workable permit that will lead to improved water quality in the receiving waters of the region.

CPR recognizes the effort that has gone into the preparation of this first draft and shares the Regional Board's goal of improving water quality within the Region. However, we are concerned that in their desire to improve water quality, the staff has drafted a permit that exceeds the Regional Board's authority (see attached letter from Richard Montevideo of the law firm of Rutan & Tucker LLP) and proposes a complex storm water quality regulatory framework that will invite third party lawsuits and distract city staffs from addressing real storm water quality problems.

This letter addresses a range of policy and program issues. Our comments are intended to assist the Regional Board prepare a permit that will provide a framework for improving water quality in a cooperative, cost-effective manner. We have focused on substantive comments rather than typographical mistakes

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or questions of grammar. Our specific comments are organized according to major sections of the draft permit in order to facilitate your review and response:

Findings

- CPR is pleased to see that the Regional Board staff recognizes the complexity of municipal storm water quality issues and the contributions of extraneous sources over which the Permittees have no or limited jurisdiction. However, we are concerned that the current draft permit excludes the Administrative Review process specified in Order No. 96-054. This process is important and should be added back into the Permit.

- Finding 6, especially when combined with the draft permit definition of "environmentally sensitive areas," is likely to lead to confusion and over-regulation. As the State Board acknowledged in Order 2000-11, "such developments are already subject to extensive regulation under other regulatory programs." If the Regional Board intends to address Areas of Special Biological Significance, water bodies with a designated RARE beneficial use, or impaired waters in the permit findings, CPR recommends that they be addressed in separate findings rather than be combined into a broad environmentally sensitive area category. Such findings could replace Finding 6 and increase the clarity and workability of the permit.

- CPR is pleased to note that the Regional Board staff acknowledges in Finding 14 that "the Permittees will not be held responsible" for facilities and/or discharges from entities over which they lack legal jurisdiction. However, we are concerned that the requirements of the permit are inconsistent with Finding 14. For instance, Section B.2 of Part 4 requires an inventory of all industrial/commercial sites "regardless of site ownership" and the definition of "Industrial/Commercial Facility" states that "Facility ownership (federal, state, municipal, private)" is not a factor in the definition.

- Finding 16 is inconsistent with the Clean Water Act and its implementing regulations. The draft finding says that the permit is intended to develop a storm water program to "minimize" the discharge of pollutants in storm water without incorporating the concept of "maximum extent practicable" (MEP) which is a critical component of the permit requirements for municipal discharges. Section 402(p)(3)(B)(iii) states that permits for discharges from municipal storm sewers "shall require controls to reduce the discharge of pollutants to the maximum extent practical." Congress did not say minimize. Therefore, the phrase "maximum extent practicable" should be substituted for the term "minimize" in Finding 16.

- Finding 17 conflicts, in part, with Finding 14. Municipalities have no authority to force State and federal agencies to enter into interagency "agreements," and there is no assurance that such agreements could be worked out with the agencies. The State and Regional Boards separately regulate these agencies and should regulate their discharges to municipal separate storm sewer systems.

- Finding 21 is inconsistent with the Clean Water Act and its implementing regulations. The finding goes beyond the cited regulations to refer to specifically defined industrial activities. The finding should be rewritten to remove commercial facilities and limit coverage to the defined industrial activities.

- Finding 31 cites Craig M. Wilson's memorandum of December 26, 2000, but excludes two important elements of the memo. Mr. Wilson reminded Regional Board Executive Officers that: "Pursuant to the Clean Water Act, municipal storm water permits must require controls to reduce the discharge of pollutants to the maximum extent practical (MEP)." He also noted that: "The Order encourages regional solutions." These points should be added to Finding 31 and appropriate terms added to the operative sections of the permit to facilitate implementations of regional solutions.

- Finding 36 appropriately references State Board Order No. WQ 99-05 that specifies standard receiving water limitation language. However, this finding should be expanded to include language based on 1996 permit language to clarify that "Timely and complete implementation by the Permittees of the storm water management programs prescribed in this Order shall satisfy the requirements of this Order and constitute compliance with receiving water limitations." Such language would protect the Permittees from nuisance lawsuits and encourage strict compliance with permit requirements.

- Finding 37 should be expanded to include the phrase "and the provisions of Section 13241." The concluding portion of the code section should not be excluded unless a separate finding is added which highlights sub-sections (c), (d) and (e) of Section 13241.

- Finding 41 should be deleted. As written, it attempts to use the California Environmental Quality Act (CEQA) to justify exceeding the Clean Water Act acreage limitations for new and redevelopment projects requiring permit coverage under Section 402(p). Municipalities do consider the environmental impacts of projects they approve and often condition projects to mitigate storm water quality and quantity impacts. However, it is the prerogative of the municipalities to protect themselves because of their responsibility for the quality of discharges from their storm drain

systems. It is not the prerogative of the Regional Board to mandate how municipalities comply with the requirements of CEQA. Furthermore, the final sentence of the draft finding, if it were taken literally, would make shambles out of planning and permitting in the municipalities subject to the permit and result in continuous litigation. The Regional Board cannot rewrite the Government Code or the Public Resources Code through permit requirements.

- Finding 43 should be revised to incorporate the statutory requirement of implementing BMPs "to the maximum extent practicable."

- Finding 46 should be revised to eliminate the term "structural." Structural controls can be either source controls or treatment controls.

Part 1. Discharge Prohibitions

The final paragraph of this part gives broad powers to the Executive Officer to add or remove categories of non-storm water discharges. There should be criteria for these changes and they should be subject to review by the Regional Board if they are appealed.

Part 2. Receiving Water Limitations

The draft language of Part 2 is inconsistent with the standard receiving water limitation language specified in State Board Order No. WQ 99-05. In particular, Sections 1 and 2 are not in Order 99-05 and should be deleted.

Part 3. Storm Water Quality management Plan Implementation, Monitoring, and Reporting

- The phrase "or potentially polluted" should be deleted from Section G.1.n). The term "potentially" is broad and ambiguous. Recognizing a potential source of pollution may lead to preventive practices, but it is not possible to have legal authority to "control" potentially polluted storm water.

- The phrase "or potential contribution" should be deleted from Section G.1.m). The term "potential" is broad and ambiguous. Recognizing a potential source of pollution may lead to preventive practices, but it is not possible to have legal authority to "control" a potential contribution.

- Section I.1.d) should be rewritten as two separate sections. Industrial inspections are distinctly different from construction site inspections and will be budgeted separately.

- Sections I.1.f)-j) are unnecessary. They are all sub-components of Pubic Agency Activities.

Part 4. Special Provisions

- Section A.1.e) should be deleted. The current public information program is a solid, responsive program that does not need to be micro-managed by the Regional Board. In fact, Los Angeles County was invited to present the program to a recent National Storm Water Coordinators Conference because it is such a good program. If desirable, the current program could be modified to further target outreach programs to assist the Watershed Management Committees.

- Section A.2.a) should be revised to change the reference to "corporate heads" to "corporate management." It may not be practical to educate corporate heads, especially those not located in the region. Furthermore, education of operational staff is most effective, especially for franchised businesses.

- Section A.2.b) should be deleted. A business assistance program should be considered a local option. It may not be practical or affordable for a small jurisdiction to implement a program that a large jurisdiction is able to support.

- Section B should be deleted or completely rewritten in consultation with the Permittees. The proposed "Programs for Industrial/Commercial Inspections" greatly expand the current educational site visit requirements and appear to be an attempt to shift Regional Board inspection and enforcement responsibilities to the Permittees. Furthermore, our attorneys have confirmed our conclusion that the proposed requirements exceed the inspection requirements authorized by state or federal law (See attached letter from Richard Montevideo of the law firm of Rutan & Tucker LLP).

- Section B appears to be an outgrowth of Finding 21. However, as noted above, Finding 21 is inconsistent with the Clean Water Act and its implementing regulations. The finding goes beyond the cited regulations that refer to specifically defined industrial activities. The finding should be rewritten to remove commercial facilities and limit coverage to the defined industrial activities.

- Section B is built upon a definition of "Industrial/Commercial Facility" that is itself flawed. It is so broad that it includes home offices and sidewalk vendors. In addition, as discussed above, it is inconsistent with Finding 14.

- Section B.4 should be deleted from any rewritten Section B. BMP implementation is incorporated into SUSMP requirements. This section appears to be an attempt to require retrofitting of BMPs at all broadly defined industrial/commercial sites within the area subject to the permit. As written, the municipalities are required to implement such BMPs if they cannot legally require them to be implemented by existing industrial/commercial establishments (which they cannot). Municipalities do not have the authority to center on to private property to implement BMPS. Furthermore, the Regional Board does not have the authority to require us to do so.

- If a satisfactory inspection program consistent with federal and state law is developed, the current Section B.5 should be revised to specify an inspection frequency of 30 months to allow municipalities to establish inspection schedules that would make effective use of inspectors to inspect sites twice during the life of the permit. Furthermore, inspection burden is compounded by the overly broad definition of industrial/commercial facilities.

- If a satisfactory inspection program consistent with federal and state law is developed, the current Section B.5 should be revised to eliminate other "other commercial." The category is too broad to be useful.

- Any inspection program that may be developed pursuant to an acceptable inspection program should focus only on permittee ordinances. The references to "and this order" should be eliminated in order to avoid confusion between municipality and Regional Board responsibilities.

- Any reporting of non-compliant sites that may be required should specify waters of the United States rather than waters of the State since the proposed permit is an NPDES permit and waters of the State include ground waters not included in waters of the United States (see current Section B.7.a)).

- Any reporting of non-compliant sites that may be required should specify more realistic oral and written notification times. If inspectors are working with permittees or if non-compliance is discovered just before a weekend or holiday, the currently proposed notification times are unrealistic.

- If a satisfactory inspection program consistent with federal and state law is developed, current Section B.5.d) should be revised to specify that the Regional Board will notify Permittees of inspections that Regional Board staff has conducted within their jurisdiction. Also, the reference to "year" should be replaced by "inspection cycle."

- Putting aside the numerous legal defects and the lack of authority of the Regional Board to impose the inspection/enforcement program on the municipalities, in an effort to work with the Regional Board and assist the Board in complying with its inspection/enforcement obligations, some cities have initiated discussions with the Los Angeles County Public Works Department to explore the feasibility of developing a limited countywide inspection-only program of industrial facilities covered by the State's General Industrial NPDES Permit. The following is a listing of some of the significant issues that would need to be addressed in order to implement a program:

  1. The program would be limited facilities possessing a State Industrial Activity Permit.
  2. The County would be able to recover the cost of the program from fees collected from the industrial facilities by the State Board.
  3. The County, State and cities agree on the extent and nature of the inspections.
  4. The cities can choose to participate with the County's program or administer their own program.
  5. The program is implemented through an agreement or MOU that is referenced in the storm water permit.
  6. All of the program requirements will be specified in the agreement or MOU.
  7. The program is for inspection only of such industrial facilities. All enforcement action will be referred to the Regional Board, consistent with the State's General Industrial NPDES Permit.
  8. Inspection frequency will be twice during the permit period.
  9. Each inspection will include an initial inspection, and, where necessary, one follow-up inspection.
  10. Implementation of the inspection program will be the only enhancement to the Industrial/Commercial Education Program submitted by the permittees as part of the ROWD.

  The cities and the County may be willing to continue to investigate development of the program, contingent upon cooperation and participation of the Board. It is recommended that the Board staff explore the development of this proposed inspection program with the Permittees.

- Section C should be revised to eliminate the phrase "with immediate effect." Any changes to the Programs for Development Planning cannot be effective concurrently with the permit. Furthermore, the Government Code and local ordinances provide for appeal periods before new regulations become effective. The current wording could put some Permittees in instant non-compliance with the Permit.

- Section C should be revised to eliminate the terms "minimize" and "maximize" or add the qualifier "to the maximum extent practicable" in order to be consistent with the Clean Water Act. It might be best to use the defined term "control" to the maximum extent practicable.

- Section C.1.e) should be revised to eliminate the phrase " and in certain environmentally critical situations, the prohibition of bare soil." That is an impractical requirement and is tantamount to a no construction or no gardening requirement. The litigation against municipalities and the Regional Board would be costly and overwhelming.

- The requirement in Section C.2 to establish and enforce numerical criteria to control post-development peak storm runoff discharge rates in natural drainage systems is unreasonable and punitive when compared to the similar requirement in the Ventura County permit. Ventura County was given two years to accomplish essentially the same task. Since Los Angeles County and Ventura County are both within the jurisdiction of the Los Angeles Regional Water Quality Control Board, the two counties should work together to establish common methodology.

- Section C.2 should be revised to define "Upper Los Angeles River" and "Upper San Gabriel River" and to eliminate sub-section e). "Soft-bottom segments" are not natural drainage systems. The concrete walls or rip-rap linings of soft-bottomed engineered channels will result in erosion of the soft bottoms from almost any storm water discharge.

- Section C.3.b) should be changed to eliminate single-family hillside residences. Storm water quality issues associated with hillside development are more associated with construction than post-construction conditions.

- Section C.3.c should be deleted. As the State Board noted in Order WQ 2000-11, developments in environmentally sensitive areas are already subject to extensive regulation under other regulatory programs. Furthermore, the proposed new definition is still flawed (see discussion below). It is a multipart definition based on areas defined by different agencies that will lead to confusion and potential errors by municipalities. If a new, workable definition of ESAs is developed, Section C.3.c)(2) should be deleted. A ten percent alteration from the naturally occurring condition is an excessively low threshold, especially in a metropolitan region where most building sites are already not in a "naturally occurring condition." In addition, the new 2,500 square foot threshold should be deleted since there is no evidence to support its inclusion.

- Section C.4 should be revised so that both volumetric and flow-based criteria are based on the 80th percentile runoff event that was adopted by Denver as the basis for sizing storm water quality BMPs and "is considered by municipalities in this semi-arid region as cost effective for storm water quality management and is viewed as the design event that achieves MEP definition under the Clean Water Act" (Urban Runoff Quality Management, ASCE Manual and Report on Engineering Practice No. 87, page 174)

- Section C.5 should be revised. It is not practical as written. It would not be possible to implement post-construction treatment controls prior to issuing grading or building permits. Perhaps, a condition of approval could be required.

- Section C.6.a) should be revised to define one acre as 43,560 square feet.

- Section C.7.a) should be revised to substitute "have a high probability of having" for "may potentially have." The term "may potentially" is too broad; someone could argue that almost any project may potentially have an adverse impact on post-development storm water quality. In addition, four of the triggering project characteristics should be revised. Several are too broad. "Commercial or industrial waste handling or storage" could be interpreted to include every commercial trash bin. "Outdoor food handling or processing" could be interpreted to include side-walk vendors and backyard barbeques. "Outdoor animal care, confinement, or slaughter" could be interpreted to include pets in private yards. "Outdoor horticulture activities" could be interpreted to include private or community gardens.

- Section C.8 should be revised to exclude "replacement of 5,000 square feet of impervious surface area on an already developed site." This requirement goes beyond the requirements of the Standard Urban Storm Water Mitigation Plans (SUSMPs) approved by the Executive Officer on March 8, 2000 and is inconsistent with the definition in State Board Order WQ 2000-11. Both the Regional Board and the State Board focused on the creation or addition of impervious surface area. Under the staff proposed definition, a SUSMP would be required for a project that actually reduced the impervious surface area if 5,000 or more square feet were replaced.

- Section C.9.c) should be deleted. Municipalities have no authority to dictate the terms of private sales and lease agreements.

- Section C.10 should be revised to focus entirely on mitigation funding without a defined link to regional solutions. Furthermore, the Permittees should be given at least one year to develop a mitigation funding program. If the Regional Board was not able to develop a workable program during the six months since the State Board's

adoption of Order WQ 2000-11, the Permittees should not be expected to do so in four months.

- A new regional solutions section should be developed to encourage such solutions rather than limiting them as the current Section C.10 does. CPR has developed a framework for facilitating regional solutions and would appreciate an opportunity to work with the Regional Board staff and other interested parties to perfect the concept or develop an even better framework for funding and implementing regional solutions. The draft regional proposal was submitted at the workshop and is attached to this letter.

- Section C.12 should be deleted from the permit. It may be appropriate to strengthen the watershed, storm water quality, and storm water quantity considerations in municipal General Plans. However, General Plans are prepared pursuant to the schedules and other requirements of the Government Code and the guidelines prepared by the Office of Planning and Research. Regional Boards have no authority to mandate General plan amendments, and the proposed timeframe is unreasonably short. The need for General Plan amendments could be discussed in the Fact Sheet that will accompany the Permit, and the Regional and State Boards could assist the Permittees to get greater recognition of the importance of storm water quality concerns in planning law and guidelines.

- Section C.14.b) should be revised to acknowledge that the California Stormwater Quality Task Force has undertaken a project to update the California Storm Water Best management Practices Handbooks and relate the development of a technical manual for siting and design of BMPs to the completion of the new Handbooks. The consultant contract was signed on May 1, 2001. The new Handbooks are expected to be completed by September 2002. The Permittees should be given at least an additional year to complete the required new technical manual.

- Section D.b) should be revised to say "Between two and five acres" to be consistent with the model program development pursuant to the current permit.

- Section D.c) should be revised to say "Between one acre and two acres" to be consistent with the Phase II one-acre threshold and should be effective March 9, 2003 when the Phase II requirements become effective. Subsequent sections of the Permit also should be revised to reflect these categories of construction.

- Section D.2.a) should be revised by adding "to the extent feasible."

- Section D.2.g) should be revised to substitute "controlled" for "prevented."

- The statement to be signed on Local SWPPPs should be amended by the addition of "or authorized qualified designee" to recognize that persons trained in disciplines other than architecture or engineering prepare SWPPPs and to be consistent with the immediately preceding sentence.

- Section D.4.a) should be revised to substitute the phrase "prior to commencement of construction" in place of the phrase "prior to issuing a grading permit." This language

  would be consistent with language in the instructions for NOI submittal attached to the General Construction Permit.

- Section E.3.a) should be revised to incorporate the "Between two and five acres" and the "Between one acre and two acres" categories recommended for Section D.

- Section E.4.a) and b) should be deleted. They are unnecessary since Section E.4.c) ensures that municipalities continue to employ or contract with certified pesticide applicators.

- Section E.5.b) should be revised to acknowledge that Permittees have defined priority catch-basins based on maintenance history and that priority catch-basins should be cleaned when they are 40 percent full.

Part 5. Definitions

- The definition of "Discharge of a Pollutant" refers to "waters of the 'contiguous zone.'"
  "Contiguous Zone" should be defined in the Permit.

- The definition of "Environmentally Sensitive Area" should be deleted. If the Regional Board chooses to specifically address Areas of Special Biological Significance, waters designated with RARE beneficial uses, or impaired waters, they should be separately defined and addressed.

- The definition of "Industrial/Commercial Facility should be deleted. In its place a definition of "Industrial Facility" should be developed, consistent with Finding 14 and with the definitions and requirements of the Clean Water Act and Porter-Cologne.

- The last sentence in the discussion of the term "pollutant" should be deleted. As drafted, dischargers are guilty until proven innocent. That presumption is contrary to American jurisprudence.

- The definition of "Redevelopment" should be revised to delete the references to replacement. As explained above in the discussion of Section C.8, the inclusion of "replacement" is inconsistent with the requirements of the Standard Urban Storm Water Mitigation Plans (SUSMPs) approved by the Executive Officer on March 8, 2000 and with the definition of "Redevelopment" in State Board Order WQ 2000-11.

- The definition of "Runoff" should be revised to delete the reference to subsurface. The Permit is being adopted as an NPDES permit and an NPDES permit is for waters of the United States that are only surface waters.

- The definition of "storm water" is inconsistent with 40 CFR Section 122.26(b)(13) and should be revised to be identical to the definition in the federal regulations.

- The definition of "Total Maximum Daily Load (TMDL)" should be revised to recognize aerial deposition. Also, the term "non-point" used in this definition should be defined.

CPR will defer to the County of Los Angeles at this time regarding comments on the monitoring and reporting requirements. We may have later comments as these requirements are refined.

Again, the Coalition for Practical Regulation is pleased to have this opportunity to comment on the first draft of the proposed new municipal storm water permit. We are available to discuss these comments with Board staff. In fact, we would like to work with the Regional Board and other interested parties to develop a practical and workable permit. Perhaps some sort of facilitated consensus development program could be undertaken to help bring about as much consensus as possible before Board action on the new permit.

Sincerely,

Larry Forester
Mayor, Signal Hill
CPR Steering Committee

cc: CPR Steering Committee
CPR Members

Attachment: Regional Alternative

Part__. REGIONAL/SUBREGIONAL IMPLEMENTATION PROGRAM

A. The Regional Board encourages the utilization of groups of permittees and intergovernmental programs for the development and implementation of storm water programs. This is the most cost-effective use of public resources when implementing the NPDES Permit, such that the tax burden on individual property owners and the fiscal impact on existing government services will be minimized.

Intergovernmental coordination involves combining the resources of various permittees, cities, Councils of Government, the County of Los Angeles, the Flood Control District and other agencies, such as Caltrans to implement the NPDES Permit in accordance with maximum extent practicable standards.

Examples of intergovernmental programs include the improvement of regional or subregional retention basins, pump stations, storm drains inserts, storm drain clarifiers, as well as the implementation of storm water programs and other treatment facilities approved by the Executive Officer. The Board especially encourages the use of multi-purpose open space facilities to implement the NPDES Permit and regional BMP's, such as regional parks and athletic fields designed to treat storm water.

This section specifically recognizes that urban storm water may flow over many governmental jurisdictional boundaries prior to reaching waters regulated under the Clean Water Act and the Porter Cologne Act, and that storm water may pass through local and regional facilities, including storm drain pipes and retention facilities. The following regulations are designed to encourage all levels of government, from local cities, Los Angeles County, State and Federal agencies to form governmental groups to resolve storm water issues.

Regional and Subregional Implementation Programs (RSIP) provide the framework to implement the NPDES Permit and TMDL's in manner consistent with Federal, State and local regulations. Implementation of the RSIP by the per

B. Regional/Subregional Implementation Program

A Regional/Subregional Implemenation Program (RSIP) may be submitted by the intergovernmental organizations, as an alternative to separate NPDES Permit requirements or TMDL's as required of each government entitity. In order to comply with the terms of the individual NPDES Permit and TMDL's. The RSIP's will contain the following:

1. Identification of the Intergovernmental Group (IG)

The application for the RSIP shall identify the Intergovernmental Group (IG) who will be subject to the RSIP. The application shall identify the lead agency who will be responsible for coordination of the IG. The

application shall identify if the IG has any special authority, such as joint powers authority.

2. Implementation Plan Components

The application shall consist of the following components and shall be accompanied with a detailed description of the programs and facilities the IG will utilize, modify or construct in order to comply with the NPDES Permit or TMDL.

a) Administrative Component – The Implementation Program includes an administrative component describing any new ordinances, resolutions or policies and staffing necessary for implementation.

b) Program Component – The Implementation Program may include revised existing and new programs necessary for implementation.

c) Capital Improvement Program – The application may include a capital improvement program, detailing both minor and major facilities that would be constructed for implementation.

d) Time Schedule – The application shall be accompanied with a time schedule for the implementation of the various components, programs and facilities.

e) Financing Program – The application shall be accompanied with a financing program explaining how the IG intends to fund the programs and facilities. The financing program would outline any State or Federal financial assistance, new fees, taxes or assessments. The financial program must document baseline services, such as public safety and public works. The financing program shall indicate if the IG is required to impose new fees, assessment or taxes to implement the RSIP.

3. Voter Approval of Financing Program

It is recognized that a public vote may be required to impose new fees, assessments or taxes to implement the RSIP. If determined that vote is required, the application shall be accompanied by an election schedule of when the IG will schedule the new fees, taxes or assessments for a vote of the electorate. Additional State required programs, in excess of the available resources as determined by the local electorate, shall only be implemented when State or Federal funding is made available.

4. Mitigation Fees – Regional Storm Water Impact Fees

The IG may design a regional fee mechanism, to deal with waivers that are granted under the NPDES permit and applicable TMDL's, where a waiver for impracticability or a threat to ground water has been granted. The regional fee should also take into account situations where off-site fees are required due to loss of environmental habitat should on-site mitigation be required. The regional fee may also be used as a levy on new development in order to provide a funding mechanism for the

installation of regional/subregional storm water treatment facilities and other RSIP capital improvements.

Pursuant to Government Code Section 66000-66011, the IG must establish the following:

a. Identify the purpose of the fee.
b. Identify the use to which the fee is to be put (e.g. public facilities or programs must be identified).
c. Determine how there is a reasonable relationship between the fee's use and the type of project on which the fee is imposed.
d. Determine there is a reasonable relationship between the need for the program or facility and the type of project on which the fee is imposed.

The IG must also deposit, invest, account for and expend the mitigation fee pursuant to Government Code Section 66006. The IG must also make findings once each fiscal year regarding any portion of the mitigation fee remaining unexpended or uncommitted pursuant to Government Code Section 66001(d).

The IG must also refund any unexpended or uncommitted mitigation fee after five years receipt (Government Code Section 66001(e). The IG must also adopt a plan indicating on which capital improvement or program the fee will be expended (Government Code Section 66006(b).

5. RSIP Review Standards

The Executive Officer shall utilize the following standards to review and approve individual RSIP applications:

a. The RSIP significantly complies with the intent of the NPDES Permit and applicable TMDL.
b. The RSIP has incorporated to the maximum extent practicable current programs and technologies.
c. The RSIP will be implemented in manner consistent with the time periods imposed by the NDPES Permit and applicable TMDL.

6. Amendments to the RSIP

The Executive Officer may approve or disapprove of amendments to the RSIP. The IG must provide documentation that:

a. The proposed amendment will meet or exceed the objectives of the original NPDES or TMDL component, program or schedule; or
b. The fiscal burden of the original NPDES or TMDL component, program or schedule is substantially greater than the proposed amendment and does not achieve a substantially greater improvement in water quality.

The Executive Officer may eliminate any NPDES or TMDL component or program, if the IG can document that:

a. The component or program is not technically feasible and no substitute is available, or
b. The cost of implementation outweighs the benefits to the receiving waters.

7. Administrative Review Process

The administrative review process formalizes the procedures for review and acceptance of the RSIP and any amendments to an approved RSIP. In addition, it provides a method to resolve differences in interpretation of the RSIP components between the Executive Officer, the Regional Board and the IG.

RSIP Application and Amendments to an Approved RSIP

a. Determine Application Complete – The Executive Officer shall notify the IG in writing within 30 days after the filing of the RSIP if the application has been determined to be complete. If determined to be incomplete, the letter shall outline the items that the IG will need to supply in order to complete the application.
b. Resubmittal of the Application – The Executive Officer shall notify the IG within 30 days after resubmittal of the application. The 30-day review period shall apply to all resubmittals.
c. Approval or Disapproval of the RSIP – The Executive Officer shall have 60 days in which to either approve or disapprove of the RSIP. The IG shall be notified in writing of the reasons for either approval or disapproval.
d. Appeals to the Regional Board – The IG shall have 30 days from receipt of the Executive Officer's letter to appeal the action of the Executive Officer. The IG shall notify the Board in writing of the reasons for the appeal and any action that the IG wants the Board to consider.
e. Appeal Hearing – The Executive Officer shall set the appeal for a Board public hearing item, within 60 days receipt of the written appeal from the IG. The appeal hearing date may be extended upon mutual agreement between the Executive Officer and the IG.
f. Interpretations of the RSIP Components – The IG may file a written appeal to any determination made by the Executive Officer in implementing the RSIP. The Executive Officer shall set public hearing regarding the Board under Section Five, Subsection B, 7e. above.

8. RSIP Enforcement/ Legal Indemnity

Violations of any provision of an approved RSIP shall be subject to the provisions of Part 6, Section O, Standard Provisions of this Permit. In

order to encourage and to provide an incentive to cost-effective regional/subregional programs, the State will provide legal indemnity to the IG, when civil litigation arises in the good faith implementation of an approved RSIP.

Coalition for Practical Regulation

Arcadia
Artesia
Bellflower
Bell Gardens
Burbank
Cerritos
Commerce
Compton
Diamond Bar
Downey
Hawaiian Gardens
Industry
Irwindale
La Canada-Flintridge
La Mirada
Lakewood
Lawndale
Monrovia
Montebello
Norwalk
Palos Verdes Estates
Paramount
Pico Rivera
Pomona
Rancho Palos Verdes
Rosemead
Santa Fe Springs
San Gabriel
Sierra Madre
Signal Hill
South Gate
Vernon
Walnut
Whittier

Proposed Shift of the State's Storm Water Inspection and Enforcement Program to the Cities

What is the State Proposing?

The Draft NPDES Permit would shift the responsibility for industrial and commercial storm water inspections and enforcement programs from the State to the cities. The State was required in 1989 to develop a program for industrial and commercial storm water permits. Fees collected by the State range from $250 to $10,000 per storm water permit. The State is currently responsible for reviewin plans, issuance of permits, inspections and legal enforcement, including levying fines and prosecuting violators.

What are commercial and industrial sites?

Commercial sites include automotive related businesses, retail gas outlets, auto body shops, motor vehicle parts and accessories facilities. Commercial sites include all restaurants. The commercial inspection program is actually "open ended", in that the Executive Officer can add, at any time, "other commercial facilities that contribute or potentially contribute" to storm water pollution (Page 26, Section 3).

Industrial sites are permitted and inspected by the State under the Phase I NPDES Permit. Sites include refineries and other heavy industries. Under the inspection and enforcement program, cities will be required to inspect industrial sites and designate appropriate BMP's (Best Management Practices) for businesses. (Page 27, Section 4

Cities are being ordered to become the "storm water police"

The permit states that cities must have the ability to enter onto private property to inspect businesses for compliance with State approved storm water plans. The permit states that cities must possess the "ability to carry out all inspection, surveillance and monitoring." Cities will need to determine if non-compliant sites create an "adverse

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impact or nuisance". The criteria or testing procedures to determine whether the site is a nuisance are undefined. (Page 29, Section 7) The cities must also "possess the authority to enter, sample, inspect, review and copy records, and require regular reports" from local businesses. (Page 19, Section G1(n).

Cities will be inspecting sites, even if there is no evidence of non-storm water discharges into the local storm drains.

The Permit requires that commercial and industrial facilities be investigated, "regardless of exposure or non-exposure" of storm water pollution. Cities will be required to establish inspection frequencies with the Regional Board. The permit calls for at least one inspection within the first 24 months for each commercial and industrial site. The permit has a minimum of not less that two inspections for each site during the five-year life of the NPDES permit. (Page 27-28, Section 5)

Inspectors will be required to provide oral notification of a "adverse impact or nuisance" to the Board within 24 hours. Inspectors must provide oral notification of "non-compliance" sites within three days. The inspectors are to follow up oral reports with written reports, in the next five days. Cities are then to enforce the violations through "ordinances or other regulatory mechanisms", including "sanctions to ensure compliance". (Page 28, Sections 6 & 7).

What are the major problems with shifting the inspection and enforcement program to the cities?

Shifting of the inspection and enforcement responsibility to the cities presents several problems:

- No Legal Basis to Mandate Local Inspections & Enforcement - The State entered into an MOA (Memorandum of Agreement) with the USEPA in 1989 to administer the NPDES Program. This included the requirement that the State develop storm water permits and conduct storm water inspections for specified Industrial and Commercial facilities.

- No Legal Authority to Enter Businesses – Cities do not have the legal authority to enter onto private property to enforce a State storm water permit. Cities have to obtain search warrants to enter private property. Case law limits cities to pursuing code enforcement based on the rule of what can be observed from the city right-of-way.

- Unfunded Inspections – The State is proposing ***no funding*** to the cities for the costs of the new inspection program. The business community would object to the additional levy of a city storm water fees, since they are already paying fees to the State. Cities will be required to fund new staffing for inspectors or contract with consultant inspection firms.

- Unfunded Legal Enforcement – Cities must rely on the cumbersome municipal code violation process, which includes filing of charges with city prosecutors or the district attorney. Violations could then end up in expensive court cases. The State is proposing ***no funding*** for prosecution and court expenses.

- Unfunded Surveillance, Monitoring and Health Risk Assessments – Most cities do not have the resources or expertise to complete the health risk assessments and the monitoring required to determine if an "adverse impact or nuisance" exists in storm water. Consultant expertise will most likely be required. Cities do not have storm water "surveillance" programs for local businesses. The State proposes ***no funding*** for the surveillance, monitoring or health risk assessments.

- Unknown Amount and Frequency of Inspections – Cities are not aware of the number of State issued Industrial/Commercial permits in their jurisdiction. The number of inspections is open-ended. The Executive Officer may add sites that "contribute or potentially contribute" to storm water pollution during the five-year life of the NPDES Permit.

- Third Party Litigation – By placing the inspection and enforcement requirement into the NPDES Permit, cities will be exposed to third party litigation and State fines. Cities would be subjected to fines and litigation, if inspection and enforcement programs were not considered "sufficient" by the Board or any individual or third party.

Conclusion

The State industrial and commercial inspection program is contained in a MOA between the State and USEPA. The Coalition is opposed to this shift of inspection and enforcement responsibility, since the NPDES Permit has not addressed the following issues:

- There is no legal authority in the Clean Water Act or in the Porter-Cologne Act that requires the Cities to take over the inspection and enforcement of industrial and commercial storm water permits.

- The cities are being asked to inspect and enforce State permits they have neither reviewed, nor issued.

- The inspection and enforcement program will be very expensive to revenue starved cities. The cities do not have the resources for surveillance, water testing and other requirements. This is another example of an unfunded State mandate on the cities.

- Placing the inspection and enforcement program into the NPDES Permit will subject the cities to Board fines and third-party litigation, even when a City attempts to implement the program in "good faith".

RUTAN & TUCKER, LLP

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May 15, 2001

VIA MESSENGER

Dr. Xavier Swamikannu
Calif. Regional Water Quality Control Board
Los Angeles Region
Storm Water Program
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Los Angeles Regional Water Quality Control Board April Draft of NPDES Permit No. CAS614001

Dear Dr. Swamikannu:

As you know this office represents a number of Cities in the County of Los Angeles who are members of an ad hoc coalition known as the Coalition For Practical Regulation. The purpose of this letter is to provide Regional Board staff with written legal comments, in addition to the comments provided at the Workshop of April 24, 2001 ("Workshop"), for its review and consideration in making appropriate changes to the proposed NPDES Permit.

As mentioned in my letter of April 20, 2001, to Mr. Dickerson, it is our hope that the Regional Board will consider these comments and strive towards formulating an NPDES Permit that is consistent with both the Clean Water Act ("CWA" or the "Act") and State law, and that it will develop an NPDES Permit that best protects the quality of the waters within the County and the interests of the community at large.

A. THE INSPECTION, ENFORCEMENT, MONITORING AND REPORTING OBLIGATIONS IMPOSED ON PERMITTEES FOR INDUSTRIAL/COMMERCIAL FACILITIES ARE NOT AUTHORIZED BY STATE OR FEDERAL LAW.

As discussed at the Workshop, under the Proposed Management Program provisions of the CWA regulations, Permittees are to develop a program to monitor and control pollutants in storm water discharges to the MS4 from certain ***industrial facilities*** specifically described as

follows: "municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and ***industrial facilities*** that the ***municipal permit applicant determines*** are contributing a substantial pollutant loading to the municipal storm sewer system." (See 40 CFR § 122.26 (d)(2)(iv)(c).)

Further, under section 122.2 (d)(2)(i) of the CWA regulations, municipalities are required to demonstrate "Adequate Legal Authority" as necessary to control the "contribution of pollutants to the municipal storm sewer by ***storm water discharges associated with industrial activity and the quality of storm water discharges from sites of industrial activity."*** The phrase ***"storm water discharge associated with industrial activity"*** is specifically defined under § 122.26(b)(14), to mean "the discharge from any conveyance that is used for collecting and conveying storm water ***and*** that is directly related to manufacturing, processing or raw materials storage areas at an ***industrial plant***. The regulation goes on to describe specific types of activities that fall within the term "industrial activities" in 40 CFR § 122.26(b)(14)(i) – (xi). At the Workshop, Board staff was provided an EPA website page which plainly describes the "industrial activities" covered under this Section. A copy of this webpage is also included with this letter for your review and consideration and is attached as Exhibit "A".

As discussed at the Workshop, the proffered language in Section 122.26(d)(2)(ix)(C) relied upon by Board staff to support its position that it could require inspections of ***all industrial/commercial*** facilities is clearly limited to ***industrial facilities***, and specifically ***industrial faculties*** that "the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system." Accordingly, contrary to Board staff's position at the April 24th Workshop, Section 40 CFR 122.26(d)(2)(iv)(C) does not authorize the Regional Board to impose inspection and enforcement obligations on municipalities for ***all industrial and commercial facilities*** within its jurisdiction.

In short, the terms of the draft Permit goes far beyond the authority provided to the State under the regulations to impose inspection, enforcement and reporting obligations on municipalities. The following is a description of the provisions within the draft Permit that plainly exceed the authority provided under the regulations:

(1) Page 19, subsection (m) – "***Control*** the contribution, or ***potential contribution***, of pollutants and discharges of storm water runoff associated with industrial activities (including construction activities) to its MS4 and control the quality of storm water runoff from industrial sites (including construction sites)." Here, the CWA regulations clearly only allow for the control of the ***contribution*** of pollutants, not the ***"potential contribution"*** of pollutants, and only with respect to ***"discharges of storm water associated with industrial activities."*** (122.26(d)(2)(i)(A).)

(2) Page 19, subsection (n) – "Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions, including the prohibition of illicit discharges to the MS4. ***Permittees must possess authority to enter, sample, inspect, review and copy records, and require regular reports from industrial facilities discharging polluted or potentially polluted storm water runoff into its MS4 (including construction sites).***" The second part of this requirement, requiring authority to enter a ***private*** facility discharging ***polluted or potentially polluted*** storm water runoff, to sample and inspect such facility, to review and copy records of the facility, and to require regular reports from the facility, is overly broad and is not authorized by the Clean Water Act or State law. It should be recognized, moreover, that by definition storm water includes "storm water runoff, snow melt runoff, and surface runoff and drainage" (40 CFR § 122.26(b)(13)) and the reference to ***polluted or potentially polluted*** storm water runoff is ambiguous, unsupported and confusing, as "runoff," by definition, will include pollutants.

(3) Page 25, Section B – Programs for Industrial/Commercial Inspections, whereby the Permittees are to implement an Industrial/Commercial Program to: Achieve the control and reduction of pollutants in storm water runoff from ***all*** Industrial/ Commercial sites to the maximum extent practicable. The term "Industrial/Commercial Facility" is broadly defined to include "any facility involved and/or used in either the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services." The term is to include any SIC code facility and includes any federal, state and non-profit facility. The only analogous language in the CWA regulations to this language requires Permittees to control the contribution of pollutants to the MS4 of ***storm water discharges associated with industrial activities.***

Clearly, the draft Permit goes far beyond the CWA regulations as it requires a "reduction" of pollutants in storm water runoff, as opposed to controlling the contribution of such pollutants, and as it requires such controls and reduction from "all Industrial/Commercial Sites" within the Permittee's jurisdiction. The term Industrial/Commercial is also defined in an overly broad fashion, to include all developed sites, including State, federal and institutional facilities, excepting only residential developments. This definition is directly contrary to ***Finding No. 14*** of the draft Permit, where the Board expressly recognizes that "the Permittees will not be held responsible for such facilities and/or discharges." (See p. 5, ***Finding No. 14*** of draft Permit.)

(4) Page 25, Section B – Programs for Industrial/Commercial Inspections, and the requirement for Permittees to adopt a program that requires the implementation of proper pollution prevention and control measures at all Industrial/Commercial Sites; source identification at all such sites; identifying threats to water quality; site plan review and BMP implementation for such sites; ***inspections*** of such sites; the ***enforcement*** of pollution prevention and control measures at such sites; and the ***ability to impose sanctions to ensure***

compliance with these provisions against such Industrial/Commercial sites, is not supported anywhere by the CWA regulations or State law.

Again this provision goes far beyond the requirement that Permittees control contribution from ***storm water discharges associated with industrial activities***, and beyond any requirement to prohibit ***illicit discharges*** and to adopt a management program to detect and remove "illicit discharges" (which, by definition, specifically excludes discharges permitted pursuant to an NPDES permit). There is nothing in the regulations or State law to support such language in the draft Permit. Specifically, the inspection and enforcement obligations sought to be imposed on the municipalities are not supported by State or federal law, and constitute naked efforts to transfer unfunded mandates (discussed below) to municipalities in violation of the California Constitution. For example, the State's General Industrial NPDES permit, on its face, imposes the obligation to ***enforce*** and ensure ***compliance*** with its terms squarely on the Regional Board. (See page 9 of the State Board Order No. 97-03 DWQ.) There is no authority anywhere under State or federal law that allows the Regional Board to transfer these obligations to municipalities, and in fact, such attempts violate the express terms of the California Constitution.

(5) Page 26, Section 3 – Threat to Water Quality. The draft Permit specifically requires that Permittees include a program that will address, at a minimum, "all industrial groups regulated under Phase I of the Federal Storm Water Program." In addition, restaurants and other commercial facilities "contributing or ***potentially contributing*** to the impairment of receiving waters" and motor vehicle repair shops, (none of which are covered within the definition of "storm water discharges associated with industrial activity"), are all facilities that the draft Permit would require to "control the contribution of pollutants" to the MS4. However, the CWA regulations only impose on the municipalities the obligation to carry out inspection, surveillance and monitoring as necessary to determine compliance and non-compliance with the MS4 permit requirements, i.e., as necessary to detect and remove illicit discharges and improper disposals into the MS4, and to inspect industrial facilities ***that the municipality determines*** are "contributing a substantial pollutant loading to the municipal storm sewer system."

(6) Page 27, Section 4 – BMP Implementation. A requirement that each Permittee implement or require the implementation of the BMPs approved in Resolution No. 98-08, at each "Industrial/Commercial Site" within its jurisdiction. In effect, the Permittees are being required to specifically regulate and impose BMPs on all such Industrial/Commercial Sites within their jurisdiction. In addition, the Permittees are being required under the draft Permit to ***implement***, or require implementation of, additional controls for Industrial/Commercial Sites that contribute to impaired water bodies, or that are adjacent to an Environmentally Sensitive Area. Again, there is nothing within State or federal law that authorizes any of these requirements, and such provisions go far beyond the language of the CWA and the regulations thereunder. In effect, the draft Permit appears to require municipalities to enter upon private property and intrude upon private businesses in order for the Cities to then physically construct

controls and/or BMPs at such private business. Yet, how or where the Regional Board has the authority to impose such an obligation on municipalities, and/or how or where the municipalities have any authority to enter upon a private business and implement BMPs and/or other controls at individual facilities, is unknown.

(7) Page 27, Section 5 – Inspection of Industrial/Commercial Sites. An inspection obligation on the Permittees to inspect restaurants, automotive service facilities, other commercial facilities and Phase I facilities, once every 24 months, including ***all commercial facilities that contribute or potentially*** contribute to the impairment of receiving waters. Again, the CWA regulations only require that municipalities control the contribution of pollutants in storm water to the MS4 from certain specifically defined industrial activities, and to prohibit illicit discharges. There is nothing in the Act that authorizes the Regional Board to require municipalities to conduct on-site inspections of ***any*** commercial facility, without first having probable cause, or reasonable suspicion under exigent circumstances, of an illicit discharge, and there is nothing that would require the inspection, surveillance and monitoring of any facility, industrial, commercial or residential, because of a mere "potential to contribute" pollutants to the MS4. Further, any requirement involving the "control" of pollutants in storm water to or from the MS4, as opposed to the prohibition of pollutants, must involve application of the "maximum extent practicable" standard.

(8) Page 28, Section 7 – "Reporting of Non-Compliant Sites" (Industrial/Commercial). Each Permittee is to provide oral notification of non-compliant sites to the Regional Board within 3 days of non-compliance with existing storm water regulations, upon discovery of such, or within 24 hours where there is an ***adverse impact or nuisance***. The oral notification is to be followed up by a written report within 5 days of the incident of non-compliance. Unfortunately, again, the reporting requirement applies to all Industrial/ Commercial facilities, including state and federal facilities, and State NPDES permitted facilities are already regulated under the State's General Industrial Permit (where the permit expressly requires that the ***Regional Board conduct compliance inspections***, and ***take enforcement actions***). (See page 9 to State Board Order 97-03-DWQ.) This section of the draft Permit also improperly attempts to include any Industrial/Commercial Facility that creates an adverse impact or nuisance to the quality of receiving waters, even though conditions of nuisance or pollution are to be enforced by the Regional Board, pursuant to Water Code Section 13304. Again, there is nothing within the regulations or State law that would support imposing such broad obligations on municipalities.

B. THE DEVELOPMENT PLANNING ("SUSMP") REQUIREMENTS IN THE DRAFT PERMIT ARE IN CONFLICT WITH STATE BOARD ORDER WQ-2000-11, AND VIOLATE OTHER LEGAL REQUIREMENTS.

1. The .75 inch standard is inappropriate.

As discussed at the Workshop, the regulatory authority for imposing a SUSMP is set forth in 40 CFR Section 122.26(d)(2)(iv)(A). There, the regulations require that the Proposed Management Program include a description of structural and source control measures to reduce pollutants from runoff in commercial and residential areas that are discharged ***"from"*** the municipal SUSMP system, to be implemented during the life of the Permit, and to be accompanied with an ***"estimate of the expected reduction of pollutant loads"*** and a proposed schedule for implementing such controls. The proposed SUSMP imposes a .75 inch standard, but does not contain any findings identifying the ***"expected reduction of pollutant loads,"*** or the sources or types of such pollutant loads. The .75 inch standard further does not appear to have been developed based on "quantitative data," "source identification," and "source characterization" (40 CFR 122.26(d)(1), and an analysis of the reduction of pollutant loads expected from the SUSMP has not been performed. The CWA regulations have thus not been complied with.

Further, Water Code Section 13263(a) requires a consideration of the "conditions existing in the disposal area or receiving waters" where the discharge is made or proposed. As discussed further below, the proposed SUSMP requirements impose a "one size fits all" requirement and do not give fair consideration to the "conditions existing" in the respective development areas, and to the specific types of development in question.

2. The SUSMP provisions do not take into account the considerations required by Water Code Sections 13263 and 13241, and other important considerations.

The .75 standard appears to be a one-size fits all standard, and one that fails to consider the objectives required to be considered in issuing a set of Waste Discharge Requirements as required under Water Code Sections 13263 and 13241, specifically "***economic considerations***" and ***"the need for developing housing within the Region."*** As discussed above, even though ***"economic considerations"*** are required to be considered in the adoption of the Permit and in the adoption of the subject SUSMP, there are no findings and no indication that such ***"economic considerations"*** have been accounted for.

Second, at a minimum, the Regional Board is to consider the impacts of the SUSMP requirements on ***"housing within the region,"*** and on the ability of municipalities to increase the amount of available low and moderate income housing within their respective jurisdictions. The proposed SUSMP does not address the housing needs within the region, and there are no findings that even suggest that the region's housing needs were considered.

In addition, under Water Code Section 13263(a), the requirement of any set of Waste Discharge Requirements to achieve water quality objectives must be "***reasonably*** required for that purpose." and under Section 13241, only water quality conditions that "could ***reasonably be achieved*** through the coordinated control of all factors which affect water quality in the area," may be imposed. (Water Code §13263(a); 13241(c).) Here, the .75 inch standard, along with the overbreadth of the categories to which it is to be applied, and with the overbroad definition of "Redevelopment," the lack of "regional solutions," the insistence that all "non-discretionary" projects be included, and the inclusion of "environmentally sensitive areas," are all terms of the SUSMP which are not "***reasonably required***," nor will they result in water quality conditions that "could ***reasonably*** be achieved."

Finally, with the proposed SUSMP language, Board staff has failed to consider the impact on ***ground water*** quality, vector control issues, and the financial constraints that are already inhibiting the ability of cities and the County to provide essential health and safety services to their citizens.

3. The Regional Board may not regulate environmentally sensitive areas.

The SUSMP was developed contrary to the admonitions and directives provided by the State Board pursuant to Order WQ-2000-11. Specifically, under Order WQ-2000-11 (a copy of which is enclosed and attached as Exhibit "B"), the State Board ***invalidated*** the prior SUSMP imposed by the Regional Board, in part because of the Regional Board's insistence on including a category defined as development within "environmentally sensitive areas" ("ESAs"). The State Board reasoned that ESA's were already "subject to extensive regulation under other regulatory programs." (See Order WQ-2000-11, p.25.)

The application of the SUSMP requirements to ESAs is, therefore, inappropriate as such areas are already heavily regulated, as the Regional Board only has jurisdiction over "receiving waters" within such areas, and as the Regional Board has no jurisdiction over the "environmentally sensitive areas" themselves. Nothing in the Porter-Cologne Act, other State law, or the Clean Water Act, provides any such authority to the Regional Board. ESAs are defined in the draft Permit to include areas containing critical habitat, endangered species or other areas defined as "environmentally sensitive." In this case, the Regional Board's authority starts and stops with "receiving waters" and any impact pollutants of concern may have on an

"environmentally sensitive area" at any given site, is outside the jurisdiction and authority of the Regional Board.

The California Environmental Quality Act, the Federal Endangered Species Act, the California Endangered Species Act, and numerous other State and federal laws already impose significant restrictions, limitations and prohibitions on development in "environmentally sensitive areas." These laws have been adopted for the very purpose of protecting the species, habitat or wildlife that have caused the area to be "environmentally sensitive" in the first instance. The Regional Board has no such authority, and is moreover preempted from regulating the field. In addition, a SUSMP that effectively requires "pollutants of concern" to remain ***onsite***, on an environmentally sensitive area, is intuitively not protective of the environment or sensitive to the species and/or habitat of concern.

Finding No. 6 of the draft Permit further illustrates how far field the Regional Board has gone in its attempt to regulate outside of its authority. ***Finding No. 6*** provides, in pertinent part, that:

> "[D]evelopment and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant." (See draft Permit p. 4, ***Finding No. 6***.)

Thus, ***Finding No. 6*** illustrates the clear desire of the Regional Board to itself regulate "development and urbanization" within an environmentally sensitive areas, as opposed to regulating pollutants of concern in receiving waters from a particular type or source of pollutant. As the State Board has determined that ESAs are already heavily regulated, and as ***Finding No. 6*** evidences the Regional Board's desire to restrict "development and urbanization" so as to protect environmentally sensitive areas, as opposed to receiving waters, ESAs are outside the authority and expertise of the Regional Board and cannot legally be regulated by this Permit.

4. The term "Redevelopment" is overly broad, as is the general application of the SUSMP provisions.

The proposed SUSMP provisions are again overly broad with the new definition of ***"redevelopment,"*** as the definition is contrary to the definition provided by the State Board in Order WQ-2000-11. Unfortunately , the Regional Board has chosen to attempt to broaden the definition of "redevelopment," in spite of some two days of hearing before the State Board challenging the previous SUSMP issued by the Regional Board, as a result of a SUSMP which contained this very same deficiency of having an over broad definition of "redevelopment."

Further, once again the over breadth of the definition is compounded by the Regional Board's broadening of the application of the SUSMP to ***"nondiscretionary projects."*** For example, with the expanded definition of "redevelopment" to include the ***"replacement"*** of 5,000 square feet of impervious surfaces, along with the inclusion of nondiscretionary projects, the replacing a roof on a commercial or even a large residential structure, such as an apartment complex, would trigger compliance with the SUSMP's .75 inch requirement. Similarly, replacing or repaving a parking lot of 5,000 square feet or more would result in the need for a complete redesign of the development. The result of the expanded definition of "redevelopment" is that if any required replacement is to be done, if will be done piecemeal, and will be done in a costly and inefficient manner.

In addition, with the overbroad definitions of "New Development" and "Redevelopment" as presently written, the SUSMP is ambiguous as the term "Redevelopment" is completely subsumed in the definition of "New Development." The concern is that given the definition of the term "New Development," i.e., "land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision," all "Redevelopment" would constitute "New Development." Accordingly, the definitions of both "New Development" and "Redevelopment" (as discussed above) should be revised, with the term "New Development" being redefined to limit its terms to the ***"creation or addition of 5,000 square feet or more of impervious surfaces***." Such a change is necessary to avoid the circumstance where the "Redevelopment" of a particular area actually results in the reduction of impervious surface, and/or results in less than the addition of 5,000 square feet of impervious surface, but yet the SUSMP provisions are interpreted as applying because of the breadth of the definition of "New Development."

5. The SUSMP once again improperly attempts to cover "nondiscretionary projects."

There is nothing within the draft Permit or the findings thereto, to support the application of the SUSMP to ***"nondiscretionary"*** projects. Again, one of the primary arguments made and upheld by the State Board in connection with the prior challenge to the Regional Board's SUSMP, was that it inappropriately applied to "non-discretionary" projects. In ***Finding No. 41*** of the draft Permit, the Permit appears to be designed to modify the regulations to CEQA, and the entire land use decision-making process throughout the region, so that "a ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion." (See Finding No. 41.) The implication of the inclusion of "non discretionary" projects within the SUSMP is that ***any*** development and redevelopment project within the specified categories, would require the application of a SUSMP, leading to absurd and unintended consequences, as discussed herein.

Further, there are no findings, and no evidence to support any findings, for the need to apply the SUSMP requirements to "non-discretionary" projects. Before such an expansive and overly broad application of this SUSMP is mandated on the Permittees, at a minimum, findings supporting the needs for such an expansion, and evidence supporting such findings, must be sited. Without such findings, the inclusion of all "non discretionary" projects within the development categories of the SUSMP, is arbitrary and capricious and is not supported by the evidence in the record and is not otherwise shown to be "***necessary***" to protect the water quality of the region. (Water Code §13263(a).)

6. The "Waiver Fund" under the SUSMP is unspecific and unworkable.

The draft Permit provisions again ignore the State Board's admonition concerning the "Waiver Fund." In Order WQ-2000-11, the State Board stated that:

> "Before mandating funding, preliminary questions should be answered, including who will manage the fund, what types of projects it will be used for, what entities can legally operate such funds, and how permittees will determine the amount of the assessments. It would be appropriate for the County to consider developing a program with the appropriate flood control agency, or as a model for the separate cities to develop. There may be suitable agencies to administer such funds, but the ***development of programs may take some time***. The Regional Board should consider adopting such a program when it reissues the permit, ***after consultation with the appropriate local agencies***." (Order WQ-2000-11, p. 27.)

Here, the preliminary questions raised by the State Board have not been addressed, e.g., what entities can legally operate the Fund, what type of projects will it be used for, how are the Permittees to determine the amount of the assessment, who will operate the fund, etc. The development of such a waiver fund program does takes time, and there has not been sufficient time to properly determine these parameters and implement the concept. Furthermore, in spite of the State Boards admonition, there has been no ***"consultation with the appropriate local agencies"*** in the development of this Fund. Consultation with the affected and implementing agencies is critical to the successful design, administration and implementation of the fund. In short, the State Board envisioned a process whereby the Regional Board would first consult with local agencies to develop the fund, and would then secondly, work with and provide local agencies the time and resources to develop the fund. This basic, common-sense approach, to develop the waiver fund program, as required by the State Board, has been ignored.

Finally, it appears that the Regional Board is again demanding that where there is economic impracticability, that the equivalent amount of the funds that created the economic impracticability for an onsite SUSMP, be expended through the contribution of these funds to the

waiver fund. This obviously creates an unworkable situation. The State Board Order should be followed, and a Waiver Fund should only be developed "after consultation with the appropriate local agencies" and complete consideration of the above-referenced issues.

7. "Regional Solutions" have not been adequately considered.

In spite of the various admonishments from the State Board to develop "regional solutions" for purposes of implementing the SUSMP program, and in spite of the requirements under State and federal law to consider regional solutions in protecting the quality of the region's waters, the draft Permit again fails to adequately allow for regional solutions.

In Order WQ-2000-11, the State Board recommend that:

> "The Cities and the County, along with other interested agencies, work to develop regional solutions so that individual dischargers are not forced to create numerous small scale projects. While the SUSMP are an appropriate means of requiring mitigation of storm water discharges, we also encourage innovative regional approaches." (Order WQ-2000-11, p.21.)

With the proposed Permit, it is essential that regional solutions be developed, not only to insure cost effective measures of resolving our water quality problems, but also to insure technically effective programs and to avoid "numerous small scale projects." The Coalition for Practical Regulation has proposed a specific plan to develop regional solutions and we would strongly encourage the Regional Board to consider this plan in developing the subject NPDES Permit.

C. THE DRAFT PERMIT FAILS TO PROPERLY CONSIDER "ECONOMIC" CONSIDERATIONS AND HAS NOT BEEN DEVELOPED BASED ON A "COST/BENEFIT" ANALYSIS.

When issuing any NPDES Permit for alleged point source discharges, economic considerations are required to be taken into account under both State and federal Law. (See 33 USC §§ 1288, 1313, 1315(b), and 64 Federal Register 68722, 68732; Water Code §§ 13000, 13165, 13241, 13225, 13267 and related provisions thereto.) In particular, under Section 13263 of the Porter-Cologne Act, Waste Discharge Requirements ("WDRs") require a consideration of, among other matters, "the provisions of Section 13241." (Water Code § 3263 (a)) Section 13241(d) specifically requires that the Regional Board, in establishing water quality objectives, consider, among other matters, "***economic considerations***." As referenced above, Federal law also requires the consideration of "economic" considerations. (64 Federal Register 68722, 68732.)

The importance of "economic considerations" was, moreover, specifically recognized by the State Board in Order WQ-2000-11, where the Board found that the maximum extent practical ("MEP") standard requires Permittees to choose ***cost-effective***, best management practices ("BMPs"), and to reject applicable BMPs where the BMPs would not be technically feasible or "the cost would be prohibitive." (State Board Order 2000-11, p. 20.) Although the State Board did not agree that a formal "cost/benefit analysis" was required, it clearly recognized a need to consider costs in adopting BMPs, and here as well, at a minimum, the Porter-Cologne Act requires the Regional Board to consider "economic considerations," in imposing WDRs.

In addition, a cost/benefit analysis is plainly required under Water Code Section 13225(c), since the Regional Board is seeking to require local agencies to investigate and report on "technical factors involved" in water quality control. In this instance, Section 13225(c), requiring that "***the burden, including costs, of such reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained therefrom.***" (See Water Code § 13225(c); also see Water Code § 13165.) The draft Permit is replete with language requiring local municipalities to conduct numerous investigations and inspections, and to provide countless reports to either the Executive Officer or the Regional Board itself. Pursuant to the express requirements of the Porter-Cologne Act, a cost/benefit analysis must be conducted prior to the imposition of such mandates.

Moreover, ***Finding Nos. 16 and 45*** of the draft Permit refer to the importance of a ***cost-effective*** storm water control program and ***cost effective*** measures. Yet there are no findings supporting the actual terms of the draft Permit itself that impose the countless inspection, monitoring and reporting obligations on the Permittees, and there are no findings or evidence that the numerous programs under the draft Permit are ***"cost-effective"*** programs and/or measures. Without a supportable finding that the proposed measures are "cost-effective," such measures cannot legally be imposed.

We respectively request that the Board consider ***"economic considerations"*** in issuing the subject Permit, and that it perform the requisite ***"cost/benefit analysis"*** required by State law.

D. THE DRAFT PERMIT SEEKS TO IMPOSE NUMEROUS, UNFUNDED MANDATES UPON MUNICIPALITIES IN VIOLATION OF THE CALIFORNIA CONSTITUTION.

Article XIII B, Section 6 of the California Constitution prohibits the State Legislature or any State agency from shifting the financial responsibility of carrying out governmental functions to local governmental entities. In particular, Article XIII B, Section 6 provides in relevant part that:

> "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local governments for the cost of such program or increased level of service ...."

This reimbursement requirement was intended to provide permanent protection for taxpayers from excessive taxation and to provide discipline in tax spending at both state and local levels. (*County of Fresno v. State* (1991) 53 Cal.3d 42, 46.) It was moreover enacted as a part of Proposition 4 in 1979, ***to preclude the state from shifting financial responsibility to local entities that were ill equipped to handle the task.*** (Id. at 47.)

Here, the draft Permit plainly attempts to shift the responsibility of the State and Regional Board on to the Permittees, by attempting to force the municipalities to, among other matters, regulate construction and industrial sites that are already otherwise regulated by the State Board. Irrefutable evidence of this attempt to shift an unfunded mandate on to the municipalities is provide by two correspondence from US EPA, one dated December 19, 2000 and a second is dated April 30, 2001. In such correspondence, US EPA explains that as a result of meetings with Regional Board's staff and the NRDC, that:

> "NRDC also recognizes, however, that the root of the problem is ***the lack of adequate staffing at the Regional Board to implement the program***. At the October 5 meeting, we [US EPA] suggested that the upcoming MS4 permit re-issuance for Los Angeles County ***require*** that the MS4 permittees provide ***more assistance to the Regional Board in this regard***." (See December 19, 2000 letter from Alexis Strauss, US EPA, p. 1)

To emphasize the point that US EPA would like to help impose a State mandate on municipalities because the State does not have "adequate staffing," Ms. Strauss goes on to state, in a follow up communication, that:

> "The State currently collects about $3 million in fees annually from storm water dischargers, and these fees are used entirely to fund storm water program activities, including inspections, enforcement, permitting and other activities. However, the storm water fees cover only about 30% of the costs of the current program, with the rest of the funding coming from other sources. As such, the fees are not adequate to fully fund the State's program and its various activities including inspection." (April 30, 2001

letter from Alexis Strauss of US EPA to Congressman Stephen Horn.)

(See April 30, 2001 letter from US EPA, Region 9, Alexis Strauss to Congressman Horn.)

The evidence could not be stronger and US EPA has emphatically made the point that because the fees charged by the State are "not adequate to fully fund the State's program," the Regional Board is attempting to shift a State ***mandate*** to municipalities, without providing funding, i.e. the State is attempting to impose an unfunded mandate. The Regional Board's attempt under the draft Permit to "shift financial responsibility to local agencies that are ill equipped to handle the task," and to put primary responsibility on the Cities to enforce a General Statewide Permit issued by the State Board, is a direct violation of Article XIII B, Section 6 of the California Constitution, thereby making the draft Permit invalid, without adequate funding to the Permittees. (*County of Fresno v. State, supra*, 53 Cal. 3d at 42, 47.) Other violations of this Constitutional prohibition exists with the shifting of other unfunded mandates to the municipalities, e.g. the SUSMP program.

E. THE DRAFT PERMIT FAILS TO INCLUDE APPROPRIATE SAFE HARBOR LANGUAGE AND AN ADMINISTRATIVE REVIEW PROCESS, AND WOULD RESULT IN POTENTIALLY OPEN-ENDED LIABILITY TO MUNICIPALITIES.

The intent and goal of the draft Permit should be to, in effect, issue a "permit" that ***allows*** for the discharge of pollutants from the Municipalities' MS4, but requires the municipalities control such discharges "to the maximum extent practicable." Such is the standard specifically set forth in the Clean Water Act, and the standard widely recognized by both the State and regional boards throughout the State, as being the appropriate standard for issuing MS4 NPDES Permits. Accordingly, where "pollutants" from an MS4 are being controlled to the maximum extent practicable, in accordance with "best management practices," the Permittees should be found to be in compliance with the permit, and thus CWA and the Porter-Cologne Act. Still, further, where a Permittee complies with the objective terms of the Permit, irrespective of whether or not a nuisance has been created by a private party's discharge to the MS4, and/or irrespective of whether there has been a water quality exceedance, so long as the terms of the Permit have been complied with, the Permittees should be deemed to be in compliance of the Clean Water Act and State law.

Accordingly, appropriate "safe harbor" language confirming that compliance with the terms of the Permit will constitute compliance with the provisions of the Clean Water Act and State law, is appropriate and should be expressly included within the draft Permit so as to provide the protections envisioned by State and federal law, and so as to avoid the potential for

spurious lawsuits against Permittees based on a strained reading of either the Permit, the Clean Water Act, or State law.

In addition, the Regional Board should include a specific Administrative Review Process as exists in the present Permit, as such a process goes hand in hand with an appropriate Safe Harbor. An Administrative Review Process provides important due process protections for the Permittees, and an opportunity for both Permittees and the Regional Board to present their respective positions prior to the commencement of a more formal and expensive dispute resolution process. Further, an Administrative Review Process provides an opportunity for the Board itself to address minor violations that may otherwise go unchecked through a more formal process, short of subjecting both parties to an expensive and timely dispute resolution process. It further allows the Regional Board to use a scalpel as opposed to a sledge hammer, in addressing what are perceived as minor violations.

In addition, the Administrative Review Process should include a "meet and confer" process to allow the parties an opportunity to resolve their differences through discussion of communications, followed up by a mediation and/or an arbitration process. Further communication and dialogue through the meet and confer process, followed by a mediation/arbitration process, would be in the best interest of all parties involved.

F. THE DRAFT PERMIT IMPROPERLY SEEKS TO TRANSFER THE BURDEN OF PROOF ON TO THE PERMITTEES, IN ENFORCEMENT ACTIONS, IN VIOLATION OF THE CLEAN WATER ACT, STATE LAW AND BASIC PRINCIPLES OF DUE PROCESS OF LAW.

Buried in the definition section of the draft Permit, at the end of the definition of the term "Pollutants," is the following:

> "In an enforcement action, the ***burden shall be on the person who is the subject of such action*** to establish the elimination of the discharge to the maximum extent practicable through compliance with the best management practices available."

The apparent intent of this language is to invert the burden of proof and to require the Permittees to effectively prove that their actions were not in violation of the Permit, and thus the Clean Water Act and the Porter-Cologne Act. In effect the apparent intent is to include a provision that the Permittees are deemed "guilty" of a violation, until they prove themselves "innocent." Obviously, this attempt to flip flop the burden of proof is a violation of the most basic principle of our American system of justice.

G. LIABILITY FROM PRIVATE ILLICIT DISCHARGES CANNOT BE TRANSFERRED TO THE MUNICIPALITIES, AND MUNICIPALITIES HAVE NO AUTHORITY TO MANDATE CONTRACTUAL PROVISIONS IN PRIVATE PARTY AGREEMENTS.

Under Section 9(c) on page 33 of the draft Permit entitled "Maintenance Agreement and Transfer," the Board attempts to impose obligations on Permittees to verify "[w]ritten conditions in the sales or lease agreements, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year...." The language seeks to have Permittees impose conditions in private sale and/or lease agreements, and effectively, to legislate language into sales and lease agreements requiring the assumption of responsibility for the maintenance of the SUSMP structures. Yet, there is no authority under State or federal law which would enable the Regional Board to impose this kind of requirement on municipalities, and nor is there any authority that would allow the municipality to impose such terms and conditions in a private agreement.

H. THE DRAFT PERMIT CAN ONLY BE ADOPTED AFTER THE REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURES ACT HAVE BEEN COMPLIED WITH.

As discussed below, only State agencies with "statewide jurisdiction over a class of activities or discharges," and who have filed appropriate applications with the U.S. EPA, are authorized to administer NPDES programs. The lack of State direction in the instant case to individual regions throughout the State, has resulted in the present problem of different regional boards following different and inconsistent procedure and standards for developing NPDES permits. The lack of statewide jurisdiction of the Regional Board, in and of itself, invalidates the issuance of the subject permit. However, and in addition, in developing any "regulation," order" or "standard of general application," the State Board, and any Regional Board acting pursuant to State Board delegation, is required to comply with the express rule making requirements of the Administrative Procedures Act, Government Code Section 11340, et seq. ("APA").

Although California law does not require administrative agencies to comply with the APA in simply issuing permits, including the issuance of waste discharge requirements, because the draft Permit in question is, in effect, a set of regulations, and is an order and sets forth standards of general application, the APA plainly applies and must be complied with. (Gov. Code § 11342(g).) This conclusion is further supported by comments by Board Staff that the permit requirements have and/or will be applied to various other agencies as well, thereby confirming that the Regional Board believes it will be issuing an order of general application, i.e., a regulation.

Government Code section 11342(g) defines the term "regulation" broadly to include "every rule, regulation, order, or standard of general application or the amendment, supplement or revision of any rule, regulation, order or standard adopted by any state agency to implement, interpret or make specific law enforced or administered by it . . . ." (Gov. Code § 11342(g).) California courts have found that "any regulation promulgated contrary to the provisions of Chapter 3.5 of the Administrative Procedures Act is invalid." (See, e. g., *Goleta Valley Community Hospital v. Department of Health Services* (1983) 149 Cal.App.3d 1124, 1129.) Accordingly, where an agency does not promulgate a regulation in substantial compliance with the APA, the regulation is without legal affect. (*Grier v. Kizer* (1990) 219 Cal.App.3d 422, 431.) In short, the APA expressly prohibits public agencies from issuing, utilizing and enforcing any order, rule or standard of general application, unless the same has been adopted as a formal regulation. (See *Union of American Physicians and Dentists v. Kizer* (1990) 223 Cal.App.3d 490, 496.)

The Permit when adopted, will plainly be a set of regulations, an order and a standard of general application that has no legal affect unless and until the requirements of the APA have be met.

I. THE DRAFT PERMIT INCLUDES LANGUAGE THAT GOES BEYOND THE AUTHORITY OF THE REGIONAL BOARD TO REGULATE THE DISCHARGE OF POLLUTANTS TO RECEIVING WATERS UNDER AN MS4.

As discussed at the Workshop and above, Part 2, subsections 1 and 2 of the draft Permit, contains "receiving water limitation" language prohibiting discharges from the MS4 that "cause or contribute to the violation of water quality standards or water quality objectives" and provide that discharges from the MS4 of storm water shall not "cause or contribute to a condition of pollution." Yet, the very purpose of issuing a NPDES Permit, and a set of a Waste Discharge Requirements, is to specifically ***allow*** the discharge of storm water, which again, by definition includes "storm water runoff, snow melt runoff, and surface runoff and drainage." (40 CFR §122.26(b)(13).) The Waste Discharge Requirements under State law similarly specifically envision allowing or permitting the discharge of "waste" to, among other areas, receiving waters. In fact, the very purpose of the Los Angeles storm drain system developed years ago throughout the County, was to convey storm water runoff to receiving waters as quickly as possible so far to avoid flooding problems. Even the express Waste Discharge Requirement standards under the Porter-Cologne Act are limited to those requirements that are "reasonably required," and in connection with water quality conditions, that "could reasonably be achieved through the coordinated control of all factors which affect water quality in the area." Having an "open ended" standard ignores the specific standards set forth in the Porter-Cologne Act when issuing Waste Discharge Requirements in the first instance.

The subject "Permit," just like any other "permit," should be designed to specifically allow discharges from the MS4 to receiving waters, so long as the identified conditions in the permit are complied with and are consistent with the Clean Water Act and State law. There is nothing in State or federal law that would allow the imposition of an open-ended standard, or more importantly, an unspecified and unknown standard to be developed in the future, thereby creating a Catch 22 where the violation occurs ***before*** the standard is even known to the alleged violator, in this instance, the Permittee. The draft language in the Permit would effectively establish the standard ***after*** the discharge has occurred. The end result would be to effectively establish an open ended "standard" that is inconsistent with, and in violation of, the express standards already established in the Porter-Cologne Act and the Clean Water Act. Such language is not only in conflict with the Clean Water and the Porter-Cologne Acts, it obviously violates basic substantive rights to due process of law.

At the Workshop (and in ***Finding No. 36*** of the draft Permit), the Regional Board staff relied upon State Board Order WQ-99-05 to support the receiving water limitations language in the current draft. As discussed at the Workshop, however, a review of Order WQ-99-05 shows that the receiving water language in Subsections (1) and (2) does not appear anywhere in Order WQ-99-05. Accordingly, the Regional Board's reliance upon Order WQ-99-05 is misplaced, as the language in the draft Permit far exceeds Order WQ-99-05.

In addition, given that Order WQ-99-05 is an order issued by the State Board to all Regional Boards within the State, and thus is an order or standard of "general application," the State Board was required to have complied with the requirements of the Administrative Procedures Act, Government Code Section 11340, *et seq.* (the "APA") before issuing such an Order. Without compliance with the APA, the underlying basis for the language on receiving water limitations, is misplaced.

J. THE DRAFT PERMIT IMPROPERLY ATTEMPTS TO AMEND STATUTORY AND REGULATORY REQUIREMENTS UNDER CEQA AND STATE GENERAL PLAN REQUIREMENTS, IN VIOLATION OF THE STATE LAW AND THE ADMINISTRATIVE PROCEDURES ACT.

Under Section 11, on page 34, of the draft Permit, the Regional Board attempts to require Permittees to "modify planning procedures for preparing and reviewing CEQA documents to consider potential storm water impact and provide for appropriate mitigation, with immediate effect." These provisions go on to provide that "the CEQA guidelines shall require consideration of the following, . . ." Thus, it is apparent from the plain language in the draft Permit itself, that the Regional Board, is attempting to modify the "CEQA guidelines," which are regulations under Title 15 of the California Code of Regulations. Not only does the Regional Board not have any authority to modify the regulations to CEQA, if it were to do so, it would have to do so through compliance with the requirements of the Administrative Procedures Act.

Similarly, under Section 12, entitled "General Plan Update," on page 35 of the draft Permit, the Regional Board seeks to require each Permittee to "update appropriate elements of its General Plans to include watershed and storm water quality and quantity management considerations no later than [540 days from permit adoption date] appropriate elements include, but are not limited to, water quality protection, development goals and policies, open space goals and policies, preservation and integration with natural features and water conservation policies."

The requirements of a Cities General Plan are based on the elements identified by the State Legislature in the California Government Code and regulations thereto, and any attempt by the Regional Board to require additional "elements" in the Cities' General Plans is clearly beyond the authority of a Regional Water Quality Control Board and would certainly violate the requirements of the Administrative Procedures Act.

K. THE REGIONAL BOARD HAS NO AUTHORITY TO ISSUE THE NPDES PERMIT IN QUESTION.

In accordance with California Water Code Section 13160, the State Water Resources Control Board ("State Board") is the designated agency to exercise the powers delegated to the State of California under the Clean Water Act, specifically including the right and obligation to administer the National Pollutant Discharge Elimination System ("NPDES") Program, in accordance with that Memorandum of Understanding entered into by and between the United States Environmental Protection Agency ("EPA") and the State Board dated September 22, 1989. Federal regulations allow NPDES authority within a state to be shared between two or more state agencies, ***but only if each agency has statewide jurisdiction over a class of activities or discharges***. Further, when more that one agency is responsible for issuing NPDES Permits within the state, under the CWA, each agency is required to make a submission meeting the requirements of the federal regulations. (40 CFR § 123.1(g)(1).)

Unlike the State issued General NPDES Industrial and Construction Permits, the subject NPDES Permit is being developed and proposed by the Los Angeles Regional Water Quality Control Board. By definition, the Regional Water Quality Control Board is a regional agency with regional jurisdiction, and thus does not have ***"state-wide jurisdiction over a class of activities or discharges,"*** as required by the federal regulations. Further, nor has the State Board provided regulatory direction to the various regional boards in the State, on the procedural and substantive process to be followed in issuing a National Pollutant Discharge Elimination System Permit. Without such specific regulatory direction by the State Board, and given the mandate of Federal Law that each NPDES issuing agency is to be a ***State agency*** with ***state-wide jurisdiction over a class of activities or discharges***, the Los Angeles Regional Board has no authority to issue the subject Permit.

Finally, the only mechanism for which the State Board may be in a position to delegate the terms of an order, regulation or rule of general application to a class of activities or discharges, i.e., to have a regional agency issue an NPDES Permit on its behalf, is to do so in accordance with the requirements of the Administrative Procedures Act, Gov. Code § 11340 et seq. Presently, however, as this process has not been followed, the Los Angeles Regional Water Quality Control Board has no jurisdiction and no authority to issue the subject Permit.

L. THE REGIONAL BOARD HAS FAILED TO CONSIDER THE TYPES AND SOURCES OF POLLUTANTS IN DEVELOPING THE DRAFT PERMIT, AS REQUIRED BY STATE AND FEDERAL LAW.

Under the Porter-Cologne Act, specifically Water Code Section 13263(a), Waste Discharge Requirements are to be issued "***with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed.***" (See Water Code § 13263(a).) In addition, under the CWA, Municipal Separate Storm Sewer System ("MS4") NPDES Permits are to be issued based on information concerning "source identification," "discharge characterization," and "characterization data." (See 40 CFR §§ 122.26(d)(1)(iii), (iv), and (d)(2)(ii) and (iii).) In fact, one of the primary purposes of the permit process is to develop quantitative data on the types and sources of the pollutants in the effected receiving waters, and to thereafter develop particular management programs based on the "quantitative data" developed. (40 CFR § 122.26(d)(2)(iv).)

With the subject draft Permit, the Regional Board has gone beyond its authority under the CWA and State law, as the Board has failed to customize and particularize the terms of the draft Permit to account for the "conditions existing in the disposal area or receiving waters," or for such "source identification," "discharge characterization," and "characterization data," as required by the Act. (Water Code §13263(a); 40 CFR § 122.26(d)(1)(ii)).

In proposing a Permit that is not based on "quantitative data," nor on information on the particular types and sources of pollutants in the subject receiving waters, the Regional Board is acting contrary to the policies and procedures set forth in the Act itself, and in the Porter-Cologne Act. For example, Part 2 of the draft Permit entitled "Receiving Water Limitations," subsections 1 and 2, contains very broad and ambiguous language imposing a prohibition on all discharges from the MS4 "that cause or contribute to the violation of water quality standards or water quality objectives." Yet, the purpose of the CWA in requiring the identification of the sources and pollutants of concern through the development of "quantitative data," is to have these sources of pollutants and pollutants identified in the development process, and to then issue a Permit that considers these pollutants and imposes "controls to reduce the discharge of pollutants to the maximum extent practicable" from the MS4. (42 U.S.C. § 1342(p)(3)(B).) Other language throughout the draft Permit further highlights the problems created by a draft

Permit that was not developed based on the pollutants of concern and the sources of those pollutants, or on the "conditions existing in the disposal area or receiving waters."

M. THE DRAFT PERMIT IMPROPERLY SEEKS TO REGULATE THE APPLICATION OF PESTICIDES, HERBACIDES AND FERTILIZERS, IN AN AREA ALREADY HEAVILY REGULATED.

Under Section 4 on page 42, entitled "Landscape and Recreational Facilities Management," the draft Permit attempts to impose protocol and prohibitions on Permittees' application of pesticides, herbicides and fertilizers. Again, the Regional Board has attempted to regulate an area already heavily regulated under State and federal law (for example see Section 14151, *et seq.* of the California Food and Agriculture Code).

Beyond the fact that the Regional Board has no such authority and that it is attempting to regulate within an area already heavily regulated, the Regional Board's actions in this regard would be ***preempted*** by State and federal legislation, and would be outside the authority of an appointed, unelected regional body, that is not charged with any authority to regulate the field. Further, there are ***no findings*** anywhere within the draft Permit itself that would support such an unauthorized underground regulation.

Finally, the California Environmental Protection Agency, under existing State legislation, already regulates the storage and application of pesticides throughout the State. Before the Regional Board, or any other unelected body of the State, attempts to impose regulations that in any way differ from existing requirements on the application of pesticides, herbicides and fertilizers, the appropriate authorized agencies within the State should be conferred with. In effect, the right hand of the State should only act after knowing of the actions already taken by the left hand of the State.

N. BECAUSE THE DRAFT PERMIT GOES BEYOND THE AUTHORITY PROVIDED UNDER THE CLEAN WATER ACT AND THE PORTER-COLOGNE ACT AND WOULD APPLY TO "NEW SOURCES" AS DEFINED IN THE CLEAN WATER ACT, THE REQUIREMENTS OF CEQA MUST BE COMPLIED WITH.

Water Code Section 13389 exempts the State and Regional boards from compliance with the requirements from CEQA and the adoption of "waste discharge requirements," except requirements for "new sources" as defined in the Clean Water Act. In the instant case, the draft Permit seeks to impose permanent requirements on "new sources" as defined in the Clean Water Act, and thus the requirements of CEQA must be complied with.

Under the Clean Water Act, "new sources" are defined to mean "any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section." (33 U.S.C. § 1316(a)(2).) Further the term "source" is defined to mean "***any building, structure, facility, or installation from which there is or may be the discharge of pollutants.***" (33 U.S.C. § 1316(a)(3).)

Here, to the extent the Regional Board is requiring municipalities to enforce provisions of this Permit and/or to enforce directly or indirectly any State industrial NPDES permit involving a facility constructed after the applicable regulations have been adopted for the standard governing discharges from such facility, the requirements of CEQA apply, and must be complied with.

O. THE DRAFT PERMIT WOULD VIOLATE THE PROHIBITION SET FORTH UNDER CALIFORNIA WATER CODE SECTION 13360.

California Water Code Section 13360(a) provides in pertinent part that:

> "No waste discharge requirement or other order of a Regional Board or the state board or decree of a court issued under this division shall specify the ***design***, location, type of construction, or ***particular manner*** in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner."

In short, Section 13360 allows a State or regional board to identify the "disease and command that it be cured," but prohibits the State or Regional Board from "dictating the cure." (See *Tahoe Sierra Preservation Council v. State Water Resources Control Board* (1989) 210 Cal.App.3d 1421, 1438.) The .75 inch numerical SUSMP standard is clearly a ***"design"*** standard and a ***particular manner*** in which "compliance may be had," and represents "dictating the cure." As such, it violates the requirements of Water Code Section 13360(a).

In addition, the draft Permit violates Water Code Section 13360(a) in each instance where the Regional Board seeks to impose a ***"particular manner"*** in which compliance may be had. In particular, specific requirements that are imposed on the municipalities to amend CEQA or to add additional elements to the General Plan, or to adopt and implement a particular Business Assistance Program, or to impose particular language in private sale or lease agreements, all constitute a ***"particular manner"*** in which compliance may be had. The imposition of such "particular manners" of compliance violates the express prohibition under Water Code Section 13360(a).

P. NUMEROUS FINDINGS WITH THE DRAFT PERMIT ARE NOT SUPPORTED BY THE EVIDENCE, AND/OR THE FINDINGS DO NOT SUPPORT THE TERMS OF THE PERMIT.

Finding No. 6 in the draft Permit appears to have been drafted to support the inclusion of environmentally sensitive areas into the SUSMP provisions of the draft Permit. As discussed above, there is no authority under State or federal law to allow the Regional Board to per se regulate environmentally sensitive areas, and the State Board has determined that environmentally sensitive areas are already heavily regulated. ***Finding No. 6*** is not supported by the evidence, and itself does not support the ability of the Regional Board to regulate environmentally sensitive areas; nor does it support the need for the Regional Board to regulate "receiving waters" differently in environmentally sensitive areas than in other areas.

In ***Finding No. 7***, the Regional Board asserts that "[p]ercentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development." Yet, there is no indication that the Board has considered the need for the proposed development, such as the need for additional housing in the region, particularly low or moderate income housing, or other development as may be necessary to serve the needs of the community. In short, the implication of ***Finding No. 7*** is that ***no development*** creating additional impervious surfaces should be permitted, as such will result in a potential for water quality degradation.

Further, it does not appear that there has been any balancing of the potential need for the purposed project on the community in comparison to the potential adverse impact, if any, on the water quality from the development. ***Finding No. 7***, thus violates the review process under the California Environmental Quality Act, as the Regional Board has failed to consider all potential environmental impacts created by the adoption of the draft Permit, and such findings, and has determined without environmental review, that the addition of any impervious surface is overridden by the potential detrimental impact on water quality.

Also, in ***Finding No. 41***, the draft Permit provides that "[a] ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion." ***Finding No. 41*** seems to imply that not only do municipalities have the authority to make all ministerial projects, discretionary, that it would make some regulatory or legal sense to do so. In short, the draft Permit suggests that every building permit, grading permit, plumbing permit, electrical permit and occupancy permit, should be issued directly by the City Council, the Board of Supervisors and/or the Flood Control District Boards. With one felt swoop, for the sole purpose of addressing an ***unidentified*** problem with the existing SUSMP program, the Regional Board will have changed the entire planning, building and development process throughout the County of Los Angeles. ***Finding No. 41*** is not supported by the evidence and would have disastrous consequences on planning and development throughout the County.

In ***Finding No. 14***, the Regional Board recognizes "that the Permittees will not be held responsible" for federal, State, regional and other local facilities within its jurisdiction and/or for discharges from such facilities. Unfortunately, there are no provisions anywhere in the draft Permit itself which exempt the Permittees from such responsibility, and, to the contrary, the definition of Industrial/Commercial Facility is defined to include federal, State and municipal facilities. Accordingly, not only are the provisions of the draft Permit dealing with Industrial/Commercial Facilities not supported by the findings, they are expressly controverted by ***Finding No. 14***.

Finding Nos. 16 and ***45*** indicate that the Permit is intended to develop, among other things, a ***"cost-effective storm water control program"*** and ***"cost-effective"*** measures to minimize the discharge of pollutants to receiving waters. Yet, the terms of the draft Permit itself are not based on these findings, as the terms of the draft Permit do not provide the flexibility for ***"cost-effective"*** control measures and programs, such as regional solutions. Further, there are no findings anywhere in the draft Permit to show that its terms are "cost effective" or that "economic considerations" were considered in its development. To the extent that there is evidence that exists to support Finding Nos. 16 and 45, i.e. to support the determinations of the Regional Board that its programs and measures are "cost effective," this information should be disclosed to the public and the public should be given an opportunity to review the same. To date, no such evidence has been provided.

Finding No. 16 also provides that it is the intent of the Permit to "minimize the discharge of pollutants in storm water from the permitted areas in the County of Los Angeles, to the waters of the United States." This finding plainly contravenes the clear standard set forth under the Clean Water Act, whereby the Permit is required to be designed to control the discharge of pollutants from MS4 ***"to the maximum extent practicable."***

Finding No. 21 states that EPA regulations "require that Permittees implement a program to monitor and control pollutants in discharges to the municipal system from industrial and commercial facilities that contribute a substantial pollutant load to the MS4." As discussed above, this is not an accurate representation of the regulations, as the referenced regulations only apply to the control of pollutants and discharges of storm water runoff associated with ***industrial activities***, as specifically defined in the regulations themselves (40 CFR §122.26(b)(14) which do not include "commercial" facilities), and to industrial facilities that the municipality determines are "contributing a substantial pollutant loading to the municipal storm sewer system." (See 40 CFR 122.26 (d)(2)(iv)(c).) The requirement that the Permittees implement a program to monitor and control pollutants and discharges from all "industrial/commercial facilities" is not supported by the regulations and is directly contrary to the CWA regulations cited in ***Finding No. 21***.

Finding No. 29 provides that the Regional Board on October 13, 1998 "approved recommended best management practices for industrial/commercial facilities (Resolution

No. 98-08)." A review of Resolution No. 98-08, however, shows that it only applies to a few select "commercial" facilities, and further, only imposes best management practices on certain specified industrial facilities and/or activities. The definition of "Industrial/Commercial Facility" under the draft Permit is far broader than the facilities described in Resolution No. 98-08, and the draft Permit plainly exceeds the terms of Resolution No. 98-08.

Finding No. 31 implies that a December 26, 2000 memorandum from the State Board's Chief Counsel constitutes "a state-wide policy" memorandum, and is cited to support the proposition that the SUSMP requirements are to include "ministerial projects, projects in an environmentally sensitive areas, and retail gasoline outlets." The December 26, 2000 directive from the State Board's Chief Counsel, if it is to be followed, can only be followed after the requirements of the Administrative Procedures Act ("APA") have been complied with, which they have not.

Finding No. 37 references California Water Code Section 13263(a) and the provisions of said section which require the Regional Board to "take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose." Yet, ***Finding No. 37***, fails to cite the complete language within Water Code Section 13263(a), and specifically fails to include the need for the objectives identified in Water Code Section 13241 to be considered, including the need to consider "economic considerations," and "the need for developing housing within the region," along with "water quality conditions that could ***reasonably*** be achieved through the coordinated control of all factors which effect water quality in the area." In addition, under Section 13263(a), the waste discharge requirements are to take into consideration "the water quality objectives ***reasonably*** required for that purpose...," and are to be considered in "relation to the conditions existing in the disposal area or receiving waters upon, or into which the discharge is made or proposed." (Water Code §13263(a).) ***Finding 37*** thus, omits critical language from the standard for the issuance of waste discharge requirements, and the Permit fails to follow the standards set forth in Section 13263. The findings within the draft Permit do not support the Regional Board's consideration of these factors and other important factors, and the terms of the draft Permit do not comply with the requirements of Water Code Section 13263.

In ***Finding No. 43***, the Regional Board contends that the Permit is "to protect the beneficial uses of receiving waters in Los Angeles County," and that to meet this objective, the Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters." This standard, however, is contrary to the standards set forth under the Porter-Cologne Act, as discussed above, and the standards set forth in the Clean Water Act, which require the control of discharges of pollutants from MS4s "to the maximum extent practicable." (42 USC § 1342(p)(3)(B).)

Finding No. 43 is not supported by State or federal law, and moreover, as discussed above in connection with the receiving water limitation language in the draft Permit, would result in a scenario where the standards under the Permit are not established until after an alleged violation occurs, thereby denying the Permittee its right to substantive due process of law, and thereby denying the municipalities a "meaningful" Permit that allows for the discharge of waste and the discharge of pollutants from its MS4, as envisioned by both the Porter-Cologne and the Clean Water Acts.

In short, the findings set forth throughout the draft Permit are not supported by the evidence in the record, and the findings themselves do not support the proposed terms of the draft Permit. Further, there are a number of provisions throughout the Permit, which are not supported by either supportable or unsupportable findings.

Q. THE DRAFT PERMIT FAILS TO INCLUDE A FINDING OF CONSISTENTLY WITH THE AREA-WIDE WASTE TREATMENT MANAGEMENT PLAN.

The Southern California Association of Governments ("SCAG") is a joint powers authority, created pursuant to California Government Code Section 6500, *et seq.*, and is an agency that represents 184 cities in Southern California, in the counties of Los Angeles, Orange, San Bernardino, Riverside, Ventura and Imperial. SCAG's region encompasses some 38,000 sq. miles and a population of over 15,000,000 residents. SCAG has been designated as an Area-Wide Waste Treatment Management Planning Agency, pursuant to 33 USC Section 1288(a)(2), i.e., Section 208 of the Clean Water Act. SCAG is therefore an agency responsible for continuing an area-wide waste treatment management planning process. Thus, under Section 208 of the Clean Water Act, particularly subsection (e), before an NPDES Permit can be issued, the issuing agency must make a finding of consistency with the area-wide waste treatment management plan. (42 U.S.C. § 1288(e).) In the instant case, the draft Permit fails to include a finding of consistency with the Area-Wide Waste Treatment Management Plan, and as such, Section 208 of the Clean Water Act has not been complied with.

We hope the above comments are helpful to you in your review of the draft Permit, and encourage you to consider these comments in incorporating appropriate changes into a final Permit, so that the Permit ultimately adopted by the Regional Board is consistent with requirements of State and federal law, and results in a legally supportable and effective Storm Water Program for the region.

Sincerely,

RUTAN & TUCKER

Richard Montevideo

RM:kmh
Enclosures

EPA
United States Environmental Protection Agency

Storm Water

Storm Water Discharges Associated with Industrial Activity 40 C.F.R. 122.26(b)(14)

LINKS

EPA Home

Region 4

Water Mgmt. Division

Water Prgrms. Enforcemnt. Branch

Clean Water Act Enf. Section

Storm Water

Federal Register

The term "Storm Water Discharges Associated with Industrial Activity", defined in federal regulations 40 CFR 122.26(b)(14)(i)-(xi), determined which industrial facilities are potentially subject to Phase I of the storm water program. If you are subject to the program you need to apply for a permit. The definition uses either SIC (Standard Industrial Classification EXIT EPA) codes or narrative descriptions to characterize the activities. You are responsible for identifying your facility's SIC code. The definition's 11 categories ((i) - (xi)) are listed below. You should review these 11 categories and decide if your type of facility is described by any of them (either by SIC code or by narrative descriptions). Please note that categories iii, viii, and xi have special conditions, or exceptions (described below) which may make a facility NOT subject to the program, and therefore not required to apply, even though the facility's activity matches one of the SIC codes.

category (i)

Facilities subject to storm water effluent limitations guideline, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi)). These types of facilities include the following:

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40 CFR Subchapter N
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405 Dairy products processing
406 Grain mills
407 Canned & preserved fruits & veg. processing *
408 Canned & preserved seafood processing
409 Beet, crystalline & liquid cane sugar refining
410 Textile mills
411 Cement manufacturing
412 Feedlots (use CAFO General Permit)
414 Organic Chemicals plastics and synthetic fibers
415 Inorganic chemical manufacturing *
417 Soap and detergent manufacturing
418 Fertilizer manufacturing
419 Petroleum refining
420 Iron and steel manufacturing
421 Nonferrous metal manufacturing
422 Phosphate manufacturing *
423 Steam electric power
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EXHIBIT

424 Ferroalloy manufacturing *
425 Leather tanning and finishing
426 Glass manufacturing *
427 Asbestos manufacturing
428 Rubber manufacturing
429 Timber products processing
430 Pulp, paper, and paperboard *
431 Builder's paper and board mills
432 Meat products
433 Metal finishing
434 Coal Mining *
436 Mineral mining & processing *
439 Pharmaceutical manufacturing *
440 Ore mining & dressing *
443 Paving and roofing materials
446 Paint formulating
447 Ink formulating
455 Pesticide Chemicals *
458 Carbon Black manufacturing
461 Battery manufacturing
463 Plastics molding and forming
464 Metal molding and casting
465 Coil coating
466 Porcelain enameling
467 Aluminum forming
468 Copper forming *
469 Electrical & electronic component
471 Nonferrous metal forming & powders
* some facilities in group do not have limits or standards, see 40 CFR subchapter N to verify.

category (ii)

SIC Code	
24	lumber and wood products (except 2434 wood kitchen cabinets, see (xi))
26	paper & allied products (except 265 paperboard containers, 267 converted paper, see (xi))
28	chemicals & allied products (except 283 drugs, see (xi))
29	petroleum & coal products
311	leather tanning & finishing
32	stone, clay & glass production (except 323 products of purchased glass, see (xi))
33	primary metal industry
3441	fabricated structural metal
373	ship and boat building and repair

category (iii) Mineral Industry

Facilities classified as SIC codes 10-14 including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17,

1990), and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, benefication, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim).

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SIC Code
10  metal mining (metallic mineral/ores)
12  coal mining
13  oil and gas extraction
14  non-metallic minerals except fuels
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Oil and gas operations that discharge contaminated storm water at any time between November 16, 1987 and October 1, 1992, and that are currently not authorized by an NPDES permit, must apply for a permit. Operators of oil and gas exploration, production, processing, or treatment operations or transmission facilities, that are not required to submit a permit application as of October 1, 1992 in accordance with 40 CFR 122.26(c)(1)(iii), but that after October 1, 1992 have a discharge of a reportable quantity of oil or a hazardous substance (in a storm water discharge) for which notification is required pursuant to either 40 CFR 110.6, 117.21, or 302.6, must apply for a permit.

category (iv) Hazardous Waste

Hazardous waste treatment, storage, or disposal facilities including those that are operating under interim status or a permit under Subtitle C of RCRA.

category (v) Landfills

Landfills, land application sites, and open dumps that receive or have received any industrial waste (waste that is received from any of the facilities described under categories (i) - (xi)) including those that are subject to regulations under Subtitle D of RCRA.

category (vi)

Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as SIC 5015 (used motor vehicle parts) and 5093 (scrap and waste materials).

category (vii) Steam Electric Plants

Steam electric power generating facilities, including coal handling sites.

category (viii) Transportation

Transportation facilities classified by the SIC codes listed below **which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations.** Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under categories (I)-(vii) or (ix)-(xi) are associated with industrial activity, and need permit coverage.

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SIC Code
40   railroad transportation
41   local and interurban passenger transit
42   trucking & warehousing (except 4221-25,
      see (xi))
43   US postal service
44   water transportation
45   transportation by air
5171 petroleum bulk stations and terminals
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category (ix) Treatment Works

Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the Clean Water Act.

category (x) Construction

Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than 5 acres of total land area which are not part of a larger common plan of development or sale.

The construction "operator" must apply for permit coverage under the General Storm Water Permit for Construction Activities. The "operator" is the party or parties that either individually or taken together meet the following two criteria: 1) they have operational control over the site specification; 2) they have the day-to-day operational control of those activities at the site necessary to ensure compliance. For a typical commercial construction site, the owner and general contractor must both apply. For a typical residential development, the developer and all builders must apply. Each builder must apply even if they individually disturb less than 5 acres if the overall development is 5 or more acres. Only one Pollution Prevention Plan is required per site even though there may be multiple parties.

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category (xi) Light industry

Facilities classified by the following SIC codes:

SIC Code	
20	food and kindred product
21	tobacco products
22	textile mill products
23	apparel and other textile product
2434	wood kitchen cabinets
25	furniture and fixtures
265	paperboard containers and boxes
267	miscellaneous converted paper products
27	printing and publishing
283	drugs
285	paints and allied products
30	rubber and miscellaneous plastic
31	leather and products (except 311)
323	products of purchased glass
34	fabricated metal products (except 3441)
35	industrial machinery and equipment
36	electronic and other electric equipment
37	transportation equipment (except 373)
38	instruments and related products
39	miscellaneous manufacturing
4221	farm product storage
4222	refrigerated storage
4225	general warehouse and storage

(and which are not otherwise included in categories (ii) - (x)) with storm water discharges from all areas (except access roads and rail lines) where material handling, equipment, or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are **exposed to storm water**. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate produce, finished product, by-product, or waste product.

Note:

Standard Industrial Classification (SIC) codes are in the process of being replaced by the newer North American Industry Classification System (NAICS). Until EPA modifies regulations referring to the newer NAICS system, the older SIC codes will continue to be utilitized.

Standard Industrial Classification codes

EXIT EPA

North American Industry Classification System EXIT EPA

R0003841

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URL: http://www.epa.gov/region4/water/wpeb/cwaespgs/strmwtrdawia.htm (Graphical Version)

R0003842

Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

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Gray Davis
Governor

October 12, 2000

OCT 1 6 RECD

CERTIFIED MAIL

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Dear Mr. Montevideo, Mr. Deitsch, and Mr. Welch:

PETITION OF PETITIONS OF THE CITIES OF BELLFLOWER, ET AL., CITY OF ARCADIA, AND WESTERN STATES PETROLEUM ASSOCIATION (REVIEW OF JANUARY 26, 2000 ACTION OF THE REGIONAL BOARD, AND ACTIONS AND FAILURES TO ACT BY BOTH THE REGIONAL BOARD AND ITS EXECUTIVE OFFICER PURSUANT TO ORDER NO. 96-054, PERMIT FOR MUNICIPAL STORM WATER AND URBAN RUN-OFF DISCHARGES WITHIN LOS ANGELES COUNTY [NPDES NO. CAS614001]), LOS ANGELES REGION: ADOPTED ORDER
SWRCB/OCC FILES A-1280, A-1280(a) and A-1280(b)

Enclosed is a copy of Order WQ 2000-11 which was adopted by the State Water Resources Control Board at its regular business meeting on October 5, 2000.

Sincerely,

Craig M. Wilson

Craig M. Wilson
Chief Counsel

Enclosure

cc: Mr. Dennis Dickerson
Executive Officer
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Interested Persons Mailing List

EXHIBIT

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER: WQ 2000 - 11

In the Matter of the Petitions of
THE CITIES OF BELLFLOWER, ET AL., THE CITY OF ARCADIA, AND WESTERN STATES PETROLEUM ASSOCIATION
Review of January 26, 2000 Action of the Regional Board
and
Actions and Failures to Act
by both the
California Regional Water Quality Control Board,
Los Angeles Region and Its Executive Officer
Pursuant to Order No. 96-054,
Permit for Municipal Storm Water and Urban Run-Off Discharges Within
Los Angeles County
[NPDES NO. CAS614001]

SWRCB/OCC FILES A-1280, A-1280(a) and A-1280(b)

BY THE BOARD:

On July 15, 1996, the Los Angeles Regional Water Quality Control Board (Regional Water Board) issued a revised national pollutant discharge elimination system (NPDES) permit in Order No. 96-054 (permit) to the 85 incorporated cities and the county within Los Angeles County (the County).[1] The permit covers storm water discharges from municipal separate storm sewer systems throughout the County.[2]

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[1] This was the second storm water permit adopted for Los Angeles County and its cities. The first permit was the subject of an earlier Order. (In the Matter of Natural Resources Defense Council, Inc., Order WQ 91-04). In this permit, the County is designated as the Principal Permittee, and each city is designated as a permittee. The County is required to submit various documents on behalf of all of the permittees.
[2] The Regional Water Board has since issued a separate permit for one city, Long Beach. The relevant provisions of the Long Beach permit are similar to those in Order No. 96-054.

The permit contains provisions for the regulation of storm water discharges from development planning and construction.[3] Pursuant to these provisions, the County was required to submit Standard Urban Storm Water Mitigation Plans (SUSMPs).[4] The SUSMPs are plans that designate best management practices (BMPs) that must be used in specified categories of development projects. The County submitted SUSMPs, but the Regional Water Board approved the SUSMPs only after making revisions. The Executive Officer issued the revised SUSMPs on March 8, 2000.[5]

On February 25, 2000, the State Water Resources Control Board (State Water Board or Board) received a petition for review of the actions and failures to act regarding the SUSMPs from a number of cities, the Building Industry Association of Southern California and the Building Industry Legal Defense Foundation (jointly referred to as Cities). A second petition was received from the City of Arcadia. And a third petition was received from the Western States Petroleum Association (WSPA). On April 7, 2000, the petitioners filed amendments to their petitions, concerning the March 8, 2000 issuance of the SUSMPs. The Cities' amendment also revised the list of cities included in the petition. The Cities' petition now includes 32 cities. The petitions are legally and factually related, and have therefore been consolidated for purposes of review.[6] The petitioners also requested a stay of the SUSMPs. This request was denied by letter, dated May 11, 2000.

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[3] Permit, Part 2.III. These provisions focus more on post-construction impacts of development than on discharges from construction activities.
[4] Permit, Part 2.III.A.1.c.
[5] These are referred to herein as the Final SUSMPs. The Final SUSMPs also apply to Long Beach, even though it is subject to a separate permit.
[6] Cal. Code of Regs., tit. 23, section 2054.

On June 7 and 8, 2000, the Board held a hearing in Torrance. Several entities, including the petitioners, the Regional Water Board, and several environmental groups[7], were designated parties. The evidence from that hearing has been included in the record before the Board. The record for comments on the petition was kept open until the end of the hearing. The parties were allowed to submit post-hearing briefs.[8]

I. BACKGROUND

In prior Orders[9] this Board has explained the need for the municipal storm water programs and the emphasis on BMPs in lieu of numeric effluent limitations. The emphasis for preventing pollution from storm water discharges is still on the development and implementation of effective BMPs, but with the expectation that the level of effort will increase over time. In its Interim Permitting Approach[10], the United States Environmental Protection Agency (U.S. EPA) stated that first-round permits should include BMPs, and expanded or better-tailored BMPs in subsequent permits where necessary to attain water quality standards. Dischargers, consultants, and academic institutions in California and nationwide have conducted numerous studies on the effectiveness of BMPs and appropriate design standards. While many questions are still

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[7] The environmental groups are Natural Resources Defense Council, Inc., Santa Monica BayKeeper, and Heal the Bay.

[8] There are several documents that were not timely received and, therefore, are not made a part of the record before the Board. The hearing notice specified that all evidence from parties must be received by May 31, 2000. The Regional Water Board submitted documents on June 6, 2000. The hearing notice specified that policy statements were due by the close of the hearing. Several comment letters were received June 12, 13, and 19, 2000. None of these submittals are a part of the record. The post-hearing briefs were subject to a 10-page limit. The environmental groups submitted objections to the post-hearing brief submitted by the Cities. First, the environmental groups challenge the length of the brief. All briefs were subject to a 10-page limit. The Cities submitted a 10-page brief, with a 22-page attachment showing extensive proposed revisions to the SUSMPs. This submittal violates the page limit, and only the brief is considered part of the record. Second, the environmental groups claim that an e-mail message referred to by the petitioners is subject to attorney-client privilege and should not have been used in this hearing. This e-mail message, from the Regional Water Board's counsel to one of its engineers, was placed in the Regional Water Board's administrative record and submitted to the State Water Board. Any privilege that may have attached to the message has been waived and no longer exists. Finally, the post-hearing brief from the City of Arcadia was received late and will not be considered. Documents submitted late for interim deadlines (such as the deadline for submitting responses to the petitions), have been included in the record.

[9] See, especially Orders WQ 91-03 (In the Matter of Citizens for a Better Environment et al.) and WQ 91-04.

[10] Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits. (61 Federal Register 57425.)

outstanding, more is expected of municipal dischargers, and many are implementing more effective programs.

While storm water management plans are improving, our knowledge of the impacts is also growing. Urban runoff has been determined to be a significant contributor of impairment to waters throughout the state. In Los Angeles specifically, beach closures are sometimes associated with urban runoff. In adopting the SUSMPs, the Regional Water Board took note of the urgent need for preventing further pollution from urban runoff and storm water discharges.

It is important to emphasize the role of the SUSMPs within the totality of regulating storm water discharges, and the purpose of these particular control measures. The requirement to prepare SUSMPS was part of the development controls in the permit. In addition to development controls, the permit requires education, public outreach, programs to restrict illicit connections and discharges, and controls on public facilities. In the context of the entire effort required by the permit, the development controls can be seen as preventing the existing situation from becoming worse.

The Final SUSMPs include a list of mandatory BMPs for nine categories of development. There are provisions that are applicable to all categories and lists of BMPs for individual categories. Requirements applicable to all categories include provisions to limit erosion from new development and redevelopment, requirements to conserve natural areas, protection of slopes and channels, and storm drain stenciling. Examples of BMPs specific to categories of discharge include design of loading docks for commercial projects and design of fueling areas for retail gasoline outlets. In most respects, the Final SUSMPs were similar to those proposed by the County. The significant departures were the inclusion of a numeric design standard for structural or treatment control BMPs, and the inclusion of certain types of projects that were not

covered in the County's proposal. The design standard creates objective and measurable criteria for the amount of runoff that must be treated or infiltrated by BMPs.

The record indicates that the purpose of the development controls, including the SUSMPs, is not simply to prevent pollution associated with construction runoff. As the petitioners point out, construction discharges are already subject to this Board's Statewide Construction Permit. The development controls in the SUSMPs, on the other hand, focus on post-construction runoff. They are aimed at limiting not just the pollutants in runoff from the new development, but also the volume of runoff that enters the municipal storm sewer system. By limiting runoff from new development, the SUSMPs prevent increased impacts from urban runoff generally. There is adequate technical information in the record to show that by controlling the volume of runoff from new development, BMPs can be effective in reducing the discharge of pollutants in storm water runoff.

The Procedure for Adopting the SUSMPs

The permit requires a program for controls on Development Planning and Construction. It involved a number of submissions by the County in consultation with the Cities. The first step was submission of a checklist for determining priority projects and exempt projects. The checklist was due on January 30, 1998. A list of recommended BMPs for development projects was also due on that date. The SUSMPs were due within six months of approval of the BMP list, and were to incorporate BMPs for certain categories of development. Following approval of the SUSMPs, the cities and County were to implement development programs for priority projects, consistent with the BMP list and the SUSMPs.

The BMP list was not approved until April 22, 1999. Thereafter, the County submitted proposed SUSMPs on July 22, 1999. The Regional Water Board held a public workshop on

August 10, 1999. Following the workshop, the County submitted revisions to the SUSMPs on August 12, 1999. On August 16, 1999, the Regional water Board gave notice that it would discuss the SUSMPs in a public meeting on September 16, 1999. There was significant discussion at that meeting regarding the intent of the Executive Officer to approve the SUSMPs, but with revisions including a numeric design standard. At the conclusion of the meeting, the Regional Water Board members asked the Executive Officer to revise the SUSMPs and bring them back to another meeting. On December 7, 1999, the Executive Officer circulated revised SUSMPs for public review. This document incorporated a numeric design standard and made other revisions to the permittees' proposal. The Regional Water Board held a hearing on the SUSMPs on January 26, 2000. At that meeting, the Regional Water Board endorsed the SUSMPs revised by the Executive Officer, but directed him to make further changes. The Executive Officer issued the Final SUSMPs on March 8, 2000.

The Contents of the Final SUSMPs

The permit provides that the SUSMPs must incorporate the appropriate elements of the BMP list and, at a minimum, apply to seven development categories: 100-plus home subdivisions; 10-plus home subdivisions; 100,000-plus square foot commercial developments; automotive repair shops; retail gasoline outlets; restaurants; and hillside single-family dwellings.

The SUSMPs proposed by the County applied to these seven categories. Various BMPs applied to the different categories, and the SUSMPs contained narrative mitigation requirements for source control and treatment. The July proposals stated:

> "The development must be designed so as to mitigate (infiltrate and/or treat) the site runoff generated from impervious directly connected areas that may contribute pollutants of concern to the storm water conveyance system."

There were no numeric design criteria for mitigation. According to various participants, earlier County drafts had included design standards to mitigate flows from 0.6-inch storm events. But any numeric criteria had been removed from the version that was submitted.

In its revised SUSMPs, submitted on August 12, the County explained in its cover letter that the mitigation language did not mean that all runoff must be mitigated. Rather, the County's intent was to omit a numerical standard from the SUSMPs. The revised SUSMPs no longer referred to mitigation at all. Instead, the following language replaced the mitigation requirement:

> "The development must be designed so as to minimize, to the maximum extent practicable (MEP), the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official."

The Final SUSMPs, as approved by the Executive Officer and the Regional Water Board, included several revisions from the County's submittal. The revision that is of greatest concern to the petitioners is the addition of Design Standards for Structural or Treatment Control BMPs.[11] The design standards require that developments subject to the SUSMPs shall be designed to mitigate storm water runoff (by treatment or infiltration) from one of the following:

> "1. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area..., or
>
> 2. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment..., or
>
> 3. The volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or
>
> 4. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event."

[11] The Final SUSMPs also include the narrative language quoted from the County's August 22, 1999 proposal.

The Final SUSMPs also applied to two additional categories of development: parking lots over 5,000 square feet or with 25 or more spaces and exposed to storm water, and to developments in environmentally-sensitive areas. Other revisions included application to all projects in the categories instead of discretionary projects only and the definition of redevelopment.

II. CONTENTIONS AND FINDINGS[12]

Contention: The petitioners contend that the Regional Water Board erred in not complying with the Administrative Review Process within the permit, and acted arbitrarily and capriciously and in violation of the Clean Water Act and state law.

Finding: The permit required the County, in consultation with the cities subject to the permit, to submit SUSMPs. The permit includes some general minimum requirements for the SUSMPs.[13] The Executive Officer is granted authority to approve the SUSMPs.[14]

The permit also contains an administrative review process.[15] The permit states that the administrative review process "formalizes the procedure for review and acceptance of reports and documents" and "provides a method to resolve any differences in compliance expectations between the Regional Board and Permittees, prior to initiating enforcement action."[16] Following this introductory statement, the permit includes two procedures. The first is for review and approval or disapproval of reports and documents. The second is the dispute resolution section that must be followed prior to enforcement action.

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[12] This Order does not address all of the issues raised by the petitioners. The Board finds that the issues that are not addressed are insubstantial and not appropriate for State Water Board review. (See *People v. Barry* (1987) 194 Cal.App.3d 158, [239 Cal.Rptr. 349], Cal. Code Regs., tit. 3, § 052.)

[13] Permit, Part 2, III.A.1.c.

[14] Permit, Part 2, III.A.2.

[15] Permit, Part 2, I.G.

[16] *Id.*

The process for review of documents that are subject to the Executive Officer's approval is that the Executive Officer will notify the permittees of the results of the review and approval or disapproval within 120 days. If the Executive Officer does not do so, the permittees must notify the Regional Water Board of their intent to implement the documents without approval. The Executive Officer then has 10 days to respond, or the permittees may implement the program and the Executive Officer may not make modifications.

The dispute resolution procedure is to be used when the Executive Officer determines that a permittee's storm water program is insufficient to meet the permit's provisions. The Executive Officer must send a "Notice of Intent to Meet and Confer" with the permittee. A meet and confer period then ensues, resulting in a written "Storm Water Program Compliance Amendment (SWPCA)." The permittee is provided time to comply with the SWPCA. The Executive Officer is not allowed to take enforcement action against a permittee until the Executive Officer notifies the permittee in writing that the administrative review process has been exhausted and that a violation exists warranting enforcement.

The petitioners contend that the Executive Officer failed to notify the permittees that their SUSMPs were inadequate within 120 days of its submittal. The petitioners also argue that, by revising the SUSMPs without pursuing the dispute resolution process, the Regional Water Board "violated" the terms of the permit.

The provision for review of documents, which clearly includes the SUSMPs, requires that the Executive Officer notify the permittees of the results of the review and approval or disapproval within 120 days. The County submitted the revised SUSMPs on August 12, 1999. Within 120 days, the Regional Water Board held a workshop where staff expressed their concerns with the SUSMPs. Also within 120 days the Regional Water Board itself held a public

meeting where there was extensive discussion and concern by board members that the SUSMPs did not include a numeric standard. And, prior to any notification by the permittees that they would proceed with implementing their SUSMPs, the Regional Water Board held a hearing January 26, 2000, where it directed the Executive Officer to issue the SUSMPs with revisions. The Executive Officer did so on March 8, 2000.

It is clear from the record that the Executive Officer, and the Regional Water Board itself, did inform the permittees that the SUSMPs were inadequate. There was no requirement for a specific form for expressing disapproval of documents. The extensive discussion and meetings on the need for revisions to the SUSMPs, and the Executive Officer's approval of revised SUSMPs, plainly refutes the allegation that the Regional Water Board never notified the permittees of its disapproval of the County's proposed SUSMPs.

The permittees also claim that the Regional Water Board "violated" the permit by failing to institute the meet and confer process.[17] The dispute resolution process, which includes meet and confer, did not apply to the decision to disapprove the proposed SUSMPs. That process is only required when the Regional Water Board ultimately takes an enforcement action against a permittee. It is separate from the process for review and approval or disapproval of documents, and does not even appear to relate to possible enforcement actions for submission of inadequate documents. This is illustrated by the fact that the provision regarding documents refers to submittals from both the Principal Permittee and the individual permittees, while the dispute resolution provision refers only to the permittees. This distinction is relevant because the County is charged with submitting the documents, while the individual permittees are responsible for compliance. A fair reading of the entire section on the administrative review process is that the

[17] We note that permits are issued to permittees to allow discharges to waters of the state. It is only permittees, and not Regional Water Boards, who can be charged with violating permits.

review and approval or disapproval of documents applies to submission of documents by the County on behalf of the cities, while the dispute resolution process applies to enforcement actions against any permittees for failing to implement adequate programs.

Contention: The petitioners contend that the Regional Water Board was not authorized to revise the SUSMPs to add more stringent requirements.

Finding: The petitioners contend that the mitigation standards in the SUSMPs are more stringent than the requirement in the permit to reduce pollutants in storm water runoff to the maximum extent practicable (MEP)[18]. The issue of what level of protection constitutes MEP will be discussed *Infra*, in the discussion of the reasonableness of the numeric standards. But the petitioners also make certain procedural claims on this point. They argue that in approving the BMP list, the Regional Water Board determined that those BMPs constituted MEP and that the Board could not add additional BMPs in the SUSMPs. They also contend the Regional Water Board itself had no authority to "usurp" the Executive Officer's role in reviewing the SUSMPs.[19] Finally, the petitioners contend that the Regional Water Board was not authorized to mandate a program for the permittees without amending the permit.

The permit requires the County to submit a list of BMPs for approval. The Regional Water Board approved this list. Following approval of the list, the County was required to submit the SUSMPs, which must "incorporate the appropriate elements of the recommended BMPs list."[20] The petitioners contend that by approving the list, the Regional Water Board determined that those BMPs constituted MEP, and that under the terms of the permit the Regional Water Board could not require additional BMPs.

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[18] The technology-based standard for controls under municipal storm water permits is MEP. For a fuller discussion of this standard, see Order WQ 91-03.

[19] It is undisputed that, at its January 26, 2000 meeting, the Board directed the Executive Officer to make additional revisions to the SUSMPs.

[20] Permit, Part 2. III.A.1.c.

In addressing this contention, we face what appears to be a fundamental misunderstanding of the numeric design standards on the part of the petitioners. The design standards are objective criteria that developers must achieve in designing their BMPs. The design standards are not separate BMPs. The standards tell what magnitude of storm event the BMPs must be designed to treat or infiltrate. They do not specify the BMPs that must be employed.

The SUSMPs as submitted by the County specify BMPs for various categories of development. Many of these BMPs are designed to minimize the pollutants in storm water runoff, by reducing flow through infiltration or by treatment. Examples of BMPs proposed by the County include infiltration basins and trenches, oil/water separators, and media filtration. The County's proposed SUSMPs also included language requiring minimizing the introduction of pollutants to the storm water conveyance system. That language remains unchanged in the Final SUSMPs. The only significant difference between the two versions of the SUSMPs was that the Regional Water Board established numeric criteria for designing the BMPs.

In adopting the Final SUSMPs, the Regional Water Board based its decision on the MEP standard.[21] The Regional Water Board did not significantly revise the BMP list or specify further the actions that developers must take to comply with the SUSMPs. Thus, we find that the Regional Water Board did not inappropriately revise its determination of what constituted MEP.

The Regional Water Board is the political body responsible for water quality control in the Los Angeles region.[22] While the Regional Water Board may delegate specified powers and duties to its Executive Officer,[23] it can at any time act on its own behalf. The fact that the Board authorized its Executive Officer to approve the SUSMPs in the permit did not mean that the Board thereby denied itself the opportunity to provide direction to the Executive Officer in his

[21] Resolution R-00-02.
[22] Water Code sections 13200 and 13225.
[23] Water Code section 13223.

approval. Such an interpretation of its delegation authority would result in an improper failure of the Board to assume responsibility for water quality in the region.

We also find that the Regional Water Board was authorized to revise the SUSMPs to achieve compliance with the permit's requirements. The SUSMPs are a part of implementation of the permit. Because the permit regulates storm water discharges throughout the entire Los Angeles region and it is implemented by 85 cities and the County, it is obvious that the permit could not spell out every detail of the program for the five-year term of the permit. Instead, the implementation is through the submission, review and approval, and implementation of various programs, including the SUSMPs.[24] Where it receives a submission that it finds is not consistent with the requirements of the permit, it is reasonable for the Regional Water Board to be able to require revisions. The Regional Water Board is not required to amend the permit each time it approves a submittal or approves a submittal with revisions. On the other hand, if the Regional Water Board's action in requiring revisions is inconsistent with the terms of the permit, then the Board should not act without first amending the permit. While the Regional Water Board could have required the County to make the revisions rather than making them itself, we see no harm in the Regional Water Board's approach.

As will be discussed below, in most respects the Final SUSMPs are consistent with the permit. But there are some portions of the SUSMPs that are not consistent, and in those cases the SUSMPs provisions are further revised in this Order.

Contention: The petitioners make various procedural claims, including that they were denied due process, and that the Regional Water Board violated the Administrative Procedure

[24] A fuller discussion of the use of storm water management plans to incorporate a developing program is found in Order No. WQ 91-03.

Act, the California Environmental Quality Act (CEQA), and the California Constitution, Article XIII B, section 6 (regarding state mandates).

Finding: The petitioners point out that at the January 26, 2000 Regional Water Board hearing, there was some confusion over late changes to the SUSMPs and they contend they were not provided adequate opportunity to comment. There was significant discussion of the SUSMPs over several months. We do not agree with the petitioners that a program of this magnitude must necessarily take years to develop. But we are concerned that at the January 26, 2000 hearing, interested persons and permittees were not given adequate time to review late revisions or to comment on them. Given the intense interest in this issue, the Regional Water Board should have diverged from its strict rule limiting individual speakers to three minutes and conducted a more formal process. Such a process should provide adequate time for comment, including continuances where appropriate.[25] But to the extent the Regional Water Board's process caused any harm, this Board cured those harms. We held a two-day hearing in Los Angeles County, where all parties were allowed significant time to present their positions and testimony. In addition, we allowed the introduction of new evidence that had not been presented to the Regional Water Board. At this point, all parties have been afforded a full opportunity to review the Final SUSMPs, to present their positions and evidence, and to engage in cross-examination. The petitioners' due process rights have been protected.

The Board has already addressed the contentions regarding compliance with other laws in prior decisions. The Administrative Procedure Act exempts the adoption of permits from its requirements.[26] While the SUSMPs are not a permit, they are implementing documents for a

[25] For future adjudicative proceedings that are highly controversial or involve complex factual or legal issues, we encourage regional water boards to follow the procedures for formal hearings set forth in Cal. Code of Regs., tit. 23, section 648 et seq.

[26] Government Code section 11352; See, Order No. 95-4 (In the Matter of the City and County of San Francisco).

permit, and are therefore subject to the exemption. Moreover, they are relevant only to this permit, and are not a general rule of application. The constitutional provisions regarding state mandates also do not apply to NPDES permits.[27] As will be explained below, the SUSMPs as revised herein, are consistent with MEP and therefore are federally mandated. The provisions of CEQA requiring adoption of environmental documents also do not apply to NPDES permits.[28] Again, as an implementing document for the permit, there is no requirement for a separate CEQA analysis.[29]

Contention: The petitioners contend that the SUSMPs do not properly apply the maximum extent practicable standard.

Finding: The permit, consistent with Clean Water Act section 402(p)(3)(B)(iii), requires controls to reduce the discharge of pollutants to the maximum extent practicable, or MEP.[30] In approving the Final SUSMPs, the Regional Water Board acknowledged that one of the primary objectives of the municipal storm water program is the requirement to reduce the discharge of pollutants from storm water conveyance systems to the MEP.[31] While all parties appear to agree that the standard for the SUSMPs is MEP, they disagree about what level of effort is necessary to comply with that standard.

The petitioners approach this issue from two angles. First, they contend that the SUSMPs will not provide water quality benefits that reflect MEP. Second, they contend that there could be adverse impacts on groundwater quality that have not been adequately evaluated.

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[27] See, Order No. WQ 90-3 (In the Matter of San Diego Unified Port District).
[28] Water Code section 13389.
[29] We do note with interest the environmental groups' comment that if the permittees believed it was necessary to comply with the APA and CEQA prior to adoption of the SUSMPs, then they themselves would have violated those acts in their submissions of the proposed SUSMPs.
[30] Permit, Finding 13.
[31] Final SUSMPs, at page 2; Resolution No. R-00-02, at page 3.

Storm Water Design Standards as MEP

In adopting the Final SUSMPs, the Regional Water Board found that many rivers and streams in Los Angeles County are impaired for pollutants found in storm water and urban runoff, and that storm water runoff carries pollutants from nearly all types of developed properties.[32] Pollutant loading from the aggregate of development in the basin results in impairments from sediments, metals, complex organic compounds, oil and grease, nutrients, and pesticides.[33] The Final SUSMPs reflect two goals: to reduce the amounts of these pollutants in runoff and to reduce the ability of runoff to act as a conveyance system to deliver more pollutants to receiving waters. The Final SUSMPs, which include lists of BMPs and design standards requiring treatment or infiltration, address these two goals.

Clean Water Act section 402(p)(3)(B)(iii), which sets forth the requirements for establishing MEP in municipal storm water permits, provides that such permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." The United States Environmental Protection Agency (U.S. EPA), in a guidance document, explains that BMPs should be used in first-round storm water permits, and "expanded or better-tailored BMPs in subsequent permits, where necessary, to provide for the attainment of water quality standards."[34] The Clean Water Act, as interpreted by U.S. EPA, does require that, in a second-round permit,[35] expanded BMPs may be appropriate. In light of the number of water

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[32] Resolution No. R-00-02.
[33] *Id.*
[34] Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits, 61 Federal Register 57425 (1996).
[35] The original permit was issued in 1990. The 1996 permit is a second-round permit.

bodies impaired by runoff in Los Angeles County, it was appropriate to expand the scope of BMPs during the permit term.

The regulations implementing section 402(p) specifically require municipalities to have controls to reduce the discharge of pollutants from their storm sewer systems that "receive discharges from areas of new development and significant redevelopment," including post-construction discharges.[36] Clearly, it was appropriate for the Regional Water Board to require BMPs for new development and significant redevelopment. The permittees, who submitted their own version of SUSMPs with listed BMPs for categories of development, appear to have no real quarrel with this general mandate.

This Board has already endorsed requirements to limit the flow of the "first flush" of storm water, which may contain more significant pollutants.[37] The permittees' own version of the SUSMPs required mitigation of storm water runoff by treatment or infiltration, thus conceding the propriety of these two approaches to lessening the impact of storm water discharges. The crux of the disagreement is that the Regional Water Board added numeric design standards to establish the amount of runoff that must be treated or infiltrated, and required the mandatory application of these standards to categories of development.

The addition of measurable standards for designing the BMPs provides additional guidance to developers and establishes a clear target for the development of the BMPs. The U.S. EPA guidance manual suggests the use of design criteria and performance standards for post-construction BMPs.[38] The numeric criteria the Regional Water Board adopted essentially

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[36] 40 CFR section 122.26(d)(2)(iv)(A)(2).
[37] In the Matter of National Steel and Shipbuilding Company, et al., Order WQ 98-07, at slip opinion 7.
[38] Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Strom Sewer Systems, at page 6-4 (November 1992).

requires that 85 percent of the runoff from the development be infiltrated or treated.[39] In adopting these standards, the Regional Water Board based its decision on a research review of standards in other states and a statistical analysis of the rainfall in the area. The standard was set to gain the maximum benefit in mitigation while imposing the least burden on developers.[40] In light of the evidence of the use of this or more stringent standards in other states, the expert testimony supporting this standard, the endorsement by U.S. EPA in its comments, and the cost-effectiveness of its implementation (discussed below), the Regional Water Board acted appropriately in determining that the standards reflect MEP.[41]

We also find that the Regional Water Board appropriately applied these standards to seven of the categories listed in the SUSMPs: single-family hillside residences, 100,000 square foot commercial developments, automotive repair shops, restaurants, home subdivisions with 10 to 99 housing units, home subdivisions with 100 or more housing units, and parking lots with 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff.[42] These categories, except for parking lots, were already targeted for special treatment in the permit. The evidence shows that each listed category can be a significant source of pollutants and/or runoff following development. It is appropriate that the design standards apply so that BMPs for these categories of development result in the infiltration or treatment of a significant about of the runoff.

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[39] Four different methods of calculation are permitted, so the percentage of capture may vary slightly.

[40] At the hearing in this matter, Regional Water Board staff explained that the standard was set at the bottom of the "knee" of the curve where the benefits of the mitigation requirements decrease and the cost increases. Other states have set the standard higher along this curve, requiring 90 to 95 percent mitigation.

[41] This conclusion in no way departs from our acceptance of BMPs in lieu of numeric effluent limitations in storm water permits. (See, e.g., Order WQ 91-03 and Order WQ 91-04.) The numeric standard is a design standard for BMPs. It does not quantify or limit the pollutants in the effluent. It also does not specify which of the listed BMPs must be employed.

[42] As discussed below, this Board is revising the SUSMPs to delete the application of the design standards to retail gasoline outlets and to locations within or directly adjacent to or discharging directly to environmentally-sensitive areas.

Potential Impacts on Ground Water

The petitioners contend that infiltration of runoff may lead to ground water pollution, and that the Regional Water Board did not properly consider such potential impacts. The mitigation standards provide for a waiver where there is a risk of ground water contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than ten feet from the soil surface.[43] The Final SUSMPs also include a discussion on how to use infiltration so that the risk of contamination of groundwater is reduced, and where infiltration is not appropriate.[44]

The Regional Water Board did consider the potential impacts to groundwater from infiltration, and included appropriate limitations and guidance on its use as a BMP. These provisions will ensure adequate protection of groundwater from any adverse impacts due to infiltration.

Contention: The petitioners contend the Regional Water Board failed to show that the SUSMPs as adopted are cost-effective and that the benefits to be obtained outweigh the costs.

Finding: The petitioners refer to the Preamble to the Phase II storm water regulations[45] as the basis for their economic argument. The quoted language, however, does not wholly support the petitioners' contention. The Preamble states that President Clinton's Clean Water Initiative clarifies "that the maximum extent practicable standard should be applied in a site-specific, flexible manner, taking into account cost considerations as well as water quality effects."[46] It is clear that cost should be considered in determining MEP; this does not mean that

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[43] Final SUSMP, page 14.
[44] *Id.*, at page 15.
[45] 64 Federal Register 68722 and following. These regulations do not apply to the permit, but the general language on MEP is relevant to EPA's interpretation of the standard.
[46] 64 Federal Register 68722, 68732 (December 8, 1999).

the Regional Water Board must demonstrate that the water quality benefits outweigh the economic costs.

While the standard of MEP is not defined in the storm water regulations or the Clean Water Act, the term has been defined in other federal rules. Probably the most comparable law that uses the term is the Superfund legislation, or CERCLA, at section 121(b). The legislative history of CERCLA indicates that the relevant factors, to determine whether MEP is met in choosing solutions and treatment technologies, include technical feasibility, cost, and state and public acceptance.[47] Another example of a definition of MEP is found in a regulation adopted by the Department of Transportation for onshore oil pipelines. MEP is defined as to "the limits of available technology and the practical and technical limits on a pipeline operator . . . ."[48]

These definitions focus mostly on technical feasibility, but cost is also a relevant factor. There must be a serious attempt to comply, and practical solutions may not be lightly rejected. If, from the list of BMPs, a permittee chooses only a few of the least expensive methods, it is likely that MEP has not been met. On the other hand, if a permittee employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit to be derived, it would have met the standard. MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive. Thus while cost is a factor, the Regional Water Board is not required to perform a cost-benefit analysis.

In reviewing the record, it is apparent that the Regional Water Board did evaluate the cost of the SUSMPs. While the petitioners claim there is no evidence in the record to show the

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[47] 132 Cong. Rec. H 9561 (Oct. 8, 1986).
[48] 49 CFR section 194.5.

SUSMPs are necessary and cost effective, the opposite is true. The record is replete with documentation of costs of pilot mitigation projects, studies from similar programs in other states, and research studies. The Regional Water Board complied with the requirement to consider cost.

The Regional Water Board found that the cost to include BMPs that will meet the mitigation criteria will be one to two percent of the total development cost. This amount appears reasonable, especially in light of the amount of impervious surface already in Los Angeles County and the impacts on impaired water bodies. In considering the cost of compliance, it is also important to consider the costs of impairment. The beach closures in the Los Angeles region, well documented in the evidence, have reached critical proportions. These beach closures clearly have a financial impact on the area, and should be positively affected by the SUSMPs.

We do note that there could be further cost savings for developers if the permittees develop a regional solution for the problem. We recommend that the cities and the County, along with other interested agencies, work to develop regional solutions so that individual dischargers are not forced to create numerous small-scale projects. While the SUSMPs are an appropriate means of requiring mitigation of storm water discharges, we also encourage innovative regional approaches.[49]

Contention: The petitioners have raised contentions regarding details of the SUSMPs, including the amount of time allowed for inclusion of SUSMPs in local ordinances, and their application to both "discretionary" and "non-discretionary" projects. In addition, during the hearing certain ambiguities in the wording of the Final SUSMPs became apparent, including the provisions regarding redevelopment and environmentally-sensitive areas. In this portion of the

[49] We note that the SUSMPs as written do not in any way preclude the development of regional solutions approved by the Regional Water Board as a means to comply with the BMP and design standard requirements.

Order we address these issues and also the application of the design standards to retail gasoline outlets (RGOs) and the waiver funding requirements.

Finding: The testimony at the hearing in this matter revealed that there are specific provisions of the SUSMPs that create confusion as to the types of development projects subject to the mitigation design standards. The petitioners also contend that application of the standards to specific types of development either is unreasonable or is inconsistent with the terms of the permit. The specific requirements are discussed below.

Retail Gasoline Outlets

Petitioner WSPA contends that RGOs should be excluded from the SUSMPs. Its petition raised the same general contentions as the other petitioners, but at the hearing WSPA presented evidence specific to RGOs In particular, WSPA raised questions about the propriety of applying the design standards for BMPs to RGOs. In considering this issue, we conclude that construction of RGOs is already heavily regulated and that owners may be limited in their ability to construct infiltration facilities. Moreover, in light of the small size of many RGOs and the proximity to underground tanks, treatment may not always be feasible, or safe. The mandatory BMPs that are included in the SUSMPs may be adequate to achieve MEP at RGOs, but the Regional Water Board should add additional mandatory BMPs, such as use of dry cleanup methods (e.g. sweeping) for removal of litter and debris, use of rags and absorbents for leaks and spills, restricting the practice of washing down hard surfaces unless the wash water is collected and disposed of properly, annual training of employees on proper spill cleanup and waste disposal methods, and the inclusion of BMPs to address trash receptacle areas and air/water supply

areas.[50] We conclude that because RGOs are already heavily regulated and may be limited in their ability to construct infiltration facilities or to perform treatment, they should not be subject to the BMP design standards at this time, and recommend that the Regional Water Board undertake further consideration of a threshold relative to size of the RGO, number of fueling nozzles, or some other relevant factor. This Order should not be construed to preclude inclusion of RGOs in the SUSMP design standards, with proper justification, when the permit is reissued.

Redevelopment Projects

The SUSMPs were written to apply to new development and to some types of redevelopment in nine categories of projects. The definition of "redevelopment" reflected the intent of the Regional Water Board to define the scope of redevelopment projects subject to the requirements. That definition[51], however, was somewhat confusing, and it was apparent from testimony at the hearing that the parties had different understandings of the scope of redevelopment subject to the SUSMPs. In their post-hearing briefs, the various parties appeared to agree on the actual intent of the Regional Water Board in including redevelopment in the SUSMPs. This intent was to include redevelopment that adds or creates at least 5,000 square feet of impervious surface to the original development and, where the addition constitutes less than 50 percent of the original development, to limit the application of the BMP design standards to the addition.

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[50] These BMPs are from a list of BMPs in a publication of the California Storm Water Quality Task Force. (Best Management Practice Guide – Retail Gasoline Outlets. March 1997.) This publication includes BMPs in addition to those listed in the SUSMPs. All BMPs recommended in this publication should be mandated.

[51] The SUSMPs state: "Redevelopment" means, on an already developed site, the creation or addition of at least 5,000 square feet of impervious surfaces or the creation or addition of fifty percent or more of impervious surfaces or the making of improvements to fifty percent or more of the existing structure. Redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces.

While some parties requested further requirements for development, it appears that the Regional Water Board's original intent was relatively simple to apply and results in a fair and appropriate application of the SUSMPs' requirements to redevelopment. Therefore, we will revise the definition in the SUSMPs accordingly.

Environmentally-Sensitive Areas

The permit required that the SUSMPs address at least seven development categories.[52] The final SUSMPs added two more categories: parking lots of 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff; and location within or directly adjacent to an environmentally-sensitive area (ESA). The petitioners contend that the addition of ESAs was inappropriate because the permit refers only to "development categories"[53] and ESA is a location category.

Whether or not the Regional Water Board went beyond the permit's terms in including this category, we find a fundamental problem with the language of the SUSMPs regarding ESAs. All of the other categories are relatively simple to apply because they describe the types of development that fall within the category. For instance, the threshold for a commercial development is 100,000 square feet. If the development is smaller, it is not subject to the SUSMPs. But for developments within ESAs, the SUSMPs contain no threshold. This absence led to speculation by the petitioners that something as small as a new patio on a home in an ESA would make the SUSMPs applicable. The Regional Water Board, at the hearing and in its post-hearing brief, conceded that there should be some threshold. While the Regional Water Board

[52] The categories listed in the permit are: single-family hill residences, 100,000 square-foot commercial developments, automotive repair shops, retail gasoline outlets, restaurants, home subdivisions with 10 to 99 housing units, and home subdivisions with 100 or more housing units. Permit, Part 2. III.A.1.c.
[53] *Id.*

did recommend a specific threshold, we believe that it is inappropriate for this Board to add a threshold that has not been fully discussed by all interested persons.

While it may be appropriate to include more stringent controls for developments in ESAs, we also note that such developments are already subject to extensive regulation under other regulatory programs. Moreover, in light of the permit language limiting the SUSMPs to development categories, ESAs are not an appropriate category within the SUSMPs. The Regional Water Board may choose to consider the issue further when it reissues the permit.

Discretionary and Non-Discretionary, or Ministerial, Projects

The petitioners contend that the SUSMPs should apply only to projects that are considered "discretionary" within the meaning of California Environmental Quality Act (CEQA).[54] They argue that the inclusion of non-discretionary, or ministerial, projects is inconsistent with the terms of the permit.

The permit provisions on development projects do refer to "discretionary" projects in several places. The permittees are directed to develop a checklist for determining priority and exempt projects.[55] Priority projects are defined as development and redevelopment projects requiring discretionary approval, which may have a potential significant effect on storm water quality.[56] The permittees are also required to develop a BMP list.[57] In developing the SUSMPs, the permittees are required to incorporate appropriate elements of the BMP list.[58] Next, the permittees must develop a program on planning control measures for priority projects (which are limited to projects requiring discretionary approval), consistent with the list of BMPs and the

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[54] Public Resources Code section 21000 *et seq.*
[55] Permit, Part 2, III.A.1.a.
[56] *Id.*
[57] Permit, Part 2, III.A.1.b.
[58] Permit, Part 2, III.A.1.c.

SUSMPs.[59] The permit further states that, in order to assure compliance with these requirements, the permittees must develop guidelines on preparing CEQA documents that link mitigation conditions to "local discretionary project approvals."[60]

Taken as a whole, the provisions of the permit appear to link the development requirements for SUSMPs to developments that receive discretionary approval by local governments, as defined in CEQA. The SUSMPs are an implementation tool for the permit and must be consistent with the permit. While the limitation of the SUSMPs to discretionary projects may not be sufficiently broad for an effective storm water control program, the Regional Water Board acted inappropriately in expanding the SUSMPs to include non-discretionary projects. The Regional Water Board may consider expanding the development controls beyond CEQA discretionary projects when it reissues the permit. But at this time, the SUSMPs must be revised so that they are limited to development projects requiring discretionary approval within the meaning of CEQA.[61]

Waiver Funding Requirement

Where a waiver is granted from the design standard requirements, the Final SUSMPs provide that the permittee must require the project proponent to transfer the cost savings to a storm water mitigation fund. The fund is to be operated by a public agency or a non-profit entity, to promote regional or alternative solutions for storm water pollution in the same storm watershed. The petitioners contend that the funding requirement will create an additional administrative burden.

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[59] Permit, Part 2, III.a.2.
[60] Permit, Part 2, III.a.3.b.
[61] We note that the Final SUSMPs already include a definition of "discretionary project" consistent with the definition in the CEQA guidelines. Final SUSMPs at page 4 of 25; Title 14, California Code of Regulations, section 15357. Apparently this definition was inadvertently retained after the Regional Water Board decided to expand the SUSMPs beyond discretionary projects.

The concept of a mitigation fund or "bank" is a positive idea for obtaining regional solutions to storm water runoff. As a long-term strategy, municipal storm water dischargers should work to establish regional mitigation facilities, which may be more cost-effective and more technically effective than mitigation structures at individual developments. But at this point there are not sufficient resources in place to require all permittees to establish such funds or to find appropriate non-profit organizations. Before mandating funding, preliminary questions should be answered, including who will manage the fund, what types of projects it will be used for, what entities can legally operate such funds, and how permittees will determine the amount of the assessments. It would be appropriate for the County to consider developing a program with the appropriate flood control agency, or as a model for the separate cities to develop. There may be suitable agencies to administer such funds, but the development of programs may take some time. The Regional Water Board should consider adopting such a program when it reissues the permit, after consultation with the appropriate local agencies.

III. CONCLUSIONS

Based on the discussion above, the Board concludes that:

1. The Regional Water Board complied with the procedural requirements of the permit, including the Administrative Review Process, in approving the Final SUSMPs.
2. The Regional Water Board was authorized to revise the SUSMPs by including more stringent requirements than the permittees had proposed.
3. The Regional Water Board complied with did not violate the Administrative Procedure Act, CEQA, or the Constitutional provisions on state mandates. The petitioners' due process rights have been protected
4. The Regional Water Board considered the costs of the SUSMPs, and acted reasonably in requiring these controls in light of the expected benefits to water quality.

5. The Final SUSMPs reflect a reasonable interpretation of development controls that achieve reduction of pollutants in storm water discharges to the maximum extent practicable.
6. The SUSMPs include adequate protections of groundwater quality from any impacts from infiltration.
7. The SUSMPs will be revised to clarify the intent of the Regional Water Board and to make them consistent with the permit. Specifically, retail gasoline outlets should not be subject to the BMP design standards because they are already heavily regulated and may be limited in their ability to construct infiltration facilities or to perform treatment. Redevelopment projects should be subject to the SUSMPs only if they result in creation or addition of 5,000 square feet of impervious surfaces. Environmentally-sensitive areas should not be listed as a category in the SUSMPs. The SUSMPs should only apply to discretionary projects. The requirement for funding by project proponents who receive waivers should be deleted. The SUSMPs will be amended as shown in the attachment to this Order.
8. In light of the revisions of the SUSMPs made by this Order, and to allow the permittees adequate time to adopt implementing ordinances, the deadline for adopting ordinances will be revised to January 15, 2001, and the effective date of the Final SUSMPs will be revised to February 15, 2001.

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IV. ORDER

IT IS HEREBY ORDERED that the Standard Urban Storm Water Mitigation Plans for Los Angeles County and Cities in Los Angeles County is revised consistent with the amendments attached hereto. In all other respects the petitions are dismissed.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 5, 2000.

AYE: Arthur G. Baggett, Jr.
Mary Jane Forster
John W. Brown

NO: None

ABSENT: Peter S. Silva

ABSTAIN: None

Maureen Marché
Administrative Assistant to the Board

R0003872

AMENDMENTS TO SUSMPS

[These amendments are to the Final SUSMP, as published March 8, 2000]

Page 3 of 25

First full paragraph:

All **discretionary development and redevelopment** projects that fall into one of ~~seven~~ **the following** categories are ~~identified in the Los Angeles County MS4 Permit as requiring~~ **subject to these** SUSMPs. These categories are:

- Single-family Hillside Residences
- 100,000 Square Foot Commercial Developments
- Automotive Repair Shops
- Retail Gasoline Outlets
- Restaurants
- Home Subdivisions with 10 to 99 housing units
- Home Subdivisions with 100 or more housing units
- **Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff**

Second full paragraph:

~~The Regional Board Executive Officer has designated two additional categories subject to SUSMP requirements for the Los Angeles County MS4 Permit. These categories are:~~

- ~~Location within or directly adjacent to or discharging directly to an environmentally sensitive area, and~~
- ~~Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff~~

Fourth full paragraph:

Permittees shall amend codes, if necessary, not later than ~~September 8, 2000~~ **January 15, 2001**, to give legal effect to the SUSMP requirements. The SUSMP requirements for projects identified herein shall take effect not later than ~~October 8, 2000~~ **February 15, 2001**.

Page 4 of 25

Delete definition of "Environmentally Sensitive Area"

Revise Definition of "Redevelopment":

"Redevelopment" means, on an already developed site, the creation or addition of at least 5,000 square feet of impervious surfaces ~~or the creation or addition of fifty percent or more of impervious surfaces or the making of improvements to fifty percent or more of the existing structure~~. Redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routing maintenance activity; and land disturbing activities related with structural or impervious surfaces. **Where redevelopment results in an increase of less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to these SUSMPs, the Design Standards apply only to the addition, and not to the entire development.**

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Add to "Limited Exclusion": Retail Gasoline Outlets

Page 15 of 25

Delete the first full paragraph (storm water mitigation funding)

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May 16, 2001

VIA FACSIMILE AND U.S. MAIL

Dr. Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, California 90013

Re: April 13, 2001 Draft Waste Discharge Requirements
For Discharge Of Storm Water In Los Angeles County
(NPDES No. CAS614001)

Dear Dr. Swamikannu:

We have received and have reviewed the Regional Water Quality Control Board's April 13, 2001 Draft "Waste Discharge Requirements for Municipal Storm Water Discharges Within the County of Los Angeles" (the "Draft Permit"). We have been asked by the Cities of Agoura Hills, Carson, Artesia, Beverly Hills, Hidden Hills, Norwalk, La Mirada, Monrovia, Rancho Palos Verdes, San Marino, San Fernando and Westlake Village to submit comments to the Draft Permit on their behalf. Some of these cities will also be submitting their own separate comments.

We have reviewed and carefully considered the comments filed by the County of Los Angeles Department of Public Works on behalf of the Executive Advisory Committee (the "EAC"). For the most part, we agree with the comments and changes suggested by the EAC.and other cities. For that reason, we have not attempted to duplicate each of the changes that the EAC has suggested. Instead, we have attached a list of additional suggested modifications and comments.

We appreciate the time that you and the Regional Board Staff have taken to meet with us to consider and discuss our concerns regarding the Draft Permit and to try to address the concerns of the Permittee cities, while trying to balance the legitimate concerns of the environmental groups that have also been involved in the process. While a number of significant and fundamental policy issues regarding the scope and cost of the Storm Water Management Program prescribed by the Draft Permit have not been completely resolved, we want to continue to work with all stakeholders to accommodate their respective concerns and agree on a permit that makes substantial progress in reducing pollution in and to Southern California water bodies.

The cities that we represent are certainly aware of the problems associated with storm water pollution. Their residents and businesses all share a common desire to preserve and enhance the water quality of the ocean and our water bodies. However, individual cities' fiscal and administrative resources for implementing storm water programs are limited. Of all the governmental agencies in California involved in this effort, the many small cities that we represent are probably the least suited to bear the full brunt of the responsibility for controlling storm water pollution, as the Draft Permit seems to require. Many of the remaining issues are not simply matters of semantics, but rather questions of how hundred of millions of dollars will be spent by cities in Los Angeles County to solve urban runoff problems. These are not just questions of "unfunded mandates," but rather how local agencies can best direct their efforts and apply their limited financial resources in an effective manner.

We have previously raised a number of questions regarding the legal implications of the process by which the Draft Permit was developed. We have appreciated the response provided by Board's counsel to these concerns and have carefully considered them. However, we continue to believe that the Draft Permit, and the process which generated it, does not comply with applicable principles of California administrative law.

Beyond the questions about the specific wording of the Draft Permit, a number of larger issues need to be addressed. One of the biggest problems which the Board staff and the representatives of the Permittees have faced in this process has been the lack of any established, clearly-defined written policies, guidelines or regulations by the State Board, setting forth the specific elements that must be included in a municipal stormwater permit issued by the Regional Board. We have raised this issue before. Although the State Board has adopted very general regulations for the issuance of waste discharge requirements in 23 C.C.R. §§2200, et seq., those regulations still do not directly address the specific components of a municipal stormwater NPDES permit.

Similarly, although the United States Environmental Protection Agency's regulations contained in 40 CFR Section 122.26 address the requirements for a permit application, those regulations do not set forth very specific requirements for the contents of a municipal stormwater NPDES permit. (See, for example, 40 CFR Section 122.41) As a result, the Draft Permit has been developed without compliance with California's Administrative Procedure Act. California Government Code §§11340, et seq. (the "APA").

While the issuance of individual waste discharge requirements may not be subject to the provisions of the APA (See, Government Code §11352(b)), the standards, objectives and guidelines which dictate the content of those requirements have to be formally adopted in accordance with the APA. (Government Code §11352(b).) California law does not permit either the State Water Resources Control Board or any of the Regional Water Quality Boards to develop and impose requirements of general application in such a manner; like any other state agency, the Board is required to first formally establish its objectives, guidelines and requirements through formal rulemaking in compliance with the APA. (Government Code §11340.5(a).)

The principle underlying the APA's requirements is that state agencies are not allowed to adopt or enforce unwritten laws, regulations or policies. The APA prohibits state agencies from issuing, utilizing enforcing or attempting to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule which is a "regulation", as defined in

Government Code §11342(g), unless the rule has been adopted as a formal regulation. Government Code §11340.5. Rulemaking is required whenever an administrative agency creates a new rule for future application, as opposed to applying an existing rule to existing facts. A "regulation" is defined as "every rule, regulation, order, or standard of general application ... adopted by a state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, except one which relates only to the internal management of the state agency." Government Code §11342(b). "House rules" of an agency, promulgated without public notice or an opportunity to be heard, or filing with the Secretary of State, and publication in the California Code of Regulations, are prohibited.

Government Code §11353(b)(1) specifically provides that "any policy, plan, or guidelines, or any revisions thereof, the State Water Resources Control Board has adopted or that a court determines is subject to this part, after June 1, 1992, shall be submitted to the office [the Office of Administrative Law]." Our courts have held, and the Board has agreed, that water quality control programs are subject to the Administrative Procedure Act. See, State Water Resources Control Board v. Office of Administrative Law, 12 Cal.App.4th 697 (1993). In that case, the court concluded that the regulatory matters contained in water quality control plans were actually regulations. Those regulations are neither expressly nor impliedly exempt from the provisions of the Administrative Procedure Act. On that basis, the Court invalidated a water quality control plan. (12 Cal.App.4th at 706) In doing so, the court held that "... if it looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated as a regulation whether or not the agency in question so labelled it." (12 Cal.App.4th at 703) The various procedural steps followed for issuing waste discharge requirements contained in 23 C.C.R. §2200, et seq. are not a substitute for this process.

Both the Regional Board as well as the State Board expressly acknowledged that they are attempting to achieve statewide consistency with respect to municipal stormwater permits. For that reason, the Draft Permit is nearly identical to the reason permit issued for Ventura County which, in turn, is based upon the permit issued to the City of Long Beach. While we can appreciate the desire for consistency, by definition, in order to achieve that consistency, the Regional Board is effectively engaging in rulemaking. However, no notice of rulemaking was ever issued, nor was any regulatory package submitted to the OAL for approval.

The procedural requirements of the APA serve a very important function of ensuring that the policy, cost and scientific issues raised by a regulatory initiative, such as this, are fully considered. Before adopting a regulation, an agency is required by Government Code § 11346.2 to consider and provide a full statement of the reasons for the regulation, which includes a discussion of the specific purpose of the regulation, "an identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation...", and "...the alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives...", among other things. That section also allows the Board to

> "... adopt regulations different from federal regulations contained in the Code of Federal Regulations addressing the same issues upon a finding of one or more of the following justifications:

(A) The differing state regulations are authorized by law.

(B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment."

In this case, the Board believes that it is only carrying out federal mandates. Under such circumstances, Government Code § 11346.2(c) requires

" (c) ... However, the agency shall comply fully with this chapter with respect to any provisions in the regulation that the agency proposes to adopt or amend that are different from the corresponding provisions of the federal regulation. "

(See, also, Government Code § 11346.5(a)(3)(A).)

Most importantly, Government Code § 11346.5(a) requires the agency to make:

"(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4.

(6) An estimate, prepared in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state. For purposes of this paragraph , "cost or savings" means additional costs or savings, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations."

Government Code § 11346.3(a) also requires the agency to "assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements." See also, Government Code § 11346.3(c). and Government Code § 11346.9, 11347.3. Government Code § 11346.3(a)(11) requires a determination of the impact of the regulation on housing costs.

The need for the analysis inherent in formal rulemaking under the APA is readily apparent in this case. This permit will have a significant impact not only on the individual Permittee cities, but also on their residents, businesses and industries, and the economy and housing market in Southern California.

The procedures set forth in the APA ensure that the important policy, cost and scientific issues are fully addressed and a proper administrative record is made. We believe that the

failure to institute formal rulemaking early in the process will leave open a basis for attacking the Permit, once adopted, on the ground that the Board failed to comply with the APA.

We are also concerned that, by setting specific design standards, the Regional Board and the State Board are crossing the line into an area typically handled through building codes which are supposed to be uniform throughout the state.

There should be no misunderstanding that our cities fully support the same objectives of the Regional Board and the environmental groups to achieve a consensus to preserve, restore and enhance the many beneficial uses of the ocean and the water bodies of Southern California.. We hope that you will consider our comments and suggested changes in this spirit.

Very truly yours,

John J. Harris

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Enclosure

cc: Dennis Dickerson (w/encl.)

COMMENTS ON APRIL 13, 2001 DRAFT WASTE DISCHARGE REQUIREMENTS FOR DISCHARGE OF STORM WATER IN LOS ANGELES COUNTY (NPDES NO. CAS614001)

by
John J. Harris
Richards, Watson & Gershon

1. Finding No.1.- The 1996 Permit (Order No. 96-054) did not "rescind" the 1990 Permit (Order No. 90-079); it was a renewal of an existing NPDES permit. Accordingly, we suggest that the language be modified the read:

   "Order No. 96-054, adopted by this Board on July 15, 1996, and which replaced Order No. 90-079...; ".

2. Finding No.3.- "Nature of Discharges and Sources of Pollutants"- We suggest the following modification to the last sentence:

   "However, the implementation of the measures set forth in this Permit are intended to and will contribute to the reduced entry of these pollutants into storm water and their discharge to receiving waters."

3. Finding No.6.- As discussed in further detail herein, we are concerned about the RWQCB's foray into the area of regulating "environmentally sensitive areas", which have been statutorily and traditionally regulated by the Coastal Commission.

4. Finding No. 13- Permit Coverage- We believe that this finding should be modified, as follows to conform with Finding No. 14:

   "The requirements in this Order cover all areas within the boundaries of the cities (see Attachment A) over which the Permittees **have regulatory jurisdiction,** as well as unincorporated areas in Los Angeles County Flood Control District within the jurisdiction of the Regional Board."

5. Finding No. 21- We agree with the EAC that the referenced sections of the Code of Federal Regulations do not support the finding requiring inspections, monitoring or controlling pollutant loads from "discharges from industrial and commercial facilities". The finding should be deleted.

6. Finding No. 31- This finding states "The State Board's Chief Counsel has issued a statewide policy memorandum (dated December 26, 2000) which interprets the Order to provide broad discretion to Regional Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary." A legal memorandum by the State Board's Chief Counsel, while informative, is not a regulation

and has no legal effect. We believe the reference should be deleted.

7. Finding No. 31- Retail Gas Outlets; Environmentally Sensitive Areas. The State Board's Order WQO No. 2000-11 specifically stated:

   " We conclude that because RGOs are already heavily regulated and may be limited in their ability to construct infiltration facilities or to perform treatment, they should not be subject to the BMP design standards at this time, and **recommend that the Regional Water Board undertake further consideration of a threshold relative to size of the RGO, number of fueling nozzles, or some other relevant factor.** This Order should not be construed to preclude inclusion of RGOs in the SUSMP design standards, with proper justification, when the permit is reissued."

The Draft Permit does not reflect the State Board's directive regarding "a threshold relative to size of the RGO, number of fueling nozzles,..." or other factors.

Similarly, Order 2000-11 stated:

"While it may be appropriate to include more stringent controls for developments in ESAs, we also note that such developments are already subject to extensive regulation under other regulatory programs. Moreover, in light of the permit language limiting the SUSMPs to development categories, ESAs are not an appropriate category within the SUSMPs. The Regional Water Board may choose to consider the issue further when it reissues the permit."

The Draft Permit does not reflect any further consideration as to how the proposed controls of "environmentally sensitive areas" enhance the existing "extensive regulation under other regulatory programs."

8. Finding No. 41- Page 10- We disagree with the proposed language that: "For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements." As discussed in the City of Alhambra's comments, cities have a very limited ability to prescribe storm water mitigation requirements for ministerial permits.

9. Part 1, Section 2(c)- Discharge Prohibitions- Page 13- We believe that the discharges which were conditionally exempt under Part II, Section II.C.2.(a), (g) and (h) of the existing Permit for landscape irrigation and lawn watering should be included in Part1, Section 2(c) of the Draft Permit.

10. Part1- Discharge Prohibitions- Page 13- The proposed Discharge Prohibitions omit a important exception set forth in Section1(C) of Part 1 at Page 12 of the current Permit for

"Discharges originating from federal, state or other facilities which the Permittee is pre-empted from regulating."

11. Part1- Discharge Prohibitions- Page 13- The Discharge Prohibitions also omit a very significant and critically important provision of the current permit in Section1 of Part 1 at Page 12, which states:

    "Compliance with this Order through the timely development and implementation of programs described herein shall constitute compliance with this prohibition."

    This provision should be included in the new Permit.

12. Part 2- Receiving Water Limitations- Page 13- We agree with the County that proposed sections 1 and 2 are inconsistent with State Board Order WQ 99-05 and should be eliminated. We also agree with the comments on the limitations submitted by the City of Alhambra.

13. Part 2- Receiving Water Limitations- Page 14- The Receiving Water Limitations also omit an important provision of the current permit in Part II at Page 12, which states:

    "Timely development and complete implementation of the storm water management programs described in this Order shall satisfy the requirements of this section and constitute compliance with receiving water limitations."

    This provision should also be included in the new Permit.

14. Part 3.G.1(f)- Legal Authority- Page 18- The reference to discharges from swimming pools should match the existing permit language to "prohibit the discharge of commercial swimming pool filter backwash to the MS4." (See, Section 1.E.1.(a)(v)of the current Permit, at page 18).

15. Part 3.G.1(h)- Legal Authority- Page 18- this section should be modified to track the language of Section 1.E.1(a)(vii), at page 18 of the existing permit, and, in particular, to refer to *untreated* runoff.

16. Part 3.G.1(n)- Legal Authority- Page19- We agree with the County's and other Permittees' concerns regarding both the feasibility and enforceability of the new inspection requirements set forth in the Draft Permit.

17. Administrative Review- We are particularly concerned by the Board's failure to include the Administrative Review provisions from Section 1.G. of the existing Permit at pages 21 and 22. These provisions provided a very important and informal procedure for resolving differences and misunderstandings regarding permit interpretation and implementation.

18. Part 3.B.- Industrial /Commercial Inspections, pages 25-29. We agree with the comments of most of the Permittees with respect to questionable legality and practicality of the proposed inspection program, particularly as it relates to facilities which are already regulated by the Board itself.

19. Part 4.C.1-Development Planning- Page 29. The existing Permit clearly provides that it applies to "all development projects requiring discretionary approval" (See, II.A.1. at page 33). The broad definitions of "development"and "redevelopment" contained in the Draft Permit greatly extend the scope of the proposed controls without consideration of either the municipalities' primacy in local land use decisions or the limitations on their authority. Nothing in the Draft Permit or the Board's fact sheet provides any justification for this extension. Furthermore, scope of the proposed controls on *all* "development"and "redevelopment" goes beyond the scope of EPA's Phase I and Phase II Rules for Construction and Post-Construction Runoff Control. We believe that development control should only apply to"Discretionary Projects", as defined in Section 15357 of the Guidelines for Implementation of the California Environmental Quality, which applies to projects requiring the exercise of judgment or deliberation by a city in connection with the decision to approve or disapprove the project, as distinguished from situations where the city merely must determine whether there has been conformity with applicable statutes, ordinances, or regulations.

20. Part 4.C.3.-SUSMP- Page 30. Without re-arguing the issues and questions regarding the original SUSMP as ultimately revised and adopted by the State Board, the fundamental issue remains regarding the Board's compliance with Water Code § 13360 while dictating specific design standards in the Draft Permit.

21. Part 4.E.3(c).-Public Construction Activities-Page 41. We agree with the County that public agencies should be not be required to obtain a general construction permit for activities not currently regulated by the State Board.

22. Part 4.E.4(d).-Vehicle Maintenance Facilities-Page 42. We also agree with the County that public agencies should be not be required to obtain an industrial permit for activities not currently regulated by the State Board.

23. Definitions-"Environmentally Sensitive Areas"- Page 48- The project categories identified in the current NPDES Permit were based upon a conclusion that these types of projects have a greater likelihood of contributing contaminated run-off to the Municipal Separate Storm Sewer System ("MS4"). The State Water Resources Control Board in Order WQO No. 2000-11 excluded the additional category of "environmentally sensitive areas" from the SUSMP proposed by the RWQCB. The State Board did state that the "Regional Board may choose to consider the issue further when it reissues the permit." We can appreciate the Board's desire to protect wetlands from the impacts of development. However, the

fundamental question still has not been addressed as to whether these areas, as defined in Public Resources Code § 30107.5, are adequately regulated and protected under existing laws and regulations administered by other agencies.

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OUR FILE NO.
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01047-0011

July 19, 2001

Mr. Dennis Dickerson,
Executive Officer,
California Regional Water Quality Control Board –
Los Angeles Region
Attn: Xavier Swamikannu, Ph.D.
320 West 4th Street, Suite 200
Los Angeles, California 90013

Re: Comments on "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)"

Dear Mr. Dickerson and Dr. Swamikannu:

On behalf of the Cities of Alhambra, Compton, El Segundo, Lomita, Santa Clarita and Torrance (the Cities) let me thank you and your staff for the opportunity to offer comments on the "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)" (the Second Draft") of the new storm water permit for Los Angeles County. This letter supplements my email, of April 10, 2001, which offered comments on the earlier "Discussion Draft." and my letter of May 14, 2001, which offered comments on the "First Draft."

We are pleased to note that a substantial number of the suggestions offered in those comments have been incorporated in the Second Draft. Many of the objectionable provisions have been removed, a number of definitions have been added and revised and language changes have been made which make the Second Draft a decided improvement over prior versions. More remains to be done, however, as we will explain below and in the enclosure.

Land Use Issues

The Cities, (and, we believe, a number of other cities) are concerned over a number of serious issues raised by the First Draft which have not yet been rectified. **These concerns include the Regional Board's invasion of the land use authority of the local governmental permitees** by requiring them to impose land use restrictions through the Storm Water Quality Management Plan ("SQMP") and the incorporation of Board Resolution No. R 00-02, (the SUSMP) (with, *e.g.*, the undefined requirement to "cluster" development, which could be argued to put an end to the single-family home) into the Permit. Congress made it clear in the very first section of the Clean Water Act that the CWA, including the NPDES program, is not meant to infringe on local land use authority:

> It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use (including restoration, preservation, and enhancement) of land and water resources . . . .

The US EPA's position on this issue is clear. EPA has said flatly **"EPA recognizes that land use planning is within the authority of local governments."** 64 Fed.Reg. 68761, December 8, 1999. Under California law, it is local government, cities and counties, and not state executive agencies, which exercise land use authority. The authority of cities and counties to regulate land use comes from the California Constitution. Article XI, §7 confers on local governments the authority to regulate land use, through the exercise of the "police power." The California Legislature, in enacting Government Code § 65800, declared

> **its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.**

Case law confirms the authority of cities and counties, recognizing that in their intrinsic character and by express declaration, state laws on county and city zoning are designed as standardizing limitations over local zoning practices, not as specific grants of authority to legislate. *Scrutton v. Sacramento County*, 275 Cal.App.2d 412 (1969). An attempt by a

Regional Board, an executive agency, to dictate land use and contents of a general plan has no foundation in California law and would violate the separation of powers doctrine.

Peak Flow Control

In addition, provisions from the First Draft which are carried over to the Second Draft would impose "Peak Flow Control" (Part 4.D.2) and post-construction "Numerical Design Criteria" (Part 4.D.5) appear to be attempts to control not the discharge of pollutants, but the discharge of unpolluted storm water. We continue to believe that the Board is mistaken that the Clean Water Act authorizes it to regulate the discharge of water, rather than the discharges which the Congress addressed in the Clean Water Act, *i.e.*, the discharge of pollutants. We are also particularly concerned that the "Peak Flow Control" and post-construction "Numerical Design Criteria" exceed the Board's authority to prescribe how the Clean Water Act's goals of reducing the discharge of pollutants to waters of the United States are to be achieved, and in so doing, violate the limitations of § 13360 of the California Water Code.

And furthermore....

Although a number of definitions have been clarified, and improved, we continue to have concerns over inconsistent use of defined terms. On the other hand, we were delighted to see that our recommendation to include citations to the governing US EPA regulations has been adopted, as a number of those citations now appear in the Second Draft of the Permit.

More detailed comments may be found in the enclosure. Those comments appear in the approximate order in which the matter in question appears in the Second Draft of the Permit, and not necessarily in the order of importance.

The Cities ask that this letter be included in the administrative record of this matter. The Cities reserve the right to offer further comments.

Very truly yours,

RUFUS C. YOUNG, JR.
Of BURKE, WILLIAMS & SORENSEN, LLP

LA #72705 v1

cc: Honorable Mayor and Members of the City Council of the Cities of Alhambra, Lomita and Santa Clarita
Legrand H. Clegg II, City Attorney, City of Compton
John Fellows III, City Attorney, City of Torrance
Andres Santamaria, Director of Public Works, City of El Segundo
Desi Alvarez, Chair, EAC
Jorge Leon, Senior Staff Counsel

Comments on
Second Draft (June 29, 2001)
LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD
ORDER No. 01-XXX (NPDES No. CAS004001)
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES
WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)

1. **Comment**: Contrary to the provisions of the Clean Water Act and California law, the Board continues to attempt to regulate local land use, rather than simply requiring the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable. In the Second Draft, Paragraph E.17, on page 10, refers to Board Resolution No. R-00-02, (the Standard Urban Storm Water Mitigation Plans (SUSMPs) Resolution), the State Board's Order No. WQ 2000-1 and the State Board's Chief Counsel's policy memorandum of December 26, 2000. We continue with our view that that these were wrongly adopted and decided as they conflict with section 101(b) of the Clean Water Act and conflict with local governments' authority over land use. We emphatically disagree that the State Board's Order No. WQ 2000-1 has the precedential and binding effect attributed to it by the State Board's Chief Counsel in the policy memorandum of December 26, 2000. In support of our position, we point to the very first section of the Clean Water Act. In CWA § 101(b), 33 U.S.C. § 1251(b), Congress made it clear that the CWA, including the NPDES program, is not meant to infringe on local land use authority:

> **It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use (including restoration, preservation, and enhancement) of land and water resources . . . .**

This policy was relied on recently by the Supreme Court of the United States in a case in which the Court limited federal authority under the CWA over local land use matters. In *Solid Waste Agency of Northern Cook County v. Army Corps of Engineers*, 531 U.S. 159 (2001), the Court struck down a rule of the Army Corps of Engineers under which the Corps claimed jurisdiction over isolated intra-state wetlands. The Court found that the rule:

> would result in a significant impingement of the States' traditional and primary power over land and water use. *See, e.g., Hess v. Port Authority*

> *Trans-Hudson Corporation,* 513 U.S. 30, 44 (1994) ("[R]egulation of land use [is] a function traditionally performed by local governments"). Rather than expressing a desire to readjust the federal-state balance in this manner, Congress [through the CWA] chose to "recognize, preserve, and protect the primary responsibilities and rights of States ... to plan the development and use . . . of land and water resources . . . ." 33 U.S.C. § 1251(b).

The US EPA has recognized that a "command and control" approach is inappropriate in the context of post-construction measures. In promulgating the Phase II regulations, EPA said **"EPA *recommends* that municipalities consider policies and ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure, in order to meet the measure's intent."** 64 Fed.Reg. 68742, December 8, 1999. EPA acknowledged the sensitivity of the issue: **"EPA is very aware of municipal concerns about possible federal interference with local land use planning."** 64 Fed.Reg. 68742, December 8, 1999. EPA declined to impose specific requirements for permits issued to small MS4s, instead stating

> **EPA *encourages* operators of regulated small MS4s** to identify specific problem areas within their jurisdictions and initiate innovative solutions and designs **to focus attention on those areas through local planning**.

64 Fed.Reg. 68759, December 8, 1999. **Finally, and most tellingly, in responding to comments on the Phase II regulations regarding Post-Construction Storm Water Management in New Development and Redevelopment, EPA said flatly "EPA recognizes that land use planning is within the authority of local governments."** 64 Fed.Reg. 68761, December 8, 1999.

It should be clear, then, that if there is authority for the Regional Board, through the SUSMP requirements, to regulate local land use, it does not come from the CWA, as Congress, with the express approval of the Supreme Court in the *SWANCC* case, and the EPA, have unequivocally disavowed any intention to use the CWA as a land use statute. Therefore, if the Board has authority to prescribe land use controls as a condition of a WDR/NPDES Storm Water permit, that authority must come from California law.

However, under California law, it is local government, cities and counties, and not state executive agencies, which exercise land use authority. The authority of cities and counties to regulate land use comes from the California Constitution. Article XI, §7 confers on local governments the authority to regulate land use, through the exercise of

decisions in the hands of local governments. Neither the California Constitution nor the Legislature assign any land use authority to Regional Water Quality Control Boards.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

2. **Comment:** Paragraph E.23, page 12, cites State Board Order No. WQ 99-05 as specifying standard receiving water language to be included in permits. We continue to disagree that State Board Order No. WQ 99-05 retains its vitality, in view of the decision by the Ninth Circuit Court of Appeals in *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1164-66 (9th Cir., 1999), and disagree with the opinion of the State Board Office of Chief Counsel.

   Recommendation: Delete Paragraph E.23 and the receiving water limitation provisions of the Second Draft.

3. **Comment:** In paragraph F.3, on page 13, the citation to the *Headwaters, Inc.* case is incomplete.

   Recommendation: The citation should be revised to read: *Headwaters, Inc., v. Talent Irrigation District,* 243 F.3d 526 (9th Cir., 2001).

4. **Comment**: On page 14, paragraph G.4 fails to reference the limitations on permit coverage set forth in Findings D.2 and 3, and for that reason is incomplete.

   Recommendation: Revise the last sentence of Paragraph G.4 to read: "Each Co-permittee is responsible only for those discharges for which it is the operator, subject to the limitations on permit coverage set forth in Findings D.2 and 3, above."

5. **Comment:** Throughout the Permit: Inconsistent use of defined terms. For example, in Part 2, RECEIVING WATER LIMITATIONS, in paragraphs 1 and 3, on page 16, the terms "water quality standards" and "water quality objectives" are used. As these are defined terms, the first letter in each word in these terms should be capitalized, as in "Water Quality Standards" and "Water Quality Objectives." Failure to conform to the style of capitalizing the first letter in defined terms could lead to confusion and raises the

the "police power." The California Legislature, in enacting Government Code § 65800, declared

> **its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.**

Case law confirms the authority of cities and counties, recognizing that in their intrinsic character and by express declaration, state laws on county and city zoning are designed as standardizing limitations over local zoning practices, not as specific grants of authority to legislate. *Scrutton v. Sacramento County*, 275 Cal.App.2d 412 (1969). Furthermore, in *Los Angeles v. California*, 138 Cal.App.3d 526, 533 (1982), it was recognized that

> the Legislature has been sensitive to the fact that planning and zoning in the conventional sense have traditionally been deemed municipal affairs. It [the Legislature] has thus made no attempt to deprive local governments (chartered city or otherwise) of their right to manage and control such matters, bur rather has attempted to impinge upon local control only to the limited degree necessary to further legitimate state interests.

Through the SUSMP provisions of the Second Draft, the Regional Board is attempting to regulate local land use by requiring the Co-permittees to impose constraints on land use. The Board's land use measures include requirements for "clustering" of residential development, (arguably spelling the end of developments featuring single-family homes), and requiring that local governments amend their General Plans and modify their CEQA project approval processes to require new development and redevelopment projects to adhere to the SUSMP provisions.

In enacting Government Code § 65302, the legislature, implementing Article XI, §7, prescribed the elements to be included in a city's or a county's general plan. For a Regional Board to now attempt to prescribe elements of a city's general plan, or worse, to dictate land use, violates the separation of powers doctrine.

In summary, the Board's encroachments upon local land uses and land use authority not only violate § 101(b) of the CWA, and are contrary to EPA policy, they are contrary to California law, which places land use control firmly in the hands of local governments, not state agencies. **Moreover, the Board's attempt to dictate land use decisions (*e.g.*, clustering) to local governments raises is contrary to the separation of powers doctrine, as the California Constitution and the Legislature have placed land use**

possibility that an inference is to be drawn from the lack of first-letter caps that a meaning other than that set forth in the definition of the defined term was intended.

Recommendation: All defined terms, including, but not limited to "Water Quality Standards," "Water Quality Objectives," "Storm Water," "Illicit Discharge," "Retail Gasoline Outlet" and "Pollutant" used in the Permit should be used in the same manner, *i.e.*, the first letter in each should be capitalized, each time the term is used.

6. **Comment:** Part 2, RECEIVING WATER LIMITATIONS, paragraph 1, on page 16, states that "Discharges from the MS4 that cause ***or contribute*** to the violation of water quality standards or water quality objectives are prohibited." This absolute (no contribution, in any quantity) prohibition conflicts with Finding B.2, under "Nature of Discharges and Sources of Pollutants," beginning on page 1. There, the Board recognizes that "[c]ertain pollutants present in storm water and/or urban runoff may be derived from extraneous sources over which "Permittees have no or limited" authority or jurisdiction. We also suggest that the provisions of paragraph 1, page 16, conflict with the Board's limitations on Permit Coverage, set forth in Findings D.2 and 3 on page 6.

In any event, the "or contribute" prohibition, of even *de minimis* contributions, ignores the CWA's "Maximum Extent Practicable" standard. MS4 permits are issued under Section 402(p)(3)(B)(iii) of the CWA, 33 U.S.C. § 1342(p)(3)(B)(iii). That section does not impose an absolute prohibition on the discharge of pollutants. Instead, the section requires that:

> Permits for discharges from municipal storm sewers --
>
> > (iii) shall require controls to reduce the discharge of pollutants to the ***maximum extent practicable***, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. (Emphasis added.)

Section 13263(a) of the California Water Code requires regional boards, when prescribing waste discharge requirements, to take into consideration the provisions of §§ 13241(c) and (d). Those sections require a balancing similar to that required by § 402(p)(3)(B)(iii) of the CWA, 33 U.S.C. § 1342(p)(3)(B)(iii). Among the factors regional boards must consider are:

(c) ***Water quality conditions that could reasonably be achieved*** through the coordinated control of all factors which affect water quality in the area.

(d) Economic considerations.

The balancing required by CWA § 402(p)(3)(B)(iii) and California Water Code §§ 13241(c) and (d) clearly authorizes a regional board to reject inclusion of an "or contribute" standard, notwithstanding SWRCB Memorandum on Receiving Water Limits in Municipal Storm Water Permits, of 1999.

Moreover, there is no basis for a regional board to conclude that the "zero contribution" level of "or contribute" can be reasonably achieved. The Office of the Chief Counsel for the SWRCB has addressed this last point. In a 1993 memorandum, Elizabeth M. Jennings, Senior Staff Counsel for the SWRCB, wrote:

> On [Section 402(p)'s] face, it is possible to discern . . . the intent of Congress in establishing *the MEP standard.* First, the requirement *is to reduce, the discharge of pollutants, rather than totally prohibit such discharge.* Presumably, the reason for this standard. . . is the knowledge that *it is not possible for municipal dischargers to prevent the discharge of all pollutants in storm water.* (Memo from Elizabeth Miller Jennings, Senior Staff Counsel, SWRCB, to Archie Mathews, Division of Water Quality, at 2 (Feb. 11, 1993) (emphasis added)).

By inclusion of the "zero contribution" standard of the "or contribute" language, the Permit conflicts with the CWA's Maximum Extent Practicable" standard, CWA § 402(p)(3)(B)(iii) and California Water Code § 13241.

Recommendation: For all of the foregoing reasons, we suggest that paragraph 1, page 16, be revised to read: "Discharges from a MS4 that cause or contribute to the violation of Water Quality Standards or Water Quality Objectives, subject to the limitations of Findings B.2 and D.2 and D.3, in which the discharge of Pollutants has not been reduced to the Maximum Extent Practicable, are prohibited."

7. **Comment:** Part 2, RECEIVING WATER LIMITATIONS, paragraph 2, page 16, provides that "Discharges from the MS4 of storm water, or non-storm water, for which a permittee is responsible for (sic), shall not cause or contribute to a condition of nuisance." This provision should be revised to incorporate the Board's recognition of the limitation of the authority of the Co-permitees.

Recommendation: We suggest that this provision be revised to read as follows: "Discharges from the MS4 of storm water, or non-storm water, for which a Co-permittee is responsible, subject to the limitations on permit coverage set forth in Findings D 2 and 3, above, shall not cause a condition of nuisance."

8. **Comment:** In Part 2, RECEIVING WATER LIMITATIONS, in paragraph 3, page 16, in the second and third sentences, the term "receiving water limitations" is used, apparently as a defined term. However, as the term is not defined, it is elastic, as it appears that it might mean something other than Water Quality Standards or Water Quality Objectives, as those defined terms are used in the 3rd sentence. This elasticity exposes permittees, to say nothing of the Board, to potential CWA citizen suit litigation.

Recommendation: The term "receiving water limitations" should be defined or deleted.

9. **Comment:** Part 3, STORM WATER QUALITY MANAGEMENT PLAN (SQMP) IMPLEMENTATION, Section E, "Responsibility of the Permittees," on page 18, the first sentence of the introductory paragraph provides "Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries, and not...." This statement does not reflect consideration of the possibility that pollutants may be present in flows (e.g., sheet flows on parking lots or streets) which originate outside a Permittee's boundaries, or which originate on federal or state facilities, including school districts, and which flow into a Co-permittee's boundaries. Nor does this provision recognize the limitations on the authority of the Co-permittees set forth in Findings D.2 and D.3.

Recommendation: Revise the sentence to read, in pertinent part: "Each Co-permittee is required to comply with the requirements of this Order applicable to discharges which originate within its boundaries, subject to the limitations of Findings B.2 and D.2 and D.3, and not...."

10. **Comment:** In Part 3, Section H "Legal Authority" (beginning on page 20) is a paraphrased, and somewhat inaccurate restatement of 40 CFR § 122.26(d)(2)(i). For example, 3.H.1.e) and h), on page 21, would prohibit the discharge of runoff of any kind, whether or not the runoff contained any pollutants. The Board's authority does not reach so far.

Recommendation: In 3.H.1.e) and h), on page 21, change the words "discharge of runoff" to "discharge of a Pollutant." Section 122.26(d)(2) should be cited as authority for this requirement.

11. **Comment:** In Part 3.H.1.j).(2), on page 21, the term "state or federally banned pesticide, fungicide or herbicide" is used, but no guidance is provided as to just how a Co-permittee is to determine just which pesticides, fungicides or herbicides are banned at any given time. Asking each city to undertake the task of monitoring which agency has banned which pesticide, fungicide or herbicide is to impose an unrealistic burden. Moreover, we renew our previous concerns that the prohibition of the disposal of pesticides is an area preempted by federal law. See the Federal Insecticide, Fungicide and Rodenticide Act, § 19(a)(2)(C), 7 U.S.C. § 136q.(a)(2)(C). We point out in this connection that 40 C.F.R. § 122.26(d)(2)(iv)(A)(*6*) limits the limits the controls on application of pesticides and herbicides to "application in public right-of-ways and at municipal facilities."

Recommendation: Part 3.D, "Designation and Responsibilities of the Principal Permittee," on page 18, should be revised to add a new item 8: "Compile and maintain a list of state and federally banned pesticides, fungicides and herbicides, and make the list available to Co-permittees."

12. **Comment:** In Part 3.H.1.j).(3), on page 21, the term "food wastes" is used, but not defined.

Recommendation: The term "food wastes" should be defined. We suggest the following: "Food Waste" means food-related waste, including restaurant and other commercial and residential kitchen waste, cooking oils and grease, restaurant kitchen mat wash and rinse water and trash container wash and rinse water.

13. **Comment:** Part 3.H.1.l), on page 21, re compliance with contracts, ordinances, etc. restates, and is based on, but fails to cite as authority for this requirement, 40 CFR § 122.26(d)(2)(i)(E). The word "Permittees" should be singular possessive and not plural.

Recommendation: Change the "C" in "Comply" to lower case and add the following: "In accordance with the requirements of 40 CFR § 122.26(d)(2)(i)(E), comply...." Change the word "Permittees" to the word "Permittee's."

14. **Comment:** Part 3.H.1.m), (page 21) which implements 40 CFR § 122.26(d)(2)(i)(A), without citing that section, goes beyond the requirements of the CWA and 40 CFR § 122.26(d)(2)(i)(A) by attempting to impose a requirement that Co-permittees are to

possess the legal authority to control something called "potential contribution." of Pollutants. Neither the Clean Water Act nor EPA's Storm Water regulations say anything about "potential contribution" of pollutants. The "potential contribution" notion is also contrary to the exemption afforded by the "no exposure" conditional exclusion of 40 C.F.R. § 122.26(g). Drawing a line between the presence of a pollutant within city boundaries, but within the "no exposure" exclusion and the point at which the potential pollutant lapses to a state of "potential contribution" is to ask the impossible. The Board's authority is limited to requiring permitees to reduce the discharge of pollutants to the maximum extent practicable, and does not extend to the regulation of "potential contributions." See also Comment 23, below.

Recommendation: Part 3.H.1.m), (page 21) should be revised by deleting the parenthetical "(including potential contribution)."

15. **Comment:** Part 3.H.1.n), on page 22, implements the requirement of 40 CFR § 122.26(d)(2)(i)(B) and (F) that Co-permittees are to possess the legal authority to prohibit "Illicit Discharges" and to conduct inspections, but fails to cite or refer to 40 CFR § 122.26(d)(2)(i)(B) or (F). See also comment 18, below, regarding limitations on the scope of requirements to inspect Automotive Service Facilities.

Recommendation: Change the "C" in "Carry" to lower case and add the following: "In accordance with the requirements of 40 CFR § 122.26(d)(2)(i)(B) and 40 CFR § 122.26(d)(2)(i)(E), carry....".

16. **Comment:** In Part 3.H.2.b), on page 22, the term "Dumpster" is used. "Dumpster™" is a trademark owned by Dempster, Inc., and it should not be used as a generic term, and not in a permit, as use of the term would limit the applicability of this section to those bins which are within the ambit of the "Dumpster™" trademark.

Recommendation: Use the term "trash bin" instead of the trademark term Dumpster.™

17. **Comment:** Part 4.B.2.b)(1), on page 26, provides that co-permittees with available resources are to provide confidential resource assistance to small businesses." There is no provision in either the California Evidence Code or the Public Records Act for confidential communications between a City and a business in this context.

Recommendation. Part 4.B.2.b)(1), on page 26, should be revised to delete the word "confidential."

18. **Comment:** Part 4.C.3, on page 26, would impose a requirement on each Co-permittee to inspect all Automotive Service Facilities. We suggest that the imposition of this Permit requirement exceeds the Board's authority. Under 40 C.F.R. § 122.26(d)(2)(i)(A), cities are required to demonstrate authority to control the contribution of pollutants, but not all pollutants from all sources, only those discharges associated with industrial activity. Automotive Service Facilities do not fall within the EPA's definition of "discharges associated with industrial activity." 40 C.F.R. § 122.26(b)(14).

Recommendation: Delete Part 4.C.3.

19. **Comment:** Part 4.D.2, on pages 29 and 30, in the section on "Peak Flow Control," the Permit would impose the following requirement:

> ...control the post-development peak storm water runoff discharge rates in natural drainage systems to maintain or reduce pre-development peak discharge rates to prevent down-stream erosion, and to protect stream habitat.

It is beyond the authority of the Regional Board to regulate these effects. Such effects do not constitute the "discharge of pollutants," as that phrase is defined in the CWA. The MS4 program is limited to controls on pollutant discharges. MS4 permits must include, "controls to reduce the *discharge of pollutants* ... and such other provisions ... appropriate for the control of such *pollutants*." CWA § 402(p)(3)(b)(iii), 33 U.S.C. § 1342(p)(3)(b)(iii), (emphasis added). The term "pollutant" as used in sections 301 and 402 is defined by the CWA to mean:

> dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. (33 U.S.C § 1362(6), CWA § 502(a))

Water itself is simply not within this statutory definition. Simply because urban runoff may not be of pristine water quality, does not mean that its erosive capacity, once it enters waters of the United States or the State, is subject to the MS4 program.

CWA case law uniformly has found the definition of "pollutant" to not include the release of water which causes downstream erosion. In *National Wildlife Fed'n v. Gorsuch*, 693 F.2d 156 (D.C. Cir. 1982), the National Wildlife Federation argued that dams require NPDES permits, and that discharges from dams amounted to a "discharge

of a pollutant." The court acknowledged that among the water quality problems that may be caused by dams is the discharge of waters with the potential to cause downstream erosion. While stating that discharges from dams usually contain less sediment than upstream water, the court stated that, "the river will 'tend to restore its equilibrium [sediment] loading by scouring the downstream channel.'" *Id.* at 164 (alteration in original). However, the court held that discharges of water from dams were not discharges of pollutants, and did not fall within the CWA definition of "pollutant" and did not require a NPDES permit. *See id.* at 171-72.

Recommendation: Delete Part 4.D.2, on pages 29 and 30.

20. **Comment:** Part 4.D.3, Standard Urban Storm Water Mitigation Plans, at page 30, exceeds the Board's authority. See comment 1, above.

Recommendation: Revise Part 4.D.3, Standard Urban Storm Water Mitigation Plans, to make their use optional at the discretion of a Co-permitee, as part of its strategy for reducing the discharge of Pollutants to the Maximum Extent Practicable.

21. **Comment:** Part 4.D.3.b), on page 30 of the Permit, would require each Co-permittee to require the application of SUSMPs to commercial developments, including Retail Gasoline Outlets and restaurants. However, in the preamble to the promulgation of the Phase I regulations, the U.S. EPA stated that "EPA views gas stations as retail commercial facilities not covered by this regulation. It should be noted that SIC classifies gas stations as retail." 55 Fed.Reg. 48013-14, Nov. 16, 1990.

Recommendation: In view of EPA's statement that gas stations, as they are retail facilities, are not covered by the Phase I regulations, Part 4.D.3.b.(4), on page 30 of the Permit, should be revised to cite specific authority for the proposition that gas stations and restaurants may be covered by the Permit, or Part 4.D.3.b.(4) and (5), on page 30 of the Permit, should be deleted. Inclusion of commercial, including retail, facilities in other parts of the Permit, such as Part 4.C.1 and 2, on page 26, should also be deleted.

22. **Comment:** Part 4.D.4, Numerical Design Criteria, at page 31, which requires BMPs to incorporate specific design criteria, exceeds the Board's authority to prescribe how MEP is to be achieved. While the Regional Board is the permitting agency, its power to specify the particular manner in which compliance may be achieved is limited. Cities and counties have broad discretion to comply in any lawful manner. Section 13360(a) of the California Water Code states in pertinent part:

> No waste discharge requirement or other order of a regional board ... shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner.

Recommendation: The volume- and flow-based design standards for structural BMPs clearly run afoul of § 13360. The Permit should be revised to make their use optional at the discretion of each Co-permittee.

23. **Comment:** The requirement for Site Specific Mitigation, Part 4.D.7.a).(4), on page 32, is overbroad, as applied to "Outdoor handling or storage of hazardous materials" and is inconsistent with the EPA's "no exposure" rule promulgated as part of the Phase II regulations. EPA has stated that "EPA believes that drums and barrels that are stored outdoors pose little risk of storm water contamination unless they are open, deteriorated or leaking." 64 Fed.Reg. 68786, December 8, 1999. As to "handling" EPA explains "Moving the containers while outside does not create 'exposure' provided that the containers are not open, deteriorated or leaking." 64 Fed.Reg. 68786, December 8, 1999.

Recommendation: Revise Part 4.D.7.a).(4), on page 32, to read: "Outdoor handling or storage of hazardous materials in containers which are open, deteriorated or leaking."

24. **Comment:** Part 4.D.9, "Maintenance Agreement and Transfer" on page 33, has several grammatical errors.

Recommendation: In 4.D.9.a), on page 33, change "developers" (plural) to "developer's" (possessive). In 4.D.9.b), change "the public entity" to "a public entity." In 4.D.9.c), change "requires" to "require" (as in "conditions...require"). Add a period after BMPs" in 4.D.9.e).

25. **Comment:** In Part 4.D.13. "General Plan Update" on page 34, the Permit would exceed the Board's authority by requiring Co-permitees to amend their respective General Plans. See comment 1, above.

Recommendation: Make revision of general plans discretionary with the local governments, not a requirement imposed by the Board.

26. **Comment:** The preface to Part 4.E, Development Construction Program, on page 35, fails to provide that the requirement to control runoff is to control the discharge of

pollutants to the standard required by the Clean Water Act, i.e., to the "Maximum Extent Practicable." As you are aware, and as was discussed during the EAC conference call on July 18, 2001, § 402(p)(3)(B)(iii) of the CWA, 33 U.S.C. § 1342(p)(3)(B)(iii), does not impose an absolute prohibition on the discharge of pollutants. Instead, the section requires that:

> Permits for discharges from municipal storm sewers --
>
> > (iii) shall require controls to reduce the discharge of pollutants to the ***maximum extent practicable***, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. (Emphasis added.)

Recommendation: Change the period at the end of the first sentence in the preface to Part 4.E, Development Construction Program, on page 35, to a comma and add the words: "to the Maximum Extent Practicable." In addition, add a new Finding F.10, on page 14, to read as follows:

> "Nothing in this Permit shall be construed to require an absolute prohibition on the discharge of Storm Water or any Pollutant. This Permit is issued pursuant to § 402(p)(3)(B)(iii) of the CWA, 33 U.S.C. § 1342(p)(3)(B)(iii), which does not impose an absolute prohibition on the discharge of pollutants. Instead, the section requires that permits for discharges from municipal storm sewers --
>
> > (iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

27. **Comment:** Part 4.E.d) and e), on page 36, imposing limitations on grading during the wet season, are unduly restrictive, especially as applied to construction sites smaller than five acres.

Recommendation: Delete Part 4.E.d) and e), on page 36.

28. **Comment:** In Part 4.1, on page 36, the introductory provision is overly broad, and could be argued to make the provisions which follow applicable to projects which do not involve disturbance of soil.

Recommendation: In Part 4.1, on page 36, revise the introductory provision to read: "In addition, for projects which involve disturbance of one or more acres of soil, each Co-permittee shall require...."

29. **Comment:** On page 40, the permit requirement exception referred to in Part 4.F.4.b)(6), should be clarified. First, the exception, as we understand it, does not apply to airports, power plants and uncontrolled sanitary landfills. Second, there is potential for confusion, as many may regard this exception as having its basis in the Clean Water Act, when the exception is based on § 1068(c) of the Intermodal Surface Transportation and Efficiency Act of 1991, as extended by the EPA when it promulgated the Phase II final rules. 64 Fed.Reg. 68780, December 8, 1999.

Recommendation: Revise the permit requirement exception referred to in Part 4.F.4.b)(6), on page 40, beginning with the word "except" to read as follows: "except that, pursuant to § 1068(c) of the Intermodal Surface Transportation and Efficiency Act of 1991, until March 10, 2003, storm water discharges associated with industrial activity, including construction, that are owned or operated by a municipality with a population under 100,000 are exempt from the need to apply for or obtain a storm water discharge permit,. See 40 C.F.R. 1262.26(e)(1)(ii), 64 Fed.Reg. 68780, December 8, 1999.

30. **Comment:** As was discussed during the EAC conference call on July 18, 2001, the Dry Weather Diversions provisions in Part 4.F.12.a) and b), beginning at the bottom of page 44, seem redundant and overbroad.

Recommendation: Delete Part 4.F.12.a), and revise Part 4.F.12.b) and revise the language to provide that: "Co-permittees are to study approaches for determining...."

31. **Comment:** In part 4.G.1.b), "Tracking," on page 45, the undefined term "Lead Permittee" is used. In addition, the "Lead Permittee" is assigned the duty of prescribing the scale and format for a baseline storm drain system map to be prepared by each Co-permittee. However, these storm drain system map duties do not appear in the section which describes the responsibilities of either the Principal Permittee (Part 3.D, on page 18) or the section on the responsibilities of the Permittees (Part 3.E, beginning at the bottom of page 18).

Recommendation: In part 4.G.1.b), "Tracking," on page 45, change the undefined term "Lead Permittee" to the defined term "Principal Permittee." In Part 3.D, on page 18, add a new item 8, to read as follows: "In consultation with Co-permittees, prescribe the scale and format for the storm drain system maps required by Part 4.G.1.b)." In Part 3.E, "Responsibilities of the Permittees," add a new item 7, to read as follows: "Prepare and submit the storm drain system maps required by Part 4.G.1.b)."

32. **Comment:** In PART 5, DEFINITIONS, on page 49, "Illicit Disposal" is defined to mean "any disposal, either intentionally (sic) or unintentionally (sic) of material(s) or waste(s) that can pollute storm water." This definition would carry this Permit far beyond the reach of the Clean Water Act. The Congress, in enacting the Clean Water Act, prohibited the discharge of "Pollutants," a term which it defined. While the term "Pollutant" is defined in PART 5, DEFINITIONS, that definition is not used here in the definition of "Illicit Disposal." Instead, the definition of "Illicit Disposal" uses the vague term "can pollute." As the use of the term "can pollute" rather than the defined term "Discharge of a Pollutant" might be construed as meaning something other than "Discharge of a Pollutant." This lack of precision invites disagreement and, potentially, litigation. Moreover, the definition is not limited to discharges into MS4s, but could be construed to apply to disposal into solid waste containers.

Recommendation: The definition of "Illicit Disposal" should be changed to "the unpermitted Discharge of a Pollutant into a Municipal Separate Storm Sewer System."

33. **Comment:** In PART 5, DEFINITIONS, on page 52, "Redevelopment" is defined to mean "land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site." The definition further provides that "Redevelopment" includes exterior remodeling. These aspects of the definition of "Redevelopment" conflict with the EPA's definition of the term. In promulgating the Phase II final rules, EPA stated

> EPA intends the term "redevelopment" to refer to alterations of a property that change the "footprint" of a site or building in such a way that results in the disturbance of equal to or greater than 1 acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls.

64 Fed.Reg. 68760, December 8, 1999. The Cities are aware of no evidence to support the use of a 5,000 square foot, rather than one acre, threshold, or to apply the redevelopment requirements to remodeling.

Recommendation: The definition of "Redevelopment" should be changed to

> alterations of a property that change the "footprint" of a site or building in such a way that results in the disturbance of equal to or greater than 1 acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls.

34. **Comment:** PART 6.F.2, in the section on "Inspection and Entry," on page 57, fails to include the limitation imposed by 40 CFR § 122.41(i), which provides that that access to all documents as may be required by law shall be conducted at "reasonable times."

Recommendation: PART 6.F.2, in the section on "Inspection and Entry," on page 57, should be revised to read as follows: "Access, at reasonable times, to inspect and copy any records required by this Order, in accordance with 40 CFR § 122.41(i)."

35. **Comment:** As was discussed during the EAC conference call on July 18, 2001, the standard provisions for "Bypass" and "Upset" in Parts 6.M, beginning on page 59, and 6.N, beginning on page 60, respectively, seem inappropriate in a MS4 permit.

Recommendation: Persuade EPA that it is inappropriate to include POTW standard provisions in a MS4 permit.

SANTA MONICA
BAYKEEPER
Protecting Our Bay
in cooperation with
The Frank G. Wells
Environmental Law Clinic &
the Water Keeper Alliance

May 15, 2001

Dennis Dickerson
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Los Angeles County Municipal Storm Water Permit Renewal

Dear Mr. Dickerson:

Santa Monica BayKeeper submits the following comments regarding the draft Municipal Storm Water Permit for Los Angeles County and 83 local cities. We also hereby incorporate by reference those comments submitted by the Natural Resources Defense Council and Heal the Bay on this matter.

THE NATURE OF THE PROBLEM

As this Board is well aware, urban runoff is a significant problem for local surface waters. This information is highlighted in the In Re Petition of Natural Resources Defense Council for Correction of Legal Deficiencies or Withdrawal of Stormwater Program Administered by the Los Angeles Regional Water Quality Control Board, on file with the Board.[1]

STORM WATER DISCHARGES CANNOT AND SHOULD NOT CAUSE OR CONTRIBUTE TO EXCEEDANCES OF WATER QUALITY STANDARDS OR WATER QUALITY OBJECTIVES.

BayKeeper agrees that storm water discharges cannot cause or contribute to exceedances of water quality standards. See, e.g. In re the Matter of Environmental Health Coalition, SWRCB Order No. 98-11 (January 22, 1998). Nonetheless, many cities make much of the claim that the Clean Water Act, according to the Ninth Circuit decision in Defenders of Wildlife v. Browner, does not mandate inclusion of numeric effluent limits in municipal storm water permit. Instead, the court found these limits are discretionary with EPA and the states. However, what the cities are missing is the fact that the State already decided that storm water discharges would be subject to certain effluent limits and receiving water objectives (see e.g., LA Basin Plan, CA Ocean Plan). This regional board cannot now ignore these state regulations, as the permittees seem to want.

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[1] We hereby incorporate by reference the Petition as well as the referenced materials on water quality impairment.

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May 15, 2001

Dennis Dickerson
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

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---

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ALL NEW MUNICIPAL STORM DRAINS SHOULD MEET WATER QUALITY STANDARDS BEFORE INSTALLATION

According to 40 CFR 122.4(i), with limited exception, "No permit may be issued... to a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards." The Regional Board has largely ignored this requirement. Nonetheless, BayKeeper believes at a minimum that this permit should require municipalities to demonstrate that new storm drains will not cause or contribute to exceedances of water quality standards. We believe that this determination should be made before any new drains are allowed. We suggest the following language:

> *Discharges from a new stormwater outfall, constructed after the issuance of this permit, shall not cause or contribute to a violation of applicable water quality objectives. Copermittees shall demonstrate compliance with this requirement before construction of such outfall commences by submitting to the Regional Board, prior to construction, documentation evidencing how compliance will be achieved and any water quality data to support such claims.*
>
> *For purposes of this permit, a new stormwater outfall means an outfall that is constructed at a location where a municipal separate stormwater discharge did not previously exist. For purposes of this permit, the point of compliance for discharges from a new stormwater outfall is in the naturally-occurring or man altered surface water body at the point of discharge.*

We also believe this to be fully consistent with the Regional Board's receiving water approach, although it provides clarity to ensure protection before a pipe is installed.

MEP IS NOT A PROPER LIMITATION ON CONTROLS FOR NON-STORMWATER DISCHARGES

Page 18 of the permit requires permittees to possess the necessary legal authority to prohibit non-stormwater discharges "to the maximum extent practicable." This is inconsistent with the existing MS4 permit (see page 11), the proposed permit (see page 12) and the Clean Water Act. In particular, 33 U.S.C. Section 1342 (p)(3)(B)(ii) requires permits for discharges from municipal storm systems to "include a requirement to effectively prohibit non-stormwater discharges into the storm sewer." There is no mention of MEP in this requirement, as the MEP component of the municipal storm water provision is found in the next subsection, 33 U.S.C. Section 1342 (p)(3)(B)(iii). For this reason we recommend the following language in place of the proposed language:

> *Co-permittees shall possess the necessary legal authority to prohibit non-storm water discharges and control the contribution of pollutants to the storm drain system from storm drain discharges.*

THE SUSMP REQUIREMENTS MUST ABSOLUTELY PROHIBIT DISCHARGES TO AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE.

Under the current proposal, the definition of Environmentally Sensitive Areas (ESAs) includes Areas of Special Biological Significance (ASBS) for regulation under the SUSMP requirements. See Proposed Permit pages 32 and 48. BayKeeper is fully supportive of protecting ESA's. However, we believe that ASBS discharges are afforded absolute protection from storm water discharges. Indeed, as the Board is fully aware, the Ocean Plan, for nearly three decades, has contained an absolute prohibition on discharges of waste, including stormwater, to ASBSs. See e.g. SWRCB Order No. 2001-08 (April 26, 2001) (Upholding the Ocean Plan discharge prohibition for Caltrans stormwater discharges to an ASBS in Orange County). Thus, the SUSMP provision, as written, could lead to violations of this requirement. For the reasons discussed below, we therefore recommend the following SUSMP language change:

> *Stormwater or dry weather urban runoff discharges to ASBSs are absolutely prohibited.*

The California Ocean Plan ("Ocean Plan" or the "Plan") is a statewide water quality control plan for ocean waters. SWRCB, 1997 California Ocean Plan, Water Quality Control Plan for Ocean Waters of California (July 23, 1997).[2] Fundamentally, it reflects the view of the State Board that the "protection of the quality of the ocean waters for use and enjoyment by the people of the State requires control of the discharge of waste to ocean waters . . . ." Id. at 1.

The Ocean Plan was first adopted in 1972 to establish policies for the discharge of waste to the Ocean. The Ocean Plan is authorized by sections 13000 and 13170 of the Porter-Cologne Water Quality Act ("Porter-Cologne Act" or "Water Code"). The Ocean Plan was adopted to comply with section 303 of the federal Clean Water Act, which requires the adoption of water quality standards for all interstate and intrastate navigable waters. 33 U.S.C. § 1313; Cal. Water Code § 13170. Navigable waters, as defined by the Clean Water Act, include the territorial seas. 33 U.S.C. § 1362(7).

Since its inception, the Ocean Plan has applied to most sources of water pollution, including stormwater discharged through pipes and other channels. The first version of the Plan, issued in 1972, contained very limited exceptions for vessel wastes and dredging (and the disposal of dredging spoils). In fact, these are the only exceptions that have ever existed in the Ocean Plan. Thermal control was the subject of a companion water quality control plan, which was adopted on May 18, 1972. SWRCB, Water Quality Control Plan for Ocean Waters of California (July 6, 1972) at 10.

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[2] True and correct copies of source documents (other than cases, statutes and regulations) are attached as exhibits to "Declaration of Heather L. Hoecherl in Support of Response to Petition of Department of Transportation," filed herewith.

In 1978, the State Board updated the Ocean Plan "after an extensive review . . . ." SWRCB, Resolution No. 78-2 (January 19, 1978). In the updated Plan, the Board elaborated on the applicability of Ocean Plan requirements by providing that: "[t]his Plan is applicable, in its entirety, to point source discharges to the Ocean." SWRCB, Water Quality Control Plan for Ocean Waters of California (1978) (reprinted in February 1981) at 10. The 1978 Ocean Plan further noted that non-point discharges were subject to most of the Plan's provisions, including its Chapter V discharge prohibitions, such as the prohibition applicable to Areas of Special Biological Significance. Id.

The State Board's intent in making this change underscores the broad scope of the Ocean Plan from its earliest versions in the 1970s. CEQA documentation associated with the 1978 update to the Plan states that, because of the limited exceptions contained therein, "it is logical to assume that unless specifically excluded the plan is applicable to non-point sources, including diffuse storm drainage." SWRCB, Initial Study to Describe the Environmental Impact of Proposed Amendments to the "Water Quality Control Plan for Ocean Waters of California" (January 19, 1978) ("1978 Negative Declaration") at 26-27. While the classification of stormwater as a point source was settled once and for all in 1987 by the United States Congress, the use of the phrase "diffuse storm drainage" to elucidate the term "non-point sources" indicates an earlier recognition by the Board that some stormwater discharges, such as those carried through a conveyance, were properly considered a "point source" of pollution. Nonetheless, the Ocean Plan prohibition applies to both point sources and non-point sources.

For this reason, we feel the permit should not include ASBSs in the SUSMP numeric design criteria. Rather, the permit should recognize the long-standing prohibition on discharges to ASBSs.[3]

A PERMIT SHOULD NOT BE ISSUED UNLESS AND UNTIL THE PERMITTEES DEMONSTRATE THEY CAN AND WILL FULLY ENFORCE LOCAL ORDINANCES AGAINST INDUSTRIAL FACILITIES.

A number of cities have raised concerns about the provisions for industrial and commercial inspection and enforcement programs contained at pages 25-28 of the proposed permit. Some cities have gone so far as to state that they do not have the legal ability to do what is requested of them under this section. BayKeeper is very troubled by these statements, particularly given the fact that these municipalities have had nearly 10 years to address these sources of pollution and have done little.

Meanwhile, the federal regulations make very specific legal authority requirements in the stormwater permit *application process*. In particular, the federal regulations, at 40 CFR 122.26 (d)(2), state:

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[3] We hereby incorporate by reference the comments provided to the state board in *******.

(2) "Part 2. Part 2 of the application shall consist of:

(i) Adequate legal authority. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance, or series of contract which authorizes or enables the applicant at a minimum to:

(A) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by stormwater discharges associated with industrial activity and the quality of stormwater discharged from sites of industrial activity.

(B) Prohibit through ordinance, order or similar means, illicit discharges to the municipal storm sewer;

(C) Control through ordinance, order or similar means, the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than stormwaters;

(D) Control through interagency agreements among co-applicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

(E) Require compliance with conditions in ordinances, permits, contracts or orders; and

(F) Carry out all inspections, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer." (Emphasis added).

In addition, federal regulations also require as part of the application process, "[a] description of a program to monitor and control pollutants in storm water discharges to municipal systems from ...industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system." 40 CFR 122.26(d)(2)(iv)(C) (Emphasis added). Similar provisions exist for construction inspection and enforcement programs. See e.g. 40 CFR 122.26(d)(2)(iv)(D).

Clearly, the regulations never intended to allow continued and ongoing programs to focus exclusively on education, as the permittees seem to desire. Instead, the only logical conclusion is that the municipalities must cooperate in enforcing industrial stormwater programs, through their local ordinance authority. For them to suggest that they do not have that authority simply demonstrates that they have not complied with the Part 2 application process.

Moreover, if the cities' argument is that the Regional Board does not have the authority to issue a permit with new conditions requiring inspection, then to a certain extent we would agree. However, we do so because of the fact that no permit at all can be issued where the city does not demonstrate that they have the authority in the first place. It is not the responsibility of the Regional Board to include such a provision in the permit. Rather, it is

the responsibility of the cities, should they desire a permit to discharge to Waters of the United States, to demonstrate -- in advance of the issuance of a permit -- that they have the legal authority necessary under the federal regulations in order to receive a permit. The cities have clearly failed to do so and thus a permit should not be issued until such assurances are provided.

THE PERMIT SHOULD INCLUDE RETAIL GASOLINE OUTLETS UNDER THE STANDARD URBAN STORM WATER MITIGATION PLAN.

BayKeeper is very supportive of including Retail Gasoline Outlets (RGOs) in the SUSMP numeric design provisions. We agree with staff findings Number 11 and 12 that "studies indicate that facilities with paved surface subject to frequent motor vehicle traffic (such as parking lots and fast food restaurants) or facilities which perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of pollutants of concern in stormwater." (citation omitted).

Moreover, we remain unconvinced by many of the arguments presented to the State Water Board last year by WSPA regarding potential hazards from treatment or infiltration devices at RGOs.[4]

In particular, representatives of WSPA claimed, among other things, that there would be a "risk of explosive gases building up in an underground vault" and thus SUSMP numeric design provisions should not apply to RGOs Mr. Welch, an attorney for WSPA stated that "if you had a leak that gets in there and a car drives up, you could have an explosion." Transcript of SWRCB Proceedings at 214 (June 7, 2000). In addition, Mr. Timothy Simpson, a consultant for WSPA, testified that "from a practical perspective, any device that's going to collect run-off is also going to collect any spilled product, which can create a significant explosion hazard and make it much more difficult to clean up spills when they do occur." Transcript of Proceedings at 234. Moreover, Mr. Wilkness testified "by not requiring a treatment device that has an underground structure, you don't have this problem." Transcript of Proceedings at 218.

In light of this testimony BayKeeper conducted a general survey of RGOs in the region to identify if in fact the RGO industry as a whole has addressed these types of concerns in the design and construction of their own facilities.

As part of this survey, BayKeeper identified over 100 RGOs in the area with storm drain inlets or other open-air underground drainage structures on RGO properties. Attached hereto as Exhibit I are several hundred true and correct color photographs identifying the location of such stations as well as the actual storm drain inlets on the RGO property itself. This information directly contradicts the testimony of WSPA's representatives at

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[4] We hereby incorporate by reference the entire administrative record in the SUSMP proceedings, including the numerous comment letters provided by the environmental community as well as the testimony at the various regional and state board hearings.

the State Board hearing. Moreover, WSPA's testimony is astonishing given the fact that BayKeeper investigators identified underground drainage inlets immediately under some RGO canopies, exactly where cars are fueling. (See e.g. photographs for stations at pages 5, 8, 9,10, 25).

At a minimum, this information makes it clear that subterranean drainage systems are common at RGOs and that some types of structural treatment BMPs (such as storm drain inlet filters) are safe for RGOs. At best, it obliterates WSPAs entire argument about the risks of underground structures at RGOs. It also seems clear that WSPA representatives conceded the fact that some structural BMPs may not cause risk of explosion is point during cross examination of Mr. Wilkness by Mr. Helperin:

"Q. (by Mr. Helperin): All I'm trying to establish is that the two types of BMPs that you discussed as being problematic [sand filters and compost filters], those problems don't necessarily apply to many of the other types of BMPs that are available to an RGO; is that right?"

A. (by Mr. Wilkness): Those particular problems, yes."

See Transcript of Proceeding at 97. (June 8, 2000).

Finally, the SUSMP continues to have a provision to protect groundwater quality for other types of infiltration BMPs. We see no reason whatsoever to exempt RGOs from the numeric design requirements.

THE ILLICIT CONNECTION AND DISCHARGE PROGRAM SHOULD BE STRENGTHENED.

BayKeeper recently learned that the City of Los Angeles, and potentially many other cities, issued permits for stormwater or other discharges to the MS4 for several decades. In the City of LA, thousands of permits were issued before and after the MS4 NPDES program came into existence. In light of this, BayKeeper believes all cities should undertake similar efforts to the City of LA to ensure that these types of discharges do not violation the discharge prohibitions of the permit. This should include a review of all past city permits authorizing any discharges to the MS4. If the discharge is not categorically exempt under the MS4 permit, then the discharge must immediately cease or the discharger must obtain an individual NPDES permit from the Regional Board.

THE PERMIT SHOULD HAVE IMPLEMENTING LANGUAGE FOR TMDLS.

While we believe that all present and future TMDL requirements are applicable to stormwater discharges as point sources, we feel it would be helpful to include express provision to TMDL compliance in this permit. We suggest the following additional language:

The permittees shall comply with applicable waste load allocations developed and approved for TMDLs for impaired water bodies.

THE ECONOMICS OF STORM WATER POLLUTION WARRANT STRONG WATER QUALITY PROTECTION

If dischargers are going to insist on economic considerations for NPDES permits (a position that BayKeeper believes is contrary to federal and state law, but one that the board regularly seems to consider), we request that you consider prior economic conclusions that demonstrate the enormous economic importance of clean water. These documents include, among the others, evidence from EPA as set forth in the 305(b) Report to Congress (Chapter 9) - http://www.epa.gov/305b/98report/toc.html, EPA's Liquid Assets 2000 (chapters: Executive Summary and "The Business of Clean Water," - http://www.epa.gov/ow/liquidassets/), and the economic considerations from the California Toxics Rule, Federal Register: May 18, 2000 (Volume 65, Number 97)Page 31705.

WE SUPPORT GENERAL PLAN UPDATES

BayKeeper is very supportive of requiring general plan updates to reflect storm water requirements. For too long, many of these plans have not included a comprehensive discussion of water quality, let alone provision to comply with water quality requirements. With the upcoming County and City of LA revisions, now is the time to address these issues.

THE PERMIT SHOULD CONTAIN SOME ADDITIONAL FINDINGS.

BayKeeper believes that evidence in the record supports inclusion of the following in the "Findings" portion of the proposed permit:

- Urban Runoff is a waste and a point source discharge of pollutants: Urban runoff is a waste, as defined in the California Water Code, that contains pollutants and adversely affects the quality of the waters of the State. The discharge of urban runoff from an MS4 is a "discharge of pollutants from a points source" into waters of the United States as defined in the Clean Water Act. (Language identical to San Diego Municipal Storm Water Permit, SDRWQCB Order No. 2001-01 at p.1).

- Urban Development Increases Pollutant Load, Volume, and Velocity of Development: During Urban Development two important changes occur. First, natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing a very effective natural purification process. Because pavement and concrete can neither absorb water nor remove pollutants, the natural purification characteristics of the land are lost. Secondly, urban development creates

new pollution sources as human population density increases and brings with it proportionally higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc. which can either be washed or directly dumped into the MS4. (Language identical to San Diego Municipal Storm Water Permit, SDRWQCB Order No. 2001-01 at p.2).

Thank you for the opportunity to comment on this draft permit. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Steve Fleischli
Executive Director

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2001 MAY 22 P 2:59

May 16, 2001

Dr. Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 W. 4th Street. Suite 200
Los Angeles, California 90012

Re: Comments on Draft LARWQCB NPDES No. CAS614001 – Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles and the Incorporated Cities , Except for Long Beach and Santa Clarita

Dear Dr. Swamikannu:

On behalf of Heal the Bay, an environmental group with over 10,000 members dedicated to making Santa Monica Bay and Southern California coastal waters safe and healthy again for people and marine life, we have the following comments on the first draft L.A. County storm water NPDES permit. Although the permit is much further along than either the first draft of the 1990 or 1996 permits, we still have numerous comments and concerns about the draft permit. We believe that these and other changes should be made to the draft permit before it is finalized, and we wish to incorporate by reference the comments submitted by the Santa Monica Baykeeper and the Natural Resources Defense Council on the Draft Permit. We also incorporate by enclosure our previously-submitted comments on the Draft Monitoring and Reporting Requirements for this permit, as an addendum to this letter. Further comments on monitoring will follow once a revised monitoring plan is issued by the Regional Board.

The permit fails to truly require a watershed approach to storm water pollution abatement – The draft permit lays out a baseline storm water regulatory approach without additional watershed-specific requirements. All of the watershed groups had to prepare a watershed management area plan (WMAP) as required under the 1996 permit. However, the RWQCB failed to require implementation of these plans in order to achieve receiving water quality objectives. For example: most of the Malibu Creek watershed is listed for nutrients and fecal bacteria on California's S.303d list, yet there are no specific requirements in the permit for BMP implementation to achieve water quality objectives within the watershed. Also, there are no requirements to implement any of the watershed's WMAP. As the permit is currently crafted, achievement of receiving water quality objectives and implementation of WMAPs are unlikely to occur. Please rectify this omission by insuring that requirements for implementing watershed specific BMPs targeting water quality impairments and WMAP identified priorities are included in the permit. Watershed-specific issues were addressed and studied extensively as part of the 1996 permit. It is long overdue to include watershed-specific requirements for each of the watersheds within the storm water permit.

Definition of Environmentally Sensitive Area (ESA) – In findings on page 4 –number 6 and in definitions. Please include Environmentally Sensitive Habitat Areas (ESHAs) with receiving waters in your definition of ESAs. Los Angeles County has an extensive, ongoing

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process using numerous scientific experts to identify and map ESHAs. The State certainly has not undergone such an extensive effort to identify and characterize the areas already included as part of the definition of ESAs. Please make the necessary addition.

The findings should include justification for the use of SIP minimum levels. This issue has been brought up by the County in discussions about monitoring requirements. SIP MLs must be included in the permit because they are the only recently developed MLs that attempt to take into consideration recent improvements in chemical analytical methods. If there were other RWQCB, SWRCB or EPA analytical methods that had more current MLs, then the use of those MLs certainly would be an option for the Board. However, there really are no sensible alternatives to the SIP MLs. Low detection limits are needed to provide information on land-use, tributary and watershed mass loadings. Until recently, PAHs were found at concentrations of concern in sediments in local estuaries, yet PAHs were not detected in runoff because of the high MLs in the analytical methods used. Use of the SIP MLs should go a long way towards eliminating this problem. Also, non-detects can't be used to accurately determine mass loadings. Finally, quantifiable data will allow the RWQCB to better assess water quality and to develop Waste Load Allocations and Load Allocations for TMDLs.

Correction of finding 23 on page 7 – Heal the Bay and the Santa Monica BayKeeper were also plaintiffs in the TMDL lawsuit against the EPA.

Since dam releases are not included in the discharge prohibition section, does that make them illegal? – The discharge prohibition section includes numerous types of dry-weather runoff discharges that are legal under the permit. However, the permit makes no mention of how to categorize occasional dry weather discharges from dams. These discharges can severely alter the natural dry-weather flow regime for a given stream segment. Also, because waters held in reservoirs and lakes behind dams often have siltation, nutrient and fecal bacteria problems, dam releases can lead to exceedances of water quality objectives downstream of the discharge. Dam releases are currently either unregulated or poorly regulated by the RWQCB. Please provide language in the permit to insure that these dry-weather runoff discharges are prohibited except as needed to prevent imminent harm to public health or property.

The draft permit does not include additional requirements for those circumstances where implementation of the revised SQMP fails to result in the abatement of violations of water quality objectives and/or standards – As the permit is written on page 14 - #4, there are no further requirements stated for permittees in the event that implementation of the modified SQMP fails to result in the abatement of violations of water quality standards and objectives. The iterative process laid out in the permit must continue until the violations are abated if the permittee still has the reasonable potential to cause or contribute to these violations. Please modify the permit accordingly.

Please add the following requirement under Part 3 B – All permittees must ensure that residents, businesses and local government properties and employees all comply with the

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outreach material should include information on pollutants and sources of concern *and source abatement measures.*

Pg 24 2a – Corporate outreach – Please add the following to the second sentence: *and those businesses that have the reasonable potential to cause or contribute to violations of water quality objectives and/or standards.* This language clarifies additional types of commercial businesses that should be targeted in the corporate outreach program.

Pg. 25 Programs for industrial/commercial inspections must be clarified. The focus of this program must be to educate industries and commercial businesses that are potential sources of storm water pollutants to receiving waters on regulatory requirements and BMPs to reduce storm water pollution. This section should be clarified as compliance assurance and enforcement of existing local ordinances. Currently, the language could be interpreted as requiring permittees to enforce state and federal regulatory requirements over and above what is required in local storm water ordinances. Also, no definition is provided as to what constitutes a commercial facility under the inspection requirement. Other than gas stations, restaurants, and automotive service facilities, only those commercial facilities that have the reasonable potential to cause or contribute violations of water quality objectives and/or standards should be included in the program. This should be clarified on **pg. 27 – 3d** as well.

Pg 27 – 4a BMP implementation clarification needed- please describe the designated minimum BMPs as approved in Resolution No. 98-08. As written, it is difficult to determine which BMPs are required for each type of business.

Pg 27 - 5 – Inspection of Industrial/Commercial sites must focus on compliance with local ordinances – Again, the point of emphasis of the section should be inspections to insure that industrial and pertinent commercial facilities are complying with local storm water ordinances. This is stated separately as a requirement under Section 6, but it should be stated as part of section 5. As part of the inspection requirements, please specify that inspectors must ask to see a SWPPP and NOI form for Phase I industrial facilities.

Pg 29 – C2 – Focus on peak flow control may not prevent down-stream erosion and sedimentation problems. Post development storm flows must mimic pre-existing conditions. Although controlling peak storm runoff discharge rates is critical to protecting stream and wetland habitat, it is by no means the only important hydrologic parameter that needs to be addressed. Maintaining a hydrograph that mimics natural conditions is the best way to prevent sedimentation and erosion. That means that flow controls should take in to account the total volume of runoff discharged from a site and when and at what magnitude the runoff is discharged from the site. Without taking the entire hydrograph into account, one may design and implement BMPs that manage the peak storm flow without abating sedimentation and erosion problems.

Pg 30-31 – The SUSMP provisions need to provide a more complete definition of ESAs. We strongly support the inclusion of ESAs and retail gasoline outlets in the SUSMP

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permittee's local storm water pollution control ordinances. Without strong local compliance assurance and enforcement programs, the ordinances will have little to no impact on storm water pollution.

Delete the MEP language in the Legal authority Section on Page 18 – The Ventura County storm water permit includes the following language: *Co-permittees shall possess the necessary legal authority to prohibit non-storm water discharges and control the contribution of pollutants to the storm drain system from storm drain discharges . . . .* For consistency purposes, the language should be the same as the Ventura County permit. In addition, any inclusion of MEP for issues such as legal authority is a complete misuse of the MEP standard. The bottom line is that the cities must prohibit illegal non-storm water discharges – period.

Also on pg. 18 – add a prohibition of discharge of sediments to the MS4. **Sediment discharges from construction and grading activities can cause major water quality and habitat degradation problems. These discharges must be prohibited.**

More specific requirements in the storm water monitoring reports should be included in the permit pg 20 –J. The annual monitoring reports should include an assessment of BMP efficacy, status and trends results for ongoing monitoring programs, loadings for each watershed, etc.

Modify Public Information and Participation Section - Pg. 21 Part 4. A – Change the third requirement to the following: To measurably change the *waste disposal and polluted runoff generation* behavior of target audiences by encouraging implementation of appropriate solutions.
Pg. 22 1b – Add "*faded or lack of catch basin stencils*" under the list of items to report to the County hotline.
Pg. 22 1c – Insert a sentence after the first sentence: *This message must remain legible during the life of the permit.*
Pg 23d – 1st sentence in the top paragraph – please add *and interested parties* after co-permittees. The public and other agencies (school districts, universities, aquaria, etc.) should be encouraged to participate in this process to strengthen educational efforts.
Also, there should be a requirement to assess program effectiveness for the in-school educational programs. An assessment of students' knowledge of storm water pollution problems and solutions before and after the program should be a permit requirement. Currently, it is difficult to assess how effective educational efforts by the County, City of L.A. and others have been.

Pg 23e – Why were PAHs omitted from the Ballona Creek, Dominguez Channel, and L.A. River target pollutants for outreach? PAHs have been problems in the sediments at the mouths of those creeks and rivers. Also, sediments should be added to the list for the Malibu Creek watershed. Mapping efforts, stream morphology characterization, and biological assessment of the watershed (macroinvertebrate Index of Biological Integrity) have demonstrated that sedimentation and erosion are major problems in the watershed. Finally –

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requirements. As stated previously, the ESA definition must include receiving waters within ESHAs. On a related topic (**also on pg. 47**), why was 200 feet chosen as the distance to define directly adjacent? Clearly storm flows from developed areas can impact receiving waters more than 200 feet from the site.

Pg. 32-33 – 7a – The permit requires development of site-specific mitigation plans without requiring implementation. Implementation requirements need to be added to insure that the plans are implemented and implemented effectively. **Under 7a-7** – please define outdoor animal care. Is it any stable? Commercial stable? A certain size facility? Also, please add golf courses to this list because they use enormous amounts of water, pesticides, herbicides, fungicides, and fertilizers.

Pg. 34 – 10 – The mitigation funding section must be clarified. A definition needs to be provided of a waiver for impracticability. Other than geologic hazard and very high groundwater, what development would merit a waiver? Also, wouldn't the waiver only apply to the infiltration requirement of the SUSMP? One can always provide some level of treatment for runoff coming off site. When a permittee can opt for helping to fund a regional solution and the process by which the funding amount will be determined and the project deemed an acceptable alternative must be clarified in the permit.

Pg. 35 – 14a – Please specify what the RWQCB is requiring in development planning guidelines. Without specific minimum guideline requirements, the development planning guidelines will likely be ineffective.
14b-2 – add *of discharge* after duration.

Pg. 37 – D2 – Programs for Construction sites. **Strike out *that* and replace with *everything* in the first sentence.**
D2d – Add – *sediments shall not be discharged to MS4 or receiving waters.*
D2e – Add *or receiving waters*
D2g – Add – *Grading during the wet season shall be strongly discouraged, limited or prohibited. Justification for the need to grade in the wet season must be provided to the permittee. All erosion-susceptible slopes **must** be covered, netted or planted during the wet season.*

Pg. 39 – D4a – Why is the "one acre or greater" NOI and SWPPP requirements in this section instead of section D2?

Pg. 40 –E2 – In the event of chronic poor beach water quality (high fecal bacteria densities) near a storm drain, what is required of permittees that may have been the source of the contamination? High bacteria densities in storm drains may be due to illegal discharges, illicit connections or leaky sewer lines, so the question is pertinent for this section. When beaches have chronic problems, the permittee must be required to implement a sanitary survey to determine the likely sources of beach contamination. Also, the permittee must

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revise the SQMP and implement appropriate BMPs to abate the water quality problem as soon as possible.

Pg. 42 – E4 – Please add the following prohibitions for landscape and recreational facilities management – *Use of banned pesticides, herbicides, rodenticides and fungicides is prohibited. Disposal of landscape waste in the MS4 and receiving waters is prohibited. The storm water monitoring program must analyze runoff samples for all pesticides, herbicides, rodenticides and fungicides that are used by public agencies.*

Pg. 43 – E5a – Please add the following language - *Catch basin inspection procedures shall include an assessment of the legibility of the catch basin stencil. Illegible stencils must be restenciled within one year of inspection.*
E5e – Please provide greater specificity on the requirements. Do you want the permittees to give you the total annual volume of waste collected from catch basins or do you want the volume by catch basin cleaning route? Or the volume per basin per year? Or the volume per basin per cleaning?
Storm Drain Maintenance – the second E5 needs modifications as well.
E5a – Lack of specificity - All open channels should be visually inspected on at least an annual basis.
E5b – Please clarify.
E5c – Please add a requirement to quantify the annual volume or mass of trash removed per stream segment through the storm drain cleaning program.

Pg. 44 – 6b – The parking lot cleaning and inspection requirements must be clarified. Based on the permit language, it appears as if parking lots may never need to be cleaned. Twice monthly inspections can be performed in lieu of any cleaning. No specificity is provided in the permit on parking lots must be cleaned. (sentence doesn't make sense) Even with inspections, the permit must include a minimum level of parking lot cleaning. For example – *Under no circumstances can parking lots be cleaned less than once per 30 days during the dry season, or less than once per 30 days during dry periods of 30 days or more during the wet season.*

Pg. 44-45 – The program to eliminate illicit connections and discharges does not include quantifiable requirements. All storm drains should be inspected over the life of the permit. We suggest the following monitoring frequency: *All open channels shall be inspected no less than annually. All commercial and industrial storm drains shall be inspected at least once every three years. All problem drains (based on past inspections and historic number of illegal discharges and illicit connections) must be inspected on an annual basis. All remaining drains shall be inspected at least once over the life of the permit.*
As part of the IC/ID program, each permittee should be required to review existing and historic local storm drain connection and/or discharge permits given to businesses. The permittee should determine which, if any, non-storm water discharges are authorized under the existing storm water NPDES permit requirement. Those facilities that do not have a valid

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permit for a legal non-storm water discharge must be forced to cease discharge within 30 to 60 days, or obtain an NPDES permit.

Pg 45 F2b – The priority screening section should be strengthened and clarified. Requirements need to be included in the permit section on how prioritization must occur. Should land use be considered? EMCs based on land uses? County mass loadings data? Source identification and/or critical source monitoring? Also, why are the 1994 Northridge quake and the 1992 civil unrest relevant to this permit seven to nine years later?

Pg 46 F2d – Illicit connection termination. Delete the second sentence because it isn't necessary. Clearly, the RWQCB's intent on this section is to insure that illicit connections are eliminated as quickly as possible, not to enforce against a municipality that is making a good faith effort to enforce ordinance requirements to eliminate illicit connections.

Add the TMDL section that is included in the Ventura County Storm Water Permit. The language from the permit was as follows: *The permittee shall modify the Ventura County Stormwater Management Plan to comply with waste load allocations developed and approved pursuant to the process for the designation and implementation of TMDLs for impaired water bodies.*

If you have any questions about our comments, please don't hesitate to call Mark Gold at 310-453-0395 x119.

Sincerely,

Mark Gold

Mark Gold
Executive Director

Enclosure: March 23, 2001 letter from Heal the Bay to Xavier Swamikannu.

March 23, 2001

Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

RE: Monitoring and Reporting Requirements in the Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County Flood Control District, County of Los Angeles and Cities of Los Angeles County

Dear Dr. Swamikannu:

Thank you for the opportunity to comment on the Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County. In general we are concerned that permit requirements are too vague and the TMDL requirements are not incorporated into the permit.

1. Receiving Waters Studies

The requirements for this section are vague and the categories of studies to be conducted are too broad.

A. "Receiving Water Monitoring" should replace "Natural Stream Studies", and should be required in all five major watersheds. We recommend a program similar to that of the San Diego Municipal separate Storm Sewer System NPDES permit (Order No. 2001-01, California Regional Water Quality Control Board, San Diego Region – see attached). Specifically we advocate a bioassessment program which would consist at a minimum of station identification, sampling, monitoring, and data analysis for 20 stations in order to determine the biological and physical integrity of urban receiving waters within Los Angeles County. In addition, three reference bioassessment stations should be sampled. The bioassessment study should meet the following requirements and should be compatible with the Ambient Monitoring Program being developed by the Los Angeles Regional Board:

   i. Each urban stream bioassessment station must

      a) be located within the jurisdiction of a co-permittee;

      b) be representative of urban stream conditions within one of the five watersheds; and

      c) meet the physical criteria of the California Stream Bioassessment Procedure[1], or a modification thereof, approved by the Executive Officer.

   ii. Each urban stream bioassessment station should be monitored twice annually, in May and October. A minimum of three replicate samples should be collected at each sampling station.

[1] California Stream Bioassessment Procedure, California Department of Fish and Game, Aquatic Bioassessment Laboratory, May 1999.

iii. Sampling, laboratory, quality assurance and analysis procedures should follow the procedures in the California Stream Bioassessment Procedure. Results should be reported annually and data should be submitted to the Board electronically, formatted to CDFG Aquatic Bioassessment Laboratory specifications for inclusion in the statewide bioassessment database.

B. For "Benthic Studies", the parameters to be studied and the number and locations of samples must be specified. Benthic studies should occur at the mouths of all five major watersheds.

i. Parameters should include body burdens of 303(d) listed bioaccumulative contaminants in shellfish and fish.

ii. Population and community metrics of benthic epifauna and infauna must be determined.

iii. Sample numbers and locations should depend on the dynamics of the stormwater plume in each receiving water. Some of the sites must be within the zone of impact of the plume. If the zone of impact is not defined for a given plume, then best professional judgment should determine sampling locations. Each year, study results will determine sampling locations in subsequent years.

C. For "BMP Effectiveness Studies" in Santa Monica Bay, the number of structural and source control BMPs to be evaluated each year must be specified. Leaving this as an open ended requirement will result in an outcome similar to the last two permits: no usable information on BMP effectiveness.

2. Toxicity Testing

A. The permit must state the species to be used in water column toxicity testing, including a minimum of one marine and one freshwater species. We recommend requiring *Ceriodaphnia dubia* for freshwater monitoring because it is known to be sensitive to pesticides which are present and may be causing toxicity in stormwater. As you know, pesticides (Diazinon) have been the leading cause of toxicity in bioassays on urban runoff in a number of northern California areas. A recommendation for the marine bioassay is the sea urchin fertilization test. It is cheap to perform and sensitive to metals.

B. The sediment toxicity testing requirements must be clarified and expanded. We understand the purpose of sediment toxicity testing to determine if and where sediment toxicity exists and what the specific causes are. Therefore:

i. Clarify the "receiving waters" requirement. Does this mean in the river, in the estuary, at the fresh/salt water interface, or elsewhere? We recommend in the estuary, beginning at the region of velocity slow-down of the stormwater plume if it is known, and at the mean low tide line if plume dynamics are unknown.

ii. Sampling locations for the three sediment samples must be specified. Sampling locations should depend on the dynamics of the stormwater plume in each receiving water, and should be in areas of deposition of particles from the stormwater plume. If these areas have not been defined for a given plume, then best professional judgment should determine sampling locations in the first year of the study. The results of the first year of sampling will direct sample site selection in the following years; for example, if grain size

analysis and toxicity results indicate no settlement of stormwater particles, the sampling locations must be re-evaluated before the next sample collection.

iii. The three samples should be tested separately, not composited. We recommend spatially separated samples (for example, 100 m apart and oriented either linearly in an offshore direction, or in a fan pattern where particle settlement from the plume occurs; see 2.B.ii.). This will assist detection of toxicity and determination of causes of toxicity.

C. Total organic carbon determination and grain size analysis must accompany each sediment toxicity test.

3. Toxicity Identification and Evaluation (TIE) Studies

The TIE requirements in the draft monitoring program are not acceptable. The draft program requires a TIE when two consecutive dry-weather or three consecutive wet-weather samples show toxicity. However, only two dry-weather and two wet-weather samples are required for toxicity testing each year. This protocol will not trigger a TIE for wet weather samples in a single year. Nor will it provide sufficient information to determine causes of toxicity.

A. Since little is known about the causes of toxicity in stormwater, a TIE should be triggered whenever a single sample shows toxicity, for the life of this permit. Toxicity is indicated by an amphipod survival rate of 70% or less in a single test.

B. We recommend each TIE study utilize more than one species, because of inter-species differences in sensitivities to stormwater contaminants of concern. For example, arthropods are more sensitive indicators of pesticide toxicity while sea urchins are more sensitive indicators of impacts due to metals.

4. Constituents Exempted from Monitoring

Non-detection in 25% of samples does not justify exemption from the monitoring program. We recommend the following protocol: If a constituent is not detected over the life of the permit and MLs are below the CTR limits, then that constituent may be exempted in future permits, except for the first storm sample of the year when all priority pollutants are tested.

5. Tributary/Source Identification Monitoring

A. Are there 20 monitoring stations in total, or 20 stations per contributing watershed? We recommend basing the number of sampling stations on the number of major tributaries in each watershed, i.e. at least one station in each major tributary and the mainstem of Malibu Creek, at least one station in each major tributary and the mainstem of the San Gabriel River, etc.

B. How many samples are required per storm event? We recommend a minimum of five samples per storm if grab samples are taken, and more (duration of the storm) if an automatic sampler is used.

6. TMDL Requirements

This section was not developed. The TMDL monitoring requirements, as well as Waste Load Allocations (WLAs), should be specified in the permit. For example, on the trash TMDLs for the L.A. River and Ballona Creek, the requirement to participate in the baseline monitoring was specified, but there was no mention of the implementation monitoring requirements. We strongly recommend that all of the pertinent monitoring and implementation requirements in the trash TMDLs should be put directly in the stormwater permit.

Also, there is no mention of the other TMDL requirements that will soon kick in. For example: the Santa Monica Bay beaches pathogen TMDL should be approved by the Regional Board by the end of the year and the Malibu Creek nutrient TMDL will be before the Board this year. Both of these critical TMDLs will have implementation and monitoring requirements. The permit must require entities subject to WLAs to implement pertinent baseline implementation monitoring requirements.

7. Terminology

The terms "detection limit (DL)" and "method detection limit (MDL)" should be replaced with "minimum level (ML)" as per the State Implementation Policy (SIP).

8. Reporting Requirements

In addition to written reports, all data should be submitted electronically.

Thank you again for the opportunity to comment on Stormwater Management/Urban Runoff Discharges NPDES Permit for Los Angeles County.

Sincerely,

Mark Gold, D. Env.
Executive Director,
Heal The Bay

Shelley Luce
Staff Scientist
Heal The Bay

ATTACHMENT 1.

PART A OF THE RECEIVING WATERS MONITORING PROGRAM, FROM ORDER NO. 2001-01, CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION

NRDC
THE EARTH'S BEST DEFENSE

NATURAL RESOURCES DEFENSE COUNCIL

May 16, 2001

Via Facsimile (213-576-6640) and U.S. Mail

Dr. Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90012

Re: Comments on Los Angeles County Municipal Storm Water Permit Draft One

Dear Dr. Swamikannu:

On behalf of over 400,000 NRDC members, including approximately 50,000 who reside in Southern California, the Natural Resources Defense Council appreciates the opportunity to provide comments on the first draft of the 2001 Los Angeles County NPDES Municipal Storm Water Permit ("Draft Permit").

After reviewing the document, there is little question that Regional Board staff have worked hard to produce this Draft Permit. Given the complexity and length of the permit, however, we nevertheless have a number of comments and serious concerns that are addressed below. We believe that these and other changes should be made to the Draft Permit before it is finalized. In this connection, we wish to join in (and thus incorporate by reference) the comments submitted by the Santa Monica BayKeeper and Heal the Bay on the Draft Permit.

Imprecise characterization of Clean Water Act Section 402(p) requirements. Our first comment concerns loose references to the legal requirements imposed by applicable legal authority throughout the Draft Permit. For example, Paragraph 16 on page 6 of the Draft Permit states that the intent of the Draft Permit is to "minimize the discharge of pollutants in storm water." Likewise, the intent of the Draft Permit is

described (Paragraph 43, Page 10) as assuring that discharges do not "cause" excursions of water quality standards. Furthermore, the Draft Permit mistakenly provides that non-storm water discharges must be prohibited to the maximum extent practicable. Draft Permit at 18. *See also* Draft Permit at 19 (omitting MEP standard); *Id.* at 56 (omitting permittees from the standard provision regarding "Duty to Comply").

While Staff's intent to track Clean Water Act requirements may be inferred from these aspects of the Draft Permit, each of these statements nevertheless fails to convey the exact nature of the legal requirement, often understating them. Legally, the Permit must, among other things, result in a reduction of pollutants in storm water to the maximum extent practical, and assure that discharges neither cause nor contribute to the exceedence of water quality standards, and absolutely prohibit non-storm water discharges. 33 U.S.C. Section 1342; 40 U.S.C. Section 122.26. Given the contentious approach to storm water management taken by some permittees, it is imperative that legal requirements be precisely and plainly stated throughout the Permit. We recommend that staff counsel correct the problems identified above and also thoroughly review the Draft Permit with these concerns in mind. We further believe that these legal requirements must be plainly stated as Permit limitations, and not simply set forth in the definitions or findings.

Incomplete Discussion of Nature of Discharges and Sources of Pollutants. Recent monitoring conducted by the County of Los Angeles, and referenced in the Draft Permit, provides important information on pollutants of concern in local storm water discharges. However, these data are not the only sources of information on pollution sources or impacts caused by Southern California's urban runoff problem. Many other agencies and institutions, ranging from the University of California to the Southern California Coastal Water Research Project, have documented severe receiving water impacts caused by storm water and non-storm water discharges and ranging from toxicity to viral detection in the surf zone. Many of these facts—including storm water's status as the largest source of pollutants to the coastal environment—are documented in NRDC's

Petition to the United States EPA for Correction of Legal Deficiencies or Withdrawal of EPA Approval (2000) ("NRDC Petition"), of which the Board is well aware. We incorporate that information herein by reference and ask that those undisputed facts be added to the section of the Permit entitled "Nature of Discharges and Sources of Pollutants" (Page 3).

In addition, given the fact that storm water is the largest source of many pollutants to local waters, in every instance in which a water body is listed as impaired pursuant to the State of California's 1998 Section 303(d) list, the impairing pollutant must be considered "priority," as that term is used in Finding 2, Page 3 of the Draft Permit. (This is because the finding of impairment constitutes a corollary recognition that the discharge of additional loadings of the impairing constituent presumptively exceeds the carrying capacity of the waterway at issue. This fact assures that additional discharges will cause or contribute to the violation of a water quality standard.)

No Basis for Approval of the SQMP & Delayed Compliance Requirements. We are unsure why the Draft Permit refers to the SQMP as being "acceptable." Draft Permit at 5. There are no findings in the permit to support this statement. Indeed, the Draft Permit would require changes to significant aspects of the SQMP, thereby precluding the possibility that it is now adequate. *Id.* Indeed, given that the Draft Permit appears to be predicated on the assumption that faithful implementation of the SQMP may constitute compliance with the Permit itself, the Permit must justify the consistency of the SQMP with Clean Water Act requirements, including MEP. Presently, we could not find any discussion of this matter, although it is extremely important.

In this connection, the Draft Permit would repeat the seriously flawed approach followed in 1996 by requiring that aspects of the management plan be made adequate after the Permit is issued (generally within 180 days). Not only does staff's experience prove that this date will inevitably slip, as it did routinely with respect to nearly every

requirement imposed as a part of the 1996 permit (*see* NRDC Petition), but this approach does not assure that an adequate storm water program will be implemented concurrent with the issuance of the permit itself. In fact, the Draft Permit only requires permittees to implement the management plan after it is approved by the Executive Officer, sometime after the Permit is itself issued. *See, e.g.*, Draft Permit at 17. In some instances, compliance with extremely basic BMPs is deferred until mid-2003. *See* Draft Permit at 22 (no dumping signs). Given that this is the third iteration of the municipal permit, there is simply no justification for such extraordinary delays especially as applied to the most basic storm water control actions.

The only legal way by which the Board can impose a legal requirement but delay the date of compliance is to issue a time schedule order ("TSO") under the Clean Water Act. Here, however, there is clearly no basis for the issuance of a TSO, especially given the explicit requirement for the Report of Waste Discharge to contain the storm water management plan to be implemented under the permit and the fact that the permittees have been obligated to comply with storm water regulations since 1990. 40 C.F.R. Section 122.26(d)(2)(iv). We know that many permittees are pressuring staff to make these sorts of concessions, but it is now past the time when delays such as these are even arguably appropriate.

Specification of Responsibilities and Loopholes. While it is permissible for a permit covering multiple entities to contain a delineation of responsibilities, we are concerned that the Draft Permit fails to explicitly make each co-permittee responsible for the adequacy of the SQMP. *See* Draft Permit at 15. There is no provision of the Clean Water Act that can deflect the legal responsibility of each permittee to design and inplement a storm water management program that reflects Clean Water Act requirements. We request that the Draft Permit be clarified to underscore that, notwithstanding the complicated administration structure that the permittees have chosen to create (*e.g., EAC and WMIs)*, each permittee bears individual responsibility to assure

program adequacy within its respective jurisdiction. *See* Draft Permit at 14 (describing duties of County of Los Angeles and "EAC"). This includes the duty to assure that the program designed is adequate and that, thereafter, it is fully implemented.

Furthermore, language that now provides that permittees have a duty to implement the Permit "in an efficient and cost-effective manner," and that appears to contain other limitations or exceptions ("a permittee is required to comply with the requirements of this Order applicable to discharges which originate from places within its boundaries over which it has authority to enforce the requirements of this Order") are similarly inconsistent with the Clean Water Act and its implementing regulations. Much of this section of the Draft Permit appears to contain the germs of arguments that some of permittees intend to use in the future to deflect responsibility for complying with the Permit. These sections are unlawful.

In these respects, it is critical to emphasize that the issuance of individual permits to each permittee is a viable alternative that would eliminate the complicated administrative and logistic apparatus that plagues the Draft Permit. These provisions threaten to result in the same foot-dragging that doomed the Regional Board's efforts to implement the 1996 Permit.

Adequacy of Enforcement and Audits. As staff know, due to severe under-funding the Regional Board's enforcement and audit program for municipal entities has been virtually non-existent during the last ten years. This violates the terms the State of California's agreement with the United States Environmental Protection Agency allowing the Regional Board to implement this NPDES permit program—and is also a violation of the Clean Water Act. *See* Storm Water Program Five-Year Work Plan at V-9 (State of California, 1994; NRDC Petition at 22-24.

While recent budget augmentations have significantly improved Regional Board capacity, it is unclear whether the Regional Board can meet its own minimum inspection and audit requirements for each municipal entity during each year of the term of the new Permit. Does the Board intend to meet these requirements and, if so, how will it do so?

It is NRDC's position that the Regional Board's approval of the new permit would be unlawful unless the Board articulates a reasonable basis to believe that it will comply with the annual inspection and audit requirements, including onsite visits to each permittee each year. While the permit will impose obligations on many cities, issuance of the Permit imposes obligations on the Board, including those that arise as a function of California's agreements with EPA. *See* Draft Permit at 7 (Finding 22, discussing delegation of authority by EPA to the State of California and Regional Board.) Based on information compiled in the NRDC Petition, it is clear that the Board has never before met these requirements. If the Board were to approve the Permit without the ability or intent to enforce it, the Board's action—which must comply not only with the substantive provisions of the Clean Water Act but also with the general legal provisions that apply to any agency action—would violate the Clean Water Act and also constitute an abuse of discretion. California Code of Civil Procedure Section 1094.5(b).

Furthermore, unless the Regional Board can demonstrate capacity that will allow it to meet the terms of the State's agreement with EPA regarding implementation of the NPDES program, the EPA would have no choice but to object to and disapprove the Permit. EPA has a responsibility to assure not only that the terms of NPDES permits meet basic Clean Water Act requirements but also that they are administered by state agencies that possess the capacity to meet basic enforcement requirements. As discussed in the NRDC Petition, these requirements are set forth both in EPA regulations and policy and also in state workplans, administrative procedure manuals, and other formal documents on which EPA delegation is based.

SUSMP Requirements. We are pleased to see that the Draft Permit expands the SUSMP to encompass environmentally sensitive areas, gas stations, and ministerial projects. We believe the SUSMP should be further expanded to cover municipally-owned maintenance and other related facilities. There is no reason why municipal governments should not have to assure that these sources of storm water pollution are covered by appropriate structural controls. In addition, site specification mitigation requirements (Draft Permit at 32-33) should also cover parking lots smaller than 25 spaces, for all of the reasons that support inclusion of larger parking lots in the SUSMP numerical treatment/infiltration requirements.

Thank you for the opportunity to provide comments on this important proposed permit. Please feel free to contact me if you have any questions.

Sincerely,

David S. Beckman
Senior Attorney

cc: Ms. Alexis Strauss, Director, Water Division, United States Environmental Protection Agency, Region IX

WSPA
Western States Petroleum Association
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2001 JUN 15 P 3:15

June 15, 2001

Mr. Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

RE: WSPA Comments on the April Draft NPDES Stormwater Permit for Los Angeles County (NPDES No. CAS614001)

Dear Mr. Swamikannu:

The Western States Petroleum Association ("WSPA") appreciates the opportunity to submit comments on the Regional Board's April 13, 2001 Draft Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges in Los Angeles County (NPDES No. CAS614001) (the "Draft Permit"). WSPA is a trade association representing approximately thirty companies engaged in all aspects of the exploration for, production, refining, transportation and marketing of petroleum and petroleum products in the Western United States. WSPA is concerned that the requirements affecting retail gasoline outlets (RGOs) in the Draft Permit will impose significant unnecessary costs and expenses on WSPA members, will not result in a demonstrable environmental benefit, and may, in fact, cause unintended harm to the environment.

Due to WSPA's prior involvement with the Los Angeles Standard Urban Stormwater Mitigation Plan (SUSMP), we were surprised that WSPA was not provided any notice of the April workshop or of the May 16, 2001 comment deadline until after the fact. On June 8, 2001, Wendy Phillips of your office apologized for this oversight. She invited us to submit comments on the Draft Permit by June 15 and promised that such comments would be included in the administrative record. We appreciate Ms. Phillips' offer to accept WSPA's comments and include them as part of the record in this proceeding.

In addition, on June 12, 2001 we received a "Technical Report" prepared jointly by staff of the Los Angeles and San Diego Regional Boards which discusses the proposed design standards for RGOs. We understand that any comments on the Technical Report must be submitted by August 6, 2001 to be included in the administrative record. We intend to provide additional comments concerning that document at a later date and reserve the right to supplement or amend these comments based upon our review of the Technical Report.

COMMENTS

1. **Stormwater Pollution at RGOs is Best Controlled By Implementation of the Task Force BMPs.**

WSPA is convinced that the best means to control any stormwater pollution at retail gasoline outlets is through the implementation of the best management practices (BMPs) for retail gasoline outlets published by the California Stormwater Quality Task Force in March 1997 (the "Task Force BMPs"). The Task Force BMPs were developed specifically for retail gasoline outlets by the California Stormwater Quality Task Force, an advisory body comprised of stormwater regulatory agencies. The Task Force BMPs are available on the Internet at the California Stormwater Quality Task Force's website www.stormwatertaskforce.org. The stated purpose of the Task Force BMPs is to assist municipal agencies and retail gasoline outlets in attaining compliance with storm water regulations. By controlling potential sources of stormwater pollution from retail gasoline outlets at their source, the Task Force BMPs will prevent and/or reduce pollution in a safer, more cost-effective and effective manner than the structural treatment controls required by the Draft Permit.

There is no evidence in the record that retail gasoline outlets present a storm water pollution problem that cannot be managed by implementation of the Task Force BMPs. The Task Force BMPs are primarily a list of source control BMPs. The Draft Permit explains that source control BMPs "aim to prevent storm water pollution by reducing the potential for contamination at the source of the pollution." Draft Permit, Part 5, p. 52. Such source control BMPs are required through SUSMPs and WSPA does not object to making retail gasoline outlets subject to appropriate source control BMPs such as those identified in the Task Force BMPs.

WSPA notes that on June 30, 1999, the Regional Board required that discharge of storm water runoff in retail gasoline outlet developments be managed in accordance with the Task Force BMPs by specific reference in Part 4.D.12. of the Municipal Storm Water Permit for the City of Long Beach. (Order No. 99-060, NPDES No. CAS004003, p. 18). The Long Beach permit did not include the numeric design standard contained in the Draft Permit. In adopting the Long Beach permit, the Regional Board found that the permit was acceptable and "when fully implemented, is expected to be consistent with the statutory standard of Maximum Extent Practicable (MEP)." Id. at 2, ¶ 7. WSPA does not understand what benefit additional structural treatment devices would provide over and above the benefits of implementing the Task Force BMPs. WSPA is not aware of any evidence in the record to show that retail gasoline outlets present a storm water pollution problem that cannot be managed by implementation of the Task Force BMPs.[1]

[1] Although WSPA intends to submit detailed comments concerning the June 2001 Technical Report at a later date, WSPA notes that the Technical Report completely fails to recognize, address or discuss the Task Force BMPs. The glaring omission of any discussion or analysis of the Task Force BMPs in the Technical Report shows that the Regional Board has not adequately considered all of the relevant guidance in California on this subject.

WSPA urges the Regional Board to exclude retail gasoline outlets from the application of the numerical design criteria and instead mandate the implementation of the best management practices described in the Task Force BMPs for retail gasoline outlets.

2. **There Is No Justification For Requiring RGOs To Build Structural Treatment Devices.**

Subsection Part 4.C.5.e of the Draft Permit would require retail gasoline outlets to build structural treatment devices. This requirement is not justified. According to the State Board's Order WQ 2000-11 (the "Order") any future mandate of numeric design standards for structural treatment at retail gasoline outlets must be supported by "proper justification." By failing to provide adequate justification for making RGOs subject to design standards, the Los Angeles Draft Permit violates the precedent of the Order.

In the Order, the State Board concluded that any future attempt to subject retail gasoline outlets to numeric design standards must be supported with proper justification. Order WQ 2000-11, p. 23. The Order stated:

> We conclude that because RGOs are already heavily regulated and may be limited in their ability to construct infiltration facilities or to perform treatment, they should not be subject to the BMP design standards at this time, and recommend that the Regional Water Board undertake further consideration of a threshold relative to the size of the RGO, number of fueling nozzles, or some other relevant factor. This Order should not be construed to preclude inclusion of RGOs in the SUSMP design standards, with proper justification, when the permit is reissued.

Id (emphasis added).

The implementation of the Task Force BMPs would render structural treatment devices and numeric sizing criteria superfluous and lacking in benefit. No evidence has been presented, let alone "proper justification," to show that the Task Force BMPs are inadequate to prevent water quality impacts from stormwater runoff from retail gasoline outlets.[2]

3. **The Draft Permit Requirements Applicable to Retail Gasoline Outlets Exceed the "Maximum Extent Practicable" Standard of the Clean Water Act.**

The Clean Water Act only requires that storm water control measures be implemented to the "maximum extent practicable." 33 U.S.C. § 1342(p)(3)(B). As the record shows, the Task Force BMPs meet this standard for retail gasoline outlets. The Draft Permit structural treatment requirements and use of numeric design criteria, however, are neither effective nor practical for retail gasoline outlets.

[2] To the extent that the Regional Board intends to rely upon the Technical Report as an after-the-fact justification for applying structural treatment controls, WSPA believes the Technical Report is inadequate and will address the many defects of the Technical Report in detail in WSPA's subsequent comments on the Technical Report.

Retail gasoline outlets should not be required to apply the Draft Permit's "belt and suspenders" approach in light of the unique practical problems of implementing structural treatment controls at retail gasoline outlets.

First, infiltration is not an appropriate method of treatment for a retail gasoline outlet. Infiltration provides a direct pathway for liquid runoff to soak into the soil and could lead to groundwater contamination from accidental spills of gasoline since infiltration mechanisms do not distinguish between gasoline and stormwater runoff. Accidental spillage is caused by events which are beyond the control of the station owner/operator (e.g. motorist carelessness during refueling, the motorist driving off with the hose/nozzle still in the fuel tank fill neck, and accidental spillage during gasoline deliveries). Such events are recognized and incorporated into the Task Force BMPs.

The problems with infiltration at an RGO were recently recognized by the San Diego Regional Board in their adoption of San Diego's NPDES permit. In the Response to Comments prepared by the San Diego Regional Board in the proceeding, the San Diego Regional Board stated: "SDRWQCB staff agree that infiltration BMPs should not be employed at RGOs." Response to Comments, p. 189.

There is insufficient evidence in the record to show that catch-basin inserts and oil/water separators are effective for controlling stormwater pollutants at retail gasoline outlets. In fact, a recent study shows that the effectiveness of such devices has not been proven. See "Investigation of Structural Control Measures for New Development" by Larry Walker Associates, Inc. (November 1999); Task Force BMP Guide, p. 5.

The Rouge River study cited by the Regional Board does not impugn this conclusion since it did not evaluate the impact on water quality, test how the pollutant concentrations in stormwater runoff changed as a result of the use of filters or examine how implementing source control practices might have achieved better results. According to a principal author of the Rouge River study, the facilities chosen for the study did not use source control measures (i.e. BMPs) and were instructed not to do so during the study period.

Other types of treatment devices which might be used to meet the Draft Permit requirements (such as oil/water separators, sand filters, and compost filters) would require that an additional subterranean structure be built beneath the retail gasoline outlet. Such enclosed spaces can allow gasoline and gasoline vapors to mix with air, resulting in a potentially hazardous situation and result in public safety concerns.

Based on the record, there is no evidence to justify requiring retail gasoline outlets to build structural treatment controls and to meet numeric design standards as required by the Draft Permit. By imposing additional controls on retail gasoline stations beyond those that are practicable, the Regional Board exceeds its authority under the Clean Water Act.

4. **The Draft Permit Fails to Incorporate Certain Task Force BMP Provisions Required By The State Board's Order WQ 2000-11.**

In its Order WQ 2000-11, the State Board required the implementation of specific source control best management practices (BMPs) for RGOs such as those recommended in the Task Force BMPs. Order WQ 2000-11, p. 23 n.50. The Order stated:

> The mandatory BMPs that are included in the SUSMPs may be adequate to achieve MEP at RGOs, but the Regional Water Board should add additional mandatory BMPs, such as use of dry cleanup methods (e.g. sweeping) for removal of litter and debris, use of rags and absorbents for leaks and spills, restricting the practice of washing down hard surfaces unless the wash water is collected and disposed of properly, annual training of employees on proper spill cleanup and waste disposal methods, and the inclusion of BMPs to address trash receptacle areas and air/water supply areas.

Id. at pp. 22-23.

While Part 4.C.3.b.5. of the Draft Permit requires the implementation of a model SUSMP which would affect retail gasoline outlets, the Draft Permit fails to implement the specific source control best management practices required by the State Board. The Draft Permit should reference the Task Force BMPs to ensure that the specific source control BMPs discussed by the State Board in its Order are included in the SUSMPs for RGOs.

5. **The Threshold For Application Of the Numeric Standards to RGOs Is Overly Broad.**

To the extent that the Regional Board persists in attempting to mandate structural treatment controls for RGOs, the Regional Board must make a closer examination of an appropriate threshold for such regulation. The Draft Permit suggests the following criteria: "projected gasoline output of 25,000 gallons per month or more; or with four or more fueling dispensers, or with 24 or more dispensing meters or projected average daily traffic of 100 cars or more or 5,000 square feet or more of surface area" Draft Permit, p. 32. Use of these criteria in the alternative would cover virtually every RGO in Los Angeles county which will be constructed or remodeled.

These proposed criteria in the Draft Permit conflict with the recent Technical Report, which suggest application of the following two thresholds in conjunction: "(i) creates 5,000 square feet or more of impervious surface; and (ii) has a projected trip generation of 100 or more motor vehicles ADT." Technical Report, p. 9. The Regional Board appears to take these criteria from regulations in Washington and Oregon without any further analysis or justification. To the extent that the Regional Board intends to apply a threshold to RGOs, such a threshold must be chosen based on independent justification and analysis, rather than simply parroting language used in a different regulation of another state.

While WSPA will address the proposed threshold levels in more detail in its later comments concerning the Technical Report, WSPA objects to the threshold as proposed in the Draft Permit, since the threshold levels are so overbroad that they would include almost every RGO in Los

Angeles County. WSPA is unaware of any analysis of the average daily traffic at RGOs in Los Angeles undertaken by the Regional Board or any studies which show that stormwater runoff at large-volume stations requires additional treatment beyond application of the Task Force BMPs.

As discussed earlier, WSPA recommends that RGOs be excluded from application of the numeric standards entirely and instead regulated by application of the Task Force BMPs. To the extent that the Regional Board intends to apply a threshold, the Regional Board is obligated to undertake a thorough analysis of appropriate criteria and provide independent justification which has not been done here.

6. **The Regional Board Did Not Adequately Evaluate Economic Considerations.**

The Regional Board performed no meaningful analysis to determine whether any of the specified numerical design standards would be economically achievable or reasonable if applied to retail gasoline outlets. Porter-Cologne requires the Regional Board to evaluate "economic considerations" when establishing waste discharge requirements and water quality standards. Porter-Cologne, Water Code Sections 13241(d) and 13263(a). Substantial evidence before the Regional Board shows that such numeric standards are unnecessary, expensive and would provide little or no environmental benefit. In fact, such standards could result in an environmental detriment, public safety issues, or both. As one example, infiltration at retail gasoline outlets will likely cause subsurface contamination as accidental spillage of gasoline is directed into the soil because infiltration mechanisms do not distinguish between gasoline and stormwater runoff

Constructing structural treatment devices at RGOs will require significant design, construction and maintenance costs. In particular, to comply with the Draft Permit requirements, expensive pump stations may be required to operate underground stormwater treatment devices in some locations. Because the Regional Board has no reasonable basis to show that the numerical design standards in the Draft Permit are economically reasonable or practicable for RGOs, the Regional Board's application of such requirements to retail gasoline outlets is arbitrary, capricious and contrary to its authority.

7. **The Draft Permit Violates Section 13360 of the Water Code By Requiring RGOs to Construct Structural Treatment Devices.**

The Regional Board is prohibited from specifying the "design, location, type of construction, or particular manner" for compliance with a waste discharge requirement or other Regional Board order. Porter-Cologne, Water Code § 13360(a). For RGOs, the Draft Permit would mandate construction of structural treatment devices rather than allowing use of BMPs. By requiring implementation of specified numeric design requirements to mitigate storm water runoff at RGOs, the Draft Permit violates Section 13360 of the Water Code.

8. **The Regional Board Did Not Satisfy CEQA Requirements.**

The Regional Board's action will have a significant impact on the environment because it would require many new construction projects to implement specific post-construction controls, which, in the case of retail gasoline outlets at least, could have potentially significant adverse effects on groundwater. Since the proposed numerical design standards are not federally required and they

will significantly affect the environment, the Regional Board must follow CEQA requirements if it wishes to adopt such standards. Among other requirements, CEQA requires an environmental assessment of the reasonably foreseeable methods by which compliance will be achieved including an analysis of alternative means of compliance. See 14 C.C.R. § 15187.[3] To WSPA's knowledge, the Regional Board has not complied with such CEQA requirements in adopting the Draft Permit.

9. **The Regional Board Did Not Comply with the Administrative Procedure Act.**

The Regional Board did not follow the requirements of the California Administrative Procedure Act (APA). The APA applies because the Draft Permit requirements for retail gasoline outlets are a standard of general application which meets the APA definition of a regulation. See Government Code Section 11342. Government Code Section 11352(b) does not exempt the Draft Permit from the APA because this provision only exempts required "waste discharge requirements and permits" and, as described above, the Draft Permit requirements exceed what is required by the Clean Water Act. Therefore, the Regional Board's adoption of the numeric design standards is a quasi-legislative action and the APA applies.

10. **The Numeric Design Standards Are An Unfunded Mandate.**

The Draft Permit's numeric design standards also constitute an unfunded mandate prohibited by the California Constitution. See Cal. Constitution Art. 13B § 6. Since the Draft Permit requirements exceed what is required by federal law, such limits are not "costs mandated by the federal government." Government Code Section 17513. Consequently, since the numeric design standards do not qualify as a federal mandate, the Regional Board's order is invalid because it does not provide for appropriate funding.

In conclusion, the Draft Permit's imposition of unnecessary and potentially harmful standards on retail gasoline outlets beyond what is practicable under the Clean Water Act is improper. WSPA respectfully urges the Board to modify the Draft Permit by exempting retail gasoline outlets from the structural treatment controls and the numeric design standards, and, instead, to mandate the effective and appropriate BMPs contained in the Task Force BMP Guide. Finally, as we stated at the beginning of the letter, WSPA will be providing more detailed comments concerning the Technical Report and the Draft Permit in the near future.

Sincerely,

B. E. Wall for

Ronald Wilkniss

[3] While the Regional Board may contend that the Draft Permit is exempt from CEQA by reason of Water Code Section 13389, that section only exempts the adoption of federally-mandated waste discharge requirements and permits. See Water Code § 13372; Committee for a Progressive Gilroy v. State Water Resources Control Bd., 192 Cal. App. 3d 847 (1987). As discussed above, the Clean Water Act only requires stormwater controls to the "maximum extent practicable" and the imposition of impracticable controls such as the numeric sizing criteria and structural treatment requirements for retail gasoline outlets are not federally required. Since the Draft Permit requirements imposed on retail gasoline outlets are not federally-mandated and could cause environmental degradation, CEQA review is required.

May 16, 2001

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Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
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Building Industry Association of Southern California

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Municipal Storm Water Permit for Los Angeles County and Cities

Dear Mr. Dickerson:

On behalf of the more than 1,750 members of the Building Industry Association of Southern California ("BIA/SC"), we would like to acknowledge the time, effort and expertise that went into developing the Proposed Municipal Storm Water Permit (Proposed Permit) and thanks the Los Angeles Regional Water Quality Control Board staff for developing the Fact Sheet/Technical Report to accompany the Proposed Permit. This additional information was very helpful during our review of the Proposed Permit.

BIA/SC members strive to make the American dream of home ownership a reality for all residents of Southern California. Our members are landowners, developers, homebuilders, and construction contractors throughout the region and state. All segments of our association are impacted by the Proposed Permit, including land owners within your jurisdictional boundaries, potential builders requiring land resources to satisfy the ever growing demand for housing, and construction employees relying on jobs in the region.

Regulations such as this Proposed Permit can have a detrimental affect on our members' ability to provide more affordable urban, infill homeownership opportunities. California has 9 of the nation's 10 least affordable housing markets, including 7 of the top 7. A kindergarten teacher in Downtown Los Angeles needs over $78,096 in additional income to afford the median-priced home. Yet, we are under-producing housing. Last year marked the 10th consecutive year of housing production at roughly 50 percent of demand. The annual housing deficit for Los Angeles County, forecast by the Department of Housing and Community development, is expected to be 28,000 units. We cannot continue down this path if we hope to achieve a higher quality of life for the citizens of our region. This quality of life should be free from constant worries about rent hikes, tedious hours on the road, the need to leave a satisfying job and the dawning realization that owning a home is just not possible.

We understand that a higher quality of life also includes good water quality. This is why we have begun to implement a CLEAN Water Plan within our industry.

Antelope Valley Chapter
Baldy View Chapter
Desert Chapter
Greater L.A./Ventura Chapter
Imperial Valley Chapter
Los Angeles County East Chapter
Orange County Chapter
Riverside County Chapter

Key elements of this plan include:

1. C - Create practical regulations by promoting and supporting sound environmental policies and participating proactively in the water quality regulatory process.
2. L - Lead an industry-wide change in the way our industry approaches water quality issues so that the building industry can become a leader in the effort to develop and implement water quality solutions for our region.
3. E - Educate the industry on water quality compliance issues through workshops, seminars, newsletters, trade magazine and certification programs. Our educational efforts will also extend to new homebuyers and the general public.
4. A - Advance technological and design innovations which improve water quality and can be used in building designs
5. N - Nurture comprehensive regional solutions by working for inclusion of regional Best Management Practice (BMP) options in water quality regulations and promoting the involvement of other stakeholders in developing regional solutions.

Based on the foregoing, we ask that you consider the following comments on the Proposed Permit and work with us to find solutions that provide affordable housing and good water quality for the citizens of our region.

Findings Discussion

1. **Finding 2** states the following:

   Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. These environmentally sensitive area include Areas of Special Biological Significance, water bodies designated with a RARE beneficial use, Significant Natural Areas, and impaired water bodies listed under Clean Water Act Section 303(d).

   Comment: This finding lacks basis and should be removed. The intent of this finding is to show that environmentally sensitive areas (ESA's) are less able than other areas to withstand societal impacts. This is unproven and misinterprets the labeling of ESA's. ESA's are listed as such because they are considered areas of higher environmental priority when compared to other areas. This does not mean that these areas are less able to withstand societal impacts. It means they have been deemed to carry a higher priority when compared to other areas. This is why ESA's are already heavily regulated. The State Water Resources Control Board said as much in its SUSMP ruling, which removed ESA's as a priority development category.

2. **Finding 7** states the following:

The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas greatly accelerates downstream erosion and impairs stream habitat. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development. (Impervious Cover as An Urban Stream Indicator and a Watershed Management Tool, Schuler, T. and R. Claytor, In, Effects of Water Development and Management on Aquatic Ecosystems (1995), ASCE, New York.)

Comment: This finding makes a blanket statement as though all developed areas accelerate downstream erosion and impair stream habitat. Developing land in certain areas does have the potential to accelerate downstream erosion and impair stream habitat, however BMPs can be implemented to minimize this impact and a large portion of development in Los Angeles County occurs in areas that will not cause downstream erosion due to the presence of concrete-lined channels. This statement should be changed to read "developed areas have the potential to accelerate downstream erosion..." It should also be noted that this finding is based on one study, not multiple studies as mentioned.

Part 2. Receiving Water Limitations Discussion:

1. **Receiving Water Limitations 1 and 2** state the following:

    1. *Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.*
    2. *Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance.*

    Comment: These items are not in compliance with State Water Resources Control Board (State Board) Order No. WQ 99-05, which required specific receiving water limitation language to be included in future municipal storm water permits. These two items are not included in this required language and should, therefore, be removed from the Proposed Permit. If left in the Permit, these two items would most likely create a situation where all dischargers would be in non-compliance of this Order from day one of implementation. Therefore, it should also be noted at the end of the Receiving Water Limitations section that compliance with the receiving water limitation procedure is adequate to maintain full compliance with the Permit and the Clean Water Act. This is the explicit intent of State Board Order No. WQ 99-05.

Part 4.C Programs for Development Planning Discussion:

1. **Section C.1** states the following:

The Permittees shall implement a development-planning program with immediate effect that will require all planning priority development and redevelopment projects to,

a) Minimize impacts from storm water and urban runoff on the biological integrity of natural drainage systems and water bodies in accordance with requirements under CEQA, Section 404 of the CWA, local ordinances and other legal authorities;

b) Maximize the percentage of permeable surfaces to allow more percolation of storm water into the ground;

c) Minimize the quantity of storm water directed to impermeable surfaces and the MS4;

d) Minimize pollution emanating from parking lots through the use of appropriate treatment control BMPs and good housekeeping practices;

e) Establish reasonable limits on the clearing of vegetation from the project site including, but not limited to, regulation of the length of time during which soil may be exposed and in certain environmentally critical situations, the prohibition of bare soil;

f) Provide for appropriate permanent measures to reduce storm water pollutant loads in storm water from the development site.

Comment: The use of the words minimize and maximize are overly broad and subject to wide discretion and problematic enforcement. We suggest inserting the wording "to the extent technically and economically feasible" after each of these words. Item (e) appears to attempt to address erosion control during the construction phase. Erosion control is already addressed in the Construction section of this Permit and is also regulated in the State General Construction Permit. Therefore, this requirement is out of place here and should be deleted. Item (f) is already addressed in the SUSMP portion of the Permit and is not necessary in this section, and should therefore be deleted.

2. **Section C.2 Peak Flow Control** states the following:

The Permittees shall establish and enforce numerical criteria no later than [90 days from permit adoption] to control the post-development peak storm runoff discharge rates in natural drainage systems to maintain or reduce pre-development peak discharge rates to prevent down-stream erosion, and to protect stream habitat. Natural drainage systems include, but are not limited to, the following:

a) Malibu Creek

b) Topanga Canyon

c) Upper Los Angeles River

d) Upper San Gabriel River

e) Soft-bottom segments of other receiving waters within Los Angeles County

Comment: The requirement to control the post-development peak storm runoff discharge rates should be made one of the requirements listed in Section C.1 for planning priority

development and redevelopment projects. Unfortunately, even when listed as a requirement in this section, the ability for Permittees to enforce and developers to implement this requirement is impossible due to the major questions still unanswered. Two of these questions are, "What effect is downstream erosion having on stream habitat and what numerical criteria is necessary to protect this stream habitat?" We suggest that Los Angeles County, in coordination with the Executive Advisory Committee (EAC) and the Building Industry, work with Ventura County Flood Control District to develop answers to these questions and to establish appropriate numerical criteria. They should be given two years from Permit adoption to establish this criteria and also to establish which receiving water segments require implementation of this criteria. For this reason, items a) – e) should be deleted. Implementation should not be required until adoption of this numerical criteria by the Regional Water Quality Control Board.

3. **Section C.3 Standard Urban Storm Water Mitigation Plans** states the following:

   a) *Each Permittee shall require that single-family hillside home developments:*
      (1) Conserve natural areas
      (2) Protect slopes and channels
      (3) Provide storm drain system stenciling and signage
      (4) Divert roof runoff to vegetated areas before discharge
      (5) Direct surface flow to vegetated areas before discharge

   b) *Each Permittee shall require that a Standard Urban Storm Water Mitigation Plan as approved by the Regional Board in Board Resolution No. R 00-02 be implemented for the following categories of developments with immediate effect:*
      (1) Single-family hillside residential developments of 10,000 square feet or more
      (2) Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)
      (3) A 100,000 or more square feet industrial/ commercial development
      (4) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539)
      (5) Retail gasoline outlets
      (6) Restaurants (SIC 5812)
      (7) Parking lots 5,000 square feet or more or with 25 or more parking spaces

   c) *Each Permittee shall require, no later than 180 days from permit adoption that a Standard Urban Storm Water Mitigation Plan be implemented for all projects located in or directly adjacent to or discharging directly to an environmentally sensitive area, where, the development will:*
      (1) create 2,500 square feet or more of impervious area, or
      (2) alter the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and
      (3) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat

Comment: The requirements for single-family hillside residence listed in section C.3.a should be deleted, as there have been no studies to justify the inclusion of single-family hillside residence as a priority development category to include in the SUSMP. The pollutant loading from single-family hillside residence are minimal when compared to other development categories and the downstream erosion potential is still yet to be determined, as discussed in Section C.2, Peak Flow Control.

Section C.3.b requires that a SUSMP as approved by the Regional Board in Board Resolution No. R 00-02 be implemented. Instead of referencing this SUSMP, we suggest attaching a SUSMP to the Permit, so as to alleviate any confusion and to have a one-stop document. We also recommend that the single-family hillside residential category be deleted and the ten or more unit homes category be combined with the industrial/commercial category to read "A commercial, industrial or residential development with 100,000 or more square feet of directly connected impervious area which is not considered low or moderate income housing." The definition for directly connected impervious area to be added to the definitions section is "the area covered by a building, impermeable pavement, and/or other impervious surfaces, which drains directly into the storm drain without first flowing across permeable land area (e.g. lawns). It is not clear why residential development is even included as a priority development category when the water quality data collected to date has not shown residential land use to be of a high concern. Furthermore, even if residential development is included as a priority development, there is no reason why it should have a lower threshold (10+ homes) than commercial/industrial development (100,000 square feet) when the water quality data shows that commercial and industrial land use is of much higher concern than residential land use. Also, the inclusion of residential development in the SUSMP, is helping to prevent "smart growth" by creating a disincentive to high density, infill development that is needed to responsibly increase housing supply and affordability in urban, job rich areas of Los Angeles. This is why low or moderate income housing should be exempt from SUSMP requirements.

Section C.3.c requires that a SUSMP be implemented for all projects located in or directly adjacent to or discharging directly to an environmentally sensitive area (ESA). This requirement should be deleted because the State Water Resources Control Board has determined, in response to an appeal filed regarding the SUSMP, that developments within ESA's are already subject to extensive regulation under other regulatory programs. Nothing in the Findings of the proposed Permit has provided ample reasoning to have the ESA's reinstated as a priority development category. The Finding listed to justify this requirement is based on invalid assumptions.

4. **Section C.4 Numerical Design Criteria** states the following:

The Permittees shall require that post-construction treatment control BMPs incorporate, at a minimum, the following design criteria to mitigate (infiltrate, filter or treat) storm water runoff:

a) Volumetric Structural or Treatment Control BMP

(1) *the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998), or*

(2) *the volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (1993), or*

(3) *the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or*

(4) *the volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event,*

AND/ OR

b) *Flow Based Structural or Treatment Control BMP*

(1) *the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity, or*

(2) *the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County*

(3) *the flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above*

Comment: The design standards included in the Permit can be used as defining Maximum Extent Practicable when structural treatment control BMPs are needed, however the design standard should be revised to require mitigation of the 80th percentile storm event and not the 85th percentile storm event. The 80th percentile storm event is consistent with both the Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998) and the California Stormwater Best Management Practices Handbook as defining MEP. Using the 85th percentile storm event as the design standard goes beyond MEP definition and therefore the intent of the Clean Water Act.

5. **Section C.5 Applicability of Numerical Design Criteria** states the following:

The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment and structural controls to mitigate storm water pollution prior to issuing grading or building permits:

a) *Single-family hillside residential developments of 10,000 square feet or more*

b) *Ten or more unit home development (includes single family homes, multifamily homes, condominiums, and apartments)*

c) *A 100,000 or more square feet industrial/ commercial development*

d) *Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539)*

e) *Retail gasoline outlets [suggested criteria: projected gasoline output of 25,000 gallons per month or more; or with four or more fueling dispensers, or with 24 or more dispensing meters or projected average daily traffic of 100 cars or more or 5,000 square feet or more of surface area]*

f) *Restaurants (SIC 5812) [5,000 square feet or more]*

g) *Parking lots 5,000 square feet or more or with 25 or more parking spaces*

h) *Projects located in, adjacent to or discharging directly to environmentally sensitive areas that meet threshold conditions identified above.*

Comment: As stated before, categories (a), (b) and (h) should be deleted and category (c) should be revised to read, "A commercial, industrial or residential development with 100,000 or more square feet of directly connected impervious area which is not considered low or moderate income housing."

6. **Section C.6** states the following:

Each Permittee shall require the implementation of SUSMP and post-construction control requirements for the following categories of development planning projects no later than March 9, 2003, to conform to USEPA Phase II requirements:

a) *One acre (40,000 square feet) industrial/commercial development*

Comment: This requirement is meant to comply with USEPA Phase II requirements, however Phase II requirements do not require implementation of SUSMP requirements. Phase II requires the operator of a small MS4 to develop, implement and enforce a program to reduce pollutants in post-construction runoff to the MS4 from new development and redevelopment projects that result in the land disturbance of greater than or equal to 1 acre. This does not mean that projects 1 acre or larger require SUSMP compliance, only that a program be developed to reduce pollutants in post-construction runoff. Requiring this program to be the SUSMP goes beyond what would be considered maximum extent practicabe (MEP) and should be deleted.

7. **Section C.8 Redevelopment Projects** states the following:

The Permittees shall apply the SUSMP, or site specific requirements including post-construction storm water mitigation to all projects that undergo significant redevelopment in their respective categories. Significant redevelopment means the creation or addition or replacement of 5,000 square feet of impervious surface area on an already developed site.

Where significant redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.

Comment: We suggest adding the wording, "priority development" before the word "projects" in the second line of the paragraph to provide more guidance to plan checkers trying to determine which projects to apply this definition to. We also request removal of the word "replacement" from this definition so as to remain in compliance with the State Water Resources Control Board (State Board) Order emanating from the SUSMP appeal. The redevelopment definition was a main point of contention for this appeal and the State Board rendered a decision regarding this item. Since no new evidence or information has emerged since the State Board SUSMP appeal decision, there remains no reason to differentiate from their definition of redevelopment, which did not include "replacement" as part of the redevelopment definition.

8. **Section C.10 Mitigation Funding** states the following:

The Permittees shall identify no later than [120 days from permit adoption] a funding mechanism[s] and management framework, for endorsement by the Regional Board Executive Officer, to support regional solutions to storm water pollution, where the following situations occur:

a) A waiver for impracticability is granted or threat to ground water exists

b) Legislative funds become available

c) Off-site mitigation is required because of loss of environmental habitat

Comment: Section C.10.a requires a waiver of impracticability before a project can opt out of the Development Planning requirements and pay an in-lieu fee instead. This may be adequate if impracticability is defined to include the many situations where it is not technically or economically feasible to comply with the development planning requirements. We also suggest adding a section immediately following this section to provide incentive and direction for regional storm water mitigation programs. The wording for this section can be, "A Permittee or Permittee group may apply to the Regional Board for approval of a regional storm water mitigation program. The Executive Officer in the exercise of his discretion shall approve such a regional program if he determines that it is likely to result in equal or greater water quality benefit than project-by-project mitigation, as described above. Permittees and project proponents that participate in any approved regional storm water mitigation program shall in so doing satisfy all applicable requirements of this Order."

9. **Section C.11 California Environmental Quality Act (CEQA) Document Update** states the following:

Each Permittee shall modify planning procedures for preparing and reviewing CEQA documents to consider potential storm water quality impacts and provide for appropriate

mitigation, with immediate effect. The CEQA guidelines shall require consideration of the following:

a) Potential Impact of project construction on storm water runoff

b) Potential Impact of projects post-construction activity on storm water runoff

c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas

d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit

e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies

f) Potential for significant changes in the flow velocity or volume of storm water runoff that can cause environmental harm

g) Potential for significant increases in erosion of the project site or surrounding areas

Comment: The California Environmentally Quality Act (CEQA) was formed to function as follows, "The Legislature finds and declares that it is the policy of the state to ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions." As you can see, CEQA is intended to balance environmental protection with adequate housing. Unfortunately, this draft Permit is heavily weighted with attempts at protecting the environment and no attempts or concerns related to increasing California's housing supply in order to meet the needs of a growing population and workforce. Therefore, we suggest adding wording in this CEQA requirement that is consistent with the Legislature's intent to balance housing needs with environmental concerns. We also suggest that the listed CEQA considerations be listed as examples of CEQA guidelines and not as specific requirements, since the Regional Water Quality Control Board has no explicit authority to specifically order municipalities to require detailed items in their CEQA review.

Section 4.D Programs for Construction Sites

1. **Section D.1** states the following:

   1. For construction sites less than 1 acre, each Permittee shall:

   a) Implement an educational program to discuss storm water pollution prevention and controls at construction sites and distribute educational materials targeted to the construction community during meetings, workshops, pre-construction meetings, and inspections;

   b) Train employees in targeted positions (whose jobs or activities are engaged in construction activities including construction inspection staff) regarding the

requirements of the storm water management program no later than (180 days from adoption of this Order), and annually thereafter; and

c) *Require the implementation of a minimum set of BMPs to prevent pollution and control storm water runoff discharges. These minimum BMPs shall, at a minimum, include:*

- *Requirements for the use of effective erosion and sediment controls at construction sites;*
- *Requirements for structural and non-structural Best Management Practices (BMPs) for controlling runoff at construction sites;*
- *Site plan review and verification of BMP implementation; and*
- *Each Permittee is encouraged to prioritize sites to be inspected during wet weather to determine compliance with the minimum BMPs*

Comment: In order to maintain consistency with the Development Construction Model Program that was approved by your Board, we suggest changing the category threshold for projects from 1 acre to 2 acres. Construction sites below 2 acres in size should only be required to meet minimum requirements since placing additional requirements on these projects will tremendously impact the ability to provide affordable housing, while provide little benefit to the environment. We also suggest, based on the poor cost/benefit ratio of stepping up requirements on smaller projects, that items (a) and (b) and the last two bulleted items be deleted. To do our part in helping with construction compliance, we are in the process of working with the other construction related trade associations to develop a full-scale construction training program that we will use to train personnel on sediment/erosion control and the development and implementation of minimum BMPs, Local SWPPPs and State SWPPPs.

2. **Section D.2** states the following:

2. *For construction sites one acre and greater each Permittee shall require that in D.1 above and require the preparation, submittal, and implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP), prior to issuance of a grading permit for construction projects, that meets one or more of the following criteria:*

a) *Will result in soil disturbance of one acre or more in size;*

b) *Is within, directly adjacent to, or is discharging directly to an environmentally sensitive area; or*

c) *Is located in a hillside area.*

The Local SWPPP shall include appropriate construction site BMPs and maintenance schedules. A State required SWPPP may be substituted by a Local SWPPP if the Local SWPPP is at least as inclusive as the requirements for a State SWPPP. The BMPs may be selected from documents such as the California Storm Water BMP Handbook, the Caltrans Storm Water Quality Handbook, Ventura County Stormwater Quality Standard Sheet, American Society of Civil Engineers (ASCE) database or similar guidance

documents. In addition, each Permittee shall ensure the following minimum requirements are effectively implemented at all construction sites regardless of size:

a) Sediments generated on the project site shall be retained using adequate structural drainage controls;

b) No construction-related materials, wastes, spills, or residues shall be discharged from the project site to streets, drainage facilities or adjacent properties by wind or runoff;

c) Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at the project site; and

d) Erosion from slopes and channels will be prevented by implementing BMPs including, but not limited to: limiting of grading scheduled during the wet season; inspecting graded areas during rain events; planting and maintenance of vegetation on slopes; and covering erosion susceptible slopes.

The Local SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

"As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

The landowner shall sign a statement to the effect:

"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/or adequately implement the Local SWPPP may result in revocation of grading and/or other permits or other sanctions provided by law."

The Local SWPPP certification shall be signed by the landowner as follows:

For a corporation: by a responsible corporate officer which means (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of the construction activity if authority

to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality or other public agency: by an elected official, a ranking management official (e.g., County Administrative Officer, City Manager, Director of Public Works, City Engineer, District Manager), or the manager of the construction activity if authority to sign Local SWPPPs has been assigned or delegated to the manager in accordance with established agency policy.

Comment: In order to maintain consistency with the Development Construction Model Program that was approved by your Board, we suggest changing the category threshold for projects requiring a Local SWPPP to projects between 2 acres and 5 acres. We also suggest changing section 2.a to read, "Will result in soil disturbance of two acres or more in size or". Section 2.b should be deleted because, as the State Water Resources Control Board stated in response to the SUSMP appeal, environmentally sensitive areas are over-regulated as it is. Section 2.c should be changed to read, "Is located in a hillside area and soil disturbance will occur at the project site in the rainy season." This will help maintain consistency with the Development Construction Model Program that was developed with a multi-stakeholder effort and eventually adopted by your Board.

As for the minimum requirements to be implemented at all construction sites, we suggest adding Maximum Extent Practicable (MEP) wording to all of the requirements, as there needs to be this threshold to comply with the intent of the Clean Water Act. We also suggest deleting the requirement for "limiting of grading scheduled during the wet season". The intent of construction regulations is to keep sediments on site. The sites are already required to implement BMPs necessary to keep sediments on site. Grading should not be restricted, but should only require sediment and erosion control BMPs which meet MEP standards of implementation.

3. **Section C.4** states the following:

   4. *For sites five acres and greater, each Permittee shall require that in D.1 above and:*

      a) *Require proof of filing of a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a copy of the SWPPP prior to issuing a grading permit for all projects requiring coverage under the state general permit. On March 10, 2003, for sites one acre and greater, each Permittee shall require proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a copy of the SWPPP prior to issuing a grading permit for all projects requiring coverage under the state general permit. The prepared SWPPP may satisfy the requirement under D.2. (in-lieu of Local SWPPP).*

      Each Permittee shall require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

b) Each Permittee shall use an electronic system to track grading permits issued by each Permittee.

Comment: This requirement is not entirely consistent with the State General Construction Permit. We suggest that the SWPPP's be required to be prepared and available at the site before commencement of grading activity and not be required to be submitted to the Permittee before permit approval. The State General Construction Permit creation was a collaborative process involving all stakeholders leading to a successful permit program. We should not start changing this process using the Municipal Stormwater Permits.

CONCLUSION

In May 2000, the California Department of Housing and Community Development ("HCD") issued a report to serve as the Statewide Housing Plan Update. "Raising the Roof: California Housing Development Projects and Constraints, 1997-2020" summarizes the crisis and outlook for California housing as follows:

"Few issues facing California are as important as the State being able to meet its future housing needs. Between 1997 and 2020, California will likely add more than 12.5 million new residents and should form approximately 5 million new households. Almost all of this growth will occur in metropolitan areas. To meet the housing needs of California's growing population, homebuilders and developers will have to build an average of 220,000 housing units each year between now and 2020."

"Achieving this level of production will be difficult. From 1980 to 1990, a period of tremendous housing construction throughout the State, annual production (as measured by single- and multi-family permits) averaged just over 200,000 units. Between 1990 and 1997, production averaged only 91,000 units per year. In 1999, a boom year for the housing market nationally, there were less than 140,000 residential permits."

"Two conclusions stand out from this research above all others. The first is that California will need an unprecedented amount of new housing construction – more than 200,000 units per year through 2020 – if it is to accommodate projected population and household growth and still be reasonably affordable. California will need more suburban housing, more infill housing, more ownership housing, more rental housing, more affordable housing, more senior housing, and more family housing. California will also need more diverse housing, and more diverse neighborhoods. California's high land and construction costs, coupled with the cumbersome and open-ended nature of the local entitlements process, have served to discourage innovative land planning, site design, and building design." (*Raising the Roof*, HCD, pp. 3, 9.)

Contributing to the existing and projected crisis, according to *Raising the Roof*, is not only the significant cost of regulatory compliance, but also the mere existence of the ever-increasing labyrinth of local, state, and national regulations that must be satisfied. (See, e.g., *Raising the Roof*, pp. 77-116.)

Based upon the foregoing, we respectfully request that you consider the ramifications of having your Board adopt the proposed Permit in its current format. We have raised many issues that should be thoughtfully reviewed and addressed. We are very willing to discuss these issues in more detail at any time.

The stakes are high, especially given Southern California's housing needs. The absence of meaningful consideration of these issues will have a major impact on affordable housing, jobs, wages and livability with little improvement in water quality. We urge you to thoroughly review the comments we have provided and to concentrate on what is best for water quality and the livelihood of our society.

By working together to address the various issues we have raised and to implement our CLEAN Water Plan, we are confident that we can achieve the balance necessary to greatly improve water quality while also meeting California's housing needs. We thank you for your consideration of our comments.

If you have any questions, please feel free to contact me, or our Director of Environmental Affairs, Tim Piasky at (909) 396-9993.

Very truly yours,

Richard J. Lambros
Executive Vice President

TBP/RJL

Building Industry Association of Southern California, Inc.

1330 S. Valley Vista Drive, Diamond Bar, Ca. 91765
(909) 396-9993; Fax (909) 396-1571

ADDITIONAL MATERIALS TO BE INCLUDED IN THE AGENDA PACKAGE

ITEM #: 5

FROM: Wendy Phillips PHONE: (213) 576-6618

DATE: July 25, 2001

MESSAGE

Please insert this comment letter from the County of Los Angeles (Principal Permittee) at the end of your Board package (page 777). Staff did not include this letter earlier, to as we believed that major comments were captured in other letters, and that many minor comments have been resolved in numerous meetings. The County has objected, and has requested that this be submitted to Board members.

TO:

✓	ALL BOARD MEMBERS
	H. DAVID NAHAI
	CHRISTOPHER PAK
	SUSAN M. CLOKE
	BRADLEY MINDLIN
	FRANCINE B. DIAMOND
	ROBERT L. MILLER
	TIMOTHY SHAHEEN
✓	JORGE LEON / Jennifer / Evans

R0003956

EXHIBIT A

COMMENT LETTER

FROM:

COUNTY OF LA

Comment Version
Proposed Language is in Blue
Comments are in Red.

DRAFT

LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

ORDER No. 01-XXX
(NPDES No. CAS614001)

WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES, EXCEPT FOR THE CITIES OF LONG BEACH ~~AND SANTA CLARITA~~

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STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 01-xxx
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WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES, EXCEPT THE CITIES OF LONG BEACH AND SANTA CLARITA

FINDINGS

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter referred to as the Regional Board) finds:

Existing Permit and Report of Waste Discharge

1. The Los Angeles County Flood Control District, the County of Los Angeles, and ~~83~~ 84 incorporated cities within the Los Angeles County Flood Control District (see Attachment A, List of Permittees), hereinafter referred to separately as Permittees and jointly as the Discharger, discharge or contribute to discharges of storm water and urban runoff from municipal separate storm sewer systems (MS4s), also called storm drain systems. The discharges flow to watercourses within the Los Angeles County Flood Control District and into receiving waters of the Los Angeles region. These discharges are covered under countywide waste discharge requirements contained in Order No. 96-054 adopted by this Regional Board on July 15, 1996, and which rescinded in part Order No. 90-079 adopted by this Regional Board on June 18, 1990. Order No. 96-054 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.

Attachment A was not provided

Nature of Discharges and Sources of Pollutants

2. Storm water discharges consist of surface runoff generated from various land uses in all the hydrologic drainage basins that discharge into water bodies of the State. The quality of these discharges varies considerably and is affected by the hydrology, geology, land use, season, and sequence and duration of hydrologic events. The primary constituents of concern currently identified by the Los Angeles County Flood Control District 1994-2000 Integrated Receiving Water Impacts Report are cyanide, indicator bacteria, total dissolved solids, turbidity, total suspended solids, nutrients, total aluminum, dissolved cadmium, copper, lead, total mercury, nickel, zinc, bis(2-ethylhexyl)phthalate, polycyclic aromatic hydrocarbons (PAHs), diazinon, and chlorpyrifos.

3. Certain pollutants present in storm water and/or urban runoff may be derived from extraneous sources that Permittees have no or limited jurisdiction over. Examples of such pollutants and their respective sources are: PAHs which are products of internal combustion engine operation, nitrates from atmospheric deposition, heavy metals, lead from fuels, copper from brake pad wear, zinc from tire wear, dioxins as products of combustion, and bis (2-ethylhexyl) phthalate and mercury as resulting from atmospheric deposition, and natural-occurring minerals from local geology. However, Permittees can implement control measures to reduce entry of these pollutants into storm water and their discharge to receiving waters.

4. These compounds can have damaging effects on both human health and aquatic ecosystems. In addition, the high volumes of storm water discharged from MS4s in areas of urbanization can significantly impact aquatic ecosystems due to physical modifications such as bank erosion and widening of channels. It is anticipated that, due to the nature of storm water events (i.e., large volumes of water and high velocities) that there may be short-term, reversible impacts to beneficial uses that are not directly related to water quality.

5. Water quality assessments conducted by the Regional Board identified impairment, or threatened impairment, of beneficial uses of water bodies in the Los Angeles region. The causes of impairments include pollutants of concern identified by the County of Los Angeles in the Integrated Receiving Water Impacts Report (1994-2000).

6. Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. These environmentally sensitive area include Areas of Special Biological Significance, water bodies designated with a RARE beneficial use, Significant Natural Areas, and impaired water bodies listed under Clean Water Act Section 303(d).

7. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas greatly accelerates downstream erosion and impairs stream habitat. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development. (*Impervious Cover as An Urban Stream Indicator and a Watershed Management Tool*, Schuler, T. and R. Claytor, In, Effects of Water Development and Management on Aquatic Ecosystems (1995), ASCE, New York.)

Permit Background

8. The Permittees have filed a Report of Waste Discharge (ROWD), dated February 1, 2001, and has applied for renewal of its waste discharge requirements and an NPDES permit to discharge wastes to surface waters. The ROWD includes the Storm Water Quality Management Plan (SQMP) and a Monitoring Program.

9. The SQMP contains programs previously approved under Board Order No. 96-054 in the following areas:

   Public Information and Participation
   Development Construction
   Illicit Connection/Illicit Discharge Elimination Program
   Development Planning
   Public Agency Activities

   These programs will be revised pursuant to the provisions of this Order after adoption.

10. The Regional Board has reviewed the ROWD and has determined it to be complete under the reapplication policy of MS4s issued by the USEPA (61 *Fed. Reg.* 41697). The Regional Board finds that the Permittee's proposed Storm Water Management Plan is acceptable and when fully implemented will be consistent with the statutory standard of Maximum Extent Practicable (MEP) and in compliance with the Federal Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act.

    It is necessary to state that the implementation of the SQMP is consistent with the statutory standard of MEP, which is consistent with the CWA. This language has been present in other MS4 NPDES permits.

11. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as parking lots and fast food restaurants), or facilities which perform vehicle repair, maintenance, or fueling (automotive service facilities0)are potential sources of pollutants of concern in storm water. [References: Pitt *et al.*, *Urban Storm Water Toxic Pollutants: Assessment, Sources, and Treatability*, Water Environment Res., 67, 260 (1995); *Results of Retail Gas Outlet and Commercial Parking Lot Storm Water Runoff Study*, Western States Petroleum Association and American Petroleum Institute, (1994); *Action Plan Demonstration Project, Demonstration of Gasoline Fueling Station Best Management Practices*, Final Report, County of Sacramento (1993).]

12. Retail gasoline outlets are points of convergence for vehicular traffic and are similar to parking lots and urban roads. Studies indicate that storm water discharges from retail gasoline outlets have high concentrations of hydrocarbons and heavy metals. [*Schueler and Shepp* (1992)]. Pilot studies indicate that treatment control best management practices installed at retail gasoline stations are effective in removing pollutants, reasonable in capital cost, easy to operate, and do not present safety risks [*Rouge River National Wet Weather Demonstration Project, Task Product Memorandum – Evaluation of On-line Media Filters RPO-NPS-TPM59.00*, Wayne County, MI, March 1999].

Permit Coverage

13. The requirements in this Order cover all areas within the boundaries of the cities (see Attachment A) as well as unincorporated areas in Los Angeles County ~~Flood Control District~~ within the jurisdiction of the Regional Board. The Permittees serve a population of about 11.4 million [Reference: *2000 Census of Population and Housing,* Bureau of the Census, U.S. Department of Commerce (2001)] in an area of approximately 3,100 square miles.

Attachment B shows the map of the permitted area in Los Angeles ~~County Flood Control District~~.

Attachment B was not provided

14. Federal, state, regional or local entities within the Permittees' boundaries or in jurisdictions outside ~~the~~ Los Angeles County ~~Flood Control District~~, and not currently named in this Order, may operate storm drain facilities and/or discharge storm water to storm drains and watercourses covered by this Order. The Permittees may lack legal jurisdiction over these entities under state and federal constitutions. Consequently, the Regional Board recognizes that the Permittees will not be held responsible for such facilities and/or discharges. The Regional Board will coordinate with these facilities to implement programs that are consistent with the requirements of this Order.

15. Sources of discharges into receiving waters in the County of Los Angeles but in jurisdictions outside its boundary include the following:

    a) About 34 square miles of unincorporated area in Ventura County drain into Malibu Creek, thence to Santa Monica Bay,

    b) About 9 square miles of the City of Thousand Oaks also drain into Malibu Creek, thence to Santa Monica Bay, and

    c) About 86 square miles of area in Orange County drain into Coyote Creek, thence into the San Gabriel River in the Los Angeles County Flood Control District.

    The Regional Board will ensure that storm water management programs for the areas in Ventura County and the City of Thousand Oaks that drain into Santa Monica Bay are consistent with the requirements of this Order. The Regional Board will coordinate with the Santa Ana Regional Board so that storm water management programs for the areas in Orange County that drain into Coyote Creek are consistent with the requirements of this Order.

16. This permit is intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to minimize the discharge of pollutants in storm water from the permitted areas in the County of Los Angeles to the waters of the United States.

17. Permittees ~~will~~ are encouraged to work cooperatively with the assistance of the Regional Board to control the contribution of pollutants from one portion of the municipal separate storm sewer system to another portion of the system. Permittees ~~may~~ are encouraged to control the contribution of pollutants to the municipal separate storm sewer system from non-permittee dischargers such as Caltrans, the U.S. Department of Defense, and other state and federal facilities, through interagency agreements.

The draft permit language states a requirement rather than a finding. As noted in Finding #14 "Permittees lack legal jurisdiction over state and federal facilities." Permittees would attempt to work cooperatively to control the contribution of pollutants to the MS4 however

they would be unable to force non-storm water dischargers to cooperate in this effort. Furthermore, some of these dischargers have been issued NPDES permits by the Regional Board. These dischargers are already regulated by the Regional Board and should be controlling the contribution of pollutants to the MS4 by their NPDES permits.

Federal, State, and Regional Regulations

18. The Water Quality Act of 1987 added Section 402(p) to the Federal Clean Water Act (CWA). This section requires the U.S. Environmental Protection Agency (U.S. EPA) to establish regulations setting forth NPDES requirements for storm water discharges in two phases.

    - The U.S. EPA Phase 1 regulations were directed at municipal separate storm sewer systems (MS4) serving a population of 100,000 or more, including interconnected systems and storm water discharges associated with industrial activities, including construction activities. The Phase 1 Final Rule was published on November 16, 1990 (55 *Fed Reg.* 47990).

    - The U.S. EPA Phase II regulations are directed at other types of storm water discharges, including small municipal MS4s (serving a population of less than 100,000), small construction projects (one to five acres), municipal facilities with delayed coverage under the Intermodal Surface Transportation Efficiency Act of 1991, and other discharges for which the U.S. EPA Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard, or is a significant contributor of pollutants to waters of the United States. The Phase II Final Rule was published on December 8, 1999 (64 *Fed Reg.* 68722).

19. The U.S. EPA published an 'Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits' on August 26, 1996 (61 Fed. Reg. 4376). This policy discusses the appropriate kinds of water quality based effluent limitations to be included in NPDES storm water permits to provide for the attainment of water quality standards.

20. The U.S. EPA published an 'Interpretative Policy Memorandum on Reapplication Requirements' for MS4 permits on August 9, 1996 (61 *Fed. Reg.* 41697). This policy requires that MS4 reapplications for the next five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.

21. ~~U.S. EPA regulations at 40 CFR 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that Permittees implement a program to monitor and control pollutants in discharges to the municipal system from industrial and commercial facilities that contribute a substantial pollutant load to the MS4. The regulations require that Permittees establish priorities and procedures for inspection of industrial facilities. This permit consistent with the regulations incorporates a requirement that Permittees conduct an industrial/ commercial inspection program to control pollutants in storm water discharges from industrial facilities.~~

The sections cited do not support the Finding. Section 122.26(d)(2)(iv)(A) requires a description of structural and source control measures to reduce runoff pollutants from commercial and residential areas. It does not apply to industrial facilities. Section

7C-3

122.26(d)(2)(iv)(C) applies only to landfills, hazardous waste treatment, disposal or recovery facilities, facilities subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986, and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the MS4. There is no reference in these sections to inspecting, monitoring or controlling pollutant loads from "discharges from industrial facilities" in general, i.e. the entire category of all industrial permittees as implied by the finding.

22. Section 122.2 of the CWA authorizes the U.S. EPA to delegate its NPDES permitting authority to states with an approved environmental regulatory program. The State of California is a delegated State. The Porter-Cologne Water Quality Control Act (California Water Code) authorized the State Water Resources Control Board (State Board), through the Regional Boards, to regulate and control the discharge of pollutants into waters of the State and tributaries thereto. The State Board entered into a Memorandum of Agreement [MOA] with the U.S. EPA, on 22 September 1989, to administer the NPDES Program.

23. Section 303(d) of the CWA requires that the State identify a list of impaired water-bodies and develop and implement Total Maximum Daily Loads (TMDLs) for these waterbodies. A TMDL specifies the maximum amount of a pollutant that a water-body can receive and still protect beneficial uses. The U.S. EPA entered into a consent decree with the Natural Resources Defense Council (NRDC) on March 22, 1999, under which the Regional Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This permit incorporates a provision to implement and enforce approved load allocations for municipal storm water discharges and require changes to the Storm Water Quality Management Plan after pollutants loads have been allocated and ~~approved~~ have final approval.

Wording added for clarity

24. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: agriculture, silviculture, urban, marinas, and hydromodification. This NPDES permit addresses the management measures required for the urban category, with the exception of septic systems. The Regional Board addresses septic systems through the administration of other programs.

~~25. On May 18, 2000, the U.S. EPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule) 65 *Fed. Reg.* 31682, for the protection of human health and aquatic life. These criteria apply to discharges to inland surface waters, and enclosed bays and estuaries and to the Clean Water Act and its programs. The State Board adopted the, *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California – 2000)* on March 2, 2000, for implementation of the California Toxics Rule (State Board Resolution No. 200-15 as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL derived load allocations as soon as possible but no later than 20 years from the effective date of the policy.~~

The State Board's *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* specifically provides that the standards do not apply to storm water discharges.

26. The State Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) on July 23, 1997. The Ocean Plan contains water quality objectives for the coastal waters of California.

27. The Regional Board adopted an updated Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994, *'Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*, (1994).' The Basin Plan, and amendments thereto, which are incorporated in this Order by reference, designate the beneficial uses of receiving waters and specify both narrative and numerical water quality objectives for the receiving waters in Los Angeles County.

28. The Regional Board on April 13, 1998, approved best management practices for sidewalk washing to minimize the discharge of wash waters to the storm drain system (Resolution No. 98-08). By the same Resolution, the Regional Board prohibited the discharge of municipal street wash waters to the storm drain system.

29. The Regional Board on April 13, 1998, approved recommended best management practices for industrial/ commercial facilities (Resolution No. 98-08).

30. The Regional Board on April 22, 1999, approved a List of best management practices for use in development planning and development construction (Resolution No. 99-03)

31. The Regional Board adopted and approved requirements for new development and significant redevelopment projects in Los Angeles County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000. The State Board in large part affirmed the Regional Board action and SUSMPs in Order No. WQ 2000-1 issued on October 5, 2000. The State Board's Chief Counsel has issued a statewide policy memorandum (dated December 26, 2000,) which interprets the Order to provide broad discretion to Regional Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in environmentally sensitive areas, and retail gasoline outlets.

32. The Regional Board supports a Watershed Management Approach to address water quality protection in the region. The objective of the Watershed Management Approach should be to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources.

33. To promote a watershed management approach, the County of Los Angeles is divided into ~~five~~ six Watershed Management Areas (WMAs) as follows:

a. Malibu Creek and Rural Santa Monica Bay WMA
b. Ballona Creek and Urban Santa Monica Bay WMA
c. Los Angeles River WMA
d. San Gabriel River WMA
e. Dominguez Channel/Los Angeles Harbor WMA
f. Santa Clara River WMA

A formal letter to rescind the submitted ROWD for the Santa Clara River Watershed Management Area (WMA) and a request to add City of Santa Clarita as a Co-Permittee under the Los Angles Basin Permit will be sent at a later date

Permittees may form sub-watershed groups within the WMA. Attachment A, shows the list of Permittees under each WMA.

34. To facilitate compliance with federal regulation, the State Board has issued two statewide general NPDES permits: one for storm water from industrial sites [NPDES No. CAS000001, General Industrial Activity Storm Water Permit (GIASP)] and the other for storm water from construction sites [NPDES No. CAS000002, General Construction Activity Storm Water Permit (GCASP)]. The GCASP was reissued on August 19, 1999. The GIASP was reissued on April 17, 1997. Facilities discharging storm water associated with industrial activities and construction projects with a disturbed area of five acres or more are required to obtain individual NPDES permits for storm water discharges, or be covered by these statewide general permits by completing and filing a Notice of Intent (NOI) with the State Board. The U.S. EPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.

35. The State Board, on October 28, 1968, adopted Resolution No. 68-16, "Maintaining High Quality Water" which established an anti-degradation policy for State and Regional Boards.

36. The State Board, on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitations language to be included in all municipal storm water permits issued by the State and Regional Boards.

37. California Water Code (CWC) Section 13263(a) requires that waste discharge requirements issued by the Regional Board shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the

water quality objectives reasonably required for that purpose; other waste discharges; and the need to prevent nuisance.

38. California Water Code Section 13370 *et seq.* requires that waste discharge requirements issued by the Regional Boards comply with provisions of the Federal Clean Water Act and its amendments.

Other Findings

39. The Regional Board is the enforcing authority in the Los Angeles Region or the two statewide general permits, which regulate discharges from industrial facilities and construction sites, and all NPDES storm water and non-storm water permits issued by the Regional Board. These industrial and construction sites and discharges are also regulated under local laws and regulations.

40. The Executive Advisory Committee (EAC) is a representative committee of Permittee members established to facilitate permit compliance and enhance consistency in program implementation among Permittees.

41. For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements. The California Environmental Quality Act (CEQA) (Pub Resources Code Section 21000 *et seq.*) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary and does not apply to ministerial projects, which involve the use of established standards or objective measurements. A ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion.

42. A review of industrial waste/ pretreatment records in the County of Los Angeles on illicit discharges indicates that automotive service facilities and food service facilities sometimes discharge polluted washwaters to the MS4. The pollutants of concern in such washwaters include food waste, oil and grease, and toxic chemicals. Other storm water/industrial waste programs in California have reported similar observations.

Implementation

43. The objective of this Order is to protect the beneficial uses of receiving waters in Los Angeles County. To meet this objective, this Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters.

44. The Regional Board recognizes the unique challenges to regulating storm water discharges through municipal storm sewer systems, including intermittent and variable nature of discharges, difficulties in monitoring, and limited physical control over the discharge, and that it will require adequate time to implement and evaluate the effectiveness of best

management practices required in this Order and to determine whether they will adequately protect the receiving water.

45. The SQMP required in this Order builds upon the programs established in Order No. 90-079, and No. 96-054, consists of the components recommended in the USEPA guidance manual, and was developed with the cooperation of representatives from the regulated community and environmental groups. The SQMP includes provisions that promote customized initiatives, both on a countywide and watershed basis, in developing and implementing cost-effective measures to minimize discharge of pollutants to the receiving water. The various components of the SQMP, taken as a whole rather than individually, are expected to reduce pollutants in storm water and urban runoff to the maximum extent practicable.

46. The emphasis of the SQMP is pollution prevention through education, public outreach, planning, and implementation as source control BMPs first and then structural and treatment control BMPs. Successful implementation of the provisions of the SQMP will require cooperation and coordination of all public agencies in each Permittee's organization, among Permittees, and the regulated community. To minimize cost, the Permittees are encouraged to utilize their existing organizational framework to implement the various activities required in this Order.

47. This Order provides the flexibility for the Permittees to petition the Regional Board Executive Officer to substitute a BMP or requirement under the SQMP with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

48. This Order contemplates that the Permittees are responsible for considering potential storm water impacts when making planning decisions. This Order or any of its requirements are not intended to restrict or control local land use decision-making authority.

Public Process

49. The Regional Board has notified the Permittees and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to submit their written view and recommendations.

50. The Regional Board, in a public hearing, heard and considered all comments pertaining to the discharge and to the tentative requirements.

51. The Regional Board has conducted public workshops to discuss the draft permit.

52. This Order shall serve as a National Pollutant Discharge Elimination System (NPDES) Permit, pursuant to Section 402 of the Federal Clean Water Act, or amendments thereto, and shall take effect 50 days from permit adoption provided the Regional Administrator of the EPA has no objections.

53. This Order may be modified or alternatively revoked or reissued prior to its expiration date, in accordance with the procedural requirements of the federal NPDES program, and the California Water Code for the issuance of waste discharge requirements.

IT IS HEREBY ORDERED that the Los Angeles County Flood Control District, Los Angeles County, and the Cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bell, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Cañada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act, as amended, and regulations and guidelines adopted thereunder, shall comply with the following:

A formal letter to rescind the submitted ROWD for the Santa Clara River Watershed Management Area (WMA) and add the City of Santa Clarita as a Co-Permittee under the Los Angles Basin Permit will be sent at a later date.

Part 1. DISCHARGE PROHIBITIONS

Each Permittee shall within its jurisdiction effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are:

This prohibition can be clarified by indicating that the Permittees can only prohibit discharges within their own jurisdictions.

1. covered by a separate individual or general NPDES permit for non-storm water discharges, granted an exemption; or

   It is important to indicate that an exemption may be granted upon a petition or the Executive Officer's approval.

2. in one of the categories below, and meet all conditions specified by the Regional Board Executive Officer (and which must be included in the revised SQMP):

   a) Categories of natural flow:

      (1) Natural springs and rising ground water;

      (2) Flows from riparian habitats or wetlands;

      (3) Stream diversions, permitted by the State Board; and

(4) Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)].

b) Category of flows from emergency fire fighting activity.

c) Categories of flows incidental to urban activities, all of which are subject to conditions that shall be approved by the Regional Board Executive Officer:

(1) Reclaimed and potable landscape irrigation runoff;

(2) Water line flushing of potable water distribution systems;

(3) Discharges of potable water:

There may be occasions where incidental runoff may occur from events such as, leaks, cleaning of water storage tanks, and redevelopment of wells

(4) Drains for foundations, footings, and crawl spaces;

(5) Air conditioning condensate;

(6) Dechlorinated swimming pool discharges;

(7) Dewatering of lakes and decorative fountains;

(8) Non-commercial car washing by residents or by non-profit organizations; and

(9) Wash water runoff from the cleaning of fire fighting vehicles.

Fire vehicle washing is a routine activity and thus it would be appropriate to impose conditions on the wash water before it is being discharged into the MS4. There are source control BMPs that can be used to effectively reduce pollutants in the wash water before it is discharged into the MS4

(10) Sidewalk rinsing;

(11) Wash water runoff of blood and other human tissues from the cleaning of accident sites or accidental spills.

We have not received a response from the Executive Officer to our request for this conditional exemption.

The Regional Board Executive Officer may add or remove categories of non-storm water discharges above. Furthermore, in the event that any of the above categories of non-storm water discharges are determined to be a source of pollutants by the Regional Board Executive Officer, the discharge will no longer be exempt from this prohibition unless the Permittee implements conditions approved by the Regional Board Executive Officer to ensure that the discharge is not a source of

pollutants. Notwithstanding the above, the Regional Board Executive Officer may impose additional prohibitions of non-storm water discharges in consideration of anti-degradation policies.

There are neither criteria nor procedure included in the draft permit for the addition of categories of non-storm water discharges subject to conditions in the paragraph above

Part 2. RECEIVING WATER LIMITATIONS

1. ~~Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.~~

2. ~~Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance.~~

   Items 1 and 2 are inconsistent with the State Board Resolution 99-05 Items 1 and 2 will cause Permittees to be immediately out of compliance with the permit requirements

3. The Permittee shall comply with the permit through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the Storm Water Quality Management Plan (SQMP) and its components and other requirements of this permit including any modifications. The SQMP and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of applicable water quality objectives or applicable water quality standards (collectively, water quality standards) persist, notwithstanding implementation of the SQMP and its components and other requirements of this permit, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

   Language added for clarity

   a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance of an applicable water quality standard, the Permittee shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of water quality standards. This report may be incorporated in the ~~annual update of the SQMP and its components~~ Annual Storm Water Report and Assessment unless the Regional Board directs an earlier submittal. The report shall include an implementation

schedule. The Regional Board may require modifications to the Report.

The SQMP is not updated annually. It would be appropriate to incorporate the report asked for above in the Annual Storm Water Report and Assessment

b) Submit any modifications to the report required by the Regional Board within 30 days of notification.

c) Within 30 days following the approval of the report, the Permittee shall revise the SQMP and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.

d) Implement the revised SQMP and its components and monitoring program according to the approved schedule.

4. So long as the Permittee has complied with the procedures set forth above and is implementing the revised SQMP and its components, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

Part 3. STORM WATER QUALITY MANAGEMENT PLAN IMPLEMENTATION, MONITORING, AND REPORTING

A. Responsibilities of the Principal Permittee

The Principal Permittee will coordinate and facilitate activities necessary to comply with the requirements of this Order, but is not responsible for ensuring compliance of any individual Permittee. The ~~County of~~ Los Angeles County Flood Control District is hereby designated as the Principal Permittee, and as such shall:

This wording is added for clarity. The Los Angeles County Flood Control District is the Principal Permittee

1. Coordinates permit activities among Permittees and negotiate NPDES requirements with the Regional Board.

   All Permittees will be given the opportunity to have an active role in, provide input and participate in the development of permit requirements. However, the Principal Permittee and the watershed Executive Advisory Committee (EAC) representative(s) will conduct formal discussions with the Regional Board on behalf of Permittees.

2. Provide personnel and fiscal resources for the necessary update of the SQMP and its components;

3. Convene the Watershed Management Committees (WMCs) constituted pursuant to Part C, below, upon designation of representatives;

4. Provide technical and administrative support for committees that will be organized to implement the SQMP and its components;

5. Implement the Countywide Monitoring Program required in this Order;

6. Provide personnel and fiscal resources for the preparation and submittal to the Regional Board of annual reports and summaries of other reports required under the SQMP; and

7. Comply with the "Responsibilities of the Permittees" in Part 3.B., below;

B. Responsibilities of Each Permittees

Each Permittee is responsible for the implementation of the appropriate storm water management program developed pursuant to the requirements of this Order, and not for the implementation of the provisions applicable to the Principal Permittee or other Permittees. A Permittee is required to comply with the requirements of this Order applicable to discharges, which originate from places within its boundaries over which it has authority to enforce the requirements of this Order. Each Permittee shall, within its geographic jurisdiction:

1. Comply with the requirements of the SQMP and its amendments;

2. Coordinate among its internal departments and agencies, as appropriate, to facilitate the implementation of the requirements of the SQMP and its components applicable to such Permittee in an efficient and cost-effective manner;

3. Participate in the update of the SQMP and its components;

4. Designate a technically knowledgeable representative to the appropriate WMC;

5. Implement the SQMP upon approval by the Regional Board Executive Officer; and,

6. Provide intra-agency coordination (e.g. Fire Department, Building and Safety, Code Enforcement, etc.) toward the successful implementation of the provisions of this Order and SQMP components. As such, these

organizations are expected to actively participate in implementing the area wide storm water program.

C. Watershed Management Committees (WMCs)

1. Each WMC shall be comprised of a voting representative from each Permittee in the Watershed Management Area (WMA).

2. The WMC's chair and secretary shall be chosen by the WMC upon permit adoption and on an annual basis, thereafter. In the absence of volunteer Permittee(s) for the positions, the Principal Permittee shall assume those roles until the WMC chooses members of the committee for the positions.

Each WMC shall:

1. Facilitate cooperation and exchange of information among Permittees;

2. Establish additional goals and objectives and associated deadlines for the WMA, as the program implementation progresses;

3. Prioritize pollution control efforts based on beneficial use impairment(s), watershed characteristics and analysis of results from studies and the monitoring program;

4. Develop and/or update and monitor the adequate implementation, on an annual basis, of the tasks identified for the WMA;

5. Assess the effectiveness of, prepare revisions for, and recommend appropriate changes to the SQMP and its components;

6. Continue the Industrial/Commercial Source Identification program. Additional industrial/commercial or other types of activities will be investigated and those identified as priority shall be included in the program for industrial/commercial businesses.

7. Conduct joint WMC meetings at least four times per year and, as necessary.

D. Executive Advisory Committee (EAC)

The EAC is constituted by one representative from the Malibu Creek WMA, one representative from the Santa Clara River WMA, and by two representatives from each of the other WMAs, along with representatives from the City of Los Angeles, and the ~~County of~~ Los Angeles County Flood Control District.

This wording is added to clarify. The Los Angeles County Flood Control District is the Principal Permittee. A formal letter to record the submitted ROWD for the Santa Clara River Watershed Management Area (WMA) and add the City of Santa Clarita as a Co-Permittee under the Los Angles Basin Permit will be sent at a later date.

E. General Requirements

1. Each Permittee shall, at a minimum, adopt and implement the elements of the SQMP and its components that are consistent with the terms of this permit.

2. Additionally, modifications to the SQMP made during the term of the permit including those made in accordance with part 3.F.1. of this permit shall be implemented.

3. The SQMPs shall, at a minimum, comply with the applicable storm water program requirements of 40 CFR 122.26(d)(2). The SQMP and its components shall be implemented so as to reduce the discharges of pollutants in storm water to the maximum extent practicable. The SQMP Table of Contents are described in Attachment A.

Attachment A does not refer to the SQMP Table of Contents

4. Each Permittee shall be responsible for implementation of the relevant portions of the SQMPs within its jurisdictional boundaries. The Principal Permittee shall be responsible for program coordination as described in 3.B., as well as, compliance with the relevant portions of the permit within its jurisdiction.

F. SQMP Modifications

1. The Permittees shall modify the SQMP and its components adopted with this Order to make it consistent with the requirements herein. The revised SQMP and its components will be submitted to the Regional Board Executive Officer for approval no later than 180 days from the adoption of this Order.

2. The Principal Permittee shall modify the SQMP to comply with waste load allocations developed and approved pursuant to the process for the designation and implementation of approved Total Daily Maximum Loads (TMDLs) for impaired water bodies.

3. The Regional Board Executive Officer may approve changes to the SQMP and its components, except as noted in part 3.F.1., for the reasons set forth in 40 CFR 122.62(a) and (b). either:

a) Upon petition by the Permittees or interested parties, and after providing for and considering public comment, or,

~~b)~~ As deemed necessary by the Regional Board Executive Officer following notice to the Permittees, and after providing for and considering public comments. In the notice to the Permittees the Regional Board Executive Officer shall provide reasons for seeking changes to the SQMP and its components and his or her legal authority for such changes.

As currently drafted this section does not set forth the standard as applied by the Executive Officer in approving changes to the

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SQMP. Because the SQMP is part of the Order, its modification should follow the standards set forth in 40 CFR 122.62 for amending permits

4. The Permittees shall modify the SQMP and its components, at the direction of the Regional Board Executive Officer, to incorporate regional provisions. Such provisions may include watershed specific requirements for watersheds shared by Permittees with other MS4 programs.

Clarification needed. What are regional provisions? Please define

G. Legal Authority

1. Permittees shall possess the necessary legal authority to prohibit non-storm water discharges, to the maximum extent practicable, to the storm drain system, including, but not limited to:

In items a through j the repetition of the word "prohibit" is unnecessary.

a) ~~Prohibit~~ illicit discharges and illicit connections and a requirement for removal of illicit connections;

b) ~~Prohibit~~ the discharge of wash waters to the MS4 from the cleaning of gas stations, auto repair garages, or other types of automotive service facilities;

c) ~~Prohibit~~ the discharge of runoff to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;

d) ~~Prohibit~~ the discharge of runoff to the MS4 from areas where repair of machinery and equipment which are visibly leaking oil, fluid or antifreeze, is undertaken;

e) ~~Prohibit~~ the discharge of runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;

f) ~~Prohibit~~ the discharge of chlorinated swimming pool water and filter backwash to the MS4;

g) ~~Prohibit~~ the discharge of runoff from the washing of toxic materials from paved or unpaved areas to the MS4;

h) ~~Prohibit~~ washing impervious surfaces in industrial/commercial areas that results in a discharge of runoff to the MS4; and

i) ~~Prohibit~~ the discharge of concrete or concrete laden wash water from concrete trucks, pumps, tools, and equipment to the MS4.

j) ~~Prohibit~~ spills, dumping, or disposal of materials into the MS4, other than storm water, such as:

(1) Litter, landscape debris and construction debris;

(2) Any state or federally banned pesticide, fungicide or herbicide;

(3) Food wastes; and

(4) Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials that have potential adverse impacts on water quality.

k) Comply with conditions in Permittees ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows);

l) Utilize enforcement mechanisms to require compliance with Permittees ordinances, permits, contracts, or orders;

m) Control the contribution, ~~or potential contribution~~, of pollutants in discharges of storm water runoff associated with industrial activities (including construction activities) **to** its MS4 and control the quality of storm water runoff **from** industrial sites (including construction sites). This requirement applies to source control, treatment control, and structural control BMPs; and,

n) In cases where a Permittee has probable cause to suspect a violation of discharge provisions of their stormwater ordinance, follow due process to carry out ~~all~~ inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance. ~~with permit conditions, including the prohibition of illicit discharges to the MS4~~. Permittees must possess authority, following due process, to enter, sample, inspect, review and copy records, ~~and require regular reports~~ from industrial facilities discharging polluted ~~or potentially polluted~~ storm water runoff into its MS4 (including construction sites).

We cannot inspect private property without the permission of the property owner or a court warrant.

Requiring regular reports from industrial facilities is beyond the scope of an illegal discharge investigation by a permittee and is the RWQCB's responsibility.

o) Require the use of best management practices (BMPs) to prevent or reduce the discharge of pollutants to MS4s.

p) Adopt and implement an agency-specific storm water and urban runoff ordinance or amend an existing one, if necessary, to be able to enforce all requirements of the permit, effective immediately upon the adoption of this Order.

H. Annual Storm Water Program Report and Assessment

The ~~Principal~~ Permittees shall submit by October 15 of each year beginning the Year 2002, an Annual Storm Water Program Report and Assessment documenting the status of the general program and individual tasks contained in the SQMP, and in accordance with the requirements identified in the Monitoring and Reporting Program CI-6948 of this Order. The ~~Principal Permittee~~ Regional Board and the Permittees shall evaluate the Annual Storm Water Program Report and Assessment with the results of analyses from the Monitoring and Reporting program. (e.g., if the monitoring report results show a particular constituent consistently at elevated levels, that may be a trigger for Permittees to address their programs specifically for that particular situation and change them accordingly to address the problem).

The annual reporting should not be solely the responsibility of the Principal Permittee but of all Permittees. The Permittees should evaluate results and analyses of their programs with the guidance of the Regional Board.

The Annual Storm Water Program Report and Assessment shall cover the previous fiscal year from July 1 through June 30, and shall include the information necessary to assess the Permittees' compliance status relative to this Order, and the effectiveness of implementation of permit requirements on storm water quality.

The Annual Storm Water Program Report and Assessment shall include any proposed changes to the SQMP and its components as approved by the Management Committee(s).

The ~~Principal~~ Permittees shall submit by October 15, 2001, the annual program report for period July 1, 2000 through July 26, 2001 documenting the status of the general program up to permit reissuance and the results of analyses from the monitoring and reporting program.

The annual reporting should not be solely the responsibility of the Principal Permittee, but of all Permittees.

I. Storm Water Management Program Budget

1. Each Permittee shall prepare annually a budget summary on resources applied to the storm water management program. This budget summary shall include an annual summary identifying the storm water budget for the following year, using estimated percentages and written explanations where necessary, for the specific categories noted below:

   a) Program management

   ~~b) Illicit connection/illicit discharge~~

   ~~c) Development planning/development construction~~

   d) Industrial inspection activities (including construction activities)

   ~~e) Public Agency Activities~~

   ~~f) Operations and maintenance~~

   ~~g) Municipal Street Sweeping~~

   ~~h) Fleet and Public Agency Facilities~~

   ~~i) Landscape and Recreational Facilities~~

   j) ~~Capital Costs~~

   k) Public Information and Participation

   l) Monitoring Program

   ~~m) Other~~

   This budget summary would be an impossible task with respect to the County's $16 Billion budget. The cost of compiling this information would far exceed any possible value of the report. Items related to storm water quality could be best addressed in the summary provided to the Los Angeles County Flood Control District.

2. Each Permittee, in addition to the budget summary, shall report any supplemental dedicated budgets, if any, for the same categories.

J. Storm Water Monitoring Report

The Principal Permittee shall submit a Storm Water Monitoring Report on August 15, 2002 and annually on August 15 thereafter, in accordance with the requirements identified in the Monitoring and Reporting Program CI-6948 of this order. The report shall include:

a) Status of implementation of the monitoring program as described in the attached Monitoring and Reporting Program CI-6948;

b) Results of the monitoring program; and

c) A general interpretation of the significance of the results, to the extent that data allows.

K. Modification

The Regional Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the SQMP as specified in 3.F.3. The petition for changes shall be filed no later than 60 days after the Annual Monitoring Program Report submittal date.

L. Best Management Practice Substitution

The Regional Board Executive Officer may approve any Best Management Practice (BMP) substitution upon petition by the Permittee(s), if the Permittee can document that:

1. The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of stormwater pollutants; or

2. The fiscal burden of the original BMP or program is substantially greater than the proposed alternative and does not achieve a substantially greater improvement in storm water quality; and,

3. The proposed alternative BMP or program will be implemented within a similar period of time.

The Regional Board Executive Officer may approve any BMP elimination upon petition by the Permittee(s), if the Permittee can document that the BMP is not technically feasible and no substitute is available.

Part 4. SPECIAL PROVISIONS

A. Public Information and Participation Program

Permittees shall work collaboratively to implement a comprehensive education/outreach program with the following objectives:

To measurably increase the knowledge of the target audiences regarding the MS4, the impacts of storm water pollution on receiving waters, and potential solutions to mitigate the problems caused;

To measurably change the behavior of target audiences by encouraging implementation of appropriate solutions;

To involve and engage all socio-economic and ethnic groups in Los Angeles County to publicly participate in mitigating the impacts of storm water pollution.

1. Programs for Residents

a) The Principal Permittee shall implement the Public Education Program as outlined in the SQMP, including the continuation of the following activities:

- Advertising
- Media Relations
- Public Service Announcements
- "How To" Instructional Material Distributed in a Targeted and Activity-Related Manner
- Corporate, Community Association, Environmental Organization and Entertainment Industry Tie-Ins
- 1-888-CLEAN-LA and 888CleanLA.com
- Events Targeted to Specific Activities and Population Sub-groups

b) Countywide Hotline

The 888-CLEAN-LA hotline will serve as the general public reporting contact for reporting clogged catch basin inlets and illicit discharges/dumping, and general storm water management information. Each Permittee may establish its own hotline if preferred. Permittees shall include this information, updated when necessary, in public information, and the government pages of the telephone book as they are developed/published.

c) "No Dumping" Message

Each Permittee shall mark all storm drain inlets with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping must be posted at designated public access points to creeks, other relevant water bodies, and channels by July 26, 2003. Good signage shall be maintained.

d) Outreach and Education

The Principal Permittee shall implement the second Five-Year Education Plan as detailed in the SQMP.

Each Permittee shall conduct educational activities within its jurisdiction and participate in countywide events.

The Principal Permittee shall organize Public Outreach Strategy meetings with all Co-permittees on a quarterly basis. The Principal Permittee shall provide guidance for Permittees to augment the regional outreach and education program. Permittees shall coordinate regional and local outreach and education to reduce duplication of efforts.

The Principal Permittee shall insure that a minimum of 35 million impressions per year are made on the general public about storm water quality via print, local TV access, local radio, or other appropriate media.

Each Permittee shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, and other media necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution. All Permittees shall cooperate to implement this requirement. Permittees shall provide the contact information for their appropriate storm water staff to the Principal Permittee within 30 days of the date this order is adopted. Cooperative efforts with other agencies may also be used to accomplish this requirement.

e) Pollutant-Specific Outreach

Permittees shall coordinate to develop outreach programs that target the watershed-specific pollutants listed in Table 1 no later than [one year ~~6 months~~ from the permit adoption date]. Metals may be appropriately addressed through the Industrial/Commercial businesses program. Region-wide pollutants may be included in the Principal Permittee's mass media efforts. Programs shall be appropriate for the anthropogenic sources of each pollutant.

Outreach efforts are handled through a contract and, thus more than six months will be necessary to develop the best quality program

Table 1. Target Pollutants for Outreach

Watershed	***Target Pollutants for Outreach***
Ballona Creek	Trash, Indicator Bacteria, ~~Metals~~
Malibu Creek	Trash, Nutrients, Indicator Bacteria
Los Angeles River	Trash, Nutrients (Nitrogen), Indicator Bacteria, ~~Metals~~, Pesticides
San Gabriel River	Trash, Nutrients (Nitrogen), Indicator Bacteria, ~~Metals~~
Dominguez Channel	Trash, Indicator Bacteria

Metals cannot be effectively addressed through a general education campaign. This pollutant may be more effectively restricted through State regulations on manufacturers, for example a maximum metals content allowable in brake pad linings

Each Permittee shall distribute outreach materials to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate public counters and events. Outreach material shall include information on pollutants and sources of concern, as listed in Table 1.

2. Programs for Businesses

a) Corporate Outreach

The Principal Permittee shall develop and implement a Corporate Outreach program to educate corporate ~~heads~~ management about storm water regulations. The program shall target gas stations and restaurant chains. At a minimum, this program shall include:

It may not be possible to contact corporate heads however corporate managers may be more accessible

~~(1)~~ Distribution of educational material to corporate ~~heads~~ management by mail explaining storm water regulations and indicating that on-site consultation on BMP implementation is available ~~to explain storm water regulations;~~

Contact should first be made by mail indicating that an on-site visit is available upon request It is unlikely that we will be able to visit directly with management, otherwise

(2) ~~Distribute and discuss BMP and educational material, and~~ Provide corporate management with suggestions to ~~facilitate~~ encourage their employee compliance with stormwater regulations.

We will meet with management to discuss BMPs and explain storm water quality regulations

Corporate Outreach for all gas station and restaurant chain corporations shall occur once every 2 years, not less than twice during the permit term.

b) Business Assistance Program

Permittees shall develop and implement a Business Assistance Program to provide confidential, technical resource assistance to small businesses to help them understand and comply with storm water regulations. At a minimum, programs shall include:

(1) On-site technical assistance or consultation via telephone to identify and implement pollution prevention methods and best management practices;

(2) Availability, distribution, and discussion of applicable BMP and educational materials; and,

(3) Access to information concerning environmental consulting services, hazardous waste treatment, hauling, disposal and recycling services, and pollution prevention and control practices.

Permittees shall provide assistance to small businesses that meet the following criteria:

(1) Less than 100 employees;

(2) Lack funding for private consulting;

(3) Lack access to the expertise necessary to understand and comply with storm water regulations; and

(4) Requested assistance, or were referred through the Industrial/Commercial Inspection Program.

Permittees shall assist (through site visits, telephone consultations, presentations or material distribution) all qualifying businesses that request assistance, or 1000 businesses per year, whichever is less.

The Business Assistance Program shall be a confidential and non-enforcement program. Permittees shall conduct follow-up independent of the Business Assistance Program, based on the priorities of the Industrial/Commercial Inspection Program.

The Principal Permittee shall submit an annual PIPP Update, with the Annual Program and Assessment Report, to the Regional Board Executive Officer for approval. The PIPP Update shall include a summary of the overall strategy and any updates or modifications to the Public Information and Participation Program.

B. Programs for Industrial/Commercial ~~Inspections~~ facilities

General Legal Comments This section needs to be modified as set forth below to reflect that it is not the Permittees' obligation to inspect, oversee or enforce the GIASP. The draft permit, as written, violates Article XIIIB section 6, of the California Constitution, and the GIASP itself. The federal regulations also do not authorize imposition of these obligations on the Permittees.

Article XIIIB Section 6 of the California Constitution provides in pertinent part: Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service. This imposition on the permittees of the obligation to inspect facilities which hold a general permit for discharges of

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storm water associated with industrial activities to require the BMPs designated under that permit, and to enforce those measures, is to shift responsibility for enforcement of the general permit from the regional board to the permittees. As such it is mandating a new program or a higher level of service on each permittee. Because the Board is not reimbursing the permittees for the costs of this program or higher level of service, these requirements violate the California Constitution.

The requirements also violate the General Industrial Permit itself. That permit delegates to the Regional Boards the authority to implement the permit, including, but not limited to, reviewing SWPPPs, reviewing annual reports, conducting compliance inspections, and taking enforcement actions. (State Board Order No.97-03-DWQ, Section F.1.a.) The General Permit does not give that authority to municipal storm water permittees.

The federal regulation cited in the fact sheet/staff report also does not authorize imposition of these obligations on the Permittees. 40 CFR 122.26(d)(2)(iv)(C) applies only to landfills, hazardous waste treatment, disposal or recovery facilities, facilities subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986, and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the MS4. There is no reference in these sections to inspecting, monitoring or controlling pollutant loads from all holders of general industrial permits.

Each Permittee shall implement an Industrial/Commercial Inspection Program to:

Intent is clearer with these wording changes

Achieve the control and reduction of pollutants in storm water runoff from ~~all~~ Industrial/Commercial sites specified in this permit in section 5(b) below to the maximum extent practicable.

Need to specify which facilities are supposed to be visited

At a minimum the Industrial/Commercial program shall address:

(GENERAL COMMENT: THE FOLLOWING BULLET ITEMS ARE REPEATED IMMEDIATELY AFTERWARDS IN ITEMS 1 THROUGH 7. IT MAY BE SIMPLER TO CONSOLIDATE THE TWO SECTIONS)

- Regulation of stormwater and non-stormwater discharges of pollutants into Permittee MS4s with appropriate legal penalties for non-compliance. ~~**Regulatory mechanism requiring the implementation of proper Pollution Prevention and control measures at Industrial/Commercial sites**~~;

To the extent that implementation of proper pollution prevention and control measures is a requirement under State law, their enforcement is the RWQCB's responsibility. We can only enforce our local stormwater ordinance.

- **Source Identification;**
- **Threat to Water Quality;**
- BMP evaluations ~~**Site plan review and BMP Implementation**~~;

  Same comment as for bullet #1
- **Inspection of Industrial/Commercial sites** specified in this permit;

  Clarifies which sites are referenced
- **Enforcement of** Permittees' stormwater ordinances ~~**pollution prevention and control measures**~~ **at Industrial/Commercial sites;**

  Same comment as for bullet #1
- ~~**Have sanctions to ensure compliance (established in the regulatory mechanism).**~~

  All ordinances are enforceable and have penalties for non-compliance. The statement is unnecessary.

~~1.~~ Prohibition of the discharge of pollutants into Permittee MS4s. ~~**Pollution Prevention (Industrial/Commercial)**~~

Wording changed for clarity.

Each Permittee shall have the legal authority to regulate stormwater and non-stormwater discharges into Permittee MS4s with appropriate legal penalties for non-compliance. ~~**implement pollution prevention methods in its Industrial/Commercial Program and shall require its use by industrial/commercial businesses, where appropriate.**~~

To the extent that implementation of proper pollution prevention and control measures is a requirement under State law, their enforcement is the RWQCB's responsibility. We can only enforce our local stormwater ordinance.

2. **Source Identification (Industrial/Commercial)**

Each Permittee shall develop and update annually a watershed-based inventory of all applicable **Industrial/Commercial sites within its jurisdiction** as defined under 5 (b) below. ~~**regardless of site ownership**~~. **The inventory may be expanded through designation by the WMC as additional information becomes available. This requirement is applicable to all Industrial/Commercial sites regardless of whether the**

Industrial/Commercial site is subject to the GIASP or other individual NPDES permit, ~~or commercial sites~~. The update of the database may be performed through new information obtained through field activities or through other readily available intra-agency informational databases (e.g. business license, pretreatment permits, sanitary sewer hook-up permits, etc...) The inventory shall include the following minimum information for each Industrial/Commercial site:

"Applicable" is added to clarify that we only update for the specified SIC codes. "Regardless of site ownership" was removed because Federal and State facilities, for example, are not subject to our inspection and should not be included in the listing. "Commercial sites" seems not to belong in the sentence

a) name;

b) address; and

c) a narrative description including SIC codes that best reflects the principal products or activities performed by each facility. The use of an automated database system, such as Geographical Information System (GIS) or web-based is highly recommended, but not required. Any database already available may be used to satisfy the requirements of this section. The Permittees may use other fields of information, as necessary (e.g. to point out discrepancies between SIC Code designation and type of activities ~~in reality~~ actually performed on-site).

Changed for clarity

3. Threat to Water Quality Prioritization (Industrial/Commercial)

The program for Industrial/Commercial Businesses will address at the minimum, the following categories of activities:

a) All industrial groups regulated under Phase I of the federal storm water program;

b) Motor vehicle repair shops, motor vehicle body shops, motor vehicle parts and accessories facilities;

c) Restaurants. The County Health ~~Department~~ Code shall be amended with applicable regulations prohibiting illicit discharge to the MS4 ~~to facilitate compliance with this Order. At a minimum, the Code shall be modified to~~ Inspections for compliance with discharge prohibitions shall be included as part of the routine health inspection of each restaurant. Such inspections shall include at a minimum:

Clarifies intent. Please note that final DHS comment [illegible]

(1) Parking lot, alley, sidewalk and street areas. Inspectors will verify that floormats, filters and garbage containers are not washed in those areas. They will also verify that no washwater is poured in those areas.

(2) Dumpster areas. Inspectors will verify that the dumpster area is clean with the lid closed and not filled with liquid or hosed out.

(3) Oil and Grease residue is not poured onto a parking lot, street or adjacent catch basin.

(4) Parking lot area is cleaned by sweeping and not by hosing down. The facility uses dry methods for spill cleanup.

d) Other Commercial facilities as designated by the WMC (contributing or potentially contributing to the impairments of receiving waters). Inspection programs and frequencies for these facilities will be developed by the WMC and be approved by the Executive Officer prior to implementation

Clarifies definition of "other commercial facilities"

4. BMP ~~Implementation~~ survey

We may request to survey a facility's BMPs and report on their implementation, however it is the RWQCB's responsibility to enforce the BMP implementation

~~a)~~ Each Permittee shall survey applicable BMPs at each industrial/commercial site specified in the permit and note their implementation. If particular minimum BMPs are infeasible at any site, each Permittee shall recommend other equivalent BMPs ~~implement, or require the implementation of, the designated minimum BMPs, as approved in Resolution No. 98-08, at each industrial/commercial site within its jurisdiction. If particular minimum BMPs are infeasible at any specific site, each Permittee shall implement, or require implementation of, other equivalent BMPs. Each Permittee shall also implement or require any additional site specific BMPs as necessary to comply with this Order including BMPs which are more stringent than those required under the statewide General Industrial Permit.~~

We may request to survey BMPs and report on their implementation, however it is the RWQCB's responsibility to enforce the BMPs implementation

b) Each Permittee shall ~~implement, or require~~ encourage the implementation of additional controls for Industrial/Commercial

sites tributary to Clean Water Act section 303(d) impaired water bodies (where a site discharges pollutants for which the water body is impaired) as necessary to comply with this Order. Each Permittee shall ~~implement, or require~~ encourage the implementation of additional controls for Industrial/Commercial sites within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas as necessary to comply with this Order.

We may encourage the use of BMPs however it is the RWQCB's responsibility to enforce their implementation

5. Inspection of Industrial/Commercial Sites

a) Each Permittee shall conduct the specified Industrial site inspections in 5 (b) below for compliance with its stormwater ordinances and its permits and to survey minimum BMPs. ~~Inspections shall include review of BMP implementation plans or implementation of the required minimum BMPs~~.

We may request to inspect for discharge violations covered under our storm water ordinance We may also survey BMPs and report on their implementation however, it is the RWQCB's responsibility to enforce the BMPs' implementation

b) ~~Each Permittee shall establish inspection frequencies for facilities described in B.3. above~~. Each Permittee shall inspect specified Industrial/commercial sites, at a minimum:

Changes made for clarity

Facility Type	Inspection Frequency
Restaurants*	Once in 24 months, but not less than twice during the life of the permit
Automotive Service Facilities*	Once in 24 months, but not less than twice during the life of the permit
~~Other Commercial~~ * Other industries designated by the WMC* Process for designating and visiting other commercial needed to be reiterated	~~Once in 24 months, but not less than twice during the life of the permit~~ Subject to development by the WMC and approval by the Executive Officer
Phase I Facilities*	Once in 24 months, but not less than twice during the life of the permit

* ~~During~~ After the first cycle of inspections, ~~all~~ facilities ~~will be investigated, regardless of exposure or non-exposure. After that cycle is concluded sites~~ without exposure need not be addressed in the following cycles.

Wording changed for clarity

c) Based upon the results of site inspections, each Permittee shall implement all follow-up actions necessary to assure compliance ~~comply~~ with Permittee's ordinances and this Order.

Wording changed for clarity.

d) To the extent that Regional Board staff has conducted an inspection of an Industrial/Commercial site during a particular year, or the facility has a GIASP or an individual NPDES Permit the requirement for the responsible Permittee to inspect this site will be satisfied.

6. Enforcement of stormwater ordinances ~~Pollution Prevention and Control Measures~~ at Industrial/Commercial Sites

We may request to inspect for discharge violations covered under our storm water ordinance However, it is the RWQCB's responsibility to enforce BMPs' implementation

~~a)~~ Each Permittee shall enforce its storm water ordinance within its jurisdiction ~~at all Industrial/Commercial sites~~ as necessary to maintain compliance with this Order. ~~Permittee ordinances or other regulatory mechanisms shall include sanctions to ensure compliance.~~

We can only enforce our ordinances within our jurisdiction All Permittee ordinances have penalties for non-compliance

~~7. Reporting of Non-compliant Sites (Industrial/Commercial)~~

~~a) Each Permittee shall provide oral notification to the Regional Board of non-compliant sites that are determined to be in non-compliance with existing storm water regulations (within 3 days of discovery) or create an adverse impact or nuisance as it relates to the quality of the receiving waters of the State within its jurisdiction, within 24-72 hours of the discovery.~~

~~Such oral notification shall be followed up by a written report to be submitted to the Regional Board within 5 days of the incidence of non-compliance. Sites are considered non-compliant when one or more violations of local ordinances, permits, plans, or this Order exist on the site.~~

We will continue to send quarterly compliance updates to the RWQCB The proposed requirement would impose a significant and unnecessary effort on Permittees

b) Permittees shall develop and submit criteria by which to evaluate events of non-compliance to determine whether they create an adverse impact or nuisance. These criteria shall be submitted in

the SQMP and Annual Report for Regional Board review and subject to Regional Board Executive Officer's approval.

C. Programs for Development Planning

Note that there is inconsistency in the draft permit. In Section C.1 it requires the application of Program for Development Planning elements for priority projects only, and in Sections C.3, C.5 and C.8 it requires the program's elements to all projects.

1. The Permittees shall implement a development-planning program ~~with immediate effect~~ that will require all planning priority development and redevelopment projects to,

a) ~~Minimize~~ Implement, to the MEP, ~~impacts from storm water and urban runoff on the biological integrity of natural drainage systems and water bodies in accordance with requirements under CEQA, Section 404 of the CWA, local ordinances and other legal authorities~~ requirements established by appropriate governmental agencies under CEQA, Section 404 of the CWA, local ordinances and other legal authorities intended to minimize impacts from storm water runoff on the biological integrity of natural drainage systems and water bodies;

It is the responsibility of the Department of Regional Planning to check, during their planning review, the inclusion of standards to minimize impacts from storm water runoff on the biological integrity of natural drainage systems set forth by other authorities.

b) Maximize, to the MEP, the percentage of permeable surfaces to allow more percolation of storm water into the ground;

c) Minimize, to the MEP, the quantity of storm water directed to impermeable surfaces and the MS4;

d) Minimize, to the MEP, pollution emanating from parking lots through the use of appropriate treatment control BMPs and good housekeeping practices;

~~e) Establish reasonable limits on the clearing of vegetation from the project site including, but not limited to, regulation of the length of time during which soil may be exposed and in certain environmentally critical situations, the prohibition of bare soil;~~

Item e is covered under the SUSMP and the Development Construction Program requirements.

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f) **Provide for appropriate permanent measures to reduce storm water pollutant loads in storm water from the development site** to the MEP.

Adding MEP to items a) through d) and f) is consistent with the CWA. Section 402(p)(3)(B)(iii) of the CWA requires that municipal permits "shall require control to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

To accomplish this, the Permittees shall revise their Development Planning Program in the SQMP within 180 days of adoption of this Order, subject to the approval of the Executive Officer.
This language is consistent with other programs' language update requirements in this draft permit.

~~2. Peak Flow Control~~

First, this requirement will create a very significant burden on the development community, most notably single lot developers, small business owners, etc. The requirements may render many projects infeasible. Second, the requirement should be substantiated with adequate science. It has not been proven that the only solution to water quality issues with regards to impervious area creation is the restriction of flows/volumes. Many jurisdictions in the Pacific Northwest have been trying to deal with reductions in peak flows for many years, and have experienced many problems, both with execution and results. Those jurisdictions are looking to alternate analyses/solutions to the issue, such as verification studies to determine the extent of effect(if any) to river biology due to changes in flow, environmentally friendly streambank stabilization, etc. Some believe that some increases in flow may actually improve river ecosystems, especially in arid regions such as ours. Therefore, it is recommended that the Regional Board should give flexibility to the Permittees with regards to alternate solutions/analyses to solve the water quality issues.

~~The Permittees shall establish and enforce numerical criteria no later than [90 from permit adoption] to control the post-development peak storm runoff discharge rates in natural drainage systems to maintain or reduce pre-development peak discharge rates to prevent down-stream erosion, and to protect stream habitat. Natural drainage systems include, but are not limited to, the following:~~

~~a) Malibu Creek~~

~~b) Topanga Canyon~~

~~c) Upper Los Angeles River~~

~~d) Upper San Gabriel River~~

e) ~~Soft-bottom segments of other receiving waters within Los Angeles County~~

3. Standard Urban Storm Water Mitigation Plans

a) Each Permittee shall require that single-family hillside home developments:

~~(1) Conserve natural areas~~

Single-family hillside developments qualify as ministerial projects under County definition. The proposed provision is discretionary in nature. No legal authority exist to impose such conditions

(2) Protect slopes and channels

(3) Provide storm drain system stenciling and signage

(4) Divert roof runoff to vegetated areas before discharge

(a) Unless diversion has potential to reduce site stability. If a landslide is created as a result of diversion, Permittees will be subjected to lawsuits by property owners

(5) Direct surface flow to vegetated areas before discharge

(a) Unless diversion has potential to reduce site stability. If a landslide is created as a result of diversion, Permittees will be subjected to lawsuits by property owners

b) Each Permittee shall require that a Standard Urban Storm Water Mitigation Plan as approved by the Regional Board in Board Resolution No. R 00-02 be implemented for the following categories of discretionary developments projects with immediate effect:

To be consistent with the definition of priority projects

(1) Single-family hillside residential developments of ~~10,000 square feet~~ 1 acre or more of disturbed area

(2) Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)

(3) A 100,000 or more square feet industrial/ commercial development

(4) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539)

(5) Retail gasoline outlets

(6) Restaurants (SIC 5812)

(7) Parking lots 5,000 square feet or more or with 25 or more parking spaces

c) Each Permittee shall require, no later than 180 days from permit adoption that a Standard Urban Storm Water Mitigation Plan be implemented for all discretionary development projects located in or directly adjacent to or discharging directly to an environmentally sensitive area, where, the development will:

(1) create 2,500 square feet or more of impervious area, or

(2) alter the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and

(3) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat

4. Numerical Design Criteria

We recommend item #4 and #6 be consolidated into item #3 as d) and e) since they are part of the SUSMP requirements

The Permittees shall require that post-construction treatment control BMPs incorporate, at a minimum, the following design criteria to mitigate (infiltrate, filter or treat) storm water runoff:

a) Volumetric Structural or Treatment Control BMP

(1) the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)*, or

(2) the volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in

California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (1993), or

(3) the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or

(4) the volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event,

AND/ OR

b) Flow Based Structural or Treatment Control BMP

(1) the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity, or

(2) the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County

(3) the flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above,

5. Applicability of Numerical Design Criteria

The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment and structural controls to mitigate storm water pollution prior to issuing grading or building permits:

a) Single-family hillside residential developments of ~~10,000 square feet~~ 1 acre or more of disturbed area

b) Ten or more unit home development (includes single family homes, multifamily homes, condominiums, and apartments)

c) A 100,000 or more square feet industrial/ commercial development

d) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539)

e) Retail gasoline outlets [suggested criteria: projected gasoline output of 25,000 gallons per month or more; or with four or more fueling dispensers, or with 24 or more dispensing meters or projected average daily traffic of 100 cars or more or 5,000 square feet or more of surface area]

f) Restaurants (SIC 5812) [5,000 square feet or more]

g) Parking lots 5,000 square feet or more or with 25 or more parking spaces

h) Projects located in, adjacent to or discharging directly to environmentally sensitive areas that meet threshold conditions identified above.

6. Each Permittee shall require the implementation of SUSMP and post-construction control requirements for the following categories of discretionary development planning projects no later than March 9, 2003, to conform to USEPA Phase II requirements:

a) One acre (~~40,000~~ 43,560 square feet) industrial/commercial development

7. Site Specific Mitigation

a) Each Permittee shall require a site-specific plan for discretionary developments projects not requiring a SUSMP but which may potentially have adverse impacts on post-development storm water quality, where the following project characteristics exist:

(1) Vehicle or equipment fueling areas;

(2) Vehicle or equipment maintenance areas, including washing and repair

(3) Commercial or industrial waste handling or storage

(4) Outdoor handling or storage of hazardous materials;

(5) Outdoor manufacturing areas

(6) Outdoor food handling or processing

(7) Outdoor animal care, confinement, or slaughter

(8) Outdoor horticulture activities

8. Redevelopment Projects

The Permittees shall apply the SUSMP, or site specific requirements including post-construction storm water mitigation to all priority projects that undergo significant redevelopment in their respective categories. Significant redevelopment means the creation or addition or replacement of 5,000 square feet of impervious surface area on an already developed site. Where significant redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.

9. Maintenance Agreement and Transfer

Each Permittee shall require that all developments subject to SUSMP and site specific plan requirements provide verification of maintenance provisions for structural and treatment control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and or conditional use permits. Verification at a minimum shall include:

a) The developers signed statement accepting responsibility for maintenance until the responsibility is legally transferred, and either

b) A signed statement from the public entity assuming responsibility for structural or treatment control BMP maintenance and that it meets all local agency design standards, or

c) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year, or

d) Written text in project conditions, covenants and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the structural and treatment control BMPs; or

e) Any other legally enforceable agreement that assigns responsibility for the maintenance of post-construction structural or treatment control BMPs

~~10. Mitigation Funding~~

~~The Permittees shall identify no later than [120 days from permit adoption] a funding mechanism[s] and management framework, for endorsement by the Regional Board Executive Officer, to support regional solutions to storm water pollution, where the following situations occur:~~

~~f) A waiver for impracticability is granted or threat to ground water exists~~

~~g) Legislative funds become available~~

~~e) Off-site mitigation is required because of loss of environmental habitat~~

10 Regional Storm Water Mitigation Program

A Permittee or Permittee group may apply to the Regional Board for approval of a regional storm water mitigation program. The Executive Officer in the exercise of his discretion shall approve such a regional program if he determines that it is likely to result in equal or greater water quality benefit than project-by-project mitigation, as described above. Permittees and project proponents that participate in any approved regional storm water mitigation program shall in so doing satisfy the requirement for the application of the numerical design criteria.

Regional solutions to meet the SUSMP requirements are cost effective and have a good chance of being supported by developers and municipalities.

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~~11. California Environmental Quality Act (CEQA) Document Update~~

~~Each Permittee shall modify planning procedures for preparing and reviewing CEQA documents to consider potential storm water quality impacts and provide for appropriate mitigation, with immediate effect. The CEQA guidelines shall require consideration of the following:~~

~~a) Potential Impact of project construction on storm water runoff~~

~~b) Potential Impact of projects post-construction activity on storm water runoff.~~

~~c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.~~

~~d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit~~

~~e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies~~

~~f) Potential for significant changes in the flow velocity or volume of storm water runoff that can cause environmental harm~~

~~g) Potential for significant increases in erosion of the project site or surrounding areas~~

The consideration of potential storm water quality impacts is already a element of the CEQA guidelines. It does not need to be included in this draft permit

~~12. General Plan Update~~

~~Each Permittee shall update appropriate elements of its General Plans to include watershed and storm water quality and quantity management considerations no later than [540 days from permit adoption date]. Appropriate elements include, but are not limited to, water quality protection, development goals and policies, open space goals and policies, preservation of and integration with natural features, and water conservation policies.~~

The General Plan is adopted according to state statutes. It is the obligation of the County's Board of Supervisors to develop its goals and policies. The Regional Board has no authority to direct specific changes or revisions of the General Plan. Furthermore, the environmental

that the Regional Board's requests are already taken into consideration in the County's General Plan

13. Targeted Employee Training

Each Permittee shall train its employees in targeted positions (whose jobs or activities are engaged in development planning) regarding the requirements of the development planning on an annual basis beginning no later than [~~90 d~~ 356 d from permit adoption], and more frequently if necessary.

To be consistent with other programs' time frame

~~14. Developer Technical Guidance and Information~~

We participated in the update of the State BMPs Handbooks which are expected to be completed in 18 months. Therefore the requested technical manual is unnecessary and would require considerable amount of time, expertise, and staff that the Permittees do not have

~~a) Each Permittee shall develop and make available to developer development planning guidelines with immediate effect.~~

b) ~~Permittees shall develop no later than [365 days from permit adoption] a technical manual for the siting and design of BMPs for the development community. The technical manual shall at a minimum include:~~

~~(1) Specifications for treatment control BMPs based on flow-based and/ volumetric water quality design criteria for the purposes of countywide consistency,~~

~~(2) Criteria for control of peak discharge rates, velocities and duration,~~

~~(3) Expected pollutant removal performance ranges~~

~~(4) Maintenance considerations~~

~~(5) Cost considerations~~

D. Programs for Construction Sites

Each Permittee shall implement a program to ~~control~~ reduce pollutants in runoff from construction activity at all construction sites through the use of BMPs to the MEP. To accomplish this, the Permittees shall revise their Development Construction Program in the SQMP within 180 days of adoption of this Order,

subject to the approval of the Executive Officer. The revisions shall specify a schedule for implementation by each Permittee, and must contain the following minimum elements, including performance measures, schedules for implementation, and shall include the following categories of construction:

To be consistent with the objective of the Program to reduce pollutants [illegible] from construction activities

a) Five or more acres;

b) Between one and five acres; and

c) Less than one acre.

1. For construction sites less than 1 acre, each Permittee shall:

~~a) Implement an educational program to discuss storm water pollution prevention and controls at construction sites and distribute educational materials targeted to the construction community during meetings, workshops, pre-construction meetings, and inspections.~~

~~a) Train employees in targeted positions (whose jobs or activities are engaged in construction activities including construction inspection staff) regarding the requirements of the storm water management program no later than (180 days from adoption of this Order), and annually thereafter; and~~

Item a) and b) are individual requirements under the Program. We recommend placing these two items to the end of this Section as item #5 and #6.

~~c)~~a) Require the implementation of a minimum set of BMPs to prevent pollution and control storm water runoff discharges. These minimum BMPs shall, at a minimum, include:

- Requirements for the use of effective erosion and sediment controls at construction sites;
- Requirements for structural and non-structural Best Management Practices (BMPs) for controlling runoff at construction sites;
- ~~Site plan for review and verification of BMP implementation ; and~~

b) Verification of inclusion of minimum BMPs notes on construction plans and the BMPs implementation

The language is changed for clarity. Furthermore, this [illegible] should not be included as part of the minimum BMPs, so we recommend that it be an item [illegible]

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~~• Each Permittee is encouraged to prioritize sites to be inspected during wet weather to determine compliance with the minimum BMPs.~~

c) Each Permittee, if necessary, is encouraged to prioritize sites to be inspected during wet weather to determine compliance with the minimum BMPs

The County inspects all construction sites within the County unincorporated areas and contracted cities

2. For construction sites between one acre and ~~greater~~ five acres each Permittee shall require that in D.1 above and require the preparation, submittal, and implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP), prior to issuance of a grading permit for construction projects, that meets one or more of the following criteria:

a) Will result in soil disturbance of one acre or more in size;

b) Is within, directly adjacent to, or is discharging directly to an environmentally sensitive area; or

c) Is located in a hillside area.

The Local SWPPP shall include appropriate construction site BMPs and maintenance schedules. A State required SWPPP may be substituted by a Local SWPPP if the Local SWPPP is at least as inclusive as the requirements for a State SWPPP. The BMPs may be selected from documents such as the California Storm Water BMP Handbook, the Caltrans Storm Water Quality Handbook, Ventura County Stormwater Quality Standard Sheet, American Society of Civil Engineers (ASCE) database or similar guidance documents. In addition, each Permittee shall ensure the following minimum requirements are effectively implemented, to the maximum extent practicable, at all construction sites regardless of size:

Adding MEP is consistent with the Ventura Permit and the CWA

d) Sediments generated on the project site shall be retained using adequate structural drainage controls;

e) ~~No~~ construction-related materials, wastes, spills, or residues shall be ~~discharged~~ retained on site to minimize transport from the project site to streets, drainage facilities or adjacent properties by wind or runoff;

The proposed language is consistent with item D.2.d)

f) Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at the project site; and

g) Erosion from slopes and channels will be prevented by implementing BMPs including, but not limited to: ~~limiting of grading scheduled during the wet season;~~ inspecting graded areas during rain events; planting and maintenance of vegetation on slopes; and covering erosion susceptible slopes.

We have regulations that require properly engineered erosion control to be used on all grading projects, therefore we do not need any limitation on grading schedules during the wet season

The Local SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

"As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

~~The landowner shall sign a statement to the effect:~~

~~*"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/or adequately implement the Local SWPPP may result in revocation of grading and/or other permits or other sanctions provided by law."*~~

~~The Local SWPPP certification shall be signed by the landowner as follows:~~

~~For a corporation: by a responsible corporate officer which means (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of the construction activity if authority to sign documents has~~

~~been assigned or delegated to the manager in accordance with corporate procedures;~~

~~For a partnership or sole proprietorship: by a general partner or the proprietor; or~~

~~For a municipality or other public agency: by an elected official, a ranking management official (e.g., County Administrative Officer, City Manager, Director of Public Works, City Engineer, District Manager), or the manager of the construction activity if authority to sign Local SWPPPs has been assigned or delegated to the manager in accordance with established agency policy.~~

It is the responsibilities of the project architect/engineer to insure that the plan is in compliance of all regulations (state and local laws).

3. ~~For sites one acre and greater, each~~ Permittees shall inspect all construction sites with Local SWPPPs ~~(or SWPPPs)~~ for storm water quality requirements during routine inspections a minimum of once during the wet season. The Local SWPPP ~~(or SWPPP)~~ shall be reviewed for compliance. For inspected sites that have not adequately implemented their Local SWPPP ~~(or SWPPP)~~, a follow-up inspection to ensure compliance will take place within 2 weeks. If compliance has not been attained, the Permittee will take additional actions to achieve compliance (as specified in Local ~~or State~~ codes). ~~If compliance has not been achieved, and the site is covered under the State General Construction Activity Storm Water Permit, each Permittee shall notify the enforce their Local ordinance requirements and if non-compliance continues for further joint enforcement actions.~~

This section needs to be modified to reflect that it is not the Permittees obligation to inspect, oversee or enforce the General Construction Activity Storm Water Permit. The draft permit, as written, violates Article XIIIB section 6 of the California Constitution and the GCASP itself. The federal regulations also do not authorize imposition of these obligations on the Permittees.

Article XIIIB, Section 6 of the California Constitution provides in pertinent part, "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service." The imposition of the obligation to inspect to assure compliance with the GCASP is to shift responsibility for enforcement of the general permit from the regional board to the permittees. As such it is mandating a new program or a higher level of service on each permittee. Because the Board is not reimbursing the permittees for the costs of this program or higher level of service, these requirements violate the California

Constitution

The requirements also violate the General Construction Permit itself. That permit delegates to the Regional Boards the authority to implement the permit, including, but not limited to, reviewing SWPPPs, reviewing monitoring reports, conducting compliance inspections, and taking enforcement actions. (State Board Order No.99-08-DWQ, Section D.1.) The General Permit does not give that authority to municipal storm water permittees.

The federal regulations also do not authorize imposition of these obligations on the Permittees. 40 CFR 122.26(d)(2)(iv)(D) requires a description of a program to implement best management practices to reduce pollutants in storm water from constructions sites. There is no reference in this section to overseeing or enforcing the General Construction Permit.

It is the Regional Board's responsibilities to verify and enforce the provisions of the General Construction Permit. The County should not legally assume the Regional Board's statutory responsibilities of enforcing any non-compliance of state SWPPPs.

4. **For sites five acres and greater, each Permittee shall require that in D.1 above and:**

a) **Require proof of filing of a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a copy of the SWPPP prior to issuing a grading permit for all projects requiring coverage under the state general permit. On March 10, 2003, for sites one acre and greater, each Permittee shall require proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a copy of the SWPPP prior to issuing a grading permit for all projects requiring coverage under the state general permit. The prepared SWPPP may satisfy the requirement under D.2. (in-lieu of Local SWPPP).**

Each Permittee shall require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

b) ~~**Each Permittee shall use an electronic system to track grading permits issued by each Permittee.**~~

It is more appropriate to leave this requirement to the discretion of the Permittees. There may not be a need to use an electronic system.

c) Each Permittee shall inspect construction sites covered under the State General Construction Activity Storm Water Permit for storm

water quality requirements during routine inspections a minimum of once during the wet season. If violations are observed during the inspection, the Permittee must notify the Regional Board.

5. Implement an educational program to discuss storm water pollution prevention and controls at construction sites and distribute educational materials targeted to the construction community during meetings, workshops, pre-construction meetings, inspections, and as appropriate

6. Train employees in targeted positions (whose jobs or activities are engaged in construction activities including construction inspection staff) regarding the requirements of the storm water management program no later than (~~180~~ 356 days from adoption of this Order), and annually thereafter.

E. Public Agency Activities

1. Each Permittee shall implement a Public Agency program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:

- Sewage Systems Operations
- Public Construction Activities
- Vehicle Maintenance/Material Storage Facilities Management
- Landscape and Recreational Facilities Management
- Storm Drain Operation and Management
- Streets and Roads Maintenance
- Parking Facilities Management
- Public Industrial Activities
- Emergency Procedures
- ~~Dry Weather Diversions~~

There is no formal dry weather diversion construction program, therefore this category should be removed

2. Sewage System Operations

Each Permittee shall implement a response plan for overflows of the sanitary sewer system within their respective jurisdiction which shall consist of the following at a minimum:

a) Investigate any complaints received;

b) Immediately respond to overflows by containment; and

c) Notify appropriate sewer and public health agencies when a sewer overflows to the MS4.

For those Permittees which own and/or operate a sanitary sewer system, each Permittee shall also implement the following requirements until such time that they are superceded by the proposed Capacity, Management, Operation and Maintenance Regulations (CMOM) are promulgated by the USEPA:

d) A program to prevent sewage spills or leaks from sewage facilities from entering the MS4; and

e) Identify, repair, and remediate sanitary sewer blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4.

3. Public Construction Activities Management

a) Each Permittee shall implement a program to control runoff from construction activity at all construction sites. To accomplish this, the Permittees shall revise their Construction Development Program in the SQMP within 180 days of adoption of this Order, subject to the approval of the Executive Officer. The revisions shall specify a schedule for implementation by each Permittee, and must contain the following minimum elements, including performance measures, schedules for implementation, and shall include the following categories of construction:

(1) Five or more acres;

(2) Between one and five acres; and

(3) Less than one acre.

b) Each Permittee shall comply with requirements 1, 2, and 3 in the Construction Section of this Order and with the following requirements at all public construction sites:

(1) Design and construction of public facilities shall be consistent with the requirements and dates specified for private development in Part 4.C Programs for Development Planning;

(2) Prepare and retain site-specific SWPPPs for municipal construction sites;

(3) Implement construction and post-construction storm water controls as required of private construction projects.

including numerical mitigation criteria for post-construction BMPs;

(4) Implement a program to ensure that SWPPPs and BMPs implemented are effective;

(5) Inspect public construction sites and implement changes as necessary to maintain or replace ineffective BMPs in order to protect water quality; and

(6) Each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction sites for sites 5 acres or greater (or part of a larger area of development, etc...) except that a municipality under 100,000 in population need not obtain coverage under a separate permit until March 10, 2003.

~~c) On March 10, 2003, each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction sites for sites 1 acre or greater (or part of a larger area of development, etc...).~~

This is based on a requirement that doesn't currently exist and therefore shouldn't be included at this time

4. Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management

a) Each Permittee shall implement pollution prevention plans for public vehicle maintenance facilities and material storage facilities which have the potential to discharge pollutants into storm water.

b) Each Permittee shall implement BMPs to minimize pollutant discharges in storm water including but not be limited to:

(1) Good housekeeping practices;

(2) Material storage control;

(3) Vehicle leaks and spill control; and

(4) Illicit discharge control;

c) Each Permittee shall require that all vehicle/equipment wash areas be self-contained or covered, or equipped with a clarifier, or other pretreatment device, and properly connected to the sanitary sewer to prevent the discharge of pollutants to the MS4 for new facilities or during redevelopment of existing sites.

~~d) Each Permittee shall, for each municipal yard covered under Phase I of the Federal Storm Water Regulations, obtain separate~~

~~coverage under the State of California General Industrial Activities Storm Water Discharge Permit except that a municipality under 100,000 in population need not file the NOI until March 10, 2003.~~

Municipal yards are included under this comprehensive municipal NPDES Permit and therefore do not need separate coverage. Separate coverage would incur significant paperwork and expense and divert our efforts from other program elements.

5. Landscape and Recreational Facilities Management

Each Permittee shall continue to implement the following requirements with the following additions:

a) **Each Permittee shall implement a standardized protocol for the routine and non-routine application of pesticides, herbicides (including preemergents), and fertilizers.**

b) **There shall be no application of pesticides or fertilizers immediately before, during, or immediately after a rain event** that would result in measurable runoff or **when water is flowing off the area to be applied.**

New wording still ensures there will be no runoff of pollutants.

c) **The Permittee shall ensure that staff applying pesticides are certified by the California Department of Food and Agriculture, or are under the direct supervision of a certified pesticide applicator.**

d) **Each Permittee shall implement procedures to encourage retention and planting of native vegetation** where feasible **and to reduce water, fertilizer, and pesticide needs** to the maximum extent practicable;

Planting native vegetation may be encouraged but in many situations neither native nor non-native landscaping may be feasible due to water, fertilizer, and pesticide costs. Please note that native vs. non-native may be adopted as a voluntary policy but is an ecological not a water quality issue. The MEP standard is needed in the event that no reasonable reductions are possible following our existing efforts to reduce water, fertilizer, and pesticide use.

e) **Each Permittee shall store fertilizers and pesticides indoors or under cover on paved surfaces or use secondary containment;**

f) **Each Permittee shall reduce the use, storage, and handling of hazardous materials** to the maximum extent practicable; and

The MEP standard is needed in the event that no further opportunities for reduction are found as part of our ongoing efforts.

g) Each Permittee shall regularly inspect storage areas.

6. Storm Drain Operation and Management

Each Permittee shall implement the following BMPs for storm drain inlet Maintenance (except that for any Permittee within an area subject to a trash TMDL, the Permittee may implement a program which maximizes trash removal by using an effective combination of street sweeping, catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve waste load allocations):

a) Inspect and clean catch basins between May 1 and September 30 of each year;

b) Clean priority catch basins when they become 40% full ~~Classify priority catch basins to be those that are 40 percent full~~;

Our listed priority CBs will be cleaned when they are found to be 40% full. The original wording would have given an uncertain definition to "priority CB" resulting in a constantly and unnecessarily changing list and inefficient inspection program

c) Cleaning of priority catch basins, as necessary, between October 1 and April 30;

d) Keep record of catch basins cleaned;

e) Recording of the overall quantity of catch basin waste collected; and

f) Each Permittee shall submit a record (preferably as a GIS layer) of all Permittee owned catch basins ~~in a municipality~~ and identify which are ~~city-owned/ county-owned, and which~~ are priority for more frequent cleaning.

Permittee cities should only be responsible for identifying their own CBs. Likewise the County can provide a list of its own CBs. County CBs are not identified by the city where they are located. To do this, we would have to spend a significant amount of time and resources without a clear benefit.

(GENERAL NOTE: A NEW NUMBER IS NEEDED BEFORE THE NEXT SERIES OF ITEMS AND LETTERING NEEDS TO BE READJUSTED)

Each Permittee shall implement BMPs for Storm Drain Maintenance that shall include but not be limited to:

a) A program to visually monitor open channel storm drains for debris and identify and prioritize problem areas of illicit discharge for regular inspection;

b) A review of current maintenance activities to assure that appropriate storm water BMPs are being utilized to improve water quality;

c) Removal of trash and debris from open channel storm drains shall occur a minimum of once per year before the storm season;

d) Minimize the discharge of contaminants during MS4 maintenance and clean outs;

e) Recording of the overall quantity of catch basin waste collected; and

f) Proper disposal of material removed.

7. Streets and Roads Maintenance

a) Each Permittee shall conduct street sweeping on curbed public streets in their permitted area according to the following schedule (except that for any Permittee within an area subject to a trash TMDL, the Permittee may implement a program which maximizes trash removal by using an effective combination of street sweeping, catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve waste load allocations):

(1) At a monthly average not less than 4 times per month in areas generating high volumes of trash;

(2) At a monthly average not less than 2 times per month in areas generating moderate volumes of trash on traffic collector streets and residential areas.

b) Permittee-owned parking lots shall be kept clear of debris and oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary.

c) Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that in no case shall waste be allowed to enter the storm drain.

d) Concrete and other street and road maintenance materials and wastes shall be managed to prevent pollutant discharges; and

e) The washout of concrete trucks and chutes shall only occur in designated areas and never into storm drains, open ditches, streets, or catch basins leading to the storm drain system.

Each Permittee shall train their employees in targeted positions (whose interactions, jobs, and activities affect storm water quality) regarding the requirements of the storm water management program to:

a) Promote a clear understanding of the potential for maintenance activities to pollute storm water; and

b) Identify and select appropriate BMPs.

8. Emergency Procedures

Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as: earthquakes; fires; floods; landslides; or windstorms. BMPs shall be implemented to the extent that measures do not compromise public health and safety. After initial emergency response or emergency repair activities have been completed, each Permittee shall implement BMPs as required under this Order.

F. Program to Eliminate Illicit Connections and Discharges

Permittees shall eliminate all illicit connections and illicit discharges to the storm drain system, and shall document and report all such cases. To accomplish this, the Permittees shall revise their Program for Elimination of Illicit Connection and Illicit Discharge (IC/ID Program) within 180 days of Permit adoption. This revision, which is subject to the approval of the Executive Officer, must specify a schedule for implementation by each Permittee, and must contain the following minimum elements, including performance measures and schedules.

1. General Elements

a) Implementation: Upon Executive Officer approval of the revised IC/ID Program, each Permittee must develop an Implementation Program which specifies how each Permittee is implementing the revised IC/ID Program from the SQMP. This Implementation Program must be documented, and available for review and approval by the Regional Board when requested.

b) Management and Tracking System: All Permittees shall make use of analytical tools, such as a Geographic Information System or a comparable tool suited to their storm drain system~~, that will enable the Lead Permittee~~ to manage and track all ~~suspected~~ illicit connections and illicit discharges into ~~the~~ their storm drain system. ~~Furthermore, within one year from Permit adoption, the Lead Permittee shall have the capability to locate all permitted discharges~~, Permittees shall use the selected tool ~~and~~ to track and evaluate patterns and trends of illicit connections and illicit discharges in ~~the~~ their entire storm drain system~~, including portions operated by other Permittees~~.

The County can implement the usage of G.I.S. or similar system to track Illicit Connections and Illicit Discharges within County's jurisdiction. However, the County should not take the responsibility to track and manage Illicit Connections and Illegal Discharges for all Permittees.

To evaluate patterns and trends of Illicit Connections and Illicit Discharges the County's data may suffice and almost if the City of L.A. agrees, we can combine City of L.A. and County's data. Between these two agencies enough data should be available to do cluster analysis. In addition trying to standardize datasets and software between 83 Permittees is almost impossible especially since not all of them have GIS.

There is no need to use GIS to locate all permitted discharges. If the need for this dataset is of critical benefit, the Regional Board must provide the GIS file of all discharges permitted by the Board. Permittees do not issue discharge permits. The only permits some Permittees issue are construction connection permits and they wouldn't be of any benefit to this element of the program. Besides, trying to convert this data would almost be impossible since our database has over 100,000 records and we issue well over 1,000 permits per year and again the resources and time spent on this can not justify the benefit of this particular dataset. The main objective of this element in the Illicit Connections and Illicit Discharges program is to manage precisely that: Illicit Connections and Illicit Discharges.

c) **Training: Complete, within ~~180~~ 365 days of Permit adoption, training for all targeted employees who are responsible for identification, investigation, termination, cleanup, and reporting of illicit connections and discharges. Furthermore, conduct refresher training on an annual basis thereafter.**

Our Department has over 2000 employees requiring IC/ID training. We need time to develop training materials and then we'll need time to schedule training in a way that minimizes impact to Department operations.

d) **Documentation and Reporting: Document and report all illicit connections, illicit discharges, and hazardous substances that enter the storm drain, within times specified below.**

2. Illicit Connection Elements

a) **Baseline Screening: Permittees shall continue to screen the storm drain system for illicit connections during scheduled infrastructure maintenance. ~~On an annual basis,~~ Permittees shall report, to the Regional Board Executive Officer, as part of their Annual Storm Water Report. ~~to the Lead Permittee~~, ~~on~~ the location and length of open channels and/or closed storm drains that have been screened, and ~~on~~ the status of suspected, confirmed, and terminated illicit connections.**

Permittees can incorporate these figures as part of their Annual Storm Water Report and Assessment.

b) Priority Screening: In addition to the baseline screening that will occur during regularly scheduled maintenance, Permittees shall design and implement a proactive storm drain screening of priority areas. Permittees shall consider, among others, one or more of the following factors when designating priority areas: an analysis past illicit connections; ~~and~~ a review of documentation for storm drain connections made in the six months following the 1994 Northridge Earthquake, ~~and~~ in the year following the 1992 civil unrest.

The County agrees with implementing a proactive priority screening in addition to the base line screening. Priority areas are determined based on past experience (which is the first of your proposed factors to consider), however records from the Northridge Earthquake or for the 1992 riots would not be of any benefit. Trying to go back almost 10 years to search for records that were kept manually does not justify the benefits if any gained by the results. We feel that for the most part, the riots involved people fighting with people, people setting fires, people looting stores and general vandalism but we don't believe people use those days as an opportunity to break ground to hook up undocumented storm drain connections.

c) Investigation: Upon discovery through either baseline or priority screening, or upon receiving a report of a suspected illicit connection, Permittees shall initiate an investigation within 21 days, to determine the source of the connection, the nature and volume of discharge through the connection, and the responsible party for the connection.

~~d)~~ Termination: Upon confirmation of the illicit nature of a storm drain connection, Permittees shall ensure termination of the illicit connection by the issuance of a connection permit or by removal of the connection within 180 days. ~~using enforcement authority as needed.~~ For those cases of illicit connections that require more than 180 days to eliminate due to lengthy court proceedings, ~~the~~ Permittees shall provide a written notification of the case to the Regional Board Executive Officer. ~~may grant time extensions on a case by case basis.~~

Just to clarify the two ways to deal with a connection (removal or permitting) and to not give the impression that removal is the only option.

For cases that go to court it would greatly simplify the process if we notify the Regional Board as these cases come up rather than to go through a whole process of time extensions requests. Additionally, the duration of these legal processes, which are outside of our control, is often uncertain.

3. Illicit Discharge Elements

a) Abatement and Cleanup: Respond, within 72 hours of discovery or a report of a suspected illicit discharge, with activities to abate, contain, and clean up all illicit discharges, including hazardous substances.

b) Investigation: As soon as practicable, during or immediately following containment and cleanup activities, take enforcement action as appropriate.

PART 5. DEFINITIONS

The following are definitions for terms applicable to this Order:

"Adverse Impact" means a detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants.

"Anti-degradation policies" refers to the *Statement of Policy with Respect to Maintaining High Quality Water in California* (State Board Resolution No. 68-16) which protects surface and ground waters from degradation. In particular, this policy protects waterbodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water.

"Applicable Standards and Limitations" means all State, interstate, and federal standards and limitations to which a "discharge" or a related activity is subject under the CWA, including "effluent limitations, "water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403 and 404 of CWA.

"Authorized Discharge" means any discharge that is authorized pursuant to an NPDES permit or meets the conditions set forth in this Order.

"Automotive Repair Shop" means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

"BAT/BCT Criteria" means treatment-based standards for reducing the discharge of pollutants, as defined in 40 CFR subchapter N, for specific categories of industrial facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards. Effluent limitations have been defined in 40 CFR for the reduction of toxic pollutants using Best Available Technology Economically Achievable (BAT) and for the reduction of conventional pollutants using Best Conventional Pollutant Control Technology (BCT).

"Basin Plan" refers to the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Board on June 13, 1994 and subsequent amendments.

"Beneficial Uses" means the existing or potential uses of receiving waters in the permit area as designated by the Regional Board in the Basin Plan.

"Best Management Practices (BMPs)" are methods, measures, or practices designed and selected to reduce or eliminate the discharge of pollutants to surface waters from point and nonpoint source discharges including storm water. BMPs include structural and nonstructural controls, and operation and maintenance procedures, which can be applied before, during, and/or after pollution producing activities.

"Commercial Development" means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, ~~multi-apartment buildings~~, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

Please clarify or remove multi-apartment buildings.

"Construction" means constructing, clearing, grading, or excavation that results in soil disturbance. Construction includes structure teardown. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

"Control" means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

"Dechlorinated Swimming Pool Discharge" shall mean swimming pool discharges which have no measurable chlorine and do not contain any detergents, wastes, or additional chemicals not typically found in swimming pool water. The term does not include swimming pool filter backwash.

"Development" shall mean any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction.

"**Directly Adjacent**" means situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

"Director" shall mean the Director of Public Works of the County and Person(s) designated by and under the Director's instruction and supervision.

"**Directly Discharging**" means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

"Discharge" when used without qualification means the "discharge of a pollutant."

"Discharge of a Pollutant" means: Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source" or, Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect Discharger."

"Disturbed Area" means an area that is altered as a result of clearing, grading, and/or excavation.

"Effluent limitation" means any restriction imposed by the Regional Board on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

"Environmentally Sensitive Areas" means an area "in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments" (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are: ~~areas designated as an Area of Special Biological Significance (ASBS) by the State Water Resources Control Board; an area designated as a Significant Natural Area by the California Department of Fish and Game; an area listed in the Regional Board Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" beneficial use; or an area identified by the Permittees as environmentally sensitive for water quality purposes, based on the Regional Board Basin Plan and Clean Water Act Section 303(d) Impaired Water bodies List for Los Angeles County. Refer to Attachment XXX for a map of Significant Natural Areas~~

The Permittees have very difficult time to identify the ESA locations on maps of ASBS Significan Natura Area and RARE because these maps are not clear It is recommended that the Regional Board works with the Permitttees to come up with a better solution for the ESAs

"Executive Advisory Committee" refers to the committee composed of representatives of the Los Angeles County Flood Control District, the City of Los Angeles, and the five Watershed Management Areas

"General Construction Activities Storm Water Permit (GCASP)" is the general NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water from construction activities under certain conditions.

"General Industrial Activities Storm Water Permit (GIASP)" is the general NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water from certain industrial activities under certain conditions.

"Hillside" means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25% or greater and where grading contemplates cut or fill slopes.

"Illicit Connection" shall mean any man-made conveyance that is connected to the storm drain system without a permit, excluding roof drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

"Illicit Discharge" means any discharge to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non storm-water discharges except discharges pursuant to an NPDES permit, discharges that are identified in Part 1 of this order, and discharges authorized by the Regional Board Executive Officer.

"Illicit Disposal" means any disposal, either intentionally or unintentionally, of material(s) or waste(s) that can pollute storm water.

"Industrial/Commercial Facility" means any facility involved and/or used in either the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. This category of facilities includes, but is not limited to, any facility defined by the Standard Industrial Classifications (SIC). Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

"Infiltration" means the downward entry of water into the surface of the soil.

"Local SWPPP" refers to the Storm Water Pollution Prevention Plan required by the local agency if the project is not subject to the Statewide Construction Activities General Permit.

"Maximum Extent Practicable (MEP)" refers to the standard for implementation of storm water management programs to reduce pollutants in storm water. It is the maximum extent possible taking into account equitable consideration and competing facts, including, but not limited to: the gravity of the problem, public health risk, societal concern, environmental benefits, pollutant removal effectiveness, regulatory compliance, public acceptance, implementability, cost and technical feasibility. Section 402(p)(3)(B)(iii) of the CWA requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"Method Detection Limit (MDL)" is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR 136, Appendix B.

"Minimum Level (ML)" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific

analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

"Municipal Separate Storm Sewer System (MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned by a State, city, county, town or other public body, that is designed or used for collecting or conveying storm water, which is not a combined sewer, and which is not part of a publicly owned treatment works.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program."

"New Development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

"Non-Storm Water Discharge" means any discharge to a storm drain that is not composed entirely of storm water.

"Nuisance" means anything that meets all of the following requirements: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; (3) occurs during, or as a result of, the treatment or disposal of wastes.

"Parking Lot" means land area or facility for the temporary parking or storage of motor vehicles used personally, for businesses or for commerce with a lot size of 5,000 square feet or more, or with 25 or more parking spaces.

"Permit" means an authorization, license, or equivalent control document issued by EPA or an "approve State" to implement the requirements of 40 CFR Parts 122, 123, and 124. "Permit" includes an NPDES "general permit" (§ 122.28). Permit does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

"Permittee(s)" means Co-Permittees and refers to any agency named in this Order as being responsible for permit conditions within its jurisdiction. Permittees to this Order include the Los Angeles County Flood Control District, Los Angeles County, and the cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Canada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling

Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier.

"Phase I Facilities" are the categories of facilities which are required to obtain an NPDES permit for storm water discharges associated with "industrial activity" as required by 40 CFR 122.26(c).

"Pollutants" means those "pollutants" defined in Section 502(6) of the federal Clean Water Act (33.U.S.C.§1362(6)), or incorporated into California Water Code §13373. Examples of pollutants include, but are not limited to the following:

- Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
- Metals such as cadmium, lead, zinc, copper, silver, nickel, chromium, and non-metals such as phosphorus and arsenic;
- Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease)
- Excessive eroded soils, sediment, and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the State;
- Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities);
- Substances having characteristics such as pH less than 6 or greater than 9, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;

The term "pollutant" shall not include uncontaminated storm water, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

The term "pollutant" also shall not include any substance identified in this definition, if through compliance with the best management practices available, the discharge of such substance has been eliminated to the maximum extent practicable. ~~In an enforcement action, the burden shall be on the person who is the subject of such action to establish the elimination of the discharge to the maximum extent practicable through compliance with the best management practices available.~~

Reverses the burden of proof and violates the basic premise of our legal system

"Potable Water Distribution Systems" means sources of flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, well development, pump testing fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and wells.

"Priority Pollutants" are those constituents referred to in 40 CFR 401.15 and listed in the EPA NPDES Application Form 2C, pp. V-3 through V-9.

"Project" means all development and land disturbing activities. The term is not limited to "Project" as defined under California Environmental Quality Act (Pub Resources Code Section 21065).

"Rain Event" means any rain event greater than 0.1 inch in 24 hours.

"Receiving Waters" means all surface water bodies within the permit area that are identified in the Basin Plan.

"Redevelopment" means, but is not limited to, the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routine maintenance activity; land disturbing activities related with structural or impervious surfaces. Redevelopment that results in the creation or addition of 5,000 square feet or more of impervious surfaces is subject to the requirements for storm water mitigation. If the creation or addition of impervious surfaces is fifty percent or more of the existing impervious surface area, then storm water runoff from the entire area (existing and additions) must be considered for purposes of storm water mitigation. If the creation or additions is less than fifty percent of the existing impervious area, then storm water runoff from only the addition area needs mitigation.

"Regional Administrator" means the Regional Administrator of the Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

"Restaurant" means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812).

"Runoff" means any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of many base flow components either contaminated with pollutants or uncontaminated.

"Side Walk Rinsing" means pressure washing of paved pedestrian walkways with average water usage of 0.006 gallons per square foot, with no cleaning agents, and properly disposing of all debris collected, as authorized under Regional Board Resolution No. 98-08.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Source Control BMP" means any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

"SQMP" shall mean the Los Angeles Countywide Stormwater Quality Management Plan.

"Storm Water Pollution Prevention Plan (SWPPP)" shall mean a plan, as required by a State General Permit, identifying potential pollutant sources and describing the design, placement and implementation of BMPs, to effectively prevent non-stormwater Discharges and reduce Pollutants in Stormwater Discharges during activities covered by the General Permit.

"Storm Water" shall mean any surface flow, runoff, and/or drainage associated with rainstorm events and/or snowmelt.

"Stormwater Quality Management Plan" shall mean the Los Angeles Countywide Stormwater Quality Management Plan, which includes descriptions of programs, collectively developed by the Permittees in accordance with provisions of the NPDES Permit, to comply with applicable federal and state law, as the same is amended from time to time.

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g. canopy, structural enclosure). The category may include both treatment control BMPs and source control BMPs.

"SUSMP" means the Los Angeles Countywide Standard Urban Stormwater Mitigation Plan. The SUSMP shall address conditions and requirements of ~~new~~ planning priority development and redevelopment projects.

"Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background.

"Toxicity Identification Evaluation" refers to a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests

"Toxicity Reduction Evaluation" is a study conducted in a step-wise process to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity

"Treatment" means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

"Treatment Control BMP" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

"Water Column Toxicity" means a 70 percent survival rate for a single test or an average of 90 percent survival for three consecutive tests.

"Water Quality Standards and Water Quality Objectives" applicable to the Permittee include those contained in the Los Angeles Regional Water Quality Control Plan (Basin Plan), the California Ocean Plan, the National Toxics Rule, the California Toxics Rule, and other state or federally approved surface water quality plans. Such plans are used by the Regional Board to regulate all discharges, including storm water discharges

"Waters of the State" means any surface water or groundwater, including saline waters, within boundaries of the state.

"Waters of the United States" or "Waters of the U.S." means:

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
b. All interstate waters, including interstate "wetlands";
c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
    1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
    2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
    3. Which are used or could be used for industrial purposes by industries in interstate commerce;
d. All impoundments of waters otherwise defined as waters of the United States under this definition;
e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
f. The territorial sea; and
g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraph (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.22(m), which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with US EPA.

"Wet Season" means the calendar period beginning October ~~1~~ 15 through April 15.

"Whole Effluent Toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

PART 6. STANDARD PROVISIONS

A Standard Requirements

1. ~~The~~ Each Permittees shall comply with all provisions and requirements of this permit applicable to it.

2. Should ~~the~~ a Permittees discover a failure to submit any relevant facts or that it submitted incorrect information in a report, it shall promptly submit the missing or correct information.

3. ~~The~~ Each Permittees shall report all instances of non-compliance not otherwise reported at the time monitoring reports are submitted.

4. This Order includes the attached Monitoring and Reporting Program, and Standard Urban Storm Water Mitigation Plan, which are a part of the permit and must be complied with in the same manner as with the rest of the requirements in the permit.

Changes suggested to clarify that violation is on a Permittee-by-Permittee basis

B Public Review

1. All documents submitted to the Regional Board in compliance with the terms and conditions of this Permit shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C Section 552 (as amended) and the Public Records Act (California Government Code Section 6250 *et seq.*).

2 All documents submitted to the Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

C. Duty to Comply [40 CFR 122.41(a)]

1. ~~The Principal~~ Each Permittee must comply with all of the terms, requirements, and conditions of this Order applicable to it. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action. Order termination, Order revocation and reissuance or modification, denial of an application for reissuance; or a combination thereof.

2 A copy of these waste discharge specifications shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees and members of the public.

3 Any discharge of wastes by any Permittee at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

Changes suggested to clarify that violation is on a Permittee-by-Permittee basis and also to conform wording to U.S. EPA Regulations

D Duty to Mitigate [40 CFR 122.41 (d)]

~~The~~ Each Permittees shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

Change suggested to clarify that violation is on a Permittee-by-Permittee basis

E Inspection and Entry [40 CFR 122.41(i)]

The Regional Board, USEPA, and other authorized representatives shall be allowed:

1. Entry upon premises where a regulated facility is located or conducted, or where records are kept under conditions of this Order;

2. Access to copy any records that are kept under the conditions of this Order;

3. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and,

4. To photograph, sample, and monitor for the purpose of assuring compliance with this Order, or as otherwise authorized by the Clean Water Act and the California Water Code.

F Proper Operation and Maintenance [40 CFR 122.41 (e)]

The Permittees shall at all times properly operate and maintain all facilities and systems of treatment and (and related appurtenances) that are installed or used by the Permittees to achieve compliance with this Order. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar system that are installed by a Permittee only when necessary to achieve compliance with the conditions of this Order.

G Signatory Requirements [40 CFR 122.41(k)]

Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Board shall be signed by the Director of Public Works, City Engineer, or authorized designee ~~under penalty of perjury~~ and certified as set forth in 40 CFR 122.22.

H Reopener and Modification [40 CFR 122.41(f)]

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Board, in accordance with the procedural requirements of the Water Code and Title 23 of the California Code of Regulations for the issuance of waste discharge requirements, and upon prior notice and hearing for any of the reasons set forth in 40 CFR 122.62 or to:

   a) ~~Address changed conditions identified in the required reports or other sources deemed significant by the Regional Board~~;

   b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan;

~~c) Comply with any applicable requirements, guidelines, and/or regulations issued or approved pursuant to CWA Section 402(p); and/or,~~

~~d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.~~

The U S EPA Regulations provide detailed criteria for the amendment of a permit which are not reflected in current language

2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

   a) Violation of any term or condition contained in this Order;

   b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts; or,

   c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge

~~3. This Order may be modified, revoked and reissued, or terminated for cause.~~

This provision is superfluous

4 The filing of a request by the Principal Permittee for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

5. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR Part 122.63, if processed as a minor modification Minor modifications may only:

   a) Correct typographical errors, or

   b) Require more frequent monitoring or reporting by the Permittee

I Severability

The provisions of this permit are severable; and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected.

J Duty to Provide Information [40 CFR 122.41(h)]

The Permittees shall furnish, within a reasonable time, any information the Regional Board or USEPA may request to determine whether cause exists for

modifying, revoking and reissuing, or terminating this Order. The Permittees shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.

K. Twenty-four Hour Reporting[1]

1 The Permittees shall report ~~any noncompliance~~ the exceedance of any narrative effluent limitations that may endanger health or the environment Any information shall be provided orally within 24 hours from the time any Permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

As noted above, footnote moved into the text, and assumption made that violation effluent limit is the only circumstance requiring reporting under this provision

2. The Regional Board may waive the required written report on a case-by-case basis.

L. Bypass [40 CFR 122.41(m)][2]

Bypass (the intentional diversion of waste streams from any portion of a treatment facility) of any storm water control or BMP as provided in this Order or in the SQMP and installed by a Permittee is prohibited. The Regional Board may take enforcement action against Permittees for bypass unless:

Footnote moved in the text for clarity

~~[1] This provision applies to incidents where effluent limitations (numerical or narrative) as provided in this Order or in the Los Angeles County SQMP are exceeded, and which endanger public health or the environment.~~

~~[2] This provision applies to the operation and maintenance of storm water controls and BMPs as provided in this Order or in the Los Angeles County SQMP.~~

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.);

2. There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that could occur during normal periods of equipment downtime or preventive maintenance;

3. The Permittee submitted a notice at least ten days in advance of the need for a bypass to the Regional Board; or,

4. Permittees may allow a bypass to occur that does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. In such a case, the above bypass conditions are not applicable. The Permittee shall submit notice of an unanticipated bypass as required.

M. Upset [40 CFR 122.41(n)][3]

1. A Permittee that wishes to establish the affirmative defense of an 'upset' (as defined in 40 CFR 122.41(n)) in an action brought for non compliance shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

Suggest deleting the footnote and adding reference to the definition of 'upset'

[3] ~~*Supra.* See footnote number 2.~~

a) An upset occurred and that the Permittee can identify the cause(s) of the upset;

b) The permitted facility was being properly operated by the time of the upset;

c) The Permittee submitted notice of the upset as required; and,

d) The Permittee complied with any remedial measures required.

2. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.

3. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

N. Property Rights [40 CFR 122.4(g)]

This Order does not convey any property rights of any sort, or any exclusive privilege.

O. Enforcement

1. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The Clean Water Act provides the following:

a) Criminal Penalties for:

(1) Negligent Violations:

The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations:

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment:

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 307, 308,

318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement:

The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed of required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309(c)(4) of the Clean Water Act.)

b) Civil Penalties

The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation.

2. The California Water Code provides that any person who violates a waste discharge requirement provision of the California Water Code is subject to civil penalties of up to $5,000 per day, $10,000 per day, or $25,000 per day of violation; or when the violation involves the discharge of pollutants, is subject to civil penalties of up to $10 per gallon per day or $25 per gallon per day of violation; or some combination thereof, depending on the violation or combination violations.

P. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41(c)]

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

~~Q. Modifications to this Order~~

~~This Order may be modified, revoked, or reissued, prior to the expiration date as follows:~~

~~1. To address changed conditions identified in the required technical reports or other sources deemed significant by the Regional Board;~~

~~2. To incorporate applicable requirements or statewide water quality control plans adopted by the State Board, or amendments to the Basin Plan;~~

~~3. To comply with any applicable requirements, guidelines, or regulations issued or approved under Section 402(p) of the CWA, if the requirement, guideline, or regulation so issued or approved contains different conditions or additional requirements not provided for in this Order. The Order as modified or reissued under this paragraph shall also contain any other requirements of the CWA then applicable; or,~~

~~4. Any amendments under the Clean Water Act.~~

Provision is superfluous; already covered above.

R. Regional Board Order No. 96-054 is hereby rescinded.

S. This Order expires on July 26, 2006]. The Principal Permittee must submit a Storm Water Quality Management Plan in accordance with Title 23, California Code of Regulation, not later than 180 days in advance of such date as application for reissuance of waste discharge requirements.

I, Dennis A. Dickerson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on July 26, 2001.

_____

Dennis A. Dickerson
Executive Officer

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

MONITORING AND REPORTING PROGRAM

FOR

STORM WATER MANAGEMENT/URBAN RUNOFF DISCHARGES
FOR
LOS ANGELES COUNTY FLOOD CONTROL DISTRICT,
DEPARTMENT OF PUBLIC WORKS, AND THE CITIES OF LOS ANGELES COUNTY

NPDES PERMIT NO. CAS614001 (CI 6948)

I. Program Reporting Requirements

A. Program Management

Permittees shall submit, by October 15, 2001, the Annual Storm Water Report and Assessment for the period July 1, 2000, through July 26, 2001 documenting the status of the general program up to permit reissuance and the results of analyses from the monitoring and reporting program.

The ~~Principal~~ Permittees shall submit, by October 15 of each year beginning the year 2002, an Annual Storm Water Report and Assessment documenting the status of the general program and individual tasks contained in the SQMP~~., and an integrated summary of the results of analyses from the monitoring program described under II. Monitoring Requirements.~~

The responsibility of annual reporting should not be solely that of the Principal Permittee but that of all Permittees. The Permittees should evaluate results and analyses of programs with the guidance of the Regional Board.

The Annual Storm Water Report and Assessment shall include any proposed changes to the SQMP as approved by the Executive Advisory Committee. The Annual Storm Water Report and Assessment Report shall cover each fiscal year from July 1 through June 30. At a minimum, the annual report will include the following:

1. A comparison of program implementation results to performance standards established in this Order and in the SQMP;

2. Status of compliance with permit requirements including implementation dates for all time-specific deadlines. If permit deadlines are not met, Permittees shall report the reasons why the requirement was not met, how the requirements will be met in the future, including projected implementation date;

3. An assessment of the effectiveness of SQMP requirements to reduce storm water pollution. This assessment will be based upon the specific record-keeping information requirement in each major section of the permit, monitoring data, and any other information related to program effectiveness. Beginning in the Year 2002, to the extent that data collected in monitoring requirements included herein and existing monitoring data allows, the Principal Permittee shall include an analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses;

4. An analysis of the data to identify areas of the Program coverage which cause or contribute to exceedances of water quality standards or objectives, predominate land uses in these areas, and potential sources of pollutants in those areas;

5. Discussion of the compliance record and the corrective actions taken or planned that may be needed to bring the discharge into full compliance with the waste discharge requirements.

B. Public Information and Participation Program

Programs for Residents

1. Number of storm drain inlets and designated public access points to creeks, channels, and other relevant water bodies in each Permittees' systems that are marked or posted with a no dumping message. If the requirement that 100 percent of storm drains inlets are marked/signed is not met, each Permittee shall report the reasons why, and how the requirement will be met in the future, including the implementation date.

2. Description of activities on distributing brochures, community outreach efforts, public communication efforts and educational programs in schools including an estimate of the number of impressions per year made on the general public about storm water quality via print, local TV access, local radio presentations, meetings or other appropriate media;

3. Description of the quarterly Public Outreach Strategy meetings, including percentage of Permittee attendance, effectiveness at coordinating Permittee education programs, and overall effectiveness based on Permittee evaluations. Also, a description of each Permittee's

participation in and contribution to the Public Education and Participation Program.

4. Description of activities for the Pollutant-Specific Outreach programs, including creating and distributing outreach materials to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate counters and events.

Programs for Businesses

1. Description of the Corporate Outreach program, including the number of consultations with corporate heads of gas stations and restaurant chains and the percentage of the total.

2. Description of the Business Assistance Program, including the number of businesses that requested assistance and the number that were assisted through site visits, telephone consultations, presentations, or material distribution.

C. Programs for Industrial / Commercial Inspections

1. An annual update of the watershed-based inventory of all Industrial/Commercial sites identified as a threat to water quality. This includes all Phase I industrial facilities, motor vehicle repair shops, motor vehicle body shops, motor vehicle parts and accessories facilities, restaurants, and other facilities that contribute or have the potential to contribute to impairments of receiving waters. The inventory shall include at a minimum: facility name, site address, SIC code and narrative description of activities performed at each facility.

2. Number of restaurants, automotive businesses, industrial facilities, and other commercial facilities targeted under the program. During the past year, the number of industrial and commercial inspections conducted, the number of non-compliant sites, and the number of industrial facilities the Permittees have identified that have failed to file an NOI.

3. The percentage of targeted staff trained annually.

D. Programs for Planning and Land Development

1. Total number and percent of all development projects reviewed and conditioned to meet SUSMP requirements by category such as residential, commercial, and industrial.

~~2. Total square feet of impervious area conditioned for mitigation by development and redevelopment category.~~

The County has thousands of planning projects submitting for approval each year. It is difficult for the County to keep track of total square feet of impervious area for every single project that requires to mitigate.

3. Significant date rewrite completed of General Plan with storm water considerations.

4. Percent and total number of targeted staff trained annually [100 percent].

5. Date CEQA guidelines revision completed to include storm water mitigation conditions.

6. Date BMP design and sizing technical manual completed and made available electronically.

E. Programs for Construction Sites

1. Number of construction projects requiring local SWPPPs in the past year and the percentage of projects in categories requiring submittal of a local SWPPP for which local SWPPPs were completed.

2. Number and type of enforcement actions, applicable to storm water enforcement, taken at construction sites during the past year.

3. Description of the outreach program to the construction community and assessment of its effectiveness; This assessment should include a discussion of the number of inspections, ~~site visits~~, or other meetings conducted.

The Development Construction Program does not have a site visits requirement

4. The percentage of targeted staff trained annually.

F. Programs for ~~Illicit Discharge and Illegal~~ Illicit Connection and Illicit Discharges Control

Throughout the permit this is referred to Illicit Connections and Illicit Discharge program. Replace Illegal Discharge with Illicit Discharge and reorder the elements to IC/ID (instead of ID/IC)

1. Annual update of the analytical tool used to manage and track illicit connections and discharges, including an evaluation of patterns and trends of illicit connections and illicit discharges in the entire storm drain system.

2. Location and length of open channels and closed storm drains that were screened by all Permittees, and the status of all suspected, confirmed, and terminated illicit connections.

3. Number of reports of illicit discharges that Permittees responded to, percentage that were identified as actual illicit discharges, and percentage of the actual illicit discharges where the incident was either cleaned up, referred to another responsible agency and/or follow up/education with the discharger was conducted.

4. Percentage of cleanup and abatement activities that occurred within 72 hours of discovery or report of a suspected illicit discharge and justification for response activities that exceeded 72 hours.

5. For groups of identified illicit discharge types where the probable causes for the discharge can be identified, report probable causes and the actions taken to prevent similar discharges from occurring;

6. Number of confirmed illicit connections identified in the past year;
   For clarification purposes only. We will report on confirmed illicit connections as opposed to suspected illicit connections

7. Percentage of investigations that were initiated within 21 days of identification or a report of an illicit connection and justification for those that exceeded 21 days.

8. Number of illicit connections eliminated in the past year;

9. Percentage of illicit connections terminated within 180 days of identification and justification for terminations that exceeded 180 days.

10. Number and type of enforcement actions for storm water illicit discharges and/or illicit connections taken in the past year;

~~11.~~ A summary from records on illicit discharges ~~and connections~~ which includes ~~type~~ description of discharge ~~material~~, ~~type of~~ source, and ~~date of initial inspection,~~ enforcement action taken, ~~date of follow-up inspection, date of conclusion/clean up/removal/ follow up/education;~~
   Unclear of the purpose of this summary. For summaries we should separate Illicit Connections from Illicit Discharges. Therefore I am proposing a new item (12).
   Also a summary can not contain dates. Each incident will have its own initial date of inspection, follow up, etc. If we are to include these dates you will end up not with a summary but with the entire database itself. Dates are already addressed in items 4, 7, and 9.

Summaries could be say from 800 incidents 400 involved [illegible] 200 involved paint etc

12 A summary from records on illicit connections which includes the number of illicit connections terminated by the issuance of a connection permit and those terminated by removal of the connection. This summary may also include a breakdown of identified illicit connections by land use

This summary needs different comparison items than the Illicit Discharges summary. Maybe we can identify out of so many illicit connections how many were found in residential land use, commercial, industrial, etc. We can also summarize how the illicit connections were resolved (permitted vs physical removal)

13. The percentage of targeted employees trained annually. The percentage of targeted employees trained annually.

G. Programs for Facilities Maintenance

1. A summary which at a minimum includes the quantity, predominant types and likely sources of trash removed from catch basin inlets;

2. A summary of the total curb miles of streets swept annually and the percentage of total curb miles swept annually as a function of total curb miles;

3. The percentage of targeted staff trained annually; and,

H. Pollutants of Concern

1. A progress report on sources of pollutants of Concern, BMPs for their control, and implemented BMP effectiveness.

I. Monitoring Program Management

1. The Principal Permittee shall submit a Storm Water Monitoring Report on August 15, 2002, and annually on August 15, thereafter. The report shall include:

a) status of implementation of the monitoring program;

b) results of the monitoring program;

c) a general interpretation of the results;

d) both tabular and graphical summaries of the monitoring data obtained during the previous year;

e) an analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses; and

f) suggestions for improvements to the SQMP based on the analysis.

2. The Principal Permittee shall submit, by October 15, 2001, the results of analyses from the monitoring and reporting program for the period July 1, 2000 through July 26, 2001 together with the Annual Report for the same period.

All applications, reports, or information submitted to the Regional Board shall be signed and certified pursuant to EPA regulations 40 CFR 122.41 (k). Each report shall contain the following completed declaration:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility, of a fine and imprisonment for knowing violations.

Executed on the ___ day of _____ , 20_,

at _____.

(Signature)_____(Title)_____";

Permittee submittals to the Principal Permittee shall also be signed and certified pursuant to EPA regulations 40 CFR 122.41 (k).

The Principal Permittee shall mail the original of each annual report to:

INFORMATION TECHNOLOGY
CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD - LOS ANGELES REGION
320 W. 4TH STREET, SUITE 200
LOS ANGELES, CA 90013

A copy of the annual report shall also be mailed to:

REGIONAL ADMINISTRATOR
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105

II. Monitoring Requirements

The Principal Permittee shall implement the Countywide Storm Water Monitoring Program as follows.

A. Mass Emissions

1. The Principal Permittee shall monitor mass emissions from the following six mass emission stations: Ballona Creek, Malibu Creek, Los Angeles

River, San Gabriel River, Coyote Creek, and Dominguez Channel. The Principal Permittee shall monitor the first storm event and a minimum of 3 additional storm events of each season. One dry weather event per year at each mass emission station shall also be monitored.

2. Samples for mass emission station monitoring shall be taken with the same type of automatic sampler used under Order 96-054, as well as through grab sampling. The samplers shall be set to monitor storms totaling 0.25 inches or greater of rainfall. Samples taken at mass emission stations during the first storm event should be analyzed for all constituents listed in Attachment 1. The Principal Permittee may elect not to sample Volatile Organic Compounds from the list of constituents for mass emission stations.

3. ~~All samples shall be analyzed for Suspended-Sediment Concentration (SCC) and Total Suspended Solids (TSS). Particle size distribution shall also be determined, depending on the development of appropriate sample handling and analytical methods.~~

The Suspended-Sediment Concentration (SSC) and particle size distribution requirements will not be required. Total Suspended Solids (TSS) will be tested using current testing method.

4. Method detection limits for priority pollutants shall be modified, pursuant to ~~the California Toxics Rule~~ the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California. The modified method detection limits are listed in Attachment 1. If a constituent has been detected in 100 percent of samples during the last 2 years of monitoring, the Principal Permittee may continue to use the existing method detection limit until the constituent is not detected, afterwhich, the method detection limits shall be lowered to those in Attachment 1.

The reference of method detection limits will be changed from the California Toxics Rule (CTR) to the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP).

We tentatively agreed to analyze water quality samples collected during the first storm of each season using SIP detection limits. Results of analyses of these samples would be used for identifying the 303(d) list pollutants of concerns. The RWQCB's staff indicated that there may be a need to analyze water quality samples of more than one storm using SIP to increase the confidence of using the detected levels for establishing the 303(d) list. There is still a need to further discuss this requirement.

5. If a constituent is not detected at the method detection limit for its respective test method listed in Attachment 1 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it need not be further analyzed, with the exception of the

first storm of each season, unless the observed occurrences show high concentrations and are cause for concern.

B. Toxicity Monitoring

1. Water Column Toxicity Monitoring

The Principal Permittee shall analyze two wet weather samples and two dry weather samples from each mass emission station for toxicity per year. A minimum of one freshwater and one marine species shall be used for toxicity testing. Specifically, Ceriodaphnia dubia and sea urchin fertilization shall be used. If toxicity is not detected in either of the dry weather samples for any given mass emission station, the Principal Permittee may reduce dry weather toxicity testing to one sample per year at that station. If toxicity is not detected in either of the wet weather samples for any given mass emission station, wet weather toxicity testing may be reduced to one sample from the first storm per year at that station. Toxicity shall be defined as a 70 percent survival rate for a single test or an average of 90 percent survival for three consecutive tests.

2. Toxicity Identification Evaluations (TIE)

The Principal Permittee shall conduct Phase I TIEs on wet weather samples when two consecutive samples from the same monitoring station show toxicity and on dry weather samples when two consecutive dry weather samples from the same monitoring station show toxicity.

3. Toxicity Reduction Evaluations (TRE)

Following the identification of a toxic pollutant, the Principal Permittee shall perform a TRE for that pollutant and submit it to the Regional Board Executive Officer for approval within one year. TREs shall include procedures for investigating the causes and identifying corrective actions for toxicity problems. Specifically, the following activities shall be included in each TRE:

- Identify the causative agents of toxicity (accomplished with the TIE)
- Isolate the sources of toxicity
- Evaluate the effectiveness of toxicity control options
- Implement effective toxicity control options
- Confirm the reduction in toxicity

The Principal Permittee and Permittees are responsible for the implementation of toxicity controls in areas where they have jurisdiction

We agreed that the County should be responsible for the implementation of toxicity reduction BMPs only in the unincorporated areas

If applicable, the Principal Permittee may use the same TRE for the same toxic pollutant in different watersheds.

During TRE development and implementation, the Principal Permittee shall continue monitoring the first storm and one dry weather event per year for toxicity at the subject station. Two years after the TRE has been approved, the Principal Permittee shall analyze two wet weather and two dry weather samples for toxicity to evaluate the effectiveness of the TRE.

The Principal Permittee shall conduct a maximum of two TREs per year and will contribute up to a maximum of $300,000 per year for TRE development, implementation and monitoring. TRE performance shall be prioritized according to the TMDL schedule (Attachment 2) and the level of toxicity present.

We agreed on a cap of $300,000 per year for TRE development, implementation and monitoring

The Principal Permittee may use sampling data from previous storm water toxicity monitoring, however, all stations must conduct regular toxicity tests on the freshwater species Ceriodaphnia dubia where it was not previously conducted. For example, toxicity monitoring activities during the 2001-2002 permit year shall occur according to Table 1.

Table 1. Toxicity Monitoring Activities for 2001-2002

Monitoring Station	***Toxicity Monitoring Activities***
Ballona Creek	Zinc TRE, Copper TRE, toxicity testing on Ceriodaphnia dubia
Malibu Creek	Toxicity testing on Ceriodaphnia dubia, reduced testing on sea urchins
Los Angeles River	Wet and dry weather TIEs, toxicity testing on Ceriodaphnia dubia
San Gabriel River	Wet weather TIE, toxicity testing on Ceriodaphnia dubia
Dominguez Channel	Toxicity monitoring
Coyote Creek	Toxicity monitoring

C. Tributary/Source Identification Monitoring

1. The Principal Permittee shall develop and implement a tributary/source identification monitoring program. At a minimum the program shall consist of station identification, monitoring, and analysis of data for a minimum total of ~~20~~ (?) tributary stations throughout the five major watersheds (Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, and Dominguez Channel).

We agreed to form a technical group which will include various stakeholders to delineate a program for tributary monitoring. The group will determine the number of tributary stations and their locations

frequency of sampling. The RWQCB then will assign the identified monitoring stations to selected permittee including the LA County Flood Control District.

2. **Each tributary station shall be selected and prioritized based on the TMDL schedule (Attachment 2), and the results of monitoring summarized in the Los Angeles County Integrated Monitoring Report (Integrated Report), located on the internet at ~~http://dpw.co.la.us/epd/wq/IntTC.cfm~~ http://www.dpw.co.la.ca.us/epd/wq/IntTC.cfm, and the Land Use Model. To the extent practicable, station selections shall be representative of specific sources of pollutants identified through the Land Use Model. The Principal Permittee may develop a staggered monitoring schedule to ensure sufficient available resources. Staggered monitoring shall begin with a minimum of the ~~ten~~ (?) highest priority tributary stations. The Principal Permittee shall submit the station selections to the Regional Board Executive Officer for approval prior to the issuance of this Order.**

The web address of the integrated monitoring report needs to be changed from http://dpw.co.la.us/epd/wq/IntTC.cfm to http://www.dpw.co.la ca.us/epd/wq/IntTC.cfm

The technical group will determine details of the staggered monitoring schedule based on the number of stations and frequency of sampling.

3. Permittees shall participate in tributary monitoring when the majority of a monitoring station subwatershed is located in their jurisdiction.

4. The Principal Permittee shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

5. All samples for tributary stations may be taken as grab samples or with an automatic sampler. Constituents to be analyzed for each location shall include the following:

   a) Constituents on the 303(d) and TMDL lists for each receiving water

   b) Constituents that were identified in the Integrated Report as exceeding the objectives of the California Ocean Plan, the Los Angeles Basin Plan, and the California Toxics Rule

   c) Diazinon and chlorpyrifos

   d) Indicator bacteria (total and fecal coliform, streptococcus, and enterococcus)

   e) Toxic pollutants identified by TIEs at that tributary's mass emission station

6. If a constituent is not detected at the method detection limit (MDL) for its respective test method listed in Attachment 1 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it will not be further analyzed unless the observed occurrences show high concentrations and are cause for concern. The Principal Permittee will also conduct annual confirmation sampling for non-detected constituents at each station for as long as the station is monitored.

7. The Principal Permittee shall submit a report identifying sources and/or source areas of pollutants within each watershed and priority management actions as part of the fourth Annual Report.

~~D. Receiving Waters Studies~~

~~1. The Principal Permittee shall conduct a study the impacts of storm water on receiving waters. The study or studies shall achieve the following objectives:~~

~~a) Sediment Toxicity: Evaluate the extent and causes of sediment toxicity in the estuaries of each of the 5 major watersheds (Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, and Dominguez Channel). Existing data from the "Study of the Impact of Stormwater Discharge on Santa Monica Bay" for Ballona and Malibu Creeks may be used.~~

~~b) Plume Studies: Evaluate the dispersion, fate, and transport of storm water pollutants in Dominguez Channel, Los Angeles river, and San Gabriel River.~~

~~c) Benthic Study: Assess the impacts of storm water on the marine benthic community near the mouths of the Dominguez Channel, Los Angeles River, and San Gabriel River. This shall be accomplished by determining the population and community metrics of benthic epifauna and infauna.~~

~~d) Continuation of Santa Monica Bay Study: A follow up to the "Study of the Impact of Stormwater Discharge on Santa Monica Bay" shall be conducted to determine the persistence of storm water plumes and an estimate of the duration of exposure of swimmers to bacteria and marine life to storm water toxicants and nutrients. Chemical and oceanographic studies shall be conducted to determine the fate of storm water particles discharged into the Santa Monica Bay.~~

~~2. The Principal Permittee may meet some or all of the requirements of the Receiving Waters Studies by participating in Regional Monitoring of the Southern California Bight, organized by the Southern California Coastal Water Research Project. This shall involve contributing sufficient funding and participating on the Steering Committee to help identify study objectives, sample sites, and indicators to be measured.~~

We agreed that Receiving Waters Studies are not needed. However, there is a possibility that sediment toxicity monitoring and benthic monitoring on a regular basis will be conducted instead.

E. Urban Stream Bioassessment Monitoring

1. The Principal Permittee shall develop and implement an urban stream bioassessment monitoring program. At a minimum, the program shall consist of station identification, sampling, monitoring and analysis of data for 20 bioassessment stations in order to determine the biological and physical integrity of urban streams within Los Angeles County. In addition to the urban stream bioassessment stations, three reference bioassessment stations shall be identified, sampled, monitored, and analyzed. The selection, sampling, monitoring, and analysis of bioassessment stations shall meet the following requirements and shall be compatible with the Ambient Monitoring Program being developed by the Regional Board and with the California Department of Fish and Game Bioassessment Program.

Each urban stream bioassessment station shall:

a) be located within one of the six watersheds specified in the Mass Emission Monitoring Section;

b) be representative of urban stream conditions within one of the six watersheds; and

c) Meet the physical criteria of the California Stream Bioassessment Procedure[4], or a modification thereof, approved by the Regional Board Executive Officer.

2. Reference stations shall be selected in stream reaches that are not listed as impaired on the 303(d) list and that are not representative of urban stream conditions, based on surrounding land uses and a lack of up-stream point source discharges.

3. The Principal Permittee shall submit a proposed urban stream bioassessment monitoring plan, including station selections, to the Regional Board for approval within 180 days of the date this Order is adopted.

4. Each urban stream bioassessment station shall be monitored twice annually, in May and October of each year, beginning in May 2002 for the first two years and then once a year. A minimum of three replicate samples shall be collected at each station during each sampling event.

We agreed that the bioassessment monitoring should be conducted twice a year for the first two years and then once a year.

5. Sampling, laboratory, quality assurance, and analysis procedures shall follow the standardized procedures set forth in the California Department of Fish and Game's California Stream Bioassessment Procedure (CSBP). Analysis procedures shall include comparison between station mean values for various biological metrics. Sampling, laboratory, quality assurance, and analytical procedures shall follow the standardized "Non-point Source Bioassessment Sampling Procedures" for professional bioassessment as set forth in the CSBP. Results of the Urban Stream Bioassessment Monitoring shall be reported annually as part of the Annual Storm Water Monitoring Report. Results shall include:

a) All ~~physical, chemical and~~ biological data collected in the assessment;

Physical and chemical data collection should not be required in the bioassessment monitoring

[4] California Stream Bioassessment Procedure (Protocol Brief for Biological and Physical/Habitat Assessment in Wadeable Streams). California Department of Fish and Game - Aquatic Bioassessment Laboratory, May 1999. Located at www.dfg.ca.gov/cabw/protocols.html

b) Photographic documentation of assessment and reference stations;

c) Documentation of quality assurance and control procedures;

d) Analysis that shall include calculation of the metrics used in the CSBP;

e) Comparison of mean biological and habitat assessment metric values between assessment and reference stations;

f) Electronic data formatted to the California Department of Fish and Game Aquatic Bioassessment Laboratory for inclusion in the Statewide Access Bioassessment Database.

6. A professional environmental laboratory shall perform all sampling, laboratory, quality assurance, and analytical procedures.

~~F. Bacteria~~

~~The Principal Permittee and the City of Los Angeles shall participate in the Southern California Coastal Waters Research Project's development and calibration of water quality models in an effort to characterize the presence and persistence of indicator bacteria in dry and wet weather. This includes participation in the Beach Water Quality Workgroup and coordinating results of AB 411 monitoring with storm water management activities.~~

We agreed that bacteria monitoring should not be required

~~G. Trash Monitoring~~

~~Permittees shall participate in the development of a baseline trash monitoring program with the respective Permittees, pursuant to the Los Angeles River and Ballona Creek trash TMDLs. The Principal Permittee is encouraged to implement the program in the watersheds that are not presently listed on the 303(d) list for impairment for trash.~~

We requested that this requirement be removed from the permit since the TMDL regulations have not been finalized. The Regional Board will make changes to the trash TMDL language requirement used in the draft permit to account for the fact the TMDL regulation has not been finalized

H. Natural Stream Study

The Principal Permittee and Permittees ~~in the Malibu Watershed~~ (?) shall participate in, or seek funding to conduct, a study of the impacts of development and peak flow on erosion and habitat in natural stream channels in the Malibu Creek watershed.

There is a possibility that a natural stream study will be conducted in the Santa Clara Watershed instead of the Malibu Watershed

I. BMP Effectiveness Study

The Principal Permittee shall conduct or participate in studies to evaluate the effectiveness of structural and treatment control storm water best management practices. The objectives of this study shall include the following:

- Monitor the reduction of pollutants of concern in storm water (including, but not limited to: trash, suspended sediment, pathogen indicators, nutrients, heavy metals, and oil and grease) from a minimum of three different BMPs that have been properly installed within the year preceding monitoring. Monitoring shall be continued until the effectiveness of the BMP can be determined.
- Evaluate the requirements, feasibility and cost of maintenance for each BMP.
- Develop recommendations for appropriate BMPs for the reduction of pollutants of concern in storm water in Los Angeles County.

The Principal Permittee may participate in the Santa Monica Bay Restoration Foundation's proposed study, "Performance Evaluation of Structural BMPs for Storm water Pollution Control in the Santa Monica Bay Watershed" to meet this requirement. Participation includes collaboration and resource contribution to expand the scope of the proposed study.

* Shoreline Monitoring

We agreed that shoreline monitoring, if it is added to the MS4 permit, would be the sole responsibility of the City of Los Angeles.

J. Standard Monitoring Provisions

1. The Principal Permittee shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.

   Records of monitoring information shall include:

a) The date, exact place, and time of sampling or measurements;

b) The individual(s) who performed the sampling or measurements;

c) The date(s) analyses were performed;

d) The individual(s) who performed the analyses;

e) The analytical techniques or methods used; and,

f) The results of such analyses.

2. All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order.

3. All chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency.

4. If no flow occurred during the reporting period, the monitoring report shall so state.

5. For any analyses performed for which no procedure is specified in the EPA guidelines or in this Monitoring and Reporting Program, the constituent or parameter analyzed and the method or procedure used must be specified in the monitoring report.

6. Whenever feasible, all MDLs shall be less than California Toxic Rule and Ocean Plan standards. If this is not feasible, the Principal Permittee shall use analytical methods with the lowest MDL.

7. ~~All samples shall be analyzed for SSC and TSS, until the Regional Board Executive Officer determines the most accurate method to quantify concentrations of suspended solid-phase material in surface waters.~~

The SSC analysis will not be required. TSS will be tested using current testing method

8. The Regional Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring and Reporting Program, after providing the opportunity for public comment, either:

   a) By petition of the Principal Permittee or by petition of interested parties after the submittal of the Annual Monitoring Program Report. Such petition shall be filed not later than 60 days after the Annual Monitoring Program Report submittal date, or

   b) As deemed necessary by the Regional Board Executive Officer following notice to the Principal Permittee.

ATTACHMENT 1

LIST OF CONSTITUENTS IN MONITORING PROGRAM
AND ASSOCIATED DETECTION LIMITS

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Conventional Pollutants		(mg/L)
Oil and Grease	413.2	1
Total Phenols	420.1	0.1
Cyanide	335.2	0.01
pH	150.1	0 - 14
Temperature		None
Dissolved Oxygen	---	Sensitivity to 5 mg/L
Bacteria		
Total Coliform	9221B	<20mpn/100ml
Fecal Coliform	9221B	<20mpn/100ml
Fecal Streptococcus	9221B	<20mpn/100ml
General		(mg/L)
Dissolved Phosphorus	300	0.05
Total Phosphorus	300	0.05
Turbidity	180.1	0.1NTU
Suspended-Sediment Concentration		2
Total Suspended Solids	160.2	2
Total Dissolved Solids	160.1	2
Volatile Suspended Solids	160.4	2
Total Organic Carbon	415.1	1

Total Petroleum Hydrocarbon	418.1	1
Biochemical Oxygen Demand	405.1	2
Chemical Oxygen Demand	410.4	20-900
Total Ammonia-Nitrogen	350.2	0.1
Total Kjeldahl Nitrogen	351.2	0.1
Nitrate-Nitrite	4110	0.1
Alkalinity	310.1	2
Specific Conductance	120.1	1umho/cm
Total Hardness	130.2	2
MBAS	425.1	<0.5
Chloride	4110	2
Fluoride	4110	0.1
Sulfate	4110	2

CONSTITUENTS	**USEPA METHOD**	**DETECTION LIMIT**
Metals (Total and Soluble)		**(µg/L)**
Aluminum	202.1	100
Antimony	204.2	0.5*
Arsenic	206.2	1*
Barium	208.2	100
Beryllium	210.2	0.5*
Boron	212.3	250
Cadmium	213.2	.25*
Calcium	215.2	200
Chromium	218.2	0.5*
Copper	219.2	0.5*
Hex. Chromium	7196	5*
Iron	236.2	100
Lead	239.2	0.5*
Magnesium	242.1	200
Manganese	243.2	30
Mercury	245.1	0.2*
Nickel	249.2	1*
Potassium	258.1	100
Selenium	270.2	1*
Silver	272.2	.25*
Sodium	273.1	50
Thallium	279.2	1*
Zinc	289.2	1*
Semivolatile Organic Compounds		**(µg/L)**
Acids	**8250**	
Benzoic Acid	8250	<5

Benzyl Alcohol	8250	<5
2-Chlorophenol	8250	<2
2, 4-Dichlorophenol	8250	1*
2, 6-Dichlorophenol	8250	<2
4-Dimetylphenol	8250	<2
4, 6-Dinitro-2-metylphenol	8250	<3
2,4-Dinitrophenol	8250	<3
2-Methylphenol	8250	<3
4-Methylphenol	8250	<3
2-Nitrophenol	8250	<3
4-Nitrophenol	8250	<3
4-Chloro-3-methylphenol	8250	1*
Pentachlorophenol	8250	1*
Phenol	8250	<1
2,3,4,6-Tetrachlorophenol	8250	<1
2,4,5-Trichlorophenol	8250	<1
2,4,6-Trichlorophenol	8250	<1

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Base/Neutral	**8250**	**(µg/L)**
Acenapthene	8250	<0.5
Acenapthylene	8250	0.2*
Acetophenone-	8250	<3
Aniline	8250	<3
Anthracene	8250	2.0*
4-Aminobiphenyl	8250	<3
Benzidine	8250	<3
Benzo(a)anthracene	8250	<1
4-Chloroaniline	8250	<1
1-Chloronapthalene	8250	<1
p-Dimethylaminoazobenzene	8250	<3
7,12-Dimethylbenz(a)-anthracene	8250	<1
a-,a-Dimethylphenethylamine	8250	<3
Benzo(a)pyrene	8250	<1
Benzo(b)flouranthene	8250	<1
Benzo(k)flouranthene	8250	<1
Chlordane	8250	<1
Bis(2-chloroethoxy)methane	8250	<1
Bis(2-chlorisopropyl)ether	8250	<1
Bis(2-chloroethyl)ether	8250	<1
Bis(2-ethylhexyl)phtalate	8250	<3
4-Bromophenyl phenyl ether	8250	<1
Butyl benzyl phthalate	8250	<3
2-Chloronapthalene	8250	<1
4-Chlorophenyl phenyl ether	8250	<1
Chrysene	8250	<1

Dibenz(a,j)acridine	8250	<3
Dibenz(a,h)anthracene	8250	0.1*
1, 3-Dichlorobenzene	8250	<0.5
1, 4-Dichlorobenzene	8250	<0.5
1, 2-Dichlorobenzene	8250	<0.5
3, 3-Dichlorobenzidine	8250	<3
Diethylphthalate	8250	<0.5
Dimethylphthalate	8250	<0.5
Di-n-butylphthalate	8250	<3
2,4-Dinitrotoluene	8250	<0.5
2, 6-Dinitrotoluene	8250	<0.5
Diphenylamine	8250	<3
1, 2-Diphenylhydrazine	8250	1*
Di-n-octylphtalate	8250	<3
Ethyl methanesulfonate	8250	<3
Fluoranthene	8250	.05*
Fluorene	8250	0.1*

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Base/Neutral (continued)	**8250**	**(µg/L)**
Hexachlorobenzene	8250	<0.5
Hexachlorobutadiene	8250	<1
Hexachlorocyclopentadiene	8250	<3
Hexachloroethane	8250	<1
Indeno(1, 2, 3-cd)pyrene	8250	0.05*
Isophorone	8250	<0.5
3-Methylcholanthrene	8250	<3
Methyl methanesulfonate	8250	<3
Napthalene	8250	0.2*
1-Napthylamine	8250	<3
2-Napthylamine	8250	<3
2-Nitroaniline	8250	<3
3-Nitroaniline	8250	<3
4-Nitroaniline	8250	<3
Nitrobenzene	8250	<0.5
N-Nitroso-di-n-butylamine	8250	<3
N-Nitrosodimethylamine	8250	<3
N-Nitrosodiphenylamine	8250	1*
N-Nitroso-di-N-propylamine	8250	<1
N-Nitrosopiperidine	8250	<3
Pentachlorobenzene	8250	<3
Phenacitin	8250	<3
Phenanthrene	8250	0.05*
2-Picoline	8250	<3
Pronamide	8250	<5
Pyrene	8250	0.05*

5-Tetrachlorobenzene	8250	<3
1, 2, 4,-Trichlorobenzene	8250	<0.5
Pesticides	**608**	**µg/L**
Aldrin	608	0.005*
alpha-BHC	608	0.05
beta-BHC	608	0.05
delta-BHC	608	0.05
gamma-BHC (Lindane)	608	0.05
Carbofuran	531.1	<5
Chlordane	608	0.05
4, 4'-DDD	608	0.05*
4, 4'-DDE	608	0.05*
4, 4'-DDT	608	0.01*
Benzaton	515.1	<2
Dieldrin	608	0.01*
Endosulfan I	608	<0.1
Endosulfan II	608	<0.1
Endosulfan sulfate	608	0.05*
Endrin	608	0.01*
Endrin aldehyde	608	0.01*
Glyphosate	547	<.5
Heptachlor	608	0.01*

CONSTITUENTS	USEPA METHOD	DETECTION LIMIT
Pesticides (continued)	**8250**	**(µg/L)**
Heptachlor epoxide	608	0.01*
Methoxychlor	608	<0.5
Toxaphene	608	0.5*
2,4-D	515.1	<0.02
2.4,5-TP-SILVEX	515.1	<0.2
Polychlorinated Biphenyls	**608**	**(µg/l)**
Aroclor-1016	608	0.5*
Aroclor-1221	608	0.5*
Aroclor-1232	608	0.5*
Aroclor-1242	608	0.5*
Aroclor-1248	608	0.5*
Aroclor-1254	608	0.5*
Aroclor-1260	608	0.5*
Herbicides		**(µg/L)**
Diazinon		0.01

Chlorpyrifos		0.05
Diuron		1
Malathion		1
Prometryn	507	2
Atrazine	507	2
Simazine	507	<2
Cyanazine	507	2
Molinate	507	<.01
Thiobencarb	507	<.1

Volatile Organic Compounds (VOCs)	**8240A**	**(µg/L)**
Acetonitrile	8240A	10.0
Acrolein	8240A	2*
Acrylonitrile	8240A	0.5
Benzene	8240A	0.5
Bromoform	8240A	0.5
2-Butanone	8240A	10.0
Carbon Disulfide	8240A	10.0
Carbon Tetrachloride	8240A	0.5
Chlorobenzene	8240A	0.5
Chlorodibronmethane	8240A	0.5
Chloroethane	8240A	0.5
2-Chloroethyl vinyl ether	8240A	1.0
Chloroform	8240A	0.5
Dibromomethane	8240A	0.5
1,2-Dibromo-3Chloropropane	8240A	<.01
1, 4-Dichloro-2-butene	8240A	10.0
Dichlorobromomethane	8240A	0.5
Dichlorodifluoromethane	8240A	0.5
1, 1-Dichloroethane	8240A	0.5
1, 2-Dichloroethane	8240A	0.5
1, 1-Dichloroethene	8240A	0.5

CONSTITUENT	**USEPA METHOD**	**DETECTION LIMIT**
VOCs (continued)	**8240A**	**(µg/L)**
trans-1, 2-Dichloroethene	8240A	0.5
1, 2-Dichloropropane	8240A	0.5
cis-1, 3-Dichloropropene	8240A	0.5
trans-1, 3-Dichloropropene	8240A	0.5
Ethanol	8240A	10.0
Ethylbenzene	8240A	0.5*
Ethylene Dibromide	8240A	<.01
Ethylene Oxide	8240A	10.0
Ethyl Metcrylate	8240A	0.5
2-Hexanone	8240A	5.0
Iodomethane	8240A	0.5

Methyl Bromide	8240A	5.0
Methyl Chloride	8240A	5.0
Methylene Chloride	8240A	1.0
4-Methyl-2-pentanone	8240A	5.0
Styrene	8240A	0.5
1, 1, 2,2-Tetrachloroethane	8240A	0.5
Tetrachloroethane	8240	0.5
Toluene	8240A	0.5*
Trichlorofluoromethane	8240A	1.0
1, 2,3-Trichloropropane	8240A	0.5
Trichloroethene	8240A	0.5
1, 1, 1-Trichloroethane	8240A	1.0
1, 1,2-Trichloroethane	8240A	1.0
1,1,2-Trichloro-1,2,2 triflluoroethane	8240A	<.5
Vinyl acetate	8240A	5.0
Vinyl chloride	8240A	0.5
Xylene (Total)	8240A	0.5

*** Method Detection Limits have been decreased pursuant to the California Toxics Rule**

Attachment 2

Total maximum Daily Loads Scheduled for Implementation in Los Angeles County Watershed Within 5 Years

Waterbody	*TMDL*	*Consent Decree Year*
Malibu	Coliform	2002
Malibu	Nutrients	2002
Malibu Creek Lakes and Tributaries	Metals	
Ballona Creek	Trash	2001
Ballona Creek	Coliform	2006
Ballona Creek	Historic Pesticides	2004
Ballona Creek	Metals	2004
Dominguez Channel/LA Harbor	Coliform	2002
Los Angeles River	Trash	2001
Los Angeles River	Nutrients	2001
Los Angeles River	Coliform	2001
Los Angeles River	Chlorpyrifos	2006
Los Angeles River	Metals	2004
San Gabriel River	Nutrients	2003
San Gabriel River	Coliform	
San Gabriel River	Metals	2006
San Gabriel Lakes	Coliform	
Santa Monica Bay Beaches	Coliform	2002
Santa Monica Bay Beaches	Metals	2004
Santa Monica Bay Beaches	Chlordane	2006

EXHIBITS

Board Meeting Date:	JULY 26, 2001
Exhibit:	B
Item Submitted by:	DEPT. OF HEALTH SERVICES VECTOR-BORNE DISEASE SECTION
Agenda Item:	5
Description:	PRESENTATION REGARDING VECTOR-BORNE DISEASES.

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
GRAY DAVIS, Governor

DEPARTMENT OF HEALTH SERVICES
Vector-Borne Disease Section
?151 Convention Center Way, Ste. 218B
itario, CA 91764-5429
(909) 937-3440
(909) 937-3456 (Fax)

The California Department of Health Services, Vector-Borne Disease Section (VBDS) is responsible for assisting local vector control agencies in protecting public health through the prevention and control of vectors[1] and vector-borne diseases. Under Section 2270 of the Health and Safety Code, vector control agencies have the authority to take all necessary and proper steps for the control of vectors, including inspection, abatement, and treatment of any nuisances on any property, and may asses civil penalties and levy service charges for any surveillance and control measures taken.

In 1998, VBDS and local vector control agencies in Los Angeles and San Diego Counties entered into a Memorandum of Understanding (MOU) with Caltrans to provide technical expertise regarding vector production and the potential of vector-borne diseases within its stormwater Best Management Practice (BMP) Retrofit Pilot Study. It was the intent of this MOU to protect public health by documenting and, where possible, mitigating vector production and harborage at BMP study sites. The agreement required VBDS to establish a comprehensive vector surveillance and monitoring study, develop vector abatement protocols, and recommend appropriate engineering modifications to Caltrans BMPs that would reduce the potential of these structures to produce or harbor vectors. In addition to reviewing the BMP design criteria and monitoring maintenance and operations, VBDS conducted studies to identify which designs were least conducive to vector roduction.

Numerous design features and operational events resulted in water accumulating and standing within BMP structures for various lengths of time. Standing water provided the habitat needed for the development of certain vectors, particularly mosquitoes. Collaborative efforts between the participating agencies have resulted in solutions to some vector issues.

- There is currently no legislation that requires vector control agencies to be involved in the review and approval of operational aspects of structural BMPs, such as design and maintenance.

- We have reviewed the 2nd draft of the proposed renewal of the Municipal Storm Water Permit for the County of Los Angeles, NPDES No. CAS004001. Some of the proposals in the draft permit could result in vector problems. We have prepared comments relating to vector prevention and control for the Board to consider and strongly recommend them for inclusion in the final draft. This verbage recommends that State, County, or local vector control agencies be included in the review and approval process of operational aspects of structural BMPs, particularly design and maintenance. A proactive rather than a reactive approach to the prevention of potential vector problems will result in cost savings to property owners, reduce the need for ongoing vector surveillance and control, and ensure compliance with the California Health and Safety Code. We do however recognize that some structural BMP designs will require ongoing vector surveillance and control.

[1] California Health & Safety Code, Section 2200. "Vector" means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, other insects, ticks, mites, and rodents.

EXHIBITS

Board Meeting Date:	JULY 26, 2001
Exhibit:	C
Item Submitted by:	DESI ALVAREZ in behalf of Executive Advisory Committee
Agenda Item:	5
Description:	PROPOSED RECEIVING WATER LIMITATIONS LANGUAGE

PROPOSED RECEVING WATER LIMITATIONS LANGUANGE

Page 16, part 2:

Part 2. RECEVING WATER LIMITATIONS

1. The Permittees shall comply with Discharge Prohibitions and Receiving Water Limitations through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SQMP and its components and other requirements of this Order including any modifications. The SQMP and its components shall be designed to achieve compliance with Receiving Water Limitations. If exceedances of water quality objectives or water quality standards (collectively, water quality standards) persist notwithstanding implementation of the SQMP and its components and other requirements of this permit, the Permittees shall assure compliance with Discharge Prohibitions and Receiving Water Limitations by complying with the following procedure:

   a) Upon a determination by either the Permittees or the Regional Board that discharges are causing or contributing to an exceedance of an applicable water quality standard, the Permittees shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of water quality standards. The report may be incorporated in the annual update to the SQMP and its components unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the report.

   b) Submit any modifications to the report required by the Regional Board within 30 days of notification.

   c) Within 30 days following approval of the report described above by the Regional Board, the Permittees shall revise the SQMP and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.

   d) Implement the revised SQMP and its components and monitoring program in accordance with the approved schedule.

2. So long as the Permittees have complied with the procedures set forth above and are implementing the revised SQMP and its components, the Permittees do not have to repeat the same procedure for continuing or

recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

3. Timely and complete implementation by a Permittee of the storm water management programs prescribed in this Order shall satisfy the requirements of this section and constitute compliance with receiving water limitations.

PROPOSED FINDING FOR SAFE HARBOR LANGUAGE

Page 12, paragraph 26 (new):

E. 26.

This Order is being issued pursuant to Section 402(p) of the Clean Water Act to permit the discharge of pollutants to a municipal separate storm source system so long as such pollutants are controlled to the maximum extent practicable in accordance with the provisions of this Order. Similarly, waste discharge requirements are being issued pursuant to the California Water Code Sections 13260 et seq. to permit the discharge of waste to the waters of the State in accordance with the provisions of this Order. Accordingly, compliance with the terms of this Order shall be deemed to be compliance with the terms of Section 402 of the Clean Water Act involving discharges to municipal separate storm source systems, and shall deemed to be compliance with the waste discharge requirements and the other requirements of the California Water Code.

PROPOSED ALTERNATIVE PERMIT LANGUAGE

Industrial/Commercial Facilities Program

Page 26, paragraph 3:

3. **Automotive Service Facilities**

Each Permittee shall inspect all Automotive Service Facilities within its jurisdiction, to confirm that such facilities are effectively implementing storm water BMPs.

a) Frequency: Each automotive service facility shall be inspected once every 24 months. If an inspection shows physical evidence of non-compliance with the ~~SQMP and~~ local storm water ordinances ~~(including failure to implement pollution prevention BMPs)~~ (such as staining or other signs of previous non-storm water discharges) the facility shall be ~~reinspected within 90 days~~ scheduled for level 2 inspection:

b) Level of inspection: ~~The Permittees shall determine that BMPs are effectively implemented, in accordance with the SQMP, Regional Board Resolution 98-08, and storm water ordinances. As necessary, Permitees shall advise owners/operators of Automotive Service Facilities to implement additional BMPs, necessary to reduce the discharge of pollutants in storm water to the maximum extent practicable.~~ Level 1 – Each Permittee shall advise the owner/operator of the facility of the City's prohibition of non-storm water discharges and provide the owner/operator with the appropriate list of BMPs and/or other written material for automotive facilities. Each Permittee shall also endeavor to walk the site with the owner/operator pointing out areas of concern and identifying evidence of probable previous non-storm water discharges. Facilities where evidence of probable prior non-storm water discharges is observed shall be scheduled for Level 2 inspection. Level 2 – During the next rainy season, facilities where evidence of probable previous non-storm water discharges had been identified, will be visited during a rain event. The Permittee will inspect for non-storm water discharges from the site. Facilities with no observable illegal discharges require no further actions. Where illegal discharges are found, the Permittee shall initiate appropriate legal action to enforce the provisions of its local ordinance.

PROPOSED ALTERNATIVE PERMIT LANGUAGE

Public Agency Activities Program

Page 44, paragraph 12:

12. Dry Weather Diversions

~~Each~~ All of the Permittees and the Principal Permittee, ~~shall prioritize drains for possible~~ in cooperation with the County Sanitation Districts of Los Angeles County, shall prepare a study which investigates the possible diversion of dry weather flows from areas within their jurisdictions that flow to areas where the public may be impacted (for public health and safety and/or environmental reasons). The Permittees and the Sanitation District shall collectively review their individual prioritized lists and create a watershed based priority list of possible drains for diversion no later than March 31, 20023 and submit a listing of priority diversions to the Regional Board Executive Officer. ~~The Permittees shall immediately begin a feasibility study and discussions with the appropriate sewer agency for diversion of selected dry weather flows to the sanitary sewer for treatment, subject to approvals of the Regional Board and the appropriate sewer agency.~~

~~The Permittees shall investigate and determine the location of potential dry weather urban runoff treatment devices for strategic placements in areas of the watersheds where most appropriate. This information shall be submitted to the Regional Board Executive Officer no later than March 31, 2002.~~

PROPOSED ALTERNATIVE PERMIT LANGUAGE

Public Agency Activities Program

Page 46, paragraph 2. b:

b) Priority Screening: In addition to the baseline screening that will occur during regularly scheduled maintenance, Permittees shall ~~design and implement a plan on or before October 31, 2002, subject to Regional Board Executive Officer approval, for proactive storm drain screening of priority areas that are, or are suspected to be a source of non-storm water discharges.~~ annually proactively screen by means of visional video, smoke or other approved method an average 20% of the Permittee's storm drain lines which serve areas that are predominantly zoned Industrial. By October 31, 2006, each Permittee shall have completed the above referenced screening of all Permittee owned storm drain lines which serve areas predominantly zoned Industrial.

EXHIBITS

Board Meeting Date:	JULY 26, 2001
Exhibit:	D
Item Submitted by:	MUSTAFA ARIKI COUNTY OF LA, DPW
Agenda Item:	5
Description:	LOS ANGELES COUNTY 2001 MUNICIPAL NPDES PERMIT SECOND DRAFT PERSPECTIVES

LOS ANGELES COUNTY

2001 MUNICIPAL NPDES PERMIT

SECOND DRAFT PERSPECTIVES

Part 2.1 and 2.2
Page 16

RECEIVING WATER LIMITATIONS

R00004071

REQUIREMENT

This section prohibits discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives and requires that Permittees be responsible for ensuring that these discharges do not contribute to a condition of nuisance.

CONCERNS

- Requirements are inconsistent with the Clean Water Act. The statutory obligation of NPDES municipal permittees is to comply with the MEP standard. Contribution to the violation of state water quality standards or a nuisance is inconsistent with the MEP standard.
- These requirements will cause the Permittees to be immediately out of compliance with the permit.
- These requirements circumvent the TMDL regulatory process and thus impose an immediate financial burden on Permittes to meet receiving water quality standards that are supposed to be addressed by the TMDLs over a much longer time period.

BASIS

Not practical. Not cost-effective.

DPW

Section C.3-4
Pages 26-28

INDUSTRIAL/COMMERCIAL FACILITIES PROGRAM

R0004072

REQUIREMENTS

Permittees are required to inspect Automotive Service Facilities for BMP implementation.

Permittees are required to visit USEPA Phase I facilities and require BMP implementation.

CONCERNS

- Permittees have no legal right to enter private properties and conduct inspections.
- It is the State's obligation to inspect Phase I facilities, determine if a permit is needed, and conduct follow-up inspections.

BASIS

No Legal Authority.

DPW

DEVELOPMENT PLANNING PROGRAM

REQUIREMENT

Develop criteria to control post-development peak discharge rate to prevent down-stream erosion within one year.

CONCERNS

- This requirement subjects the public to unjustified financial burden for a requirement that hasn't been proven to address the erosion objective.

- A feasibility study must be conducted before numeric criteria are developed.

BASIS

Not practical. Not cost-effective.

DPW

Section E.1.b
Page 37

DEVELOPMENT CONSTRUCTION PROGRAM

R0004074

REQUIREMENT

Enforce construction sites that are under the State General Construction Permit.

CONCERNS

- The State General Construction Permit delegates the authority of enforcing and inspecting the permit requirements to the Regional Boards.

BASIS

No Legal Authority.

DPW

ILLICIT CONNECTIONS/ILLICIT DISCHARGES PROGRAM

REQUIREMENT

The County is required to plot on a map all existing permitted storm drain connections and require all municipalities to conform to a County standard for mapping storm drains and connections.

CONCERNS

- The County has over 100,000 storm drain connections. The cost of mapping existing connections would be very high and would take several years to accomplish.
- Mapping of permitted storm drain connections is not needed to evaluate trends of illicit connections and illicit discharges.
- Setting requirements for municipalities puts the County in the regulatory role of the RWQCB.
- We can achieve the same objectives through the improvement of current practices.

BASIS

Not practical. Not cost-effective. Does not achieve objective.

DPW

EXHIBITS

Board Meeting Date:	JULY 26, 2001
Exhibit:	E
Item Submitted by:	RICHARD MONTEVIDEO, CITY OF LA
Agenda Item:	5
Description:	SLIDES ON HIS PRESENTATION FOR THE SECOND DRAFT OF NPDES PERMIT, LEGAL AUTHORITY

Michael ... video

Second Draft of NPDES Permit, Leg...

COPY

H. Legal Authority

1. Permittees shall possess the necessary le... prohibit non-storm water discharges, to t... practicable, to the storm drain system, including, but not limited to:

. . . .

m) Control of pollutants (***including potential contribution***) in discharges of storm water runoff associated with industrial activities (including construction activities) to its MS4 and control the quality of storm water runoff from industrial sites (including construction sites). This requirement applies to source control, treatment control, and structural control BMPs; and,

n) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions, including the prohibition of illicit discharges to the MS4. ***Permittees must possess authority to enter, sample, inspect, review and copy records, and require regular reports from industrial facilities discharging polluted or potentially polluted storm water runoff into its MS4 (including construction sites).***

40 CFR § 122.26(d)(2)(i)

(A) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with ***industrial activity*** and the quality of storm water discharged from sites of ***industrial activity***.

. . . .

(F) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

Second Draft of NPDES Permit, Finding E.5

5. USEPA regulations at 40 CFR 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that Permittees implement a program to monitor and control pollutants in discharges to the municipal system from industrial and ***commercial facilities*** that contribute a substantial pollutant load to the MS4. The regulations require that Permittees establish priorities and procedures for inspection of industrial facilities ***and priority commercial establishments***. This permit, consistent with the USEPA policy, incorporates a cooperative partnership, including the specifications of minimum expectations, between the Regional Board and the Permittees for the inspection of industrial facilities ***and priority commercial establishments*** to control pollutants in storm water discharges (58 Fed. Reg. 61157).

40 CFR § 122.26(d)(2)(iv)(C)

(C) A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and ***industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system***. The program shall:

(1) Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges;

Part 2. RECEIVING WATER LIMITATIONS

1. Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.

2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible for, shall not cause or contribute to a condition of nuisance.

3. The Permittee shall comply with Part 2.1. and 2.2. through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SQMP and its components and other requirements of this Order including any modifications. The SQMP and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of water quality objectives or water quality standards (collectively, water quality standards) persist, notwithstanding implementation of the SQMP and its components and other requirements of this permit, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance of an applicable water quality standard, the Permittee shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of water quality standards. This report may be incorporated in the annual update of the SQMP and its components unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the Report.

b) Submit any modifications to the report required by the Regional Board within 30 days of notification.

c) Within 30 days following the approval of the report, the Permittee shall revise the SQMP and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.

d) Implement the revised SQMP and its components and monitoring program according to the approved schedule.

4. So long as the Permittee has complied with the procedures set forth above and is implementing the revised SQMP and its components, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

second draft (June 29, 2001)

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER: WQ 99 - 05

Own Motion Review of the Petition of Environmental Health Coalition
to Review Waste Discharge Requirements Order No. 96-03, NPDES Permit No. CAS0108740
for Storm Water and Urban Runoff from the Orange County Flood Control District and the
Incorporated Cities of Orange County Within the San Diego Region,
Issued by the California Regional Water Quality Control Board,
San Diego Region.
SWRCB/OCC File A-1041

BY THE BOARD:

In Order WQ 98-01, the State Water Resources Control Board (State Water Board) ordered that certain receiving water limitation language be included in future municipal storm water permits. Following inclusion of that language in permits issued by the San Francisco Bay and San Diego Regional Water Quality Control Boards (Regional Water Boards) for Vallejo and Riverside respectively, the United States Environmental Protection Agency (EPA) objected to the permits. The EPA objection was based on the receiving water limitation language. The EPA has now issued those permits itself and has included receiving water limitation language it deems appropriate.

In light of EPA's objection to the receiving water limitation language in Order WQ 98-01 and its adoption of alternative language, the State Water Board is revising its instructions regarding receiving water limitation language for municipal storm water permits. It is hereby ordered that Order WQ 98-01 will be amended to remove the receiving water limitation language contained therein and to substitute the EPA language. Based on the reasons stated here, and as a precedent decision, the following receiving water limitation language shall be included in future municipal storm water permits.

RECEVING WATER LIMITATIONS

The permittees shall comply with Discharge Prohibitions [ ] and Receiving Water Limitations [ ] through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SWMP and other requirements of this permit including any modifications. The SWMP shall be designed to achieve compliance with Receiving Water Limitations [ ]. If exceedance(s) of water quality objectives or water quality standards (collectively, WQS) persist notwithstanding implementation of the SWMP and other requirements of this permit, the permittees shall assure compliance with Discharge Prohibitions [ ] and Receiving Water Limitations [ ] by complying with the following procedure:

a. Upon a determination by either the permittees or the Regional Water Board that discharges are causing or contributing to an exceedance of an applicable WQS, the permittees shall promptly notify and thereafter submit a report to the Regional Water Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of WQSs. The report may be incorporated in the annual update to the SWMP unless the Regional Water Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Water Board may require modifications to the report.

b. Submit any modifications to the report required by the Regional Water Board within 30 days of notification.

c. Within 30 days following approval of the report described above by the Regional Water Board, the permittees shall revise the SWMP and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.

d. Implement the revised SWMP and monitoring program in accordance with the approved schedule.

So long as the permittees have complied with the procedures set forth above and are implementing the revised SWMP, the permittees do not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Water Board to develop additional BMPs.

ORDER

IT IS ORDERED that Order WQ 98-01 is revised as discussed above.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 17, 1999.

AYE: James M. Stubchaer

Mary Jane Forster

John W. Brown

Arthur G. Baggett, Jr.

NO: None

ABSENT: None

ABSTAIN: None

/s/
Maureen Marché
Administrative Assistant to the Board

R0004083

Second Draft of NPDES Permit, Finding B.6

6. Development and urbanization increase pollutant load, volume, and discharge velocity. First natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification process. In contrast, pavement and concrete can neither absorb water nor remove pollutants, and thus the natural purification characteristics are lost. ***Second, urban development creates new pollution sources as the density of human population brings with it proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage waste, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants.***

Pub. Res. Code § 21001(c)-(g)

The Legislature further finds and declares that it is the policy of the State to:

. . .

(c) Prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history.

(d) ***Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every California, shall be the guiding criterion in public decisions.***

(e) ***Create and maintain conditions under which man and nature can exist in production harmony to fulfill the social and economic requirements of present and future generations.***

. . .

(g) Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-

Second Draft of NPDES Permit, p. 34 - CEQA

12. California Environmental Quality Act (CEQA) Document Update

Each Permittee shall modify planning procedures for preparing and reviewing CEQA documents to consider potential storm water quality impacts ***and provide for appropriate mitigation***, with immediate effect. ***The CEQA guidelines shall require consideration of the following***:

a) Potential Impact of project construction on storm water runoff

b) Potential Impact of projects post-construction activity on storm water runoff.

c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.

d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit

e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies

f) Potential for significant changes in the flow velocity or volume of storm water runoff that can cause environmental harm

g) Potential for significant increases in erosion of the project site or surrounding areas

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY—Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☐
f) Otherwise substantially degrade water quality?	☐	☐	☐	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☐
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☐
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☐
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☐
IX. LAND USE AND PLANNING—Would the project:				
a) Physically divide an established community?	☐	☐	☐	☐
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☐

Second Draft NPDES Permit, Finding No. F.2

2. The California Environmental Quality Act (CEQA) (Cal Pub Resources Code Section 21000 et seq.) requires that public agencies consider the environmental impacts of the projects they approve for development. ***CEQA applies to projects that are considered discretionary*** and does not apply to ministerial projects, which involve the use of established standards or objective measurements. ***A ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion . In the alternative, standards and objective criteria may be established administratively for storm water mitigation for ministerial projects.*** For water quality purposes, the Regional Board considers that ***all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements.***

Pub. Res. Code § 21080

(a) Except as otherwise provided in this division, this division shall apply to ***discretionary projects*** proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division does ***not*** apply to any of the following activities:

(1) ***Ministerial projects*** proposed to be carried out or approved by public agencies.

5. Applicability of Numerical Design Criteria

The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment and structural controls to ***mitigate*** storm water pollution:

a) Single-family hillside residential developments of one acre or more

b) Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of one acre or more.

c) A 100,000 square feet or more industrial/commercial development

d) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more]

e) Retail gasoline outlets [5,000 square feet or more and with projected Average Daily Traffic (ADT) of 100 or more vehicles]

f) Restaurants (SIC 5812) [5,000 square feet or more]

g) Parking lots 5,000 square feet or more or with 25 or more parking spaces

h) Projects located in, adjacent to or discharging directly to environmentally sensitive areas that meet threshold conditions identified above in 3.c.

40 CFR § 122.26(d)(iv)(A)

(iv) *Proposed management program.*

. . . .

(A) ***A description of structural and source control measures*** to reduce pollutants from runoff from commercial and residential areas that are discharged ***from*** the municipal storm sewer system that are to be implemented during the life of the permit, ***accompanied with an estimate of the expected reduction of pollutant loads*** and a proposed schedule for implementing such controls. At a minimum, the description shall include:

Pub. Res. Code § 21002 [Mitigation]

The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or ***feasible mitigation measures*** available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or ***feasible mitigation measures*** which will avoid or substantially lessen such significant effects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or ***such mitigation measures***, individual projects may be approved in spite of one or more significant effects thereof.

Pub. Res. Code § 21080 [Discretionary]

(a) Except as otherwise provided in this division, this division shall apply to ***discretionary projects*** proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division does ***not*** apply to any of the following activities:

(1) ***Ministerial projects*** proposed to be carried out or approved by public agencies.

Public Resources Code § 21080.14

§ 21080.14. Affordable lower income residential housing development projects in urbanized areas; application of division

(a) Except as provided in subdivision (c), this division does not apply to any development project that consists of the ***construction, conversion, or use of residential housing consisting of not more than 100 units in an urbanized area that is affordable to lower income households***, as defined in Section 50079.5 of the Health and Safety Code, if the developer of the development project provides sufficient legal commitments . . . .

. . .

(c) Notwithstanding subdivision (a), this division does apply to a development project described in subdivision (a) if there is a reasonable possibility that the development project ***would have a significant effect on the environment*** or the residents of the development project due to unusual circumstances or due to related or cumulative impacts of reasonably foreseeable projects in the vicinity of the development project.

§ 15301. Existing Facilities.

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, ***involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination***. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. ***The key consideration is whether the project involves negligible or no expansion of an existing use.***

Examples include but are not limited to:

. . . .

(e) Additions to existing structures provided that the addition will not result in an increase of more than:

(1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or

(2) 10,000 square feet if:

(A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and

(B) The area in which the project is located is not environmentally sensitive.

§ 15302. Replacement or Reconstruction.

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but note limited to:

. . . .

(b) ***Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity***.

§ 15303. New Construction or Conversion of Small Structures.

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

(a) One single-family residence, or a second dwelling unit in a residential zone. ***In urbanized areas, up to three single-family residences may be constructed or converted under this exemption***.

(b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.

. . . .

(e) ***Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences***.

Second Draft of NPDES Permit p. 30 – Environmentally Sensitive Areas

(c) The Permittees shall require the implementation of SUSMPs provisions for all projects located in or directly adjacent to or discharging directly to an environmentally sensitive area, where, the development will:

(1) create 2,500 square feet or more of impervious area, or

(2) alter the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and

3) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat.

State Board Order WQ 2000-11 ESAs

Environmentally Sensitive Areas

. . .

The Regional Water Board, at the hearing and in its post-hearing brief, conceded that there should be some threshold. While the Regional Water Board did recommend a specific threshold, we believe that ***it is inappropriate*** for this Board to add a threshold that has ***not been fully discussed by all interested persons***.

While it may be appropriate to include more stringent controls for development in ESAs, we also note that ***such developments are already subject to extensive regulation under other regulatory programs***. Moreover, in light of the permit language limiting the SUSMPs to development categories, ESAs are not an appropriate category within the SUSMPs. The Regional Water Board may choose to consider the issue further when it reissues the permit.

CEQA Regulations, § 15021(d)

§ 15021. Duty to Minimize Environmental Damage and Balance Competing Public Objectives.

(d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, ***including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian***. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

Second Draft of NPDES Permit, p. 52
Definition of Redevelopment

"**Redevelopment**" means land-disturbing activity that results in the creation, addition, ***or replacement*** of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces. Where redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated. Where redevelopment results in an increase in less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the addition must be mitigated, and not the entire development.

"**Redevelopment**" means, on an already developed site, ***the creation or addition of at least 5,000 square feet of impervious surfaces***. Redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routing maintenance activity; and land disturbing activities related with structural or impervious surfaces. Where redevelopment results in an increase of less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to these SUSMPs, the Design Standards apply only to the addition, and not to the entire development.

Second Draft of NPDES Permit
p. 34 - General Plan Provisions

13. General Plan Update

    a) Each Permittee shall amend, revise or update its General Plans to include watershed and storm water quality and quantity management considerations and policies when the following General Plans elements are updated or amended: (i) Land Use, (ii) Housing, (iii) Conservation, (iv) Open Space.

    b) Each Permittee shall provide the Regional Board with the draft amendment or revision when a listed General Plan element or the General Plan is noticed for comment in accordance with Govt. Code § 65350 et seq.

General Plan Provisions, Gov. Code § 65302

§ 65302. Elements required to be included in plan

The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

. . . .

(d) ***A conservation element*** for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. . . . The conservation element may also cover:

. . . .

(1) The reclamation of land and waters.

(2) ***Prevention and control of the pollution of streams and other waters.***

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) ***Prevention, control, and correction of the erosion of soils, beaches, and shores.***

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) ***Flood control.***

Gov. Code § 65300.9, General Plans

§ 65300.9. Legislative policy

The Legislature recognizes that the capacity of California cities and counties to respond to state planning laws varies due to the legal differences between cities and counties, both charter and general, and to differences among them in physical size and characteristics, population size and density, fiscal and administrative capabilities, land use and development issues, and human needs. It is the intent of the Legislature in enacting this chapter to provide an opportunity for ***each city and county to coordinate its local budget planning and local planning for federal and state program activities***, such as community development, with the local land use planning process, recognizing that ***each city and county is required to establish its own appropriate balance in the context of the local situation when allocating resources to meet the purposes***. *(Added by Stats. 1984, c. 1009, § 3.5.)*

Second Draft of NPDES Permit, pp. 51-52

"**Pollutants**" means . . .

In an enforcement action, the burden shall be on the person who is the subject of such action to establish the elimination of the discharge to the maximum extent practicable through compliance with the best management practices available.

EXHIBITS

Board Meeting Date:	JULY 26, 2001
Exhibit:	F
Item Submitted by:	CATHY CHANG OF SANTA MONICA BAY RESTORATION PROJECT
Agenda Item:	5
Description:	COMMENTS ON DRAFT PERMIT

Santa Monica BAY Restoration PROJECT

320 W. Fourth Street
2nd Floor
Los Angeles, CA 90013
213/576-6615
Fax 213/576-6646

A Partnership to
Restore and Protect
Santa Monica Bay

Funded by US EPA
and the State Water Resources
Control Board in cooperation
with the public, local agencies,
and industry.

July 26, 2001

Dear Mr. Chairman and Members of the Board:

For over a year, our Santa Monica Bay Restoration Project has been conducting a comprehensive evaluation of storm water management in the Los Angeles Region (with a special focus on the Santa Monica Bay watershed), for which we will be releasing a final report by December of this year. The evaluation looks at various programs, including the municipal storm water program, for their accomplishments as well as major barriers to implementation. As you are well aware, storm water is the number one uncontrolled source of pollution in the Santa Monica Bay. Developing an effective municipal storm water permit and the diligent implementation of the permit requirements are key to implementing our 1995 Bay Restoration Plan. In light of that, we would like to make a few comments about the draft permit at hand.

First, we are very glad to see the significant improvements in the draft permit over the 1996 permit, especially in the following areas:

1) **Increased interagency coordination**. We feel that this encourages the sharing of responsibility and cooperation between the RB and the municipalities to improve efficiency and to get more done with the same level of resources. In particular, we support the joint inspections, referral of complaints, supporting enforcement efforts to further a common goal of pollution prevention.
2) **Building accountability**. The draft permit has tight language in place to make sure that the structural measures put into place to meet the SUSMP requirement are maintained, by requiring appropriate written verifications. This is important especially because many BMP projects fail due to inadequate maintenance.
3) **Inspection requirements**. Instead of merely visiting the sites to communicate educational messages, we feel that it would significantly push the program forward if the city and the county inspectors actually start evaluating the sites for their potential to pollute storm water, and give effective advices. Site-specific evaluation, especially when there is a threat of potential enforcement, is really the most effective way to change people's behavior.
4) **More specific provisions/protocols**. The guidelines provided in the draft permit, especially on development construction inspection, prioritizing catch basin cleanup, and ic/id mapping, are more clearly written than the existing permit. The more clear the guidelines, the higher the likelihood that the programs will be implemented successfully.
5) **Consistent reporting standards**. One of the difficulties we had with evaluating the past Annual Program Reports submitted by the municipalities was that information, such as on debris collected, was reported in different units of measure- some in terms of volume and others in terms of weight. We are happy to see that all the permittees are required to use a single unit of measure for this specific requirement.
6) **Engaging all socio-economic and ethnic groups in LA county to participate in mitigating the impacts of storm water pollution**. According

to our study, municipalities have been pretty good in reaching the general public with its educational messages; however, the municipalities have been rather deficient in targeting specific clusters of ethnic groups present in their respective areas with messages specifically tailored to each group. We think that there is a definite need for this, and the municipalities should try to tap into and/or coordinate with the existing outreach efforts conducted by various environmental groups. Some of the most notable and active outreach to ethnic groups are conducted by non-profit, citizen-based groups.

Some areas of the draft permit need improvement. These include:

1. Requirements that have loosely constructed language, such as "to measurably increase the knowledge of the target audience..." and "to measurably change the behavior...", etc. These need tighter language that specifies a clear target because it is unclear what incremental increase is good enough. For example, is 1% annual incremental increase good enough as long as it is measurable? Another concern is that some cities that may have a high level of public awareness to begin with, may have more difficulty in seeing a measurable increase.
2. The response time specified in the permit for investigating illicit discharge appears to be too long to be effective. From our communication with some of the cities who participated in our storm water survey conducted in February of this year, the sources of many of the illicit discharges reported to the municipalities could not be verified even when the inspector went out within 24 hours because many of the discharges temporary. We suggest that the "72 hours" requirement be changed to "end of the following business day"
3. We think that either the draft permit or the annual reporting language should specify that contracted activities be reported. For example, our review of the Annual Reports- especially those submitted by the smaller cities- indicated that results on , for example debris collected, are not available since they contract with County. To really be able to see any trend in how well the cities are doing in terms of controlling trash and debris at the source, (very important especially with the trash TMDL at hand), this information is very much needed.
4. Under the public information and participation section, we think it would be important to add in a requirement to "**increase the public's awareness** of potential legal consequences, if there are any, for illegally connecting or dumping into the storm drain, similar to a littering fine, or a carpool violation fine. We think establishing a set fine and publicizing it will act as an effective deterrant.
5. With the industrial/commercial educational site-visits, we have come across a lot of difficulty when trying to evaluate the databases submitted by the permittees because each permittee submits one database, and not all the databases have the same or consistent field names and so on. This impedes any efforts to perform a comprehensive assessment or to compare the performance between and across the permittees. We think that it is crucial to create a centralized database to streamline the information submitted by the cities, perhaps a task that can most suitably be conducted by the Principal Permittees, is crucial. An updated centralized database should be submitted to the Regional Board.

Other comments we have are related to the Annual Program Report and monitoring activities. We recommend changing the format and the Annual Report

questionnaires to make sure that the information necessary to evaluate how successful each municipalities have been implementing their programs are available in the Annual Report. We will provide, in our report, additional comments and recommendations regarding revisions to the existing Annual Report and on monitoring activities.

Thank you very much for the chance to comment on the draft permit.

Hyon (Cathy) Chang, D. Env
Water Resource Control Engineer
Santa Monica Bay Restoration Project

EXHIBITS

Board Meeting Date:	JULY 26, 2001
Exhibit:	G
Item Submitted by:	LAURA GENTILE US EPA
Agenda Item:	5
Description:	LETTER TO GOVERNOR WHITMAN FROM CONGRESSMAN DREIER RE SW INSPECTION RESPONSIBILITIES

DAVID DREIER
CALIFORNIA

CHAIRMAN
COMMITTEE ON
RULES

237 CANNON BUILDING
WASHINGTON, DC 20515
(202) 225-2305

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COVINA, CA 91723
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http://www.house.gov/dreier

Congress of the United States
House of Representatives
Washington, DC 20515

April 24, 2001

The Honorable Christine Todd Whitman
Administrator
United States Environmental Protection Agency
1101A
1200 Pennsylvania Avenue, Northwest
Washington, D.C. 20460

Dear Governor Whitman:

I have been contacted regarding a proposal for cities in Los Angeles County to assume responsibility for storm water compliance inspections for state-permitted industrial and commercial facilities. This proposal was outlined in a letter from Ms. Alexis Strauss, Director of the Water Division for Region 9, to Dennis Dickerson, Executive Office of the California Water Quality Control Board.

In discussions for the renewal of the regional National Pollutant Discharge Elimination System (NPDES) permit, the EPA has recommended that the state require the cities to implement an effective enforcement program. The letter states that the "storm water regulations envision a cooperative effort on the part of the NPDES permitting authority and permitted MS4s in the implementation of the industrial storm water program."

Several cities have expressed serious concerns with this proposal. They argue that the program requires states to permit and monitor these industrial facilities, and that shifting inspection and enforcement to the cities undermines the cooperative approach that EPA has advocated. Further, they contend that the purpose of their educational visits to industrial and commercial facilities has been inaccurately described. The letter states the educational visits were intended to "provide time for the permittees to gain experience in controlling pollutants in storm water discharges from these facilities." The cities believe that this was never the intent.

The cities request that the EPA revisit the issues addressed in the letter. They urge the Agency to clarify that it does not support or encourage the transfer of inspection responsibility to the cities. They seek your assistance in ensuring that the EPA works to bring stakeholders together to resolve conflicts, rather than force them to assume costly and complicated new duties.

The Los Angeles Regional Water Quality Control Board is currently negotiating the renewed MS4 permit. In view of the short timetable, I request a timely response to these important issues.

Sincerely,

David Dreier

DD:bmf
Encl.

R0004115

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 12 2001

THE ADMINISTRATOR

The Honorable David Dreier
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Dreier:

Thank you for your letter of April 24, 2001 concerning Clean Water Act permits for discharges from storm sewers owned by local governments. Your letter explains that several local governments are concerned that enforcement of pollution controls at individual industrial and commercial sites that discharge to the local storm sewer systems should be the responsibility of the State permit authority and that local governments should not be required to participate in this effort.

I understand that throughout the State, communities are facing a considerable challenge in the need to address storm water issues. While the State has already begun to substantially increase its staffing resources devoted to the storm water program, EPA recognizes that funding for the State storm water program needs to increase. We are continuing to discuss ways to further increase the State's investment, including discussions of EPA funding.

Urban runoff is the leading cause of water quality impairment throughout the country and in the Santa Monica Bay and the Los Angeles area. Effective programs for reducing pollution from municipal storm sewers are essential to protecting and restoring the Nation's water resources.

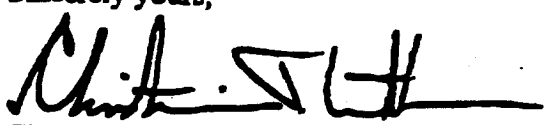
The Clean Water Act regulations concerning permits for discharges from municipal storm sewers provide that the State permit authority and the local government holding the permit share responsibility for inspections of facilities discharging to these storm sewers. The State is responsible for enforcing its general Clean Water Act storm water permits, while a local government permit holder needs to enforce local storm water ordinances (which may be similar, but not identical to, the State general permits). The specific responsibilities of the permit holder to monitor and control storm water pollutants from industrial and commercial facilities are normally determined through a cooperative process when a permit is prepared.

It is important to note that the storm water regulations require the local government permit holder to perform activities such as control, inspect, monitor, and require compliance of industrial and commercial facilities and that the permit holder must have the legal authority to ensure compliance. Such programs are already required in many storm water permits, such as the permits for Orange, Riverside and San Diego Counties, and they play a significant role in ensuring the overall effectiveness of the storm water program.

EPA has been intensively involved with all nine California Regional Boards and the State Water Resources Control Board to effectively implement the storm water program. From the initial issuance of the storm water permits to the current round of reissuing those permits, EPA has been working closely with the State to encourage stakeholder participation and cooperation in storm water programs. In addition, EPA and the State have worked together to respond to a petition filed by the Natural Resources Defense Council (NRDC) to withdraw the NPDES storm water program administered by the Los Angeles Regional Board. In response to the NRDC petition, Region 9 met with NRDC and the State to discuss steps to respond to the concerns in the petition.

If you have any additional questions or concerns please contact me, or your staff may call Shawna Roesch in the Office of Congressional and Intergovernmental Relations at (202) 564-3641.

Sincerely yours,



Christine Todd Whitman

EXHIBITS

Board Meeting Date: JULY 26, 2011
Exhibit: EXHIBIT H
Item Submitted by: WENDY PHILLIPS
Agenda Item: 5
Description: POWERPOINT PRESENTATION

July 26, 2001

Los Angeles County MS4 Permit Workshop*

** MS4 - Municipal Separate Storm Sewer System*

Regional Water Quality Control Board Los Angeles

Purpose of Workshop

- Regional Board Workshop
  - Response to facilitation request
  - Second Draft issued June 29, 2001
  - Overview of the draft permit
  - Highlight proposed changes
  - Explain rationale
  - Offer clarification
  - Give direction to staff

Permitting History

- First LA County MS4 Permit [1990]
  - Phase in cities over a three year period
  - Assess existing best management practices
  - Propose additional best management practices
  - Characterization monitoring
- Second LA County MS4 Permit [1996]
  - Develop and implement programs - public education, development planning, development construction, illicit connection/ discharges elimination, public agency activities
  - Adopt storm water / urban runoff ordinance
  - Conduct receiving water impact monitoring

Compliance Status

- Prior to this year:
  - 5 Notices of Violation (NOVs) - construction sites
  - 1 penalty ($6,700) - delinquent Annual Report
- This year:
  - 2 NOVs - construction sites
  - 11 NOVs - Incomplete Program Implementation

Procedure for Permit Renewal

- Procedure
  - Meetings with Permittee sub-group [Feb-April]
  - Released First Draft [April 13]
  - Staff Workshop [April 24]
  - Meetings to review comments [May-July]
  - Released Second Draft and Draft Fact Sheet [June 29]
  - Regional Board Workshop [July 26]
  - Release third draft [Sep]
  - Propose adoption at Public Hearing [Nov]

Permit Reapplication

- Report of Waste Discharge
  - reapplication for third permit term submitted Feb. 1 2001
  - contained all model programs from second permit term
  - no enhancement of provisions proposed
  - satisfied the minimal requirements of 'USEPA Reapplication Policy' [61 *Fed. Reg.* 41697]

Permit

- Changes from the 1996 Permit
  - Includes State Board's Receiving Water Limitations
  - Includes provisions to enforce TMDLs without reopener
  - Eliminates the Notice of Intent to Meet and Confer provision
  - Requires inspection of industrial/ commercial facilities
  - Lowers the threshold for construction from 2 to 1 acre
  - Incorporates SUSMP requirements
  - Requires a pro-active Illicit connection/ illicit discharges elimination program
  - Includes specific requirements for catch-basin cleaning and street sweeping to control trash.
  - Requires evaluation to reduce toxicity based on monitoring results

Draft Permit

- Changes from the First Draft
  - Commercial inspection program focused on automotive service
  - Business Technical Assistance program optional
  - Hillside development threshold included
  - Mitigation banking made optional
  - Regional solutions encouraged
  - BMP substitution provisions included
  - Public education program reviewed and approved annually by RB Executive Officer
  - Various requirements for the Santa Clara River included
  - Shoreline monitoring for bacteria included

Permit Structure

- FINDINGS
- Part 1. DISCHARGE PROHIBITIONS
- Part 2. RECEIVING WATER LIMITATIONS
- Part 3. STORM WATER QUALITY MANAGEMENT PLAN (SQMP) IMPLEMENTATION
- Part 4. SPECIAL PROVISIONS
  - A.Best Management Practice Substitution
  - B.Public Information and Participation Program (PIPP)
  - C.Industrial/Commercial Facilities Program
  - D.Development Planning Program
  - E.Development Construction Program
  - F.Public Agency Activities Program
  - G.Illicit Connections and Illicit Discharges Elimination Program
- Part 5. DEFINITIONS
- Part 6. STANDARD PROVISIONS
- MONITORING AND REPORTING PROGRAM

Receiving Water Limitations

- Standard for Compliance
  - Shall not cause or contribute to violation of WQ standards and objectives
  - Shall not cause or contribute to a condition of nuisance
- Authorities
  - CWA Section 301(b)(1) (c)
  - CWC Section 13263 (a)
  - *Defenders of Wildlife v Browner* (9th Cir. 1999)
  - Memorandum from State Board Office of Chief Counsel dated Oct. 14, 1999. [Agenda p 27]
  - Memorandum from USEPA General Counsel dated Jan. 9, 1991 [Agenda p 33]

Public Information and Participation Program

- Improves Current Program
  - Increased coordination among Permittees
  - Pollutant-specific outreach
  - Annual submittal of the PIPP to the Regional Board Executive Officer for review and approval
  - Corporate Outreach Program to educate environmental managers of gas stations and restaurant chains
  - Encourages a voluntary Business Assistance Program to provide technical, non-enforcement assistance to small businesses
  - Educational site visit program upgraded to inspections
    - Industrial and commercial

Inspection Program

Wendy Phillips and Dan Radulescu

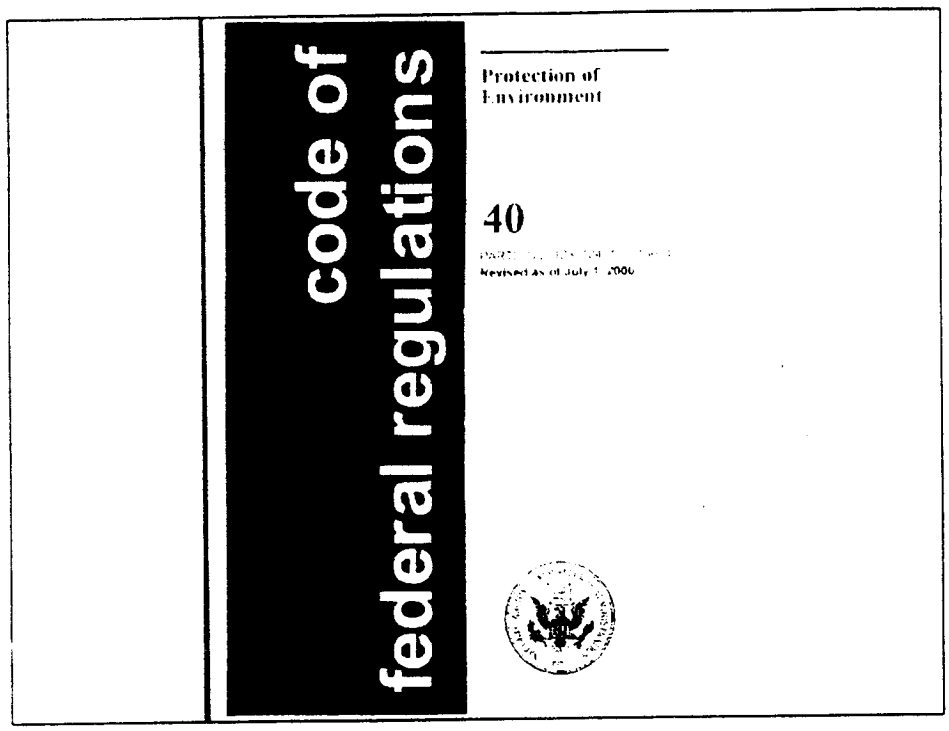
Inspections

- Current permit - education*
  - outreach materials
  - site visits, once every 24 months
    - Phase 1 facilities (designated heavy industrial sectors)
    - Automotive Service Facilities
    - Gas Stations
    - Restaurants

*Interim step, in response to Permittees' concerns about a progressive approach.

Inspections

- Regulatory oversight -- envisioned as a partnership
  - State strategy
  - Federal strategy (most recently referenced in US EPA letter dated Dec 19, 2001)

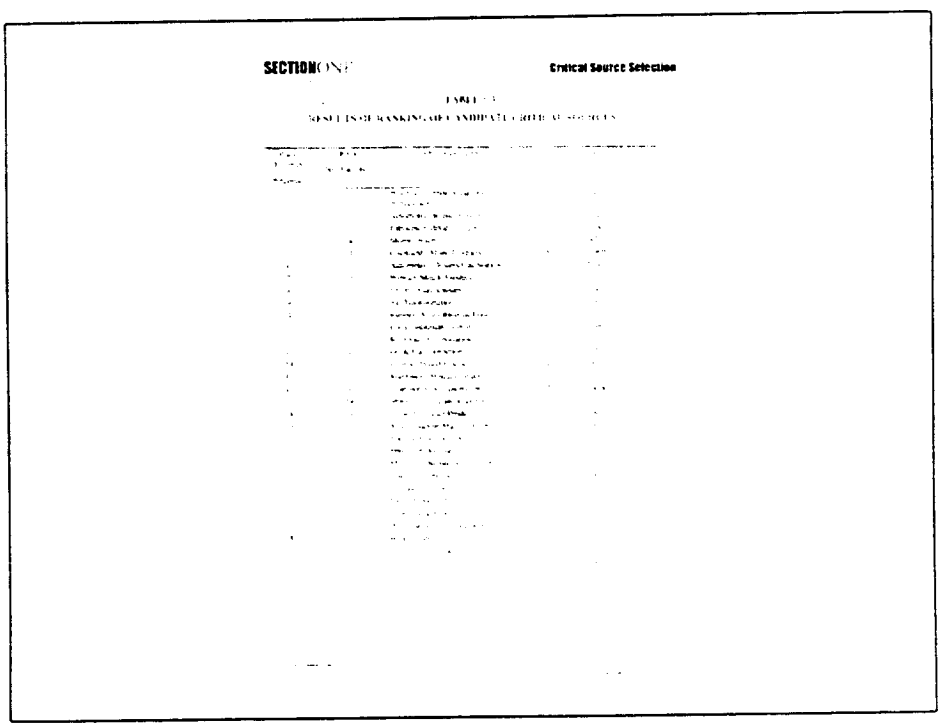


Inspections - Options

- All industrial facilities, including all Phase 1 facilities (heavy industry), light industry, and commercial facilities in high-risk sectors.
- "top-down" prioritization - *1st draft*
- focused approach - *2nd draft*
- educational approach

Inspections

- Focused Approach:
  - Phase 1 (2,600) - Regional Bd is lead
  - Auto service (6,000) - Permittee is lead
  - Restaurants (20,000) - Health Depts are lead
  - Gas Stations (education) - Principal Permittee



Inspections

- Key goal: Get Permittees and business to better focus on preventing pollution.
- Performance Measures
  - Types of facilities: specified in permit
  - Frequency of inspections: specified in permit
  - Level of inspection: specified in permit - Permittees must require compliance with:
    - model programs (i.e. approved BMPs)
    - local ordinances

Inspections

- Enforcement
  - Phase 1 facilities - RB lead.
    - Permittees must check for WDID and presence of SWPPP (do not have to evaluate the SWPPP) - refer cases where facilities do not have either.
  - Others facilities - Permittee lead.
  - Requires interagency coordination and support.

Inspections - Summary

- More aggressive approach needed to effect behavioral changes on the part of business, and to better protect water quality.
- Inspections need to address BMPs to prevent pollution - not just wait for an illicit discharge.
- The "focused" approach will optimize scarce state and local resources, toward a better State and local partnership.

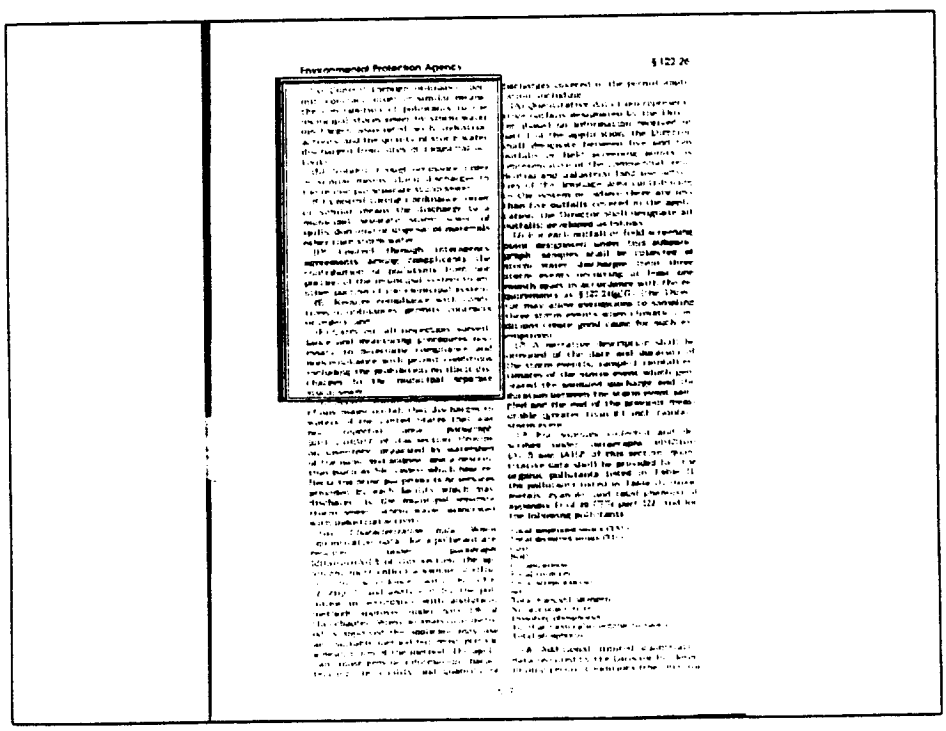
Regulatory Basis for Inspections

- Clean Water Act 33 U.S. Code Section 1342.(p) [FWPCA 402(p)] - 1987
- USEPA Regulations 40 CFR 122.26 - 1990 Tab 5B-2
- Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems - 1992 USEPA Tab 5B-3
- Interpretative Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems; Final Rule - Federal Register Vol. 61, No. 155 pag. 41698
- Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits - Federal Register Vol. 61, No. 166 pag. 43761

Phase I Facilities

- Category One (i): Facilities with effluent limitations
- Category Two (ii): Manufacturing
- Category Three (iii): Mineral, Metal, Oil and Gas
- Category Four (iv): Hazardous Waste, Treatment, or Disposal Facilities
- Category Five (v): Landfills
- Category Six (vi): Recycling Facilities
- Category Seven (vii): Steam Electric Plants
- Category Eight (viii): Transportation Facilities
- Category Nine (ix): Treatment Works
- Category Ten (x): Construction Activity *
- Category Eleven (xi): Light Industrial Activity

* Although Category Ten (x), Construction Activity, is included in the definition of "storm water discharges associated with industrial activity," construction activities require construction storm water permits, not industrial storm water permits, under the NPDES Storm Water Program

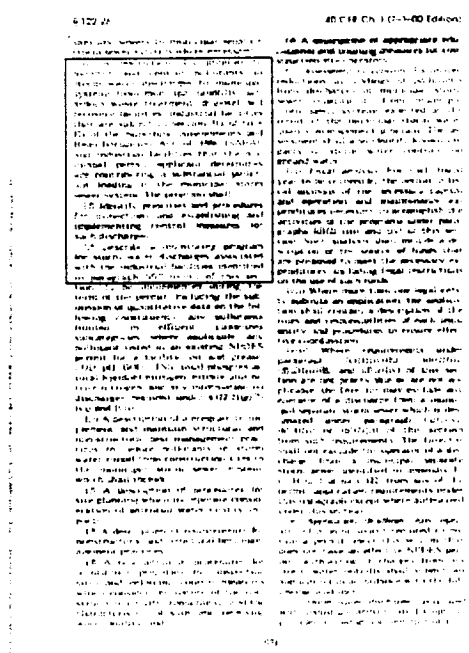


Required Inspections

The Phase I 40 CFR 122.26(d)(2) regulations require, in part, that the applicant

- (i) develop adequate legal authority,
- (ii) perform a source identification, and...
- (iv) develop a management program to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system design and engineering methods, and such other provisions which are appropriate.

Specifically, with regards to industrial controls, the management plan shall include the following



Required Inspections

40 CFR 122.26(d)(2)(i)(F) under Adequate Legal Authority:

- Carry out *all inspection*, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions *including* the prohibition on illicit discharges to the municipal separate storm sewer

40 CFR 122.26(d)(2)(iv)(A)(5) under Proposed Management Program:

- A description of a program to monitor pollutants in runoff from operating or closed landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for *inspections* and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under paragraph (d)(2)(iv)(C) of this section)

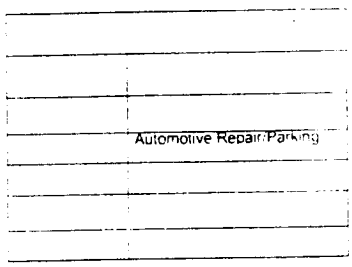
Required Inspections

- 40 CFR 122.26(d)(2)(iv)(C), A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:
  - *(1) Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges;*
  - *(2) Describe a monitoring program for storm water discharges associated with industrial facilities [...]*

Required Inspections

- In part 2 application, the Source Identification component requires the applicant to provide an **inventory of pollutant sources**, organized by watershed. This inventory **identifies and describes the products and services** of each industrial facility that may discharge storm water to the MS4. The Source identification component suggests applicants to use standard industrial classification codes (SIC) codes for this description. EPA **strongly recommends** this information be used to identify priority waste handling sites and industrial facilities
- A similar technique could be developed for sites ***that do not meet*** the ***regulatory definition of "storm water discharge associated with industrial activity"*** (i.e. not included in the Source Identification and Discharge Characterization components), but ***are identified as a high priority*** under the proposed management program.[1]

[1] "Guidance Document for Preparation of Part 2 Tab 58.3
[2] Critical Sources Selection and Monitoring - 1997



Required Inspections

In the Chapter 3.0 of the USEPA's Guidance Manual, it is specified that municipal applicants must demonstrate that they possess adequate legal authority to:

- Control construction site and other industrial discharges to MS4s;
- Prohibit illicit discharges and control spills and dumping;
- Carry out inspection, surveillance, and monitoring procedures

The document goes on to explain that "control", in this context means not only to require disclosure of information, but also to limit, discourage, or terminate a storm water discharge to the MS4. Also, to satisfy its permit conditions, a municipality may need to impose additional requirements on discharges from permitted industrial facilities, as well as discharges from industrial facilities and construction sites *not* required to obtain permits.

Required Inspections

The municipality is ultimately responsible for discharges from their MS4. Consequently, the proposed storm water management program should describe how the municipality will help EPA and authorized NPDES States[1]:

- Identify priority industries discharging to their systems;
- Review, and evaluate storm water pollution prevention plans and other procedures that industrial facilities must develop under general or individual permits;
- Establish and implement BMPs to reduce pollutants from these industrial facilities (or require industry to implement them); and
- *Inspect* and monitor industrial facilities *to verify* that the industries discharging storm water to the municipal systems *are in compliance with their NPDES storm water permit*, if required.

[1]Guidance Document for Preparation of Part 2, Tab 5B-3

Development Planning and Construction

Dr. Xavier Swamikannu

Development Planning Program

- Regulatory Requirement
  - implement and enforce controls for new development / significant redevelopment [40CFR 122.26 (d)(2)(iv)(A)(2)]
- Existing Permit
  - System for designating project as priority
  - Master List of BMPs
  - Standard Urban Storm Water Mitigation Plans
  - Guidelines on storm water for CEQA documents
  - Update of General Plans to include storm water considerations
  - Information program for developers

Development Planning Program

- State Board SUSMP Decision (Order WQ 2000-11)
  - Numerical design criteria appropriately identified
  - Categories identified are appropriate: commercial/ industrial development, housing development, restaurants, parking lots, automotive service facilities, and gas stations
  - Applicability to (i) ministerial projects and (ii) projects in environmentally sensitive areas set aside until supporting findings and justification are developed at permit reissuance
  - Applicability of numerical design criteria to gas stations set aside until thresholds and proper justification are developed
  - Encourages regional solutions
  - Endorses mitigation banking

Development Planning Program

- Responsive Changes to SUSMP Decision
  - Extends to ministerial projects [Finding E.2.; Agenda p 242]
  - Includes projects in ESAs which exceed thresholds (Agenda p259) [Findings B.6. and E.4.- Agenda p 231 and 236]
  - Establishes thresholds for gas stations (Agenda p 261) [Findings C.6 Agenda p 234]
  - Includes provision for Regional Solutions [Agenda p 262]
  - Encourages a mitigation banking framework [Agenda p 262]
- Other Changes
  - Lowers commercial/ industrial threshold from 100,000 square feet to one acre in 2003 [USEPA Phase II]
  - Establishes threshold of one acre for hillside developments

Development Planning Program

- New Permit
  - Development of criteria for peak discharge control to prevent downstream erosion and protect habitat
  - Requirements applied to all developments meeting categories and thresholds
  - Requirements applied to projects in environmentally sensitive areas
  - Numerical mitigation criteria not applied to hillside developments less than 1 acre.
  - Gas stations subject to numerical mitigation criteria if threshold [100 or more ADT] exceeded
  - Industrial/ Commercial threshold lowered [to 1 acre in 2003]
  - General Plan update [requires notice to Regional Board]
  - Water Quality Flow criteria added for flow based BMP design
  - Custom Technical Guidance after California BMP Handbook update

Development Construction Program

- All sites [regardless of size]
  - Manage construction waste
  - Eliminate non-storm water discharges
  - Control Sediment
  - Minimize erosion
  - Limit grading during wet season

Development Construction Program

- For sites 1 to 5 acres
  - Require local SWPPP to ensure compliance with local ordinances and inspect to verify
  - Require proof of coverage under the State General construction storm water permit and pollution prevention plan has been prepared [effective March 2003 per USEPA Phase II regulations, 64 *Fed. Reg.* 68722]
  - Keep record of grading permits issued

Development Construction Program

- For sites 5 acres and greater:
  - require local SWPPP to ensure compliance with local ordinances and inspect to verify
  - require proof of coverage under the State General construction storm water permit and pollution prevention plan has been prepared
  - keep record of grading permits issued

Development Construction Program

- What's new?
  - Requirement to obtain proof of coverage under the State permit program for sites between 1-5 acres beginning March 2003.
  - Requirement to prepare a local SWPPP for projects 5 acres or more to ensure compliance with the local ordinance

Public Agency Program

Dennis Dickerson

Public Agency Program

- Continue current program with improvements:
  - Site specific SWPPPs at Permittee Facilities
  - Implementation of BMPs at Permittee Facilities
- Significant changes to current program:
  - Assessments of measures to determine trash reductions;
  - Implement a response plan for sewer overflows (2 tiers);
    - Limited for non-owners/operators of sewer system
    - Owner/operator of sewer system
  - Public Construction equivalent to private construction sites;
  - Permittee wash racks plumbed to sewer for new sites and any redeveloped sites;
  - Protocol for pesticide application and storage;

Public Agency Programs (Catch Basin Cleanouts)

- Permittees Designate Catch Basins as Priority A, B, or C
  - A - Highest volumes of trash
  - B - Moderate volumes of trash
  - C - Low volumes of trash
- Catch Basin Cleaning Frequency
  - A - At least 1time per month dunng wet season
  - B - Until July 1, 2003, cleaned whenever 40% full, wet season
  - B - After July 1, 2003, cleaned whenever 25% full, wet season
  - C - When necessary, but no less than 1 time per year
- For special events (i.e. Laker parade, screens on catch basins)

Public Agency Programs Streets and Roads

- Permittees Designate Street Segments as Priority A, B, or C.
  - A - Highest volumes of trash
  - B - Moderate volumes of trash
  - C - Low volumes of trash
- Street Sweeping Frequency
  - A - At least 2 times per month
  - B - Until July 1, 2003, cleaned at least 1 time per month
  - C - When necessary, but no less than 1 time per year

Public Agency Programs
Dry Weather Diversions

- Permittees to prioritize drains for possible dry weather diversion of flows
- Permittees to investigate strategic locations for dry weather treatment devices

Illicit Connections and Discharges (IC/ID)

Wendy Phillips

Illicit Discharges and Connections (IC/ID)

- Examples of illicit discharges:
  - acidic wastes from food processing
  - cooling tower blowdown water
  - water used to wash down kitchens and mats in restaurants.
  - water used to wash pavement at gas stations
- Typical exemptions:
  - emergency fire fighting water
  - NPDES-permitted discharges

IC/ID - Existing Permit

- Permit: Requires development of a model program
- Model Program: Relies heavily on a passive approach
  - field screening for illicit connections "during scheduled maintenance"
  - no performance measures

Storm Drain System

		Open Channel (miles)	Underground Pipes (miles
Co of LA		450	> = 30 inches 2.65
City of LA		31	> = 15 inches: 1.20 < 15 inches: 40
El Monte		0.4	11
Inglewood		0	12
Pasadena		0	30
Torrance		3	20
Others		0	?
	total	484.4	4,323?

Storm Drain System

- Entire system is not completely mapped or entered into a database (missing 15%?).
  - 484 miles of open channels
  - >4,300 miles of underground storm drains open channels
  - ???? permitted connections
    - > 100,000 permitted connections in LA Co records
    - ~ 1,300 permitted connections in LA City records.
    - ??? other permitted connections?

Field Surveys of Open Channels - Results 99/00

	Suspected	Mis-identified	Permitted	Removed	Un-resolved
County of LA	877	126	124	336	29
City of LA	29	3	7	19	
total	906	129	131	355	29

Surveys - Illicit Connections to Underground Drains

- Existing permit has no performance standards.
- Model program specifies a field survey only during scheduled maintenance.
- Most Permittees cannot estimate:
  - total length surveyed during scheduled maintenance
  - total length of their storm drains

Illicit Discharges

- 1999/00 Suspected Illicit Discharges
  - 788 County
  - 1,876 City of LA
  - 700 City of Beverly Hills
  - 450 City of Santa Monica
  - Other cities - extremely variable, ranging down to 0

Illicit Discharges and Connections (IC/ID)

- Initial discussions: active field screening program throughout system.
  - Not cost effective
  - Not necessary for residential land uses
- 1st draft: Develop GIS (Geographical Information System) for tracking and prioritization, with active screening in problem areas

Illicit Discharges and Connections (IC/ID)

- 2nd Draft - eliminated GIS requirement
  - kept requirement to maintain a comprehensive map/system
  - tracking
  - active field screening
  - better response and reporting

Monitoring and Reporting

Megan Fisher

Storm Water Monitoring Program

- Objectives:
  - To assess permit compliance
  - To measure and improve SQMP effectiveness
  - To assess chemical, physical, and biological impacts of receiving waters from urban runoff
  - To characterize storm water discharges
  - To identify sources of pollutants
  - To assess overall health and long-term trends in receiving water quality
  - To provide information for TMDL development

Significant Changes in Monitoring Program

- 2 new mass emission stations (Dominguez Channel and Santa Clara River)
- Increased toxicity monitoring
  - Toxicity Identification Evaluation (TIE)
  - Toxicity Reduction Evaluation (TRE):
    - Neutral third party to develop TRE (source ID and BMP recommendations)
    - Each Permittee to implement BMPs to reduce toxicity in storm water
- Discontinued Land Use and Critical Source monitoring

Significant Changes in Monitoring Program

- Added Tributary monitoring for source ID and TMDL info
- Moved Shoreline Monitoring from Hyperion permit to draft (City of LA will continue to conduct monitoring)
- Added participation in Regional Monitoring (Bight-wide 03 Study), sediment sampling in estuaries
- Added Bioassessment (at least 20 stations)
- Added new Special Studies
  - New Development Impact Study
  - Peak Discharge Impacts Study
  - BMP Effectiveness Study

Monitoring Program Cost

- The cost of the proposed Monitoring Program should be similar to the total monitoring costs over the past five years: $3.5 million
- Regional Board agreed with the Principal Permittee's proposed funding limit of $300,000 for TRE development

Legal Comments

- Jorge Leon, Lead Regional Counsel

EXHIBIT I

Vector-Borne Disease Section Mission Statement

Protect the public health and well-being of Californians from insect and animal transmitted diseases and injurious pests



Caltrans Project Objectives

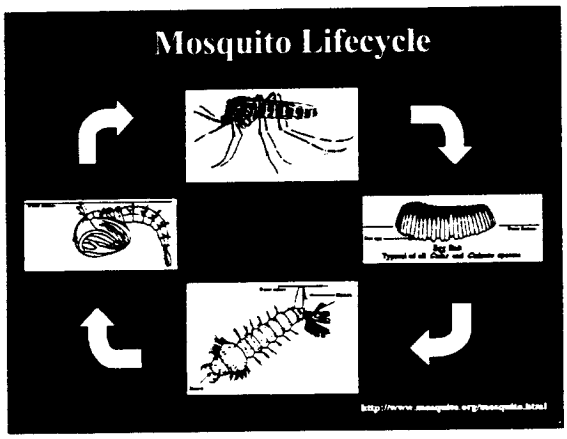
- Establish a comprehensive vector surveillance and monitoring program (37 structures, 9 BMP types, 31 sites)
- Provide technical expertise on vectors and vector-borne diseases
- Document and mitigate vector production at BMP sites
- Develop vector abatement protocols
- Recommend appropriate engineering modifications

Collaborative agreement between Caltrans and vector control

BMPs and Public Health

Structural BMPs potentially create a public health hazard by increasing habitat availability for aquatic stages of mosquitoes, and by creating harborage, food, and moisture for other reservoir and nuisance species

Mosquito Lifecycle



3/4 of lifecycle is aquatic

Integrated Mosquito Management

- Environmental manipulation
  - Water or vegetation management
- Biological control
  - Mosquitofish
- Chemical control
  - Insect growth regulators (methoprene)
  - Microbial insecticides (Bti)
- Legal authority to protect public health
  - California Health and Safety Code

Mosquitoes Breeding in BMPs

Species known to transmit human diseases

- *Culex quinquefasciatus*
- *Culex tarsalis*
- *Culex stigmatosoma*
- *Culiseta incidens*
- *Culiseta inornata*
- *Anopheles hermsi*
- *Anopheles franciscanus*
- *Ochlerotatus squamiger*

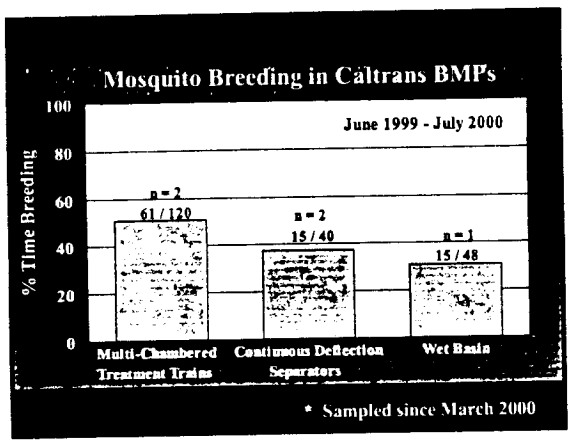
} Encephalitis (WNV?)

Malaria

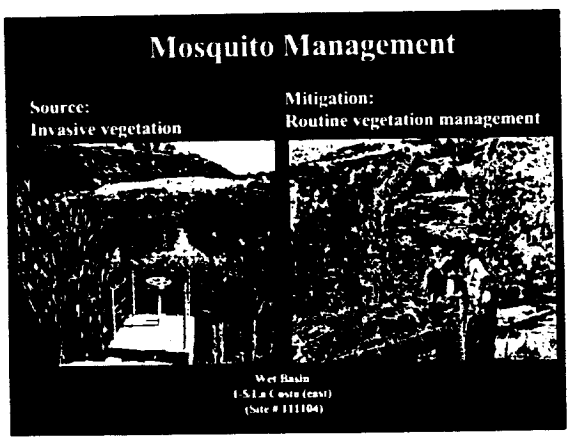
R0004152

Factors Contributing to Mosquito Production in BMPs

- Standing water
  - high water table
  - energy dissipaters
  - drainage slopes
  - settling basins
  - sumps
  - spreader troughs
- Vegetation overgrowth



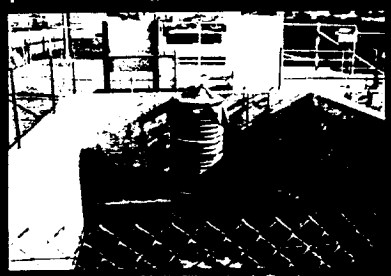
Mosquito Management



Reduction of mosquito habitat

Mosquito Management

Mosquito net covering sand media filter pump sump



Sand Media Filter (Austin Type)
Foothill Maintenance Station
(Site # 74203)

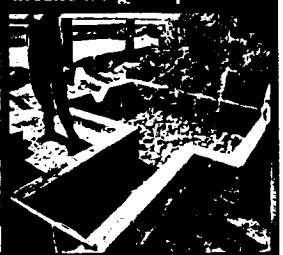
Precluding vectors from accessing water sources

Mosquito Management

Source:
Loose-rock energy dissipaters

Biofiltration Swale
I-5/I-605
(Site # 73224)

Mitigation:
Grouted energy dissipaters



Biofiltration Swale
I-605 Del Amo Avenue
(Site # 73225)

Eliminating sources by design modifications

Nationwide Survey: Vectors and Stormwater BMPs

>150 Agencies Contacted

- 6 genera of mosquitoes
- Other vectors (e.g. midges, blackflies, rodents, roaches)
- Many factors cited for vector production in BMPs, particularly
  - Design
  - Maintenance

A Nationwide Problem

It is critical that as structures are built to improve water quality, public health hazards are not created.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

H. DAVID NAHAI, CHAIRMAN

In the Matter of the Public Hearing)
Re: Agenda Item No. 5)
Workshop to discuss the proposed)
Renewal of the Municipal Storm)
Water Permit for the County of)
Los Angeles.)
)

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2001 AUG 20 P 5:29

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Thursday, July 26, 2001

Reported by:

FRANCES EGGLESTON, RPR
CSN No. 11662

Job No.:
WQLH087

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Renewal of the Municipal Storm)
Water Permit for the County of)
Los Angeles.)
)

TRANSCRIPT OF PROCEEDINGS, taken at 700 North Alameda, Los Angeles, California, commencing at 9:15 a.m, on Thursday, July 26, 2001, heard before DAVID NAHAI, Chairman, reported by FRANCES EGGLESTON, RPR, CSR No. 11662, a Certified Shorthand Reporter in and for the State of California.

APPEARANCES:

FOR THE REGIONAL BOARD:

CHAIRMAN:	H. David Nahai
VICE CHAIR:	Francine B. Diamond
BOARD MEMBERS:	Susan Cloke Bradley H. Mindlin Timothy Shaheen
EXECUTIVE OFFICER:	Dennis Dickerson

BOARD STAFF:

SENIOR STAFF COUNSEL:	Jorge De Leon
STAFF COUNSEL:	Robert Sams
ASSISTANT EXECUTIVE OFFICER:	Dennis Dasker
EXECUTIVE ASSISTANT:	Ronji R. Harris

I N D E X

I N D E X (Continued)

Thursday, July 26, 2001, Los Angeles, California

9:15 a.m.

MR. NAHAI: Item number 5.

This is merely a workshop. There is no action to be taken by the Board today in connection with this item. And the way that we will proceed is as follows: First, we'll have the staff presentation, which I'm told will take approximately an hour; following that we will hear from the Permittees -- and I've been given an order of speakers for the Permittees. The Permittees have requested 80 minutes, and we've agreed to accord them that time.

Following the Permittees, there will be a break. When we come back, we will hear first from the environmental groups, who I understand will take about an hour; then I understand we will hear from the trade associations in an order to be determined. We're waiting to hear that. Following that, at that point hopefully we will be able to take our lunch break; after lunch, we'll come back. We'll hear from EPA, and then we will go into the public comment segment. I anticipate in that segment we will allow four minutes per speaker.

Following that, the Board will ask questions of whomever may have spoken during the preceding periods. We decided to hold Board questions until the afternoon so as not to have an interruption of the flow of the

presentation so we can make sure that we get through today's program, which I think is already quite ambitious.

Is that accurate, Mr. Dickerson?

MR. DICKERSON: Indeed.

MR. NAHAI: With that, let's go into the staff presentation.

MR. DICKERSON: Good morning, Mr. Chairman, Members of the Board. Today following your request, and at the encouragement of the many Permittees subject to the Los Angeles County NPDES permit for storm water and urban runoff -- what we commonly refer as the MS4 permit -- we are holding a workshop to discuss the elements of the draft permit in substantial detail.

The staff presentation will provide you with an overview of the permit, how we got to where we are today, and some of the changes to the permit that might be appropriate as we develop the third draft, which we intend to be the version that we bring to you for formal consideration; and that will be later this summer -- we are looking right now at, I believe, November.

In that light, I would like to emphasize that the draft permit now before you should not be considered a final document. It is intended that additional changes are anticipated and expected; and as a result of today's discussion, we are hoping to get direction from the Board on specific areas that you would like us to include in that third and final draft.

Today I will be joined in a presentation by key staff who have worked very hard to develop this permit. Wendy Phillips has assumed the lead as chief of the storm water section. Dr. Xavier Swamikannu as the unit chief has the primary responsibility for developing the permit. Dan Radulescu and Megan Fisher are the staff who have assisted Xavier Swamikannu and Wendy in this endeavor. And our legal counsel, Jorge Leon, will wrap up with his comments on the legal authority on which this permit is founded.

Once renewed later this year, this permit will be the third storm water permit issued to the Los Angeles Permittees. The first permit was issued in 1990 and was intended to be a first step in the progression of permits that should lead to improvements in water quality; yet over ten years later, those improvements have not been forthcoming and we still face serious water quality impairments, in many instances due to storm water and dry weather urban runoff.

The 1990 permit was a first step and in retrospective can be seen as a tentative effort that fell short. The 1990 permit was then renewed in 1996; and while that renewal went much further than the 1990 permit in many respects, we still see a need for further improvement in efforts to address water quality shortcomings.

The 1996 permit can best be described as a plan to develop a plan. Much of the permit contained the

framework for building the storm water quality management plan, or SWQMP, as we are going to refer to it today, which took a substantial effort by regional Board staff in '97, '98, and '99 to complete.

The 1996 permit was challenged by the City of Long Beach, affirmed by the State Board, and then taken to Superior Court. Dr. Swamikannu and I headed a major effort to resolve that litigation which was successfully concluded with the City of Long Beach withdrawing their litigation and accepting a much stronger permit which became the foundation on which we built the Ventura County permit and this draft permit before you today.

Before I go further, let me briefly recount the compliance status of the Permittees today. Prior to 2001, we issued five NOVs for construction sites and assessed one penalty for a delinquent annual report. This year two NOVs for construction sites were issued and 11 penalties were issued for what we believe to be an incomplete program implementation.

Let me also indicate to you that prior to this year we had a very, very short staff with regard to the permit. And we also were very much involved with the development of these model programs that were the plans that were carved out in the '96 permit. And so we really didn't spend a lot of time reviewing the reports; and it's quite possible that additional enforcement might have been forthcoming, but we can't really say at this time.

With regard to the document that's before you

today, we began the process to develop a permit renewal by accepting a permanent application consisting for the most part of the storm water quality plan to give you a sense of that. This is it right here (indicating). That's a set of the documents that comprise the application. It also is all the documentation and the details of the various plans that are part of the '96 permit, and those have simply been rolled over into this permit application. You will have the opportunity to review those when we give you the formal document later.

MR. NAHAI: Can't wait.

MR. DICKERSON: All right. When we got this application that initiated various meetings and the release of a first draft in April that was followed by a staff workshop to explain the basis of the permit's content. That triggered a flood of comments and concerns raised to the Board about the content of the permit. Now, for your information, you don't have all of those comments right now in the binder that you have.

I have a reason for that. In part is that we gave you a selected version of those to give you the sense of what the comments were because they were focused on the first draft. We already made a number of changes. And when you get the final version, we'll have the final set of comments reflecting all the changes that have been made and that will be the version to look at.

Now, one of the things you didn't get in the binder -- but you do have the binder here today -- is a

marked-up copy of the permit and changes that the County of Los Angeles has suggested. But the principal reason we couldn't give this to you initially is because you will see that the changes are in different colors. Our color copier wasn't working at the time. So the county was kind enough to make copies in color so you'd have that today, and you will be able to refer to that, if I make any points that they want you to come back and look at.

MR. NAHAI: Dennis, this is this version that has red and blue markings on it?

MR. DICKERSON: Yes. That's correct.

In response to the many comments and requests the Permittees had at our recent Board meeting, the Board asked that we also hold a workshop instead of our regularly scheduled meeting today. So that is why we're having this workshop today. Also, we received a request that we submit the permit development process for facilitation which would result in a permit acceptable for all Permittees.

While not participating in such a process explicitly, the second draft permit released on June 29 was intended to address many of the comments raised by the Permittees, and we're going to be talking about what those changes are. Over the past few weeks staff and I have engaged in many meetings, many hours with the Permittees, to carefully consider their remaining concerns; and we are going to be looking at those comments.

There are a number of aspects of the permit that

could be cleaned up in terms of clarification and that sort of thing. So we will be working on that with the draft. While the second draft modified and in some degree lessened some requirements, it added or strengthened others. There will still be changes in the clarified permit language to insure that the intent of staff will be adequately reflected.

What I will ask you to keep in mind is that this second draft is a dramatic departure from the 1996 permit, which I believe was inadequate and nearly unenforceable. This is a much stronger permit with far more specific provisions. It incorporates the format of the Long Beach and Ventura permits previously adopted by this Board, and their provisions are a foundation upon which we have already added more specific and more stringent provisions, including performance measures. So this is an advance. Even the second draft, even with the changes that we have made, it's a very significant advance over Long Beach and Ventura.

And to the extent that there may be some modifications here that we made inadvertently between the Long Beach and Ventura permits, we will be going back through them, making it very clear that we check and cross-check to make sure that we haven't missed anything. If we have, if there's some inconsistency, we are going to fix that in the third draft. I want to make that very clear.

The permit itself is composed of a number of

several distinct elements. There are findings, which you can substantially add to compared to the '96 permit and even the first draft; there are discharge prohibitions, which remain substantially the same, which we will not comment on any further; receiving water limitations, I will comment on that briefly; structural prohibitions of the permit; special provisions which augment provisions of the approved storm water quality management plan; and one very significant plan is in the first draft.

We had language that basically said, "We'll make these changes, bring it back to the executive officer for approval." We've really dispensed with that because that was a very burdensome process. What we have in the permit now are very clear, very specific provisions; and those provisions augment the storm water quality management plan, and they have to be implemented in addition to that plan. So there's really no need to go back and try to modify those documents and go through that process. It's very, very time consuming.

There are a number of special provisions in the plan or structural provisions talk about how it is to be implemented. Definitions, only a few of those are really controversial, and I'm sure we'll hear more about that. There are a number of standard provisions, which we really won't comment on, and we have a comprehensive monitoring reporting program.

Now, I would like to go to the -- I believe the

receiving water limitations is next. Yes. With regard to receiving water limitation, this is a specific section in the permit. It is located on page 16 and 17 of the permit. This is language which is for the most part a reflection of State Board work. We have very little flexibility in this language, and the State Board has set up a structure that we have to utilize for receiving water language.

You are going to hear a little later today from the Permittees. Paragraph one and two of that particular section are additional language and shouldn't really be there. In actuality, we are looking at that language as simply clarification of two points the State Board has made. The process that the State Board has made for receiving water language -- it is in essence the compliance aspect -- it basically says if they are not in compliance with the receiving language, the Permittees have to go through an intricate process to ramp up their best management process, and that process is invoked either through the Permittee saying they are not meeting water quality limitations or the Regional Board saying that.

So it's well-understood that -- receiving water, we have 303 listings. So it's quite clear we're not currently meeting the limitations that are inherent in this permit. So it is quite likely and indeed probable that once this permit is adopted, we will be invoking that particular process, bringing it back to you to start

taking a look at what additional intricate BMPs may be needed in order to address that noncompliance; but you will hear more about the concerns of Permittees, I'm sure. But we do see those as consistent, the language that we've adopted as consistent -- as proposed -- as consistent with that.

Next, I would like to briefly comment on the public information participation program. This is one of the model programs that exist in the '96 permit. Now, the key change that we're proposing here -- and it's generally been a fairly successful program. You may have heard some of the advertisements and that sort of thing that have come up over the radio talking about storm water pollution, and that's a program that's been in place a couple of years. There's been a lot of money spent over it. Both the city and county spent quite a bit of money and effort on that program.

One significant aspect of it is that it's trying to change behavior through education and information, and that's really quite important. The one major change that we are looking at is to insure that the public information participation program is reviewed by the executive officer and that there's advance approval; in other words that we have an opportunity to play a role in the development of that program every year.

It is also my intention that we invoke or establish an advisory committee of interested parties to help review that document and to gain the best advantage

of that process prior to that review and approval. With regard to the educational site visit program, this is something that was in the '96 permit, and the key difference here is that we're going to be shifting away from a solely educational approach for the site visits, going to an inspection approach, which is a dramatic departure; and you will hear about that later on.

With that, I would like to turn the podium over to Wendy Phillips, who will give you more detail about that particular aspect of the program.

MS. PHILLIPS: For the record my name is Wendy Phillips. As Dennis has mentioned, industrial control is one of the six programs in MS4 municipal storm water permit. Back in 1995 the initial drafts for the existing permit included a requirement for inspections as part of the Industrial Control Program. In later drafts back in 1996, we scaled back on this in part due to Permittees' insistence that we start with business education; but the Board viewed this as an internship only that would be upgraded to inspections in the future.

The success of the Permittees' business education efforts for the last five years has not been quantified. Behavioral changes brought about by education are not easy to measure, but we do know that we continue to have problems with runoff contingencies. The Permittees themselves identified problems in several industrial sectors based on the critical source monitoring program required under the previous permit.

This is a page from the critical source identification and monitoring reports submitted by the Permittees back in 1996. It identified the following five sectors as posing the greatest threat to storm water in L.A. County: auto dismantling; automotive services facilities and parking; fabricated metal products, for example electroplating; motor freight -- trucking, that is; and chemical manufacturing. This critical source study will be referenced in our permit 234 finding under V(8) on page 232. So for the third term of permit we have used this information to structure requirements for industrial and commercial inspections.

On both the federal and state level we have all envisioned regulatory oversight activity including inspections as a responsibility to be shared with local agencies. On state level this was certainly part of our strategy when we started the storm water program and issued the first general permit for industrial activities back in 1990. On a federal level this has been most recently mentioned in a letter from Alexis Straus sent in December. That is also in your Board package. And I think there's a subsequent letter which EPA may present to you later this afternoon from Christine Todd Whitman with a similar message.

We believe our authority, in need of mandate for inspection, is in the federal regulations 40 CFR 122.26. Dan Radulescu, our lead for the industrial instructional element of the permit, will elaborate upon that. In

considering options for industrial control, we need to point out that this is the most industrialized region of the state and one of the most industrialized regions in the nation. Our region also has the distinction of having the most water quality impairments, much of which stem from nonsource centers including industrial activities.

Instruction and control program: the Board has several options to consider. Most but not all of the Permittees advocate for continued program of education; that is, no inspections. The Regional Board staff doesn't believe the law allows us to continue with this approach given the impairments in our region. So under the most rigorous option at the top of the page here, our Board could require the Permittees to inspect all facilities, that is, all heavy industry -- this is what we referred to as Phase I facilities -- all light industry, and those commercial sectors with activities that expose pollutants to storm water. And under this most rigorous option, the Permittees would inspect tens of thousands of facilities. It's very difficult for us to quantify the magnitude.

We've referred to the next most rigorous option as a top-down approach. That is the second bullet up there. This approach is structured in our first draft that we issued to the public; would require Permittees to compile and screen down events from all industrial and commercial facilities, then to prioritize, and then to develop target inspection lists.

This approach, again, in our first draft is

similar to an approach that Region 9 has recently approved. Permittees have lately objected to the top-down approach though, contending scarce resources and also contending lack of legal authority. We disagree with their legal authority contentions, but we have worked very hard in the second draft to address concerns of scarce resources.

So in this second draft we presented a more focused approach which requires Permittee assistance on Phase I facilities, that is, the heavy industries. As these facilities are subject to the State's general permit, the Regional Board is designated as the lead for these facilities, which number about 2,600. There are about 6,000 automotive service facilities, which are not classified as heavy industry. They are not in Phase I and therefore not subject to the State's general permit. This is a critical sector identified by the Permittees themselves that is falling between the cracks of our existing regulatory structure.

So our second draft designates the Permittees as lead for inspections of these automotive service facilities. Then there are two other categories included in the inspection programs: restaurants -- we propose that county health departments -- and I think there are three other city health departments -- inspect restaurants in conjunction with the regular health inspections but on a less frequent basis, once every two years.

Also, we proposed that the principal Permittee

of the county undertake an education program for gasoline outlets, which can be done most effectively or efficiently through large retail chains as opposed to inspection at each and every gas station. We tried to move this program forward by providing much more specific performance measures in this permit versus the existing permit.

You'll find in the inspection section that under our focus approach, we specified the type of facility to be inspected, the inspection frequency, and the level of inspection. Specifically, Permittees must insure compliance with their local ordinances and with their model programs, and these would be BMPs, best management practices, proved for their model programs. And our intent is that Permittees insure compliance with prevention BMP, which are critical to the cost-effectiveness of storm water programs.

In other words, this is not a reactive requirement which would require Permittees to do something only for those cases of an illicit discharge leaving an industrial site; rather Permittees will have to go on site to insure adequate pollution prevention. We believe that this emphasis on prevention is a key to changing behavioral pattern on the part of business. If Permittees' ordinance does not give a city or Permittees this level of authority, the City will have to strengthen its local ordinance.

In the interest of time, let's go to the next one. My final point, we believe that a more aggressive

approach is needed to effect behavioral changes on the part of business and to better protect water quality, that inspections need to address BMPs to prevent pollution, not just wait for an illicit discharge. Our approach in our second draft will optimize state and local resources toward a better partnership.

I would like to bring Dan Radulescu now who will talk about regulations.

MR. RADULESCU: Good morning. My name is Dan Radulescu. Next I will present a brief overview of the regulations and legal authorities that we believe clearly require the Permittees to conduct inspections as part of the comprehensive implementation of the storm water planning activities.

In this slide we have a broad overview of the legal authorities and regulations and other documents that we are reviewing in our process. Next.

In this slide we have the Phase I facilities for informational purposes for those who are not very familiar with what these are. Next.

And again we are clearly looking at the Code of Federal Regulations to carry out our review in preparing the draft. Next.

In prepping the draft permit, staff performed an extensive and careful review of the regulations and other documents issued by U.S. EPA to make sure we interpret correctly the letter and intent of those regulations. Our position in regards to the inspections has not changed

since the 1996 process, and you can identify that in depth at 584 in your Board agenda.

We believe that it is clearly stipulated that 40 CFR 122.26(d)(2)(1) -- that the framework is clearly set up to develop an adequate legal authority, performed source identification, and develop a legal management program. Next.

Again here we refer to the Code of Federal Regulations at 40 CFR 122.26(d)(2)(1)(f). Under adequate legal authority, we believe that it is clearly stated that a Permittee must have the legal authorities to carry out all the inspections necessary to assure compliance with permit conditions. And -- next -- on the 122.26(d)(2) 485, under the proposed management program, again describes that the Permittees shall identify priorities and procedures for inspections to perform those inspections -- next -- and continues, 122.26(d)(2)(4)(C), with a description of program to monitor and control pollutants in storm water discharges and program shall identify priorities and procedures for inspections and establish and implement control measures. Next.

Also, we look at the guidance document for the preparational part of the application issued by U.S. EPA in 1992 which adds additional qualification to the intent that other sources that do not necessarily meet the criteria of storm water associated with industrial activity must be addressed if they are identified as a significant source of pollution. Next.

And on the right side I hope you can see that we put the table with the critical sources results on the rank of those candidate critical sources from the study performed by the Permittees; and you will see the top five categories and facilities, which again are also trade, automotive repair services, fabricated metal products, motor, and chemical and allied product. Again, four of them are Phase I facilities and one of them is outside of that particular specific category. Next.

I'm presenting a brief overview of the guidance document; and the fact that EPA in the guidance document continues to stress out these, what do you call, "items identified in the regulations." Next.

And we believe that the municipalities are ultimately responsible for discharge from the MS4; therefore they must use this kind of tools for those particular problems. Next.

Dr. Xavier Swamikannu will present the development, planning, and construction component.

MR. SWAMIKANNU: Good morning, Mr. Chairman and members of the Board. For the record my name is Xavier Swamikannu.

Federal regulations require that Permittees implement a comprehensive program to enforce controls on new and redevelopment projects. The countywide model program for development planning approved by the regional board executive officers in 1999 had the following components: a system for designating project as priority,

a master list of best management practices, a requirement to develop Standard Urban Storm Water Mitigation Plan, guidelines on storm water for CEQA documents, update of general plans to include storm water integrations, and information program for developers.

The Standard Urban Storm Water Mitigation Plan requirements, essentially postconstruction controls, approved by this Board in January of 2000 were controversial but were ultimately upheld as lawful. Standard Urban Storm Water Mitigation Plan set a statewide precedent and are being adopted by other agencies. Next slide.

The fundamental issue challenged in the Standard Urban Storm Water Mitigation Plan action was a requirement for developments and redevelopment projects to mitigate storm water, to remove pollutants based on water quality design standard. The State Board found the criteria technically sound and legally appropriate.

The State Board concluded that categories subject to the standard were appropriately identified. The State Board did not support our extension of the criteria to administer projects and projects in environment in sensitive areas at that time because of procedure defects. The State Board also set aside the applicability of the criteria to gas stations at that time, but did so with an explicit statement that the criteria might be included in the future with proper justification. The State Board encouraged concepts such

as region solutions and mitigation banking. Next slide.

The development section in the draft permit remedies the defects identified by the State Board. Changes such as extension to all projects and application to projects in environmentally sensitive areas are supported in the findings section. The application of design criteria to gas stations is supported in the findings as well, and by a technical report. The draft permit also includes a provision to consider regional solutions and provide an option to develop a mitigation backing framework.

We have lowered the threshold for an applicability for commercial/industrial developments from 100,000 square feet, which is about 2.5 acres, to one acre, beginning in 2003, to be consistent with U.S. EPA Phase II regulations. We established a threshold of one acre for applicability of a mitigation criteria for inside development in order to exclude small projects. Next slide.

To summarize, the new development requirements in the draft contained the following elements: We have included development criteria for peak discharge controls to prevent erosion and protect habitat much like we did in the Ventura permit. We have included requirements that apply to all developments meeting categories and thresholds. We have included requirements to projects in environmentally sensitive areas.

The American mitigation criteria is not to be

applied to hillside developments less than one acre. We have developed criteria and thresholds for gas stations. We have lowered the industrial commercial threshold to one acre beginning in 2003. We have included requirements to receive notification when general planned elements are being updated. This will be consistent with the public resources code.

We have included water quality flow criteria in addition to the water quality criteria that we adopted in the SUSMP. This will be consistent with the action we took in the Ventura permit. And finally we have a requirement to develop custom technical guidance for developers for the region after the update of the California Best Management Practices Handbook, which should be in about a year's time.

I shall now go on to the development construction program. The controls identified in this section, continual provisions in the countywide development construction model program approved by the Regional Board executive officer in 1999 -- these provisions apply to all construction projects regardless of price; and they are required to manage construction waste, eliminate nonsummary discharges, control sediment loss, minimize erosion, and limit grading during the wet season.

The next category is for projects between one and five acres. The requirements continue to monitor the development construction program approved by this Board's

Executive Officers in 1999. The only change is a lowering of the area threshold from two acres to one. This change would make the L.A. County Storm Water Permit consistent to the city of Long Beach and Ventura County permit.

The requirements for construction projects five acres or more to modify the provisions in the countywide monitoring program approved by the Regions Board executive officers in 1999 -- while that model program included requirements to verify that the project proponent has obtained coverage under the statewide general permit, it did not require that the proponent prepare a document that the Permittee can approve for compliance with ordinances. And in fact, under the local agency authority, we now require the affirmative approval of a local solution prevention plan. There is no reason to suppose that the project's proponent may not want to combine both sets of requirements into a single document.

To summarize, next slide, the enhancements to the development concession program are the following: There is a requirement to obtain proof of coverage and safer program for sites between one and five acres beginning March 2003. There is also a requirement to prepare a local pollution prevention program for projects five acres or more to insure compliance with the local ordinances. With that, I conclude my presentation.

Dennis will now continue.

MR. DICKERSON: Thank you, Xavier.

With regard to the public agency program, there

are a number of aspects of that which relate to the operations of any individual city. They have their own yards, they have of course streets; and they conduct street-sweeping activities, catch basin cleanouts and that sort of thing.

With regard to the concept of the permit, one of the main differences -- and let's go to the next slide -- one of the main differences we're doing this time is that we propose a prioritization scheme. That is to identify catch basins in streets such as high priority, medium priority, and low priority; and then to tailor the measure that is to be applied for catch basin out cleanout or street sweeping based on that prioritization. At this current time we've been pretty open as to -- and subjective really -- as to what constitutes high, low, and medium priority.

We're hoping that as we develop a third draft, we'll get some very good specification as to -- based upon some of the comments that we received and discussions -- as to what that should be, and we'd be interested to hear from the Board as to your thoughts as well.

But the concept is quite clear, and that is that if you have a high commercial use area that's generating a lot more trash, that fits into TMDL for trash, we should be focusing efforts to insure that trash in those areas and those catch basins and streets are cleaned out on a much more frequent basis. And the idea is if you have a trash basin that is filling up rapidly in the wet season,

and you don't clean it out more frequently, that trash is going to be washed away more frequently during the storms. That's the concept.

And then we've also added a provision that for any major event -- and here we might be talking about the Rose Bowl, we might be talking about the Christmas Hollywood parade, those kinds of events where you have large number of people -- cities and counties were appropriate to be taking special measures to insure the trash that's developed from those events is adequately addressed in a very immediate time frame.

The last comment that I have about public agency program has to do with dry weather diversion. We've included a provision that in essence asks the City and the County to take a look at areas where dry weather prevention might be needed in the future and do an assessment to identify where those could be to take the initial steps to make it easier for us in the future to identify and pass on to Sacramento where those locations could be, where the opportunity comes up for additional funding. And we think it would be better to have that information up front as opposed to having to scramble to obtain that information later when that opportunity comes up.

The next part of the program is going to be the illicit connection of the discharge program, and Wendy Phillips will be coming up.

MS. PHILLIPS: For the record I'm Wendy Phillips.

There are two primary goals in all federal and state storm water programs. We've already emphasized the first goal: to reduce pollutants in storm water. The second goal is to eliminate all nonstorm water discharges. This is extremely important to implement in our region as we get only 14 inches of rain a year, and this is concentrated in a three-month period. During the rest of the year, we experience a long dry season. So during this dry season, our streams have little or no natural base line that can assimilate pollutants in nonstorm water discharges.

As has been discussed before the Board before, pollutants in dry weather runoff discharge to other county storm drains and threaten our beneficial uses such as swimmers and surfers, who swim around flowing storm drains in the Santa Monica Bay. And here I reference the Bay Restoration Project epidemiological study.

I will direct your attention to this picture of very acidic wastewater from a bakery, and this illicit discharge was flowing into the L.A. River. It's only fair to say that illicit discharges aren't limited to industrial and commercial facilities. Its problems also come from residents. We are showing this picture as an example of excessive runoff from lawn overwatering, which can contain harmful levels of pesticides and fertilizers.

Regulations to find illicit discharges -- in any nonstorm water discharge, a key component of the municipal storm water permits is a prohibition on these discharges. We do allow exemptions to the prohibition, such as a fire

fighting clause and of course discharges that are already permitted under our NPDES program. These exemptions are all carefully laid out in part one of the draft permit.

In addition to the prohibitions, another key element of a municipal storm water program is a program for municipalities to eliminate illicit connections and discharges. The existing permit has such a requirement but it relies upon development of a model program. The model program developed and approved by this Regional Board is a passive program which does not require any active field screening except during scheduled maintenance of the storm drain.

In staff's opinion the existing permit model program erroneously assumed that the complete storm drain system was met and that the Permittees have comprehensive and consistent records of permitted connections. This is not the case. The County is missing coverage for about 15 percent of the system, and information among the cities is not integrated so that we can look at past occurrences of illicit connections and discharges to find patterns in problem areas.

Also, we may not have complete information on all permitted connections to the system. We know that the County has more than 100,000 permitted connections and that the City of L.A., which is close to completing a review of the permits issued since the 1930s, has almost 1300 permitted connections. We don't know how many connections other cities may have independently permitted

and how far back in time these permits go.

Although we have many strong performance measures in our existing permit or model program, both the City and County of L.A. have explained that they have lost 100 percent of their open channels for illicit connections each year. And on this slide -- I apologize you can't see that better -- these are the recorded results for last year. Out of a total of about 900 suspected illicit connections, 131 were eventually permitted. 355, over a third, were removed; but 291, almost one-third, were unresolved.

MS. CLOKE: What's that last number, please?

MS. PHILLIPS: 291 were unresolved.

MS. CLOKE: Thank you.

MS. PHILLIPS: With regard to the underground portion of the system, Permittees were only required to do field checks during scheduled maintenance. The Permittees are unable to estimate how much was surveyed; moreover, many cities cannot estimate the total length of their storm drainage systems.

Reports of illicit discharges now also indicate problems with consistency, coordination, and tracking. Surprisingly, some of the cities with the highest residential land uses -- the city of Beverly Hills and Santa Monica -- report some of the highest level of suspected illicit discharges per square mile. While several cities with very high industrial land uses report little or no cases of illicit discharges -- illicit

connection -- the numbers recorded by the 84 Permittees are highly variable, showing no relation to land use or to the Permittees' levels of expenditures on their ICID elimination program. These expenditures are summarized in our draft fact sheet on a program on page 406 of your binder.

As we started our renewal process, our initial approach was to update the passive screening program to very active program throughout the County. After listening to the Permittees' concerns about cost effectiveness and the low risk of illicit connections and discharges in residential areas, we agree that we should find our way to prioritize problem areas. Regional Board Staff believes this should be done based on land uses as well as a history of ICID problems; but without a comprehensive map, G.I.S., or some other system, the Permittees cannot do this at this point. Our first draft required development of G.I.S., geographical information system, a high-tech tool that could solve this problem. It's also very costly to all. Okay.

When the Permittees objected to being told that they had to use G.I.S., we had a flexibility in the second draft so the Permittees could select the most effective tool themselves. As presently structured, the second draft requires development of a comprehensive system to solve ICID problems, prioritization of those problem areas and implementation of acid field screening in these areas, and also better response time and reporting. Such an

approach would require a different role for the County.

The Principal Permittee -- I think that you'll find the County views itself as merely a clearinghouse for information generated under the Storm Water Quality program, as opposed to a rule requiring the greater level of control and coordination for addressing water quality controls in the storm drain system.

I will conclude that by saying I think you will find staff at County is willing to take steps to address some of our concerns, but there remains a wide gulf between what Regional Board Staff feels is necessary and what County Staff feels is appropriate and necessary. Thank you.

For our final portion I would like to introduce Megan Fisher, who will quickly cover monitoring.

MS. FISHER: Good morning. My name is Megan Fisher. For the past six months I have been working with County staff and other interested stakeholders, such as Heal the Bay, to develop the Storm Water Monitoring Program.

Because the County has taken the lead on monitoring, most Permittees have not been directly involved. Please keep in mind that we are continuing to work together to determine the specifics of federal requirements. The main objectives of the monitoring program are listed here. In order to achieve these objectives, we are proposing several changes to the current monitoring program. I am going to briefly go over

the significant changes. Next slide.

First, mass emission monitoring will be continued. It provides the data necessary to characterize the storm water discharges and total pollutant loading from each watershed. Two new stations in the previously unmonitored watershed of Santa Clarita River and the Dominguez channel are proposed. Also increased toxicity monitoring of mass emission statements is proposed. I will elaborate a little on this requirement because it's the only one that directly involved Permittees other than the County.

Upon the identification of a toxic pollutant in storm water discharges, the principal Permittee will be required to retain a neutral third party to develop and evaluate sources of toxicity and recommend BMP to reduce or eliminate the pollutant sources. Once this has occurred, Permittees have a jurisdiction over sources causing or contributing to toxicity and will be required to take all reasonable steps to eliminate toxicity, including implementing the recommended BMP.

It may be appropriate to view this toxicity reduction requirement as part of the storm water management program in general and not as monitoring the environment. It is an example of how monitoring results should be directly tied to manage the program to insure that identified problems are addressed.

Moving on to the next theme, the land use and critical source monitoring requirements from the current

permit were mostly complete, but we decided not to continue those. To address the need for source identification, to provide information for TMDL development, and to prioritize locations that need management action, the principal Permittee will monitor tributaries that have been identified as significant contributors of pollutants. Next.

Based on previous monitoring results, we determined that the shoreline monitoring that has previously been conducted under the riparian permit was more appropriate as a requirement of MS4 permit. The City of L.A. will continue to conduct this monitoring.

Furthermore, instead of receiving the water studies that the County originally proposed, we determined that more useful data results can be obtained by participating in a regional effort to determine the spatial extent of sediment impact from storm water discharges. The County will analyze the sediment chemistry and toxicity in communities in estuaries.

Bioassessment of Brand-new Component of the Monitoring Program -- it will allow us to better address the extent of storm water effect on damage to our beaches, including the biological community. The principal Permittee will work with the statewide and regional effort to develop a bioassessment program. Finally, the three new special studies listed here are included in the proposed program.

Despite all of the changes to the monitoring

program, we worked with County staff to keep the program as cost-effective as possible. It is expected to remain at approximately $3.35 million over the next five years. Thank you.

MR. LEON: Good morning, Board members. I'm Number 27 according to the badge. Jorge De Leon with the Office of Chief Counsel, and Regional Board Attorney, part of the Board's legal team. We have had an opportunity to review the many comments that have been received that perhaps you've had an opportunity to look at as well, and there are numerous legal challenges to the proposed draft that you have before you today.

We are actually in the process of drafting a written response to each of those legal points. The draft is still in process. It should be done in perhaps a week or two, and at that time we will distribute to the Board members and have available to the public.

But for the moment, you might have noticed that there is a -- I didn't do that. I hope that's not a bad sign about anything that's going to happen. But there is a memo in the package at Tab B-4 which is a memo dated April 17th, 1996, from myself to Captain Favrel, who was the assistant executive officer at the time when this Board adopted the existing NPDES storm water permit for the municipalities.

And you might have noticed too that some of the issues that have been raised this time around are not new, that they were raised at the time that the Board adopted

that permit as well. We've taken particular look at the comments submitted by Mr. John Harris on behalf of several cities, the memo submitted -- the letter, that is, and actually there were two letters submitted by Richard Montevideo on behalf of several co-permittee cities, and also letters submitted by Rufus Young on behalf of several co-permittee cities.

While I won't take up a lot of your time right now going through the legal issues in detail, I will highlight it by -- if I am permitted to do so -- some of the more interesting issues that have arisen that are sort of basic to moving forward from this point, if you will. And as I said, the memos that will finalize and have ready for you will cover everything else in more detail and in a more comprehensive manner.

So moving on to issues, I've listed four, and I will discuss each of them. The first is do the permit requirements included in our proposed draft constitute unfunded mandates? Do they exceed the scope of the U.S. EPA requirements? This issue is one of those that was addressed in a memo of April 17th, 1996, which is included in your agenda at page 92.

The municipal storm water program is, as you are by now aware after the excellent presentations by staff, a creature of the federal law. It is not a creature of state law; rather derives from the Clean Water Act, section 402(b), and from the federal regulations, some of which you saw on the screen.

It was clear at that time, as the memo of April 17th indicates, and it is still even more clear now that the impact of the proposed permit is not to impose state mandates. One of the letters, in fact, that was submitted, I think erroneously says these are state mandates that are being enforced or pushed off upon the City and copermittees. As indicated, these are federal requirements, and they are being carried forward under federal law; some of them directly to the City, some of them through the process of this committee.

And in addition to the State Board decision order Number 91-08, which is cited in the April '96, memo, there has been additional precedent. One of the precedents you're intimately familiar with, State Water Resources Board Order 2000-11, which you will hear variously described as that number and/or Board's SUSMP decision. That's a decision that Staff indicated upheld this Board's adoption of the SUSMP order.

And in that order to the State Board, once again, reiterated that the requirements under the Municipal Storm Water and Clean Water Act are indeed federal regulations and just simply are not subject to unfunded mandates contention. If they are so, the appropriate form is not to come before you and suggest that you need to require funding but rather the appropriate form would be for the parties to go to the courts to take up that issue.

The second part of the question has to do with

getting down to the nitty-gritty about interpretation. Our staff says, "What we're doing to this permit is in fact moving forward with the federal regulations on municipal storm water and how to deal with it." One of the arguments that comes forward is that maybe we've gone too far, that we've gone beyond. So the second part of the argument is that have we done that? Do the permit requirements exceed the U.S. EPA Federal Clean Water Act requirements?

Clearly the Clean Water Act and the federal regulations don't mirror exactly what the permit does. If you had that, that would make our role much simpler. We wouldn't be here in a permitting role. They don't say, "Thou shall do everything that the draft permit does." Instead 402P has a general statement that does a couple of things. It sets forth the goal, the general goal, of where we are headed; and it sets forth authority.

It says that the Director or the State Administrator is authorized to adopt provisions as it determines appropriate for the control of such pollutants, pollutants being storm water discharges. And so what we are doing here today and what the Board Staff has attempted to do is to specify the provisions that are applicable under the Storm Water Regs and the Clean Water Act. And the bottom line on whether these are unfunded mandates is this: So long as there is a reason based for the permit requirements, then the requirements are indeed the implementation by the State of the federal law, and

therefore are not considered unfunded mandates.

The next question has to do with inspection program requirements. The staff put up on the screen several regulations and summaries of the regulations and code provisions that you might have picked up on. Several of those were also included in your package. I personally was not able to read the regulations when they were up on the screen; but just for your information, they are included in the package at various tabs.

Now, again, this is not a new issue. The April '96 memo addresses the issue to some extent; and we do have additional support for the conclusion that indeed the regulations required that the cities review themselves with requisite legal authority to conduct inspections in the form of the SUSMP decision and in the form of a letter that was received -- that may not be the package, but should have been delivered to you -- signed by U.S. EPA Administrator Christine Todd Whitman July 12th, 2001, addressed to honorable David Drier, U.S. Congressman.

And in the letter as part of a response to concerns brought forth by Congressman Drier -- just reading part of this very briefly -- Ms. Whitman says, "The State is responsible for enforcing its general Clean Water Act Storm Water Permits while a local government permit holder needs to enforce local storm water ordinances." And she goes on to say, "It is important to note that the storm water regulations require the local government permit holder to perform activities such as control, inspect,

monitoring and require compliance of industrial commercial facilities."

In fact several cities have moved beyond contesting the authority of the Regional Board to require that inspection ordinances be adopted and have gone ahead and complied directly with the federal regulations. Just a handful of ordinances -- let's see, I have one ordinance 94-0-2221 for the City of Beverly Hills, which indeed adopts the ordinance that allows and gives the City authority per the federal regulations to enter and inspect properties for compliance with the Clean Water Permit and Storm Water Regulations.

Another Article 7, Chapter 8, Part 1 for the City of El Monte, their municipal code, does the same thing; the City of Bell; the City of Alhambra; the City of Hermosa Beach; the City of Huntington Park; the City of La Canada Flintridge; and City of Bell Gardens all have proceeded beyond the argument and have indeed adopted the appropriate ordinance to allow themselves to conduct inspections per the spirit of our permit proposal and the federal regulations.

The third question that I would like to address is this: whether the inclusion of three new programs violates the SUSMP order, again, 2000-11 issued by the State Board, which upheld the SUSMP program. And the three areas are nondiscretionary projects; RGOs or gas stations retail outlets; and ESA, the environmental sensitive areas. And I think the question arises out of

what happens -- you may recall in the SUSMP order that was adopted by the State Board, and as Xavier, I think, during his presentation indicated, the Regional Board in the regional adoption of the SUSMP included nondiscretionary projects, gas stations and ESAs within the categories that were subject to the mitigation requirements.

The State Board however, for various reasons, decided that at that time they shouldn't be included. Partly it was a matter of -- one of them it was a matter of failing to include it in the permit itself upon which this the SUSMP was based; in other words, there the Regional Board had not taken a preliminary and prerequisite step of including them within the permit.

What we're doing today is revising the permit. This gives us a second opportunity to look at the issue, and the staff is indeed proposing that at this time and under the procedural standards that the State Board indicated were appropriate that they we included. Now, gas stations, the RGOs, same thing; ESAs, there again, the Board said at this time that it was not appropriate to include them. But it's very clear from the memorandum that is at page 159 of your package signed by Chief Counsel Craig Wilson that his interpretation of the SUSMP order is that indeed the Regional Board has authority discretion today to consider adding nondiscretionary projects, gas stations, ESA projects, into today's permit. And from what I've seen so far, staff has done an outstanding job of supporting the inclusion of those three

categories into the permit in an appropriate manner. Finally, the question arises whether the SUSMP order -- as you see, several of the issues sort of center around an interpretation of this State Board's SUSMP order. Some folks feel that it took certain preclusive action; but if you look at the order very carefully, you will find that there wasn't that kind of preclusive effect to the order at all, but rather the decision said as presently attempted by the Regional Board at that time that the SUSMP was adopted, maybe some requirements weren't appropriately adopted. At this time we are moving beyond that and we are, of course, implementing the guidance that was set forth in the SUSMP decision.

And so the question then is does the SUSMP order preclude application of the mitigation criteria to projects where existing and pervious surfaces are replaced. There's a distinction. Well, there's a couple of layers of the distinction that I need to chat with you about, and I'll try to do it in a streamlined manner. The category of development also speaks of Development. Redevelopment is, of course, building on basically bare ground. Redevelopment is taking another project or rather taking a developed project and redeveloping it, doing something else to it.

You recall that some of the examples that we've heard about involve, for example, replacing of parking lot, replacing of roof, adding on additional wing of office space or housing space. Those are redevelopments.

And we have continued to receive comments about what it is that the State Board decision does in that area of redevelopment. Does it prevent application of the SUSMP requirement? That is, do the permit requirements apply to redevelopment where we are creating or adding on? The answer there is clearly yes. But the question is when you are redeveloping in a replacement mode, do they apply at that time? We've received comments that continue to suggest, no, they don't. The State Board says they don't.

However, the Regional Board Staff proposal is actually a narrower approach, and I think it clarifies and will probably help those who have objected, if you look at it closely and have any necessary dialogue about that, it is very clear if you look at page 261 and 262 of the proposed language of the permit or 281, which is the definition of redevelopment, that mitigation criteria from the permit apply to replacement activities but only if a prerequisite has been met, and that prerequisite is, is it a significant redevelopment, and even more importantly is it a land-disturbing activity.

So concerns that you've heard about in the past such as objections because the redevelopment language may apply to replacement of siding onto the side of the building or a house or apartment building or replacement of a roof -- those kinds of things should be included in redevelopment. And I think staff agrees with that because they've added the proviso that only projects that have land-disturbing aspects to the project are covered by

the mitigation criteria.

To answer the question under that circumstance, no, the State Board does not preclude going forward with conclusion of those narrowly defined activities for redevelopment. Those are the four main points that I wanted to touch on at this point. There is just one more quick one that I want to add briefly to; and that is APA. We continue to have discussion and comments about the Administrative Procedure Act, whether what the Regional Board is doing is a guideline or a regulation of general application that really properly ought to be adopted, not as a permit today but rather in some vehicle that takes into account statewide application.

I think it was the letter submitted by John Harris that talks to that issue at some length, and I do appreciate the concern that Mr. Harris and others have put forth with respect to that issue. Again, the April '96 memo does suggest that initially to some extent, however, there is an additional point that needs to be made. Not only is permitting exempt from the APA provisions -- quite clearly in the government code, that is quite specific -- but I think Mr. Harris' argument seeks to go beyond that and to argue that nonetheless, these permits will have areawide or general application and need to be considered in the context of A.P.A. protections.

One of the things that is clearly happening here is by this Board changing this proceeding from an adoption

hearing to a workshop and by already having considered comments submitted by the parties and revising its April draft to what you have before you as the June draft, the Board has already proceeded to undertake much of the protection through process that it would be provided under APA; that is, it's provided substantial notice to the parties, it's provided an opportunity to comment, it's provided an opportunity to consider those changes, and it has in fact been responsive to those comments and made changes, and the staff has moved forward and the Board has decided to go ahead and have an adoption proceeding sometime in the future that again will constitute far and above what perhaps might be otherwise contemplated in a permit adoption scheme.

So the Board is going a long way to providing the protections that the APA would provide; nonetheless, the only thing that is really missing is review and approval by the Office of Administrative Law. It is my view that that is not necessary in this case; and if we were to cross that line and move forward to consider adoption of this permit in the context of APA as a rule-making proceeding as suggested by the commentors, we would be opening up a huge incredible burden for the Regional Boards because the very idea -- in fact one of the items that's new, just because this permit is similar to the Long Beach permit and the Ventura permit, you have guidelines of general application; however, there is a lot of consistency between our permits involving one POTW and

another. And that argument can't possibly be the basis for moving forward to a POTW because if it were, the administrative burden to all the regulatory agencies would be massive and no permits would ever be adopted.

If there are other questions, we would like to answer those as they come up.

MR. NAHAI: We are going to hold questions until this afternoon.

MR. DICKERSON: Mr. Chairman, Members of the Board, that concludes Staff presentation; and I will note that at the beginning of Mr. Leon's comment, there was a spark in the air and there was a power surge which I've been advised knocked out our audio-visual system. In order to get that back online, and we are going to need that for the next set of presentations, we have to reboot the system. That will take about five minutes.

MR. NAHAI: We are going to take a five-minute break at that point anyway.

Back in a few minutes.

(Recess)

MR. NAHAI: Now I would like to call on the representatives of the Permittees. Please sit down now. All right. We are going to hear from the representatives of the Permittees in the following order: First, from Mr. Desi Alvarez, followed by Mr. Mustafa Anki, followed by Mr. Ken Farsing, followed by Mr. Richard Montevideo, then Mr. John Harris, then Mr. Rufus Young; and finally Mr. Alvarez will wrap up.

Mr. Alvarez.

MR. ALVAREZ: Good morning, Chairman, and Honorable Members of the Board. Desi Alvarez on behalf of the Executive Advisory Committee of the L.A. County Storm Water Permit. On behalf of the L.A. County Permittees, I would like to thank the Board for holding this workshop on the new permit, and I would also like to take this opportunity to thank Dennis Dickerson and Regional Board staff for their efforts in drafting a workable permit that will continue to insure the storm water quality in Los Angeles is improved.

Regional Board staff has been very understanding of our issues. As a result of careful consideration of comments, the second draft of the permit includes many changes which we believe significantly improve the workability of the permit. And this has been the result of a lot of dialogue that has allowed all of us to better understand each side's issues. Philosophically I think we have the same goal, to improve runoff water quality and thereby receiving waters and waterway estuary bays in Los Angeles County; however, we do have some differences in detail on how best to achieve this.

Since the draft of the permit was issued, members of your staff and working group of the Executive Advisory Committee have devoted a substantial amount of resources and time to address issues before we had differences. We appreciate the significant energy that has been put into these discussions. Over 110 hours of

meeting time has taken place. This has resulted in a dialogue that had made the Regional Board staff more sensitive to limitations being faced by the Permittees and, more importantly, made the Permittees more aware of the Board's intent in several sections of the permits. We are looking forward to the third draft of the permit where we hope to see the remaining differences and concerns addressed.

So this is a very important workshop to get us to that third draft. If we don't reach complete unanimity, at least we will have very small differences left at that time. It is our hope that the Board will have an opportunity to understand the issues that are important to the Permittee and will allow you then to give appropriate direction to staff in areas where consensus can be reached.

As you are aware, our presentation includes six individuals, and we will take approximately 80 minutes. Based on our meeting with the Regional Board Staff, there have been substantial changes made to the second draft; and many of these changes were covered in staff's presentation earlier. Today we would like to focus on some of the key issues of concerns that the Board should be aware of. And we fully understand some of the issues raised today in our presentation have been addressed or well on their way to being addressed; however we are as much as anything trying to provide background that the Board may feel more comfortable with the direction that it

wishes to give to staff.

To begin, I think it is important to recognize that we are dedicated to improving storm water quality in Los Angeles County. There is no disagreement that urban runoff water quality is a critical issue. The Permittees have dedicated considerable resources to reduce the adverse effect of urban runoff. Permittees have a lot of programs in place to achieve this. Currently there are new development plans to ensure that storm water mitigation is addressed and new developments construction is expected for implementation of storm water quality mitigation measures, both during construction and appropriate post-construction BMP. Permittees will aggressively conduct enforcement activities in construction projects. Significant amounts of energy have been placed into significant of outreach programs, and we would all agree that this is the most significant venue for improving storm water quality.

Since it is all the little activities and actions in living in an urban environment that introduce pollutants to the storm water drain system, educational outreach programs enacted by the Permittees include significant investments in radio and television ads to reach a wide cross-section of the L.A. County population, both significant outreach in schools and many civic groups. Permittees also have aggressive programs to eliminate trash and debris from streets and spend a significant amount of money on street sweeping, catch

basin cleaning, and general litter abatement. I believe it is appropriate to recognize that as a result of the storm water quality issues, litter abatement today is given higher priority than would otherwise be the case.

Permittees are implementing the recently adopted SUSMP development requirements and have conducted aggressive site educational visits to selective businesses which we agree are the higher priority pollutant sources, in nonservice establishments such as restaurants and retail gas stations. And we are sure that more can be done.

General Board staff has indicated that with each new cycle of the permit, additional requirements need to be included in the permit. And we agree that there are areas where technology allows for improvements to the permit and these are clearly areas where the Board has reasonable expectation to include additional requirements. However, there are areas where pushing for additional requirement does not make technical or economical sense, and it is inappropriate to push for these increased requirements where there is no sensible basis for them. Pushing for these requirements is generally extremely costly and will not necessarily result in improvements to water quality; and it is in these areas where we do have some differences for the Regional Board.

There are eight issues where we have fundamental concerns for the second draft, and I would like to

highlight them briefly; first is the water quality limitation section. This is the most contentious difference we have to the draft permit, and that is in the language used under receiving water quality limitations section. We believe that it is appropriate to highlight the need for storm water clean water criteria necessary to maintain appropriate water quality objectives; however, the permit language goes much further.

As currently written the Permittees will be in a position of noncompliance with variations to the permit because the water quality limitations language says water quality standards for storm water does not meet. This leaves the Permittees in an untenable position and exposed to third-party lawsuits, a key concern. We would like to see the permit reflecting the enhancements in the Clean Water Act and be pivoted on a maximum extent practical approach. The permit language should clearly reflect that as long as the Permittees have programs in place, that will improve the quality of urban runoff to the maximum extent practical that the permits are in full compliance to the permit.

Second issue is what we believe are open-ended provisions with permit, and primarily has to do with permit language. There are many sections of the permit which are ill-defined or lack specific standards to gather Regional Board action to make changes at future dates. One example I would point to are future modifications to the storm water quality management section. This is

page 18, paragraph C, of the permit. This calls for the Executive Officer to incorporate additional provisions to the storm water quality management plan which the Permittees shall then incorporate without any specific criteria as to how this would take place.

A second example would be the interagency coordination section which requires that all Permittees shall, and I will quote, "Determine if the facility is effectively complying with Storm Water Quality Management Plan and other municipal storm water regulations." We don't have a problem with doing something like that. We do have a problem with the wording, specifically the use of the word "effectively" in that sentence. Either the facility is complying or it is not, and that is relatively straightforward for Permittees to determine. If I were introducing the word "effectively," it creates an open-ended situation. These and many other items like them need to be resolved as we continue to move on to the third draft, and we hope we will get there.

Next item is an inspection program. The Permittees do have aggressive educational site visit program in place today. We are in agreement that certain types of businesses such as gas stations, restaurants, and automotive services facilities are potentially greater sources of urban runoff. We have serious reservations about our ability to conduct inspections of these facilities and also feel that the cost associated with some of these inspections make them prohibitive. We also

strongly object to shifting the responsibility for inspections of Phase I facilities to the Permittees.

Next item, implementation schedules; and we believe that some of the implementation schedules included in the permit at this time are unrealistic. For example, the second draft has a requirement that the Permittees shall issue a technical manual for the citing and designing of BMP for the development of L.A. County by March 31, 2003, which is in page 35, paragraph B, of the permit. If this technical manual is to have any meaning, not just be a verbatim reproduction of existing manuals, which requires pretty significant periods of time to prepare. The development of such manual requires collection of significant amount of data, which in itself will take over a year to comply. We ask you to direct staff to work with us in developing a more realistic implementation schedule that we agree it can be met.

Next item is a list of connections and list of discharges. This remains a significant area of contention. The Permittees have aggressively pursued aggressive discharges and continue to do so. Whenever notice of discharges are identified by either field inspection or either means, it is quickly investigated. The investigation includes evaluating whether the source is spillover or source of connection.

Our experience has shown that the overwhelming majority of illicit discharges do not come from an illegal connection but rather from spills of one type or another.

We believe that the requirement to identify all illegal connections through inspection of our storm drain system is prohibitively expensive and will not resolve in any improvement to storm water. Permittees do not object to identifying a list of connections in a prudently paced manner; however the requirement to map out illicit connections at one time is an unfair economic burden which again will not get us anywhere.

Next item is development planning. We agree that the most effective way to deal with storm water runoff is to deal with it at the source before it becomes a problem. It is appropriate to look at measures which can be implemented in construction to assist them. Permittee would like to see the reinstatement of the SUSMP requirements recently adopted by the State Board for the L.A. permit. Instead of making changes to them so soon, the SUSMP requirements have been in effect for a short while and the development community as well as Permittees are just becoming comfortable with them.

These requirements will go a long way toward improving urban runoff and reducing the impacts of development and redevelopment sites on our community, and we do not feel it is appropriate to expand them at this time. The requirement to control peak flow is an item we feel is unwarranted. It is inappropriate to assume that all runoff will cause erosion. A better approach is to look at the overall impact, a natural drainage systems, and see how they can be mitigated as opposed to putting a

blanket requirement on the development.

We also have significant issues with how the permit deals with existing statutes on case law and CEQA, general plan requirements and land use authority.

Next item is unfunded mandates or financial resources. The lack of appropriate financial resources remains a significant sore point for the Permittees. Finances are the primary concern for all of us, and an effect we can reasonably accomplish.

The permit contains a series of requirements to evaluate the adoption of these environmental procedures, increase frequency of various municipal operations, Et cetera, that are costly to implement. We shouldn't forget that Los Angeles County contains some of the poorest and most economically challenged cities in all of the nation, although it also contains some of the most affluent. You need to keep in mind the impact of the requirements of finances on the Board's community. Unfunded mandates in the proposed permit will have a negative effect on the Permittees' ability to provide other very needed public services. Because of this, the permit requirements should carefully weigh the improvements to water quality that will result from their implementation versus the cost of implementing those requirements.

The last issue I would like to address is the monitoring requirement section. Monitoring requirements of the permit will not collect the information that will

assist you or us in determining the effectiveness of the storm water permit. Modifications are warranted. I would like to refer to a recently completed General Accounting Office study titled "Water Quality, Better Data and Evaluation of Urban Runoff Necessary for Effectiveness." That's Report Number 01-679 published in June of this year.

The report found that the permit monitoring required generally needed most considerable work and that report looked at various permits including the L.A. County permit. The report concluded, quote, "that no systematic effort to evaluate the program result has been started. The program monitoring requirements should focus on collecting data to determine the effectiveness of the programs. The requirements for water quality toxicity monitoring, shoreline monitoring, estuary sampling, and bioassessments, although well intended, will not result in determining the effectiveness of any of the programs that are required in the permit and should be revised."

These are costly data collection efforts that should be replaced with better targeted monitoring programs. This section also imposes monitoring programs to the Permittees which parallel those required to track TMDL and to avoid duplication of effort and reasonable expenditures. We suggest such language be removed.

At this point I would like to introduce Mustafa Anki of L.A. County Public Works.

MR. ANKI: Mr. Chairman of the Board, Board Members,

thank you for the opportunity to present to you the County's concern on the second draft of the MPDS permit. My name is Mustafa Anki. I am the manager of the Storm Water Program for Los Angeles County Department of Public Works.

Before I go into the major concern or issues of concern to the County, I would like to thank the Regional Water Control Board Staff for taking the time to deal with the Permittees, the second draft permit language. We had several meeting and the discussion was generally fruitful. Much confusion that occurred with the language was clarified and Permittees and staff reached common ground on several issues of concern.

When progress has been made, there are still concerns that need to be addressed. We need to keep in mind that Permittees, Regional Quality Control Board Staff and Board members and the public at large have a common goal. This goal is the prevention of storm water pollution.

Consensus on our different approaches to attain this goal can only be reached if we keep an open mind in our endeavor to reach a common ground. We all have been entrusted with the responsibility of producing a responsible, practical, cost-effective, and workable permit. We want a permit that does not conflict with our overall role, does not unjustifiably drain our resources, and is consistent with the best available technology for storm water quality management. We want a permit that we

legally can comply with.

We must keep in mind that like everything else we do, permit requirements should take into consideration our available limited resources, the extent of Permittees' legal authority, cost/benefit assessment, and practicality. The challenge before the Permittees is to explain to the Regional Water Control Board Staff why this criteria must be taken into consideration in setting the permit requirements and how some of the issues that still need to be resolved violate one or more of these criteria.

The challenge to the Regional Water Control Board staff is to listen to Permitees with an open mind and to objectively evaluate the Permittees' reasoning. If both sides commit to this approach, there is no doubt in my mind that a sensible and reasonable common ground on the main issue would be reached. I urge you, the Board, to direct staff to continue working with the Permittees on the remaining issues to find common ground.

From here I will proceed into the major concern that the L.A. County Department of Public Works has with the current permit. The first issue that has been brought before your Board is the receiving water limitation. The framework of our concern here -- and I have copies if the Board desires copies of this presentation -- State requirement as the second draft states it. It states the concern that we have with the requirements, and it states the basis for our concern.

Recent water limitation has been spoken about by staff and by Desi. The section basically prohibits discharges from the MS4 that cause or contribute to the violation of water quality standard, and it goes into a nuisance. Requirements are consistent with the Clean Water Act. Contrary to what you have heard about the Clean Water Act, this has been consistent with that. The statutory obligation of MPDS Permittees is to comply with water quality standard to the maximum extent practicable; and that's the key word, "standard."

Contradiction to violation of State Water Quality Standard or nuisance is inconsistent with that MEP standard concept. The requirement would cause clearly, as you can see, Permittees to immediately be out of compliance with the permit from day one. This requirements also circumvents the TMDL process that you are aware of. There is a regulatory process for the TMDL, and this process circumvent that process and speeds compliance with the TMDL that we are supposed to get 12 years or 15 years for it to comply with. Basis: no practical, not cost-effective.

The next slide is the industrial commercial facilities program. Permittees are required to inspect automotive surfaces facility for BMP implementation, and also they are required to visit Phase I facilities. Now we have no quarrel, but it is important to visit these facilities.

The concern with this: Permittees have no legal

right to enter private property. Contrary to what you have heard, ordinances say you have the right to go in there. No, you don't. Ordinances allow us to inspect once the storm water runoff gets to the curb and duct, not to go into people's private property.

And under Phase I, it is clearly a state obligation to inspect a Phase I facility, to determine if a permit is needed, and conduct a full inspection. There is no legal authority to do the inspection portion of the requirements.

And under the development planning programs, we are required to develop criteria to control postdevelopment peaks, charge, rate, to prevent those. You've heard that's not the way we do it. This requirement -- and there has been presentations from the staff on this subject by independent consultants, that it is going to take a long time and require a lot of money and resources to address this issue. We are being given a year, I believe -- I could be wrong about that -- to comply with this. We, instead, propose a feasibility study on a regional basis to conduct for this development.

The next slide is on the development construction program. Again, the language in the permit requires that Permittees enforce construction sites that are under a state general construction permit. They don't say it like that, because -- greater than one acre. Greater than five acres, they fall under the state

construction permit.

The state construction permit delegates its authority on enforcement to the Air Quality Control Board. We have no authority to go and inspect this site. We do not issue permits to them. We issue the grading permit, and that's the extent of our involvement.

The next slide is an illicit connection. I want to point out that these programs are specifically geared toward the principal Permittee, which is L.A. County.

We have no problem in making this program strong. We believe that we should make sure that there is no illicit connection connected to our storm drain. The problem with the requirements is what we're asked to do here. For example, the County -- we're asked to plot a map, all existing permitted connections. I want to emphasize the word "permitted." Permitted are not an issue in the connection. There is no need to plot.

The county, as was stated earlier, has 100,000 storm drain connections. In order for us to plot these, it will cost us -- I don't have numbers for you, but I can assure you it is in hundreds of millions of dollars, and it will take us 10, 15 years.

Now, the other concern is they want us to actually set the requirements and issue to municipalities, telling them that you need to list to us the illicit connections in this format so that we can analyze and evaluate the data and provide a report to the Regional Water Quality Control Board.

I am sure you can see this is very inappropriate for us to do. We are not a regulatory agency, and we cannot assume the Regional Water Quality Control Board's regulatory role.

The other issue, again, it was brought up earlier, that the example of the County reported 877 illicit connections. I don't recall the breakdown, but what I sure recall is 291 unresolved connections.

Now, I don't know how much you know how we do the annual reporting, but we are supposed to submit an annual report on October 15th of each year. We go and identify illicit connections on an ongoing basis throughout the year. One can surmise that by the time we put this data, there will be connection that are still under investigation.

In fact, luckily I brought the annual report. And if you look in the annual report, page 2 of 2, under "BMP and Implementation" it says at the end that the 291 that was referred to is still under investigation. It doesn't say unresolved.

Now, I'd like to quote one more thing. The Regional Water Quality Control Board's objectives -- the two objectives that I heard from the staff, to achieve identifying the illicit connections by use of the G.I.S. or mapping or whatever you want to call it -- the only way you can do this is through the use of G.I.S. We can achieve those objectives by improving a little bit on the existing practices that we have. To ask for something

that wouldn't attain anything is ludicrous. And I hope you will direct the staff to work with us and continue on this issue, especially the illicit connection issue, for all of us to reach a common ground.

Thank you very much.

MR. FARSING: For the record, my name is Ken Farsing and I'm the City manager of the City of Signal Hill.

Mr. Chairman, Members of the Board, thank you for your time today. I speak not only as the spokesperson for the Coalition for Practical Regulation and our 35 member cities, but as a city manager attempting to understand the cost implications of the new storm water program, how to budget for them and explain them to my community. The Board can help provide answers and direction to the following questions and issues.

Now, the Permittees have a series of questions revolving around the implementation of these new programs: What the cost of the new programs will be, who will pay for them, how will they be funded?

Now, Mr. Dickerson has indicated in meetings with the Permittees that he would work with us to identify and secure funding sources, and we certainly appreciate the spirit of that offer. We also want to present some cost-effective ways to achieve the goals that the Board and staff desire.

Now, Mr. Alvarez, at the end of his presentation and conclusion today, will pass out some information that we have. We actually have some suggested inserts into the

third draft of the permit that would be very helpful.

Desi also outlined in his presentation the existing programs that we carry out. And your staff report has a chart in there that actually shows the amount of funding that the cities devote to implementing the various aspects of the permit, and it's a rather substantial amount of money, in the millions of dollars that is currently being spent.

And I would have to take objection to the comment that Wendy made, that there's been little progress. From the city's side, we see a lot of progress.

The proposed permit contains a series of new unfunded programs which are of concern. We talked about the expansion of the site educational visit program, for auto-related uses, to the inspection program; and that's with no offsetting revenues to the cities.

There's also a series of requirements for increased frequency of storm drain catch basin cleaning, increased street sweeping, the inventory of the storm drains that Mustafa just mentioned.

And again, as Desi indicated, Los Angeles County, although it is very diverse and has some economically better-off cities, there are a series of economically challenged communities in our region; and many of them are members of our coalition. We believe the Board needs to work with the Permittees on the programs in the permit so that they would not reduce our ability to deliver essential public services.

Now, Dennis included in your staff report a copy of the San Diego municipal NPDES permit, and it was adopted in January. We've studied the San Diego permit extensively and discussed the budget impact with the individual San Diego cities.

Now, many of the San Diego County cities are more affluent than the Los Angeles County cities; and even with their substantial resources, they are struggling to fund these new programs as they are putting together their current fiscal year budgets. They've been forced into a series of budget cuts and an increase in fees and assessments to fund the new programs. Frankly, we don't know how the cities are avoiding the revenue restrictions imposed by Proposition 218, which is the right for voters to approve certain taxes, fees, and assessments.

There are a series of articles recently in the North San Diego County Times newspaper which only touched on the surface of the financial hardships to the San Diego cities. I quote, "Encinitas, Solano Beach and Del Mar each plan to double what they spent on storm water program this year. Encinitas plans to spend $800,000 to clean, monitor, and repair storm drains, more than double the $370,000 spent this year." And here is a quote: "'We are just throwing money at this thing,' said Solano Beach finance director Gavin Cohen."

The articles go on, quote, "Escondido is attempting to raise an additional $600,000 for new storm water programs. Wastewater bills will increase by ten

percent. The budget proposed cuts in money earmarked for replacing city vehicles. Oceanside is attempting to find $300,000 in start-up costs for the new storm water programs and $1.2 million in new funding for each subsequent year. About $650,000 would come from developers' fees and $900,000 from the City's general fund budget. Councilmembers McCally and Feller complained that the state imposed requirements on cities without providing additional funding to pay for them. 'If there's a possible way to fight this, I think we should do it,'says Councilmember Harding."

I would be happy to supply copies of these newspaper articles for the Board to review.

Now, many of our communities are not as affluent as the San Diego cities. Los Angeles County and its cities have been hit very hard by continuous revenue takeaways and new mandates from the State of California.

The County and the cities are currently losing $4 billion a year in property taxes alone, when local property taxes were shifted by the state to public schools beginning in 1992. Now, you can imagine what $4 billion could provide in terms of storm water programs. It would be a tremendous benefit to have that local property tax here, so we could use it for storm water programs.

I think it's safe to say that the county and the cities are extremely concerned about the scope of unfunded new programs contained in the proposed permit; however, we

have several proposals that we think will help address the concerns.

First I would like to talk about the regional storm water mitigation programs, which are found on pages 33 and 34 of the permit. Now, we believe the permit is moving in the right direction by allowing cost-effective regional and subregional solutions.

As currently drafted, the permit allows the substitution of storm water mitigation programs for SUSMP for new development. If you take a look at section 10, under "Regional Storm Water Mitigation Programs," you will find that language.

We would also ask the Board to expand the scope of regional solutions to include not only the SUSMPs but to include future TMDLs and other regional programs. You have only to look to the success of the regional educational program in our existing permit for an example. It's administered by the county, and the cities participate. It's a very effective program.

We believe that regional and subregional TMDL projects, as well as regional programs, will prove to be more cost-effective than small city-by-city projects. We also believe that regional and subregional TMDLs and programs will also have the greatest results.

This permit section should also be expanded to allow the Permittees to design projects and programs for existing areas in their communities, and not just limit it to areas of new development. The Board should also

consider incentives to consider subregional and regional projects. Perhaps the Board could consider giving grant priorities to regional projects and regional programs.

The second area I wanted to comment on was the Mitigation Waiver Funding, which is found immediately below that, on page 34; it's section 11 of the permit. We believe it needs a little bit of additional thought and expansion.

The Board needs to consider building in flexibility to allow the fund to be used for a full range of projects and programs. The State Board felt it was appropriate to consider adopting the mitigation waiver when the Regional Board considered this NPDES permit. They asked the Regional Board to first consult with the local agencies.

The State Board felt that, preliminarily, some questions needed to be answered, including who will manage the fund? What type of projects will it be used for? How will the Permittees determine the amount of assessments?

Now, the State Board suggested that the County Flood Control District adopt a model -- or consider a model program for the separate cities to adopt. The State Board recognized that the development of a program will take some time.

The current draft permit proposes a mitigation waiver for subregional or regional projects under a limited number of circumstances; for example, under a hardship, if state funds become available, which we all

hope they become available. To protect environmental habitat or within an approved watershed management plan, the Permittees are in the best position to know what types of regional and subregional projects make the most sense. Additional consultation is needed with the Permittees to develop the mitigation waiver program. We would also suggest consulting with the BIA and other stakeholders, those who will eventually be paying for the mitigation fees.

As part of this consultation, we suggest that the Board consider the application of mitigation funding to the full range of subregional and regional projects and programs.

The third area I want to comment on is the illicit connection program. Again, these are when someone illegally ties into a city storm drain or to the county storm drain system.

As the previous speakers have presented, there are literally thousands of miles of storm drains in the Los Angeles County. They have been constructed over the last 90 years. The financial burden of tracking the illicit connections over the entire system is enormous.

The Board should establish priorities for the inspection and mapping of illicit connections. It would seem logical that we would first direct limited resources to tracking connections to certain land uses which could be expected to create storm water problems.

We're proposing beginning the tracking program

in the industrial land use areas. The Permittees would complete the industrial tracking 20 percent at a time in their industrial land uses in their particular cities, and then complete the entire inventory by the end of the permit.

The next area I would like to comment on is the dry weather diversion program. The dry weather diversion program makes a lot of sense in terms of a regional and subregional context. The current draft of the permit requires that each city submit studies of possible dry weather diversion, which would require 88 separate Permittee studies.

Dry weather diversions must be based on the capacity of the POTW, which requires that the POTW take the lead. Dry weather diversions will be most effective in regional retention basins, which are most likely flood control district facilities. And also, we think the Board should establish a priority list of water bodies where the dry weather diversions will have the most beneficial impact.

The Regional Board, the POTWs, with the Department of Public Works, are in the best position to work together on a regional dry weather program. The city should be in the role of supplying information and suggesting projects for review.

And finally on inspections, on page 26 and 27, I think you are aware that the draft permit proposes that Los Angeles County conduct site visitations for the retail

gas outlets. And there are several health departments in Los Angeles County that would be required to conduct restaurant storm water inspections.

I am going to confine my comments to the impact on the cities of the inspection of what's in the permit called automotive service facilities. Also, I am not going to talk about the legal issues. We'll leave that for Mr. Montevideo.

Now, the Permittees would like to propose a modification to the auto-related inspection; however, I need to make some clarification comments. The definition of "auto service facilities" is found on page 47 of the permit. It lists a series of standard industrial classification manual, or what we call S.I.C. codes, to define what those uses are. The city would be required to inspect the uses listed in these sections of the S.I.C. code.

Now, our first concern is that there's a list that conflicts in the area of the retail gas outlets. As mentioned, one section of the permit requires a county to conduct the site educational visit to the retail gas outlets; however, the definition section lists S.I.C. Code Number 5541 as a responsibility for cities to inspect. S.I.C. Code 5541 is listed as gas service stations, which are businesses that primarily engage in the selling of gasoline and lubricating oils. We think that S.I.C. Code 5541 needs to be removed from the responsibility of the cities to do inspections.

Our second concern is that this list is overly broad in using the S.I.C. codes as definitions. For example, S.I.C. Code 5013 includes motor vehicle suppliers and parts businesses, which include wholesalers. Such businesses as a seatbelt wholesaler or seatcover wholesaler would be included in that category. We don't believe that's somewhere that we need to be going out and inspecting for storm water violations.

S.I.C. Code 7536 is specific to auto glass replacement shops. We believe the permit's definition of automotive-related businesses is too broad and will require inspections of businesses where there's no evidence that they create a problem for storm water quality.

We would like to work with your staff to define this list to address the critical auto-related businesses. The list of businesses should then be included on page 27 of the permit, so there is no conflict between the definitions and what the cities are supposed to be out inspecting.

Now, as part of our inspection proposal, we broke it into two levels. We're saying we would like to do a level-one inspection, which is a site visit and a review of the appropriate BMPs for these businesses. The level-two inspection would be triggered where there's evidence of a prior nonstorm water discharge. What would happen is the level two would then occur, and the inspection would actually occur during a storm event,

where we at that point could observe if there's any illicit discharges. Now, evidence of a nonstorm water discharge would then subject the business to the appropriate code enforcement action.

I want to thank the Board for your attention to these issues. We believe these are cost-effective proposals that should be included into the third draft of the permit. They will assist the Permittees in planning and budgeting for the new requirements.

I will now introduce Mr. Richard Montevideo.

Thank you.

MR. MONTEVIDEO: Good morning, Members of the Board, Mr. Chair. As others, I would like to commend staff on their efforts to date, particularly your executive officer. He has spent countless hours working with us. There has been significant dialogue.

I think there has been a lot of progress between the first draft and the second draft. It's not to say we don't have a long way to go, but I think there has been a lot of progress; and I attribute that to the efforts of staff in general, particularly Mr. Dickerson. It's rare that you see an executive officer or a manager actually participating to this level, and I think he's doing so to get the job done. We truly appreciate those efforts.

Having said that -- I guess there is always a "but" -- on the legal issues, though there has been some progress in the legal issues and there has been a fair amount of dialogue on the legal issues, to date that

dialogue has basically been a one-way street. It wasn't until today that we really got some sound positions and better understood the Regional Board's position on some of these legal issues, and still I understand there's going to be some additional information coming. So particularly on the legal issues, there still needs to be a lot of discussion in an attempt to understand each other's positions.

We will be submitting comments on the legal issues by the August 6th deadline, and I am not going to attempt to address all of our legal issues at this juncture. What I will attempt to do is identify some of the issues that are more significant and we believe are resolvable; and then we'll submit the comments addressing all of the remaining issues in our August 6th submittal.

I guess I would say that to summarize the differences in the issues that I want to address, I think the primary difference centered around staff's use and interpretation in what I will call embellishment of state and federal law; to put it a different way, in my mind, particularly looking at taking various liberties with the regulations or with the statute itself or with the State Board's order. And I want to spend most of my time actually addressing the liberties that we believe have been taken in terms of language that's actually in the Regulations and in the Code.

Taking these liberties has caused, I think, a lack of communication. There hasn't been a lot of

two-way-street dialogue to date. That has caused, in my mind, a misunderstanding by the Board staff of the impact that this permit will have on the municipalities and frankly also misunderstanding on our part as to the objectives that Board staff has in terms of putting in some of these provisions.

And I guess we would urge that this Board ask the tough questions in terms of whether or not you believe it's legal. Tell us why you need it. Let's look at the impacts on municipalities versus the impact or the purpose for including this type of provision.

Let me start with an issue that's been discussed extensively today, and that is the issue of inspections and the legal authority for inspection. This is actually a page out of the draft permit itself (indicating). It's been retyped. It's on pages 20 and 21 of the permit.

The language I want to focus the Board is under Item 10, H-1-N. "Permittees shall possess the necessary legal authority to prohibit nonstorm water to the NPDES standards including but not limited to control of pollutants including potential contribution." And then subsequently, in subsection (N), it talks about inspection obligations. But then it goes on to say, "Permittees must possess authority to enter, sample, inspect, review, copy records and require regular report from industrial facilities discharging pollutants or potentially polluted storm water runoff." The key here is "sample, inspect, review and copy records."

Let's look at what the actual regulation says, and this is where we get into taking liberties. First, the actual regulation talks about control through ordinance, et cetera, discharges associated with industrial activity and in the quality of storm water discharged from sites of industrial activity. The actual inspection language talks about carrying out inspection, surveillance, monitoring, et cetera, to determine compliance, which are not seen here in the actual regulation.

There isn't anything in here about potentially contributing pollutants nor are you seeing anything here about entering upon private property, copying records, taking samples on private property, as you saw actually in the actual language of the second draft itself. You are not seeing potential contributions. You are not seeing anything in the regulations referring to any other provision of state or federal law that allows us to go onto private property, take samples, inspect the premises, copy records, et cetera; particularly when you are dealing with potentially polluted storm water.

MR. MINDLIN: Can you put back on the regulations for a second?

MR. MONTEVIDEO: Sure.

This was the section that was actually cited in a finding by Board staff.

MR. MINDLIN: Push that up a little bit more.

MS. CLOKE: We can't read the bottom. Push it up.

MR. MONTEVIDEO: I apologize, yes.

It ends here. F actually ends here. There is authority to inspect industrial facilities, where there's storm water discharges associated with industrial activity. But the actual inspection authority is limited to a general inspection requirement, as opposed to having us move onto facilities themselves to actually take samples, review records, inspect the premises. And also, similarly, the issue of potentially polluted storm water -- that's an ambiguity. I don't know what it means, but we do know it doesn't show up in the regulation itself.

Again, a portion of the permit itself, the draft permit that we're talking about -- this is actually finding E-5. It talks about commercial facilities. And what we just looked at was talking about industrial facilities.

And you will find that there isn't anything in here that requires the inspection of commercial facilities. It talks about commercial facilities that contribute to a substantial pollutant load to the MS4.

I will show you the regulation from that provision, commercial establishments. When you actually look at the regulation -- the citation they provide in the finding itself -- you see the same language talking about contributing a substantial pollutant loading to the municipal storm drainage system but nothing about commercial facilities. It is limited to industrial

facilities; and even then, industrial facilities that the applicant determines are contributing to substantial pollutant loading. So we're not finding the language they've cited, their actual reference to these very closed provisions or regulations.

There was a discussion -- or a reference to a letter that Christine Todd Whitman had provided. Mr. Leon was actually kind enough to let us look at this. We had not seen this before but it is interesting.

If you look at the actual language -- and I know it's difficult to read -- that was relied upon and referred to in Mr. Leon's presentation, it really doesn't say anything different than the regulation. "The state is responsible for enforcing the general Clean Water Act, storm water permits, while a local government permit holder needs to enforce local storm water ordinances" -- we don't disagree with that -- "but not identical to the state general permit."

One of our concerns with this permit is that there's an obligation that's being passed on to municipalities to actually inspect Phase I facilities annually or once every two years. Even Ms. Whitman doesn't say that, and the regulations don't say that.

The other language that was referenced in Mr. Leon's presentation is this general section here at the end of the letter on the first page. "It's important to note that the storm water regulations require the local government permit holder to perform activities such as

control, inspect, monitor, and require compliance of industrial and commercial facilities". That doesn't tell me that we're obligated under the regulations to actually go out there and inspect commercial facilities, particularly to actually enter upon a commercial establishment, take samples, copy records and the like.

So the concern is that the language that's in the regulations does not match up with the language that's in the permit. And more importantly, the language in the permit goes far beyond the authority that's provided by the regulation. That creates a number of problems for the municipalities, as far as -- we talked about unfunded mandates and where do the resources come from.

I think it is something that we might be willing to do in terms of -- at least take it to a point where we legally have the authority to enter upon private property, if we had the funding. But at this point, we don't have the funding. And at this point it is not within the purview, in our view, of the Regional Board's discretion, given the regulations.

The other issue, while I'm on it, that this letter raises is the issue of unfunded mandates. Clearly, there is a recognition here in the second paragraph that the State doesn't have sufficient funds. We know that's an issue. That's been the issue that's been addressed through the NRDC's Petition, and I don't think it is an issue that Mr. Dickerson actually denies.

The Regional Board says they recognize -- I'm

sorry -- EPA says it recognizes that for the state water program, the funds need to be improved; and we are continuing to discuss ways to further increase the state's investment, including discussions of EPA funding.

Well, that's well and good, and we think that needs to be done. We need to see some funds actually being transferred down to the local agencies, so we can help you.

But the issue is then, who has the mandate, who has the obligation? Clearly, the state has the obligation to inspect and oversee the regulations when it comes to Phase I facilities. The municipality, to the extent you saw it in the regulation in terms of controlling storm water discharges through additional activities, yes, there is some overlap; but not to the extent of taking over an inspection program for all such Phase I facilities.

In terms of whether or not it's legal, I would disagree with Mr. Leon's comments that the issue comes down to whether or not you have the authority to actually carry it out under the federal regulations. From an unfunded-mandate perspective, the issue is whether or not you are mandated by federal law to actually impose these requirements.

If you look at the California authority on the issue, an unfunded mandate is a California constitutional prohibition. You will find that the courts have said if it's mandated by federal law, then there's an exemption to the unfunded mandate prohibition. But if it's within the

discretion of the state, or in this case the Regional Board, then it continues to be unfunded because the Regional Board can change the program to avoid mandating the program and to avoid having the municipality take on the burden that is unfunded.

So we would submit that the issue is a little different than that proposed by Mr. Leon, and that is not a question of whether or not you have the authority. It is a question of whether or not the federal government has mandated this particular program.

I want to talk a little bit next about receiving water. There's been a lot of discussion about this. I don't want to spend too much time, but I do want to show the actual provisions, taken out of the permit that we're all arguing about, and that particular section, part two, sections one and two, discharges from the MS4 -- the cause that contribute to a violation of water quality standards, and those that contribute to a condition of pollutant or nuisance.

The problem with this is it in effect is changing the standard, changing the rules of the game. 402(P) of the Clean Water Act clearly says that the standard is one of controlling discharges from the municipal storm system to the maximum extent practicable. The County is correct. As soon as you adopt this permit to include this language, you will be in violation. The whole purpose of the TMDL, and others will talk about this in more detail, is to recognize that there are exceedances

of water quality objectives.

This language says we cannot allow those exceedances. The TMDL program says you have time to actually come into compliance with water quality exceedances. The condition of pollution or nuisance, the whole purpose of a permit to issue W.D.R. is to allow the discharge of waste. The whole purpose of a permit under the Clean Water Act is to allow the discharge, frankly, of pollutants to waters of the United States. Whether those discharges create a nuisance is not the issue. The issue is whether or not the discharges are controlled in accordance with the terms of the permit. This language here in effect supersedes the language that is set forth in the Clean Water Act itself, and supersedes the language that sets forth in the Clean Water Reform Act.

The authority that was relied upon to include that language was 9905, the State order 9905. If you look at that order itself, here is the language that the State Board has recommended you include with inspect to receiving water limitations. This language is actually in the permit itself, a proposed permit. We don't take objection to that. What we object is the embellishments, the liberties, the additional language that has been added here; and whether or not it has come out of other permits doesn't make it legal or make it consistent with state and federal law.

I want to shift gears again and talk a little bit about CEQA, the California Environmental Quality Act.

The purpose of the California Environmental Quality Act is to actually analyze and review potential impacts of projects; and if there are significant environment impacts, to attempt to mitigate those impacts, or if those impacts cannot be mitigated, to balance the considerations and to adopt a series of findings where there are overriding considerations that would still allow the project to move forward in spite of the potential impacts to the environment in the project.

When you look at the language of proposed permit -- this is finding (b)(6) on pages two and three. Second, urban development creates new pollution sources that evidently the human population brings with it proportionally higher levels of vehicle emissions, people maintenance waste, municipal sewers waste, pesticides, pet waste, trash, and other pollutants. This language is telling us that really what is being suggested here by staff is that you get into the business of regulating developments, and you look at the impacts from development on the community. That is strictly within the purview of CEQA, and there is a whole process that has been set up to address those issues.

This verbatim language out of public resources code, a portion of CEQA, it says, "the legislature further finds, declares, that it is a policy of the State to create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future

generations." The state legislature has already given us a process to follow in looking at potential impacts from development. We think that process should be followed. It is not to say that this permit in the development planning requirements of the permit cannot fit within that process; but we would suggest that that's our very point, they should fit within that process.

The push of CEQA is to look at the impacts -- look into mitigation measures to address those impacts. The permit again attempts to impose storm water mitigation requirements; that in terms of storm water mitigation requirements, is again directly within the purview of the requirements of CEQA. Under Section 21002, we are supposed to look at feasible mitigation measures.

The other concern that we have with respect to compliance with CEQA is that the permit itself as proposed asks that the municipalities actually amend CEQA guidelines to address storm water quality issues, and this is on page 34 of the permit. It says, "CEQA guidelines shall consider consideration of the following," and identified a number of issues: storm water pollution, storm water runoff, and construction activities, and so on and so forth.

If you look at CEQA, however, it already addresses these issues. This is a proposed check list that's a part of the California Code of Regulations. I know it is difficult to read. I copied it so you can see the actual form, but here there are various items that

identify the requirement that municipalities or any lead agency consider the impacts on the project of Water Quality Standards or waste discharge requirements.

That is really what we are talking about here. Otherwise, if the project ever was to substantially degrade the water quality and there are various other items dealing with soil erosion and changing the drainage pattern, again this is already in CEQA.

The question we would suggest that you ask staff is why do you need it if it's already covered under CEQA. Secondly, the question to ask is how does the Regional Board have the authority to require a change in CEQA regulations which is a change in state law?

We would suggest that the only way to do that would be to follow the procedure under the APA; and also we would question whether or not the Regional Board has the authority to move forward and change the regulations to CEQA.

Finally, with respect to CEQA, if you look at CEQA -- and again the purpose of CEQA is to look at mitigation measures to reduce impact to the environment from any proposed project. There are a number of exemptions that are set forth under CEQA. CEQA by definition applies to discretionary projects. That's probably one of the reasons why the initial permit in the -- SUSMP provision in the initial permit were so limited to discretionary projects. Clearly it doesn't apply to administrative project as staff is now attempting

to have it apply to you.

There are a number of other exemptions under CEQA that we believe that this Board should consider; one deals with the affordable housing. This is a section out of the code itself. It's a statutory exemption to our review of a project under CEQA. 100 units in the Irvine area that is affordable to lower-income households is exempt from CEQA. There are certain exemptions to that, but generally speaking it is exempt.

When you are talking about replacement or modifying existing facilities, again, it's a question of whether the project involves negligible or no expansion of the existing use. If it is a negligible expansion of the existing use, it is exempt from CEQA, and we would suggest it should be exempt from the mitigation requirement that this Board is considering at this point in time.

Replacement of commercial structure with the new structure of substantially the same size, purpose, and capacity -- this is directly out of the regulations. It is exempt under CEQA. We would suggest the Board consider exempting from their own regulations or from the provisions of the -- SUSMP provisions, the application of the numerical design criteria.

New construction -- again, up to three single family residences may be constructed or converted under this exemption. These are all exemptions that we believe are -- well, actually are clearly set forth under state law, and these are exemptions that we would suggest this

Board consider when adopting a development planning program, particurlarly SUSMP provisions, in a category that would apply to numerical design, which is admittedly, is you saw the earlier findings, is a storm water mitigation measure; and that's the whole purpose of CEQA.

I want to shift to the SUSMP provisions very quickly. This again is language taken directly out of the permit itself. It identifies the various categories in which the design criteria is to apply. One of the issues that we brought up at the last workshop is a section out of the regulations itself that was cited by Board staff is that -- we believe is the authority that you can rely upon to actually impose SUSMP requirements on municipalities.

This particular language requires a description of the structural source control measures. It talks specifically about -- to reduce pollutant from runoff from the municipal storm sewer system, the language from our perspective suggests considering a regional approach. As Mr. Farsing indicated, consider expanding the language presently in the permit to better account for and allow for regional approaches.

Secondly, the language goes on to say, "Companies with an estimate of the expected reduction of pollutant loads." It would be nice to know from project A or a particular type of development what pollutants are attempted to be addressed, for example, by a particular mitigation measure. Will the construction of a large retention basin actually address the pollutants that are

expected from any particular development; and if so, what is the expected pollutant of reduction load? Federal regulations, we believe, require that. So we would ask that staff consider why this particular provision should not be addressed and complied with.

Environmentally sensitive areas -- we've heard a lot about that in the past and a little bit about it today. The present permit requires implementation of the SUSMP in environmentally sensitive areas where certain conditions occur. One of them is if it's 25,000 square feet or more of impervious surfaces. If you actually look at what the State Board said on environmentally sensitive areas, the State Board said in order 2011, "that we believe it is inappropriate for this Board to add a threshold that has not been fully discussed by all interested persons." The threshold that they were talking about was now is the 2500 square foot threshold. Has it been discussed by all interested persons? In light of -- I've talked about the many discussions we've had with Board staff, but there's been very little if any discussion about 2500 square feet and where that number actually came from. So we would suggest that you would consider finding the support for that number, 2,500 square feet.

Secondly, the State Board noted that "such developments are already subject to extensive regulations under other regulatory programs." There are programs that deal with environmentally sensitive areas. We talked

about CEQA, and it's not just CEQA. It's obviously the Endangered Species Act, the provisions under the Fish and Game Code. We believe that the State Board would have authority to regulate discharges to receiving water within environmentally sensitive areas to the extent that those receiving waters will have an impact on habitat and/or on a particular species. That's not what we are not talking about here. We are talking about regulating development in general within environmentally sensitive areas. And that is addressed in other state and federal provisions.

Finally with respect to the SUSMP provisions, the issue of the definition of redevelopment, I don't need to go further, frankly, than the definition itself as was provided to the Board by the State Board. This is the definition that's presently in the draft of the permit. "Redevelopment means any activity that results in the creation, addition, or replacement of 5,000 square feet."

Let me show you what the actual order issued from the Board states: "Redevelopment means in part on an after-developed site in creation or addition of at least 5,000 square feet of impervious surfaces." So again taking liberties, we believe that the language provided by existing law, in this case an order of the Board, one, where is the authority for it; and number two, why? What is the goal of attempting to expand the SUSMP provisions to, for example, have a K-Mart imposed or developed a retention basin because they're resurfacing or replacing 5,000 square feet of a parking lot?

Secondly, let's assume that K-Mart decides to do that. Suddenly they lose parking because they have to account for three-quarters of an inch of rain water over a 24-hour period. What does that do to their existing C.U.P.? Can they continue to operate in this fashion? Those are the types of issues that can be considered; and globally why do we need the word "replacement" to be included in the definition of redevelopment?

Additional concerns in terms of state law and how this permit impacts -- works with or doesn't work with the state law, there's a provision within the permit itself that talks about making changes to the city's general plan, and actually amending the general plan to address amending the land use element, the housing conservation element are addressed in the general plan. Well, state law already has provisions that deal with general plan amendments and specifically deal with water quality. Under section 653 of 302 of the government code, the conservation element is required; and secondly, that conservation element may include the consideration of prevention and control of pollution of streams and other waters. Again, why you need to change state law? And secondly, where is the authority to do so?

Finally is the issue of the definition of the term "pollutants." On page 51 to 52 of the permit itself, there is a definition, a quite lengthy definition, of the word "pollutant." At the end of that definition there is a sentence that is added that states in an enforcement

action, the burden shall be on the person who is the subject of such action to establish elimination of the discharge to the maximum extent practicable.

There is no authority for actually in effect changing the burden of proof. This is frankly a basic due process element. And it's a requirement obviously that is set forth under our Constitution under the due process provisions of the Constitution. And again where is the authority for flip-flopping the burden of proof and why do we need to actually flip-flop the burden of proof?

Thank you for your time. Thank you, Staff, again, for the time that you've provided to us. I would like to turn things over to Mr. Harris.

MR. NAHAI: Ronji, how long have the Cities' representatives taken so far?

MS. HARRIS: 80 minutes.

MR. NAHAI: 80 minutes, and there's Mr. Harris, Mr. Young, and Mr. Alvarez still there? Mr. Alvarez, how are we going to do here, timewise? Not to harp upon taking liberties by any means but --

MR. HARRIS: Mr. Chairman, John Harris. I would anticipate about five minutes, and I believe the same with respect to --

MR. ALVAREZ: I apologize. We had estimated this would take 80 minutes. It obviously is going to take a little bit longer, and we would ask for the indulgence of the Board to give us a little bit more time. Hopefully we can wrap it up in five minutes.

MR. HARRIS: Mr. Chairman, Rufus Young, I ask for only five minutes, and I will be less than that. I promise.

MR. NAHAI: If we're talking about another 15 minutes or so, I have no problem with it whatsoever; and, of course, we'll grant that. My concern was that we might be in for another 45 minutes. Scholarly discourse, I was worried of.

MR. ALVAREZ: The longest presentation has just concluded. The remaining will be substantially shorter.

MR. NAHAI: Thank you.

MR. HARRIS: Good afternoon. I'm John Harris. I'm a lawyer with Richard, Watson and Gershon. We are the city attorney for a number of cities. Within all of the various watersheds of the L.A. basin, for example Malibu Creek, we represent Agoura Hills, Westlake Village; beyond the creek, Beverly Hills, and Rancho Palos Verdes, Carson, L.A. River. We represent Hidden Hills, Monrovia, San Fernando, San Bernardino, and the San Gabriel River, La Mirada, Norwalk, and Artesia.

I'm not here to talk about things that are in the permit, but rather about two rather important things that were left out, the safe harbor provisions that were in the existing permit. And they are very important from our standpoint, and I'll explain why. In the existing permits in both the discharge prohibitions and in the receiving water limitations, both contain a very short sentence -- for example on page 12 of the discharge

provisions -- I'm sorry, Discharge Prohibition Order 96054 provides "compliance with the authority, timely developments, implementation of programs described herein shall constitute compliance with this prohibition."

Similarly the receiving water prohibition contains that language. I am not sure if it is intentional, but that language is not included in the existing draft permit. Now, in adopting receiving water limitations that we see in the current permit, that language originally came from the Water Board's Order 98-01.

One aspect of the that order is in that petition that resulted in the receiving water limitations, one of the items that was challenged was the very language in the Santa Ana permit that I've been discussing. And in Order 98-01, the State Board specifically held the specific portion of receiving water limitations that states Permittees are not in violation of this provision so long as they are in compliance with the requirements satisfying the process for evaluating and improving the effectiveness of the dam complies with the Clean Water Act. That's a very important protection for our cities who are, over the last ten years, have spent a lot of time and money and in good faith are trying to implement the provisions of the permit through the implementation of storm water management programs.

And what that very simple sentence provides is protection for the cities from third-party suits, and it's

a very real concern. We represented the City of Carson in a lawsuit brought by a third party against the City of Carson, the City of Compton, and the County of Los Angeles where the allegation was that small quantities of lead in the storm water gave rise to third-party suits under REQA, CIRQA, the Clear Water Act, as well as state action claims for nuisance and trespass.

We were able to successfully defend our cities on the grounds that they were complying with the provisions of 1990 permit and the 1996 permit. In a reported decision by the district court reported at 990 Fed Sup 1188, the case went up to the Ninth Circuit; and while the Ninth Circuit reversed certain aspects of the court's decision on CEQA grounds, it did uphold the determination with respect to the state claims and the Clean Water Act that compliance with the permit by implementation of the programs constitutes a protection from the third-party lawsuits.

It is very important from our city standpoints that those cities that are actually spending the money, they are actually doing the things, working with the staff, with the Board, in trying to implement these Clean Water Act programs, that they get the protection that any permit is intended to provide. So we ask that the Board include those protections, and I believe it is consistent with the Receiving Water Limitations and Discharge Prohibitions that have been suggested by the State Board.

Now, the other point -- I did want to very

briefly mention it -- the deletion of the meet-and-confer provisions. At page 28, part 4, section (C)(5) -- I'm sorry, of the new permit, refers to interagency cooperation, and that's what I think we're all looking for it, to have governmental entities work together to try to develop these programs. I know EPA has expressed concern about the meet and confer process somehow watering down the Regional Board's enforcement capabilities. We're not looking for that. What we're looking for is an opportunity to in good faith work with Board staff when there's an issue to inspect our programs and try to work those out in an actually nonconfrontational atmosphere as opposed to a situation where the first notice the City gets is the notice of violation, and then asking lawyers like me to deal with it.

And we think it will be more productive to include the meet and confer provisions once again, and I don't think it will water down the Board's enforcement capabilities. If there is an actual discharge that is violating water quality standard from a city, that's one thing; but if there's an issue with inspect to interpretation of the permit, how the city's actually implementing programs, we think those are areas that are very well suited to work with staff to try to resolve problems.

Thank you very much.

MR. NAHAI: Thank you, Mr. Harris.

MR. YOUNG: Good afternoon. I'm Rufus C. Young, Jr.,

of Burvae, William & Sorensen. Our firm represents in this matter the cities of Alhambra, Compton, El Segundo, Lomita, Santa Clarita, and Torrance. I invite your attention, if I may, to page 706 of your materials at which you will find my comment letter. And having invited you to do that, that will justify me in condensing my remarks significantly. It's a matter I hope will not go unappreciated.

My comment letter is the only comment letter which addresses the second draft of the permit. So if for no other reason than novelty value, I invite you to take a look at each of the points that I raise. You will note that with respect to each one, there is a recommendation. Now, I invite you further to put yes or okay, and then send that comment letter back to staff.

Let me first invite your attention to page 710, which addresses the SUSMP program. Let me comment that the SUSMP's are creative, they are interesting, they are imaginative; and they have been discussed in great length. But there is one aspect of the SUSMP program that has not been addressed in either the appeal or the adoption process or the State Board counsel's opinions on that, and that is Section 101 of the Clean Water Act.

The very first section of the Clean Water Act says that it is a policy of Congress to recognize, preserve, and protect the primary responsibilities and rights to the states to plan for the development and use of land and water resources. That comment or that

provision was highlighted by the Supreme Court of the United States in a case decided earlier this year, Soloway Agency (phonetic) of Northern Cook County, and I cite the case and I give you a quote from that case at the top of page 711.

"Note that the Supreme Court recognized, preserved, and protected the primary responsibilities of rights of states to plan the development and use of land and water resources." There are several quotations from EPA materials in which EPA said that it was very aware of municipal concern about possible federal interference with local land use planning, and EPA -- and this is in the last full paragraph on page 711 in the bold -- EPA has said flatly, quote, "EPA recognizes that land use planning is within the authority of local governments," period. You will recall Mr. Leon's comment that the permit is the creature of the Clean Water Act and not state law, and that is just as well because the state law of California leaves land use decisions to the local governments.

Let me now invite you to turn to page 713 where I will make a recommendation to convert the SUSMP provisions, which are now mandatory under this permit, into an option to be considered by co-permittees in view of the fact that, simply put, EPA has acknowledged it doesn't have land use authority, but that rests with the local governments; and if EPA doesn't have that authority, I respectfully suggest that this Board which derives its authorities from a delegation of power from EPA doesn't

have the authority to do SUSMP or require SUSMPs either. And I am sure Mr. Leon will be addressing that in greater detail.

If I may next invite your attention to page 717, my comment 14 -- and by the way, my highlighting several comments is not to draw an inference that the rest are unimportant or to be ignored. I am just trying to save some time here. On page 717, I point out that part 3(h)(1) and (m) on page 21 of the permit goes beyond the requirements of the Clean Water Act by attempting to impose a requirement that the co-permittees are to control something called -- and I love this term -- "potential contribution of pollutants."

Neither the Clean Water Act nor the EPA storm water regulations say anything at all about potential contributions. And I'm left with the theoretical question, when does something that could be a pollutant, once imported into the city limits, but it's safely in a drum, which is safely in a crate -- quite clearly at that point it is not a potential pollutant unless this regulation is intended to reach everything. Where do you draw the line between when that becomes an okay material that might be used in manufacturing or for that matter to be put in a restaurant and a potential pollutant?

I point out in my comment that there is what's called the "No Exposure Pollutant" that was in the EPA's Phase II regulations. And I suggest that this whole potential pollutant potential contribution stuff falls

within the no exposure exemption and should be deleted, and that's the recommendation I make.

On page 719, I address briefly peak flow control. The concept there is that there are to be post-development peak storm water discharges to prevent downstream erosion. Certainly a worthy goal, and I am all for that, but this permit is not the place for it because this permit is part of the program to prohibit or to reduce to the maximum extent practical the discharge of pollutants. Storm water by itself, clean storm water, is not a pollutant.

And now the word you've been waiting for, finally and in conclusion, let me invite your attention to page 724 where I make the observation that the definition of redevelopment as used in the second draft permit -- and this is a point not raised by our previous speakers -- is not the same as the EPA's definition of that term when it promulgated the Phase II final rules. There EPA said that the term "redevelopment" is to refer to all the regions of property that change the footprint of a building in such a way that results of disturbance are equal to or greater than one acre of land, and excludes exterior remodeling.

Thank you very much. I would like to take your indulgence to make the further additional comment that I want to recognize and express my appreciation to Dennis, Wendy, Xavier, and the rest of staff. Let me give you a couple of examples of the work that they put in on this. In addition to obviously the much-improved second draft

permit, part of that process was achieved when Dennis was on vacation in Montana and called in to participate on a conference call with a number of us. Wendy, just an example of her dedication to this process, I got on e-mail date stamped 9:32 on a Friday night from Wendy responding to questions. Similarly, just last night, 7:30 at night, Xavier gave me a call -- I wasn't there. I was out of the office by that time -- responding to a question on the redevelopment definition.

So with that -- and I suggested to Dennis his next vacation he might consider a cruise ship where you are personally out of touch and you don't get phone calls -- I would be pleased to try to answer any questions you might have.

MR. NAHAI: We will keep our questions until this afternoon.

MR. YOUNG: Fine.

I will stick around. Thank you very much.

MR. NAHAI: Thank you for your comments.

MR. ALVAREZ: Thank you, Rufus, for that very short set of comments. I did give staff some handouts with respect to some suggested language changes, and so on, that we hope may stimulate some questions from you for this afternoon's session. I would like to thank you very much for having this workshop and I specifically want to thank Dennis Dickerson and his staff for their efforts. I think that they have done an outstanding job of meeting with us, of listening to the concerns, of trying to deal

with this issue. We all, I think, agree on a common ground. We all would like to get there in a way that we can all comfortably live with.

We think that the process that's in place now with your support will hopefully get us there. So we're looking forward to continuing to work with the Regional Board staff and anticipate that the third draft of the permit will address a lot of the concerns that have been discussed before you today, and that we will all be coming back here in November now, and we'll all be one big happy family. So thank you very much.

MR. NAHAI: Thank you.

It's now around 12:30. We can go on and hear from the environmental groups' presentation or we can break for lunch.

Shall we do that then? We'll take -- can we take 45 minutes for that? Okay. I really don't want to take more than 45 minutes. Do that, come back, and then continue with the closed sessions items to be discussed with the Board under Agenda Item 7, and the Board is in closed session.

We'll be back by 1:20. We'll resume then.

(Lunch Recess)

MR. NAHAI: Let's come back to order.

All right. We are now going to hear from representatives of a number of environmental organizations. I'm told the order of the speakers will be -- and this will take approximately an hour. The order

for the speakers will be Dr. Mark Gold, Mr. David Beckman, Ms. Heather Heckeral, Mr. Steve Floschli, and Ms. Shelly Loomis.

So are you ready, Dr. Gold?

MR. GOLD: All right. We have a joint presentation. I'm Mark Gold, executive director of Heal the Bay. We have a joint presentation with Heal the Bay on the permit.

I'm going to start out with a statement of the problem. This is going back and looking at, obviously, years and years of data from the Southern California Coastal Water Research Project, L.A. County, and their monitoring program, university, our own organization, and many, many others.

What we see time and time again is the problem -- and we've all heard about it and why it's important to change different aspects of the permit -- and let's not lose track of what this permit is all about. What we find is toxicity in runoff continually, both dry and wet weather. We find high loading of contaminant of metals, organic, fecal bacteria, nutrients, in many cases as well.

We also have contaminant sediment problems that cost literally hundreds of thousands, if not, on some occasions, millions of dollars in a given year at the mouth of Byron Creek, in Dominguez Channel, as well as in the L.A. River area. Where are those contaminants coming from? They are coming from the storm drain system.

Our beaches, as we all know from the discussion

on the TMDL, they look like landfills after a rain. On the 303-D listed water, you have metals, nutrients, fecal bacteria, organic toxicity, et cetera, that are still on the 303-D list. It's not like things have gotten progressively better during the 11 years we've now had storm water regulations in place.

Something our organization spends a heck of a lot of time on is polluted beaches. Nearly the whole bay, for example, Santa Monica Bay, gets a D or an F on our beach report card during wet weather. And approximately a quarter to a third of the beaches that are monitored within the Los Angeles County area have poor water quality even in dry weather.

So clearly, we have a major problem that, after 11 years of regulation and program implementation, we're not doing such a hot job here. So in all the things that we can't do, you can't lose focus of what needs to be done.

And the epidemiological study that was completed by the Santa Monica Bay Restoration Project back in '95 -- I was the coauthor -- it was demonstrated that people get sick when they are exposed to polluted runoff, contaminantd waters. It's that simple.

Also, virus studies that have been done at beaches along Santa Monica Bay, every drain that researchers have looked at for human viruses, they are finding them. I bring that up just as a reminder of how far we need to go on this particular problem.

Now, there is some good news. There's some help on the way. And hopefully, I am the first person to give you this great news. The Governor recently signed the budget; and there's $35 million for the Clean Beach Initiative to help clean up California's most contaminantd beaches, of which more than $10 million will come to L.A. County's beaches.

So once again, there's finally some money coming to deal with these issues, just as there will be another $6 million coming from Prop 12 for storm drain pollution as part of the Santa Monica Bay Restoration Project. So there's a lot of money on the way. Some people say "There's no one trying to help bring money in," and nothing could be further from the truth.

A couple of years ago, I proceeded to petition the EPA on the advocacy of the program. They've backed up that whole letter with successful efforts to more than help triple the size of the Regional Water Quality Control Board staff, to inspect industrial and construction facilities and ensuring municipal compliance with the County's Storm Water Permit. Again, I am bringing this up to say that the environmental community may be critical about how things are going on, but we backed it up by trying to raise money to get these programs implemented.

It's been 11 years since the 1990 permit, and the progress to date to clean up our streams, rivers, and beaches has been nothing short of pathetic.

I want to give the history of my involvement. I

am probably one of -- David and myself are probably the only two saps who have been involved in every one of these storm water permits to this point. And in 1990, there was sort of a philosophy of "Let's do something to have a storm water program." And then even midstream, when everyone realized that wasn't going in the right place, 13 minimum best management practices were added.

In the 1996 permit, prior to the vote, of which 40 cities opposed, I might remind you, there were 18 months of negotiations on that. And that obviously didn't have anything to do with you or anything to do with Dennis or any of the senior staff here. That was done by a different group of folks.

I am embarrassed to say I was one of those negotiators that spent 18 months trying to figure out how to do a permit by consensus; it did not work. But literally hundreds and hundreds of hours were spent trying to figure out how to come up with a storm water program that was going to work.

The problems with the permit included that there was almost a total lack of really meaningful deadlines, there was a lack of specificity, and there was a lack of clarity. And so that's what this permit is designed to address.

And I will tell you right now that your staff has done an infinitely better job on this permit than they have on the 1990 and 1996 permit. So for that I think your staff needs to be commended.

Within the context of this presentation, we're going to talk mostly about raw issues, and detailed comments will be submitted subsequently by the environmental community. However, there are still a number of broad deficiencies we would like to address within our talk.

At an absolute minimum this permit should be at least as strong as the Long Beach and Ventura permit throughout every section; not as a whole, but literally throughout every section. We need consistency from section to section, and that will be alluded to by later speakers.

This is the third permit for the region. We need water that's safe for swimming and that's nontoxic for aquatic life.

One of the things that's missing from this is a watershed approach. What we really have is a storm water permit that is a one-size-fits-all approach, so that whatever you are going to do in the L.A. River to solve your pollution problems, you are also going to be doing in the Malibu Creek Watershed. We think that's a problem.

We still strongly say -- we said this in '96, and we say this in 2001: The regulatory mechanism to deal with this is to come up with six separate watershed permits; otherwise, we don't know how you are going to have a watershed-based approach. So that means you'd have something specific for the L.A. River, Dominguez Channel, et cetera, et cetera.

Now, if that can't be done, then what ends up is that you have -- you need to require that the City demonstrate that their storm water programs implements best management practices targeted towards contaminants that are causing the water quality impairments. They must include in their annual reports a summary of the best management practices, and their efficacy, that are used in their city to target impairing constituents.

Waiting for TMDL to be implemented is unacceptable as the watershed approach for the region. As we know, it's been highly contentious to date. Everything is getting appealed, and it's spread out over a decade. It's the only true watershed approach right now that's being implemented by this Board, and we think that this permit is a great opportunity to really make that happen.

And so with that, I'd like to give it over to David Beckman.

MR. BECKMAN: Good afternoon, Mr. Chairman and Members of the Board. David Beckman with RBC.

I want to kick off a more specific discussion about some of the problems that we feel the current draft of the permit has. Heather with RBC and Steve Floschli will also address some of these comments.

We, as Mark said, are trying to be big picture on the assumption that you can't sit up where you're sitting for hours upon hours and listen to testimony after testimony. We'll provide those comments to you and to the staff. We want to give you a broad sense of what we think

the issues are.

One of the big ones -- and this is not really a contradiction of what Mark said, but an explanation -- this permit is better than the 1996 permit; but in our view the 1996 permit was a disaster, and it was totally inadequate.

So while this permit is a lot better, and there are, indeed, some progressive parts to the permit, overall, we are very concerned. Overall, we are not pleased with this permit and think that really significant structural changes have to occur if the permit is going to do its job, which is the other point I wanted to make, broadly.

What are our expectations for the third round of the permit? Well, quite simply, we think this permit needs to solve the region's storm water problem, with respect to the agencies that are covered by the permit. This is not the first permit. This is not the second permit. This permit covers a period of time that leads or extends almost 20 years after the 1987 Amendment to the Clean Water Act that instituted the provisions that you're implementing through this process. This is the third try.

Contrary to what Mr. Montevideo said, that the NPDES system is a system that allows pollution, it is quite the opposite. It is a system that is supposed to eliminate pollution. National Pollutant Discharge Elimination System is what that acronym stands for.

And whatever the merits are -- the merits of

whether this should have happened in the past, we think clearly, in the next five years, the 10th -- or the 11th through the 16th year that this Board will be administering a permit, it is unacceptable for the result to be anything less than achieving water quality standards and reducing the pollution from storm water and urban runoff so it does not cause all of the impacts that Mark discussed and that you by now are well aware of. So that's sort of what we are after.

So where do you start? Let's talk about some of the flaws that you can correct. With respect to the permit, I'll mention a few things, but others we'll discuss more specifically.

I wanted to talk about the management plan, because one of the problems here is that your predecessors never really complied with the regulations that govern the application that Permittees make to you for a permit and the showings that they need to make, information they need to provide to your staff. Effectively, we have a foundation that is cracked, that's not really able to support the program; and instead of sticking with it in a haphazard way, what we would like you to do is go back and fix the foundation, so you have a strong way to move forward.

Now, what am I talking about? Some of the things that the previous speakers complained about are actually required in the regulations, word for word. I found it really amazing, for example, that one commentator

from Los Angeles County said it would cost hundreds of millions of dollars to map out the no-discharge points to the system.

First of all, it wouldn't cost anywhere near that. Second of all, that is specifically required in 40 CFR 122.26, right there, black letter law; this should have been done in 1990. And I think it emphasizes or underscores the problem that we have in the environmental community when we listen to comments which to us seem like they are interpreting laws we have never heard of.

We can differ and we will differ. There will be areas we disagree about the interpretation of the law. But the fact that you are hearing from these Permittees' comments and complaints that are directly variant from the specific requirements of the rules is troubling to me, because we don't think we should be in a situation where we are playing defense against those sorts of interpretations.

And I would actually recommend, if you all haven't had a chance -- I know you have thousands of pages, but these regulations are not that long. If you can get someone to blow them up, because they are in a really small font, they really give you a sense of what is required at the baseline; and it is helpful to evaluate the comments you are getting from both sides, I think, to really understand what those requirements are.

Also, what was supposed to happen in 1990 is that the Discharge Plan or Management Plan was supposed to

be implemented that gave an estimate of the pollution reduction to be achieved and the specific BMPs to be implemented, including the structural BMPs. Nowhere in any of the material that the Permittees have ever submitted is there a specific numeric estimate of the discharge reduction, the effectiveness of the program.

And Mr. Montevideo faulted, I think, staff for not implementing some sections. But the fact is that the Permittees, in the first instance, bear the obligation of designing a plan that not only meets the NPDES standard, but will assure that the discharges that they're responsible for do not cause or contribute to the easing of water quality standards.

They have failed to do that. The plan that they have submitted to you is in no way calibrated to meet water quality standards. There is not a shred of evidence in the record that that has ever been considered.

Further, there's no explanation on how the M.E.P. standard has been implemented. It's mentioned, but you need to do more than mention something. You need to have some evidence and discussion, some reasonable and rational conclusions drawn from that evidence that explain why this plan is going to work. And that's just not here.

And so it's a really fundamental flaw, which is not only a legal problem, but in terms of the substance of what you are trying to achieve, prevents you from achieving it; and it prevents you from doing things that the current permit would do, like essentially give your

stamp of approval. "As long as you implement this, you are okay." It would be great if that were true, but it is not.

Until the Permit Management Plan is upgraded in order to address these issues, the permit and the Management Plan will not provide anyone with safe harbor, nor will they really do what the point of this program is, to clean up the water. That's a general issue, the application.

I want to talk a little bit about inspections, but not the sort the cities have been talking about. Steve will talk on that issue.

Actually, let me just move ahead here to -- Mark alluded to -- and I think someone else did -- to the petition we filed that increased your staff significantly. One of the reasons that that's so important is that your staff has, over the last 11 years, done four partial audits and inspections of the Permittees, what's required under state law and federal law. Let's forget about federal law. Let's just take a look at state law for a moment.

The state law requires an annual inspection and an annual audit of each permittee for each year of the permit. That's not what we want. That's what the State has decided is an adequate inspection and audit regime. That's critically important. The fact that there's no audits or inspections to speak of that have gone on until now has a lot to do with why we are in the situation we

are.

And it's our position that in implementing this permit, since you know about these requirements, that you need to assure that that will occur. And if you aren't able to do that, then we think you need to address that flat out in the permit and find some other system, including a fee-based system, that will allow you to have the staff to get the job done. If you can't do that, then you can't assure compliance with the permit; and that's a huge hole -- that's a huge hole in terms of the enforcement scheme.

Certainly, if you are doing a lot of enforcement, the Permittees might feel that environmental groups will have less option to do that, so it might even make them happy; maybe not. So that's the application.

I talked about the Regional Water Board's role. I just wanted to address a few other points which I think are worthy of some comment before I turn this over to Steve. I mentioned the mapping issue which was claimed to be an impossibility and yet is required by the permit and by the regulations. I mentioned also the issue involving -- actually, I didn't. Let me talk about this CEQA issue, because I thought it was beyond belief.

The argument that you heard in that somehow you can't implement a certain storm water requirement in a storm water permit because of CEQA is just simply absurd. This permit allows you, both state and federal authority, to take reasonable action to reduce pollution. The fact

that CEQA also requires local government to consider environmental impact has no bearing whatsoever and certainly doesn't preempt the Clean Water Act.

The implication of that argument is that every subtenet of federal and state environmental law, Air Quality, Super Fund, Water Quality -- the list can go on -- would be somehow preempted because CEQA talks globally about the need to consider environmental impacts.

CEQA also allows local governments, as many of you know, to issue statements of overriding consideration, so you can move forward with a project, notwithstanding significant environmental impacts. So it is hardly a response to the issues that we're facing.

There's a couple other things, but to keep things moving I will turn things over to Steve. I look forward to questions that you will have at the end of our presentation and the other interested parties.

Thank you.

Heather. Sorry.

MS. HECKERAL: I'm not Steve. My name is Heather Heckeral, and I'm an attorney for the Natural Preservation Defense Council. I would like to briefly address three specific issues with respect to the programs in the permit.

First, I wanted to state that we support and commend the Regional Board for its expansion of the SUSMP Program, particularly with respect to the inclusion of retail gasoline outlets in environmentally sensitive

areas.

The environmentally sensitive areas provision is critical to protecting those water bodies that are most at risk from increased pollutants known to be caused by new development and increase in impervious surfaces in the watershed. Similarly, there's really no justification for excluding retail gasoline outlets. And in fact, staff has done an excellent job of identifying problems associated with these types of facilities, and we fully support their inclusion in the SUSMP program.

However, overall, it is our feeling that the SUSMP program in this third-round permit should add a minimum, the equivalent of the existing L.A. County program. And we urge the Board not only just to support the revised SUSMP program as proposed by staff, but also to ensure that this expanded program is at least equivalent to the existing county program.

The second item is -- you've heard the Permittees talk a lot about regional and subregional solutions as being feasible and also effective methods of achieving improvements in storm water quality. We fully agree that regional solutions are desirable, not just in the context of new development, but in the context of controlling storm water overall. In fact, we support the development of subregional solutions for storm water, in addition to the existing requirements of the permit.

We have some concerns about the actual commitment of the Permittees to the implementation of

these regional solutions. We think that at this juncture, after about ten years of the storm water program, it's appropriate to include provisions in the permit, a separate section, requiring the development and implementation of regional solutions. And we urge the Board to add this new section to the permit, not only requiring the development of these regional solutions, but a submittal of a specified number of such solutions to the Board to be approved by the Board within two to three years of a permit approval, and then another provision then requiring implementation of these approved regional solutions within the term of the permit.

Finally, I would like to comment on the public education program. Again, we agree with the Permittees that public education is an important component of the permit. We also acknowledge that staff has added some necessary requirements to the education program to this draft of the permit.

However, there's no indication that this education program meets the M.E.P. standard. Even the Permittees acknowledge that the applicable standard for these programs is CEQA.

We feel we need to move beyond simple public awareness of the storm water program, which is what the education program has until now focused on. What is really needed and what the permit should require is actual behavioral change. This is not to say that a specified number of impressions or general awareness is not helpful;

it's simply not sufficient to solve the problem, nor is it sufficient to satisfy M.E.P. What is needed are quantifiable requirements in the permit that are capable of measuring actual changes in the public's behavior.

We urge the Board to expand education program requirements in the permit to incorporate these concepts, and also to ensure that the education program that's ultimately in the permit demonstrably meets the M.E.P. standard.

Thanks.

Now Steve will come up and talk.

MR. FLOSCHLI: Good afternoon, Members of Board. Steve Floschli, executive director of the Santa Monica Bay Keeper.

I am going to speak about a few issues of specific interest. First issue I want to talk about is the illicit connection, illicit discharge program. You've heard some criticism of that program by the cities here today.

We do have some problems with the way it is currently written. One of the big problems we have with the draft permit is it doesn't really come up to the level of the Long Beach permit. And if you look at the Long Beach permit, page 15, just for the record, for reference, there are field inspection requirements that are quantifiable, being out in the field and inspecting a certain segment or section of pipe annually, different types, sizes of pipes.

Now, the cities in the past have criticized this. And I know particularly the City of Los Angeles had problems with this, because they felt they weren't finding the illicit connections or discharges affecting the channels or affecting the storm drain system in that manner. And they actually took a new type of approach that I think is one, in addition to this channel inspection type of program, that should be mandated for all cities. And I actually applaud the City of L.A. for thinking of this and doing this.

I am somewhat shocked at the issue that they identified, however, which was, at least within the city of Los Angeles, and maybe within other cities, that they have been permitting discharges to the storm water system for some 60 years; so they issued what they call SRP permits to business owners or buildings or industries to discharges to the storm drain system. This is before there was a municipal storm water permit that had a prohibition on the amount of storm water discharges to the system, with the exception of maybe a dozen or so categorical exemptions. The city of L.A. identified around 10,000 of these permits that had been issued.

Now they've gone through that system of permits, and at this point it looks like after about a year of investigating this, they found about 1,300 permits, as Wendy Phillips had mentioned during her presentation this morning, that were permitted to discharge to the storm drain system which would not qualify for discharge under

the nonstorm water discharge prohibition of the Clean Water Act.

That is really a good place to start off where we should be looking for these things. If there are city-permitted discharges that don't qualify as categorically exempted, we got to get rid of those first; and maybe we'll have a little more success in identifying where some of these connections are coming from.

Another issue that I wanted to talk about briefly is the TMDL language. And I don't necessarily know if this was staff's intention or not; I don't think it was. I think it was probably just an oversight.

I want to make it clear on the record and before the Board that we think the language needs to be clear, it needs to be mandatory. And in particular, we can look to the Long Beach language in terms of what we believe should be the minimum for the TMDL limitation language. It is very simple, very straightforward. I won't even read it to you. But it is one sentence, and I think it captures the essence of what we think is necessary to implement that program.

I actually found one permit the other day from Washington D.C. where they put the TMDL into the permits, which I thought was interesting.

The next area is probably one of the more contentious issues. It has to do with the industrial and commercial inspection program. I think this is where you see what David Beckman was talking about. I don't know if

it was clear to you from his presentation.

In essence, the cities are trying to make you do what they are supposed to do under the application process. Before they actually get a permit, they are supposed to submit an application; and that application process is identified in 40 CFR 122.26, and it lays out what is supposed to be part of their application.

Now, in the Industrial Inspection Program the cities are challenging your authority to mandate upon them the requirement to inspect these industrial facilities. And I think Dan Radulescu did a good job of going through what your legal authority is to do that.

And I would actually say your legal authority is much stronger than what you're doing here. You are actually being fairly reasonable. Your legal authority says that you can demand proof of this from the cities before you even give them a permit.

Now, the cities are saying, "You can't require this in the permit," but I think that's actually a compromise on your part. So I think -- I don't think there's any basis for what they are complaining about on that front.

I would agree with both Jorge's presentation and Dan's presentation on what the legal authority is. I just wanted to add one section from the federal regulations that I didn't cite in my letter and wasn't mentioned by anyone else. It's under part 1 of the application under 40 CFR 122.26, D-1, Roman numeral II. It says -- under

"Legal authority," it says, "The application shall consist of a description of existing legal authority to control discharges to a municipal storm sewer system."

Here's the critical part. "When existing legal authority is not sufficient to meet the criteria provided" -- in those sections that were referenced by your staff -- "the description in the application shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria." So you have more than abundant authority here to require what staff is suggesting. And again, I would like to say that you're being fairly lenient there.

In terms of inspections, you should note, as I think staff has in some context, other places around the country are requiring this. San Diego, for example, is requiring this, and they actually have a frequency of inspections for priority sites that's even more stringent than the one in here; they actually require annual inspections of industrial facilities that fall within the high-priority category. In Puget Sound Municipal Storm Water Permit, they have had an inspection requirement since at least 1995. That's the last permit that I could find for them.

The last issue I want to talk about is with regard to water quality standards, which we've heard a fair amount about today about the city's concern over

compliance with water quality standards. You've seen ample information in your Board packet about the fact that the State of California requires compliance with water quality standards. We agree with that position.

I think what's most troubling to me is when you look at how the program has proceeded in the past -- on one hand, you have the city saying, "Look. You can't micromanage what we are doing. You can't tell us that we have to conduct inspections. You can't tell us that we have to do this, that, and the other thing, in terms of what we have to do in the field, whether we have to G.I.S. our industrial -- or illicit connections and illicit discharges, things like that"; on the other hand, the other way to approach this problem would be through water quality standards or numerical standards, and you heard from the cities that they're opposed to that as well.

In fact, in one of the written comment letters, you heard from the cities that you don't even have the authority to issue a permit at all, because you're our Regional Board and not a state entity; which is somewhat shocking to me that they would still be making that argument.

On the water quality standard side of the thing, though, I think what really sticks out in my mind is that California has required compliance with water quality standards since at least 1972 for storm water discharges. And that might come as a surprise to a lot of people.

The State Water Board recently addressed this

issue with regard to a cease and desist order that was issued in the Santa Ana region for storm water discharges there. They actually analyzed the Ocean Plan, which lays this out. And I want to just incorporate, for the record, the 1972 and the 1978 Ocean Plans. I would like to read a little bit from the 1978 Ocean Plan, because I think it is fairly clear.

It says, "This plan is applicable in its entirety to point-source discharges to the ocean." Okay. To me, storm water is point source; that's a pretty slam dunk case. This was 1978.

Maybe there's some argument from the cities that "Well, before 1987, storm water really wasn't a point-source discharge. It was a nonsource point discharge." Well, that's not really fair.

Let me read you the next sentence, because it is really exciting to me, because I'm a nerd like that.

It says, "Nonpoint sources of waste discharge to the ocean are subject to Chapter 1, Beneficial Uses; Chapter 2, Water Quality Objectives; Chapter 3, General Requirements; and Chapter 4, Table B, where compliance with water quality objectives shall in all cases be determined by direct measurements in the receiving waters."

The critical ones there are, "Water quality standards contained in the Ocean Plan for bacterial contamination at our beaches within the boundary of the shoreline and a 30-foot depth contour throughout the

water." They actually have numbers in here which are applicable to storm water.

And Table B is also quite exciting, because Table B makes reference to metals. "Water quality standards for the ocean waters include such things as arsenic, copper, lead, zinc"; some of the things that are most common in storm water.

How do these dischargers stand up here and say that it was not the federal intention or the state intention to require -- excuse me -- quality water standards -- I am getting all choked up -- this is absurd because it's been required forever.

And why don't we have it? I know that's a good question. Sometimes I come up here and find these real obscure laws that we haven't implemented. It's because they've been fighting us forever.

And I was very surprised this morning to read Jorge Leon's 1996 response to comments on the municipal storm water, because, my God, you wouldn't be able to tell the difference between the comments that were made in 1996, with regard to your authority, and the comments that were made today, with regard to your authority.

In addition, on the industrial inspection category, one area that I think was inadvertently changed by staff is with regard to the city's requirement to implement or enforce their own ordinances. And I think it should be pretty clear that we can all agree that at a minimum cities can enforce their own ordinances; if not,

then they haven't even provided you with the legal authority under 122.26, that they are required to do so. You should require them at least to do that as well and reinsert that language on the front.

I will now turn it over to Shelly Loomis from Heal the Bay to talk about some of the monitoring requirements.

MS. LOOMIS: Hello. I'm Shelly Loomis. I'm staff scientist with Heal the Bay.

We are concerned about the lack of specific requirements in a number of important sections of this draft permit. For example, where revised storm water quality management plan fails to correct water quality violations, there are no further requirements for Permittees once the revised SWQMP is implemented. Although we recognize that this is State Board language, we believe the process laid out in the permit should be continued until the water quality violation is abated.

A pertinent example of why this is a problem is Surf Rider Beach in Malibu. As written, this permit would allow implementation of one round of the Best Management Practices, attempting to address the bacterial problems at Surf Rider, to satisfy permit requirements, regardless of whether those BMPs work and actually evade the bacterial water colony problem; and we do not find this acceptable.

More specific requirements are also needed for site-specific mitigation plans. The proposed permit does not require implementation of the site-specific mitigation

plans.

These plans are important elements of storm water management because they apply to developments that are not covered under the SUSMP, but that may adversely affect receiving water quality. So we feel strongly that requirements are needed to ensure that the site-specific mitigation plans are implemented effectively.

Development planning guidelines must be developed by Permittees, but there are no minimum requirements specified in the permit for these plans, and the requirement is therefore left open-ended. We will suggest minimum requirements for the development planning guidelines for consideration by the Regional Board with our written comments.

And the I.C.I.D., illicit connection, illicit discharges program discussed by Steve Floschli is also lacking in quantifiable requirements, such as the frequency of inspections that must be conducted. The storm water monitoring reports that are required of the permittee do not specifically ask for certain information that we feel is important, such as assessments of Best Management Practices, efficacy, status and trends for ongoing monitoring, or loadings for different watersheds. We would like to see specific information requirements laid out in the storm water monitoring report.

Heal the Bay has worked with the Regional Board staff and Permittees on the monitoring and recording program of this permit, and we appreciate all the work

that has been done on this program by all parties, especially the Regional Board staff. We particularly applaud the inclusion of a bioassessment component as an important part of the monitoring program.

There are some issues that remain unresolved from our perspective. We are concerned about some inconsistencies with the Ventura County storm water monitoring program. The proposed permit allows constituents that are not detected in 25 percent of the first ten samples to be dropped from the monitoring program, except for the first storm of the year. This means pollutants can be detected in seven out of ten samples and they'll still be dropped from further monitoring.

This is not consistent with the Ventura County storm water permit, which states that a pollutant must be undetected in 75 percent of the first 48 sampling events in order to be excluded from further monitoring. We find this Ventura County requirement to be a reasonable and scientifically sound one. We suggest that the L.A. storm water permit should be consistent with Ventura County.

We do not understand the provision in the monitoring program that allows for higher minimum detection levels for pollutants that are not detected at the minimum levels specified in the state implementation plan. We can only conclude that that is a financially-driven requirement, and we do not believe it is protective of water quality or that it provides the

comprehensive water quality data needed by the Regional Board that this monitoring program is supposed to provide.

Although the toxicities reduction requirements that Megan Fisher told us about are very good, we are concerned that the toxicity monitoring requirements will not get us to the stage where reduction procedures will be implemented, because of the reduced testing requirement that's included in this monitoring program.

As written, lack of toxicity in two consecutive samples allowed reduced toxicity testing for the rest of the permit reduced to one test per year. But toxicity identification and evaluations are triggered only by two consecutive toxic samples. This means that storm water can cause toxicity in receiving waters for at least one year before a T.I.E., Toxicity Identification and Evaluation, is initiated.

We do not agree that reduced toxicity testing is justified. And furthermore, we feel that since little is known about the causes of toxicity in storm water, a toxicity identification and evaluation should be triggered whenever a single example shows toxicity, as is the case for dry weather samples in the Ventura County storm water monitoring program.

We are also concerned that there is no annual sediment toxicity testing in the five major estuaries. Although the estuary monitoring program that has been developed for this permit is valuable and we support it, we also think that annual testing is still a necessary

part of the program.

And finally, we have some concern about the tributary and source I.D. monitoring program. Although we recognize that it is much improved and that a lot of work has gone into it, our concern is that tributaries were selected for monitoring based on modeling results for metals, rather than on real data for all constituents. This may be financially driven rather than scientifically. We hope as real data are collected, the tributary monitoring will evolve to reflect those data.

We would urge the Board to include the Malibu Creek watershed in the Tributary Monitoring Program, regardless of what modeling data showed. In this case, we agreed that Heal the Bay Dream Team Monitoring Program, which has been collecting monthly data for three years, will provide the comprehensive data needed for the Malibu Creek watershed, especially for the 303-D constituents and bacteria.

That concludes our comments for this hearing. Thank you very much for the opportunity to speak today.

MR. NAHAI: With that, we can move on to the segment devoted to hearing from the trade associations. I have three or four cards. I have cards here from BIA, from CICWQ, from NAIOP. And I have a card from WSPA, and I don't know whether WSPA will be speaking in this section or part of the public section.

So how much time? I have 30 minutes. We will plan on 40 minutes for this section.

Then we call first up Mr. Tim Piatsi from the BIA.

MR. PIATSI: Good afternoon. I will tell you that there was a lot of information today, and in the interest of time, I'm going to try to stick with just a few additional comments.

We do agree with a lot of the comments that were made by the Permittees, and we will make sure that we get those into our letter. I don't want to go back through a lot of those.

We just want to say that we are supportive of achievable and practical regulations that will have an appreciable benefit to water quality and are based on the implementation of BMPs to the maximum extent practical. With that being said, we feel that there are many requirements in this permit that are either not achievable, not practical, or have minimal benefits to water quality in relation to the cost. In addition, these requirements will have a negative impact on jobs, housing, and the economy, without appreciable or expected benefits to water quality.

What are some examples of that? Well, there are some potential litigation traps within the permit, specifically the strict compliance with water quality standards, which is -- the receiving water limitation language has been touched on in detail, so I won't go into details on that.

Another one is broad requirements that promote

inconsistent compliance. There's a lot of phrases in the permit that don't have guidance with them; phrases such as "minimize," "maximize," "limit grading," "require proper justification"; and what this causes is -- there's no criteria to, you know -- when are you in compliance with that? "Limit grading," what does that mean?

And in fact, speaking of limiting grading, we think that that actually goes beyond what the Regional Board really should be doing. And does it make sense for the Regional Board to limit grading when in reality what they should be requiring is to implement appropriate BMPs to the maximum extent practical that will prevent sediments from flowing off site? Leave it up to the cities and the developer and the contractors as to how they meet that requirement, instead of telling them how they have to meet that requirement.

Additionally, I want to get into the priority development categories that are in the SUSMP. Now, back in '96, in the permit, these categories were placed in there. Now, there wasn't at that time any information available that really justified a lot of these categories, specifically the residential category. If you look at it, the role should be to determine what the pollutants of concern are that are impacting our receiving waters, how we address the concern, what types of things are causing those pollutants of concern to get into the receiving waters.

If you look at residential category, and you go

to the L.A. County 1994 to 2000 Integrated Receiving Water Impact Report and you look at that, the report shows that none of the long-term median concentrations for any of the constituents of concern exceeded established basin plan concentrations. So you are left with the question, you know, why is that considered a priority development category?

Well, the Regional Board will point to the SUSMP decision that says we have to include it in there. It was held up by the State Board.

Well, with that argument then, you know, it goes to the environmental sensitive areas then. Why is that category included in the SUSMP now when the State Board, during their decision, stated that it didn't need to be required; that it was already overregulated?

So you know, it is kind of -- you take it one way, when you want to get it one way; and another way, when you want to go the other way. So I think there needs to be some consistency there.

I think that the residential category is a little bit of an overkill; it is not necessary as far as the SUSMP requirements. Even when they are not in the SUSMP requirements, these residential projects will still have to go through the CEQA process, so they are still going to have water quality considerations in place on these projects. And they are also still going to have to meet the state government construction permit. That construction permit will regulate them on the construction

phase and post-construction phase, so they will be regulated even without being included in the SUSMP.

Now, another thing I wanted to talk about is the mitigation funding. I know that was talked about with the Permittees, and I agree with their take on that. I think it does need to be expanded.

In fact, I think that it may be worthwhile to look at having an option of like an in-lieu fee for development projects, so that if they want to get out of the SUSMP, they can contribute money to this in-lieu fee that goes toward this mitigation funding. And you don't have to have it restricted to regional or subregional SUSMP-type projects, but make it to where the cities can use it to address a lot of storm water concerns we are talking about; because they need the money to have some of the benefits. We want to get it, too. Leave it open, so they can use the money to get some of those benefits.

In closing, I just wanted to remind the Regional Board of the University of California, Irvine study. And the interesting conclusion that came out of that study -- it was a study to try to determine what was causing the beach closures in Huntington Beach -- and what they determined was that urban runoff appeared to have relatively little impact on the ocean water quality.

A lot of times you will hear, "Why are we doing these things?" "Well, we are getting all these beach closures." This is one study that shows that maybe the urban runoff is not the impact on the beach closures that

we really assumed that it was.

In conclusion, I just want to request that the Board consider, and have staff consider, the implications of many of these permit requirements on jobs, housing, and the economy in relation to the benefits to water quality.

We look forward to resolving these issues with your staff, so that we don't have to come back before you in November with the same issues.

So with that, I would like to introduce Mike Lewis.

MR. LEWIS: My name is Mike Lewis. I am the senior vice-president of the Construction Industry Coalition on Water Quality. And I'll give you a quick background on it, because it's a brand-new organization that we put together. It's composed of the Association of General Contractors, which represents the directors, if you will, the people who build the bridges, dams, the highways, the tall buildings; Southern California Contractors Association, which is the dirt movers; the Engineering Contractors Association, as we refer to as the in-ground work that occurs when they do the sidewalks, curbs, storm drains, water sewers and those kinds of improvements; and the Building Industry Association, which are the land planners or the financiers, if you will.

Our association represents about 3,500 member companies in the four-county region. We represent -- or perform, I should say -- close to 100 percent of all public works in this region and about 60 to 70 percent of

all private construction.

We represent both the contractors and the working men and women, the unions that make up those organizations. We're the folks that sort of built the infrastructure that supports the Southern California lifestyle.

There are a couple of things that I wanted to comment on with regard to the regulations. There are a couple of broad issues. First and foremost, I was looking for and haven't been able to identify any sort of environmental impact report or socioeconomic analysis of this proposed rule, and would like to suggest that we need to do some analysis, since this is both a regulatory and an effective policy document.

Several things you're proposing to do in here conflicts with other regional agencies and local agencies in terms of policies that have already been established in the region.

Secondly, this document has consequences, intended or otherwise. As I read the construction portion of it, it says I need to build where it's flat, not in the hills; I need to build where it doesn't rain; and I need to build where there's a lot of land, so I can implement all of the BMPs that are required. That tells me I need to build in the desert. That makes the document pro-urban sprawl. I cite that as an example of one issue in regards to the other regional growth, air quality, transportation, and land-use agency policies that we have to deal with

when we look at providing infrastructure or housing in this region.

Thirdly is a question on the science. I can't find any documentation of the costs of these measures, the impacts, the results that will be realized by them. I can't tell whether they are solving one tenth of one percent of the problem or 70 percent of the problem, because I don't see where the problem is clearly identified in terms of impacts, certainly from the construction portion of the regulation.

Finally, this document calls for 80-plus differing sets of rules in all of the cities and municipalities in which we work. Our contractors work in multiple jurisdictions at the same times, and I think what you're creating is a compliance nightmare; and that, in our estimation, may take for some sort of legislature prevention which we've used in the past, I think, effectively when we begin to deal with multiple jurisdictions who can't seem to agree on some common way to apply rules and regulations.

With specific regard to the development construction program, which is on page 35 of the second draft, Section E, I would tell you that paragraph A is unenforceable and conflicts with air quality regulations, which, frankly, require washing of surfaces frequently in order to prevent dust or P.M. 10 from construction sites.

From the Air Quality District standpoint, the more water you use, the better the dust bullies (phonetic)

like it. So I think that you have conflict with another regional agency regulation that somehow needs to be resolved in this process. And I am not exactly sure how you are going to do it.

Frankly, I also think it is unenforceable because I am not aware of a single BMP that will guarantee 100-percent reduction or retention with what the language of this paragraph implies. And I would assume that the fact you didn't identify one in there would tell me that you're not sure of one either.

Thirdly, this is not a part of the state permit, and I am not sure it is appropriate in this update, paragraph B. I don't believe you have any authority over wind.

The Air Quality District currently regulates rather extensively behavior on construction sites in both wind and nonwind circumstances. The union contracts also have a number of provisions to deal with that. And I think that rules that they have in place to deal with wind during construction are more than adequate. In fact, they are considered leading edge in the U.S.

Paragraph D, which is a limitation, I believe, or a prohibition, I think I would call it, to grading during the rainy season is unacceptable and must be removed before you complete the third draft. I think if we are going to have to be required to do BMPs on the construction sites, it shouldn't matter; there should be no limitation by season, by time of year, or by weather.

If we're expected to do that, I can tell you that that is a measure that is completely unacceptable to the employees of these contracting organizations. You are asking them to sacrifice half of their ability to make a living and support their families. And I can tell you that that is something that they are not going to be willing to compromise on.

Section E, I think, is repetitious and unnecessary and should be removed. Paragraph 1 and all the sections that follow, I think, were obviously written by somebody who is unfamiliar with construction and the development process.

I don't think that anybody is going to sign the statements that are included in there. And it's my guess that even the lawyers on the Board would never advise their clients to do that.

It doesn't reflect the way in which construction is phased or the way in which a project is handed off from one contractor to another, or the fact in which the owner of the project may not be the land owner and the land owner may not have any involvement in the activity on the site at all.

I think that those provisions are unpractical. I think that there's a better way to do what you're trying to do. I think what you are trying to do also isn't clear.

I think what you need to consider for activity on construction sites is something more akin to a

monitoring or a record-keeping program. It is something that we're used to. We do it for other regulatory agencies, and it works quite well. It's something that you can work into the activities that take place on the job site on a daily basis. And I think it is something that we can educate the industry that they have to do in a fashion that they are comfortable with.

We're obviously willing to work with the staff to try and clean up this section as it relates to construction sites. We deal with unanticipated problems on construction sites every day. We are used to that kind of activity.

I can tell you that we have been dealing with the Air Quality Management District for 12 years. We've been very, I think, successful with them in drafting regulations that are both leading edge in achieving the air quality goals that that they're after, allowing a lot of construction to take place in a cost-effective manner.

So we're willing to work with you on that, and I appreciate the opportunity to make these comments. And I will tell you this: If you just tell us what the problem is and what you need, we can figure out the solution. We do it time and time again.

Thank you.

MS. DROUSE: Good afternoon. My name is Michelle Drouse. I am representing the So. Cal. Chapter of NAIOP, which is the National Association of Industrial and Office Properties.

NAIOP is a network of 47 chapters representing over 9,000 commercial real estate members across the United States and Canada. The So. Cal. NAIOP chapter encompasses Los Angeles and Orange County with more than 600 members, making it the largest chapter in the United States and the largest commercial real estate organization in Southern California.

We would like to acknowledge the time, effort, and expertise that went into developing the proposed municipal storm water permit. We ask you to consider the following comments on the proposed permit.

We believe that site-by-site mitigation is not effective in addressing water quality issues; rather, we believe that regional or watershed-based solutions are more appropriate. Although the proposed permit has options for regional solutions, some areas discourage it.

Certain provisions have the effect of requiring strict compliance with water quality objectives. Since neutral treatment systems may not solve all remaining impairment, even with effective nonstructural BMP development, these provisions may appease the use of watershed-based solutions.

The provisions regulate pollutants entering, not just exiting the public storm drains. Since watershed-based BMPs generally control pollutants after they have already exited the system, these provisions prevent the use of watershed-based solutions. A more balanced approach would focus less on the development side

and more on the regional scale.

Additionally, in the development planning discussion, using the words "minimize" and "maximize" are overly broad and are subject to wide discussion and problematic enforcement. We suggest inserting the words "to the extent technically and economically feasible" after each of these words. Without the maximum extent practical language, the wording invites litigation.

Also, we request the removal of the word "replacement" from the definition of the redevelopment project. The redevelopment definition was the main point of contention for the SUSMP appeal. And the State Board rendered a decision regarding this item, and it has been discussed today. There remains no reason to differentiate from their definition of redevelopment, which did not include replacement as part of the redevelopment definition in its permit.

These are just a few points that we would like to highlight. In addition to these, we will be submitting a written comment for the August 6 deadline.

Thank you for your consideration.

MR. NAHAI: Mr. Brian Wong.

MR. WONG: Good afternoon, Mr. Chairman, members of the Board. My name is Brian Wong. I am here representing the Western States Petroleum Association.

My comments are actually pretty specific to the new development design standards proposed for retail gasoline outlets or RGOs. As you may know, WSPA appealed

the provision in the existing L.A. County permit that was adopted on January 31, 2000. We believe that the RGOs should not be subject to the design standards of treatment and/or filtration, based on the fact that the use of such devices is neither effective nor practical for RGOs.

In particular, filtration, we believe, is a really bad idea at RGOs, because filtration devices cannot distinguish between spills and rain water or storm water. Clearly, WSPA believes that the most appropriate way to control storm water runoff from RGOs is to incorporate and require RGOs to implement all of the BMPs from the California Storm Water Task Force Guide BMP manual.

The California Storm Water Task Force is a working group consisting of State Board, County and agency storm water representatives, Cities' Regional Board representatives, and oil industry representatives, to develop BMPs specifically tailored to RGOs. The Task Force published that guide in March of '97, and it is the most recent BMP guide with regard to RGOs.

On October 12 of 2000, the State Board concluded that RGOs should not be subject to the proposed American design standards at this time, and instead, stated that mandatory BMPs may be adequate to achieve the standard of "maximum extent possible," and that all of the Task Force BMPs should be required.

A similar finding was made by this Board when adopting the City of Long Beach storm water permit, finding the Task Force BMPs, when fully implemented, are

expected to be consistent with statutory standards of NPDES. The State Board also found that the design standards may be included later, but only with proper justification.

WSPA is not aware of any evidence that shows that RGOs present a storm water problem that cannot be addressed through the use of and the implementation of all the Task Force BMPs. Staff has developed a technical report to justify reinclusion; however, we believe that the content of this report did not perceive or contemplate "with proper justification."

We believe the State Board contemplated that treatment control should not be required at RGOs, unless the information shows that storm water runoff from RGOs creates a problem, even when all of the task force BMPs are implemented.

I'm about to make some technical comments. I will not pain you with the gory details. They are very broad. But I need to preface my comments that we are still reviewing the technical report. We are still reviewing the documents used by staff and will be submitting a complete analysis by the August 6 deadline.

That being said, we have found nothing in the report to support a finding that RGOs implementing all of the Task Force BMPs creates any problem. In fact, the technical report does not even mention the Task Force BMPs, let alone provide information showing that they are not effective. And given that the State Board requires

they be implemented and said that they may constitute NPDES, we feel that any justification has to address whether they are sufficient or not; and that has not been done.

We also believe that the Task Force BMPs render the structural treatment devices lacking in benefit. In addition, we believe the evidence shows that structural treatment control devices are generally not effective. The Storm Water Quality Task Force looked at this same issue and found the evidence reviewed was insufficient to determine whether these devices were effective.

And the technical report primarily cites two studies to suggest that these devices work. One merely analyzes the filter media from a catch basin inserted at RGO that was using no BMPs at all, let alone all of the Task Force BMPs. And the second actually showed a 95-percent increase in nutrients from the treatment, which suggested that there may be unintended consequences.

Other studies that were not addressed by the technical report failed to address the studies that indicate these are, in fact, not effective devices. Just yesterday a report came across my desk -- and again, I have to preface, we are still looking at this; however, I think it is relevant.

It is a report that was done by Caltrans as part of their pilot maintenance program. They looked at two different types of drain inlet filters at various maintenance stations in L.A. County. The average removal

efficiency was reported to be in the order of ten percent.

And it's my understanding at a public works association workshop recently held in San Diego, a presentation with regard to this report indicated that the annual operation and maintenance cost were $15,000, which is 1,250 percent of the initial installation cost; and that was primarily due to clogging and repairs that were necessary, and clogging has been especially well documented in many studies for these devices. That number is clearly much larger than the $240 a year maintenance cost that was contained in the technical report.

And again, I would like to say we are still reviewing that. We will be providing that information to staff as well, and we'll have our complete analysis done by the 6th. I want to preface with that.

Regardless of all that information, I think we need to come back to what the State Board requires when they said "proper justification was necessary." Again, it's our opinion that with their finding that the Task Force BMPs, when fully implemented, may constitute NPDES, it is necessary to look at their effectiveness as fully implemented before requiring additional treatment standards, where studies show that they are generally not effective.

Finally, the State Board made a finding that, you know, if, assuming proper justification, the Regional Board should come up with some sort of criteria for including or excluding RGOs based on size, to eliminate

the smaller RGOs based on some relevant factor. The proposed criteria is 5,000 square feet and average daily traffic flow of 100 or more vehicles. Well, that encompasses virtually all, if not all RGOs; and we're concerned that this threshold is overly broad and would include even the very smallest of RGOs that the State Board was clearly meaning to exclude when it recommended -- when the State Board came up with these criteria.

In summary, we believe that the source control of the Task Force BMPs is the appropriate way to regulate storm water from RGOs, and we feel that because the adequacy of the Task Force BMPs has not been looked at, the proper justification has not been shown; therefore, we request that the RGOs be excluded -- excuse me -- excluded from the treatment device standards.

Thank you.

MR. NAHAI: Thank you very much.

That concludes that portion of our program.

Next I would like to call on Ms. Laura Gentile from U.S. EPA to provide us with her comments.

MS. GENTILE: Good afternoon. My name is Laura Gentile with the EPA. We would like to start by acknowledging Chairman Nahai and Dennis Dickerson for the environmental award recently given the Regional Board. The EPA offers our congratulations.

MR. NAHAI: Thank you.

MS. GENTILE: The EPA has worked closely with the

Regional Board on this permit for many years now. We participated in the A.C. meetings, and we've heard many of the concerns of the Permittees directly from those meetings, as well as the concerns of environmental groups.

Before I go into specific comments regarding this particular draft permit, I would like to address general concerns raised directly to EPA about the applicability of the inspection and the enforcement requirement to municipalities. There have been numerous letters in the last several months, as well as letters that were sent to Congressman Horne in July and in the past few months.

In the 1990 preamble to the Storm Water Regs, the EPA envisioned the responsibility of addressing storm water sources would be a shared, cooperative effort between state and local agencies. The Storm Water Regs require that local government, or permit holders, perform activities such as control, inspect, monitor, and require compliance of industrial and commercial facilities. The Regs also require that each permit holder have the legal authority to ensure compliance of the facilities.

Such programs are already in place in the -- the San Diego permit is one example, and they play a very significant role in assuring the effectiveness of the storm water program is actually occurring.

For further clarification on this requirement -- this letter has been raised several times today; I'll raise it again -- this is a letter that was written by

Christine Todd, our EPA administrator out of Washington D.C., addressing concerns of Honorable David Dryer. In this letter, EPA supports the general direction the Regional Board is taking with this permit, as this permit reflects the intent of the Regs by requiring that MS4 take on more responsibility with respect to storm water sources.

Now I would like to talk about specific comments -- I only have a few, mainly regarding the inspection portion of the permit, the monitoring portion, and the legal authority component of the permit.

As far as the inspection, we believe the language should be clarified so the Permittees know exactly what they have to do. Right now it's not clear as far as what the expectations are, especially in the event of noncompliance occurring. The fact sheet is clear about enforcement, but the permit is not very clear. This is just one small thing we can talk about with the Regional Board later.

Secondly, monitoring: Since storm water data is a very critical component of the TMDL analysis, we would like to see an entire link between monitoring requirements for the permit and TMDL. Much of the data has not been useful to the TMDL model due to data incompatibility.

I would like to now talk about the legal authorities, the permit language. We would like the permit language revised significantly to reflect the legal requirements that are in the federal regulations. I want

to read those now.

Under 40 CFR 1.2.26 (d), 2, (i):

"Municipalities applying for an MS4 permit must demonstrate adequate legal authority to control and prohibit certain discharges to the MS4, to carry out all inspections and monitoring procedures in environmentally sensitive areas, to determine compliance and noncompliance with permit conditions, and to require discharges to the MS4 to comply with permit or other conditions."

These are very clearly stated in the regulations, and we would like the permit to be changed to reflect these requirements.

Speaking of the legal authority, I would like to address a comment that was made earlier by one of City of L.A. attorneys that had me rather concerned. The actual concern he raised was about the inspection requirements. Apparently he was concerned because the permit would include -- he was questioning the appropriateness of including an inspection procedure in the permit, specifically, the MS4 permit requires that inspectors copy records and take samples as part of the inspection. I will agree with the city attorney, the legal authority language that I just read does not say you need to copy records and take samples.

But I think we are really splitting hairs here. While the Regs don't outline specific procedures for conducting inspections, it's not unreasonable for the Regional Board to do so in this permit. And as a former

inspector, I can tell you that every inspection generally involved copying records and taking samples, among many other things.

The EPA policy has always been that the permitting authority has the discretion to tailor permits to their local needs.

L.A. is a very unique area with very specific needs. It is one of the largest metropolitan areas nationwide, has one of the largest concentrations of industry nationwide. Storm water flows right into the bay. Many water bodies are severely impaired. Runoff has been sampled with high toxicity, high concentration of metals. There has been cases of illness due to exposures to contaminantd waters.

These are only a few reasons why the Board has every right to put basically whatever condition they feel necessary in order to make sure that facilities are in compliance. So considering these site-specific factors, EPA would expect the Regional Board to put additional requirements into the permit to make sure that the right data are being collected during inspections.

In conclusion, we would like to commend the Regional Board on the time they've spent and resources they've dedicated to this permitting effort; however, I am really quite frustrated. I actually asked to speak last or near last, so I could hear all the comments. And the comments I've been hearing seem to be very weak.

I think we've been spending a lot of time on

this negotiation. It is not really in our best interest to continue spending countless hours negotiating this permit, line by line, at the expense of actual program implementation. Our time would be better spent conducting critical field work necessary in order to implement the program to reduce loads of pollutants to receiving water, many of which are already impaired.

EPA is very, very concerned that 11 years after promulgation of the Federal Storm Water Requirements, here we are with the third draft of this permit, the third round of permitting, that is, and we're still discussing details of non-negotiable components of the storm water program.

Just to review those components again, the storm water regulations require that local governments, permit holders, perform activities such as control, inspect, monitor, and require compliance of industrial and commercial facilities. The Regs also require that each permit holder has the authority to ensure compliance of the facilities, which is now still agonizing over these details.

Not only are these components of the program non-negotiable, they should have been in place in MS4 permits since 1992. This is described in Section 402-P of the Clean Water Act. In reality, this permit has been wholly deficient for a long time.

With that said, EPA is very hopeful that the negotiations on the permit will come to a close quickly,

so Regional Board and MS4 staff can direct their limited resources to program implementation.

Thank you very much.

MR. NAHAI: Thank you.

Now we'll move to a number of cards that have just been given to me. We have various persons interested in speaking. We are going to afford four minutes each to these speakers.

The first one I have is from Mr. Jose Saez from the L.A. County Sanitation District.

MR. SAEZ: My name is Jose Saez. I am a supervisor with the L.A. County Sanitation District of L.A. County, which is one of the major sewers in the region.

We intend to provide some written comments on this draft permit by the August 6 deadline; but today I just want to focus on one aspect of this permit, which is the issue of dry weather diversions, which is included in the draft permit.

This issue has a direct impact on sewer agencies such as ours, since we have to eventually accept any dry weather diversions into our systems. Basically Section F-12 on page 44, which is part of the proposed permit, requires each individual Permittee to prioritize a list of storm drain systems for possible diversion into the POQW. The Permittees will collectively get together and review these individual lists to create sort of a watershed list of priorities. And then finally, this will lead to a feasibility study for possible diversions.

We agree with the concept of this approach. The only recommendation that we have, and the only concern that we have, is that it is really important, as the gentleman before me, Mr. Farsing from Signal Hill, mentioned, that the leading Permittee being the Department of Public Works, the Regional Board staff, and also the sewer agency, POQW, be involved very early in the process on this.

And I think the reason that I am suggesting that you incorporate clear language on this is that by having each individual Permittee working his own list, we may have a duplication of efforts; maybe not the same standards or the same priorities set, and we may have a problem with 80-plus Permittees creating their own list.

The advantages we see on this is, again, avoid duplication of efforts; second is we'll be able to basically start developing criteria for this watershed regionwide list, and it will help identify ongoing or past problems where's there been already efforts on identifying these priorities.

For example, we recently proposed back in June -- and I think we did it again in July -- a dry weather diversion study from our agency to the Regional Board, and this study could be helpful for individual Permittees in this.

So what I am trying to say, in summary, is that it is very important that at the very onset of this problem from the beginning, Public Works, Regional Board,

and the sewer agency be involved in this problem and work together with the individual Permittees.

MR. NAHAI: Thank you very much.

MR. SAEZ: Thank you.

MR. NAHAI: Next card is from Anita Mangels from the Alliance for Water Quality.

MS. MANGELS: Good afternoon and thank you. I will keep my comments very brief.

My name is Anita Mangels and I represent the Alliance for Water Quality. The Alliance is a statewide coalition whose members include the California Chamber of Commerce, California Manufacturers and Technology Association, the California Farm Bureau, California Building Industry Association and others. Our mission is to support water quality decision making consistent with sound science and the State's water quality laws.

Our coalition, on behalf of its diverse membership, is here today because we believe that these permits -- or this permit, I should say -- before you today will impose severe financial burdens on the business community and consumers as a whole. You've heard from many of the impacted stakeholders, the county, the cities, as to the specifics, so we will not go into detail.

Suffice it to say that the county and cities as stakeholders here have many concerns about not only their ability to comply with the provisions in question, but also their ability to pay for them. When the county and the cities are forced to incur enormous compliance cost,

they will pass those costs on to the business community and consumers, who are already struggling to survive the burden of the added cost of the energy crisis.

The business community, taxpayers, and residential ratepayers are not bottomless pits of money that can afford to keep absorbing more and more regulatory costs. And I think we all recognize, as a result of the energy crisis and rising costs, our economy is in decline, and unintended consequences of some of your decisions can lead to further harm to the economy, to the business community, and the ratepayers as a whole. So we hope that that can be avoided.

We all share the common goal of cleaner water, but we believe the goal can be better met when all the cost and compliance issues have been fully investigated and discussed. We're pleased that this workshop process is happening today, and we do urge you to direct staff to work closely with the cities and the county to make sure that you can arrive at a commonsense solution that will be clear, cost-effective, and environmentally sound.

Thank you very much for your time.

MR. NAHAI: Thank you.

Next card is from Mr. Arthur Hugh, BF Systems.

MR. HUGH: Good afternoon. From your research over the last ten years on storm water pollution, we find that it is about equal from trucks as it is from automobiles. This is seldom realized.

Without reading and understanding SIC codes, it

is not clear from reading the NPDES drafts if automotive maintenance and repair includes truck maintenance and repair.

I am a great fan and advocate of user-friendly manuals and easy-to-understand regulations. I would like to ask that the word "automotive" that appears throughout the NPDES draft be modified to something such as "all vehicles, automotive and trucks, cars and trucks." This is also the nomenclature used in the technology and trade literature of this field.

Thank you.

MR. NAHAI: Thank you very much.

Next card I have is from Mr. Carl Sjoberg from the Los Angeles County Department of Public Works.

I'm sorry, this reads "available for questions." Do you have questions? Okay.

Thank you very much.

Mr. Mark Metzger from the Department of Health Services.

MR. METZGER: Good afternoon. I want to thank the Board for allowing us to speak today. My name is Mark Metzger. I'm with the California Department of Health Services, and I'm speaking on behalf of the State and also on behalf of the Greater Los Angeles County Vector Control District with our concerns regarding the permit.

Just to give you -- for those of you who don't know, the mission statement of the vector control agencies in California is to protect the public health of

Californians from insect- and animal-transmitted disease. In the case of vectors, we're referring to mosquitoes, ticks and small rodents; but in the case of the NPDES, we are mostly concerned with mosquito production. That's why I am here today.

It's been known now for several years that structural BMPs of certain designs are conducive to the production of mosquitoes. In 1998 the Department of Health Services as well as many of the local vector control districts in Southern California got into an agreement with Caltrans to work on their BMP trial retrofit study, to provide them with input on how to prevent vectors within their structural BMPs. And what we found is that a large percentage of structures of different designs do in fact create the habitat suitable for mosquitoes and other vectors primarily because of the mosquito life cycle. Three-quarters of the life cycle is spent in an aquatic habitat, from the egg to the pupil stage.

To give you a little background today, in the past two-and-a-half years, we've detected 8 species of mosquito that are utilizing BMP structures in Southern California, three of which can transmit encephalitis. In addition, one of them can transmit malaria and has been responsible for malaria outbreaks in San Diego County. Also, we have the Asian tiger mosquito which has been recently imported from cargo ships from China and it very likely will utilize underground BMPs for development.

What we've discovered is that there's two primary factors within the design of BMPs that contribute to mosquito production. That's standing water, which is a direct result of the design features, as well as vegetation overgrowth, which is usually a direct result of poor maintenance or lack thereof.

In our studies over the past two-and-a-half years, we found that structures, particularly those that maintain permanent sources of standing water, can produce mosquitoes year-round in Southern California; and they have. We're mostly concerned with the potential cumulative potential effects of thousands of structures being built, with no provision for vector control and creating a very serious public health threat.

I wanted to mention just briefly that our cooperative efforts with Caltrans have resulted in many solutions to prevent vectors, and in some cases, eliminate from BMPs, without actually affecting the intended function of the BMPs. We've come up with vegetation management plans, we've come up with mosquito-proofing techniques for vaults and SUSMP'S, and also engineering design changes which simply eliminate sources of standing water.

Also, we did some nationwide surveys to see if this is in fact limited to Southern California as opposed to nationwide. We found that, in a survey of over 150 agencies of public works and vector control and even environmental groups, this is very widespread and it is a

concern nationwide.

So we're addressing the Board because California currently doesn't have legislation which requires involvement of vector control and particularly in the predesigned process of BMP structures. And as a result, we are addressing local boards to see if we can have some vector-related verbiage included in the permit.

We're concerned that the requirements of structural BMPs may in fact create additional habitats for vectors, and we're in the process of preparing some vector language for the Board. We feel that this proactive approach rather than reactive approach will in the long run create cost savings for property owners, reduce the need for vector control and surveillance, and also make sure that the structures comply with the California Health and Safety Code.

So finally, in conclusion, I just want to mention that what we'll be asking the Board to consider is that vector control agencies, either state or local, be consulted with regard to the preconstruction design and maintenance procedures, that regular maintenance be required to prevent the degradation which in turn creates vector habitats -- we are very much pushing for regular and frequent maintenance and provisions for access to these structures be provided so that both maintenance crews and vector control can access them adequately.

Thank you.

MR. NAHAI: The next card is from Dr. Kathy Chang,

restoration project.

MS. CHANG: Good afternoon Mr. Chairman, Members of the Board. My name is Kathy Chang. I'm with the Santa Monica Bay Restoration Project.

For the past year or so our group has been conducting a comprehensive evaluation of storm water management in the Los Angeles region, with a special focus on the Santa Monica Bay watershed, for which we plan to release a final report by December of this year. Our evaluation looks at various programs, including the municipal storm water program, for their accomplishments as well as major barriers to mitigation.

As you are well aware, storm water is the number one undercontrolled source of pollution into the Bay. Developing an effective municipal storm water permit and the diligent implementation of the permit requirements are key to implementing our 1995 Bay Restoration Plan. In light of that, we would like to make a few comments about the draft permit at hand.

First, we are very glad to see a number of significant improvements in the draft permit over the 1996 permit, especially in the following areas.

Increased interagency coordination: We feel that this encourages the sharing of responsibility and cooperation between the Regional Board and the municipalities to improve efficacy and to get more done with existing level of resources. In particular, we support the joint inspection, referral of complaints,

supporting the agency's enforcement efforts to achieve our common goal of prevention.

Building accountability: The draft permit has tight language in place to make sure that the instructional measures put into place to meet the SUSMP requirements are maintained by requiring written verification. This is important, especially because many of the MP projects fail due to inadequate maintenance.

Inspection requirements: Instead of merely visiting the sites to communicate educational messages, we feel it would significantly push the program forward if the cities and the county inspectors actually start evaluating the sites for the potential to pollute storm water and give effective advice. Site-specific evaluations, especially when there's a threat of potential enforcement, is the most effective way to change people's behavior.

More specific provisions and protocols: The guidelines provided in the draft permit, especially on development construction inspections prioritizing catch-basin cleanup and ICDA mapping, are more clearly written than the existing permit. So the more clear the guidelines, the higher the likelihood that the programs will be implemented successfully.

Skipping over a few items in the interest of time.

Engaging all socioeconomic and ethnic groups in L.A. County to participate in mitigating the impact of

storm water pollution: According to our evaluation, municipalities have been pretty good in reaching the general public with their educational messages; however, they have been rather deficient in targeting specific clusters of ethnic groups present in their respective areas with messages tailored to each group. We think that there's a definite need for this, and the municipalities should try to tap into this or coordinate with the existing outreach efforts conducted by various environmental groups, because some of the most notable active outreaches to ethnic groups are conducted by nonprofit citizen-based groups.

Some areas of the draft permit need improvement. These include requirements that help loosely constructed language, such as "to measurably increase the knowledge of target audience and to measurably change the behavior." This language appears in the public information education section of the job permit. These need tighter language as specified as clear targets, because it is unclear what incremental increase is good enough. For example, is one percent annual incremental increase good enough, as long as it is measurable?

Another concern is that some cities that may have a high level of public awareness to begin with may have more difficulty in seeing a measurable increase.

Second item is the response times specified for the time for investigating illicit discharges. They appear to be too long and are ineffective. From our

communication with some of the cities who participated in our storm water survey last February, the sources of many illicit discharges reported to the municipalities could not be verified even when an inspector went out within 24 hours, because many of the discharges are temporary. We suggest that the 72-hours requirement be changed to end of the following business day.

The next item is -- we think that either the draft permit --

MR. NAHAI: Dr. Chang, let me stop you a second. You're exceeding -- you have exceeded the four minutes. How many more points do you have to make?

MS. CHANG: Actually, what I will do -- in that case I would like to request to submit our written comments as part of today's administrative record.

I would like to conclude by saying that our recommendations and comments on the revisions necessary to the annual program report and on the monitoring activities will be summarized in our report, which we will be sharing with the Regional Board staff, as well as with other interested stakeholders.

MR. NAHAI: Don't leave when we get to the question portion. Maybe one of the Board members may want to call you up and listen to the rest of your testimony.

MS. CHANG: Okay. Thank you.

MR. NAHAI: Thank you very much.

MR. TAHIR: Mr. Chairman, Members of the Board, staff, good afternoon. I just want to comment briefly on

some of the points raised by previous presenters. Cities do have legal authority to inspect. They do, but only to the extent of inspecting construction sites, not industrial and/or commercial sites, because both those facilities are not a requirement under this permit.

Heather with the NRC indicated that gas stations are not subject to NPDES. Well, under the Long Beach permit, yes, she's right; gas stations aren't subject. And under L.A. permit, gas stations are subject to SMRPs, excluding mandatory infiltration treatment controls.

Mark Gold surprisingly suggested that the Board adopt a Long Beach-style permit. I don't know if he had enough sleep last night. I can't believe that he had said that. If he supports that, and you support that, I welcome that proposition, because quite frankly, it's less onerous than the permit that is being considered now.

Laura from U.S. EPA indicated that inspections and surveillance are requirements. Yeah, they are; but it is not real specific as to what extent. Do we inspect on-site or off-site? Do we inspect for BMP compliance or do we inspect for -- it's just not clear. Same thing with surveillance.

Apart from all of that, I think this workshop has done an excellent job in illuminating the issues. Thank you, Mr. Nahai, for that.

But it might be a good idea to have another workshop, a workshop that focuses on some of the interpretation of legal authority requirements, a workshop

that deals with some misconceptions, some of the things that have been raised as facts that are not, in fact, facts. Perhaps another workshop is needed to work on solutions of those issues.

Thank very much.

MR. NAHAI: Thank you.

All right. That concludes our public comment period. What we're going to do now is we'll take a break. I'll ask the Board members to provide me with the name of any person that they would like to call up to answer any questions that they may have. That way if two or three of us want to pose questions of the same person, we won't call them up more than once.

Let's take a break of, say, 15 minutes to do that. Okay. We'll see you back in 15 minutes.

(Recess)

MR. NAHAI: Now we're going to come to order, please.

Now we're going to go through -- and I have a number of names that other Board members have given me. There are a number of people that we'd like to call up, to pose questions to them. Then we will have some more discussion and hopefully be able to provide some guidance to our staff as to where to go from here.

So the names of the people that we would like to call up -- and I'm just going to read them in no particular order at all -- are Mr. Desi Alvarez, Mr. Richard Montevideo, Dr. Mark Gold, Mr. Mustafa Anki, Ms. Kathy Chang, Ms. Laura Gentile, Mr. Steve Floschli,

and Mr. Brian Wong.

And one or two of these people, there are more than one Board member would like to pose a question to you.

First, if we could call Mr. Alvarez.

I thought they decided to have romantic lighting just for you.

I have two questions to pose to you in connection -- and I think these are probably posed to you, rather than everybody else. But if you need somebody else to come up and answer it, that's perfectly fine.

MR. ALVAREZ: Thank you.

MR. NAHAI: My first question is -- we heard references to the San Diego County permit and the Orange County permit. Have you had an opportunity to review those permits?

MR. ALVAREZ: I personally have not had an opportunity to review those permits. Other individuals that have referred to them have had much more an opportunity to really look at the permits.

MR. NAHAI: Have you heard from these other individuals that those permits are unworkable?

MR. ALVAREZ: I've heard from others that, for example, the San Diego permit is going to be very costly to implement, and it is more than likely that the Permittees are going to have a lot of difficulty in meeting the requirements of that permit.

MR. NAHAI: The other question I want to pose to you

is with respect to inspections. And I think when Mr. Leon was giving his presentation, he held up a number of ordinances by a number of cities. Just conceptually, maybe you can help me out.

How is what we are doing really conceptually different from the City of Los Angeles adopting, say, seismic retrofit ordinance and having inspectors go out to properties to see whether the seismic retrofit ordinance is being complied with? How is this different?

MR. ALVAREZ: On that one, I would like to maybe have the attorneys address it?

MR. NAHAI: Which one of your able team of attorneys would you like to address this.

MR. ALVAREZ: I'll start off with Mr. Montevideo.

MR. NAHAI: Actually, that's great, because he can come up and we have other questions for him as well.

MR. ALVAREZ: Thank you.

MR. NAHAI: Thank you, Mr. Alvarez.

Any other questions for Mr. Alvarez, by the way?

MR. MINDLIN: That's also my question, and I was actually using, you know, public health or for food or anything, to go into a restaurant to check them out, to give them the A certification.

MS. DIAMOND: Or building certificates when you add on to your home, building inspectors.

MR. NAHAI: Right.

MR. MONTEVIDEO: I think the important distinction in all those examples is that they are already mandated by

state law; seismic retrofitting, building codes, health and safety codes already impose those requirements. So what's happening at the local level is that the cities are then carrying out the state mandate.

Here you are not talking about a state mandate. You are talking about a situation where the Regional Board is saying, "Here is the way we view you need to carry out these inspections." So the difference is that state laws were there, whereas in this setting you don't have a state law that says, Thou shalt go out, enter upon private property, without a health and safety reason, or more importantly in this case, probable cause of a violation, and take samples, copy records, and the like.

MR. MINDLIN: The code that you showed us, doesn't it say, "carry out all inspections," dot, dot, et cetera, "that are necessary"? How do you define "necessary"?

MR. MONTEVIDEO: Are you referring to the regulations?

MR. MINDLIN: The regulation.

MR. MONTEVIDEO: If you look at the inspection authority within the regulation themselves, the inspection authority is limited to industrial facilities, storm water activities associated with -- storm water runoff associated with industrial activities. In effect those are Phase I facilities, and secondly those storm water activities or those industrial facilities that the municipality has determined are contributing to substantial or significant loading to the MS4.

The other language that you see in terms of inspection in the legal authority section -- and the language I've been cited in Ms. Witman's letter is general language that's, in effect, summarizing the legal authority under the legal authority section of the regulations.

The legal authority summary doesn't go back and basically recite the entire set of regulations; but it does talk about controlling discharges, but in that setting it is limited, again, to Phase I industrial facilities.

The only specific reference to inspection of a facility throughout the regulations which would then tie into the legal authority is the inspection of industrial facilities, and those particular industrial facilities where the municipality has determined that they have contributed substantial pollutant loading of the MS4.

MR. MINDLIN: What was the section of that litigation again?

MR. MONTEVIDEO: There are two that you should be aware of. The general legal authority one is under 40 CFR 1.2.26, small d-2, small i, and particularly look at capital A and capital F. Then the particular section dealing with inspection of industrial facilities that the municipal permit applicant determines are contributing to potential pollutant loading -- and again, it's limited to industrial -- is again, .26, D-II, small Roman numeral iv, capital C.

MR. NAHAI: Let me just ask you about capital F. The language here reads, "carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with permit conditions, including the prohibition on illicit discharges to the municipal storm water drain system."

MR. MONTEVIDEO: Correct.

MR. NAHAI: Let me see if I understood your interpretation. First of all, your contention would be that there would have to first be noncompliance before this inspection could take place; right? Is that your position?

MR. MONTEVIDEO: No. You have to separate out control versus illicit discharges.

MR. NAHAI: This says "including illicit discharges."

MR. MONTEVIDEO: I understand that.

MR. NAHAI: Even illicit discharges.

MR. MONTEVIDEO: That is my point. This is summarizing a number of different concepts in order to figure out where the authority is in the first instance; that is, we have to have sufficient legal authority to carry out all of our obligations in the permit, as set forth in the regulations.

This is summarizing that. You then need to look to the regulations to figure out what your obligations are. With respect to inspections, the obligations are limited to industrial facilities, either Phase I facilities in terms of control or specific industrial

facilities that the municipality has determined are contributing substantial pollutant loading to the MS4.

MR. NAHAI: First question. Every municipality can obtain the authority to inspect; correct or not?

MR. MONTEVIDEO: Define "inspection."

MR. NAHAI: To go on site and inspect for either compliance or noncompliance.

MR. MONTEVIDEO: I would not agree with that. You have an existing permitted facility. Let's call it automotive repair facility. How do I -- my city -- how is my city able to get authority to simply walk onto the facility, walk into the back room, and say, "Okay. I am here to inspect. I want to copy these records, these records." It is clearly a Fourth Amendment issue.

MR. NAHAI: Let me respond to you with the question again. How then is it that the City of Los Angeles can send out inspectors to inspect for seismic retrofit compliance, A; and B, how then is it that all of these cities have adopted ordinances to enable them to do exactly this? I just want to make sure you give your clients the right legal advice.

MR. MONTEVIDEO: I appreciate that, Mr. Nahai.

I've talked to my clients at length about this, and I don't think you should worry about that aspect of it.

MR. NAHAI: I am not worried. I just said I think you should give them the right legal advice.

MR. MONTEVIDEO: I'm doing my best.

Seismic retrofitting is, you know -- building code violations or assuring that permit conditions are complied with, you can have a C.U.P. that includes as a condition of the C.U.P. a right of inspection. But if you don't have an existing C.U.P. in place, such as all existing -- many of the existing facilities -- and even if you do have an existing C.U.P. in place, unless that C.U.P. -- unless that permit is conditioned upon a right of inspection, we don't have the right to simply walk onto private property, to inspect, search, and seize records or take samples. We can do it from the curb. But we don't have the right to simply create, in fact, a storm water police to get access without, in effect, a warrant. That would be a warrantless search.

In the seismic instance, you have state authority plus you are -- you have state law that's -- determinations have been made in that setting that there was an important health and safety issue, similar with restaurants, the restaurant example, or building code inspections. Sure, you need to be -- make sure that the conditions of seismic requirements or building code requirements -- that a wall is properly reinforced, that the electrical permit is complied with. That's completely different than simply walking onto somebody's property to ensure there aren't any violations.

MS. CLOKE: You know, were someone to walk onto somebody's property, you might have a point. But this permit calls for the municipalities to create the

appropriate ordinances and mechanisms under the law. And so when a city wants to adopt a new ordinance, it goes through all of the public protections of law in order to create that ordinance. And they need, according to our permit, to write that ordinance in a manner which gives them the authority, under specified conditions, to collect the necessary information to answer the question of water quality.

I can't understand how you can either say that water quality is not important to the public health and safety or say that this Board -- you know, we sit here as Governor's appointees. We are a State Board. We are a regional part of an entire state apparatus. We represent a regional arena, but we are part of a state apparatus. I don't see how it can be said that state law doesn't apply.

I don't even know that -- I find the statements that you make about what the law says and what the law means so confusing. When I look at the actual law, I had the same trouble when I heard you discuss CEQA in your presentation earlier, because I have been a planning deputy. I have been a planning commissioner. And I've been the representative for development projects. And my understanding of CEQA and how it -- in my experience of CEQA and how it actually works is so different from what you represented today, that I am just left confused by what you say.

So I would like you to just try to really focus on answering why Mr. Nahai's question, why it is that a

municipality does not have the authority to pass an ordinance that will allow it to do the inspections required by this Board. And our Board authority, of course, comes from the State of California and the federal government in terms of the laws that govern us. Why is it that a municipality couldn't create that authority?

MR. MONTEVIDEO: Let's assume that I own and operate an Italian restaurant and I have for the last 25 years. I'm properly permitted in the city of London to have a successful business, keep my nose clean, do a good job complying with the law, have not had any problems.

Health inspectors come in pursuant to state law, inspect as they are required to. Now the county comes in. I get a knock on the door one day from the inspector for the city of London who's in the public works department and says, "I want to inspect your facility to look to see that you are not storing -- or you don't have any improper connections in the back of your facility or in the interior of your facility."

As an inspector, what authority do I have to go back and change an existing permitted use or impose additional conditions on an existing permitted use? The problem is, I don't have that authority.

MS. CLOKE: Under your argument, this entire government has no right to pass a new law on anything.

MR. MONTEVIDEO: But you're not adopting a new law. That's an important distinction.

MS. CLOKE: A new ordinance, a new city ordinance.

MR. MONTEVIDEO: I am a local municipality. I have the right to adopt an ordinance, but I am governed then by state law, state regulations, state statutes, federal regulations, federal statutes.

MS. CLOKE: So at the end of this permit, we can go forward in that, in adopting a new ordinance?

MR. MONTEVIDEO: I guess that's where we disagree.

MR. NAHAI: Mr. Montevideo, let's cut to the chase.

MR. MONTEVIDEO: In response to her question, I can't go back particularly and address already permitted uses and create authority out of thin air. For future use, potentially, I can condition those uses requiring C.U.P.'s and then impose conditions in the C.U.P. But under your logic, I would never need to include a provision that gives me a right of inspection under a C.U.P., because I would automatically have it; I don't.

MR. NAHAI: Mr. Montevideo, we have other questions of you. But let me just put this to you to think about.

The city of L.A. either has or is about to adopt a new ordinance concerning grease from restaurants. And once it adopts that ordinance, it will be a new ordinance that's adopted, and its inspectors will have the right to go onto restaurant sites to see if that ordinance is being complied with. It happens every day of the week. And whether it's seismic, whether it's health and safety, whether it's food inspections, it happens all the time.

And to pose an argument which says somehow, you know, federal law and the laws of the State of California

for which this Board acts is somehow less of an authority than the city's grease ordinance is something that I think this Board just finds difficult to believe.

But I've got a couple of other questions for you regarding what you presented to us today. Your presentation to us today took me back to the January adoption of the SUSMP, because at that time you posed a number of arguments about CEQA, the Administrative Procedures Act, you know, and a couple of other things, all of which went before the State Board; and the State Board confirmed that CEQA does not apply here, that there's no violation of the APA, that the Regional Board does have the right to issue these permits.

Don't you think it is counterproductive to your case to come back with those same arguments when it's already been before this State Board, it's already been rejected by the State Board, and it hasn't been appealed further?

MR. MONTEVIDEO: Well, does that apply -- is that a two-way street, Mr. Chairman? Because isn't that exactly what your staff is trying to do with the ESA with redevelopment of RGOs?

MR. NAHAI: Answer my question first, and then I will respond to yours.

The State Board's rejection of those arguments was a straight rejection. With respect to RGOs and the ESA, I have the language right here. In this case the State Board says that the Regional Board can reconsider

this issue when it convenes this month. It's our staff contention that that's been done.

MR. MENTEVIDEO: So anyway, do you want me to answer as to why -- is your question, do we legally have the right to answer this clearly? Remember at the time there was six months left on the permit. We chose for various reasons -- and I am not going to get into the legal analysis -- not to petition or not to file a petition for a mandate. It doesn't preclude anyone from making arguments. There is no court determination. There is no precedent preventing the issues that were raised, particularly CEQA, the EPA, on funded mandates; those issues can be raised again. You may have reasons for why you think the Regional Board can reraise issues on the ESA, redevelopment, the waiver funding mechanism, RGOs, okay; we may or may not disagree on that. But we have reasons as well as to why we believe legally we have the right to raise those issues. The State Board is not the final say. At the end of the day, it will be a court that will have the final say on the issues.

MS. DIAMOND: Dealing with CEQA, you argued then, and they disagreed with you, and you argue again today. In their decision, there was a footnote on page 15 which says, "We do note with interest the environmental group comment, that if the Permittees believed it was necessary to comply with the APA and CEQA prior to adoption of SUSMP, they themselves would have violated those acts in their submissions of the proposed SUSMPs." So I think

that it's pretty clear that you understood exactly what you were doing with CEQA, and we understand exactly what you were doing with the CEQA argument; and that the CEQA argument was disposed of by the State Board is really the legal authority which we have to stand by, and we are mandated also -- we are mandated, as you've asked us to make sure, by federal law. It is clear that we are mandated by federal law, and we are therefore not needing to comply with CEQA.

MR. MONTEVIDEO: There's one point on CEQA that I think does need to be made. Remember that the prior -- that the existing permit is limited to discretionary projects. What the Board is proposing -- staff is proposing at this time that the distinction between discretion versus administerial be eliminated. In terms of CEQA review, that is an important part of CEQA, to limit the review in an imposition of mitigation measures to discretionary projects.

The State Board actually upheld -- actually, overturned what was proposed by the Regional Board on the use of discretionary. That was on several reasons. One of those reasons is because in the prior permit, the prior permit was limited to discretionary, and there was undoubtedly reasons for that. So an important part of CEQA is the whole issue of discretionary versus administerial projects. And the staff right now is attempting to reverse that. And in this case, you have to give me that that's an open issue.

MR. NAHAI: Actually, to deal with that, let me read the actual sentence from the State Board, and it's very clear. "The Regional Water Board may consider expanding the development controls beyond CEQA discretionary projects."

MR. MONTEVIDEO: But the point to me is, why are you reraising these issues? CEQA is dead. In putting aside the impact of the State Board's order in response to that, my point is that the State Board actually agreed with us on the discretionary issue at that point in time in that context; and to say we can't reraise that issue I think is unfair.

MR. NAHAI: Fair enough.

Any other questions of Mr. Montevideo?

MR. MINDLIN: I have one question. When you are talking about the SUSMP policies, you said that they have to be fully discussed by all interested parties? Am I following you right?

MR. MONTEVIDEO: I think you are talking about the ESA language that was in the State Board order.

MR. MINDLIN: I just don't remember what you said. You said at some point everything has to be discussed by all interested parties. And my question to you is, doesn't the workshop qualify as part of the discussing with all interested parties?

MR. MONTEVIDEO: I do have the language. I can put it up, if you would like. I appreciate that.

The language that I was referring to comes out

of the State Board's order itself. It was specifically dealing with the threshold, the trigger, for imposing the SUSMP requirements within environmentally sensitive areas. And the State Board said, "We believe it is inappropriate for this Board to add a threshold that has not been fully discussed by all interested parties. The 2,500 square foot limitation that is being proposed by staff, we have no understanding as to where that number, 2,500 feet, came from, how it's relevant in terms of measuring the impacts on drainage within environmentally sensitive areas." So the reason for raising the question is, one, it is supposed to be discussed by all interested parties. The way to discuss it is to first find the basis for staff inclusion of that number. If we can get the basis for it, maybe we can have a dialogue. As far as I know, there hasn't been a dialogue on that threshold.

MR. NAHAI: I think staff should be directed to explain to Mr. Montevideo the basis for that threshold. And I would like to note that some speaker said that there have been something like over 100 hours of discussions on these provisions, even before this workshop. And everybody's contemplating after this time continuing to discuss this permit. To say that there hasn't been more-than-fair discussion -- I understand that your point is perhaps there hasn't been, to your satisfaction, on this particular issue; correct?

MR. MONTEVIDEO: Yes.

MR. NAHAI: I know what you're saying.

Let's go on.

MS. CLOKE: One more comment at this point.

MR. NAHAI: Yes.

MS. CLOKE: On the discretionary versus the administerial proposals, then the responsibility that we all share is the responsibility to achieve water quality. And when you look at how many projects in a city municipality or any governmental area are discretionary and how many are administerial, we, I think, would be derelict in our own responsibility to protect the water quality of the region if we eliminated the bulk of the development work that goes on and the construction work that goes on. To make the argument that we can only look at the discretionary ones, because they have the responsibility or they have the requirement to follow CEQA, obviously all the other building projects have -- they have received CEQA clearance as well. But their CEQA clearance comes under the general CEQA clearance that the city has already received for all the administerial projects that meet certain development standards. So, you know, once again, I cannot figure out what your point is. I hear what you are saying, but I can't figure out why you are saying it.

MR. MONTEVIDEO: There are two issues here. First is the legal issue. Remember what you're talking about now. You're talking about having us impose mitigation measures on development --

MS. CLOKE: We do it all the time.

MR. MONTEVIDEO: -- on a project.

MS. CLOKE: It happens all the time. They say you have to have -- your foundation has to be like this and you have to widen your lawn like this.

MR. NAHAI: You have to have a fire-resistant roof.

MR. MONTEVIDEO: Those are not environmental mitigation measures. Those are measures that have been adopted and have been developed over years for health and safety issues. These are also health and safety issues. The difference is this: You are going back -- and the basis for your inclusion of that kind of information is to say, hey, development causes all kinds of problems to the environment in terms of trash, vehicle emissions, other emissions that may arise from the development. We need to look at all these particular potential impacts; and that's the whole purpose of CEQA.

From a legal perspective, I'm not sure how you go back, frankly, and suddenly impose all these mitigation measures on a project that, by definition, you do not have the discretion to do it, because that's a discretionary project. So from a legal perspective, I don't see where somebody can grab the legal authority without going -- I'm not sure where the legal authority comes from, but from a practical standpoint, let's think about what you are suggesting.

If somebody decides to actually resurface a parking lot, okay, putting yourself in the city's shoes, you actually have to go in and look at all of what your

grading requirements, all your building requirements imposed by ordinance specific provisions that say, "In this instance, you must go back and comply with this particular requirement." Now, you think about all the various building codes and grading codes and --

I'm sorry, go ahead.

MS. CLOKE: It's okay. I think we're at an impasse here, because this is what government does all the time. We enacted all the regulations protecting Americans with disabilities in the Americans with Disabilities Act, and every single municipality in the United States went back and said, Okay. If you're going to have -- if you're going to put in this new -- whatever it was, you made it accessible.

This is what municipal governments do, they -- it's part of what they do. They look for ways to improve the common good, and in this case defined as water quality, and to make sure that they are protecting their citizens. And they do pass new ordinances. And I just think you and I are at an impasse in terms of this conversation. I don't know where to take it. We're not saying the same things back and --

MR. MONTEVIDEO: Can I ask one question? You've been asking questions. Just one quick question.

MR. NAHAI: This is the function, that we ask you questions.

MR. MONTEVIDEO: I know, but this is related to this.

MR. NAHAI: This is how it works.

MR. MONTEVIDEO: Give me one liberty, if you could. The one liberty I would ask, and that is, why? Tell me what the benefit is. I understand that we are at an impasse. I, of course, agree that we are at an impasse. We can agree to disagree. But what's the benefit? What's the purpose? What will we accomplish if suddenly you include all the administerial projects as opposed to just discretionary?

MS. CLOKE: Because my charge is water quality, and to make this a healthier, safer environment, for my children and your children and all of us; for the people in the audience and for the people who, you know, just like to walk along the edge of the beach and wade their feet in it, for the tourist business, which is huge money for Southern California; and the list of reasons -- from the basic reason of we're protecting water quality to water quality is good for your health, water quality is good for the environment, water quality is good for the economy.

MR. MONTEVIDEO: I agree with all of that.

MS. CLOKE: Okay. If I want to clean the water and I've got 100 sources of pollution and I pick three of them and say "You discretionary sources, I am going to mitigate you; but you 97 nondiscretionary, administerial sources, I am going to let you to continue to pollute," have I achieved my goal? It is very straightforward. It has absolutely everything to do with protecting health, safety, and the economy.

MR. MINDLIN: Mr. Montevideo, I would suggest that that is the one question you are asking us, that is the problem.

MR. MONTEVIDEO: I would suggest that if you cannot at least give me some distinction in --

MR. NAHAI: Mr. Montevideo, when it comes to water quality --

MR. MONTEVIDEO: The purpose of the question was to say, where are the facts? Where is the evidence? Give me some support, some data, some distinction. We frankly don't see it. That's part of our problem.

MR. NAHAI: We understand that you don't; but with respect to controlling water pollution, running off of an impervious surface, there is no distinction between whether something is an administerial project or a discretionary project. That distinction may be a legal distinction in your mind, but when it comes to protecting against pollution and trying to protect against storm water runoff, nature does not distinguish between an administerial project and a discretionary project.

MR. MONTEVIDEO: Again, we can agree to disagree.

MR. NAHAI: If you find a way --

MR. MONTEVIDEO: If you really want to know my --

MS. CLOKE: I want to stop. This is enough.

MR. NAHAI: Thank you.

MR. MONTEVIDEO: I appreciate your time.

MR. NAHAI: Let's continue.

The next speaker is Dr. Mark Gold. The next

question we have is for Dr. Mark Gold.

MR. GOLD: I don't think I want to go after that.

MS. CLOKE: If I were you, I wouldn't.

MR. GOLD: Do I have that right? I don't know.

MR. NAHAI: No. No, you don't have that right.

Who had questions for Dr. Gold?

MR. MINDLIN: Dr. Gold, at some point in time one of the speakers that said -- I believe it was a report from U.C. Irvine -- that the runoff had no relationship to the beach closures. I'm not sure if I'm quoting it properly, but can you comment on that.

MR. GOLD: Yes. I actually sat on the technical advisory committee for the Huntington Beach closure situation. It was a committee that was put together by the Orange County Sanitation District, based on the 1999 closures, which lasted most of summer season. There was subsequent research done by the Sanitation District themselves by Dr. Stanley Grant at U.C. Irvine. And there's been subsequent research that's occurring right now, actually, a $4 million study that's going on right now to determine whether or not the sewage plume from the Orange County Sanitation District is coming back to shore.

Now, the findings by that expert panel which were -- also led into the UCI Study in looking at the data from the 1999 summer season were that indeed runoff could have been a substantial source. And then Stanley Grant subsequently, in doing this Tarbell Marsh study -- the storm drains from Huntington Beach area actually

discharged into the Tarbell Marsh, which then go into Huntington Beach -- indeed, the runoff was a potential source. It wasn't the entire source of pollution to that beach. And what they found out was that indeed the marsh itself was a contribution of fecal bacteria to the beach.

And as I said before, there was still some question as to whether or not the plume was coming back to shore. But nowhere in any of those conclusions was anyone saying that the dry weather runoff or storm water runoff -- this was a dry weather runoff situation -- was not a potential cause of water quality exceedances the on the days the beaches were closed.

And indeed, if that were the case, then I'm sure the Orange County Sanitation District, Huntington Beach, and others wouldn't be spending substantial sums right now to continue the diversion of dry weather runoff from the Huntington Beach area, which is, of course, still occurring right now.

MR. MINDLIN: I have a question for Dr. Gold.

I think you were misquoted by Mr. Tahir. I believe that when you testified you said that wanted to be sure that this permit was not recurring in areas than the Long Beach permit.

MR. GOLD: What I said was that for both the Long Beach and the Ventura permit, that the environmental community strongly believes not any section of the entire permit should be any weaker than both the Ventura and Long Beach permits. And obviously that is substantially

different than saying there is some gross comparison between permits. And we obviously in our testimony brought up numerous circumstances where this permit was somewhat weaker or substantially weaker than those two permits.

MR. MINDLIN: I assume you will be working with staff to identify those areas, and maybe you already have done that, where you feel this permit is weaker than the Long Beach.

MR. GOLD: We had a meeting earlier in the week and we brought that out. And the understanding, unless staff can correct me, was that it was never the intent for any section to be weaker. So what we said was that we would provide them the exact instances where there was a weakening and hopefully that would be remedied in the final job.

MR. MINDLIN: Thank you very much.

MS. CLOKE: I have a question.

MR. NAHAI: Go ahead, please.

MS. CLOKE: Just to change to a more detailed question -- we heard a lot of testimony today on the question of inspections. And my question does not go to the discussion of whether we have the authority or not; I'm convinced that we have the authority. But my question goes to the implementation. And I wondered if you had thoughts on the best approach to implement the inspection, the question of whether the State Board or our Regional Board should be the inspector or the local communities

should be the inspector, and if you have any ideas about appropriate funding sources and just the nitty-gritty of how do we get this done in the best way for everybody, at least for the Permittees and so on.

MR. GOLD: That will be the end of the easy questions. And I notice they weren't legal, so I can't have Heather or Steve bail me out.

Anyways, on the inspection program themselves, obviously, you know, the city of L.A. and Orange County have and city of Santa Monica, for example. And that's not to say that there aren't dozen of other cities that might be doing the same thing -- have had substantial inspection programs for quite some time, that have been targeting a great deal of these facilities.

I think really the point, the strongest point that we wanted to make in relation to this was that in an absolute bare, bare, bare, minimum is that how can anybody from any municipality stand up here and say that their inspection program shouldn't include just trying to make sure you are complying with existing ordinances? And that's something that I'll continue to emphasize.

As for the program, the division of labor and those sorts of things -- you know, it's a tough thing to answer, because from my standpoint, the legal issues are -- you guys are continuing to climb the mountain, and I don't want to get into that particular problem.

My feeling is that the inspection program obviously is absolutely necessary for compliance

assurance. And as for implementation, I thought in 1996 when we negotiated this out, when the county said they were going to get the Health Department to take on restaurants, I thought that was absolutely critical to the success of the program. They had an existing agency that was already doing inspections for public health purposes, and to add that additional component as part of the responsibility was absolutely critical in that regard.

We had made a suggestion at that time, five years ago, talking to the county about perhaps another way -- you know, looking at other programs where you have regular annual inspections. And I think you referred to some of them earlier, whether you're talking safety -- we had talked about in '96 issues of fire safety where you have a regular inspection program that is occurring annually -- and if there's any component on top of that where fire safety was brought up, because it's understood that those folks have to deal with a lot of hazardous waste compliance issues and some of the storm water that's related to that.

We had brought that up as a suggestion, but we were told by the County that, for a number of reasons that aren't really worth getting into, it would be more difficult for them to do that rather than using their own inspectors. So I think what your staff has put together is sort of a combination of the above and I think that's a rational approach on how to deal with this issue.

MS. CLOKE: One last question.

You talked about BMPs targeting identified pollutants. Would you elaborate on that, both what you meant and how you would see that happening?

MR. GOLD: Thank you for asking that, because I felt like I didn't do a very good job bringing that up.

Really what I'm talking about is -- you know you have the watershed group from the '96 permit and a watershed management area plan, and I'm sure you guys didn't lose sight of the fact that lo and behold there's not really much to do with those watershed management area plans anymore. And I kind of get that, in light of the fact that those things didn't really have any teeth in then, but yet they were a planning exercise.

The point is we already have this watershed structure created. We already had all these cities talk about what their major problems were within their watershed. They looked at the 303-D list for the pollutants that were actually causing impairments in those receiving waters, and the really next logical step would have been prioritizing best management practices within that watershed for targeting those 303-D listed pollutants or other pollutants that they identified as causing problems.

For example, you look at something like Malibu Creek, where you have fecal bacteria problems, you have nutrient problems, especially nitrate and nitrification issues; and so based on that, you can imagine, within the Malibu Creek Watershed prioritizing the Best Management

Practices for implementation, based on -- let's go after the -- let's go after other sources of pollutants that are causing nitrification and high-bacteria counts. Those would be a higher priority for implementation than, say, for something that wasn't a high -- you know, they are not having a lot of metal problems within the Malibu Creek watershed. That would be a completely different set of constituents. Metals and trash are a much higher set of priority within the L.A. river watershed. Really, that is what I think is missing here. It really is a one-size-fits-all approach.

And we know this was an extreme recommendation on our part to say, "Look. It should have been six permits," but to be quite candid, we've had that position since 1994. And so the reality is something in this permit needs to take into account that there's major differences between the watersheds and major different problems that need to be addressed accordingly; and that's why we brought back the secondary recommendation.

MR. NAHAI: I have one question to ask you.

We have, on the one hand, our responsibility and our charge and our mandate to deal with stonewalling; on the other hand, we are very concerned about the resources that the cities need to gather in order to meet these obligations. And I know that from Prop 13 funds, the City of L.A. and the County of L.A. already derived funding to do flow diversions and other projects.

I wonder if you could elaborate for us on what

kind of processes the other cities could follow, perhaps, to tap into that fund or other funds which might help them comply with these requirements?

MR. GOLD: Gladly. We had a lot of experience with Prop 12 and Prop 13, both in supporting it from the beginning and being intimately involved with the Clean Beach Initiative, which was signed into law today, as well as -- as you know, I chaired the committee of Bay Restoration Project. And so any Santa Monica Bay watershed city of course would be remiss in not applying for storm water project funds under Prop 12, Santa Monica Bay, which was given specifically $25 million to spend on solving Santa Monica Bay's pollution programs. It's well-known that the Santa Monica Bay Restoration Plan's highest priority was to abate storm water pollution.

For example, next month in front of coastal conservancies will be a package of somewhere around $10 million worth of projects, of which, if I am not mistaken, 6 of those $10 million will go to the City of Los Angeles, the City of Santa Monica, L.A. County, Manhattan Beach, to specifically put in Structural Best Management Practices to abate storm water pollution. So that is what is happening now.

There's still another $15 million in the Santa Monica Bay Restoration project. So if your city doesn't know that, they need to get more involved, if they are within the watershed and trying get funds from there.

As to Prop 13, the next round of grant

applications -- I can't recall, but I think it has either just come out or should come out very, very soon. And so clearly, Structural Storm Water Best Management Practices fit both the coastal nonpoint source and the other nonpoint source -- inland nonpoint source requirements.

And so applications for grants there, I think, should be strongly encouraged. And the more that you have a coalition that's applying for a grant, I think that greatly -- also, if you have a match, that will greatly increase your chances of funding.

As for the Clean Beach Initiative, hopefully it wasn't just a one-time shot; but as I said before, somewhere between 10- and $12 million will be going to Long Beach, to Avalon, and really a whole bunch of different cities along Santa Monica Bay, from L.A. to Malibu.

MR. NAHAI: Thank you very much.

Next I would like to call Mr. Mustafa Anki.

MR. ANKI: Are you going to be as nice to me as you were to Mark?

MS. CLOKE: How nice are you going to be to us?

MR. MINDLIN: I think you brought up the cost of the I.C.I.D.

MR. ANKI: Before you go into that, I would like to apologize. I meant to say tens of millions. Apparently, when I got back, people were telling me I said "hundreds of millions."

MR. NAHAI: Well, what's a zero among friends?

MR. ANKI: It's considerably a very high cost. And I passed my presentation to you, and that's what it says.

MR. MINDLIN: Let's talk about that for a minute. I'm a little torn here because I respect the cost. I respect the issue of what it will take to do this. I mean, probably hundreds of -- or thousands of man hours and hundreds of -- or tens of millions of dollars possibly.

But how do you have a system where you don't know what's going in it?

MR. ANKI: That is just not the case. And we explained to the staff several times in the discussions that we had what is the process that we take for identifying that there is a potential illicit connection, to establishing with no doubt that that particular connection is illicit. So there is a process of closure. We don't just go and walk our storm drains and channels and come back and say, "By the way, there were some connections, and we don't know what they are."

There is a database that involves four divisions within our department that at the end of the road, the particular connection that in the beginning was identified as potentially illicit connection would be identified as such and would be followed with corrective actions and either permitted or disconnected at the end.

So there is a mechanism in place. Can it be strengthened? Absolutely. And we have proposed what we should do, so that the staff will feel comfortable on a

monthly basis, bimonthly basis, or annually, that there was a closure in all these illicit connections.

MR. MINDLIN: We need to find out what these are and stop them. But we do so in a deficient and ineffective manner. There should be some type of a situation where it costs more to have an illicit connection or illicit discharge than it is to play by the rules, if you get caught. And how do we prevent that? I still come back to you with how do we prevent that?

MR. ANKI: Illicit discharges have always been -- Paul Schroeder is here. He can elaborate later on this. We respond to those within 24 hours. So illicit discharge is no problem.

We're talking about illicit connections. Like I said, you have to go through this process, because we have numerous amounts of connections, and we do put a closure. There is no single illicit connection that we have not identified that it is an illicit connection and it needs to be resolved, and there is a mechanism by which we resolve that.

So to take this task -- and by the way, I use the word "map." What you failed to have the presentation say is that we initially asked for a G.I.S. system; and then we dropped the G.I.S. system, and we asked for a map. The requirement and the language in the draft permit, when the G.I.S. was still a requirement in the first draft, is still the same. The word "G.I.S." was taken out.

So for us to develop a tracking system that this

draft permit is prescribing, we must use G.I.S. There is no way around it. And our 2,600 miles of storm drains, 450 miles of open channel apparently is not in G.I.S. So you can conclude how long it will take to put that in G.I.S. whereby we can actually use it for analysis purposes and tracking.

So our argument is -- what we're asking for -- like I said earlier in the morning, the objective that has been delineated by the staff to be done using this tracking mechanism in G.I.S. can be done with the current system, with slight improvement; and we will work with the staff to do so.

MR. MINDLIN: Just to repeat what I am saying for staff, this area concerns me because of the expense of man-hours -- the people hours that are going to be spent on it. I think it is a very important issue.

I think we need to look more into how we meet these two important issues: One, to do things efficiently; and two, find out the information.

MR. ANKI: Absolutely. We never abandoned that. We asked the staff to give us reasons and we work with those objectives in mind.

MS. CLOKE: My question goes along with Mr. Mindlin's question. I think that you said earlier that this whole system started to be developed in 1910. Is that what you said?

MR. ANKI: I didn't say that; another speaker did, but I believe it was 1915 when the Flood Control District

was formed.

MS. CLOKE: 1915, so there were people who connected from 1915 onwards that -- how are those records kept? How do you -- my problem is -- I'm with Mr. Mindlin. I don't want to impose anything on your agency that would make life more expensive for you, more difficult for you. If we can meet the goal of water quality in a better way, a way that's better to your agency, let's do it.

What I don't understand is that you don't have a map of all of the locations and you don't know who all are the permitted people and you don't know what they're discharging, then I don't know how you monitor your own system.

MR. ANKI: We do have maps of the permitted connections. We have a computerized database of the permitted connections. That's why I think it is important that we go through and establish -- we have records of all of our connections. What we don't have is -- we don't have a G.I.S. system by which you can with a click of a mouse identify a connection, what kind of plan do you use, what ordinances that apply, what is the address and all that stuff. We have maps, and we have a database of all the permitted records. And as we give out the permits, we add it to our database.

MS. CLOKE: So how do you -- what is your solution to identify illicit dischargers on an illicit connection?

MR. ANKI: There are four divisions that are involved in this process. The first division is a list of all

permitted connections on a particular reach or channel.

MS. CLOKE: How big is that?

MR. ANKI: The reach?

MS. CLOKE: Yes.

MR. ANKI: Depending on how old it is, usually the reach is 10 miles. Let's assume we have illicit connections. We would give them that. They will have the physical description of the connection. There will be a reach which really is the distance from the roughest point. If you take that and dig around, they prepare with this connection. If they see a connection that does not coincide with that list, they take a picture of it.

They take a report of it that has one page, all of the information, what it looks like, where it is located; and then they send it back to the division that originated this list. Then we cross-reference and make sure that our staff didn't make a mistake. If that's the case, then we go to our construction division which is a division that issues permits for conditional use purposes. They in turn check the database just in case there was a lag time between the time the permit was issued and the permit getting into our database.

If they, without a doubt, establish what we see as an illicit connection, then they start the investigation, and they go after -- they identify the source, write letters, and go through the process, which ends up by either permitting that particular connection or disconnecting altogether.

MS. CLOKE: What's the time frame?

MR. ANKI: I don't know what the current practice is. We have talked to both divisions, and we believe that we can do that within 20 days.

MS. CLOKE: So that's for the illegal connection. What about for the discharge?

MR. ANKI: Like I stated earlier, my understanding is that we respond to those within 24 hours. As soon as we hear from a citizen, one of our staff, whoever, of an illicit discharge, we respond immediately.

MR. NAHAI: Let's move on.

Thank you very much.

Were we nice enough to you?

MR. ANKI: I think so.

MS. CLOKE: Well, we tried.

MR. NAHAI: Next up, Ms. Kathy Chang, please.

I just wanted to give you -- because you were the only one whose presentation I cut off midstream, I wanted to give you the opportunity to give us your remaining points really quickly, if you feel a need to do so; if you don't, that's fine.

MS. CHANG: Thank you for the opportunity to continue. I have just a few more points.

Regarding some of the deficiencies in the draft permit that needs to be improved upon, we think that either the draft permit or the annual reporting language should specify the contracts that need to be reported. For example, our review of the annual reports, especially

those submitted by the smaller cities, indicated that results on, for example, the reselected, are not available since they contract with the County.

To really be able to see any trend in how well the cities are doing in terms of controlling trash and debris at the source, which is very important, especially with the trash TMDL at hand, this information is very much needed.

The next point is that under the public information and participation section, we think it will be important to add a requirement to increase the public's awareness of potential legal consequences, if there are any, for illegally connecting or dumping into a storm drain, similar to a littering fine or a carpool violation fine. We think that establishing a set fine and publicizing will act as an effective deterrent.

The last point I want to make is that with industrial, commercial, educational site visits, we come across a lot of difficulty in trying to evaluate the databases submitted by the Permittees, because each individual Permittee submits one database, and not all the databases have the same or consistent field names; and so this impedes any efforts to perform a comprehensive assessment or to compare the performances between the Permittees.

We think it is crucial to create a centralized database to streamline this information submitted by the cities and the county, which perhaps is a task that can

most suitably be conducted by the principal Permittees, with an updated, centralized database which could then be submitted to the Regional Board.

With that, I would just like to conclude by saying that the reason that we conducted the survey involving seven cities within the watershed is because, to do an adequate evaluation, we found that the information provided in the annual reports is insufficient, partly because of the way that the questionnaires were worded or formatted. And so in our report we will be making specific recommendations as to how to improve upon the existing annual reports.

And then also, as I indicated previously, we have additional comments in the monitoring activities which will be incorporated into our report as well.

Thank you very much.

MR. NAHAI: Thank you.

Next is Laura Gentile, please.

Who had a question? Go ahead.

MS. DIAMOND: I would like to thank you very much for your comments before.

MS. GENTILE: Thank you.

MS. DIAMOND: I do have a question for you. I understand that you have been involved with the EPA in the areas of inspections.

MS. GENTILE: Yes.

MR. NAHAI: And one of the questions that I have is with this permit that has to do with the RGOs. If they

have not been in our previous permits, this is the first time they will be in the permit, but the inspections -- we don't have inspections mandated in this second draft. In fact, it is just kind of an educational thing, going back and letting them know what the BMPs and kind of doing a basic education. My thoughts are, my feelings are, that it's not that difficult with respect to a gas station. I mean, they are usually not that large, and they are usually flat. It's usually pretty easy to see what kinds of BMPs are in place or need to be improved.

And I am wondering what your feelings are about that, if you have any.

MS. GENTILE: As to whether they should be in the permit currently?

MS. DIAMOND: Whether RGOs should be inspected rather than paid educational visits.

MS. GENTILE: I think, ideally, everything should be inspected. Unfortunately, that's always been my view. It is at this Board's discretion to include the facilities they think are necessary.

So I would imagine -- I have not talked to them about this specifically, but if they did not include them, I would imagine there's a very good reason why.

And in the first permit cycle of this particular permit, the decision was made to have educational visits to all of the facilities that should have been inspected. And part of that was based on the fact that the storm water regs were very new, and it has always been an EPA

policy to give facilities time to get up to speed; and that's why a special requirement that should have been in this permit years ago has not been up until now.

So perhaps the same approach should be taken with the RGOs, to get with us and add special requirements later. But ultimately, it's their decision.

MS. DIAMOND: Also in your report you mention the need for tighter monitoring for TMDL, and I was wondering if you could expound on that a little bit.

MS. GENTILE: Their concern was that a lot of the data that came from the monitoring plan was not usable in terms of the TMDL monitoring effort because of data incompatibility. It sounds like they are just trying to get all the data to be useful for the future TMDL.

MS. DIAMOND: Thank you.

MR. NAHAI: Thank you very much.

Next, Mr. Steve Floschli, please.

Who had a question for Mr. Floschli? Someone had a question.

MS. DIAMOND: I did.

MR. NAHAI: We just wanted to call you up, that's all.

MR. FLOSCHLI: Just to scare me a little.

MS. DIAMOND: I wanted to ask you about the G.I.S. for illicit connections and discharges. Somebody -- I believe it was Mr. Beckman, who I don't think is here, he may have left -- mentioned that mapping is mandated by federal law. And I would like to know what your opinion

of that is, and what in fact we are legally required to do about mapping the legal discharges and connections.

MR. FLOSCHLI: I can't remember exactly what section Mr. Beckman was talking about. Mapping in particular is -- in terms of the application process due to Federal Regs 1.2.26 -- actually, according to part 1, "They should provide the following information: The location of known municipal storm sewer discharging." There is a source identification or description of historical use in the ordinances, the U.S.G.S. map, but I don't think that's what he was talking about.

In terms of I.C.I.D., I don't know the particular section that he might have been talking about. I have reference to one other section. Let me check.

I love how he does this to me. He had to go home and take care of his cat.

I can't find it. I apologize. I will make sure we address that in our written comments.

MS. DIAMOND: Our staff would also like that.

MR. FLOSCHLI: Is that it?

MR. NAHAI: As long as you are not going to take the position that rainwater can distinguish between discretionary and nondiscretionary projects, you have nothing to fear from us.

MR. FLOSCHLI: I thought Mr. Montevideo had a good point, but I will keep that to myself.

MR. NAHAI: I also have Mr. Beckman on the list, but

he is not here; and I had a question for Mr. Wong, but I've clarified that in looking at the problem. I think that's it.

Anybody else have any questions?

MS. CLOKE: Now it's time to ask staff.

MR. NAHAI: Now we have to ask questions of staff.

Is Mr. Dickerson around?

MR. DICKERSON: Yes.

MR. NAHAI: Where is he?

MR. DICKERSON: I'm here.

MR. NAHAI: Who wants to lead off with questions for staff? Well, let me --

MS. CLOKE: I'll let you ask all my questions; then I won't have to.

MR. NAHAI: First of all, let me add my congratulations for the environmental award to you and your staff; very, very well deserved. And also I think the comments today show just the amount of effort that you personally put into this and your staff has put into this permit. I think the effort shows that. And I am going to also express my personal appreciation, and I am sure on behalf of the Board as well, for all the work that's gone into it and the product that has come out of the other end.

And I would also like to say that we've heard a lot of talk today about finding a middle ground, and it always has been this Board's policy to try to move by cooperation and consensus.

Having said that, though, finding the middle ground is not our mandate. Our mandate is protecting the environmental and economic well-being of our coastal waters. And if the middle ground has to be sacrificed in favor of meeting that responsibility, well then, it's that responsibility that must come first.

So looking at the permit and where it is right now, I am all for continued discussion concerning the points that are in the permit. But I think conceptually, as far as I'm concerned, you have a document that goes a long way in meeting the Permittees concerns; and I don't think we should have here a permit that's significantly weaker than what we have here at this point.

I just have a couple of more points to make, and then I had a couple of questions of legal staff to ask.

First, I think it's quite important that the enforcement element of this permit not be forgotten --

MR. DICKERSON: Excuse me, not be what?

MR. NAHAI: -- forgotten. To the extent now that there is additional storm water staff, we really should try to gear up to make sure that whatever permit is finally adopted, that it is enforced by audits, staff inspections, so that we don't have merely a permit that is adopted without having the backup of inspections and enforcement.

We heard a number of comments about language problems with respect to the permit. For instance, a good point that was brought up is that it's very difficult to

make it a potential contribution. I am not sure exactly where that goes, and I would be -- and I would want to caution that we take a look at that concept and that language, again, and see whether it's appropriate.

The next point is that there were comments made about language that talk about minimizing things and maximizing things; and those are all relative terms which in a legal document may prove problematic in the future. And I strongly suggest that the legal language of the permit be reviewed to make sure that it is ultimately enforceable.

Again, references to things being done measurably -- that is not language that's appropriate in law, because it's impossible to define.

I would also suggest that we make sure that our document does not conflict with Air Quality Management District requirements. One of the speakers brought up the possibility of that. Those are the comments I wanted to put to you.

I do have a couple of clarifications that I wanted on legal points from our legal staff, but I'll say that --

MR. MINDLIN: I just want to add to what you were saying. I think it is important that staff work with all of the agencies, including the health agency. Somebody was talking about the vectors. We want this to be all-encompassing with respect to what we were doing.

MR. NAHAI: And actually, another point: With

respect to ESA and the threshold adopted with respect to ESA, I want very much staff to provide a specific explanation of its thinking and its justification for that.

MS. DIAMOND: I guess I have a couple of comments as well. One of the previous speakers earlier in the day -- I don't remember his name -- he is the mayor of -- he was from Downey or one of the small cities -- I didn't have a question. I just wanted to mention that in talking about some of the cities in San Diego and how expensive their permit turned out for them that they actually had to get rid of some essential services. That really struck a note with me, because I can't think of anything more essential in terms of a service than protecting the water quality for the citizens of any municipality and of the entire state of California, and certainly our region. I think that we are protecting one of the most essential services by having a strong permit.

And I would like to commend you and the staff, Wendy Phillips, Xavier, all of the staff for this really incredible work you presented us, not only in the permit, but in the presentation of the material to the Board; it made it easy to read, and it really made our work a lot easier than it could have been.

I wanted to talk a little bit about the fact that when we find in some way -- the enforcement issues of illicit -- when we have illicit connections and discharges, perhaps there's a way of looking at

enforcement and fines that could be garnered from that and perhaps go towards helping in the expenses of mapping any new G.I.S. systems that might be helpful.

And basically, I would like to -- although I understand that it's the first time that gasoline stations are part of the permit, that to consider the idea of inspections rather than just education, because I don't think it's that difficult a thing to do in this particular kind of business enterprise. I think the two can be combined in almost the same amount of time in not a very difficult way.

That's basically all I have to say. I think this is a good permit. I do want to be sure that any places where it is weaker than Long Beach or Ventura permits, that it is at least made up to it, to be as strong as they are; and that we continue to do the good work that the staff is doing already in protecting water quality.

UNIDENTIFIED SPEAKER: I would just like to -- I would like to echo some of the same things, I guess. And when I listen to what's been said, there's been a lot of work that has gone into this thing. At this stage to me, the tightening that goes into it is tweaking. I don't see things in it that look like major modifications. I mean, it's been tweaked. I'd like to understand what the next steps you would take are before you are finished to bring this thing to the finish line.

MS. CLOKE: I have two points that I would like you

to look at in the permit itself. One is the question of the specific pollution targets and specific BMPs for different areas. And I think that there's some -- I think there's a lack of clarity in the permit itself, so that people reading the permit can understand that there can be and should be specific targeted BMPs to specific pollutants.

I want to echo the comments about having consistency in all three of the permits. And I also wanted to just ask you to look again and make sure that the issue of trash from our trash TMDL was fully included in an appropriate way.

Several people today made comments -- many people today made comments about the costs associated with this, and we're all sympathetic to the problems that government at all levels and businesses and so on are having with financial issues. And it seems to me that there are two things that we can do that don't need to be in the permit.

There are two things that we can do in the preparation of the permit. One is to take advantage of the skills that people bring. We heard people from the construction industry and people from the Public Works Department; so to really work with them to stay with our water quality goal, not to negotiate away any water quality, but to say to them, "Here is the bar that we are going to meet, but let's get there in a way that's best for you or that makes the most economic sense for you to

get there, as long as you can satisfy us that that mechanism will get us to the water quality." And that has to do with, you know, ordinances or requirements that we put on people.

And as long as the people that -- and my point of view is as long as the people that you work with from the different industries and agencies understand that this is not a negotiation of whether you are going to meet a water quality standard, but rather it is a discussion of how you are going to get there, how you are going to implement it, and not even when; just how; what kind of map are you going to use -- that we want to be as accommodating as we can, as long as we don't lose our water quality goals.

The other thing that I think -- and we may already have been doing this, I don't even -- I don't know about it yet -- is do we have a mechanism or a point person in our agency to provide funding information to the municipalities as to the different grants, or do we have a referral for them at the state level, so that we can be a conduit for that. And I don't think that needs to be in a permit, but something I would like to see us do.

And then I believe, Mr. Dickerson, that you said that on the education outreach you were going to put together a task force?

MR. DICKERSON: That's correct.

MS. CLOKE: I think, before we have another hearing, we could know some more about that task force.

And I would just like to conclude with the seriousness with which everybody has taken this process. I think it's commendable. I realize that this has a lot of impacts on people's lives, not just on water quality, but in many ways. I appreciate everything everybody has done. And I especially appreciate you and Wendy and Xavier because this has been a monumental job, and you truly gave yourselves over to the task.

Thank you very much.

MR. MINDLIN: Congratulations on the award. And I think I will let you ask the questions I have of Dennis.

MR. NAHAI: I just had just one or two short questions for our legal staff.

MR. DICKERSON: And Mr. Chairman, once you are finished, I have one technical question -- procedural question to talk about. I'll come back to that.

MR. NAHAI: One of the speakers was concerned about the fact that the meet-and-confer provisions in the old permit had been deleted from this one, and I can understand the concern. They don't want to be without a chance to meet and confer about something.

But I also understand that the reason why the meet-and-confer provisions were deleted is because there is now a state protocol of some kind that would be followed statewide and would be a substitute for the meet and confer.

Can you elaborate on that?

MR. SAMS: Yes, Mr. Nahai.

Over the last few years, the State Water Board enforcement -- the response in enforcement by the Regional Water Control Board was basically undertaken in a stepwise action. Theirs is in response to the degree of the violation, and then reactive from there, based on what efforts are done by the discharger to comply with this violation.

MR. NAHAI: Therefore it is simply not necessary to have specific provisions in the --

MR. SAMS: That is correct. And it never was necessary to have that in the permit as well.

MR. NAHAI: My next question is -- we heard a number of people today that took the position that municipal MS4 obligation is to comply with M.E.P.; however, our binder is full of memoranda which say that we also have an obligation to meet water quality standards.

MR. SAMS: That is correct. That is a separate provision of the Clean Water Act. And as discussed at length, the State Water Resource Control Board orders that obligation -- I hesitate to use the word "obligation" -- the obligation arises out of State Quality Resource Orders, and it comes from the State Water Resources Control Board's exercise of its discretion in carrying out Section 301 of the Clean Water Act, in conjunction with the permitting requirements under 402-P for municipal storm water systems.

In addition, just a very minor point with respect to the maximum extent practical, that's with

respect to controlling pollutants or the introduction of pollutants to a storm drain system. There's a separate obligation under 402-F, that's Roman numeral number II, and that's the illicit discharges to the storm drain system.

MR. NAHAI: And then the language that we have in the permit now requiring receiving water limitations, that language accords with what the State Board has dictated and what EPA has required to be included; is that correct?

MR. SAMS: Yes, it does. And as a matter of fact, if you read the specific Board order that's been cited by numerous commentors today, many of them will try to take out and indicate that the regional Board in its draft permit, that staff had gone and coined the language that was in the order 99-5 by including, for example, the language on water quality on meeting water quality objectives. Well, several of the permits that have been approved by other regional boards and subsequently by the State Water Resources Control Board contain the exact additional paragraph about obtaining water quality objectives, not the paragraph in isolation that the dischargers have referred to from order 99-5.

MR. NAHAI: How do we respond to a Permittee who says, if you put this in, are they immediately in violation or does the -- you know, does the state protocol, you know, sort through these issues? Does that kick in here? How realistic a fear is that?

MR. SAMS: The language on water quality limitations

that exists on the draft permit that has previously been approved by the State Water Resources Control indicates that timely compliance with the permit conditions is how you achieve compliance with those water quality limitations and discharge prohibitions. So obviously it is left with a measure of discretion of the Regional Board looking at the degree of violation and so forth in determining whether or not the "reduction of pollutants to the maximum extent practical" is within compliance with all the other permit regulations.

MR. NAHAI: The deletion of the language in and of itself does not cause a violation?

MR. SAMS: Correct.

MR. NAHAI: Those are my questions. Thank you very much.

Any other questions?

Do you have a --

MR. DICKERSON: Just a procedural question. I just want to get the sense of the Board -- and I did talk with your counsel, Mr. Leon, briefly.

We currently have a second draft out that was the focus of this discussion. The comment period for that ends, I think, on August 6th. And the question is whether or not we should extend that date to issue a third draft and avoid that whole intermediate step. Mr. Leon suggested that that might be an appropriate thing to do.

I wanted to get the sense of the Board if that was acceptable.

MR. NAHAI: You mean not to solicit comments on this draft?

MR. DICKERSON: Solicit comments on the third draft, as opposed to receiving the comments on the second draft and then issuing a third.

MR. NAHAI: The next draft should be what you bring back to us for adoption.

MR. DICKERSON: We could still have comments on that.

MR. NAHAI: Exactly. I anticipate that the day that we meet in order to deal with the adoption of the permit will be that we'll receive comments and take testimony and go through this process, but in a much more detailed way.

So I don't know whether you want to be in a position now to go revise it, get it out, get comments, revise it again, bring it to the Board. I think the Board's sentiment is that this permit as it is, apart from the areas that we've talked about, is nearly there. I think it requires a little tweaking more than anything else.

MR. MINDLIN: There were comments made during the day that people are getting to us by the 6th.

MR. NAHAI: Right. I would wait. Let's get everyone's comments as of August 6th. And then you will promulgate the permit which will be the permit that you will bring before the Board.

MR. DICKERSON: Okay.

MR. NAHAI: All right. And you know when you do that then, you will take into account the suggestions the Board

members have made today as well.

And also, just one final suggestion. There was the issue about monitoring that was brought up, I believe, by the representative from the Santa Monica Bay Restoration Project. And I think those comments should be considered very carefully by your staff as well. I am not saying that they should all be adopted, but I believe they should be carefully considered.

All right. Anything else?

All right. Thank you very much, everyone.

(Hearing adjourned at 5:25 p.m.)

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I, LORI ODELL KENNEDY, CSR NO. 3320, PRESIDENT OF KENNEDY COURT REPORTERS, INC., DO HEREBY CERTIFY:

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August 3, 2001

Mr. Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, suite 200
Los Angeles, California 90013

Attention: Dr. Xavier Swamikannu

Subject: Comments on NPDES Municipal Stormwater Permit - Second Draft

Dear Mr. Dickerson:

We appreciate the effort that you and your staff have made in responding to comments regarding the first draft. While the inclusion of many of the comments into this second draft has made this a more workable document, there are still several additional changes that we feel are important to make.

General Comment Compliance with the Permit

The current (old) permit clearly states that if cities implement the model programs in a timely and thorough manner, then the cities are in compliance with the criterion of Maximum Extent Practicable (MEP), as required under the Clean Water Act. Similar wording is conspicuously missing from the draft permit. Without the protection of this wording, cities are being held to a different standard than Congress had the wisdom to apply to the rest of the nation. The Board should not issue a permit that essentially nullifies the criterion of MEP.

The MEP standard recognizes the inherent difficulties and costs in controlling urban runoff, which is in many ways more similar to a non-point source than a point source. And, it recognizes that we must, for the sake of cost-effectiveness and reasonableness, fully exploit the gains that can be achieved through best management practices, before resorting to a strict water quality standards approach as is used for traditional point sources. This draft permit seems to abandon that consensus and assumes there is no limit to what cities can achieve in the immediate term. It invites lawsuits from all sides. Cities' resources will be better spent on improving implementation rather than fighting third party lawsuits. The "compliance with MEP" wording should be reinserted into the next draft permit.

Part 2

Receiving Water Limitations (Meet and Confer)

Under the current permit, the initial step by the Regional Board for any city whose program is deemed inadequate (by the Board) will be the issuance of a Notice to Meet and Confer with the Board to discuss improvements and additional BMPs that can be instituted. The second draft has no such provision. This would result in the untenable situation of the first notification to cities that are attempting to implement the permit in good faith would be a Notice of Violation (along with any potential fines and penalties). The Meet and Confer process for cities implementing the programs on a timely manner should be reinstated.

Part E-10

Numerical Discharge Limits

Effluent limits from the California Toxics Rule and TMDLs are being incorporated into the Permit. When exceedances are discovered, the method for compliance prescribed within the permit is the preparation and submittal of a plan for implementation of additional BMPs to the Board. This appears to be a redundant program that duplicates the TMDL program in many instances. Cities that are subject to a phased TMDL program that calls to the reduction of a specific pollutant over a ten to twenty year period should not be suddenly subject to a 30 day reduction requirement. Reference to the California Toxics Rule or other numerical limits should be removed since the priority pollutants are already listed on the 303d list and TMDL are scheduled for implementation over the upcoming years.

In addition, under 'Public Agency – Trash' there is another apparent redundancy with the TMDL program:

> "Each permittee shall conduct an assessment of measures that can be implemented to reduce and/or prevent trash from entering [the storm drain system]".

General Comment

Overall Program Management

The second draft often goes into detail in discussing how the program will be managed. This often borders on micromanagement, which is inherently subject to inefficiency. Cities that have effective programs should be allowed to continue their programs in the most efficient manner. For example, cities may now often require that restaurants install treatment BMPs. These cities will review and approve the number, location, maintenance schedule and design of these BMPs, but the County Health Department is mandated by the permit as the inspecting agency. How will the health department know if the restaurant is in compliance with the SUSMP?

The permit should take into account the inherent complexities of these programs as well as the mandated number of agencies involved, and therefore cities should not be held entirely accountable if exceedances occur.

Part 3.D.1

County as Liaison with the Board

We can appreciate the difficulty that the Board has experienced over the past several years in dealing with some 84 individual permittees, but that is the de facto situation within Los Angeles County. While Los Angeles County (as an agency) will undoubtedly share many of the same concerns as the individual cities, the County has in no way been granted authority by the cities to negotiate on their behalf. As awkward as it may be, the Board should interact with the cities individually or through properly authorized committees.

Also note that there is a typographical error in this section - two "1"s.

Part 4.C

Site Visits

While many cities may be inserting "right-to-inspect" clauses in Industrial Waste and Conditional Use Permits, we do not feel that cities have (nor, under the 4th amendment, will ever have) the right to authorize the entrance onto a property to make an inspection without permission or reasonable cause. The Board needs to thoroughly research this prior to issuance of the third draft.

Also, if an inspection shows non-compliance, then the permittees shall advise the owner/operator regarding the implementation of additional BMPs. It is not clear if "advise" is to be interpreted as education or enforcement.

Further, since the State is already collecting $250 per Phase 1 facility and the Stormwater inspection fee is already authorized to be up to $500, the permit should give cities the option of requesting the State Board collect the full $500 with the balance being returned to the cites to help offset the cost of the site visit program.

Part 4.D

SUSMPs

The SUSMP program appears to have been expanded beyond what the State Water Resources Control Board approved. (1) Under the approved SUSMP, only discretionary projects (within the priority project categories: restaurants, auto service facilities, etc.) must comply with the SUSMP requirements. (2) Environmentally Sensitive Areas are not a priority category in the approved SUSMP. (3) Service stations are not included under the ¾ capture and treat criteria.

The 3rd draft should follow the same SUSMP program as approved by the State Board. At the very least, cities should be given a few years to implement the approved program and then the Regional Board should evaluate its effectiveness before changing it again. It is not at all clear that the proposed changes are going to have a large impact and we think the cities have a challenge to get the basic program up and running. Constant changes are disruptive to our effort to train personnel, print up-to-date educational materials and forms, and achieve routine, effective implementation.

Part 4.D.13

General Plan

The second draft includes wording that implies that the Regional Board has the authority to revise the City's General Plan amendments. This item should be revised to reflect that cities can provide copies of their General Plan sections to the Board upon request but that the Board has no review or approval authority.

Part 4.E (e)

Construction – Wet Season Grading

Under the draft language, cities will be required to "discourage grading during the wet season." Are cities now expected to essentially shut down grading projects from October through April? Which agency will be subject to damage claims from contractors for not allowing them to work? Through the Development Construction Model Program, there are numerous BMPs that are supposed to be implemented to allow contractors to continue working through the rainy season. The "discourage grading during the wet season" phrasing needs to be eliminated.

Part 4.F.8

Street Sweeping Prioritization

Under the draft language, streets and roads will be prioritized. High litter streets (Class A) must be swept at least twice a month, moderate litter streets (Class B) a minimum of once a month and low litter streets (Class C) as necessary but a minimum of once per year. What criteria is the Board using for High, Moderate and Low?

Part 4.F.9

City-Owned Parking lots (25+ spaces)

Making a blanket statement that city-owned parking lots must be cleaned a minimum of twice per month does not take into account that some lots may not need cleaning this frequently. Inserting the phrase "when needed" is recommended.

Part 4.G.2.b Illicit Connections – Proactive Screening

The draft permit also calls for cities to develop a plan to screen storm drain priority areas for illicit connections. This plan would be submitted to the Board for approval by October 2002. If monitoring (including sampling and testing currently being conducted by several different entities) fails to show that a problem exists. City resources would be better spent investigating and correcting illicit discharges.

Part 4.B.e Typographical Error

Second line: "Pollutants listed in Table 1 on...."

We appreciate the opportunity to offer our comments regarding the second draft of the NPDES Municipal Permit. Please contact me if you have any questions at (626) 256-6584 or LeAnne Hamilton at (626) 256-6552.

Sincerely,

Pat Malloy
Public Works Services Director

PM:LH:dw

c: William R. Kelly, City Manager
LeAnne Hamilton, Assistant Engineer
File

BALDWIN
P · A · R · K

August 6, 2001

Mr. Dennis A. Dickerson
California Regional Water Quality
Control Board – Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Re: Second Draft Comments, Los Angeles County Municipal NPDES Permit

Dear Mr. Dickerson:

The City of Baldwin Park is pleased to submit to you its comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. This version represents a significant improvement over the first draft. It contains fewer impractical and unnecessary requirements and improves permit clarity greatly. The City appreciates the time you and your staff have devoted to this very difficult task and the flexibility you have shown in making several changes that were asked of you earlier.

The comments provided herein are in response to additional requirements that were made to the second draft and to issues that were raised in comments on the first draft that were not addressed in the second draft documents.

The City hopes that you will find these comments helpful in structuring a final permit that balances the need to protect water quality against the need for municipalities to maintain an adequate level of public services for its citizens.

If you have any questions, please feel free to call me.

Sincerely,

Shafiq Naiyer

Shafique Naiyer, P. E.
Director of Public Works

SN:an

cc: Dayle Keller, Chief Executive Officer
David Lopez, Associate Engineer

R0004382

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority (viz., its elected council members), play no role in the selection of EAC members. Unlike the watermaster, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The watermaster, on the hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (cont.)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the business license issuance process. Identifying non-GIASWP facilities could be achieved by comparing the City's business license data base with the State Water Resources Control Board GIASWP data base. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance.

2. Industrial/Commercial Facilities Inspection Program (cont.)	**Action Sought:** Revise inspection requirement as suggested.
3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority planning projects. Are they the categorical projects are covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
4. Development Planning Program	**Part IV - Paragraph D.5** **Issue**: Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. It believes that these projects are actually subject to CEQA and its

4. Development Planning Program (continued)	discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use-specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
5. Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add 1 acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule which applies only to such projects that involve a soil-disturbance of 1 acre or more.
6. Development Planning Program	**Part IV - Paragraph D.8** **Issue #1:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects

6. Development Planning Program (cont.)	by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
7. Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) -- not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary -- it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan

7. Development Planning Program (cont.)	(L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
8. Development Construction Program	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

9. Development Construction Program	**Part IV - Paragraph E.1.b** **Issue**: The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought**: Agree to the conditions required by the City.
10. Public Agency Activities	**Part IV - Paragraph F.1.c** **Issue**: The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought**: Postpone inclusion of this requirement until CMOM is adopted.

10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
11. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue**: The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought**: Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.
12. Program Management	**No reference**

13. Program Management (cont.)	**Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be envoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

CITY OF BURBANK
275 EAST OLIVE AVENUE P O BOX 6459 BURBANK CALIFORNIA

2001 AUG -6 P 5:00

August 6, 2001

Mr. Dennis Dickerson, Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th St., Suite 200
Los Angeles, CA 90013

RE: Comments on the Second Draft, Los Angeles County Municipal Storm Water NPDES Permit (June 29, 2001 Draft Order, NPDES No. CAS614001)

Dear Mr. Dickerson:

Thank you for the opportunity to comment on the subject draft order. While we see that some positive changes have been made in the permit, several issues of concern remain. Our comments are provided below:

- The permit should include language similar to that contained in the second paragraph of Part 1, Section II of the existing permit: "timely and complete implementation by a Permittee of the storm water management programs prescribed in this Order shall satisfy the requirements of this section and constitute compliance with receiving water limitations." Furthermore, the draft permit should reflect the federal "maximum extent practicable" standard.

- The draft permit language should be revised to reflect that certain projects are statutorily exempt from CEQA.

- Street washing should be included with sidewalk washing in the exemptions for discharge prohibitions.

- We recommend that the Meet and Confer process for cities implementing these programs in a timely manner be included in the new permit.

- The inspection requirements of the proposed permit are problematic. The City very likely does not have the right to enter private property and conduct inspections without permission or reasonable cause. The Board should consider further research into this issue prior to issuance of the 3rd draft.

- The development planning programs should apply only to priority projects.

- There is no need for Permittees to develop and make available additional developer planning guidelines. There are already a number of guidance and reference materials available, including the State's BMP manuals, that provide adequate information.

- The State (not the Permittees) is responsible for enforcing the general permits it has issued for construction sites.

- Under the Storm Drain Operation and Maintenance section, item e) 2) and f) 5) require the Permittee to record the quantity of *waste* collected, then parenthetically refers to the amount of *trash*. The Permittees should not be required to separate each load of material collected to measure trash separately. The total amount of material collected should be sufficient.

- The draft permit calls for cities to develop a plan to screen storm drain priority areas for illicit connections. This plan would be submitted to the Board for approval by October 2002. If monitoring (including sampling and testing currently being conducted by several different entities) fails to show that a problem exists in a specific area, why embark on a potentially extremely costly search for possible connections? City resources would be better spent investigating and correcting illicit discharges.

Thank you again for this opportunity to comment. We look forward to reviewing and commenting on the next draft.

Please call me at (818) 238-3921 if you have questions.

Sincerely,

Bonnie Teaford

Bonnie Teaford
City Engineer

BT:bt

cc. Bruce Feng, Public Works Director

CITY of CALABASAS

August 6. 2001

Mr. Xavier Swammikannu
Los Angeles Regional Water Quality Control Board
320 W. 4th St. Suite 200
Los Angeles CA 90013

Dear Mr. Swammikannu:

Please find attached the comments on the second draft of the Los Angeles County NPDES Permit from the City of Calabasas. Please feel free to contact me if you have any questions regarding these comments. Thank you in advance for your time and consideration.

Sincerely,

Heather Lea Merenda
Storm Water Program Manager

encl

c: Donald R. Duckworth, City Manager
Charles Mink, Public Works Director/City Engineer

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26135 Mureau Road
Calabasas, CA 91302-3172
(818) 878-4225
Fax (818) 878-4215

City of Calabasas Comments on Second Draft of Los Angeles County NPDES Permit for Storm Water Discharge, August 6, 2001

Overall – There are two tiers of regulations that are confusing, one if maximum extent practicable, the other meeting numeric water quality objectives. All the requirements need specificity so that municipalities know what their budgets will be to implement this program from the beginning. Please clarify whether the RWQCB intends to enforce this perform based on numeric criteria or to the maximum extent practicable and remain consistent throughout the document.

There are several places where the Executive Office can change permit requirements, but there are not criteria for those Executive Officer decisions and changes in the permit. Please provide criteria in the permit. For example, the SUSMP have specific criteria for exemptions such as life safety. Recommend that such criteria include scientific, peer-reviewed study that validates any changes made.

The Notice to Meet and Confer process is important to retain in the NPDES Permit. There is such a diversity of permittees that RWQCB staff cannot possibly start enforcement procedures without evidence that would require a site visit and document review of some sort. This is especially important given the historic lack of review of the annual reports by the RWQCB. The Notice to Meet and Confer process provides RWQCB staff with significant information. For example, the Notice to Meet and Confer process performed for trash and litter allowed RWQCB staff to see the field realities of the work being performed by Permittees regarding abating trash. It is a useful process for both RWQCB staff and Permittees and should remain in the NPDES Permit.

The NPDES Permit should not require a new type of CEQA and General Plan procedure inconsistent with the rest of the State of California. Please remove the requirements to alter CEQA checklists and change General Plans. For example, the City of Calabasas performs CEQA reviews and has a General Plan that includes discussions of compliance with NPDES Permit and the Clean Water Act (please see General Plan section and a sample CEQA enclosed) without altering the process. It appears that this is incorporated so that people don't have to review documents too hard to see if these issues were covered. Requiring additional hoops outside State law further complicates already complicated processes. This also applies to Part 4 D 3 c 3 regarding coordinating with Fish and Game and the Endangered Species Act so that there are conflicting policies in Los Angeles County. Recommend this section be changed to reflect beneficial uses as defined in the Basin Plan.

Part 2 – Receiving Water Limitations - items 1 and 2 should be removed or rewritten so that permittees won't be in violation of their NPDES Permit the day it is signed. While it is understood that water quality standards must be met, there also must be an understanding of controllable discharges. This assumes that

every Permittee has absolute control over the system and everything that is discharges into them, as a point source would. Storm water runoff is not a point source at its origin.

On page 29 (Part 4 D 2) - peak flow control - requires some sort of new rate to be established to prevent down stream erosion. Recommend this be changed to "Upon completion of scientific, peer reviewed hydrologic and erosion/ sedimentation studies, peak flow control will be considered as one option if hydrologic and erosion/sediment study support it. The studies will be performed in each of the watersheds affected. This study will be developed and funded jointly between the RWQCB, Los Angeles County, and Permittees discharging directly to areas with natural drainage systems." Please include a definition for natural drainage system (i.e. those creeks and rivers with natural bottom subject to bank erosion).

Throughout the Public Agency Activities work, there are Priority A, B and C streets and storm drains that are completely subjective. Recommend that all these requirements that seem to be related to trash be replaced with language consistent with the Trash TMDL so that there are not two conflicting programs to abate trash and littering impacts.

Please remove from the last paragraph of the definition of "pollutants" any discussion of enforcement action. If it is retained, place language in the Enforcement section in Part 6.

In Part 4 D 12 replace this with language that requires submittal of potential scope of work for dry weather diversions that would assist in establishing a priority-funding list for projects that the RWQCB can assist in partnering on. Please clarify that this is for funding assistance for voluntary projects, not for establishing required dry weather diversions. Establish criteria for what the RWQCB would consider priority pollutant or areas of highest concern, similar to grant proposals, so that Permittees can evaluate their systems. If this section is anything but a method for having a ready list of projects for unexpected funding sources from the State and Federal governments, remove dry weather diversions completely and let the TMDL process deal with the issue.

Please remove the Bypass section in Standard Provision Part 6, Section M. This could result in the unintended consequence of automatic violations for permittees who have voluntarily installed structural Best Management Practices that are designed to bypass during heavy storm events to prevent flooding. Even the Santa Monica Dry Weather Treatment Facility bypasses during storm events. The storm drain system is designed to carry most storm water flows and the Weather Services, let alone Permittees, can't forecast rain 10 days in advance. This applies to industrial facilities and sewage treatment plants that are designed not to carry storm water flows. It is inappropriate for storm drain NPDES Permits.

CITY of CALABASAS

26135 Mureau Road
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818.878.4225
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f a x TRANSMITTAL

TO:	**Mr. Xavier Swammikannu**
COMPANY:	**LA RWQCB**
FAX #:	**213-576-6640**
RE:	**2nd draft NPDES Permit Comments**
DATE:	**August 6, 2001**
TOTAL PAGES INCLUDING COVER:	**5**

MESSAGE:

Please find my cover letter and comments attaches. Please HAND DELIVER, TIME SENSITIVE

From the desk of...

HEATHER MERENDA

PUBLIC WORKS DEPARTMENT

818.878.4242, EXT. 293

FAX: 818.878.4205

PROJECT Pollution PREVENTION

CITY OF CARSON

August 2, 2001

Sent Via Facsimile & U.S. Mail

Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board/Los Angeles Region
320 West 4th Street, Suite 2000
Los Angeles, California 90013-1105

Dear Mr. Dickerson:

Subject: **Los Angeles County Municipal NPDES Permit Comments**

The City of Carson is pleased to submit to you its comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. This version represents a significant improvement over the first draft. It contains fewer impractical requirements and greatly improves permit clarity. The City appreciates the time you and your staff have devoted to this very difficult task and the flexibility you have shown in making these changes.

Please find attached for your review, the City of Carson's comments in response to additional requirements that were made to the second draft. These comments also focus on some concerns we raised on the first draft, that were not addressed in the second draft document.

I you will find these comments helpful in structuring a final permit that balances the need to protect water quality, against the need for municipalities to maintain an adequate level of public services. If you have any questions or comments, please contact me at (310) 952-1700, extension 1742.

Sincerely,

Ken Boyce

Ken Boyce, Public Works Director
City of Carson

cc: David Nahai, Chairman Los Angeles RWQCB
Art Bagget, Chairman State Water Resources Control Board
Jerome Groomes, City Manager
Kevin Ennis, City Attorney
Ann Marie Gallant, Development Services General Manager
Travis Hopkins, Civil Engineering Associate

2001 AUG -8 P 1:36

R0004398

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority plays no role in the selection of EAC members. Unlike the watermaster, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The watermaster, on the other hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (continued)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the business license issuance process. Identifying non-GIASWP facilities could be achieved by comparing the City's business license database with the State Water Resources Control Board GIASWP database. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. Non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility in achieving compliance – within a reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance. **Action Sought:** Revise inspection requirement as suggested.

3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority-planning projects. Are they the categorical projects covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development-planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
4. Development Planning Program	**Part IV - Paragraph D.5** **Issue**: Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. It believes that these projects are actually subject to CEQA and its discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water

4. Development Planning Program (continued)	body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use-specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
5. Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add one acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule, which applies only to such projects that involve a soil-disturbance of 1 acre or more.
6. Development Planning Program	**Part IV - Paragraph D.8** **Issue #1:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include

6. Development Planning Program (continued)	maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damage caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
7. Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) -- not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary -- it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan (L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges).

7. Development Planning Program (continued)	**Action Sought**: First, determine whether development-planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
8. Development Construction Program	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

9. Development Construction Program	**Part IV - Paragraph E.1.b** **Issue**: The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought**: Agree to the conditions required by the City.
10. Public Agency Activities	**Part IV - Paragraph F.1.c** **Issue**: The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought**: Postpone inclusion of this requirement until CMOM is adopted.

11. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
12. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue**: The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought**: Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.

13. Program Management	**No reference** **Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary to what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be invoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loophole for compliance evasion while addressing the need to reconcile differences of interpretation.

CITY OF CERRITOS

CIVIC CENTER • 18125 BLOOMFIELD AVENUE
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August 7, 2001

Mr. Dennis A. Dickerson
Executive Officer
LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Dear Mr. Dickerson:

RE: SECOND DRAFT OF THE NPDES STORM WATER PERMIT

Thank you for the opportunity to comment on the 2nd Draft of the NPDES Storm Water Permit. The City of Cerritos is pleased to see that the current Draft Permit contains important improvements. However the City still has several important concerns.

The City of Cerritos believes there are still issues that need to be addressed before the permit is issued. These issues include a lack of "Safe Harbor", possible repercussions of an open-ended program, cloudy aspects concerning the inspection of auto related businesses, General Plan amendment issues, and a meet and confer clause.

"Safe Harbor"
Currently the Municipal NPDES Permit provides a legal "Safe Harbor" when cities implement the permit's programs. This clause insures that our City and all participating cities are fully in compliance when the permit is implemented. Unless this clause is included in the proposed permit, Cities could be forced to commit valuable resources to defending against third party lawsuits.

Open-Ended Program
The Regional Board has added provisions to the permit that allow the Executive Officer to modify requirements at any time during the five-year life of the permit, thus the City could be directed to add future additional programs, at unknown costs.

Inspection of Auto Related Businesses
The implementation of an automotive services inspection program will not result in any appreciable improvement in water quality, and the Clean Water Act provides no authority to require this level of inspection for commercial facilities. In addition, should this

provision be implemented, it would clearly meet the requirement of an unfunded mandate, and be subject to reimbursement by the State.

General Plan Amendment

We strongly oppose a program the requires our City to amend four elements in the General Plan as well as offering review rights to the Regional Board. Cerritos is currently updating its General Plan, which will include discussion of storm water issues. Therefore, the City of Cerritos will not be quick to amend its new General Plan anytime during the next permit period.

Meet and Confer

The existing "meet and confer" clause can provide remedies to potential problems before elevating them to violation status and enforcement action. We believe this clause allows for resolution of interpretation issues and should be included.

A clear and workable new municipal NPDES permit is essential in achieving the goals of the Clean Water Act. We need to work together to implement cost-effective programs that address real water quality issues. The City of Cerritos is prepared to work with the Regional Board to achieve this goal.

Sincerely,

Vince Brar

Vince Brar
Deputy City Manager/Public Works

cc Art Gallucci, City Manager
Dennis Davis, Assistant City Manager

CITY OF CLAREMONT Community Development Department

City Hall
207 Harvard Avenue
P.O. Box 880
Claremont, CA 91711-0880
FAX (909) 399-5492

Building • (909) 399-5471
Planning • (909) 399-5470
Engineering • (909) 399-5465
Community Improvement • (909) 399-5467
Economic Development • (909) 399-5341

August 9, 2001

Via Facsimile and Mail

Dennis A. Dickerson, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Dear Mr. Dickerson:

Second Draft Comments, Los Angeles County NPDES Permit

The City of Claremont is pleased to offer comment regarding the second draft of the NPDES permit, dated June 29, 2001, as prepared by California Regional Water Quality Control Board, Los Angeles Region.

We have reviewed comments that were forwarded to us from other cities, and share the concerns expressed. We have attached those comments and request incorporation of the suggested revisions into the third draft of the permit.

The City is particularly concerned about two items. The city budgets are already financially-strapped and the added burden that inspecting GIASWP-covered sites and mapping illicit connections would put upon those budgets needs to be taken into serious consideration.

If you have any questions, please call me at (909) 399-5479. Thank you for your consideration.

Sincerely,

Andrea Harrington

Andrea Harrington
Associate Civil Engineer

Enclosure

c: Craig Bradshaw, City Engineer

R0004410

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority (viz., its elected council members), play no role in the selection of EAC members. Unlike the watermaster, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The watermaster, on the hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (cont.)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the business license issuance process. Identifying non-GIASWP facilities could be achieved by comparing the City's business license data base with the State Water Resources Control Board GIASWP data base. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance.

2. Industrial/Commercial Facilities Inspection Program (cont.)	**Action Sought:** Revise inspection requirement as suggested.
3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority planning projects. Are they the categorical projects are covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
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4. Development Planning Program (continued)	discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use-specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
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6. Development Planning Program (cont.)	by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
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7. Development Planning Program (cont.)	(L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
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10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
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12. Program Management	**No reference**

13. Program Management (cont.)	**Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be envoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

City of Compton
DEPARTMENT OF PUBLIC WORKS

(310) 605-5505
Fax. (310) 604-3816

DANTE SEGUNDO
Deputy Director

August 6, 2001

Mr. Dennis A. Dickerson
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

RE: Second Draft Comments, Los Angeles County Municipal NPDES Permit

Dear Mr. Dickerson:

The City of Compton is pleased to submit to you its comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. This version represents a significant improvement over the first draft. It contains fewer impractical and unnecessary requirements and improves permit clarity greatly. The City appreciates the time you and your staff have devoted to this very difficult task and the flexibility you have shown in making several changes that were asked of you earlier.

The comments provided herein are in response to additional requirements that were made to the second draft and to issues that were raised in comments on the first draft that were not addressed in the second draft document.

The City hopes that you will find these comments helpful in structuring a final permit that balances the need to protect water quality against the need for municipalities to maintain an adequate level of public services for its citizens.

If you have any questions, please feel free to call me.

Sincerely,

Dante S. Segundo
Deputy Director, Public Works

CC/FYI: City Manager/Assistant City Manager

ENCL.

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority (viz., its elected council members), play no role in the selection of EAC members. Unlike the watermaster, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The watermaster, on the hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (cont.)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the ~~business license issuance process. Identifying non-GIASWP facilities could be achieved~~ by comparing the City's business license data base with the State Water Resources Control Board GIASWP data base. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance.

2. Industrial/Commercial Facilities Inspection Program (cont.)	**Action Sought:** Revise inspection requirement as suggested.
3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority planning projects. Are they the categorical projects are covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
4. Development Planning Program	**Part IV - Paragraph D.5** **Issue:** Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. It believes that these projects are actually subject to CEQA and its

4. Development Planning Program (continued)	discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
5. Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add 1 acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule which applies only to such projects that involve a soil-disturbance of 1 acre or more.
6. Development Planning Program	**Part IV - Paragraph D.8** **Issue #1:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects

6. Development Planning Program (cont.)	by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new ~~development and redevelopment projects as projects that cause a soil disturbance of 1~~ acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
7. Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) – not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary – it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan

7. Development Planning Program (cont.)	(L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval – unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
8. Development Construction Program R0004426	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

9. **Development Construction Program**	**Part IV - Paragraph E.1.b** **Issue**: The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought**: Agree to the conditions required by the City.
10. **Public Agency Activities**	**Part IV - Paragraph F.1.c** **Issue**: The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought**: Postpone inclusion of this requirement until CMOM is adopted.

10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue:** The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought:** Eliminate this requirement.
11. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue:** The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought:** Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.
12. Program Management	**No reference**

13. Program Management (cont.)	**Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be envoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

TELEFAX TRANSMITTAL

CITY OF COMPTON
PUBLIC WORKS/ENGINEERING DEPARTMENT
205 S. WILLOWBROOK AVENUE
COMPTON, CALIFORNIA 90220

TELEFAX NO. (310) 604-3816

DATE 8-6-01

PLEASE DELIVER THE FOLLOWING FAX

TO:

NAME Dennis Dickerson
COMPANY Ca. Regional Water Ctrl. Board
FAX # 213 576-6640

FROM:

NAME Dante Segundo
DEPARTMENT PW
TELEPHONE # (310) 605-5505 or 5506 ⇒ direct line

OF PAGES INCLUDING COVER PAGE 10

MESSAGE

IF YOU HAVE ANY QUESTIONS REGARDING THIS TRANSMITTAL, PLEASE CONTACT THE PERSON NOTED ABOVE.

R0004430

CITY OF COVINA

125 East College Street ● Covina, California 91723-2199

Public Works Department
Environmental Services Division
(626) 858-7252 • (626) 858-5556 FAX

July 30, 2001

Dr. Xavier Swamikannu
Chief, LA/Long Beach Storm Water Unit
Regional Water Quality Control Board, Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Dear Dr. Swamikannu:

We have reviewed the Second Draft – Los Angeles County Municipal Storm Water NPDES Permit and have the following comments:

1. Page 11, paragraph 20: In line 2, change "five" to "six" as that is the number of Watershed Management Areas listed.
2. Page 16, paragraph c): Add "potable water flow" to the list of exempted discharges. This is an exemption in the present permit and will neither cause violations of water quality objectives and standards nor create conditions of nuisance in or compromise the beneficial uses of receiving waters. The definition of "Pollutants" on page 51 specifically states "The term 'pollutant' shall not include . . . potable water . . .". As presently written, a system failure causing discharge of potable water may be considered to be a violation of the permit even though by definition there is no pollution. This should not be the case.
3. Page 17, paragraph a): In line 9, change "annual update of the SQMP" to "annual report of the SQMP". There is an annual report on the SQMP, however, updates are made as necessary, not annually.
4. Page 17, part 3: Change "STORM WATER QUALITY MANAGEMENT PLAN (SQMP)" to "STORMWATER QUALITY MANAGEMENT PROGRAM (SQMP)". This is the term defined in Definitions, page 53.
5. Page 18, paragraph C: In the title, change "Storm Water Quality Management Plan" to "Stormwater Quality Management Program". This is the term defined in Definitions, page 53. In line 5, change "Total Daily Maximum Loads" to "Total Maximum Daily Loads".
6. Page 18, paragraph D: There are two subparagraphs numbered "1". Subparagraphs 2 and 6 are very similar and should be combined into one subparagraph.
7. Page 19, paragraph f): Make this paragraph a subparagraph of d) Development construction. Construction inspection activities are described in the Development Construction Model Program.
8. Page 22, paragraph p): Change "July 1, 2002" to "9 months from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
9. Page 22, paragraph 2: Change "July 1, 2002" to "9 months from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.

10. Page 22, paragraph 3: Change "July 31, 2002" to "10 months from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
11. Page 23, paragraph B: Change "December 31, 2001" to "9 months from date of adoption of permit". This is a much more realistic time period in which to develop and submit the PIPP.
12. Page 24, paragraph b): Change "October 25, 2001" to "2 years from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
13. Page 24, paragraph (1): Delete the word "second". There is only one Five-Year Education Plan detailed in the SQMP.
14. Page 24, paragraph (5): Change "November 25, 2001" to "1 month from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
15. Page 25, paragraph e): Change "October 25, 2002" to "1 year from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
16. Page 26, paragraph C: In the first line, add "Facilities" between "Commercial" and "Program". In line 3, replace "RGOs" with "Retail Gasoline Outlets (RGOs)".
17. Page 27, paragraph a): In line 5, replace "GIASP" with "General Industrial Activities Storm Water Permit (GIASP)".
18. Page 29, paragraph 2: Change "October 31, 2002" to "1 year from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
19. Page 30, paragraph 3.a): Please clarify what is meant by "single-family hillside home developments". Does this mean a single home or a development of single-family homes? The present SUSMP says "single-family hillside residences".
20. Page 31, paragraph 5.a): Delete this paragraph as the single-family home is included in the housing developments in paragraph b).
21. Page 32, paragraphs c) through f): Are the square footage criteria based on internal floor space or total impervious area of the project? Please clarify.
22. Page 35, paragraph 14: In line 3, add "program" after "development planning". In line 4, change "March 31, 2002" to "9 months from date of adoption of permit". This change will give enough time to comply with the requirement.
23. Page 35, paragraph 15.a): Replace "immediately" with "no later than 1 year from date of adoption of permit". This change will give enough time to comply with the requirement.
24. Page 35, paragraph 15.b): In line 2, change "March 31, 2003" to "18 months from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule. Also, in line 2, change the word "siting" to "sizing".
25. Page 37, paragraph 2: Change to read "In addition, for sites five acres and greater, each Permittee shall require compliance with all conditions in sections F.a) through e) above and:".
26. Page 38, paragraph 3: In line 4,. change "March 31, 2002" to "9 months from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
27. Page 38, paragraph F.2: Change "Each Permittee" to "The Principal Permittee" in line one. The Permittees do not have the expertise or the funds to assess these measures. In the last sentence, change "July 1, 2003" to "2 years from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
28. Page 39, paragraph 4.a): In the second sentence, change "March 31, 2002" to "9 months from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.

29. Page 40, paragraph 4.c): Change "No later than March 9, 2003" to "Effective March 10, 2003". This change makes it clear that the State requirement begins on March 10, not that it is a deadline for compliance by March 9.
30. Page 41, Paragraph 7.a): Quantify "highest", "moderate", and "low" or provide some guidance as to how a Permittee is to make these designations.
31. Page 42, paragraph e)(4): Delete this requirement. All Permittees do not have a record of all the catch basins in the community. This is more appropriately tasked to the Principal Permittee.
32. Page 43, paragraph 8.a): Quantify "highest", "moderate", and "low" or provide some guidance as to how a Permittee is to make these designations.
33. Page 44, paragraph 10: In line 4, change "November 25, 2001" to "1 month from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
34. Page 44, paragraph 12.a): In the first line, change "Each Permittee" to "The Principal Permittee, in conjunction with the Sanitation Districts of Los Angeles County,". Permittees do not have the knowledge of the storm drain system necessary to be able to make dry weather flow diversion decisions. In line 7, change "March 31, 2002" to "9 months from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
35. Page 45, paragraph 12.b): In the first line, change "The Permittees" to "The Principal Permittee". Permittees do not have the knowledge of the storm drain system necessary to be able to make dry weather urban runoff treatment device decisions. In line 5, change "March 31, 2002" to "9 months from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
36. Page 45, paragraph 1.a): Delete this paragraph. Do we really need an implementation program to implement revisions to the IC/ID Program, and why would the Regional Board Executive Officer need to review and approve such a trivial document? Just have the Permittees revise the Model Program for IC/ID within 1 year from date of adoption of permit and then have them implement it.
37. Page 45, paragraph 1.b): In the first line, change "All Permittees" to "The Principal Permittee". Permittees do not have the resources (personnel, funds) to develop and maintain the baseline map of the storm drain system. In line 7, change "October 25, 2002" to "1 year from date of adoption of permit". This change will give enough time to comply with the requirement if the permit is not adopted on schedule.
38. Page 45, paragraph 1.c): In line 5, change "March 31, 2002" to "9 months from date of adoption of permit". In line 7, change "October 25, 2002" to "15 months from date of adoption of permit". These changes will give enough time to comply with the requirements if the permit is not adopted on schedule.
39. Page 46, paragraph 2.b): The new requirement to perform proactive screening should be deleted—it is an expensive task with an unproven payoff that cannot be afforded by Permittees.
40. Page 57, paragraph G: Delete the first "and" in the second line.
41. Page 59, paragraph L: To whom do the Permittees make the report?
42. Page 60, paragraph N: Please add a definition for "upset" as you did for "bypass" in paragraph M on page 59.
43. Page 61, paragraph (4): In line 4, change the second word "of" to "or".
44. Page 61, paragraph 2: Change the last line to read "the violation or combination of violations."
45. Page 62, paragraph T: What is a "Storm Water Quality Management Plan"? It is not defined in the Definitions. Shouldn't it be a "Report of Waste Discharge" as required by the current permit?
46. Page A-1: Where is the "*" city for the San Gabriel River Watershed, indicating the city with the largest population?

47. Page T-1, paragraph A: Delete the first paragraph which requires a report covering the period July 1, 2000 through October 25, 2001. The report required by the present permit covering the period July 1, 2000 through June 30, 2001 has already been prepared and submitted by the Permittees, and the second and third paragraphs of this main paragraph are sufficient to solicit the reports for subsequent fiscal years.
48. Page T-1, paragraph A: In the second paragraph, line 3, change "Storm Water Quality Management Plan" to "Stormwater Quality Management Program". This is the term defined in Definitions, page 53.
49. Page T-3, paragraph 2 under Programs for Businesses: Since the Business Assistance Program is optional (see page 26 of the permit), indicate that this part of the report is only required if a Business Assistance Program has been implemented.
50. Page T-3, paragraph D.2: Delete this requirement to report total square feet of impervious area conditioned for mitigation. The figure is not readily available and it has no value in reducing storm water pollution.
51. Page T-3, paragraph D.3: Change "Significant date rewrite completed" to "Date significant rewrite completed".
52. Page T-3, paragraph D.6: Delete "and made available electronically" from this paragraph. There is no such requirement in the permit.
53. Page T-5, paragraph G.2: The statistic "percentage of total curb miles swept annually as a function of total curb miles" does not seem to be meaningful. If every street is swept only once a year, you get 100%. If every street is swept 4 times a month, you get 4,800%. Is this the metric you are looking for?
54. Page T-5, paragraph I.2: Delete or complete this incomplete sentence/paragraph.
55. Page T-5, paragraph I.3: If the annual report is going to cover the period July 1, 2000 through June 30, 2001 (see comment #46), this monitoring and reporting analysis should cover the same time period.
56. Page T-17, paragraph J.1: In line 5, change "proceeding" to "preceding".

If there are any questions, please call Charles Redden at (626) 858-7204.

Sincerely,

Vince Mastrosimone
Public Works Director

cc: Mr. Mustafa Ariki, Los Angeles County Department of Public Works
File

PUBLIC WORKS ADMINISTRATION

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JAMES S. DAVIS
Director of Public Works
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2001 AUG -6 P 4:37

August 3, 2001

Mr. Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, suite 200
Los Angeles, California 90013

Attention: Dr. Swamikannu

COMMENTS ON THE NPDES MUNICIPAL STORMWATER PERMIT SECOND DRAFT

Dear Mr. Dickerson;

We appreciate the effort that you and your staff have made in responding to comments regarding the first draft. While the inclusion of many of the comments into this 2nd draft has made this a more workable document, there are still several additional changes that we feel are important to make.

General Comment

Compliance with the Permit

The current (old) permit clearly states that if cities implement the model programs in a timely and thorough manner, then the cities are in compliance with the criteria of "Maximum Extent Practicable", as required under the Clean Water Act. Similar wording is conspicuously missing from the draft permit. Without the protection of this wording, cities lack critical protection from third party lawsuits. Cities' resources will be better spent on implementation rather that fighting potentially frivolous 3rd party lawsuits. The "compliance with MEP" wording should be reinserted into the 3rd draft. The Board should not issue a permit that could potentially result in cities not meeting the criteria of MEP.

Part 2

Receiving Water Limitations (Meet and Confer)

Under the current permit, the initial step by the Regional Board for any city whose program is deemed inadequate (by the Board) will be the issuance of a Notice to Meet and Confer by the Board to discuss improvements and additional BMPs that can be instituted. The 2nd draft has no such provision. This would result in the untenable situation where the first notification to cities

that are attempting to implement the permit in good faith would be a Notice of Violation (along with any potential fines and penalties). We recommend that the Meet and Confer process for cities implementing these programs in a timely manner be reinstated.

Part 1.E.10

Numerical Discharge Limits

Effluent limits from the California Toxics Rule and TMDLs are being incorporated into the Permit. If non-compliance is discovered, the method for compliance prescribed within the permit is the preparation and submittal of a plan for implementation of additional BMPs to the Board. This appears to be a redundant program that duplicates the TMDL program in many instances. Cities that are subject to a phased TMDL program that calls for the reduction of a specific pollutant over a ten to twenty year period should not be suddenly subject to a 30-day reduction requirement. We recommend that the Board consider removing reference to the California Toxic Rule or other numerical limits since the priority pollutants are already listed on the 303d list and TMDL are scheduled for implementation over the upcoming years.

In addition, under "Public Agency – Trash" there is another apparent redundancy with the TMDL program:

> "Each permittee shall conduct an assessment of measures that can be implemented to reduce and/or prevent trash from entering [the storm drain system]".

General Comment

Overall Program Management

The 2nd draft often goes into detail in discussion how the program will be managed. This often borders on micro-management, which is inherently subject to inefficiency. Cities that have effective programs should be allowed to continue their programs in the most efficient manner. For example, Cities may now often require that restaurants install treatment BMPs. These cities will review and approve the number, location, maintenance schedule and design of these BMPs, but the County Health Department is mandated by the permit as the inspecting agency. How will the health department know if the restaurant is in compliance with the SUSMP?

The permit should take into account the inherent complexities of these programs as well as the mandated number of agencies involved, and therefore, cities should not be held entirely accountable if non-compliance occurs.

Part 3.D.1

County as Liaison with the Board

We can appreciate the difficulty that the Board has experienced over the past several years in dealing with some 84 individual permittees, but that is the de

facto situation within Los Angeles County. While Los Angeles County (as an agency) will undoubtedly share many of the same concerns as the individual cities, the County has in no way been granted authority by the cities to negotiate on their behalf. As awkward as it may be, the Board should interact with the cities individually or through properly authorized committees.

Also note that there is a typographical error in this section - two "1"s.

Part 4.C

Site Visits

While many cities may be inserting "right-to-inspect" clauses in Industrial Waste and Conditional Use Permits, we do not feel that cities have (nor, under the 4th amendment, will ever have) the right to authorize the entrance onto a property to make an inspection without permission or reasonable cause. The Board should consider further research into this issue prior to issuance of the 3rd draft.

Also, if an inspection shows non-compliance, then the permittees shall advise the owner/operator regarding the implementation of additional BMPs. It is not clear if "advise" is to be interpreted as education or enforcement.

Further, since the State is already collecting $250 per phase 1 facility and the stormwater inspection fee is already authorized to be up to $500, The permit should give cities the option of requesting the State Board collect the full $500 with the balance being returned to the cites to help offset the cost of the site visit program.

Part 4.D

SUSMPs

The SUSMP program appears to have been expanded beyond what the State Water Resources Board approved. Under the current permit, only discretionary projects (within the project type categories: restaurants, auto service facilities, etc.) must comply with the SUSMP requirements. The draft permit proposes to remove the discretionary exclusion. Also, there is no "environmentally sensitive area" category and service stations are re-included under the ¾" capture and treat criteria. The 3rd draft should include revisions that more closely follow the SUSMP program as approved by the State Board.

Part 4.D.13

General Plan

The 2nd draft includes wording that implies that the Regional Board has the authority to revise the City's General Plan amendments. This item should be clarified to reflect that cities could provide copies of their general plan sections to the Board upon request but that the Board has no review or approval authority.

Part 4.E (e) Construction – wet season grading

Under the draft language, cities will be required to "discourage grading during the wet season". Are cities now expected to essentially shut down grading projects from October through April? What if a drought year occurs? Which agency will be subject to damage claims from contractors for not allowing them to work? Through the Development Construction Model Program, there are numerous BMPs that are supposed to be implemented to allow contractors to continue working through the rainy season. The "discourage grading during the wet season" phrasing should be eliminated.

Part 4.F.8 Street Sweeping Prioritization

Streets and roads will be prioritized. High litter street (class A) must be swept at least twice a month, moderate litter streets (class B) a minimum of once a month and low litter streets (class C) as necessary but a minimum of once per year. What criteria are to be used to identify high, moderate and low litter streets?

Part 4.F.9 City Owned Parking lots (25+ spaces)

Making a blanket statement that city-owned parking lots must be cleaned a minimum of twice per month does not take into account that some lots may not need cleaning this frequently. Inserting the phrase "when needed" is recommended.

Part 4.G.2(b) Illicit Connections – proactive screening

The draft permit also calls for cities to develop a plan to screen storm drain priority areas for illicit connections. This plan would be submitted to the Board for approval by October 2002. If monitoring (including sampling and testing currently being conducted by several different entities) fails to show that a problem exists in a specific area, why embark on a potentially extremely costly search for possible connections. City resources would be better spent investigating and correcting illicit discharges.

Part 4.B.e Typographical Error

Second line: "...pollutants listed in Table 1_on..."

We appreciate the opportunity to offer our comments regarding the 2nd draft of the NPDES Municipal Permit. Please feel free to contact me at 310.253.5630 if you have any questions.

Sincerely,

James S. Davis
Public Works Director/City Engineer

City of Diamond Bar

21825 E. Copley Drive · Diamond Bar, CA 91765-4178

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2001 AUG -8 P 1:49

August 6, 2001

Mr. Dennis A. Dickerson
Executive Officer
California Regional Water Quality Control Board –
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Attention: Dr. Xavier Swamikannu

Re: Comments on Second Draft – County of Los Angeles' Municipal Storm Water NPDES Permit

Dear Dr. Swamikannu:

The City of Diamond Bar (City) hereby accepts your invitation to submit detailed comments on the referenced NPDES permit. This letter herein presents our major suggestions for your consideration, as well as our qualified support for two other documents submitted by the **Coalition for Practical Regulation** (Memorandum from Ken Farfsing, City Manager, Signal Hill, dated July 17th) and **Burke, Williams & Sorensen, LLP**, (Letter from Rufus C. Young, Esq., on behalf of the Cities of Alhambra, Lomita, and Santa Clarita, dated July 19th) and which are attached to this letter. These two documents contain positions that we, in part, support and request your consideration of in your revision of the second Draft.

Our detailed review of the second draft identified numerous positive and substantial changes to the document that decidedly improve the quality and workability of the draft permit. Nonetheless, there remain several issues for further discussion as well as improvements that we would welcome in the next draft.

Lack of "Safe Harbor" Provision

First, the second draft omits any legal "safe harbor" provision that protects the permittees when the permit is effectively implemented. We are concerned that in the event that technological or institutional controls do not achieve the absolute prohibition now stipulated in the draft permit that the City would be open to enforcement or third party lawsuits. This "safe harbor" provision was included in the existing permit, and it should be incorporated in Part 2, Receiving Waters Limitations. The provision should stipulate that

implementation of the provisions of the permit constitutes permittee compliance with the storm water requirements.

Lack of Stability and Certainty in the Proposed Permit

Second, there were safeguards in the current permit that provided permittees some semblance of stability and certainty. This draft includes an open-ended provision that the Executive Officer can add requirements, change objectives, and more, to address future potential issues. The Coalition for Practical Regulation has asked the question if the intent is to require permittees to one day build storm water treatment plants. We likewise share this concern, as it is impossible to absolutely prohibit all introduction of pollution from all environmental pathways unless we route all flows through central facilities. The potential for wind blown litter, air deposition of chemicals and aerosols, regional traffic thoroughfares, and the increasing mobility of society make it virtually certain that de minimis and accidental discharges will occur, and often outside permittees' control. To prohibit any discharge, especially "contribution", leaves the permittees with the unavoidable likelihood that they will violate the permit.

For example, the trash that builds on the beaches of Long Beach from the Los Angeles and San Gabriel Rivers following storms is quantified from 2,000 to 5,000 tons per year. This is a large and disturbing number when viewed in isolation. However, this trash actually represents less than one-ten thousands of a percent of the total trash collected in the San Gabriel and Los Angeles Watersheds annually (based on figures provided from the Los Angeles County Sanitation Districts on waste generation). Basin wide, this actually appears to be a relatively small amount of debris, and one that might be expected from de minimis and accidental contribution from the sum total of activities in the watersheds.

While we share the view that no trash on the beach is acceptable, we are concerned that this permit will create unreasonable expectations, forcing unnecessary and costly technologies on individual permittees that will likely not address the problem in a significant way. We are wholeheartedly in support of controlling the contribution of pollutants, but believe that leaving the permit open-ended will force the Executive Director to continue to increase requirements when the absolute zero standard is not met.

Lack of Regionality

In a related aspect, the draft permit speaks to potential regional benefits, yet direction is not provided by the Board as to how this may be accomplished (we regard you as the experts in water quality control). Furthermore, some provisions even appear to block implementation of regional technological controls.

Specifically, the Regional Board has determined that creation of structural or treatment controls for storm water mitigation in the waters of the US is impermissible. It is claimed in the Fact 18 (page 10) that acceptance of this approach is tantamount to accepting our

streams, rivers and flood control channels as sewers. We do not accept this contention, as any natural system is not closed; a fact that all environmentalists would accept. Often, de minimus quantities of wastes in discharges enter the waterways, especially during storms, contributing to the problems noted above at our local beaches. Structural and treatment controls represent an effective way of collecting this material, ahead of the final destination, and represent real projects that permittees can work together in sub regional watershed. We would like to see a revision in this contradictory language.

Inspections in Lieu of Educational Site Visits
A third issue is that of the storm water inspection program. The educational site visit program is a workable and feasible approach that affords the City the opportunity to identify illicit connections and discharges, poor housekeeping practices, and other potential or real violations of storm water code requirements. To change the visitation program to a mandatory inspection program is wrong and simply unwarranted. The permittees are not in a position to handle such an effort for legal, technical, and economic reasons.

We are particularly concerned over the provision in Part 4.C.4.d) that we assess the feasibility of required BMPs at Phase I facilities, and require implementation of other BMPs, even those more stringent than approved by the State, if we determine infeasibility. The permit cannot extend BMP responsibility to permittees, especially small cities, to make such a determination. If we do, we face likely third party lawsuit if it is later determined that State-approved controls were inadequate. Who exactly will be held accountable when the permittee is hauled into court over its "lack of oversight" on inadequate controls it reviewed?

Further, our attorney finds troubling the provisions mandating permittees manufacture authority to enter private premises to conduct monitoring and inspections. We have general nuisance abatement authority but can enter property only with probably cause. If you could address this issue as to whether the proposed permit provisions assume probable cause or not would be helpful. Likewise, we are concerned with resources to carry out an inspection program envisioned by the permit. We address this below under Business Assistance, but if you insist upon inspections, might we suggest mandatory educational site visits and optional inspections?

SUSMPs Revisited
A fourth area is the application of SUSMPs, which in our City's case would likely be applicable for all single-family developments given the hillside nature of our city. Virtually all building and construction occurs on hillside terrain, invoking the SUSMP requirements. Plus, since development construction requirements would require a local SWPPP for all hillside areas, virtually all developments would be included thereby severely impacting our City (re: page 38). This could cause the City irreparable harm as developers would likely

look for opportunities elsewhere since the cost of development would be greater than in comparable areas less impacted by the permit requirements.

Business Assistance Program
A fifth issue is the business assistance program. It is recommended that provisions stipulating **confidentiality** be struck out, as this stipulation is not feasible under Public Records Act provisions. Also, the provision during inspections that permittees determine BMP effectiveness is of high concern as noted earlier and likely not achievable given the lack of resources (currently, $35 to $50 per visit as allowed by the County for educational site visits). The term "effectively" should be deleted as well in several places so that the permit would read that permittees would determine if facilities "are ~~effectively~~ implementing storm water BMPs." Again, we request that any inspection provision be stipulated as optional on the part of the co-permittees.

Numerical Criteria Governing Storm Water Discharge
Finally, paragraph D.2 of Part 4 (on page 29) requiring development of numerical criteria seems very burdensome and likely unenforceable. We would like your thoughts on exactly how the criteria might be developed and whether they would be enforceable. We are concerned as well as to how criteria might be applied geographically. Would hilly areas receive more stringent limits due to the potential for greater erosion versus low-lying areas?

Related Concerns Expressed by the Coalition for Practical Regulation and Rufus Young, Attorney
There are other aspects that require clarification and/or modification due to various issues that are more than adequately addressed in the two previously referenced documents from the CPR and Burke, Williamson, & Sorenson. Again, we, in part, support many of the comments made in those two documents, and urge your careful reading of the documentation. While we do not hold with the contention that the Regional Board lacks any authority in permitting our agency, we do feel generally that the permit stretches the Clean Water Act to include more than that intended by the law's authors. In particular, we draw your attention to Mr. Young's comments nos. 2 through 9, 11 through 17, 19 through 24, 26, and 27 through 35.

If further information is required, please do not hesitate to contact me at 909/396-5671 or Mr. J. Michael Huls, of Huls Environmental, at 626/332-7514. Mr. Huls has been involved in storm water matters since the inception of the Act, and he would be pleased to provide any guidance or advice on our comments as well as others referenced in this letter.

Sincerely,

David G. Liu, PE
Director of Public Works

Attachments (2)

cc: Linda C. Lowry, City Manager
Jim DeStefano, Assistant City Manager
Mike Jenkins, City Attorney
J. Michael Huls, REA, Integrated Environmental Services Coordinator

City of Duarte

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August 6, 2001

Mr. Dennis A. Dickerson
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Second Draft Comments, Los Angeles County Municipal NPDES Permit

Dear Mr. Dickerson:

The City of Duarte is pleased to submit to you its comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. This version represents a significant improvement over the first draft. It contains fewer impractical and unnecessary requirements and improves permit clarity greatly. The City appreciates the time you and your staff have devoted to this very difficult task and the flexibility you have shown in making several changes that were asked of you earlier.

The comments provided herein are in response to additional requirements that were made to the second draft and to issues that were raised in comments on the first draft that were not addressed in the second draft document.

The City hopes that you will find these comments helpful in structuring a final permit that balances the need to protect water quality against the need for municipalities to maintain an adequate level of public services for its citizens.

If you have any questions, please feel free to call me.

Sincerely,

Steve Esbenshade
Public Works Coordinator

R0004443

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority (viz., its elected council members), play no role in the selection of EAC members. Unlike the watermaster, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The watermaster, on the hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (cont.)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the business license issuance process. Identifying non-GIASWP facilities could be achieved by comparing the City's business license data base with the State Water Resources Control Board GIASWP data base. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance.

2. Industrial/Commercial Facilities Inspection Program (cont.)	**Action Sought:** Revise inspection requirement as suggested.
3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority planning projects. Are they the categorical projects are covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
4. Development Planning Program	**Part IV - Paragraph D.5** **Issue:** Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. It believes that these projects are actually subject to CEQA and its

4. Development Planning Program (continued)	discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use-specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
5. Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add 1 acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule which applies only to such projects that involve a soil-disturbance of 1 acre or more.
6. Development Planning Program	**Part IV - Paragraph D.8** **Issue #1:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects

6. Development Planning Program (cont.)	by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
7. Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) -- not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary – it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan

7. Development Planning Program (cont.)	(L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
8. Development Construction Program	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

R0004449

9. Development Construction Program	**Part IV - Paragraph E.1.b** **Issue:** The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought:** Agree to the conditions required by the City.
10. Public Agency Activities	**Part IV - Paragraph F.1.c** **Issue:** The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought:** Postpone inclusion of this requirement until CMOM is adopted.

10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
11. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue**: The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought**: Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.
12. Program Management	**No reference**

13. Program Management (cont.)	**Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be envoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

Version 7

City of Duarte
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Duarte, Ca. 91010
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Fax

To: Dennis Dickerson	**From:** Steve Esbenshade
Fax: 213.576.~~6605~~ 6640	**Pages:** 11
Phone:	**Date:** 08/08/01
Re: NPDES Permit	**CC:**

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

CITY OF HAWTHORNE
4455 West 126th Street • Hawthorne, California 90250-4482
Department of Public Works, Engineering Division
(310) 970-7955

August 3, 2001

Mr. Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, suite 200
Los Angeles, California 90013

2001 AUG -1 P 2:49

Attention: Dr. Swamikannu

Subject: Comment on the NPDES Municipal Stormwater Permit - Second Draft

Dear Mr. Dickerson;

We appreciate the effort that you and your staff have made in responding to comments regarding the first draft. While the inclusion of many of the comments into this 2nd draft has made this a more workable document, there are still several additional changes that we feel are important to make.

General Comment

Compliance with the Permit

The current (old) permit clearly states that if cities implement the model programs in a timely and thorough manner, then the cities are in compliance with the criteria of "Maximum Extent Practicable", as required under the Clean Water Act. Similar wording is conspicuously missing from the draft permit. Without the protection of this wording, cities lack critical protection from third party lawsuits. Cities' resources will be better spent on implementation rather that fighting potentially frivolous 3rd party lawsuits. The "compliance with MEP" wording should be reinserted into the 3rd draft. The Board should not issue a permit that could potentially result in cities not meeting the criteria of MEP.

Part 2

Receiving Water Limitations (Meet and Confer)

Under the current permit, the initial step by the Regional Board for any city whose program is deemed inadequate (by the Board) will be the issuance of a notice to meet and confer with the Board to discuss improvements and additional BMPs that can be instituted. The 2nd draft has no such provision. This would result in the untenable situation of the first notification to cities that are attempting to implement the permit in good faith would be a Notice of Violation (along with any potential fines and penalties). We recommend that the Meet and Confer process for cities implementing these programs in a timely manner be reinstated.

Part E-10

Numerical Discharge Limits

Effluent limits from the California Toxics Rule and TMDLs are being incorporated into the Permit. When exceedances are discovered, the method for compliance proscribed within the permit is the preparation and submittal of a plan for implementation of additional BMPs to the Board. This appears to be a redundant program that duplicates the TMDL program in many instances. Cities that are subject to a phased TMDL program that calls for

the reduction of a specific pollutant over a ten to twenty year period should not be suddenly subject to a 30 day reduction requirement. We recommend that the Board consider removing reference to the California Toxic Rule or other numerical limits since the priority pollutants are already listed on the 303d list and TMDL are scheduled for implementation over the upcoming years.

In addition: Under, Public Agency – Trash there is another apparent redundancy with the TMDL program:

> "Each permittee shall conduct an assessment of measures that can be implemented to reduce and/or prevent trash from entering [the storm drain system]".

General Comment

Overall Program Management

The 2nd draft often goes into detail in discussion how the program will be managed. This often borders on micro-management, which is inherently subject to inefficiency. Cities that have effective programs should be allowed to continue their programs in the most efficient manner. For example, Cities may now often require that restaurants install treatment BMPs. These cities will review and approve the number, location, maintenance schedule and design of these BMPs, but the County Health Department is mandated by the permit as the inspecting agency. How will the health department know if the restaurant is in compliance with the SUSMP?

The permit should take into account the inherent complexities of these programs as well as the mandated number of agencies involved, and therefore cities should not be held entirely accountable if exceedances occur.

Part 3.D.1

County as Liaison with the Board

We can appreciate the difficulty that the Board has experienced over the past several years in dealing with some 84 individual permittees, but that is the de facto situation within Los Angeles County. While Los Angeles County (as an agency) will undoubtedly share many of the same concerns as the individual cities, the County has in no way been granted authority by the cities to negotiate on their behalf. As awkward as it may be, the Board should interact with the cities individually or through properly authorized committees.

Also note that there is a typographical error in this section - two "1"s.

Part 4.C

Site Visits

While many cities may be inserting "right-to-inspect" clauses in Industrial Waste and Conditional Use Permits, we do not feel that cities have (nor, under the 4th amendment, will ever have) the right to authorize the entrance onto a property to make an inspection without permission or reasonable cause. The Board should consider further research into this issue prior to issuance of the 3rd draft.

Also, if an inspection shows non-compliance, then the permittees shall advise the owner/operator regarding the implementation of additional BMPs. It is not clear if "advise" is to be interpreted as education or enforcement.

Further, since the State is already collecting $250 per phase 1 facility and the Stormwater inspection fee is already authorized to be up to $500, The permit should give cities the option of requesting the State Board collect the full $500 with the balance being returned to the cites to help offset the cost of the site visit program.

Part 4.D

SUSMPs

The SUSMP program appears to have been expanded beyond what the State Water Resources Board approved. Under the current permit, (1) only discretionary projects (within the project type categories: restaurants, auto service facilities, etc.) must comply with the SUSMP requirements. The draft permit proposes to remove discretionary exclusion, (2) there is no Environmentally Sensitive Areas and (3) Service stations are re-included under the ¾ capture and treat criteria. The 3rd draft should include revisions that more closely follow the SUSMP program as approved by the State Board.

Part 4.D.13

General Plan

The 2nd draft includes wording that implies that the Regional Board has the authority to revise the City's General Plan amendments. This item should be clarified to reflect that cities can provide copies of their general plan sections to the Board upon request but that the Board has no review or approval authority.

Part 4.E (e)

Construction – wet season grading

Under the draft language, cities will be required to "discourage grading during the wet season". Are cities now expected to essentially shut down grading projects from October through April? What if a drought year occurs? Which agency will be subject to damage claims from contractors for not allowing them to work? Through the Development Construction Model Program, there are numerous BMPs that are supposed to be implemented to allow contractors to continue working through the rainy season. The "discourage grading during the wet season" phrasing should be eliminated.

Part 4.F.8

Street Sweeping Prioritization

Streets and roads will be prioritized. High litter street (class A) must be swept at least twice a month, moderate litter streets (class B) a minimum of once a month and low litter streets Class C) as necessary but a minimum of once per year. What criteria are intended for determining: High, Moderate and Low?

Part 4.F.9

City Owned Parking lots (25+ spaces)

Making a blanket statement that city owned parking lots must be cleaned a minimum of twice per month does not take into account that some lots may not need cleaning this frequently. Inserting the phrase "when needed" is recommended.

Part 4.G.2.b Illicit Connections – proactive screening

The draft permit also calls for cities to develop a plan to screen storm drain priority areas for illicit connections. This plan would be submitted to the Board for approval by October 2002. If monitoring (including sampling and testing currently being conducted by several different entities) fails to show that a problem exists in a specific area, why embark on a potentially extremely costly search for possible connections. City resources would be better spent investigating and correcting illicit discharges.

Part 4.B.e Typographical Error

Second line: "Pollutants listed in Table 1on"

We appreciate the opportunity to offer our comments regarding the 2nd draft of the NPDES Municipal permit. Please contact me if you have any questions.

Sincerely

CHARLES D. HERBERTSON, P.E.
Chief of General Services and Public Works

Telephone: (310) 970-7955
Facsimile: (310) 970-7033

CITY OF INDUSTRY

July 24, 2001

2001 JUL 27 P 3:35

Mr. Dennis Dickerson,
Executive Officer,
California Regional Water Quality Control Board –
Los Angeles Region
Attn: Xavier Swamikannu, Ph.D.
320 West 4th Street, Suite 200
Los Angeles, California 90013

Re: Comments on "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)"

Dear Mr. Dickerson and Dr. Swamikannu:

This letter is to inform you and the Regional Board that we have reviewed, and adopt as our own, the views set forth in the letter by the firm of Burke, Williams & Sorensen, LLP, dated July 19, 2001, on behalf of the Cities of Alhambra, Compton, El Segundo, Lomita, Santa Clarita and Torrance (the Cities) commenting on the "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)" (the Second Draft") of the new storm water permit for Los Angeles County.

Very truly yours,

Dave Perez
Mayor

RCY:DP:kat

R0004458

IRWINDALE

RECEIVED

2001 AUG -6 P 4:05

August 2, 2001

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Dear Mr. Dickerson:

RE: **2ND DRAFT OF THE NPDES STORM WATER PERMIT**

Thank you for the opportunity to comment on the 2nd Draft of the NPDES Storm Water Permit. The City of Irwindale is pleased to see that the current Draft permit contains important improvements. However, the City still has several important concerns.

Irwindale believes there are still fundamental issues that need to be addressed before the permit is issued. These issues include:

1. **Lack of Legal "Safe Harbor"**

The current Municipal NPDES Permit provides a legal "safe harbor" when cities implement the permit's provisions. The "safe harbor" clause insures that our city is in compliance when we implement the permit's programs. The "safe harbor" clause is not included in the proposed permit. It should be added to help us focus on improving water quality, rather than spending city resources on defending against third party lawsuits.

2. **Proposed Permit is "Open Ended"**

The current NPDES Permit requires that the cities implement only programs identified in the permit. Regional Board staff has added provisions to the permit that allow the Executive Officer to modify requirements at any time during the five year life of the permit, thus the City can be directed to add future additional programs, at unknown costs. (Page 16 of the Permit)

R0004459

5050 North Irwindale Ave. Irwindale, CA 91706 (626) 430-2200 Facsimile: (626) 962-4209

3. **Storm Water Inspection Program**

a. Auto Related Businesses

The proposed permit specifies that permittees will be required to inspect and enforce all automotive related businesses (pages 26-27). The Board is referencing the Critical Source Selection and Monitoring Report, Los Angeles County Department of Public Works (Sept 1996) as the evidence supporting the additional inspection requirement. This report was prepared to "select" potential pollution sources for monitoring and evaluation. The results of the monitoring and evaluation of automotive service facilities was submitted to the Board in the Integrated Receiving Water Impacts Report (July 2000). The conclusion reached in the final report concerning the effectiveness of BMP's implemented at automotive service facilities "showed no significant improvement as a result of implementing BMP's". Consequently, the Board has already been informed that the implementation of an automotive services inspection program will not result in any appreciable improvement in water quality. In addition, we still contend that there is no authority in the Clean Water Act to require this level of inspection for commercial facilities. Should the Board proceed with this requirement it will cleanly meet the requirement of an unfunded mandate and subject to reimbursement by the State. We also request that the Board provide appropriate inspector training since the cities do not have staff trained to perform inspections of state programs.

b. Industrial Inspection

The proposed permit requires that City inspect Phase I industrial facilities. These are industrial facilities that already are regulated under a State permit. Regional Board staff estimates that there are 2,400 State licensed industrial facilities and that there may be a substantial number of additional businesses that require State permits that currently do not have them. Regional Board staff has also estimated that they only have the resources to inspect 600 businesses annually. They are asking that the cities pick up the inspections and plan checking for the remaining 1,800 State permits. Regional Board staff has not answered the basis questions – how will the cities pay for these new inspections and plan checks? What authority do the cities have to inspect under State permits? Who will pay for the training of city staff to inspect and plan check to State standards?

4. Redefining the SUSMPs

Last year, the Regional Board attempted to require cities to impose storm water conditions to all ministerial projects. The State Board rejected this, after hearing an appeal by CPR. The proposed permit attempts to place storm water regulations on all projects (see definition of Development – page 48).

5. Expanding the Definition of Redevelopment

The Draft Permit expands the definition of Redevelopment by requiring that cities impose storm water conditions on all replacement projects (Page 52). This is unreasonable; state law specifically exempts replacement or reconstruction under a Class Two Categorical Exemption.

6. CEQA Conflicts

Regional Board staff is attempting to expand the type and size of projects that require environmental review through additional regulation, essentially asking cities to comply with yet another layer of environmental regulations *that overlap and conflict* with existing CEQA and the state approved CEQA Guidelines. (Page 52). If cities are forced to adopt separate CEQA Guidelines through the NPDES permit, we would be open to "third party" litigation on projects exempted by CEQA.

7. General Plan Amendment Issues

The proposed permit requires that cities amend four elements of their general plans – land use, conservation, open space and housing, as well as provide additional review rights to the Regional Board. (Page 34) State law specifically addresses storm water quality in the Conservation Element. General plans are legislative acts of taken by a city council. Adequacy issues are initially determined by the council and ultimately determined by the courts, not the local water board.

8. Phase II Requirements

The State is expected to adopt new regulations for Phase II communities January 2002 for implementation by March 10, 2003. Phase II will require development controls on all construction projects one acre in size or greater. However, the State has not gone through the rule making process, so the specific requirements are unknown. Phase II requirements do not now belong in the proposed NPDES permit. They need to be addressed at the appropriate time.

9. Meet and Confer

The existing NPDES Permit has a "meet and confer" clause, where potential problems can be resolved as part of an early consultation process, prior to enforcement actions. This "meet and confer" clause has been eliminated from the proposed permit. We believe that this clause allows for resolution of communication and interpretation issues, without elevating them to violation status.

10. Lack of Economic Considerations/Unfunded Mandates

The City of Irwindale supports clean streams, rivers, harbors and beaches – but the questions remain – how much will it cost and who will pay for it? There are mandates in the permit – unfunded commercial and industrial inspections and enforcement programs, unfunded planning programs and ordinance changes, unfunded illicit discharge programs, unfunded dry weather diversion programs, increased frequencies of catch basin cleaning and street sweeping, and other new unfunded programs.

A clear and workable new municipal NPDES permit is essential if we are going to achieve the goals of the Clean Water Act. We recognize that we all have to do a better job of maintaining and improving water quality. However, we need to work together to implement cost-effective programs that address real water quality programs. The City of Irwindale is prepared to work with the Regional Board; please help us do so.

Sincerely,

Rod Posada
Public Works Director/City Engineer

RP:vs

cc: Ray Tahir, TECS Environmental

August 1, 2001

Dr. Xavier Swamikannu
California Regional Water Quality Control Board Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Subject: NPDES No. CAS004001 County of Los Angeles Municipal Storm Water NPDES Permit Second Draft (June 29, 2001)

Dear Dr. Swamikannu:

The City of Lakewood, one of the more than 50 water producers in the Central Groundwater Basin, hereby requests that discharges from potable water sources be exempted in the proposed permit under Part 1, Section 2.c, Flows incidental to urban activities. This request is to maintain the following conditionally exempted discharge, which is allowed under the current permit (Order No. 96-054, NPDES No. CAS614001, Part 2, Section II.C.2):

> "Potable water sources provided the discharges are managed in accordance with an approved Industry-wide Standard Pollution Prevention Practices developed by the American Water Works Association Cal-Nevada Section, or equivalent document; and in compliance with any requirements established by the Permitee(s)."

The discharges will be intermittent and generally short in duration and will include discharges from pump tests to obtain pump curves, testing of idle and standby wells (not including discharges from wells which are inactive due to contamination), discharges for tests required by the California Department of Health Services, water line flushing, reservoir draining and water from leaks and hydrant repairs.

The continuation of the conditional exemption should not cause contamination problems or cause damage to the environment, as evidenced by the operations of several hundred wells in Central and West Basins, and San Gabriel Valley during the past five years under the current conditional exemption. The water producers are very cognizant of the effects of contaminated discharges, and have worked diligently to clean up and protect the water supplies and the environment. Without the exemption, a reallocation of amounts of the limited resources will be required, providing no real benefits to the communities and adding unnecessary costs to the consumers.

Lakewood

5050 Clark Avenue, Lakewood, CA 90712 • (562) 866-9771 • Fax (562) 866-0505 • www.lakewoodcity.org • Email: service1@lakewoodcity.org

The City appreciates the opportunity to comment on the Second Draft of the County of Los Angeles Municipal Storm water NPDES Permit. If you have any questions or need additional information, please call me at (562) 866-9771, extension 2701 or Brian Dickinson, Assistant Director of Water Resources at extension 2703.

Sincerely,

James B. Glancy
Director of Water Resources

2001 AUG -3 P 1:49

August 2, 2001

Mr. Dennis A. Dickerson
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Second Draft Comments, Los Angeles County Municipal NPDES Permit

Dear Mr. Dickerson:

The City of Lakewood is pleased to submit to you its comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. This version represents a significant improvement over the first draft. It contains fewer impractical and unnecessary requirements and improves permit clarity greatly. The City appreciates the time you and your staff have devoted to this very difficult task and the flexibility you have shown in making several changes that were asked of you earlier.

The comments provided herein are in response to additional requirements that were made to the second draft and to issues that were raised in comments on the first draft that were not addressed in the second draft document.

The City hopes that you will find these comments helpful in structuring a final draft permit that balances the need to protect water quality against the need for municipalities to maintain an adequate level of public services for its citizens.

If you have any questions, please feel free to call me.

Sincerely,

Lisa Ann Rapp

Lisa Ann Rapp
Director of Public Works

Attachment –
Comment Spreadsheet

R0004465

City of Lakewood, Department of Public Works
Comments to Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes the Executive Advisory Committee (EAC) comply with California Government Code Section 54950 et seq. (Brown Act). The City opposes such requirements on the basis that the EAC is a non-political advisory body and not a governing body. The EAC is composed of representatives of various other committees that themselves are non-political advisory bodies whose membership is also not elected, but administratively appointed. Both these groups are mainly composed of mid-level municipal staff members appointed by executive staff, either public works directors or city managers, and do not possess the political authority that would require compliance with California Law. Inevitable, all matters requiring formal action on the part of permittees would need to be presented before their governing boards, in this case city councils, before such formal action could be implemented. **Action Sought**: Delete this as a requirement.
Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities; and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. Municipalities should not be held responsible for conducting on-site inspection of Phase 1 facilities for the purpose of determining compliance with GIASWP requirements for the following reasons. The State imposes fees on these facilities to, among other things, defray the cost of inspection. The State has jurisdiction due to the issuance of a permit that in effect allows the subject facility to discharge storm water and certain categories of non-storm water into the MS4. The existing permit only calls for public education site visitations. The city may be willing to help the State in their efforts to inspect these facilities through better identification using business license data.

Industrial/Commercial Facilities Inspection Program (cont.)	The city is concerned with inspection of commercial facilities due to cost and legal difficulties (entry on private property). Instead of inspections, the City may prefer a more cost-effective and practical option of off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable time periods for compliance. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. **Action Sought:** Revise inspection requirement as suggested.
Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority-planning projects. Are they the categorical projects as covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development-planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.

Development Planning Program	**Part IV - Paragraph D.5** **Issue**: Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. The city believes that these projects are actually subject to CEQA and its discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add 1-acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule that applies only to such projects that involve a soil-disturbance of 1 acre or more.

Development Planning Program	**Part IV - Paragraph D.8** **Issue:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) -- not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary -- it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-

Development Planning Program (cont.)	issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan (L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development-planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
Development Construction Program	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

Development Construction Program	**Part IV - Paragraph E.1.b** **Issue**: The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought**: Agree to the conditions required by the City.
Public Agency Activities	**Part IV - Paragraph F.1.c** **Issue**: The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought**: Postpone inclusion of this requirement until CMOM is adopted.

10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
11. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue**: The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought**: Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.
Program Management	**No reference** **Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" provision in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit

	(as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be invoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

CITY OF
LA MIRADA

41

Dedicated to Service

2001 AUG -3 P 2:26

August 1, 2001

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

SUBJECT: SECOND DRAFT OF THE NPDES PERMIT

Dear Mr. Dickerson:

Thank you for the opportunity to comment on the second draft of the NPDES permit. The City of La Mirada appreciates all the hard work that you and your staff have done during this permit process. We understand the need for clean water as we consider ourselves one of the cleanest cities in Los Angeles County. At this time, we would ask that you review a few areas of the permit that still concern us.

First of all, as a city, we are very concerned with the lack of a "safe harbor" clause in the permit. As you know, the current NPDES permit provides a legal "safe harbor" when the cities implement the permit's provisions. It is our opinion that a "safe harbor" clause creates a win-win situation. With the "safe harbor" clause, it is in the cities best interest to implement the permit's programs and thus meet the goals set by the Regional Board. The "safe harbor" clause merely protects those cities that are enacting the permit's programs from third party litigation.

Another issue of concern for us is the "open ended" language that the permit contains. The current NPDES permit requires that the cities implement only programs identified in the permit. In contrast, the proposed permit contains language that would allow the Executive Officer to modify the requirements at any time during the five year life of the permit. Obviously, the cities are concerned that future programs could be added with exorbitant costs attached to them.

Thirdly, the existing NPDES permit has a "meet and confer" clause, where potential problems can be resolved as part of an early consultation process, prior to enforcement actions. The "meet and confer" clause has been eliminated from the proposed permit. We believe that this clause allows for resolution of communication and interpretation issues, without elevating them to violation status. The Regional Board and the cities have made significant strides to improve our relationship with one another. Lines of communication are open now that have never been before. It would be disappointing to throw that away at this point.

Finally, we have appreciated the Regional Board's willingness to listen to our concerns and look forward to a clear and workable NPDES permit that will meet the goals of the Clean Water Act and at the same time respect the cities need for cost effective programs that address real water quality issues. The City of La Mirada is prepared to work with the Regional Board, please help us to do so.

Sincerely,

CITY OF LA MIRADA

Pete Dames

Pete Dames
Mayor

CITY OF LOS ANGELES
CALIFORNIA

BOARD OF
PUBLIC WORKS
—
COMMISSIONERS
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ELLEN STEIN
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JUDITH A. WILSON
DIRECTOR

JAMES F. LANGLEY
JOSEPH MUNDINE
DREW SONES
ASSISTANT DIRECTORS

433 SOUTH SPRING ST., SUITE 400
LOS ANGELES, CA 90013
(213) 473-7999
FAX: (213) 473-8100
TTY: (213) 473-7978

August 6, 2001

2001 AUG -6 P 3:01

Dennis A. Dickerson, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

CITY OF LOS ANGELES REVIEW COMMENTS ON THE SECOND DRAFT OF THE 2001 LOS ANGELES COUNTY MUNICIPAL STORM WATER NPDES PERMIT

Thank you for the opportunity to comment on the second draft of the 2001 Los Angeles County Municipal Storm Water National Pollutant Discharge Elimination System Permit issued by the Regional Water Quality Control Board (Regional Board) on June 29, 2001.

Attached are the City's comments. Once again, the City appreciates that the Regional Board will give due consideration to incorporating the City's comments into the final permit.

If you have any questions, please contact me at (213) 473-7999 or Gary Lee Moore of my staff at (213) 847-6346.

Sincerely,

Judith A. Wilson, Director
Bureau of Sanitation

Attachments

cc: Xavier Swamikaanu, Los Angeles Regional Water Quality Control Board
Chris Westhoff, City Attorney
Jim Langley, Bureau of Sanitation/EXEC
Ray Kearney, Bureau of Sanitation/EXEC
Maria Souza-Rountree, Chief Legislative Analyst Office
Detrich D. Allen, Environmental Affairs Department
Gary Moore, Bureau of Sanitation/SMD
Chuck Turhollow, Bureau of Sanitation/RAD

H: BUR_HD/JAW852.dm Stormwater Permit Comment Letter

R0004476

BACKGROUND INFORMATION ON THE CITY OF LOS ANGELES' COMMENTS ON THE SECOND DRAFT OF THE NPDES MUNICIPAL STORMWATER PERMIT

Mayor's Time Stamp

RECEIVED

'01 AUG -1 P4:13

DEPUTY

FORTHWITH

City Clerk's Time Stamp

CITY CLERK'S OFFICE
2001 AUG -2 PM 11:42
BY _____
CITY CLERK

SUBJECT TO MAYOR'S APPROVAL

COUNCIL FILE NO. 01-1020 COUNCIL DISTRICT NO. _____

COUNCIL APPROVAL DATE August 1, 2001

RE: POLICY ISSUES REGARDING THE SECOND DRAFT OF THE 2001 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM MUNICIPAL STORMWATER PERMIT

RECEIVED
CITY CLERK'S OFFICE
2001 AUG -6 PM 9:19
BY _____
CITY CLERK

AUG 13 2001

LAST DAY FOR MAYOR TO ACT _____
(10 Day Charter requirement as per Charter Section 341)

DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY

APPROVED ✓

*DISAPPROVED

*Transmit objections in writing pursuant to Charter Section 341

DATE OF MAYOR APPROVAL OR DISAPPROVAL AUG 03 2001

c/p _____
MAYOR

steno/011020a

R0004478

VERBAL MOTION

I HEREBY MOVE that Council ADOPT the recommendations of the Chief Legislative Analyst (CLA) and City Administrative Officer (CAO) relative to policy issues regarding the second draft of the 2001 National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit, SUBJECT TO THE CONCURRENCE OF THE MAYOR:

FORWARD the policy comment matrix, attached to the Council file, to the Regional Water Quality Control Board (Regional Board), which details the City's recommended changes for the second draft 2001 NPDES Municipal Stormwater Permit, as follows:

a. Request deletion of the priority street sweeping schedule.

b. Support the Regional Board's responsibility for inspections of industrial/commercial sites that are under the General Industrial Activities Stormwater Permit.

c. Request deletion of the requirement for peak flow control until consensus language is developed.

d. Request that until March 2003, current permit requirements be maintained, whereby the City is responsible only for Storm Water Pollution Prevention Plans for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre.

e. Request an exemption for the washing down of blood at trauma scenes.

f. Modify receiving water limitations text to be consistent with the Storm Water Resources Control Board Order 99-05 and state that permittees will not be in violation, as long as they have implemented the control measures and other actions to reduce pollutants in the discharges in accordance with the Stormwater Quality Management Plan and its revisions.

g. Retain existing maintenance schedules for wet weather catch basin cleaning.

h. Oppose the prioritization of storm drains for diversion and explore this issue during the development of the upcoming Total Maximum Daily Loads.

i. Delete requirement for temporary catch basin screens and catch basin cleanings after special events.

Fiscal Impact Statement: The CLA and CAO report that the total cost of the proposed second draft NPDES permit would cost the City just over $67 million over the life of the permit. This would result in an increase of $13 per year on the average residential Stormwater Pollution Abatement Charge. The staff recommendations for the proposed 2001 NPDES Municipal Stormwater

*ADOPTED AS AMENDED by Council action of 8-1-01. Weekend

Permit will cost a total of $432,779 for the expanded Standard Urban Stormwater Mitigation Plan implementation requirements. Any increase in attorney costs have not been calculated at this time, however, it is not expected to be significant the first year of the permit and may be revisited in future years if costs escalate substantially.

The CLA and CAO further report that the 2001-02 Stormwater Pollution Abatement Fund included $530,000 for expected new NPDES permit requirements. The estimated staff costs of $432,779 will leave a surplus of approximately $97,000 in the Stormwater Pollution Abatement Fund (SPAF). All of the staff will not be necessary the first year of the NPDES permit implementation. In future years, however, the SPAF was budgeted to absorb an increase of $200,000, which will leave the SPAF short by $233,000 annually for permit implementation activities.

(Environmental Quality and Waste Management Committee waived consideration of the above matter)

PRESENTED BY _____
MARK RIDLEY-THOMAS
Councilmember, 8th District

SECONDED BY _____
RUTH GALANTER
Councilmember, 6th District

August 1, 2001

CF 01-1020

Motion
ADOPTED
* As Amended
AUG 01 2001

LOS ANGELES CITY COUNCIL

See Attached Motion

R0004480

calagend\01-1020.mot

COUNCIL VOTE

01-Aug-01 12:06:41 PM, #16

ITEM(S)
Voting on Item(s): 40,41
Roll Call

BERNSON	Yes
GALANTER	Yes
GARCETTI	Yes
HAHN	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PERRY	Yes
REYES	Yes
RIDLEY-THOMAS	Yes
WACHS	Yes
WEISS	Yes
ZINE	Yes
*PADILLA	Yes
	Absent

Present: 14, Yes: 14 No: 0

41 A - AMENDING MOTION

The joint report by the Chief Legislative Analyst and the City Administrative Officer regarding the 2001 National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit ("Stormwater Permit") on today's agenda (Item No. 41) reiterates policy recommendations previously approved by Council (on June 27, 2001) and includes four new recommendations.

When conveying concerns raised in the Second Draft of the Stormwater Permit to the Regional Water Quality Control Board, the City Council must balance support for measures to reduce trash and stormwater pollution in the City's storm drains with support for regulatory requirements that are reasonable, workable, and effective.

I THEREFORE MOVE that Item #41 on today's Council agenda regarding policy issues in the second draft of the 2001 NPDES Municipal Stormwater Permit (C.F. 01-1020) be amended as follows:

1. Delete "A", which requests deletion of the priority street sweeping schedule inasmuch as this recommendation has already been addressed and was inadvertently included in staff's recommendation.

2. Add to "G": "Retain existing maintenance schedules for wet weather catch basin cleaning and conform the permit to the proposed Trash TMDL."

3. Change "H" which opposed prioritization of storm drains for diversion to read: "Request clarification on the requirement for prioritizing storm drains for diversion."

I FURTHER MOVE that the City Council direct the Bureau of Sanitation, the Bureau of Street Services, the Department of Transportation, the General Services Department, the Chief Legislative Analyst and the City Administrative Officer to review the City's "Street Closure Provisions and Application Procedures" and recommend changes to the City Council, if any, to further tighten the clean-up requirements relating to trash and debris generated from special events.

Presented by Mark Ridley-Thomas
Mark Ridley-Thomas
Councilman, Eighth District

Seconded by

Motion
ADOPTED
AUG 01 2001
LOS ANGELES CITY COUNCIL

TO THE MAYOR FORTHWITH

R0004482

COUNCIL VOTE

01-Aug-01 12:06:03 PM, #14

ITEM NO. (41)
Voting on Item(s): 41A
Roll Call

BERNSON	Yes
GALANTER	Yes
GARCETTI	Yes
HAHN	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PERRY	Yes
REYES	Yes
RIDLEY-THOMAS	Yes
WACHS	Yes
WEISS	Yes
ZINE	Yes
*PADILLA	Yes
	Absent

Present: 14, Yes: 14 No: 0

FORM GEN. 160 (Rev. 6-80)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

DATE: July 25, 2001

TO: Councilmember Mark Ridley-Thomas, Chair
Environmental Quality and Waste Management Committee

FROM: Ronald F. Deaton
Chief Legislative Analyst

William T. Fujioka, Director
City Administrative Office

SUBJECT: POLICY ISSUES RELATED TO THE SECOND DRAFT 2001 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) MUNICIPAL STORMWATER PERMIT

BACKGROUND: On April 13, 2001, the Los Angeles Regional Water Quality Control Board (Regional Board) issued the first draft of the 2001 NPDES Municipal Stormwater Permit for review and comment. The NPDES permit is reissued every five years and the existing permit expires on July 31, 2001. This permit identifies the waste discharge requirements for municipal storm water and urban runoff discharges within the County of Los Angeles and the incorporated cities (except Long Beach). The County of Los Angeles is the principal permittee and the City of Los Angeles and 83 other jurisdictions are co-permittees.

On May 18, 2001, the Council adopted a motion (CF#01-1020), which directed the CLA and CAO to prepare a report for the Environmental Quality and Waste Management Committee on the policy implications of the draft 2001 NPDES permit. The report was prepared and staff identified eight policy recommendations to forward to the Regional Board. These recommendations were endorsed by the City Council/Mayor and sent to the Regional Board on June 29, 2001.

On June 29, 2001, the Regional Board issued the second draft of the draft NPDES permit. Substantial changes were made to the draft permit. Several of the original policy issues remain in the permit and four new policy issues have been identified. The executive summary section of this report provides an overview of each of the policy issues associated with the second draft permit and the recommended city position. The following two sections provide an update on the status of the City's previous policy issues and a detailed analysis of the new policy issues. A full compilation of the City's technical and policy comments are contained in Table 1.

EXECUTIVE SUMMARY

R0004484

1. *Public Agency Activities (street sweeping requirement)* – no further comment necessary.

2. *Industrial/commercial inspections* – continue to support the Regional Board's responsibilities for the inspections of these sites.
3. *Standard Urban Storm Water Mitigation Plans (SUSMPs)* – no further comment necessary.
4. *New peak flow control requirements* – oppose permit language and support the development of consensus language.
5. *Small construction site requirements* – no further comment necessary.
6. *Larger construction site requirements* – continue to support the Regional Board's responsibilities for these site requirements.
7. *Responsibilities of the principal permittee* – no further comment necessary.
8. *Exemption for residual blood wash down* – continue to request exemption language.
9. *Receiving water limitations* – modify text and revise to ensure permittees are not in violation.
10. *Wet weather catch basin cleanings* – retain existing maintenance schedules.
11. *Prioritization for the diversion of storm drains* – oppose the requirements and explore during the development of the upcoming TMDLs.
12. *Special event catch basin cleanings* – delete new requirement.

SUMMARY UPDATE ON POLICY ISSUES FROM FIRST PERMIT DRAFT

1. Public Agency Activities – Street Sweeping Requirement

First Draft Permit – The first draft of the proposed permit contained language that would have required all jurisdictions to conduct bi-weekly street sweeping. The existing permit requires a municipality to implement a street sweeping program at least monthly, and where feasible, more frequently in areas generating significant refuse. The current discretion given to municipalities allows the City of Los Angeles to provide street sweeping services more frequently in areas that generate more debris and less sweeping in areas where trash is less of a problem.

Second Draft Permit - The second draft of the permit has deleted the requirement for bi-weekly, citywide street sweeping. Instead, the draft permit identifies three designations for streets and/or street segments (priority A, B, and C) and their required street sweeping frequency. The following is staff's interpretation of the priority categories:

- Priority A streets - consistently generate the highest volume of trash and/or litter, shall be swept at least two times per month. Within the City's territory, Priority A streets and/or street segments are posted routes, which are swept on a weekly basis, and special targeted areas (located within Hollywood, Westwood, Downtown, and Venice), which are swept up to six times per week.
- Priority B streets - consistently generate moderate volumes of trash and/or litter, shall be cleaned at least once per month. Within the City's territory, Priority B streets and/or street segments are non-posted routes, which are swept on a monthly basis.

- Priority C streets - consistently generate low volumes of trash and/or litter, shall be cleaned at least once per year. All streets in the City are scheduled to be swept at least monthly, so this category is not applicable.

Impact on City – According to the Bureau of Street Services, the City's street sweeping schedule is generally consistent with the program described in the second draft permit. A systematic examination of the City's street sweeping program has not been conducted, however, to verify this fact. Staff may need to sweep additional streets, which may require future additional resources.

Recommended City Position – No further comment is necessary.

2. Programs for industrial/commercial inspections

First Draft Permit – Three major changes relative to the current permit were included, two of which the City agreed to assume. These were:

1. Language to require the City to move from educational visits to site inspections. This will allow the City to thoroughly review industrial/commercial storm water impacts and begin enforcement actions on violators.
2. Additional categories of industrial and commercial businesses within the City, almost doubling the list from 13,000 to 23,000 businesses. City staff agreed with this and it was estimated that an additional two new inspectors would be necessary to fulfill the new NPDES requirements to inspect industrial/commercial sites under the City's jurisdiction, at a cost of $175,081 per year. Additional attorney costs for anticipated legal actions, which are difficult to estimate, may also be necessary.
3. Proposed permit would require the City to inspect all industrial/commercial sites that are now the responsibility of the Regional Board, in addition to the sites that are currently under the City's jurisdiction.

Second Draft Permit – The total number of industrial and commercial businesses to be inspected by the City, under both the City's jurisdiction and primarily the Regional Board's jurisdiction, was reduced to about 15,000 because the Principal Permittee was held responsible for doing all inspections of Restaurants and Retail Gasoline Outlets.

Impact on City - Two additional Industrial Waste Inspectors at an annual cost of $175,081 would be required to perform the additional inspections. Staff strongly opposes the requirements of the draft permit that pass responsibilities to the City when they clearly belong to and should remain with the Regional Board. The Regional Board issues General Industrial Activities Stormwater Permits to industrial and commercial businesses and receives fees from between $250 and $500.

Recommended City Position – Continue to support the Regional Board's responsibility for inspections of industrial/commercial sites that are under their General Industrial Activities Stormwater Permit.

3. Standard Urban Storm Water Mitigation Plans (SUSMPs)

First Draft Permit – Include administrative projects in the SUSMP project categories. The City comments supported this proposed permit change, based on previous Council motion on SUSMP requirements.

Second Draft Permit – Permit language remains the same.

Impact on City - The inclusion of ministerial projects in the draft NPDES permit for SUSMP project categories is estimated to require four additional staff at a cost of $432,779. The Stormwater Pollution Abatement Fund (SPAF) anticipated some additional costs associated with the proposed NPDES permit and included $530,000 in the SPAF 2001-02 budget.

Recommended City Position – No further comment is necessary.

4. Implement Requirements for Peak Flow Control.

First Draft Permit – Requires all development that drains to soft-bottom channels, including the entire upper Los Angeles River region (the San Fernando Valley), to show that a post-development peak runoff discharge rate does not exceed the pre-development runoff discharge rate. City comments included a request for clarification of the new peak flow control requirements.

Second Draft Permit – Permit language remains the same. The Regional Board staff has stated that this requirement was included to ensure that new developments are not eroding soft bottom areas of the Los Angeles River, due to increased runoff from their developments during storms. In the monitoring element of the draft permit, however, there is a requirement for a peak discharge impact study. This study would require the County to participate in this study in order to study the erosion impacts caused by urbanization. It is unclear why the Regional Board has included the peak flow control requirement, prior to the completion of the study, an assessment of potential impacts and a review of recommendations.

It has been confirmed that permit language would severely restrict development in the San Fernando Valley (see Figure 1). Typical peak flow control measures are limited to detention or retention structures, due to the Watermaster's restriction against infiltration systems. According to the draft permit, a swimming pool-size detention/retention facility, at an estimated cost of $50,000, would be required for a one-acre development.

Recommended City Position – Oppose the permit language and support the development of consensus language to address the issue.

5. **Small Construction Site Requirements**

First Draft Permit – Required that for construction sites of less than one acre, the proposed permit would require the implementation of structural and non-structural BMPs, as well as site inspections. In essence, this would have made every project subject to storm water conditions, which would be over 30,000 projects per year in the City of Los Angeles. The City requested that this language be deleted because small construction sites have negligible impact on storm water quality.

Second Draft Permit – The second draft rewrote the language for sites less than 1 acre and removed the requirement for site plan review and verification of BMP implementation by the City for small construction sites.

Impact on City – As currently written the focus on stormwater quality impacts is appropriately placed on larger construction projects.

Recommended City Position – No further comment is necessary.

6. **Larger Construction Site Requirements.**

First Draft Permit - For construction sites greater than one acre, the proposed permit would require the review and inspection of BMP implementation plans during construction and a Storm Water Pollution Prevention Plan (SWPPP) on site. The City requested that the Regional Board not delegate their obligations for site inspections to any jurisdiction without proper compensation.

Second Draft Permit – Language remains the same. Currently, the City is required to inspect construction sites of two acres and above for compliance with a SWPPP. Should violations be discovered on sites between two and five acres, the City conducts follow-up activities. If the construction project site is five acres or over, the City notifies the Regional Board for follow-up activities. The Regional Board is responsible for issuing State General Construction Permits and conducting follow-up activities for sites five acres and above. Beginning in 2003, however, federal regulations will require the Regional Board to issue General Construction Permits for sites one acre and above. The issuance of these permits will allow the Regional Board to collect fees for site inspection activities. As the proposed permit is currently written, however, cities will be required to inspect these sites, while the Regional Board collects the fees. It is more appropriate for the Regional Board to begin this activity in 2003 and fund their work through their permit fees.

Impact on the City – It is estimated that the cost to hire an additional two staff to review and inspect BMP implementation plans and SWPPPs would cost approximately $188,339. This would cost the ratepayers an increase of several cents on their Stormwater Pollution Abatement Charge.

Recommended City Position – Continue to support that until March 2003, current permit requirements should be maintained, whereby permittees, such as the City of Los Angeles, are responsible only for SWPPPs for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre. If the Regional Board is willing to transfer the funding from permit fees to the City for the responsibility of inspection of construction sites greater than one acre, the City may want to reconsider this position.

7. Responsibilities of the Principal Permitee

First Draft Permit – Identified the Executive Advisory Council (EAC), in addition to Los Angeles County, the responsibility of coordinating permit activities and negotiate NPDES requirements with the Regional Board. The City's comments requested the addition of the City of Los Angeles, in addition to the EAC.

Second Draft Permit – Deletes mention of the EAC.

Impact on the City – Coordination of permit activities and NPDES negotiations formally remain with the County and the EAC is not elevated to a more formal role at the possible expense of the City of Los Angeles.

Recommended City Position – No further comment recommended.

8. Storm drain discharge exemption to wash residual blood from trauma scenes

First Draft Permit – Does not specifically exempt the washing down of residual blood and bodily fluid from trauma scenes. Los Angeles City Fire Department requested an exemption to the storm drain discharge prohibition requirements in the proposed NPDES permit to allow the practice of washing down residual blood from trauma scenes. Data from the Los Angeles County Department of Health Services indicates that the small amounts of human fluid will have no negative health and safety issues.

Second Draft Permit – No exemption language has been added.

Impact on the City – The requirement to clean small amounts of blood from trauma scenes could add to the cost of clean up, with no benefit to storm water quality. According the City Fire Department, conservative estimates project that the additional trauma scene clean-up costs to the City could be $1.8 million annually.

Recommended City Position – Continue to request exemption language.

NEW POLICY ISSUES IDENTIFIED IN THE SECOND PERMIT DRAFT

1. Receiving Water Limitations

Proposed Permit – The permit has added a section that would state that all discharges from the City's stormwater system cannot "...cause or contribute to the violation of water quality standards or water quality objectives..." This requirement is not consistent with the State Water Resources Control Board's policy, set forth in Order 99-05, which states that permittees will not be in violation as long as they are complying with the requirements and timetable of the NPDES permit.

Current Practice - The City is committed to meeting water quality standards through the implementation of the NPDES permit. The NPDES permit is the mechanism to require the implementation of controls to prevent pollutants from being washed by stormwater runoff into local water bodies.

Impact on City – The City Attorney's preliminary reading of the second permit language indicate that the City in a non-compliance status from the day the permit is adopted and expose the City to potential enforcement actions. Irrespective of compliance with all of the permit requirements, the language can be interpreted that the City would be out of compliance because we would be discharging storm water into receiving waters. The only mechanism to meet this requirement is for the City to provide full treatment of stormwater. It is virtually impossible to project the cost of constructing additional treatment facilities to fully treat all storm water in the City.

Recommended City Position – Modify the text to be consistent with SWRCB Order 99-05. Further, it is recommended that the section of the permit be revised to state that permitees will not be in violation, as long as they have implemented the control measures and other actions to reduce pollutants in the discharges in accordance with the Stormwater Quality Management Plan and its revisions.

2. Storm Drain Operation and Management - Accelerated Maintenance Schedule for Wet Weather Catch Basin Cleaning

Proposed Permit - Stormwater runoff from urban streets is a contributing factor in the contamination of coastal waters and beaches. Pollutants, litter and debris on city streets enter the storm drain system and are channeled directly to the ocean. The cleaning of catch basins has been identified as a best management practice to reduce storm water pollution. The proposed permit contains language that would require all jurisdictions to establish priority rankings for all catch basins and conduct cleaning of those basins on an accelerated maintenance schedule during the wet season.

Current Practice - The existing permit requires a municipality to clean all catch basins between May 1 and September 30 of each year. From October 1 through April 30 of each year, all municipalities are required to clean all catch basins, as necessary. The Bureau of Sanitation cleans the City's 35,000 storm drains at least once a year. For those that have a significant amount of trash when cleaned, at least one additional cleaning is conducted, with some storm drains receiving up to four cleanings per year.

Impact on City - It is critical to note that a trash total maximum daily load (TMDL) program is currently under development for the Los Angeles River and Ballona Creek. Compliance with the trash TMDL will require the City to develop a plan to reduce trash in the waterways by the implementation of an effective combination of structural devices and non-structural measures. Depending on which devices and measures are chosen, maintenance schedules will be an important part of their effectiveness. It is premature at this time to require an accelerated catch basin cleaning schedule as part of the proposed permit, before a comprehensive citywide approach to trash reduction is developed.

Staff estimates that a wet weather priority-based catch basin cleaning program will increase the City's staffing cost by an additional $2.8 million annually, from the implementation of the new permit to July 1, 2003. After July 1, 2003 and until the expiration of the permit, the City's staffing cost will increase by another $6.4 million annually. The cost for additional vacuum trucks and new maintenance yards needed to perform the catch basin cleaning is estimated to be $28.5 million. The total cost increase to the City during the five-year term of the Permit is estimated at $63.4 million. In addition, there are several other factors that must be considered such as: locating sites for two new maintenance facilities, constructing the two new maintenance facilities, tipping fees for the disposal of debris removed from the catch basins, the impact of debris disposal on the City's requirement to divert waste from landfills, the ability to comply with AQMD regulations that mandate the purchase of alternative-fuel fleet vehicles, and the ability of qualified equipment manufacturers to supply the necessary catch basin cleaning vehicles.

Recommended City Position – Retain current permit requirements for catch basin cleaning and conform the permit to the proposed trash TMDL.

3. Prioritization for the Diversion of Storm Drains

Proposed Permit – Each permittee is to prioritize storm drains having dry weather flows within their jurisdictions for potential diversion into the sanitary sewer system. Permittees are given a deadline of March 31, 2002 to develop a prioritized list of drains and locations of potential dry-weather diversion structures.

Current Practice – Presently there are no requirements for permittees to prioritize drains and construct dry-weather diversion structures. The City has voluntarily implemented its Low Flow Diversion program to prioritize 19 drains along the Santa Monica Bay shoreline. Of these drains, seven have, or will be, diverted to the Hyperion Treatment Plant for treatment by 2002.

The total cost of this program, including monitoring and assessment, design and construction, is approximately $4.2 million.

Impact on City –The prioritization of storm drains for dry weather diversion is not a permit issue. The City supports the use of Dry Weather Diversions as a method to prevent contaminated runoff from entering waterways, and is now diverting flows from beaches in Santa Monica Bay to protect public health. Therefore, we support this concept, but the requirement as written here needs to be clear in its intent. It would be more appropriate to address this issue through the upcoming TMDL programs. Furthermore, the draft permit language is unclear if this strategy is focusing on beneficial uses associated with safe swimming or aquatic resources. If only public health is the concern, then priority drains should be determined only along bathing beaches as is now being done through the Low Flow Diversion project. However, if water quality objectives are to be attained for environmental health, then the Los Angeles River, Ballona Creek and Dominguez Channel need to be included in the assessment. Thus, the prioritizing task becomes much more extensive and difficult. Such a project would probably require the entire five years of the permit to accomplish. For example, in the Los Angeles River, we would first determine which of the approximately 2,000 drains have dry weather flows, then develop a ranking scheme to prioritize drains based on flows, effluent characteristics including toxicity, and potential exceedance of water quality standards.

Recommended City Position -- Oppose the requirement in the NPDES permit and explore this issue during the development of the upcoming TMDLs.

4. Storm Drain Operation and Management – Special Events

Proposed Permit – Requires that for any special event, the City shall include provisions that provide for the proper management of trash and litter generated from the event. Further, the permit requires, at a minimum, that the City to arrange for either temporary screens to be placed on catch basins or for catch basins in the event area to be cleaned out subsequent to the event and prior to any rain.

Current Practice – The current permit does not specifically address special events. The closest related requirement is under Street and Roads Maintenance, which requires good housekeeping practices to insure proper management of any wastes that are generated.

Presently, the City requires that the sponsors of special events remove any debris that results from the event through the "Street Closure Provisions and Application Procedures." The area is inspected after the event, and an invoice for payment is sent for any cleaning that is performed by the City. In the case of large events, the sponsor may be required to make a cash deposit to assure proper cleaning after the event.

Again, the impending trash TMDL for the Los Angeles River and Ballona Creek will address the necessity of additional measures for catch basin clean up. It is premature at this time

to require an accelerated catch basin cleaning schedule as part of the proposed permit, before a comprehensive citywide approach to trash reduction is developed.

Impact on City – The additional cost for clean up after special events would likely be passed onto the event sponsor. Compliance with these enhanced measures would impose more burden on civic organizations and neighborhood block parties and require more rigorous inspection by City staff preparing the bills.

Recommended City Position – Delete new requirement in the permit and review the need for additional special event clean up during the trash TMDL implementation.

RECOMMENDATION:

That the Council:

1. Forward the attached policy comment matrix to the Regional Board, which details the City's recommended changes for the second draft 2001 NPDES Municipal Stormwater Permit, as follows:

2. Request deletion of the priority street sweeping schedule;

3. Support the Regional Board's responsibility for inspections of industrial/commercial sites that are under the General Industrial Activities Stormwater Permit;

4. Request deletion of the requirement for peak flow control until consensus language is developed;

5. Request that until March 2003, current permit requirements be maintained, whereby the City is responsible only for SWPPPs for sites 2-5 acres and after March 2003, require that the Regional Board take responsibility for inspections of construction sites greater than one acre;

6. Request an exemption for the washing down of blood at trauma scenes;

7. Modify receiving water limitations text to be consistent with the SWRCB Order 99-05 and state that Permittees will not be in violation, as long as they have implemented the control measures and other actions to reduce pollutants in the discharges in accordance with the Stormwater Quality management Plan and its revisions;

8. Retain existing maintenance schedules for wet weather catch basin cleaning;

9. Oppose the prioritization of storm drains for diversion and explore this issue during the development of the upcoming TMDLs;

10. Delete requirement for temporary catch basin screens and catch basin cleanings after special events.

FISCAL IMPACT STATEMENT:

The total cost of the proposed second draft NPDES permit would cost the City just over $67 million over the life of the permit (see Table 2). This would result in an increase of $13 per year on the average residential Stormwater Pollution Abatement Charge. The staff recommendations for the proposed 2001 NPDES Municipal Stormwater Permit will cost a total of $432,779 for the expanded SUSMP implementation requirements (see Table 3). Any increase in attorney costs have not been calculated at this time, however, it is not expected to be significant the first year of the permit and may be revisited in future years if costs escalate substantially.

The 2001-02 Stormwater Pollution Abatement Fund included $530,000 for expected new NPDES permit requirements. The estimated staff costs of $432,779 will leave a surplus of approximately $97,000 in the SPAF. All of the staff will not be necessary the first year of the NPDES permit implementation. In future years, however, the SPAF was budgeted to absorb an increase of $200,000, which will leave the SPAF short by $233,000 annually for permit implementation activities.

TABLE 1

CITY OF LOS ANGELES: BUREAU OF SANITATION, STORMWATER MANAGEMENT DIVISION
Comments on the Second Draft of the NPDES Municipal Stormwater Permit

Page #	Text Reference	Passage	Comment & Recommendation
General Comment		The City strongly opposes the requirements of the draft Permit that pass responsibilities of the State to the Permittees for the inspection of industrial/commercial sites and construction sites. These responsibilities clearly belong to and should remain with the State and the Regional Water Quality Control Board. Specifically for: Industrial/Commercial Sites: Inspections would include Phase I facilities that operate under NPDES permits issued by the Regional Board. Shifting responsibilities for inspections will put the Permittees in the position of acting as agents of the State, create significant financial burdens for the Permittees, and expose the facilities to being regulated at both the State and local levels. This will create situations where inconsistencies in the interpretation and application of regulations can double the potential liability of a given facility. Construction Sites: a) Between 1 and 5 acres – Federal regulations (Phase II) for sites 1 acre and greater will be in effect beginning March 2003. Therefore, increases in regulations for sites 1 – 5 acres should be deferred until that time, when the State will modify its General Construction Permit to include these sites and take on the responsibilities to inspect them. Until March 2003, current Permit requirements should be maintained, whereby Permittees are responsible only for Local SWPPPs for sites 2-5 acres. b) Five or more acres – Regulating these sites belongs with the State under the Statewide General Construction program.	
General comment		Due to the uncertainty of the actual Permit adoption date, it is recommended that all date-specific deadlines be revised in terms of the equivalent number of days from the date of the adoption of the Permit. For example, the 2nd draft Permit on Page 22, Part 3.h.3a states as follows: "Each Permittee shall submit no later than July 31, 2002, a statement by the legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications." Therefore, this requirement would be modified as follows: "Each Permittee shall submit, no later than ~~July 31, 2002~~ **270 days after the effective date of the Order**, a statement by the legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications."	
02	B.4 Finding	"The causes of impairments include pollutants of concern identified by..."	Recommend modifying as follows: "The causes of impairments include **adverse impacts from** pollutants of concern identified by..."
02	B.6 Finding	"First natural vegetated pervious ground cover..."	Add comma after First. "First, natural vegetated pervious ground cover..."
03	B.6 Finding	"Second, urban development creates new pollution sources as the density of human population brings with it proportionately higher levels of vehicle emissions..."	Recommend modifying as follows: "Second, urban development creates new pollution sources as the **increased** density of human population brings ~~with it~~ proportionately higher levels of ..."
03	B.6 Finding	"These environmentally sensitive areas include Areas of Special Biological Significance, water bodies designated with a RARE beneficial use, Significant Natural Areas, and Significant Ecological Areas."	None of the following are defined: Areas of Special Biological Significance, RARE, Significant Natural Areas, Significant Ecological Areas. If used in the permit, these terms should be defined. Otherwise, this passage should instead reference "environmentally sensitive areas" that are defined in the permit.
03	B.7 Finding	"The increased volume, increased velocity, and..."	Recommend adding to the end of this sentence: "**in water bodies susceptible to these effects**".
03	B.7 Finding	"Significant declines in the biological integrity and physical habitat of streams and other receiving	Recommend rewording this text as follows because 10% may not be the standard: "Studies have demonstrated that increasing impervious cover can lead to declines in habitat

R0004495

Page #	Text Reference	Passage	Comment & Recommendation
		waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces."	quality and associated biodiversity."
03	B.8 Finding	"The County of Los Angeles has identified as the five highest priority potential priority industrial and commercial critical source types, (l) wholesale trade..."	Recommend modifying as follows: "The County of Los Angeles has identified as the five highest priority potential priority industrial and commercial critical source types, (l) (i) wholesale trade..."
06	D.3 Finding	"About 34 Square miles...into Malibu Creek and thence..."	From each of the offset sentences, remove the word "thence" and replace with "then".
07	E.2 and E.3 Finding	Discussion of EPA Policies	These Findings reference EPA policies related to municipal stormwater permits. The Regional Board should not impose any requirements based solely upon these EPA policies as these policies were not formally adopted as binding regulations required to be implemented by States, and may constitute illegal underground rules. *See Appalachian Power Co. v. EPA*, 208 F.3d 1015 (D.C.Cir. 2000).
08	E.8. Finding	"A TMDL specifies the maximum amount of a pollutant that a water-body can receive and still protect beneficial uses."	Recommend modifying as follows: "A TMDL specifies the maximum amount of a pollutant that a water body can receive and still ~~protect beneficial uses~~ **implement applicable water quality standards. 33 U.S.C. §1313(d)(1)(C).**"
09	E.11 Finding	Ocean Plan prohibition	This Finding and its reference to the Ocean Plan should be deleted, as this Plan does not apply to the discharges covered by to this permit.
10	E.18 Finding	"Authorizing the construction of a storm water/urban runoff treatment facility in a jurisdictional water body would tantamount to..."	Change to "...in a jurisdictional water body would **be** tantamount..."
11	E.21 Finding	"These industrial and construction sites and discharges are also regulated under local laws and regulations."	The responsibilities for State General Industrial and General Construction Permits should remain with the State (please reference General Comment above). Recommend modifying as follows: "These industrial and construction sites and discharges ~~are also~~ can also be regulated under local laws and regulations."
12	E.25. Finding	Requirements of Water Code §13263(a)	The City appreciates that the Regional Board has recognized its statutory requirements. However, the City was unable to find any evidence that the Regional Board had complied with each of the statutory requirements contained in §13263(a). Recommend the Regional Board provide evidence in the Permit or Fact Sheet that the required tasks were performed in accordance with law.
13	F.2 Finding	"A ministerial project.... decision making discretion. In the alternative....	A ministerial project cannot be made discretionary by adopting local ordinance. Any modifications and/or additions to CEQA must be done at the State level. Recommend deleting this sentence. Also replace the words at the beginning of the following sentence from "In the alternative" to "However".
13	F.3. Finding	"This decision is controlling in California for nonagricultural applications of pesticides to waterways."	Recommend the following modification: "...This decision is **currently** controlling in California for nonagricultural applications of aquatic pesticides to ~~waterways~~ **waters of the United States. The State Water Resources Control Board has adopted a general permit (WQ Order No. 2001-XX) to regulate the application of**

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			aquatic pesticides for resource or pest management. This general permit will be rescinded or revised if the law as stated in the *Talent* decision changes."
14	F.7 Finding	PIPP paragraph	The Regional Board should expressly acknowledge the following in a final sentence: "**However, the Regional Board recognizes that it may be impossible to fully control the behavior of each of the 9.5 million individuals living in the area covered under this permit.**"
15	G.6. Finding	CEQA Compliance	The Regional Board has failed to comply with the requirements of 23 C.C.R. §3733. This regulation requires that the Regional Board comply with the policy provisions contained in Chapter 1 of CEQA that require the determination of alternatives and mitigation measures to the proposed permitting action.
15	Part 1.1	"Each Permittee shall effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are: 1. covered by a separate individual or general NPDES permit for . . ."	Recommend modifying as follows: " ...covered by a separate individual or general NPDES permit, **or granted an exemption by the Regional Board, the Executive Officer, or the State Water Resources Control Board,** for..." This modification would maintain the intent of the current Permit and include sources previously granted an exemption from the Regional Board or State Water Resources Control Board.
15	Part 1.2	".... and meet all the conditions specified by the Regional Board Executive Officer..."	We recommend reinstating Part 2, Section II.C.4 (p. 33-34) of Order 96-054, which describes the procedures to obtain additional categories of exemptions.
16	Part 1.2 Last paragraph	"The Regional Board Executive Officer may add or remove categories of non-stormwater discharges above. Furthermore, in the event that any of the above categories of non-stormwater discharges are determined . . . in consideration of anti-degradation policies."	Recommended modifying as follows: " ...in the event that any of the above categories of non-stormwater discharges are determined to be a **significant** source of pollutants and **cause an adverse significant impact** . . . the discharge will no longer be exempt . . ."
16	Part 1.2.c	Add new reference items.	9) Washing of fire/emergency vehicles; and 10) Potable water sources with appropriate BMPs applied.
16	Part 1.2.c.1 & 2	Discharge Prohibitions: "Reclaimed and potable landscape irrigation runoff;" "Water line flushing of potable water distribution systems;"	Recommend modifying as follows: "Reclaimed and ~~potable~~ landscape irrigation runoff;" "Water line flushing ~~of potable water distribution systems~~;" Line flushing within the system is necessary to protect the health and safety of the public. In some cases, when flushing occurs within the distribution system, chlorination is increased and then the water is dechlorinated. However, during the flush, the water may not be to potable water standards.
16	Part 1.2.c.6	"Dewatering of lakes and decorative fountains;"	Recommend modifying as follows: "Dewatering of lakes, **reservoirs, potable water tanks,** and decorative fountains **with appropriate BMPs applied**;"
16	Part 2	"Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited."	An intro sentence needs to be added that says before paragraph 1, "Except in accordance with this Order:"
16	Part 2.1 & 2.2	"1. Discharges from the MS4 that cause or	The Order includes the "cause or contribute to" language taken from 40 CFR §122.44(d), which

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		contribute to the violation of water quality standards or water quality objectives are prohibited." "2. Discharges from the MS4 of storm water, or non-stormwater, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance."	is arguably not applicable to stormwater discharges as stormwater is regulated under §122.44(k), which allows BMPs where effluent limitations are not feasible. The language should at least be changed to read: "1. Discharges from the MS4 that **are demonstrated to** cause ~~or contribute~~ to the violation of **applicable** water quality standards or water quality objectives are prohibited." "2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible ~~for~~, shall not cause ~~or contribute to~~ a condition of nuisance."
16	Part 2.3	"The Permittee shall comply with Part 2.1. and 2.2. through timely implementation of control measures..."	Recommend the following modification to make this language correspond to the language proposed in the recently adopted Aquatic Pesticide General Permit **(scheduled for adoption on July 19th)**: "**A** ~~The~~ Permittee ~~shall comply with~~ **will not be in violation of Receiving Water Limitation** Part 2.1 and 2.2 ~~through the timely implementation of~~ **as long as the Permittee has timely implemented the** control measures..."
17	Part 2.3.a	" a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance...The Regional Board may require modifications to the Report."	Remove the "or contributing to" language.
18	Part 3.C	"The Permittees shall modify the SQMP, at the direction of the Regional Board Executive Officer, to incorporate additional provisions. Such provisions may include regional, watershed specific requirements, and/or waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Daily Maximum Loads (TMDLs) for impaired water bodies."	Include discussion of the process for that modification and the timeline for compliance, which must include a public review.
18	Part 3.C	"The Permittees shall modify the SQMP...for the designation and implementation of Total Daily Maximum Loads (TMDLs)..."	Recommend modifying as follows: "The Permittees shall modify the SQMP...for the designation and implementation of Total **Maximum Daily** Loads (TMDLs)..."
18	Part 3.D	Designation and Responsibilities of the Principal Permittee	After item D.1 renumber the items that follow.
21	Part 3.H.1	Add a new reference item after j).	"Control spills to the maximum extent practicable."
21	Part 3.H.1.b-h	Prohibit the discharge of "untreated" runoff.	Modify by adding the word "untreated" for each paragraph as follows: "b) Prohibit the discharge of **untreated** wash waters to the MS4 from the cleaning of gas stations...or other automotive facilities." "c) Prohibit the discharge of **untreated** runoff to the MS4 from mobile auto washing, steam cleaning..." "e) Prohibit the discharge of **untreated** runoff to the MS4 from storage areas of materials containing grease, oil... and uncovered receptacles containing hazardous materials **unless such containers are new and unopened;**" "g) Prohibit the discharge of **untreated** runoff from the washing of toxic materials from paved or

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			unpaved areas to the MS4…" "h) Prohibit washing impervious surfaces in industrial/commercial areas that result in a discharge of **untreated** runoff to…"
21	Part 3.H.1.j	"Prohibit spills, dumping, or disposal of materials into the MS4, other than storm water, such as…"	In the existing permit, paragraphs b & g prohibit the discharge of "untreated" runoff. Recommend modifying as follows: "Prohibit ~~spills,~~ dumping, or disposal of materials into the MS4, . . ." Spills are not deliberate, intentional acts whereas dumping and disposal are.
21	Part 3.H.1.j.4	"Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials…"	Recommend modifying as follows: "Fuel and chemical wastes, animal wastes, garbage, **and** batteries, ~~and other materials~~ that have potential adverse . . ." "other materials" is overly broad, too open-ended, and redundant with the phrase "such as" that **prefaces this subsection.**
21-22	Part 3.H.1.k-p	Paragraphs (k) through (p) are not related to (a) through (j) in that they do not reflect a category of prohibitions or controls.	Recommend adding another appropriate topic heading for items (k) through (p) and renumbering as appropriate.
21-22	Part 3.H.1.m & n	"m) Control the contribution, or potential contribution…" "n) Carry out all inspection, surveillance…"	These paragraphs overlap the responsibilities of the State-wide General Storm Water Permits associated with Industrial Activities and Construction Activities. Recommend modifying as follows: "m) …discharges of storm water runoff associated with industrial activities (including construction activities) not already covered by the State General Industrial Activities Storm Water Permit or the State General Construction Activities Storm Water Permit to its MS4… " "n) …and require regular reports from industrial facilities, not already covered by the State General Industrial Activities Storm Water Permit, discharging…"
23	Part 4.A.2	"The fiscal burden of the original BMP or program is substantially greater than the proposed alternative…"	Remove the word "substantially" from this paragraph, as there is no definition of this term and no reason why the substituted BMP could not be equal in cost and effectiveness.
23	Part 4.B	"The Principal Permittee shall implement a PIPP that incorporates the components of the five-year education plan and the provisions of this section."	Recommend modifying as follows: "The Principal Permittee shall implement a PIPP that incorporates the components of the **second Five-Year Education Plan** and the provisions of this section."
23	Part 4.B	"The Principal Permittee shall implement a PIPP that incorporates the components of the five-year education plan and the provisions of this section."	Recommend modifying as follows: "The Principal Permittee shall implement a PIPP that incorporates the components of the five-year education plan, **as detailed in the SQMP**, and the provisions of this section."
24	Part 4.B.1.d.5	"The Principal Permittee in cooperation with the Permittees shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, and other	Recommend modifying as follows: "The Principal Permittee in cooperation and coordination with the other Permittees shall provide all School Districts within ~~its~~ **their** jurisdiction with materials, including ~~videos~~, live presentations with visual media, brochures, and other media necessary to educate a minimum of 50 percent of

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		media necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution."	all school children (Grades K-12) every 2 years on storm water pollution."
24	Part 4.B.1.d.5	"The Principal Permittee in cooperation with the Permittees shall provide all School Districts within its jurisdiction with materials, including videos, live presentations, brochures, ..."	Recommend modifying as follows: "The Principal Permittee in cooperation with the Permittees shall provide all School Districts within its jurisdiction with **services and** materials, **such as live presentations, videos**, ..."
25	Part 4.B.1.e	Permittees shall coordinate to develop.... pollutants listed in Table 1on or before...."	Add space between "Table 1" and "on".
25	Part 4.B.1.e	"Metals may be appropriately addressed through the businesses program."	Recommend modifying as follows: "Metals may be appropriately addressed through the businesses program **of the PIPP**."
25	Part 4.B.2.a.1 & 2	Corporate Outreach	The phrase "corporate heads" is too limiting, especially for large corporations whose officers are located out of the areas. Therefore, change "corporate heads" to "**corporate or management company**."
26	Part 4.B.2.b1	"The Principal Permittee and Permittees with the available resources, including but not limited to the City of Los Angeles, may implement a Business Assistance Program to provide confidential, technical resource assistance..."	Recommend modifying as follows: "The Principal Permittee and Permittees with ~~the available resources, including but not limited to the City of Los Angeles~~, may implement a Business Assistance Program to provide confidential, technical and resource assistance..."
26	Part 4.C.2	"Retail Gasoline Outlets"	To clarify, add SIC code to section's title as follows: "Retail Gasoline Outlets **(SIC 5541)**"
26	Part 4.C.3	"Automotive Service Facilities"	We recommend defining "Automotive Service Facilities" as SIC codes 75XX, and 5014.
26	Part 4.C.3.a	"Frequency...inspected once every 24 months."	In accordance with the General Comment on page1. The following inspection schedule is recommended: 1. Automotive Facilities – twice during the permit cycle.
27	Part 4.C.4.a	"Each permittee shall annually update a watershed-based..."	The requirement calls for including retail Gasoline Outlets and Restaurants in the database. Only the Principal Permittee will be conducting inspections at these facilities. To prevent duplication of effort, the permittees should not be required to include these two SIC groups in their databases. Recommend amending passage as follows: "...inventory of all USEPA Phase I facilities, ~~retail gasoline outlets,~~ **and** Automotive Service Facilities ~~and~~ Restaurants within its jurisdiction..."
27	Part 4.C.4.b	"...Based on the inventory...each Permittee shall visit facilities that appear to be subject to the requirements of USEPA Phase I"	In accordance with the General Comment on page 1, we recommend that Item 4b be modified by the addition of the following: "other than those facilities that have a State General Industrial Activities Storm Water Permit."
28	Part 4.C.4.d	"For Industrial and specified commercial sites, tributary to Clean Water Act..."	Please reference General Comment, located at the top of Page 1. Recommend modifying first half of Part 4.B.4.b as follows: "... for Industrial and specified Commercial sites, other than those facilities that have a State General Industrial Activities Storm Water Permit, tributary to Clean Water Act ..."
28	Part 4.C.4.d	"In the event that particular minimum BMPs are infeasible at any site, Permittees shall require implementation of other equivalent BMPs. Furthermore, Permittees may require additional..."	We support doing the extended site-visit program over that now specified in the existing permit. However, we do not have the authority to require BMPs. If we discover potential runoff problems at a site, then we should advise the facility's management on BMPs to install and refer the matter to the RWQCB for follow-up actions. Recommend to rewrite as follows: In the event that particular minimum BMPs are infeasible at any site, Permittees shall require advise

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			implementation of other equivalent BMPs, **and forward the information to the RWQCB for their follow-up actions."** (Delete remainder of section's paragraph.)
28	Part 4.C.5	"Interagency Coordination"	As written, this passage requires us to provide unlimited assistance to the RWQCB. Lack of limits potentially could use up our resources to the detriment of meeting our own permit requirements. Recommend rewriting the passage as follows: In ~~response to any complaint related to storm water or non-storm water discharges or a specific~~ request by the ~~regional Board, a Permittee shall visit any facility, to determine if the facility~~ **The Regional Board may seek the assistance of a Permittee to conduct inspections at a facility to determine if it** is effectively complying with the SQMP and municipal storm water ordinances. ~~In addition, Permittees~~ **To the Maximum Extent Practicable, the Permittee** shall provide compliance assistance to the..."
29	Part 4.D.1	Programs for Development Planning	Define planning priority projects. Definition must be consistent with the Development Planning Model Program.
29	Part 4.D.1.e	"Provide for appropriate permanent measures to reduce storm water pollutant loads in storm water from the development site."	To avoid duplicative terms, recommend modifying as follows: "Provide for appropriate permanent measures to reduce ~~storm water~~ pollutant loads in storm water from the development site."
29	Part 4.D.2	Peak Flow Control	This item requires that all projects, regardless of size or type, must show that the post-development peak discharge rate does not exceed the pre-development rate. This will cause undue hardship for developments, particularly in the Upper Los Angeles River Area, which represents 51% of the entire City. Typical peak flow control measures include detention, retention, or infiltration systems. However, due to concerns expressed by the Upper Los Angeles River Area (ULARA) Watermaster of potential ground water contamination from storm water infiltration (in the San Fernando Valley), infiltration systems cannot be considered. The result can be a limit on or stopping new developments in the Upper LA River Area (See Figure 1). We are also unclear as to the magnitude of the peak flow to be controlled. For estimating purposes, we calculated the amount of runoff generated by 0.75 inch of rainfall on a 1-acre apartment building development. It was assumed that the site was 100% pervious prior to development and 90% impervious after development. Calculations show that the amount of runoff would increase by approximately 16,700 gallons. To address this additional flow, we looked at two options of detention basins, (i.e., above and below ground) and developed respective construction costs: In the first example, limited open space is not an issue and the developer elects to install an aboveground detention basin. To detain this runoff requires a detention basin approximately 40 ft long by 25 ft wide by 3 ft deep, which is estimated to cost $23,000 to construct. Pumps are not required for this basin because it is shallow enough to allow flow to drain by gravity to the storm drain. Add to the construction cost another $50,000 for the appraised value of the land occupied by the detention basin for a total cost of $73,000. In the second example, open space is limited and the developer chooses to install an underground detention basin. The dimensions chosen for this example are 25 ft long by 15 ft wide by 9 ft deep. Because the outlet of the underground basin is below the storm drain, a pump is required to bring flow up to the storm drain elevation. Construction of this underground

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			basin is estimated to cost approximately $50,000. These two examples were done for a 1-acre site. The capture system for bigger sites would be several times larger, with a larger price. Therefore, this requirement of a capture system will put severe constraints on new developments and place an onerous burden on developers, which can potentially reduce the number of development projects in the City. Recommend the Peak Flow Control requirements be deleted until consensus language is developed
30	Part 4.D.2.f	"Named and unnamed coastal drainages."	Delete f) because it's unlimited
30	Part 4.D.3.	Section Heading	For clarity, recommend the following modification: "3. Standard Urban Storm Water Mitigation Plans **(SUSMPs)**"
30	Part 4.D.3.a.4	"Divert roof runoff to vegetated areas before discharge" "Direct surface flow..."	This violates section 91.7013.9 of the building code, which requires all roof water be delivered through a non-erosive via gravity to a street or watercourse if the slope of the underlying natural ground exceeds 3%. Under Finding #7 (page 4 of the draft permit) the major concern with urban developments in hillside areas is the potential for increase volume and velocity of storm water runoff that will greatly accelerates downstream erosion and impairs stream habitat. This will be true in rural areas where there are no concrete curbs, gutters, or storm drains. Under section 91.7013.9 there will not be any downstream erosion and impairs stream habitat because all the roof drainage will be carried to the City's storm drain system via non-erosive devices. Therefore, it is recommended that item (4), "Divert roof runoff to vegetated areas before discharge" be deleted.
30	Part 4.D.3.b.2	"A 100,000 or more square feet industrial/commercial development."	The 100,000 square feet needs to be clarified? Does the 100,000 refer to building area, lot area etc.? Recommend modifying as follows: "**An industrial/commercial development with 100,000 or more square feet of disturbed area.**"
30	Part 4.D.3.c.3	"discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat"	This requirement is beyond the scope of water quality, which is the original intention of this permit. Recommend deleting item 4.D.3.c.3 in its entirety.
31	Part 4.D.4.b.2	"....for Los Angeles County"	Recommended change: "...for Los Angeles County, or"
31	Part 4.D.5	"The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment and structural controls to mitigate storm water pollution:"	Recommend modifying as follows: "The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment ~~and structural~~ controls **BMPs** to mitigate storm water pollution:"
31	Part 4.D.5.a & b	" ...of one acre or more."	The "one acre" needs to be clarified? Does the one acre refer to building area, lot area etc.? Recommend to be revised to "of one acre or more **of disturbed area**."

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31	Part 4.D.5.b	"Housing developments (include single family homes, multifamily homes, condominiums, and apartments) one acre or more."	The City of LA has already conducted a training program for staff from City Planning Department and of Building & Safety on the requirements of the SUSMP that was adopted by the Regional Board in March 2000. Changing from 10 or more units to 1 acre is not consistent with those requirements. No justification for the change was provided by the Regional Board in the Staff Report. Recommend modifying as follows: "**Ten or more units** housing development (including single family homes, multifamily homes, condominiums, and apartments) ~~of one acre or more~~."
32	Part 4.D.5.e & f	"...5,000 square feet or more..."	The 5,000 square feet needs to be clarified? Does the 5,000 refer to building area, lot area etc.? Recommend to be revised to "5,000 square feet or more **of disturbed area**."
32	Part 4.D.6	" ...to projects one acre and greater to conform..."	Recommend to be revised to "...to projects one acre and greater **of disturbed area** to conform..."
32	Part 4.D.7	"Site Specific Mitigation"	These added categories have gone beyond the scope of Phase II. In addition, many of these categories are being dealt with in other regulations. The federal regulation for stormwater is to control pollutants via application of BMPs to the MEP. If the discharge is a significant pollutant source that creates an adverse impact to the environment, an individual NPDES permit is required and it is no longer regulated by the Municipal permit. The City recommends that these categories be removed and allow the other regulations already set such as the Federal Phase I and Phase II programs to regulate these sites.
32	Part 4.D.8	"Redevelopment Projects" "Significant redevelopment means land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site."	Delete the term "replacement" because replacement should not trigger SUSMP requirements. It is not consistent with the text in the SUSMP Board Order and will significantly increase redevelopment costs, and impede redevelopment. Economic Impacts should be evaluated and taken into account.
33	Part 4.D.10	"A Permittee or Permittee group may apply to the Regional Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly SUSMP requirements for new development."	The first sentence as written is confusing. Suggest the following modification: "A Permittee or ~~Permittee~~ group of Permittees may apply to the Regional Board for approval of a regional or sub-regional storm water mitigation program to **wholly or in part** substitute for in ~~part or wholly~~ SUSMP requirements for new development."
33	Part 4.D.9.a	"The developers signed statement accepting responsibility for..."	Add an apostrophe in "developer's" or "developers' "
33-34	Part 4.D.11	Mitigation Funding	Please explain what this entire section means. Are subsections a through c identified as potential funding sources? Define items a through c. In item (a), define conditions of impracticability. (Same as existing permit?) Granting of waivers, including waivers of impracticability, shall be the responsibility of the Regional Board. Item (b) needs clarification. "Legislative funds become available"...to who?

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35	Part 4.D.15.a	"Each Permittee shall develop and make available to developer development planning guidelines immediately."	This sentence as written is confusing. Recommend modifying as follows: "Each Permittee shall ~~develop and~~ **immediately begin generating development planning guidelines that are to be made available to developers upon completion** and make ~~available to developer development planning guidelines immediately~~.
35	Part 4.E	Development Construction Program	Add Exempt Projects in the categories of construction: Permittees may exempt certain types of Development Construction Projects from the program that pose a minimum risk of storm water pollution. These projects are exempt from any storm water construction control measures including the minimum BMP requirements. A specific listing of exempt projects is included in this section. Additional exemptions may be determined by the Permittee and shall be provided to the Regional Board with a justification for their designation (for purposes of notification). A list of specific types of Development Construction Projects that are deemed to be exempt include: ▪ Routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility; ▪ Emergency construction activities required to immediately protect public health and safety; ▪ Interior remodeling with no outside exposure of construction materials or construction waste to storm water; ▪ Mechanical permit work; ▪ Electrical permit work; ▪ Sign permit work. Other types of Development Construction projects may be designated as exempt if all three of the following criteria are met: ▪ No significant soil disturbing activity; ▪ No outside storage or exposure to storm water of construction materials or construction wastes (unless adequate controls are provided); and ▪ The activity poses a minimal risk of storm water pollution.
35	Part 4.E	"Each Permittee shall implement a program to control runoff from construction activity at all construction sites within its jurisdiction."	Recommend modifying as follows: "Each Permittee shall implement a program to control runoff from construction activity at all construction sites, **unless specifically exempted,** within its jurisdiction."
35	Part 4.E	"Each Permittee shall implement a program ... "	This paragraph should be labeled "1", and other subsections under Part 4.E. should relabeled accordingly.
35	Part 4.E.a	"Sediments generated on the project site shall be retained using adequate structural drainage controls;"	Recommend modifying as follows: "Sediments generated on the project site shall be retained ~~using adequate structural drainage controls~~ **onsite to the maximum extent practicable**;"
35	Part 4.E.b	"No construction-related materials, wastes, spills, or residues shall be discharged from the project site to streets..."	Recommend modifying as follows: "~~No c~~Construction-related materials, wastes, spills, or and residues shall be ~~discharged from the project site to streets, drainage facilities, receiving waters or adjacent properties by wind or runoff~~ **kept onsite to the maximum extent practicable**;"
35	Part 4.E.c	"Non-storm water runoff from equipment and vehicle washing and any other activity shall be..."	Recommend modifying as follows: "Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained ~~at the project site~~ **and treated before discharge**

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			and/or contained and hauled off site to an approved disposal facility; and"
35-38	Part 4.E	Development Construction Program	Modify the text in this section in accordance with the General Comment on page 1. The General Construction Activities Storm Water Permit (GCASP) and the General Industrial Activities Storm Water Permit (GIASP) should be referenced in this Municipal permit, not restated or modified by this municipal permit. These activities are already regulated under the respective permits and should not be additionally regulated under the Municipal NPDES Permit.
36	Part 4.E.1	"In addition, for construction sites one acre and greater, each Permittee shall require compliance with all conditions in section E. above and:"	Recommend modifying as follows: "In addition, for construction sites one acre and greater, ~~each Permittee shall require compliance with all conditions in section E. above and~~:"
36	Part 4.E.1	"The landowner shall sign a statement to the effect:"	Recommend modifying as follows: "The landowner **or agent of the landowner** shall sign a statement to the effect"
36	Part 4.E.d & e	Duplicative Requirements regarding grading	Recommend deleting "...limiting grading during wet season..." out of d) and deleting e).
36	Part 4.E.d & e	Development Construction Program	As long as BMPs will be employed, there is no good reason to discourage or limit grading during the rainy season. Delete in item d) the words "limiting of grading scheduled during the wet season" Also delete paragraph e) in its entirety.
37	Part 4.E.2	"In addition, for sites five acres and greater..."	Recommend modifying as follows: "In addition, for **construction** sites **with** five acres and greater **of disturbed soil**..."
38	Part 4.E.3	"Each Permittee shall train employees in targeted positions...no later than March 31, 2002..."	It has been previously requested that sufficient time should be allowed for the accomplishment of the training requirements following the revised Construction Development Program in the SQMP. However, the time allotted has been shortened (157 days from proposed date of adoption is Oct. 25, 2001 to March 31, 2002). Recommend revising to read as follows: "Each Permittee shall train employees in targeted positions... ~~no later than March 31, 2002~~ **within one (1) year from adoption of the Order, and**...."
38	Part 4.F.1	"Public Agency requirements consist of:"	Recommend modifying as follows: Public Construction Activities **Management** Vehicle Maintenance/Material Storage Facilities/**Corporation Yards** Management to be consistent with the succeeding sections.
39	Part 4.F.3.	CMOM	This section improperly seeks to incorporate by reference the CMOM regulations that have not yet been adopted. Such prospective incorporation by reference is not allowable under the Administrative Procedures Act and has been rejected as contrary to law by the California Office of Administrative Law (OAL) in the rulemaking action for the SIP (OAL File No. 00-0317-15). Recommend the following modifications to correct this requirement: "...(until such time that the proposed Capacity, Management, Operation and Maintenance **(CMOM) Rregulations** ~~(CMOM)~~ are promulgated by the USEPA. After ~~which~~, the CMOM regulations **are promulgated, the Regional Board may reopen this Permit to incorporate those requirements** ~~shall be enforceable under this Order until such time they are added~~ into ~~an individual permit~~):"
39	Part 4.F.4.a	"Each Permittee shall...from construction activity at all construction sites."	Change sentence to read: Each Permittee shall...from construction ~~activity~~ **activities** at all **public** construction sites.

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40	Part 4.F.4.b.4 & 5	"Implement a program to ensure that SWPPPs and BMPs implemented are effective" And "Inspect public construction sites and implement changes as necessary to maintain or replace ineffective BMPs in order to protect water quality."	Items 4 and 5 address City staff ensuring effectiveness of BMPs. It has always been the City's position that staff is not responsible for ensuring BMPs are effective. Staff may be responsible for ensuring BMPs are in place and operational, but should not be liable for "effectiveness." "Implement a program to ensure that SWPPPs and BMPs implemented are **effective operational."** Inspect public construction sites and **~~implement changes as necessary to maintain or replace~~ require that ~~ineffective~~ inoperational** BMPs **be remedied or replaced** as necessary in order to protect water quality." In addition, the requirement that "ineffective" BMPs be "maintained" does not read clearly. The above suggestion is clearer.
40	Part 4.F.4.b.6	"Each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction ... "	Correct as follows: "Each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit **~~coverage~~** for public construction ... "
40	Part 4.F.5.b	Vehicle Maintenance/Material Storage... "Each Permittee shall implement BMPs to minimize pollutant discharges in storm water..."	Recommend modifying as follows: "Each Permittee shall implement BMPs to minimize pollutant discharges **to the maximum extent practicable** in storm water . . ."
40	Part 4.F.5.c	"Each Permittee shall require that all vehicle/equipment wash areas..."	Recommend modifying as follows: "...for new facilities or during redevelopment of existing ~~sites~~ **wash areas**."
41	Part 4.F.6.h	"Regularly inspect storage areas."	Revise to read: "~~Regularly~~ annually inspect storage areas."
41	Part 4.F.7.a	"...designate catch basin inlets within its jurisdiction as one of the following: Priority A --... Priority B --... Priority C --.... "	Recommend that this section retain the existing permit requirements for wet weather catch basin cleaning and incorporate the requirements of the Trash TMDL when it is completed
41	Part 4.F.7.b	"Clean catch basins according to the following schedule: Priority A . . . . Priority B . . . Priority C . . . "	Recommend that this section retain the existing maintenance schedules for wet weather catch basin cleaning and incorporate the requirements of the Trash TMDL when it is completed
42	Part 4.F.7.c	"For any special event that can be reasonably expected to generate quantifies of trash and litter, the Permittee shall, as a condition of the special use permit issued for that event, include provisions that provide for the proper management of trash and litter generated from the event. At a minimum, the Permittee shall arrange for either temporary screens to be placed on catch basins or for catch basins in that area to be cleaned out subsequent to the event and prior to any rain."	The impending trash TMDL for the Los Angeles River and Ballona Creek will address the necessity of additional measures for catch basin clean up. It is premature at this time to require an accelerated catch basin cleaning schedule as part of the proposed permit, before a comprehensive citywide approach to trash reduction is developed. Recommend that this selection be deleted.

CITY OF LOS ANGELES: BUREAU OF SANITATION, STORMWATER MANAGEMENT DIVISION
Comments on the Second Draft of the NPDES Municipal Stormwater Permit

Page #	Text Reference	Passage	Comment & Recommendation
42-43	Part 4.F.7.e.2 and 4.F.7.f.5	Data requirements	It is unclear why each of the permittees should be required to utilize the same units of measurement. It should suffice for each Permittee to select and utilize a consistent unit of measurement. As such, recommend modification as follows: "...The Permittees may select the unit, ~~but~~ **so long as each** Permittees ~~shall use~~ **consistently uses** the same unit of measure.];"
42-44	Part 4.F.7.d and 4.F.8.f	Reference to TMDLs	All references to the TMDL for trash should be removed until the TMDL and associated wasteload allocations are duly and properly adopted. At that time, the permit may be reopened to incorporate any applicable regulatory requirements pursuant to Standard Provision, Part 6.I.b or Part 6.R.2.
43	Part 4.F.8.a	"Priority A ...volumes and trash..." "Priority B ...volumes and trash..."	Change to "...volumes **of** ~~and~~ trash..."
43	Part 4.F.8.c	" Each permittee shall require that sawcutting waste be recovered and disposed of properly and that in no case shall waste be left on a roadway or allowed to enter the storm drain."	Recommend modifying as follows: "Each permittee shall require that sawcutting waste be recovered and disposed of properly and that ~~in no case shall~~, **to the maximum extent practicable, no** waste be left on a roadway or allowed to enter the storm drain."
44	Part 4.F.11	Emergency Procedures	It is unclear whether the Regional Board is providing a defense for permit non-compliance during these periods. To clarify, recommend the following modification: **"Emergency situations such as earthquakes, fires, floods, landslides, wind storms and other acts of God shall constitute an affirmative defense to non-compliance with this Permit.** Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in **such** emergency situations ~~such as: earthquakes; fires; floods; landslides; or wind storms~~...."
44	Part 4.F.12	"Dry Weather Diversions"	The City supports the use of Low Flow Diversions as a last resort to prevent contaminated runoff from entering waterways, and is now diverting flows from beaches in Santa Monica Bay to protect public health. Therefore, we support this concept, but the requirement as written here needs to be clear in its intent. As it reads, the drains are to be prioritized for public health reasons, but the parenthetical phrase brings environmental reasons into the requirement. If only public health is the concern, then priority drains should be determined only along bathing beaches, not in the Los Angeles River, Ballona Creek or Dominguez Channel where swimming is not allowed. If environmental health is a goal, then all water bodies (e.g. rivers, creeks) need to be included. We would request clarification on the requirement for prioritizing storm drains for diversion.
46	Part 4.G.3.a	"Respond, within 72 hours of discovery or a report of a suspected illicit discharge, with activities ..."	It is our recommendation that the response time be changed to three (3) business days instead of 72 hours.
49	Part 5	Definitions	Add definition of "five-year education plan."
51	Part 5	Definitions	Add definition of "Planning Priority Projects."
52	Part 5	Definitions	Add new term, "Pollution Prevention" and definition, which emphasizes source reduction methods for reduction and elimination of pollutants entering stormwater. The restricted definition will more clearly define what is being required of the regulated community and what is being enforced by regulators. If undefined, the term will default to include multi-media source reduction, in process recycling, conservation of energy and natural resources.

CITY OF LOS ANGELES: BUREAU OF SANITATION, STORMWATER MANAGEMENT DIVISION
Comments on the Second Draft of the NPDES Municipal Stormwater Permit

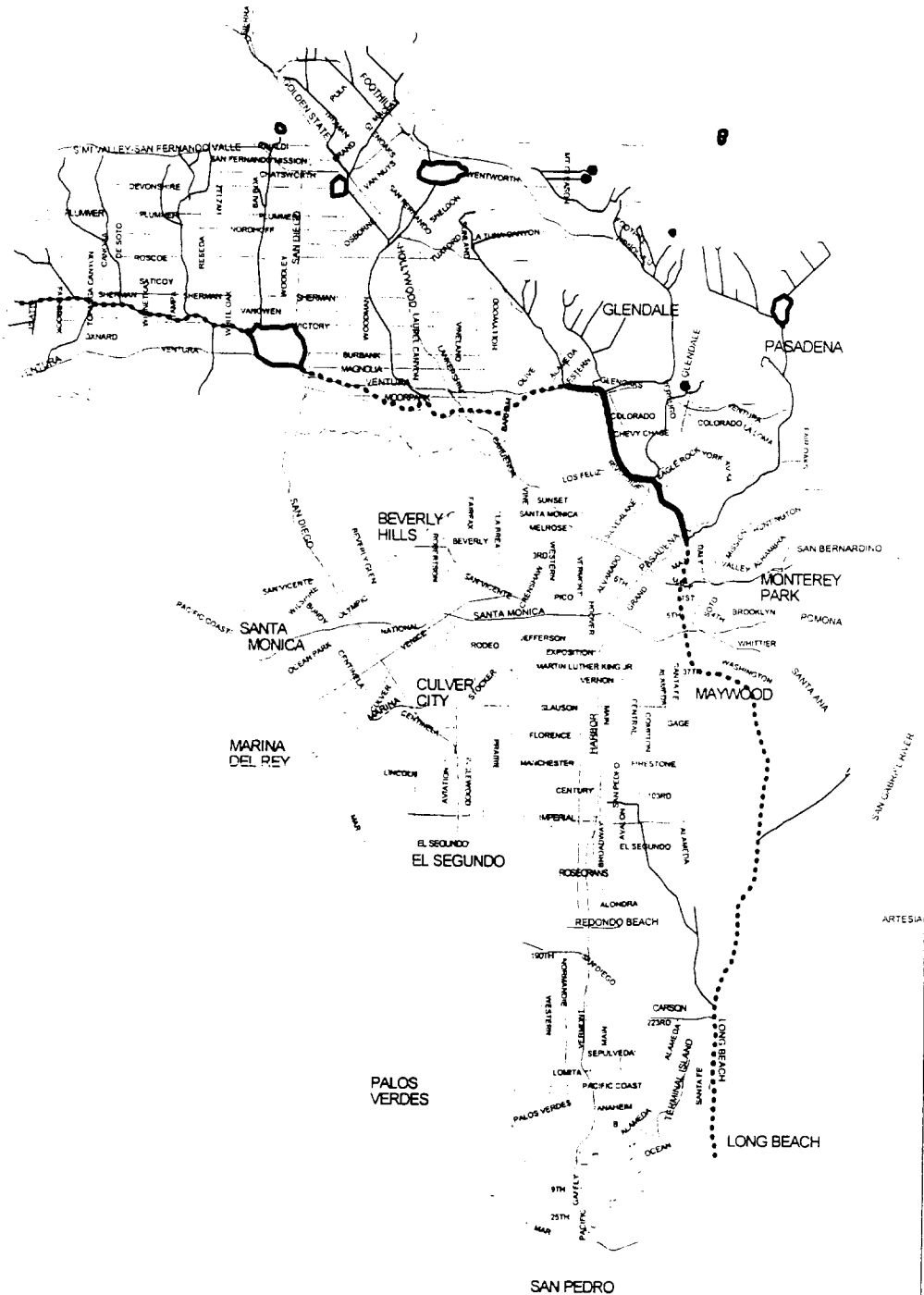
Page #	Text Reference	Passage	Comment & Recommendation
57	Part 6.G	"The Permittees shall at all times properly operate and maintain all facilities and systems of treatment and (and related appurtenances) that are installed ... "	Correct as follows: "The Permittees shall at all times properly operate and maintain all facilities and systems of treatment ~~and~~ (and related appurtenances) that are installed ... "
57 & 59	Item G Item M	Proper Operation and Maintenance Bypass	These requirements seem to have been copied from an NPDES permit for a wastewater treatment plant. They are not applicable to a stormwater permit. "Facilities and systems of treatment" have not even been proven to be effective. How can it be that the non-operation or bypassing of such facilities can be deemed harmful or non-compliant? Please ensure that these sections are deleted.
60	Item N, Upset		This requirement appears to have been copied from an NPDES permit for a wastewater treatment plant. It is not applicable to a stormwater permit. "Facilities and systems of treatment" have not even been proven to be effective. How can it be that the non-operation or bypassing of such facilities can be deemed harmful or non-compliant? **Delete this section**.
Fact Sheet 6	A.1.	Statutory Basis "Section 301(b)(1)(C) of the CWA requiring that NPDES permits include limitations, including those necessary to meet water quality standards applies."	The second to the last sentence regarding Section 301(b)(1)(C) should be removed as Section 301 does not apply to MS4s (33 U.S.C. §1342(p)(3)(B)). Furthermore, Section 301(b)(1)(C) references water quality standards in place prior to 1977 and has no applicability after July 1, 1977. (*See* 33 U.S.C. §1311(b)(1)(C)((b) Timetable for achievement of objectives... (1)(C) not later than July 1, 1977...)
Fact Sheet 33-35	New Requirements & Justifications		The justifications provided do not include legal authority for the requirements. Citations to specific legal authority should be provided for each requirement; otherwise the Regional Board is potentially exceeding their statutory authority in imposing the requirements.
Fact Sheet 39	Review of Design Standards	"The State of Maryland"	The last sentence in the first paragraph is incomplete and should be removed or completed.
Fact Sheet 42	Land Use Monitoring	"...so the program will be continue until it is complete."	Recommend changing last line to read: "...will be continued until it is complete."
Fact Sheet 46	Trash Monitoring		This paragraph states that the Regional Board does not intend to require two separate monitoring programs under the Permit and the TMDL, yet this Permit essentially contains monitoring requirements by requiring that catch basins be cleaned out and measured (monitored) to determine amounts of trash. Thus, as written, a duplicative monitoring requirement may be inevitable. Recommend rethinking this paragraph to reflect actual requirements.
Fact Sheet 47	New Development Impact Study in the Santa Clara Watershed		The last two sentences are identical. Recommend removing one of these sentences.

CITY OF LOS ANGELES: BUREAU OF SANITATION, STORMWATER MANAGEMENT DIVISION
Comments on the Second Draft of the NPDES Municipal Stormwater Permit

Page #	Text Reference	Passage	Comment & Recommendation
T-01	Part 1.A	"Permittees shall submit, no later than 3 months following the adoption of this Order, the Annual Storm Water Report and Assessment (Annual Report) for the period July 1, 2000 through October 25, 2001 documenting the status of the storm water management program (Program) up to permit reissuance and the results of analyses from the monitoring and reporting program."	The status of the program from July 1, 2000 to June 30, 2001 will be covered under the current Annual Report due October 15,2001. This new requirement requires the same report information in addition to the period from July 1, 2001 to October 25, 2001 (3 months). Please explain the reason for duplicating the reporting information.
T-01, T-05	Part I.A. Part I.I.3	Date requirements	Since the permit is not effective for 50 days following adoption, the following change is recommended: "...(3 months following the **effective date** ~~adoption~~ of this Order)..."
T-05	Part I.I.3	"2. The Principal Permittee shall 3. The Principal Permittee shall submit no later than (3 months following the..."	Recommend modifying as follows: "~~**2. The Principal Permittee shall**~~ ~~**3.**~~ **2.** The Principal Permittee shall submit, no later than (3 months following the..." The incomplete paragraph above this section should also be deleted.

R0004509

FIGURE 1



POTENTIAL AREA IMPACTED BY THE PEAK FLOW CONTROL REQUIREMENTS

BUREAU OF SANITATION
DEPARTMENT OF PUBLIC WORKS
CITY OF LOS ANGELES

STORMWATER MANAGEMENT DIVISION
GARY LEE MOORE
PROGRAM MANAGER

R0004510

TABLE 2

2nd DRAFT STORM WATER PERMIT: ADDITIONAL REQUIREMENTS AND ESTIMATED COSTS

New Requirement	Dept./Bur.	Position	Class. #	No. of Positions	Base Salary/Position	Related Costs/Position	Total Cost
PROGRAMS FOR INDUSTRIAL/COMMERCIAL INSPECTIONS							
Inspect Industrial/commercial sites, State jurisdiction, for compliance with ordinances, permits and BMP implementation. (Part 4.C)	Bur. San., SMD	Industrial Waste Inspector	4292	2	$57,566	$29,975	$175,081
Legal action pursuant to inspections of industrial/commercial sites, general, for compliance with ordinances, permits and BMP implementation. (Part 4.C)	City Attorney						
PROGRAMS FOR DEVELOPMENT PLANNING and CONSTRUCTION							
Implement requirement for Standard Urban Storm Water Mitigation Plans (SUSMP) for ministerial projects for the SUSMP project categories. (Part 4.D)	Dept. Bldg. & Safety	Associate Engineer	7240	4	$65,876	$42,319	$432,779
For construction sites greater than 1 acre, review and inspect BMP implementation plans and Local Storm Water Pollution Prevention Plan (Local SWPPP). (Part 4.E)	Dept. Bldg. & Safety	Associate Engineer	7240	1	$65,876	$42,319	$108,195
		Building Inspector	4211	1	$48,797	$31,347	$80,144
PUBLIC AGENCY ACTIVITIES							
Establish priority rankings for all catch basins and conduct cleaning of those basins: **first phase, from adoption of Permit until July 1, 2003, requires catch basins to be cleaned when they reach 40% full of trash.** (Part 4.F)	Bur. San., WCSD	Wastewater Collection Worker II	4110-11	23	$45,656	$23,741	$1,596,134
	Bur. San., WCSD	Maintenance Laborer	3112	23	$35,594	$18,509	$1,244,366
Annual Salary Cost:							**$3,636,699**
Capital cost for purchase of equipment for Bureau of Sanitation to perform catch basin cleaning up to July 1, 2003 (23 vacuum trucks @ $250,000/truck).							$5,750,000
Capital Cost:							**$5,750,000**
Based on established priority rankings for all catch basins, conduct cleaning of those basins: **second phase, from July 1, 2003 to expiration of the Permit, requires catch basins to be cleaned when they reach 25% full of trash.** (Part 4.F) Note: meeting the 25% criteria requires these personnel and equipment *in addition* to those required to meet the 40% criteria.	Bur. San., WCSD	Wastewater Collection Worker II	4110-11	49	$45,656	$23,741	$3,400,459
	Bur. San., WCSD	Maintenance Laborer	3112	49	$35,594	$18,509	$2,651,041
	Bur. San., WCSD	Wastewater Collection Supervisor	4113	2	$62,712	$32,610	$190,644
	Bur. San., WCSD	Wastewater Collection Manager I	4125-I	1	$83,200	$43,264	$126,464
Annual Salary Cost:							**$6,368,608**
Capital cost for purchase of additional equipment for Bureau of Sanitation to perform additional catch basin cleaning from July 1, 2003 to expiration of Permit (49 vacuum trucks @ $260,000/truck).							$12,700,000
Capital cost for construction of new Bureau of Sanitation maintenance yards to house new equipment and personnel required to perform catch basin cleaning (2 yards @ $5,000,000/yard)							$10,000,000
Capital Cost:							**$22,700,000**
Total Cost - Salaries and Capital (for 5-year term of the Permit):							**$67,331,473**

GENERAL NOTES: 1) The costs to comply with Receiving Water Limitations (p. 16, Part 2) and implement dry weather diversions (p. 44, Part 4.F.12) are not known at this time. 2) This cost estimate does not include costs related to implementing TMDLs. 3) The costs to meet the AQMD's alternative fuel requirements to power the vacuum trucks are not known at this time.

TABLE 3

2nd DRAFT STORM WATER PERMIT: ADDITIONAL REQUIREMENTS AND ESTIMATED COSTS
Supported as City Policy

New Requirement	Dept./Bur.	Position	Class. #	No. of Positions	Base Salary/Position	Related Costs/Position	Total Cost
PROGRAMS FOR INDUSTRIAL/COMMERCIAL INSPECTIONS							
Legal action pursuant to inspections of industrial/commercial sites, general, for compliance with ordinances, permits and BMP implementation. (Part 4.B)	City Attorney						
PROGRAMS FOR DEVELOPMENT PLANNING and CONSTRUCTION							
Implement requirement for Standard Urban Storm Water Mitigation Plans (SUSMP) for ministerial projects for the SUSMP project categories. (Part 4.C)	Dept. Bldg. & Safety	Associate Engineer	7240	4	$65,876	$42,319	$432,779
Annual Salary Cost:							**$432,779**

GENERAL NOTE: This cost estimate does not include costs related to implementing TMDLs.

City of MONROVIA

1887

Department of Public Works

August 6, 2001

Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

2001 AUG -8 PM 1:00

Re: Comments – Second Draft LA County Municipal Storm Water NPDES Permit

Dear Mr. Swamikanu:

Once again thank you for the opportunity to comment on the Second Draft of the LA County Municipal Storm Water NPDES Permit. There have been several important improvements in this draft and we appreciate the amount of time the Regional Board staff has spent reviewing and incorporating some of the comments received. However, there are still some fundamental issues that need to be addressed in this current draft. The following comments will address those issues.

Federal, State, and Regional Regulations (Pg 10, # 17)

The second bullet references the State Board Chief Counsel's interpretation of the establishment of mitigation fund by the permittees according to State Board's Order WQ 2000-11. WQ 2000-11 references that prior to mandating funding, a series of preliminary questions should be addressed, such as fund management, entities that can legally operate mitigation funds etc. Until these questions have been examined and conclusions reached, this bullet should not be included in the current permit.

Receiving Water Limitations (Pg. 13, Item 1 & 2)

The City is concerned with this language and instead prefers the existing permit language. As an alternative, remove the following provisions as recommended by the Principal Permitee in the first draft:

R0004514

415 South Ivy Avenue • Monrovia, California 91016-2888 • (626) 932-5575 • FAX (626) 932-5559

- Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.
- Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance.

The City is concerned as to the proposed permit language because it does not allow implementing the permit and its programs as a means of achieving compliance with water quality standards and objectives. The language immediately places all permittees into non-compliance, and has the potential to expose all permittees to third party litigation. This language also seems to undermine the whole purpose of the permit, which is to accept some exceedances of water quality standards/objectives (as contained in the Los Angeles Basin Plan) provided that permit conditions are met. It is simply impossible for any municipality to prevent all discharges that cause or contribute to the violation of water quality standards or objectives.

Legal Authority (Pgs. 20, 1(m & n)

The City is concerned with the provision that requires it to control pollutants (including potential contributions) in the discharges of storm water runoff associates with industrial facilities. The inclusion of the term "potential contributions" is vague and subject to interpretation, and places many municipalities in a position of liability. The City is concerned with those facilities that are currently permitted under State authority. Our concerned is with the provision that requires the permitees to possess authority to enter, sample, copy records, etc., particularly on State permitted facilities. This City does not think it possessed the legal authority to conduct this action. Please refer to our legal counsel's comment letter prepared by Richards, Watson and Gershon.

Lack of "Safe Harbor"

The current municipal permit provides a legal "safe harbor" within the permit for permittees when implementing the various provisions of the permit. The provision reads as follows:

"Timely and complete implementation by a Permitee of the storm water management programs prescribed in this Order shall satisfy the requirements of this section and constitute compliance with receiving water limitations".

This provision affords municipalities' protection from potential third party litigation in the event a permittee's program element(s) effectiveness is questioned. As there are many new elements in the current draft, it is important that the municipalities are afforded adequate protection for implementing programs to the maximum extent practicable. This legal safe harbor provides permittees that protection. We strongly request that this clause be placed back into the current draft permit.

Meet and Confer Process

Within the current NPDES permit is the procedure that details the Meet and Confer process. The current draft permit does not include this process. As you are aware the process allows for meetings and discussions where potential problems (either actual or perceived) can be resolved prior to enforcement action. The City believes this process is extremely important as it allows for resolution of communication and interpretation issues at the staff level, prior to elevating them to violation status.

It is our understanding that the Regional Board staff does not see this necessary, and chooses to utilize the State's enforcement policy (Order 96-030). This would not be beneficial to either the Regional Board or permittees, as it begins discussions in a defensive mode, thus reducing the chance for cooperative resolutions.

Business Assistance Program (Pg 25 b 1)

Permittees may have to implement a confidential program to assist small businesses with understanding and complying with storm water regulations. Such assistance includes: (1) on site technical assistance; (2) availability, distribution and discussions of applicable BMPs; and (3) access to information concerning environmental consulting services.

While this program contains merit, the proposed new task is problematic because it expands the commercial facilities category from facilities that are known potential pollutant contributors (i.e., gas stations, automotive facilities, etc), to include any small business. This expansion could include business, such as consulting agencies, tailor shops, barbershops, and hundreds of others that can be questionable as pollutant generators. This new requirement would be extremely costly to cities, and is suspect to the justification on why it is necessary to perform outreach to these types of businesses.

It is recommended that this requirement be removed, or adequate funding be provided to the Principal Permittee and permittees to implement this program, or that wording

"...with available resources and funding" be incorporated into the permit.

Industrial and Commercial Facilities Program (Pg. 26, C 3)

The draft permit calls for each permittee to inspect Automotive Service Facilities to confirm effective storm water BMPs. First, this additional inspection will result in additional costs and resources to the City. As the County of Los Angeles has not indicated that it plans on funding this additional program, this will impact many municipalities.

Industrial and Commercial Facilities Program - USEPA Phase I Facilities (Pg 27-28)

The current draft calls for the development of source identification databases and site inspections at industrial and commercial sites to insure compliance with model programs. The City is concerned with facilities that are currently under a State issued permit, and questions its authority to inspect these locations. Additionally, these inspection requirements, which could possibly include enforcement in some cases, will have serious impact on personnel resources and funding. The City does not feel it is responsible for inspecting those sites under the authority of the State. We are requesting that this section be modified to separate those facilities permitted by the state or that funding be provided to the permittees to implement this program as currently drafted.

Development Planning Program – ESAs

The current draft includes the category of Environmentally Sensitive Areas (ESA) with certain aspects of the program (SUSMP). During the past SUSMP hearing, the State Board stated that ESAs should not be included in the SUSMP category requirements, citing that projects near ESAs "are already subject to extensive regulation under other regulatory programs". Although is was also mentioned that the Regional Board may choose to reconsider this issue during the reissue of the next permit, there has not been material presented to the permittees to date to require that this category be again placed into the program. Until documentation validating this requirement is presented, the category should be removed.

Public Agencies Activities – Dry Weather Diversion (Pg. 44 – 45)

The "permit" purposes that each permitee prioritize drains for possible diversion of dry

weather flows, collectively review and coordinate a watershed based priority list no later than March 31, 2002, and begin a feasibility study and discussions with the appropriate sewer agency for diversion to sanitary sewer systems. This requirement appears to be extremely problematic as it will: (1) create a substantial impact on personnel resources and funding to achieve this, and (2) establishes an unreachable time frame to complete the objectives.

Considering the limitations on municipalities to finance yet another new requirement, we request that this requirement be reevaluated or removed.

Definitions – Redevelopment (Pgs. 52)

The definition of redevelopment as currently proposed in the current draft does not meet the intention of decision applied by the State Board in order WQ 2000-11. In the first sentence, the word "replacement has been added to the definition. During the State Board revised SUSMPs, "redevelopment projects should subjected to the SUSMP only if they result in the creation or addition of 5000 square feet of impervious surface. As there is no reference to the word replacement, this word should be removed.

In summary, the City of Monrovia sincerely appreciates the effort and time invested by the Regional Board staff in developing the second draft of the Los Angeles County Municipal NPDES Storm Water Permit. It is currently a much improved version than the first permit, however there are still some remaining issues to address. As the permit continues to develop, many municipalities have taken substantial amounts of time providing written comments to express areas of concern, and the City hopes that final permit will address the last remaining outstanding issues in order to provide a cost effective and efficient permit to continue to insure protection of the beneficial uses of all receiving waters in the Los Angeles Basin.

Should you have any questions, please contact me at (626) 932-5544, or Louis Celaya at (626) 932-5577. Thank you for your time and consideration in this matter.

Sincerely,

David F Fike NC

David Fike
Director of Public Works

cc: City Manager
City Attorney
John Harris, Richards, Watson & Gershon
Dennis Dickerson, Executive Director, LA Regional Water Quality Control Board

City of Montebello

2001 AUG -3 P 1:58

August 2. 2001

Mr. Dennis A. Dickerson
California Regional Water Quality
Control Board – Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Reference: Second Draft Comments, Los Angeles County Municipal National Pollution Discharge Elimination System (NPDES) Permit

Dear Mr. Dickerson:

The City of Montebello is pleased to submit to you, its comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. This version represents a significant improvement over the first draft. It contains fewer impractical and unnecessary requirements, and improves permit clarity greatly. The City appreciates the time you and your staff have devoted to this very difficult task, and the flexibility you have shown in making several changes that were asked of you earlier.

The comments provided herein are in response to additional requirements that were made to the second draft, and to issues that were raised in comments on the first draft that were not addressed in the second draft document.

The City hopes that you will find these comments helpful in structuring a final permit that balances the need to protect water quality, against the need for municipalities to maintain an adequate level of public services for its citizens.

If you have any questions, please feel free to call me.

Sincerely,

Richard Chen
City Engineer

Ref: RC 2nd Draft NPDES

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority (viz., its elected council members), play no role in the selection of EAC members. Unlike the watermaster, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The watermaster, on the hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (cont.)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the business license issuance process. Identifying non-GIASWP facilities could be achieved by comparing the City's business license data base with the State Water Resources Control Board GIASWP data base. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance.

2. Industrial/Commercial Facilities Inspection Program (cont.)	**Action Sought:** Revise inspection requirement as suggested.
3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority planning projects. Are they the categorical projects are covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
4. Development Planning Program	**Part IV - Paragraph D.5** **Issue**: Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. It believes that these projects are actually subject to CEQA and its

4. Development Planning Program (continued)	discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use-specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
5. Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add 1 acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule which applies only to such projects that involve a soil-disturbance of 1 acre or more.
6. Development Planning Program	**Part IV - Paragraph D.8** **Issue #1:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects

R0004524

6. Development Planning Program (cont.)	by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
7. Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) -- not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary -- it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan

7. Development Planning Program (cont.)	(L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
8. Development Construction Program	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

9. Development Construction Program	**Part IV - Paragraph E.1.b** **Issue**: The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought**: Agree to the conditions required by the City.
10. Public Agency Activities	**Part IV - Paragraph F.1.c** **Issue**: The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought**: Postpone inclusion of this requirement until CMOM is adopted.

10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
11. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue**: The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought**: Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.
12. Program Management	**No reference**

1.3. Program Management (cont.)	**Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be envoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

City of NORWALK

12700 NORWALK BLVD. • P.O. BOX 1030, NORWALK, CA 90651-1030 • PHONE: 562/929-5700 • FACSIMILE: 562/929-5773 • WWW.CI.NORWALK.CA.US

August 1, 2001

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: 2nd Draft of the NPDES Storm Water Permit

Dear Mr. Dickerson:

Thank you for the opportunity to comment on the 2nd Draft of the NPDES Storm Water Permit. The City of Norwalk is pleased to see that the current Draft Permit contains important improvements. However, the City still has several important concerns.

The City of Norwalk believes there are still fundamental issues that need to be addressed before the permit is issued. These issues include:

1. **Lack of Legal "Safe Harbor"**

The current Municipal NPDES Permit provides a legal "safe harbor" when cities implement the permit's provisions. The "safe harbor" clause insures that our city is in compliance when we implement the permit's programs. The "safe harbor" clause is not included in the proposed permit. It should be added to help us focus on improving water quality, rather than spending city resources on defending against third party lawsuits.

2. **Proposed Permit is "Open Ended"**

The current NPDES Permit requires that the cities implement only programs identified in the permit. Regional Board staff has added provisions to the permit that allow the Executive Officer to modify requirements at any time during the five year life of the permit, thus the City of Norwalk could be directed to add future additional programs at unknown costs. (Page 16 of the Permit)

3. Storm Water Inspection Program

a. Auto Related Businesses

The proposed permit specifies that permittees will be required to inspect and enforce all automotive related businesses (pages 26-27). The Board is referencing the Critical Source Selection and Monitoring Report, Los Angeles County Department of Public Works (Sept 1996) as the evidence supporting the additional inspection requirement. This report was prepared to "select" potential pollution sources for monitoring and evaluation. The results of the monitoring and evaluation of automotive service facilities was submitted to the Board in the Integrated Receiving Water Impacts Report (July 2000). The conclusion reached in the final report concerning the effectiveness of BMP's implemented at automotive service facilities "showed no significant improvement as a result of implementing BMP's". Consequently, the Board has already been informed that the implementation of an automotive services inspection program will not result in any appreciable improvement in water quality. In addition, we still contend that there is no authority in the Clean Water Act to require this level of inspection for commercial facilities. Should the Board proceed with this requirement it will cleanly meet the requirement of an unfunded mandate and subject to reimbursement by the State. We also request that the Board provide appropriate inspector training since the cities do not have staff trained to perform inspections of state programs.

b. Industrial Inspection

The proposed permit requires that City inspect Phase I industrial facilities. These are industrial facilities that already are regulated under a State permit. Regional Board staff estimates that there are 2,400 State licensed industrial facilities and that there may be a substantial number of additional businesses that require State permits that currently do not have them. Regional Board staff has also estimated that they only have the resources to inspect 600 businesses annually. They are asking that the cities pick up the inspections and plan checking for the remaining 1,800 State permits. Regional Board staff has not answered the basic questions – how will the cities pay for these new inspections and plan checks? What authority do the cities have to inspect under State permits? Who will pay for the training of city staff to inspect and plan check to State standards?

4. Redefining the SUSMPs

Last year, the Regional Board attempted to require cities to impose storm water conditions to all ministerial projects. The State Board rejected this, after hearing an appeal by CPR. The proposed permit attempts to place storm water regulations on all projects (see definition of Development – page 48).

5. Expanding the Definition of Redevelopment

The Draft Permit expands the definition of Redevelopment by requiring that cities impose storm water conditions on all replacement projects (Page 52). This is unreasonable; state law specifically exempts replacement or reconstruction under a Class Two Categorical Exemption.

6. CEQA Conflicts

Regional Board staff is attempting to expand the type and size of projects that require environmental review through additional regulation, essentially asking cities to comply with yet another layer of environmental regulations that *overlap and conflict* with existing CEQA and the state approved CEQA Guidelines. (Page 52) If cities are forced to adopt separate CEQA Guidelines through the NPDES permit, we would be open to "third party" litigation on projects exempted by CEQA.

7. General Plan Amendment Issues

The proposed permit requires that cities amend four elements of their general plans – land use, conservation, open space and housing, as well as provide additional review rights to the Regional Board. (Page 34) State law specifically addresses storm water quality in the Conservation Element. General plans are legislative acts of taken by a city council. Adequacy issues are initially determined by the council and ultimately determined by the courts, not the local water board.

8. Phase II Requirements

The State is expected to adopt new regulations for Phase II communities January 2002 for implementation by March 10, 2003. Phase II will require development controls on all construction projects one acre in size or greater. However, the State has not gone through the rule making process, so the specific requirements are unknown. Phase II requirements do not now belong in the proposed NPDES permit. They need to be addressed at the appropriate time.

9. Meet and Confer

The existing NPDES Permit has a "meet and confer" clause, where potential problems can be resolved as part of an early consultation process, prior to enforcement actions. This "meet and confer" clause has been eliminated from the proposed permit. We believe that this clause allows for resolution of communication and interpretation issues, without elevating them to violation status.

10.. Lack of Economic Considerations/Unfunded Mandates

The City of Norwalk supports clean streams, rivers, harbors and beaches, but questions remain, namely, how much will it cost and who will pay for it? There are mandates in the permit – unfunded commercial and industrial inspections and enforcement programs, unfunded planning programs and ordinance changes, unfunded illicit discharge programs, unfunded dry weather

diversion programs, increased frequencies of catch basin cleaning and street sweeping, and other new unfunded programs.

A clear and workable new municipal NPDES permit is essential if we are going to achieve the goals of the Clean Water Act. We recognize that all parties have to do a better job of maintaining and improving water quality. However, we need to work together to implement cost-effective programs that address real water quality programs.

Sincerely,

Gordon Stefenhagen
Mayor

City of
NORWALK

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August 1, 2001

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

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A clear and workable new municipal NPDES permit is essential if we are going to achieve the goals of the Clean Water Act. We recognize that all parties have to do a better job of maintaining and improving water quality. However, we need to work together to implement cost-effective programs that address real water quality programs.

Sincerely,

Gordon Stefenhagen
Mayor

August 6, 2001

Dr. Xavier Swamikannu
California Regional Water Quality Control Board Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Subject: NPDES No. CAS004001 County of Los Angeles Municipal Storm Water NPDES Permit Second Draft (June 29, 2001)

Dear Dr. Swamikannu:

The City of Paramount, one of the more than 50 water producers in the Central Groundwater Basin, hereby requests that discharges from potable water sources be exempted in the proposed permit under Part 1, Section 2.c, Flows incidental to urban activities. This request is to maintain the following conditionally exempted discharge, which is allowed under the current permit (Order No. 96-054, NPDES No. CAS614001, Part 2, Section II.C.2):

> "Potable water sources provided the discharges are managed in accordance with an approved Industry-wide Standard Pollution Prevention Practices developed by the American Water Works Association Cal-Nevada Section, or equivalent document; and in compliance with any requirements established by the Permitee(s)."

The discharges will be intermittent and generally short in duration and will include discharges from pump tests to obtain pump curves, testing of idle and standby wells (not including discharges from wells which are inactive due to contamination), discharges for tests required by the California Department of Health Services, water line flushing, reservoir draining and water from leaks and hydrant repairs.

The continuation of the conditional exemption should not cause contamination problems or cause damage to the environment, as evidenced by the operations of several hundred wells in Central and West Basins, and San Gabriel Valley during the past five years under the current conditional exemption. The water producers are very cognizant of the effects of contaminated discharges, and have worked diligently to clean up and protect the water supplies and the environment. Without the exemption, a reallocation of amounts of the limited resources will be required, providing no real benefits to the communities and adding unnecessary costs to the consumers.

16400 Colorado Avenue • Paramount, CA 90723-5012 • Ph: 562-220-2000 • Fax: 562-630-6731

The City appreciates the opportunity to comment on the Second Draft of the County of Los Angeles Municipal Storm water NPDES Permit. If you have any questions or need additional information, please call me at (562) 220-2100.

CITY OF PARAMOUNT

Harry L. Babbitt
Public Works Director

August 6, 2001

CITY COUNCIL
CITY MANAGER

E.A. "PETE" RAMIREZ
MAYOR

GREGORY SALCIDO
MAYOR PRO TEM

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Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

SUBJECT: SECOND DRAFT OF THE COUNTYWIDE NPDES STORMWATER PERMIT

Dear Mr. Dickerson:

City staff attended the workshop offered by the Board on July 26, 2001. We appreciate the Board giving permittees the opportunity to express their concerns directly to the Board and its staff. Although we are pleased to see that the Second Draft of the Permit contains important improvements from the First Draft, the City still has several important concerns.

The City of Pico Rivera believes there are still fundamental issues that need to be addressed before the Permit is adopted by the Board. These issues include:

1. Receiving Water Limitations

If the Board adopts the new Permit with the current language regarding receiving water limitations, then the City of Pico Rivera, along with the other co-permittees, will immediately be out of compliance. If the Permit is not amended to restore the Maximum Extent Practicable (MEP) standard, then the Board will not only have circumvented the intent of the Clean Water Act, but will have also circumvented the Total Maximum Daily Load (TMDL) process.

2. Industrial Inspections

The proposed Permit requires that the City inspect Phase I industrial facilities. These are industrial facilities already regulated under a State permit. Regional Board staff estimates that there are 2,400 State-licensed industrial facilities within the County and that there may be a substantial number of additional businesses that will require State permits. Regional Board staff has also estimated that they only have the resources to inspect 600 businesses annually. They are asking that cities begin performing the inspections and plan checking for the remaining 1,800 State permits. Regional Board staff has not answered the basic questions: How will cities pay for these new inspections and plan checks? What authority do the cities have to inspect under State permits? Who will pay for the training of city staff to inspect and plan check to State standards?

3. Redefining the SUSMP

Last year, the Regional Board attempted to require cities to impose storm water conditions on all ministerial projects. The State Board rejected this, after hearing an appeal by the permittees, and required that the SUSMP apply only to discretionary projects. The proposed Permit attempts to place storm water regulations on both types of projects (see definition of "Development" on page 48).

We believe that the State Board was correct last year and disagree with the attempt to rewrite the SUSMP when it has been in effect less than a year. In addition, we object to the definition of "redevelopment", which now includes the replacement of impervious surface.

At the workshop, Board counsel explained that these revisions of the SUSMP were based on language in the State Board's Order (2000-11); that is, staff had studied these issues further and wished to raise them again. This is particularly interesting, since Board Counsel continually cited a 1996 letter to dismiss some of the permittees' concerns over the proposed 2001 Permit, stating that these concerns, e.g., unfunded mandates, need not be reconsidered because they have been previously addressed by the Board. In short, permittees should abide by the State Board's decisions, but Regional Board staff should not.

4. General Plan Amendment Issues

The proposed Permit requires that cities amend four elements of their general plans – land use, conservation, open space and housing, as well as provide additional review rights to the Regional Board (Page 34). State law specifically addresses storm water quality in the Conservation Element. General plans are legislative acts taken by a city council. Adequacy issues are initially determined by the council and ultimately determined by the courts, not the Regional Board.

Furthermore, land-use planning is within local governments' responsibility, and the United States Environmental Planning Agency (EPA) agrees. If EPA does not have the authority to interfere in local land-use planning, the Regional Board, which derives its authority from EPA regulations, also does not have that authority.

5. Lack of Legal "Safe Harbor"

The current Municipal NPDES Permit provides a legal "safe harbor" when cities implement the permit's provisions. The safe harbor clause insures that our city is in compliance when we implement the Permit's programs. The safe harbor clause is not included in the proposed permit, which will expose us to third-party lawsuits.

6. Lack of Economic Considerations

Under the proposed Permit, the Regional Board intends to add (or transfer) additional duties to the City, while the Board ignores the financial burden that has been imposed on the City under

the current and former Permits. Deleting the "safe harbor" clause from the new Permit, exposing us to potential third-party lawsuits, would increase that financial burden even more.

7. **Meet and Confer**

The existing NPDES Permit has a "meet and confer" clause, where potential problems can be resolved as part of an early consultation process, prior to enforcement actions. This "meet and confer" clause has been eliminated from the proposed Permit. We believe that this clause allows for resolution of communication and interpretation issues, without elevating them to violation status.

The City of Pico Rivera supports clean streams, rivers, harbors and beaches. We are located between the Rio Hondo Channel and the San Gabriel River, and spreading grounds, used for groundwater recharge, are located next to each river. The City has long recognized the need for water quality and realized our potential impact on local bodies of water. We have dedicated substantial resources to implementing the current and former NPDES Permits and will continue to do so under the new Permit.

A clear and workable new municipal NPDES permit is essential if we are going to achieve the goals of the Clean Water Act. We recognize that we all have to do a better job of maintaining and improving water quality, and we look forward to cooperating with the Board in these efforts. However, the focus of our efforts, and the Board's efforts, should be on water quality, not on lawsuits and Notices of Violation.

Sincerely,

E.A. "Pete" Ramirez
Mayor

DC:EA:ax

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City of
Santa Clarita

August 2, 2001

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RECEIVED

Honorable David Nahai, Chairman
Dr. Xavier Swamikannu, Ph.D.
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Dear Chairman Nahai and Dr. Swammikanu:

RE: Comments on "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)"

Thank you for the opportunity to submit comments on the "*Second Draft (June 29, 2001),* LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)" (the Second Draft) of the new storm water permit for Los Angeles County. This letter supplements the comments submitted by Burke, Williams & Sorensen, LLP, on behalf of the City of Santa Clarita, as well as the cities of Alhambra, Compton, El Segundo, Lomita, and Torrance, by letter dated July 19, 2001.

The City of Santa Clarita is fortunate that one of the last natural rivers in Southern California runs through the heart of our community. The Santa Clara River is a constant reminder of the importance of water quality and the City supports endeavors to protect and enhance water quality. Great strides have been made with the current Los Angeles County NPDES permit and our city looks forward to accomplishing more with the implementation of the anticipated new NPDES permit.

Meetings with Regional Board staff to negotiate the terms of the permit have been very helpful. Board staff and Permittees have spent a great deal of time listening to each other's concerns and progress has been achieved with a greater level of mutual understanding. The City appreciates and is supportive of the tentative changes to the Second Draft that have been developed between Board staff and the Permittees over the past month, and we look forward to seeing these changes incorporated into the Third Draft.

Santa Clarita generally supports the water quality challenges the Second Draft proposes to address, however the City is concerned regarding our ability to implement some of the proposed requirements from both a fiscal and timeline perspective. The City's primary areas of concern with the Second Draft are regarding inclusion of TMDL references throughout the document, receiving water limitations language, commercial and industrial regular inspection requirements, peak flow control requirement, and the baseline map requirement.

1. **TMDL Language:** The TMDL language found throughout the Second Draft is duplicative of the TMDL processes approved by the Board and imposes requirements that, in some cases, may be contrary to the Board-approved TMDL process. NPDES permits regulate overall issues associated with runoff of pollutants into the storm drain system to the maximum extent practicable, whereas a TMDL focuses on a particular impairment and specific contributions to the creation of that impairment. The TMDL process is both regulatory and an evolving scientific solution to correct impairments of a water body. Proposed solutions to the designated impairments may need to be adjusted throughout the implementation of the TMDL to achieve the goal of higher water quality. TMDLs will become a powerful tool in the goal to improve water quality, but are not appropriate for inclusion as a requirement in a NPDES permit. Development of TMDLs should be done in concert with and as a compliment to the NPDES permit to achieve the mutually supporting goals of protecting and improving water quality.

   The City requests that all language throughout the Second Draft that incorporates TMDLs or the TMDL process into the NPDES permit be omitted from the upcoming municipal storm drain permit.

2. **Receiving Water Limitations:** The receiving water limitations language creates liability for permittees in the form of third party lawsuits and is not found in the State Board Order WQ 99-05 (page

16). As currently written, Permittees are directly responsible for discharges from the MS4 that cause or contribute to the violation of water quality objectives, regardless of the source of the discharge. Given that runoff discharges into water bodies that are already listed as impaired on the EPA's 303(d) list, this language specifically places Permittees in violation of the new permit immediately upon its adoption and subject to third party litigation.

The City of Santa Clarita requests that the Board use the receiving water limitations language prescribed by the US EPA in permits issued by that agency, and by State Water Resources Control Board in State Board Order WQ 99-05. The additional language found in Part 2.1 and 2., on page 16 of the Second Draft, with particular reference to the "cause or contribute" language, should be deleted. The State Board's language, which excised the "cause or contribute" language from Order 98-01, is the required language to be used in municipal storm water permits. In this connection, see also the comment letter submitted on our behalf by Burke, Williams & Sorensen, LLP, by letter dated July 19, 2001, especially comments 5, 6 and 7.

3. **Commercial and Industrial Inspections:** The City of Santa Clarita does not have the authority to enter private property without permission or can obtain an inspection warrant or it has probable cause to believe that a crime has been committed, or cause. The City investigates every complaint of illicit discharge and illicit connection and takes enforcement action where necessary. The City does not inspect industrial and commercial facilities, as Los Angeles County Department of Public Works and Regional Board staff currently conducts these inspections, as well as collects specific revenue for the purpose of providing these inspections. The City does not have the personnel and monetary resources to assume responsibility for regular inspections of all these facilities.

The City requests the Board to modify the language in Part 3.H1.n) on page 22 to read, "Permittees must possess authority to enter, sample, inspect, review and copy records, and require regular reports from facilities associated with industrial activity discharging storm water runoff into its MS4 (including construction sites). Permittees shall act upon this authority when they discover or have illicit discharges and/or illicit connections brought to their attention." In addition, the City requests to modify language on page 26 to read "Each Permittee, when made aware of a stormwater violation at an Automotive Service

Facility within its jurisdiction, shall inspect the facility, to confirm that such facilities are effectively implementing stormwater BMPs."

4. **Peak Flow Control Numerical Criteria:** In addition to our prior comment #19 in the letter submitted on the City's behalf by Burke, Williams & Sorensen, LLP, dated July 19, 2001, which questions the authority of the Board to impose peak flow control limitations on flows of unpolluted storm water, the City of Santa Clarita is constrained to point out that it does not have the personnel and monetary resources to develop and implement the peak flow control numerical criteria requirement before October 31, 2002 (Part 4.D.2 on page 29). Many watersheds, agencies, organizations, and municipalities in Los Angeles County share in the important and complex issue of decreasing downstream erosion. A regional approach to this complex issue will increase the total available resources to adequately address the problem and help to achieve a standardized, or a watershed specific, solution that could be applied throughout Los Angeles County. However, this MS4 NPDES permit is not the vehicle for accomplishing that goal.

   The City requests that the Board revise the language in Part 4(D)(2), and that it be changed from "develop and implement numerical criteria on or before October 31, 2002" to "initiate and complete a regional study to investigate solutions to decrease downstream erosion that encompasses the natural drainage systems within the scope of this permit by October 31, 2006."

5. **Baseline Map of Storm Drain System:** A baseline map of the storm drain system is necessary to understand the drainage system and move forward with solutions to the problem of illicit connections and illicit discharges. Every effort is being made to gather information to develop a baseline map. However, the operational process takes a great deal of time due to the significant ownership determination and fiscal resource challenges that must be resolved, in addition to the technological process required to properly map and analyze the system. The requirement on page 45 to obtain a baseline map by October 25, 2002 does not allow sufficient time to resolve fiscal and operational resource challenges and to develop a useful, correct database.

   The City requests that the timeline for developing a baseline map of the system be changed to October 25, 2006.

Thank you for your time and consideration of our comments and requests. If you have any questions or need any additional information, please contact Jill Fosselman, Environmental Services Manager at (661) 255-4337.

Sincerely,

George A. Caravalho
City Manager

GAC:JJL:JAF:TLL:ch
S:\PBS\Fosselman\Environ Services\2001-2006 Permit\SC 2nd Draft Comments.doc

cc: Mayor Weste and Members of the City Council
Dennis A. Dickerson, Executive Officer
Jeff Lambert, Director of Planning & Building Services
Jill Fosselman, Environmental Services Manager
Rufus C. Young, Burke, Williams & Sorensen, LLP

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August 8, 2001

2001 AUG -9 P 3:50

Mr. Dennis A. Dickerson, Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: 2nd Draft of the NPDES Storm Water Permit

Dear Mr. Dickerson:

Thank you for the opportunity to comment on the 2nd Draft of the NPDES Storm Water Permit. The City of Santa Fe Springs is pleased to see that the current Draft Permit contains important improvements. However, the City still has several important concerns.

The City of Santa Fe Springs believes there are still fundamental issues that need to be addressed before the Permit is issued. These issues include:

1. **Lack of Legal "Safe Harbor"**

   The current Municipal NPDES Permit provides a legal "safe harbor" when cities implement the Permit's provisions. The "safe harbor" clause insures that our city is in compliance when we implement the Permit's programs. The "safe harbor" clause is not included in the proposed Permit. It should be added to help us focus on improving water quality, rather than spending city resources on defending against third party lawsuits.

2. **Proposed Permit is "Open Ended"**

   The current NPDES Permit requires that the cities implement only programs identified in the Permit. Regional Board staff has added provisions to the Permit that allow the Executive Officer to modify requirements at any time during the five year life of the Permit, thus the City of Santa Fe Springs can be directed to add future additional programs, at unknown costs. (Page 16 of the Permit)

a. **Auto Related Businesses**

The proposed Permit specifies that Permittees will be required to inspect and enforce all automotive related businesses (pages 26-27). The Board is referencing the Critical Some Selection and Monitoring Report, Los Angeles County Department of Public Works (Sept 1996) as the evidence supporting the additional inspection requirement. This report was prepared to "select" potential pollution sources for monitoring and evaluation. The results of the monitoring and evaluation of automotive service facilities was submitted to the Board in the Integrated Receiving Water Impacts Report (July 2000). The conclusion reached in the final report concerning the effectiveness of BMPs implemented at automotive service facilities "showed no significant improvement as a result of implementing BMPs". Consequently, the Board has already been informed that the implementation of an automotive services inspection program will not result in any appreciable improvement in water quality. In addition, we still contend that there is no authority in the Clean Water Act to require this level of inspection for commercial facilities. Should the Board proceed with this requirement it will cleanly meet the requirement of an unfunded mandate and subject to reimbursement by the State. We also request that the Board provide appropriate inspector training since the cities do not have staff trained to perform inspections of state programs.

b. **Industrial Inspection**

The proposed Permit requires that cities inspect Phase I industrial facilities. These are industrial facilities that already are regulated under a State Permit. Regional Board staff estimates that there are 2,400 State licensed industrial facilities and that there may be a substantial number of additional businesses that require State Permits that currently do not have them. Regional Board staff has also estimated that they only have the resources to inspect 600 businesses annually. They are asking that the cities pick up the inspections and plan checking for the remaining 1,800 State Permits. Regional Board staff has not answered the basic questions - how will the cities pay for these new inspections and plan checks? What authority do the cities have to inspect under State permits? Who will pay for the training of city staff to inspect end plan check to State standards?

3. **Redefining the SUSMPs**

Last year, the Regional Board attempted to require cities to impose storm water conditions to all ministerial projects. The State Board rejected this, after hearing an appeal by CPR. The proposed Permit attempts to place storm water regulations on all projects (see definition of Development - page 48).

4. **Expanding the Definition of Redevelopment**

The Draft Permit expands the definition of Redevelopment by requiring that cities impose storm water conditions on all replacement projects (Page 52). This is unreasonable; state law specifically exempts replacement or reconstruction under a Class Two Categorical Exemption.

5. **CEQA Conflicts**

Regional Board staff is attempting to expand the type and size of projects that require environmental review through additional regulation, essentially asking cities to comply with yet another layer of environmental regulations that overlap and conflict with existing CEQA and the state approved CEQA Guidelines. (Page 52) If cities are forced to adopt separate CEQA Guidelines through the NPDES Permit, we would be open to "third party" litigation on projects exempted by CEQA.

6. **General Plan Amendment Issues**

The proposed Permit requires that cities amend four elements of their general plans - land use, conservation, open space and housing, as well as provide additional review rights to the Regional Board. (Page 34) State law specifically addresses storm water quality in the Conservation Element. General plans are legislative acts taken by a city council. Adequacy issues are initially determined by the council and ultimately determined by the courts, not the local water board.

7. **Phase II Requirements**

The State is expected to adopt new regulations for Phase II communities January 2002 for implementation by March 10, 2003. Phase II will require development controls on all construction projects one acre in size or greater. However, the State has not gone through the rule making process, so the specific requirements are unknown. Phase II requirements do not now belong in the proposed NPDES Permit. They need to be addressed at the appropriate time.

8. **Meet and Confer**

The existing NPDES Permit has a "meet and confer" clause, where potential problems can be resolved as part of an early consultation process, prior to enforcement actions. This "meet and confer" clause has been eliminated from the proposed Permit. We believe that this clause allows for resolution of communication and interpretation issues, without elevating them to violation status.

9. **Lack of Economic Considerations/Unfunded Mandates**

The City of Santa Fe Springs supports clean streams, rivers, harbors and beaches - but the questions remain - how much will it cost and who will pay for it? There are mandates in the Permit - unfunded commercial end industrial inspections and enforcement programs, unfunded planning programs and ordinance changes, unfunded illicit discharge programs, unfunded dry weather diversion programs, increased frequencies of catch basin cleaning and street sweeping, and other new unfunded programs.

A clear and workable new municipal NPDES Permit is essential if we are going to achieve the goals of the Clean Water Act. We recognize that we all have to do a better job of maintaining and improving water quality. However, we need to work together to implement cost-effective programs that address real water quality programs. The City of Santa Fe Springs is prepared to work with the Regional Board; please help us to do so.

Very truly yours,

John R. Price
Director of Public Works

JRP/mc

xc: Frederick W. Latham, City Manger
City Council
Steve Skolnik, City Attorney

City of San Gabriel

♦ City With A Mission ♦ Founded 1771 ♦

August 2, 2001

Mr. Dennis A. Dickerson
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

2001 AUG -6 P 4:47

Second Draft Comments, Los Angeles County Municipal NPDES Permit

Dear Mr. Dickerson:

The City of San Gabriel is pleased to have the opportunity to submit our comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. We believe this version represents a significant improvement over the first draft. It contains fewer impractical and unnecessary requirements and improves permit clarity greatly. The City appreciates the time you and your staff have devoted to this very difficult task and the flexibility you have shown in considering changes that were requested earlier.

The comments provided herein are in response to additional requirements that were made to the second draft and to issues that were raised in comments on the first draft that were not addressed in the second draft document.

The City hopes that you will find these comments helpful in structuring a final permit that balances the need to protect water quality against the need for municipalities to maintain an adequate level of public services for its citizens.

If you have any questions, please feel free to call me.

Sincerely,

Steven A. Preston, FAICP, Deputy City Manager

Cc: Bruce D. Mattern, PE, City Engineer
Mark Gallatin, AICP, City Planner
Bob Bustos, Public Works Superintendent

File: f/cd/engr/NPDES/Permit Draft/comment ltr 2nd draft 080201

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♦ 626-308-2800 ♦ FAX 626-458-2830 ♦

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority (viz., its elected council members), play no role in the selection of EAC members. Unlike the water master, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The water master, on the other hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (cont.)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the business license issuance process. Identifying non-GIASWP facilities could be achieved by comparing the City's business license data base with the State Water Resources Control Board GIASWP data base. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance.

2. Industrial/Commercial Facilities Inspection Program (cont.)	**Action Sought:** Revise inspection requirement as suggested.
3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority planning projects. Are they the categorical projects that are covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
4. Development Planning Program	**Part IV - Paragraph D.5** **Issue**: Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. It believes that these projects are actually subject to CEQA and its

4. Development Planning Program (continued)	discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use-specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
5. Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add 1 acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule which applies only to such projects that involve a soil-disturbance of 1 acre or more.
6. Development Planning Program	**Part IV - Paragraph D.8** **Issue #1:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects

6. Development Planning Program (cont.)	by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
7. Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) -- not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary -- it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan

7. Development Planning Program (cont.)	(L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
8. Development Construction Program	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

9. Development Construction Program	**Part IV - Paragraph E.1.b** **Issue**: The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought**: Agree to the conditions required by the City.
10. Public Agency Activities	**Part IV - Paragraph F.1.c** **Issue**: The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, infiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought**: Postpone inclusion of this requirement until CMOM is adopted.

10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
11. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue**: The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought**: Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.
12. Program Management	**No reference**

13. Program Management (cont.)	**Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have a mechanism that could be invoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

City of San Gabriel

♦ City With A Mission ♦ Founded 1771 ♦
P. Michael Paules, City Manager ♦ 626-308-2802

August 3, 2001

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: 2nd Draft of the NPDES Storm Water Permit

Dear Mr. Dickerson:

Thank you for the opportunity to comment on the 2nd Draft of the NPDES Storm Water Permit. The City of San Gabriel is pleased to see that the current Draft Permit contains important improvements. However, the City still has several important concerns.

The City of San Gabriel believes there are still fundamental issues that need to be addressed before the permit is issued. These issues include:

1. **Lack of Legal "Safe Harbor"**

The current Municipal NPDES Permit provides a legal "safe harbor" when cities implement the permit's provisions. The "safe harbor" clause insures that our city is in compliance when we implement the permit's programs. The "safe harbor" clause is not included in the proposed permit. It should be added to help us focus on improving water quality, rather than spending city resources on defending against third party lawsuits.

2. **Storm Water Inspection Program**

   a. **Auto Related Businesses**

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♦ 626-308-2800 ♦ FAX 626-458-2830

evaluation. The results of the monitoring and evaluation of automotive service facilities was submitted to the Board in the Integrated Receiving Water Impacts Report (July 2000). The conclusion reached in the final report concerning the effectiveness of BMP's implemented at automotive service facilities "showed no significant improvement as a result of implementing BMP's". Consequently, the Board has already been informed that the implementation of an automotive services inspection program will not result in any appreciable improvement in water quality. In addition, we still contend that there is no authority in the Clean Water Act to require this level of inspection for commercial facilities. Should the Board proceed with this requirement it will cleanly meet the requirement of an unfunded mandate and subject to reimbursement by the State. We also request that the Board provide appropriate inspector training since the cities do not have staff trained to perform inspections of state programs.

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3. Redefining the SUSMPs

Last year, the Regional Board attempted to require cities to impose storm water conditions to all ministerial projects. The State Board rejected this, after hearing an appeal by CPR. The proposed permit attempts to place storm water regulations on all projects (see definition of Development – page 48).

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The proposed permit requires that cities amend four elements of their general plans – land use, conservation, open space and housing, as well as provide additional review rights to the Regional Board. (Page 34) State law specifically addresses storm water quality in the Conservation Element. General plans are legislative acts of taken by a city council. Adequacy issues are initially determined by the council and ultimately determined by the courts, not the local water board.

7. Lack of Economic Considerations/Unfunded Mandates

The City of San Gabriel supports clean streams, rivers, harbors and beaches – but the questions remain - how much will it cost and who will pay for it? There are mandates in the permit – unfunded commercial and industrial inspections and enforcement programs, unfunded planning programs and ordinance changes, unfunded illicit discharge programs, unfunded dry weather diversion programs, increased frequencies of catch basin cleaning and street sweeping, and other new unfunded programs.

A clear and workable new municipal NPDES permit is essential if we are going to achieve the goals of the Clean Water Act. We recognize that we all have to do a better job of maintaining and improving water quality. However, we need to work together to implement cost-effective programs that address real water quality programs. The City of San Gabriel is prepared to work with the Regional Board; please help us to do so.

Sincerely,

P. Michael Paules
City Manager

City of San Marino

Parks and Public Works Department

Date

RECEIVED
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JOHN ALDERSON
Director

Mr. Dennis A. Dickerson
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Second Draft Comments, Los Angeles County Municipal NPDES Permit

Dear Mr. Dickerson:

The City of San Marino is pleased to submit to you its comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. This version represents a significant improvement over the first draft. It contains fewer impractical and unnecessary requirements and improves permit clarity greatly. The City appreciates the time you and your staff have devoted to this very difficult task and the flexibility you have shown in making several changes that were asked of you earlier.

The comments provided herein are in response to additional requirements that were made to the second draft and to issues that were raised in comments on the first draft that were not addressed in the second draft document.

The City hopes that you will find these comments helpful in structuring a final permit that balances the need to protect water quality against the need for municipalities to maintain an adequate level of public services for its citizens.

If you have any questions, please feel free to call me.

Sincerely,

John Alderson

R0004565

2200 Huntington Drive, San Marino, CA 91108-2691 • Phone: (626) 300-0700 Fax: (626) 300-0709 • Email: jalderson@ci.san-marino.ca.us

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority (viz., its elected council members), play no role in the selection of EAC members. Unlike the watermaster, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The watermaster, on the hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (cont.)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the business license issuance process. Identifying non-GIASWP facilities could be achieved by comparing the City's business license data base with the State Water Resources Control Board GIASWP data base. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance.

2. Industrial/Commercial Facilities Inspection Program (cont.)	**Action Sought:** Revise inspection requirement as suggested.
3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority planning projects. Are they the categorical projects are covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
4. Development Planning Program	**Part IV - Paragraph D.5** **Issue**: Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. It believes that these projects are actually subject to CEQA and its

4. Development Planning Program (continued)	discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use-specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
5. Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add 1 acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule which applies only to such projects that involve a soil-disturbance of 1 acre or more.
6. Development Planning Program	**Part IV - Paragraph D.8** **Issue #1:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects

6. Development Planning Program (cont.)	by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
7. Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) -- not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary -- it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan

7. Development Planning Program (cont.)	(L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
8. Development Construction Program	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

9. Development Construction Program	**Part IV - Paragraph E.1.b** **Issue**: The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought**: Agree to the conditions required by the City.
10. Public Agency Activities	**Part IV - Paragraph F.1.c** **Issue**: The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought**: Postpone inclusion of this requirement until CMOM is adopted.

10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
11. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue**: The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought**: Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.
12. Program Management	**No reference**

13. Program Management (cont.)	**Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be envoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

CITY OF SOUTH PASADENA
PUBLIC WORKS DEPARTMENT
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August 2, 2001

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: **2nd Draft of the NPDES Storm Water Permit**

Dear Mr. Dickerson:

Thank you for the opportunity to comment on the 2nd Draft of the NPDES Storm Water Permit. The City of South Pasadena is pleased to see that the current Draft Permit contains important improvements. However, the City still has several important concerns.

The City of South Pasadena believes there are still fundamental issues that need to be addressed before the permit is issued. These issues include:

1. **Lack of Legal "Safe Harbor"**

The current Municipal NPDES Permit provides a legal "safe harbor" when cities implement the permit's provisions. The "safe harbor" clause insures that our city is in compliance when we implement the permit's programs. The "safe harbor" clause is not included in the proposed permit. It should be added to help us focus on improving water quality, rather than spending city resources on defending against third party lawsuits.

2. **Proposed Permit is "Open Ended"**

The current NPDES Permit requires that the cities implement only programs identified in the permit. Regional Board staff has added provisions to the permit that allow the Executive Officer to modify requirements at any time during the five year life of the permit, thus the City of South Pasadena can be directed to add future additional programs, at unknown costs. (Page 16 of the Permit)

3. **Storm Water Inspection Program for Auto Related Businesses**

The proposed permit specifies that permittees will be required to inspect and enforce all automotive related businesses (pages 26-27). The Board is referencing the Critical Source Selection and Monitoring Report, Los Angeles County Department of Public Works (Sept 1996) as the evidence supporting the additional inspection requirement. This report was prepared to "select" potential pollution sources for monitoring and evaluation. The results of the monitoring and evaluation of automotive service facilities was submitted to the Board in the Integrated Receiving Water Impacts Report (July 2000). The conclusion reached in the final report concerning the effectiveness of BMP's implemented at automotive service facilities "showed no significant improvement as a result of implementing BMPs". Consequently, the Board has already been informed that the implementation of an automotive services inspection program will not result in any appreciable improvement in water quality. In addition, we still contend that there is no authority in the Clean Water Act to require this level of inspection for commercial facilities. Should the Board proceed with this requirement it will cleanly meet the requirement of an unfunded mandate and subject to reimbursement by the State. We also request that the Board provide appropriate inspector training since the cities do not have staff trained to perform inspections of state programs.

4. **Redefining the SUSMPs**

Last year, the Regional Board attempted to require cities to impose storm water conditions to all ministerial projects. The State Board rejected this, after hearing an appeal by CPR. The proposed permit attempts to place storm water regulations on all projects (see definition of Development – page 48).

5. **Expanding the Definition of Redevelopment**

The Draft Permit expands the definition of Redevelopment by requiring that cities impose storm water conditions on all replacement projects (Page 52). This is unreasonable; state law specifically exempts replacement or reconstruction under a Class Two Categorical Exemption.

6. **CEQA Conflicts**

Regional Board staff is attempting to expand the type and size of projects that require environmental review through additional regulation, essentially asking cities to comply with yet another layer of environmental regulations that *overlap and conflict* with existing CEQA and the state approved CEQA Guidelines. (Page 52) If cities are forced to adopt separate CEQA Guidelines through the NPDES permit, we would be open to "third party" litigation on projects exempted by CEQA.

7. **General Plan Amendment Issues**

The proposed permit requires that cities amend four elements of their general plans – land use, conservation, open space and housing, as well as provide additional review rights to the Regional Board. (Page 34) State law specifically addresses storm water quality in the Conservation

Element. General plans are legislative acts of taken by a city council. Adequacy issues are initially determined by the council and ultimately determined by the courts, not the local water board.

8. Phase II Requirements

The State is expected to adopt new regulations for Phase II communities January 2002 for implementation by March 10, 2003. Phase II will require development controls on all construction projects one acre in size or greater. However, the State has not gone through the rule making process, so the specific requirements are unknown. Phase II requirements do not now belong in the proposed NPDES permit. They need to be addressed at the appropriate time.

9. Meet and Confer

The existing NPDES Permit has a "meet and confer" clause, where potential problems can be resolved as part of an early consultation process, prior to enforcement actions. This "meet and confer" clause has been eliminated from the proposed permit. We believe that this clause allows for resolution of communication and interpretation issues, without elevating them to violation status.

10. Lack of Economic Considerations/Unfunded Mandates

The City of South Pasadena supports clean streams, rivers, harbors and beaches – but the questions remain - how much will it cost and who will pay for it? There are mandates in the permit – unfunded commercial and industrial inspections and enforcement programs, unfunded planning programs and ordinance changes, unfunded illicit discharge programs, unfunded dry weather diversion programs, increased frequencies of catch basin cleaning and street sweeping, and other new unfunded programs.

A clear and workable new municipal NPDES permit is essential if we are going to achieve the goals of the Clean Water Act. We recognize that we all have to do a better job of maintaining and improving water quality. However, we need to work together to implement cost-effective programs that address real water quality programs. The City of South Pasadena is prepared to work with the Regional Board; please help us to do so.

Sincerely,

James R. Van Winkle
Director of Public Works

City of Temple City
9701 Las Tunas Drive
Temple City, California 91780
(626) 285-2171 • (626) 285-8192 FAX

City Council
Mayor Cathé Wilson • Mayor pro Tem Kenneth G. Gillanders
Councilmen
Chuck Souder • Fernando L. Vizcarra • Peter Zovak

August 6, 2001

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: 2nd Draft of the NPDES Storm Water Permit

Dear Mr. Dickerson:

Thank you for the opportunity to comment on the 2nd Draft of the NPDES Storm Water Permit. The City of Temple City is pleased to see that the current Draft Permit contains important improvements. However, the City still has several important concerns.

The City of Temple City believes there are still fundamental issues that need to be addressed before the permit is issued. These issues include:

1. **Lack of Legal "Safe Harbor"**

The current Municipal NPDES Permit provides a legal "safe harbor" when cities implement the permit's provisions. The "safe harbor" clause insures that our city is in compliance when we implement the permit's programs. The "safe harbor" clause is not included in the proposed permit. It should be added to help us focus on improving water quality, rather than spending city resources on defending against third party lawsuits.

2. **Proposed Permit is "Open Ended"**

The current NPDES Permit requires that the cities implement only programs identified in the permit. Regional Board staff has added provisions to the permit that allow the Executive Officer to modify requirements at any time during the five year life of the permit, thus the City can be directed to add future additional programs, at unknown costs. (Page 16 of the Permit)

3. Storm Water Inspection Program

a. Auto Related Businesses

The proposed permit specifies that permittees will be required to inspect and enforce all automotive related businesses (pages 26-27). The Board is referencing the Critical Source Selection and Monitoring Report, Los Angeles County Department of Public Works (Sept 1996) as the evidence supporting the additional inspection requirement. This report was prepared to "select" potential pollution sources for monitoring and evaluation. The results of the monitoring and evaluation of automotive service facilities was submitted to the Board in the Integrated Receiving Water Impacts Report (July 2000). The conclusion reached in the final report concerning the effectiveness of BMP's implemented at automotive service facilities "showed no significant improvement as a result of implementing BMP's". Consequently, the Board has already been informed that the implementation of an automotive services inspection program will not result in any appreciable improvement in water quality. In addition, we still contend that there is no authority in the Clean Water Act to require this level of inspection for commercial facilities. Should the Board proceed with this requirement it will cleanly meet the requirement of an unfunded mandate and subject to reimbursement by the State. We also request that the Board provide appropriate inspector training since the cities do not have staff trained to perform inspections of state programs.

b. Industrial Inspection

The proposed permit requires that City inspect Phase I industrial facilities. These are industrial facilities that already are regulated under a State permit. Regional Board staff estimates that there are 2,400 State licensed industrial facilities and that there may be a substantial number of additional businesses that require State permits that currently do not have them. Regional Board staff has also estimated that they only have the resources to inspect 600 businesses annually. They are asking that the cities pick up the inspections and plan checking for the remaining 1,800 State permits. Regional Board staff has not answered the basic questions – how will the cities pay for these new inspections and plan checks? What authority do the cities have to inspect under State permits? Who will pay for the training of city staff to inspect and plan check to State standards?

4. Redefining the SUSMPs

Last year, the Regional Board attempted to require cities to impose storm water conditions to all ministerial projects. The State Board rejected this, after hearing an appeal by CPR. The proposed permit attempts to place storm water regulations on all projects (see definition of Development – page 48).

5. Expanding the Definition of Redevelopment

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A clear and workable new municipal NPDES permit is essential if we are going to achieve the goals of the Clean Water Act. We recognize that we all have to do a better job of maintaining and improving water quality. However, we need to work together to implement cost-effective programs that address real water quality programs. The City of Temple City is prepared to work with the Regional Board; please help us to do so.

Sincerely,

Martin R. Cole

Martin R. Cole, MPA
City Manager

City of Temple City
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Temple City, CA 91780
(626) 285-2171 · (626) 285-8192 FAX

City Manager's Office

FAX TRANSMITTAL

To:	LA Regional Water Quality Control Board	**From:**	Laura Fraer
Agency:		**Title:**	Administrative Secretary
Fax:	(213) 576-6640	**Pages:**	5 including cover
Phone:	(213) 576-6600	**Date:**	August 6, 2001
Re:	NPDES Storm Water Pemit	**CC:**	

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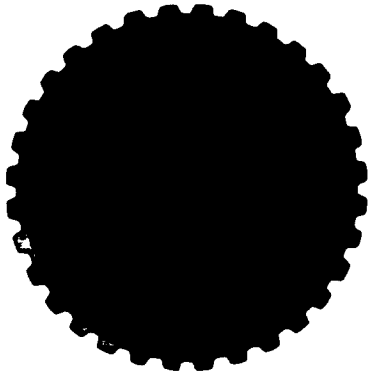
Comments on 2nd Draft of the NPDES Storm Water Permit



CITY HALL
4305 SANTA FE AVENUE, VERNON, CALIFORNIA 90058
TELEPHONE (323) 583-8811

August 2, 2001

Mr. Dennis A. Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: 2nd Draft of the NPDES Storm Water Permit

Dear Mr. Dickerson:

Thank you for the opportunity to comment on the 2nd Draft of the NPDES Storm Water Permit. The City of Vernon is pleased to see that the current Draft Permit contains important improvements. However, the City still has several important concerns.

The City of Vernon believes there are still fundamental issues that need to be addressed before the permit is issued. These issues include:

- ***Item 3 (I):*** *The City expresses significant concern relating to the potential flooding that that could result should the "full-capture devices" become obstructed or malfunction.*
- ***Item 16 (e):*** *This does not take into account the possibility that the hydraulic efficiency could be altered with the installation of an insert or filtering system. A study should be conducted encompassing a full scientific analysis; and should provide hard quantifiable data. Upon completion of the analysis, sensible regulations can be set-fourth.*

1. **Lack of Legal "Safe Harbor"**

The current Municipal NPDES Permit provides a legal "safe harbor" when cities implement the permit's provisions. The "safe harbor" clause insures that our city is in compliance when we implement the permit's programs. The "safe harbor" clause is not included in the proposed permit. It should be added to help us focus on improving water quality, rather than spending City resources on defending against third party lawsuits.

2. Proposed Permit is "Open Ended"

The current NPDES Permit requires that the cities implement only programs identified in the permit. Regional Board staff has added provisions to the permit that allow the Executive Officer to modify requirements at any time during the five year life of the permit, thus the City of Vernon can be directed to add future additional programs, at unknown costs. (Page 16 of the Permit)

3. Storm Water Inspection Program

a. Auto Related Businesses

The proposed permit specifies that permittees will be required to inspect and enforce all automotive related businesses (pages 26-27). The Board is referencing the Critical Source Selection and Monitoring Report, Los Angeles County Department of Public Works (Sept 1996) as the evidence supporting the additional inspection requirement. This report was prepared to "select" potential pollution sources for monitoring and evaluation. The results of the monitoring and evaluation of automotive service facilities was submitted to the Board in the Integrated Receiving Water Impacts Report (July 2000). The conclusion reached in the final report concerning the effectiveness of BMP's implemented at automotive service facilities "showed no significant improvement as a result of implementing BMP's". Consequently, the Board has already been informed that the implementation of an automotive services inspection program will not result in any appreciable improvement in water quality. In addition, we still contend that there is no authority in the Clean Water Act to require this level of inspection for commercial facilities. Should the Board proceed with this requirement it will cleanly meet the requirement of an unfunded mandate and subject to reimbursement by the State. We also request that the Board provide appropriate inspector training since the cities do not have staff trained to perform inspections of state programs.

b. Industrial Inspection

The proposed permit requires that City inspect Phase I industrial facilities. These are industrial facilities that already are regulated under a State permit. Regional Board staff estimates that there are 2,400 State licensed industrial facilities and that there may be a substantial number of additional businesses that require State permits that currently do not have them. Regional Board staff has also estimated that they only have the resources to inspect 600 businesses annually. They are asking that the cities pick up the inspections and plan checking for the remaining 1,800 State permits. Regional Board staff has not answered the basic questions – how will the cities pay for these new inspections and plan checks? What authority do the cities have to inspect under State permits? Who will pay for the training of city staff to inspect and plan check to State standards?

4. Redefining the SUSMPs

Last year, the Regional Board attempted to require cities to impose storm water conditions to all ministerial projects. The State Board rejected this, after hearing an appeal by CPR. The proposed permit attempts to place storm water regulations on all projects (see definition of Development – page 48).

5. Expanding the Definition of Redevelopment

The Draft Permit expands the definition of Redevelopment by requiring that cities impose storm water conditions on all replacement projects (Page 52). This is unreasonable; state law specifically exempts replacement or reconstruction under a Class Two Categorical Exemption.

6. CEQA Conflicts

Regional Board staff is attempting to expand the type and size of projects that require environmental review through additional regulation, essentially asking cities to comply with yet another layer of environmental regulations that *overlap and conflict* with existing CEQA and the state approved CEQA Guidelines. (Page 52) If cities are forced to adopt separate CEQA Guidelines through the NPDES permit, we would be open to "third party" litigation on projects exempted by CEQA.

7. General Plan Amendment Issues

The proposed permit requires that cities amend four elements of their general plans – land use, conservation, open space and housing, as well as provide additional review rights to the Regional Board. (Page 34) State law specifically addresses storm water quality in the Conservation Element. General plans are legislative acts of taken by a city council. Adequacy issues are initially determined by the council and ultimately determined by the courts, not the local water board.

8. Phase II Requirements

The State is expected to adopt new regulations for Phase II communities January 2002 for implementation by March 10, 2003. Phase II will require development controls on all construction projects one acre in size or greater. However, the State has not gone through the rule making process, so the specific requirements are unknown. Phase II requirements do not now belong in the proposed NPDES permit. They need to be addressed at the appropriate time.

9. Meet and Confer

The existing NPDES Permit has a "meet and confer" clause, where potential problems can be resolved as part of an early consultation process, prior to enforcement actions. This "meet and

City of Whittier

13230 Penn Street, Whittier, California 90602-1772
(562) 945-8200

2001 AUG -6 P 4:46

August 3, 2001

Mr. Dennis A. Dickerson
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Subject: Second Draft Comments, Los Angeles County Municipal NPDES Permit

Dear Mr. Dickerson:

On behalf of the City of Whittier, I am pleased to submit to you comments in connection with the second draft of the proposed Los Angeles County Municipal NPDES Permit, dated June 29, 2001. This version represents a significant improvement over the first draft. It contains fewer impractical and unnecessary requirements and improves permit clarity greatly. I appreciate the time you and your staff have devoted to this very difficult task and the flexibility you have shown in making several changes that were asked of you earlier.

The comments provided herein are in response to additional requirements that were made to the second draft and to issues that were raised in comments on the first draft that were not addressed in the second draft document.

I hope that you will find these comments helpful in structuring a final permit that balances the need to protect water quality against the need for municipalities to maintain an adequate level of public services for its citizens.

If you have any questions, please feel free to call me at (562) 464-3510.

Sincerely,

David T. Mochizuki
Director of Public Works

DTM:m
(c:docs:DTM:Ltr-NPDES Permit-draft comments)

Enclosure

cc: Stephen W. Helvey, City Manager

Comments In Re: Second Draft Los Angeles County Municipal NPDES Permit (2001-2006)

1. Executive Advisory Committee (EAC)	**Part III - Paragraph G** **Issue:** Proposes that the Executive Advisory Committee (EAC) to be subject to the Brown Act. The City opposes this new requirement because the EAC, historically, has been a non-political advisory body rather than a governing body. The EAC is elected by watershed representatives who are municipal staff members appointed by City executive staff (e.g., public works directors, city managers, etc.). The City's political authority (viz., its elected council members), play no role in the selection of EAC members. Unlike the watermaster, which is subject to the Brown Act, and has been used by regional board as an agency of comparison, the EAC is not an agency, nor is it authorized under court order or statute. The watermaster, on the hand, is responsible, for setting water policy and making decisions that affect water production. **Action Sought**: Delete this as a requirement.
2. Industrial/Commercial Facilities Inspection Program	**Part IV - Paragraph C** **Issue:** Proposes that permittees inspect: (1) Phase I industrial facilities (facilities that are covered under a State-issued General Industrial Activity Storm Water NPDES Permit (GIASWP); and (2) commercial facilities including gas stations, automotive-related shops, and restaurants. (Note: Principal Permittee has assumed responsibility for inspecting gas stations and restaurants). Regarding **Phase I facilities**, municipalities should not be held responsible for conducting on-site inspection visits for the purpose of determining compliance with GIASWP requirements. The reason: (1) the State imposes fees on these facilities to, among other things, defray the cost of inspection (the proposed permit does not provide for reimbursement to municipalities); (2) the State has superior jurisdiction here because it has

2. Industrial/Commercial Facilities Inspection Program (cont.)	issued a permit to allow the subject facility to discharge storm water and certain categories of non-storm water to the MS4 (therefore, it has more enforcement authority than municipalities). The existing permit only calls for public education site visitation. The City would be amenable to assisting the regional board in enforcing GIASWP requirements, but only to a limited extent. For example, the City could require, by ordinance, that every industrial facility obtain GIASWP coverage. Enforcement could be conducted through the business license issuance process. Identifying non-GIASWP facilities could be achieved by comparing the City's business license data base with the State Water Resources Control Board GIASWP data base. The City would also assume responsibility for generally determining if the GIASWP facility is not complying with SWPPP requirements. This could be done by visual, off-site (drive-by) observations. A public education visit could be scheduled to inform the facility of the observed deficiencies. A "courtesy" recommendation for correcting the deficiencies could be issued. If, however, a follow-up off-site visual observation reveals further non-compliance, the City would report the facility to the regional board. Under this enforcement program, the regional board must agree to conduct an inspection visit (with or without the City) within a time promised by the regional board. If it does not, the City cannot be held responsible for enforcing the facility to correct the deficient requirement (e.g., significant material exposure to storm water contact during the wet season). Regarding subject **commercial facilities**, the cost and legal difficulties (entry on private property and clogging the courts with cases that are likely to be thrown-out), makes on-site inspection a difficult proposition. Instead, the City prefers a more cost-effective and practical option. Rather than inspecting automotive repair facilities or restaurants (applies only to cities that enforce their own health code), municipalities should be allowed to conduct off-site visual ("drive-by") inspections to determine non-compliance with BMPs and illicit discharge/connection prohibitions. For the very most part, non-complying facilities can be identified without having to set foot on private property. Municipalities could, using visual criteria, identify non-complying facilities and then schedule an educational site visit to assist the facility into achieving compliance – with reasonable period of time. If this effort fails, the municipality can then use its legal authority to leverage the facility into compliance. Municipalities should be left to their own devices in accomplishing this. For example, a municipality could threaten to deny re-issuance of the subject facility's business license as a means of compelling compliance.

2. Industrial/Commercial Facilities Inspection Program (cont.)	**Action Sought:** Revise inspection requirement as suggested.
3. Development Planning Program	**Part IV - Paragraph D.1** **Issue:** The draft permit carries-over development planning program requirements ("a" through "e"), which are to be applied to "priority planning" new development and re-development projects. It is not clear, however, as to just what are priority planning projects. Are they the categorical projects are covered under the Standard Urban Storm Water Mitigation Plan (SUSMP) or are they additional projects and projects with certain characteristics? (Note: IV.D.5 uses planning priority projects to include the 8 project categories associated with SUSMP requirements). The City believes that the SUSMP actually defines the development planning program in terms of subject development/redevelopment projects. However, regional board staff has suggested otherwise, believing instead that development planning includes other projects as well. **Action Sought:** Provide a definition of "priority planning" as it relates to development planning. Or, if this cannot be done without duplicating the SUSMP, devise language indicating that the SUSMP is intended to provide guidelines to comply with development planning program requirements.
4. Development Planning Program	**Part IV - Paragraph D.5** **Issue**: Under the existing SUSMP, only projects that fall under development/redevelopment categories and are subject to discretionary approval are required to be evaluated for post-construction infiltration/treatment controls. The draft permit proposes to require all of these projects to install infiltration/treatment control requirements. The City opposes this revised requirement. It believes that these projects are actually subject to CEQA and its

4. Development Planning Program (continued)	discretionary approval requirements. Therefore, mandatory infiltration/treatment controls, designed in accordance with numeric standards, should only be applied to those facilities that can be expected to have an adverse impact (significant effect) on a receiving water body. A "yes" or "maybe" adverse impact would be determined if the runoff from the post-constructed facility contains a pollutant that is on the 303(d) List. The City, however, would not object to requiring the imposition of other SUSMP requirements on categorical projects (viz., applying use-specific BMPs and post-development runoff peak flow to prevent downstream erosion). **Action Sought:** Retain discretionary approval for determining if a categorical project requires post-construction infiltration treatment controls.
5. Development Planning Program	**Part IV - Paragraph D.6** **Issue:** The draft permit proposes to add 1 acre (soil-disturbing) projects to the SUSMP-subject development list, effective March 9, 2003. The regional board's justification for the addition is based on USEPA Phase II storm water regulations that are scheduled to take effect on March 9, 2003. However, according to USEPA, Region 9, Phase II rules only apply to cities not covered under Phase I. All of the municipal permittees are covered under Phase I and, therefore, Phase II does not seem to apply here. **Action Sought:** Eliminate this requirement or subject all development and new development projects to the Phase II rule which applies only to such projects that involve a soil-disturbance of 1 acre or more.
6. Development Planning Program	**Part IV - Paragraph D.8** **Issue #1:** The draft permit proposes to enlarge the scope of SUSMP-subject redevelopment projects

6. Development Planning Program (cont.)	by adding "replacement" of impervious surface of 5,000 square feet or more. Under the current SUSMP, the trigger is 5,000 square feet of new impervious area. The City does not believe that the Clean Water Act intended redevelopment projects to include maintenance activities (e.g., 5,000 square feet of impervious area necessitated by routine maintenance or damaged caused by fire or natural disaster). Technically, this is not a redevelopment project. It is also important to note that Phase II rules define new development and redevelopment projects as projects that cause a soil disturbance of 1 acre or more. Although Phase II does not apply to this and other municipalities in Los Angeles County, its definition of development and redevelopment projects should be used. **Action Sought:** Eliminate this criterion.
7. Development Planning Program	**Part IV - Paragraph D.12** **Issue:** The draft permit appears to contain a "continuity error." Paragraph D.12 is entitled "California Environmental Quality Act (CEQA) Document Update," which apparently deals with project construction and post-construction. However, D.12 addresses post-construction (i.e., development planning) -- not development construction, which is a separate program. Construction requirements are addressed under Part IV. E: Development Construction Program. It is not clear what the compliance expectation is under D.12, relative to CEQA, since CEQA is already referenced under IV.D.1.a. Further, because development planning priority projects appear to be those 8 categorical projects in the SUSMP -- which are now intended to be ministerial, rather than discretionary -- it is hard to see which development/redevelopment projects would require a CEQA evaluation. Also unclear is why CEQA should extend to development construction projects at all. All soil-disturbing construction projects are already covered under the development construction program. These include: (1) projects 5 acres and over, which require a state-issued General Construction Activity Storm Water Permit; (2) projects between 2 acres but less than 5 acres, which require a Local Storm Water Pollution Prevention Plan

7. Development Planning Program (cont.)	(L-SWPPP); and (3) projects under 1 acre, which require minimum BMPs (erosion/sediment control and controls that prevent illicit discharges). **Action Sought**: First, determine whether development planning projects are to be subject to CEQA. If they are, then identify which projects are to be subject and to what extent. This means, of course, that discretionary approval must be conferred upon municipalities. Second, eliminate from CEQA consideration of development construction projects because they do not require discretionary approval -- unless regional board staff believes that they are certain types of construction projects that do. The regional board's storm water staff should consult with planning staff to resolve these issues.
8. Development Construction Program	**Part IV - Paragraph E.e** **Issue**: The draft permit proposes to discourage grading during the wet season. This would compel the City to require the developer/contractor to provide an explanation for justifying construction during the wet season. This constitutes an unreasonable and impractical requirement. Construction during wet season should pose no serious threat to water quality because BMPs are required for every category of soil disturbing projects, which are obviously intended for use during the wet season. Further, to ask a developer/contractor to justify wet season construction would only increase his/her apprehension to construction-related storm water requirements. **Action Sought**: Eliminate this requirement.

9. Development Construction Program	**Part IV - Paragraph E.1.b** **Issue**: The draft permit proposes to require the City to enforce local ordinances dealing with construction vis-à-vis those 5-acre construction sites that have obtained coverage under a state-issued General Construction Activity Storm Water Permit (GCASWP). The City would only agree to this requirement if the regional board agrees to: (1) promise that it will conduct a joint inspection visit within a specified period of time (the City is concerned that the regional board might, by default, transfer to it full responsibility for enforcing construction BMPs); and (2) that the City would only be responsible for enforcing illicit discharges to the MS4 and not for enforcing on-site BMPs that are called-out in the site's SWPPP. That responsibility lies exclusively within the regional board's superior jurisdiction here. **Action Sought**: Agree to the conditions required by the City.
10. Public Agency Activities	**Part IV - Paragraph F.1.c** **Issue**: The draft permit proposes to require the City to implement a program to prevent sewage and leaks from sewage facilities from entering the MS4 and to identify, repair, and remediate sewage blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4, pending adoption of Capacity, Management, Operation and Maintenance Regulations (CMOM) now being developed by the USEPA. This new requirement should not be placed in the municipal NPDES permit until the CMOM regulations are adopted and incorporated into the municipal NPDES permit. **Action Sought**: Postpone inclusion of this requirement until CMOM is adopted.

10. Public Agency Activities	**Part IV - Paragraph F.12** **Issue**: The draft permit proposes to require the City to prioritize storm drains for possible diversion of dry weather flows. The City opposes this requirement for reasons provided by the Executive Advisory Committee (EAC) and the Coalition for Practical Regulation. In summary terms, this requirement is unreasonable because of the enormous cost impact associated with it and because the City already implements a sewer maintenance and spill prevention/control program. **Action Sought**: Eliminate this requirement.
11. Public Agency Activities	**Part IV - Paragraph G.1.b** **Issue**: The draft permit proposes to require the City, as part of the illicit connection/discharge elimination program, to map illicit connections and discharges for prioritization. The City believes that this should only be an option. The most effective way of seeking and eliminating illicit discharges is through the Phase I industrial facility GIASWP program. The regional board should intensify its efforts to seek out, with the cities' help, the several thousands of facilities in Los Angeles County that are not covered under a GIASWP and require them to obtain such coverage. The City would also augment this effort by conducting off-site visual surveillance of gas stations, restaurants, and auto repair facilities to look for illicit discharges and connections. **Action Sought**: Make this an optional requirement and allow the City to pursue searching and eliminating illicit connections/discharges through off-site visitation.
12. Program Management	**No reference**

13. Program Management (cont.)	**Issue**: The draft permit does not include a safe harbor clause such as the "notice to meet and confer" proviso in the current permit. Such a feature is needed to resolve differing interpretations of permit language and expectations that are bound to arise in this permit (as they have under the current permit). Contrary what has been suggested, the City does not wish to have this feature as a means of evading enforcement for non-compliance. The City simply would like to have mechanism that could be envoked when there is contradiction, confusion, or a lack of clarity with respect to a permit/program requirement, and resolve these issues. **Action Sought**: Provide safe harbor language that does not provide a loop-hole for compliance evasion while addressing the need to reconcile differences of interpretation.

COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294

(323) 881-2461

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

July 25, 2001

Mr. Dennis A. Dickerson, Executive Officer
California Regional Water Quality
Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

COMMENTS ON THE SECOND DRAFT OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

We have received the second draft of the National Pollution Discharge Elimination System (NPDES) permit for Los Angeles County and 83 cities. Our review of the permit reveals that there is no proposed provision for the wash down of blood from accidents or other trauma scenes in public areas.

It is our understanding that this County-wide issue will be addressed in the Storm Water Quality Management Plan which will be authored by the Los Angeles County Department of Public Works after the permit is approved.

Thank you for the opportunity to comment on an important issue that can interfere with our ability to protect public health and that of the responding government agencies.

If you have any questions, please contact William Jones, Chief, Health Hazardous Materials Division, at (323) 890-4042.

Sincerely,

Michael A. Wilkinson

MICHAEL A. WILKINSON, ACTING DEPUTY FIRE CHIEF
PREVENTION BUREAU

MW:bj

c: Mustafa Ariki, Department of Public Works

R0004596

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

AGOURA HILLS	BRADBURY	CUDAHY	HAWTHORNE	LA MIRADA	MALIBU	POMONA	SIGNAL HILL
ARTESIA	CALABASAS	DIAMOND BAR	HIDDEN HILLS	LA PUENTE	MAYWOOD	RANCHO PALOS VERDES	SOUTH EL MONTE
AZUSA	CARSON	DUARTE	HUNTINGTON PARK	LAKEWOOD	NORWALK	ROLLING HILLS	SOUTH GATE
BALDWIN PARK	CERRITOS	EL MONTE	INDUSTRY	LANCASTER	PALMDALE	ROLLING HILLS ESTATES	TEMPLE CITY
BELL	CLAREMONT	GARDENA	INGLEWOOD	LAWNDALE	PALOS VERDES ESTATES	ROSEMEAD	WALNUT
BELL GARDENS	COMMERCE	GLENDORA	IRWINDALE	LOMITA	PARAMOUNT	SAN DIMAS	WEST HOLLYWOOD
BELLFLOWER	COVINA	HAWAIIAN GARDENS	LA CANADA-FLINTRIDGE	LYNWOOD	PICO RIVERA	SANTA CLARITA	WESTLAKE VILLAGE
							WHITTIER

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100

JAMES A. NOYES, Director

ADDRESS ALL CORRESPONDENCE TO
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

August 6, 2001

IN REPLY PLEASE REFER TO FILE WM-9

Mr. Dennis A. Dickerson, Executive Officer
California Regional Water Quality
Control Board--Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

Dear Mr. Dickerson:

COMMENTS ON LOS ANGELES COUNTY MUNICIPAL STORM WATER NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM SECOND DRAFT PERMIT

Enclosed are Los Angeles County's comments to the Regional Water Quality Control Board's June 29, 2001, second draft of the National Pollutant Discharge Elimination System Permit for Los Angeles County Flood Control District, Los Angeles County, and 84 Cities.

Our comments were made in color and incorporated into the text of your second draft permit for your convenience. We look forward to working with you and your staff in addressing our comments.

If you have any additional questions, please contact Mr. Mustafa Ariki at (626) 458-5948, Monday through Thursday, 7:30 a.m. to 6 p.m.

Very truly yours,

JAMES A. NOYES
Director of Public Works

DONALD L. WOLFE
Assistant Director

CT:sv
P:\WMPUB\NPDES\Unit1\Trevizo\2001permit\2draftletter\RB_letter.doc

Enc.

cc: All County Departments
All Permittees

2001 AUG -6 P 4:45

R0004597

Comment Version
Proposed Language is in Blue.
Comments are in Red.

RECEIVED
2001 AUG -6 P 4:45

Second Draft (June 29, 2001)

LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

ORDER No. 01-XXX
(NPDES No. CAS004001)

WASTE DISCHARGE REQUIREMENTS

FOR

MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES

WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN
(EXCEPT FOR THE CITY OF LONG BEACH)

TABLE OF CONTENTS

FINDINGS

Part 6. STANDARD PROVISIONS (continued)

STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 01-xxx
NPDES PERMIT NO. CAS004001
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES THEREIN, EXCEPT THE CITY OF LONG BEACH

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter referred to as the Regional Board) finds:

A. Existing Permit and Report of Waste Discharge

The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District (see Attachment A, List of Permittees), hereinafter referred to separately as Permittees and jointly as the Discharger, discharge or contribute to discharges of storm water and urban runoff from municipal separate storm sewer systems (MS4s), also called storm drain systems. The discharges flow to water courses within the Los Angeles County Flood Control District and into receiving waters of the Los Angeles region. These discharges are covered under countywide waste discharge requirements contained in Order No. 96-054 adopted by this Regional Board on July 15, 1996, and which replaced Order No. 90-079 adopted by this Regional Board on June 18, 1990. Order No. 96-054 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.

B. Nature of Discharges and Sources of Pollutant

1. Storm water discharges consist of surface runoff generated from various land uses in all the hydrologic drainage basins that discharge into water bodies of the State. The quality of these discharges varies considerably and is affected by the hydrology, geology, land use, season, and sequence and duration of hydrologic events. The primary constituents of concern currently identified by the Los Angeles County Flood Control District 1994-2000 Integrated Receiving Water Impacts Report are cyanide, indicator bacteria, total dissolved solids, turbidity, total suspended solids, nutrients, total aluminum, dissolved cadmium, copper, lead, total mercury, nickel, zinc, bis(2-ethylhexyl)phthalate, polycyclic aromatic hydrocarbons (PAHs), diazinon, and chlorpyrifos.

2. Certain pollutants present in storm water and/or urban runoff may be derived from extraneous sources that Permittees have no or limited

jurisdiction over. Examples of such pollutants and their respective sources are: PAHs which are products of internal combustion engine operation, nitrates from atmospheric deposition, heavy metals, lead from fuels, copper from brake pad wear, zinc from tire wear, dioxins as products of combustion, and bis (2-ethylhexyl) phthalate and mercury as resulting from atmospheric deposition, and natural-occurring minerals from local geology. However, the implementation of the measures set forth in this Order are intended to and will contribute to reduced entry of these pollutants into storm water and their discharge to receiving waters.

3. These compounds can have damaging effects on both human health and aquatic ecosystems. In addition, the high volumes of storm water discharged from MS4s in areas of urbanization can significantly impact aquatic ecosystems due to physical modifications such as bank erosion and widening of channels. It is anticipated that, due to the nature of storm water events (i.e., large volumes of water and high velocities) that there may be short-term, reversible impacts to beneficial uses that are not directly related to water quality.

4. Water quality assessments conducted by the Regional Board identified impairment, or threatened impairment, of beneficial uses of water bodies in the Los Angeles Region. The causes of impairments include pollutants of concern identified by the County of Los Angeles in the Integrated Receiving Water Impacts Report (1994-2000).

5. Studies and research conducted by other Regional agencies, academic institutions, and universities have also identified storm water and urban runoff as significant sources of pollutants to surface waters in Southern California., [*Surface Runoff to the Southern California Bight*, Southern California Coastal Water Research Project, (1992); *Impacts of Urban Runoff on Santa Monica Bay and Surrounding Ocean Waters* (Gersberg, R.M., 1995); *State of the Bay 1998*, Santa Monica Bay Restoration Project; *Storm Water Impact*, In, Southern California Environmental Report Card 1999, Institute of the Environment, University of California, Los Angeles (Stenstrom, M.S., 1999); *Distribution of Anthropogenic and Natural Debris on the Mainland Shelf of Southern California Bight,* Shelly L. Moore and M. James Allen (1999); *The Health Effects of Swimming in Ocean Water Contaminated by Storm Drain Runoff*, Haile, R.W. et al. (1999); *Huntington Beach Closure Investigation: Technical Review* (University of Southern California, 2000); *A Regional Survey of the Microbiological Water Quality Along the Shoreline of the Southern California Bight,* Rachel T. Noble et al. (2001).

6. Development and urbanization increase pollutant load, volume, and discharge velocity. First natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification process. In contrast, pavement and concrete can neither absorb water

nor remove pollutants, and thus the natural purification characteristics are lost. Second, urban development creates new pollution sources as the density of human population brings with it proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage waste, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants. Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. These environmentally sensitive areas include Areas of Special Biological Significance, water bodies designated with a RARE beneficial use, Significant Natural Areas, and Significant Ecological Areas.

7. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development. (*Impervious Cover as An Urban Stream Indicator and a Watershed Management Tool*, Schueler, T. and R. Claytor, In, Effects of Water Development and Management on Aquatic Ecosystems (1995), ASCE, New York.)

   It is true that development will increase runoff and would have some degradation effect (downstream erosion) on natural streams. However, we do not agree that this increase of runoff would significantly decline the biological integrity of natural streams in Los Angeles County. Los Angeles County's climate is close to semi-arid with an average annual precipitation of 16 inches. We experience only a few runoff producing storms in a given year. This line item provides a blanket application of a study that may not be consistent with an environment unique to southern California. The environmental impact analysis of individual projects should address the impacts of development on the natural habitats of streams. We have been unable to locate the ASCE paper on this topic that the Regional board has made a reference to in this finding. Since this finding is not substantiated by scientifically valid studies in this area, it should be deleted.

8. The County of Los Angeles has identified as the five highest priority potential priority industrial and commercial critical source types, (I) wholesale trade (scrap recycling, auto dismantling); (ii) automotive repair/ parking; (iii) fabricated metal products; (iv) motor freight; and (v) chemical and allied products (*Critical Source Selection and Monitoring Report*, Los Angeles County Department of Public Works (Sept 1996). Monitoring

conducted by Los Angeles County demonstrates that the priority industrial sectors and auto repair facilities (the only commercial sector) on the list, contribute significant concentrations of heavy metals to storm water (*Los Angeles County 1999-2000 Storm Water Monitoring Report*, Los Angeles County Department of Public Works (July 2000)).

9. A review of industrial waste/ pretreatment records performed in 1995 in the County of Los Angeles on illicit discharges indicates that automotive service facilities and food service facilities sometimes discharge polluted washwaters to the MS4. The pollutants of concern in such washwaters include food waste, oil and grease, and toxic chemicals. Other storm water/industrial waste programs in California have reported similar observations. Illicit discharges from automotive service facilities and food service facilities have been identified elsewhere as a major cause of widespread contamination and water quality problems (Washtenaw County Statutory Drainage Board. 1987. Huron River Pollution Abatement Program)

C. Permit Background

1. The essential components of the Storm Water Management Program, as established by federal regulations [40 CFR 122.26(d)] are: (i) adequate legal authority, (ii) fiscal resources, (iii) SQMP - (Public Information and Participation Program, Industrial/Commercial Facilities Program, Development Planning Program, Development Construction Program, Public Agency Activities Program, Illicit Connection and Illicit Discharges Elimination Program), and (iv) monitoring and reporting program.

2. The Permittees have filed a Report of Waste Discharge (ROWD), dated February 1, 2001, and applied for renewal of their waste discharge requirements and a proposed NPDES permit to discharge wastes to surface waters. The ROWD includes a proposed Storm Water Quality Management Plan (SQMP) and a Monitoring Program. The proposed SQMP contains programs previously approved under Board Order No. 96-054 in the following areas:

    Public Information and Participation
    Development Planning
    Development Construction
    Public Agency Activities
    Illicit Connection/Illicit Discharge Elimination Program

    These programs are revised pursuant to the provisions of this Order after adoption.

3. The County of Los Angeles has previously conducted source identification and pollutant characterization consistent with 40 CFR 122.26(d)(1)(ii) and (iii) under its storm water monitoring program. The Monitoring Program submitted with the ROWD proposes to advance the assessment of receiving water impacts, identification of sources of

pollution, evaluation of Best Management Practices (BMPs), and measurement of long term trends in mass emissions.

4. The Regional Board has reviewed the ROWD and has determined it to be complete under the reapplication policy of MS4s issued by the USEPA (61 *Fed. Reg.* 41697). The Regional Board finds that the Permittees' proposed Storm Water Management Plan, incorporating the additional provisions contained in this Order would meet the minimum requirements of federal regulations and the Porter-Cologne Water Quality Control Act. It is necessary to state that the implementation of the SQMP is consistent with the Porter-Cologne Water Quality Control Act and the CWA. This language has been present in other MS4 NPDES permits.

5. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as parking lots and fast food restaurants), or facilities that perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of pollutants of concern in storm water. [References: Pitt *et al.*, *Urban Storm Water Toxic Pollutants: Assessment, Sources, and Treatability*, Water Environment Res., 67, 260 (1995); *Results of Retail Gas Outlet and Commercial Parking Lot Storm Water Runoff Study*, Western States Petroleum Association and American Petroleum Institute, (1994); *Action Plan Demonstration Project, Demonstration of Gasoline Fueling Station Best Management Practices*, Final Report, County of Sacramento (1993).]

6. Retail gasoline outlets are points of convergence for vehicular traffic and are similar to parking lots and urban roads. Studies indicate that storm water discharges from retail gasoline outlets have high concentrations of hydrocarbons and heavy metals. [*Schueler and Shepp* (1992)]. Pilot studies indicate that treatment control best management practices installed at retail gasoline stations are effective in removing pollutants, reasonable in capital cost, easy to operate, and do not present safety risks [*Rouge River National Wet Weather Demonstration Project, Task Product Memorandum – Evaluation of On-line Media Filters RPO-NPS-TPM59.00*, Wayne County, MI, March 1999]. The LA Regional Board and the San Diego Regional Board have jointly prepared a Technical Report on the applicability of new development BMP design criteria for retail gasoline outlets, (*Retail Gasoline Outlets: New Development Design Standards for Mitigation of Storm Water Impacts*, (June 2001)). Retail Gasoline Outlets in Western U.S. States (such as Washington and Oregon) are already subject to numerical BMP design criteria under the MS4 program, as well in other U.S. States.

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7. The City of Los Angeles has conducted shoreline and nearshore water quality monitoring off the Santa Monica Bay since the 1950s under the monitoring program for the Hyperion Waste Water Treatment Plant (NPDES No. CA0109991). The monitoring results indicate that effluent from Hyperion's 5-Mile Outfall does not impinge the shoreline, and that

elevated bacterial counts are associated with runoff from storm drains and discharges from piers. In 1994, the Regional Board approved the relocation of Hyperion's shoreline stations to implement a bay-wide, regional shoreline-monitoring program associated with storm drain outfalls in the Santa Monica Bay. The City of Los Angeles requested that the shoreline-monitoring requirement be incorporated in this Order. The shoreline pathogen monitoring requirements are outlined in the Monitoring Program for this Order.

D. Permit Coverage

1. The requirements in this Order cover all areas within the boundaries of the Permittee municipalities (see Attachment A) over which they have regulatory jurisdiction as well as unincorporated areas in Los Angeles County ~~Flood Control District~~ within the jurisdiction of the Regional Board. The Permittees serve a population of about 9.5 million [Reference: *2000 Census of Population and Housing,* Bureau of the Census, U.S. Department of Commerce (2001)] in an area of approximately 3,100 square miles. Attachment B shows the map of the permitted area in Los Angeles County ~~Flood Control District~~.

   The Los Angeles County Flood Control District is not a geographical area.

2. Federal, state, regional or local entities within the Permittees' boundaries or in jurisdictions outside ~~the~~ Los Angeles County ~~Flood Control District~~, and not currently named in this Order, may operate storm drain facilities and/or discharge storm water to storm drains and watercourses covered by this Order. The Permittees may lack legal jurisdiction over these entities under state and federal constitutions. Consequently, the Regional Board recognizes that the Permittees will not be held responsible for such facilities and/or discharges. The Regional Board will coordinate with these facilities to implement programs that are consistent with the requirements of this Order. Regional Board will consider such facilities for coverage in 2003 under its NPDES permitting scheme pursuant to USEPA Phase II storm water regulations.

   The Los Angeles County Flood Control District is not a geographical area.

3. Sources of discharges into receiving waters in the County of Los Angeles but in jurisdictions outside its boundary include the following:

   About 34 square miles of unincorporated area in Ventura County, which drain into Malibu Creek and thence to Santa Monica Bay,

   About 9 square miles of the City of Thousand Oaks, which also drain into Malibu Creek and thence to Santa Monica Bay, and

   About 86 square miles of area in Orange County, which drain into Coyote Creek and thence into the San Gabriel River.

The Regional Board will ensure that storm water management programs for the areas in Ventura County and the City of Thousand Oaks that drain into Santa Monica Bay are consistent with the requirements of this Order. The Regional Board will coordinate with the Santa Ana Regional Board so that storm water management programs for the areas in Orange County that drain into Coyote Creek are consistent with the requirements of this Order.

4. This permit is intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to control the discharge of pollutants in storm water to the maximum extent practicable (MEP) from the permitted areas in the County of Los Angeles to the waters of the United States.

5. Permittees have expressed their intention to work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system. Permittees may control the contribution of pollutants to the municipal separate storm sewer system from non-permittee dischargers such as Caltrans, the U.S. Department of Defense, and other state and federal facilities, through interagency agreements.

E. Federal, State, and Regional Regulations

1. The Water Quality Act of 1987 added Section 402(p) to the federal Clean Water Act (CWA) (33 U.S.C Section 1251-1387). This section requires the U.S. Environmental Protection Agency (USEPA) to establish regulations setting forth NPDES requirements for storm water discharges in two phases.

   - The USEPA Phase I storm water regulations were directed at municipal separate storm sewer systems (MS4) serving a population of 100,000 or more, including interconnected systems and storm water discharges associated with industrial activities, including construction activities. The Phase I Final Rule was published on November 16, 1990 (55 *Fed Reg.* 47990).

   - The USEPA Phase II storm water regulations are directed at storm water discharges not covered in Phase I, including small municipal MS4s (serving a population of less than 100,000), small construction projects (one to five acres), municipal facilities with delayed coverage under the Intermodal Surface Transportation Efficiency Act of 1991, and other discharges for which the USEPA Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard, or is a significant contributor of pollutants to waters of the United States. The Phase II Final Rule was published on December 8, 1999 (64 *Fed Reg.* 68722).

2. The USEPA published an 'Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits' on August 26, 1996 (61 Fed. Reg. 43761). This policy discusses the appropriate kinds of

water quality based effluent limitations to be included in NPDES storm water permits to provide for the attainment of water quality standards.

3. The USEPA published an 'Interpretative Policy Memorandum on Reapplication Requirements' for MS4 permits on August 9, 1996 (61 *Fed. Reg.* 41697). This policy requires that MS4 reapplication for reissuance for a subsequent five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.

4. The USEPA has entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for enhancing coordination regarding the protection of endangered and threatened species under Section 7 of the Endangered Species Act (ESA) and the CWA's Water Quality Standards and NPDES programs. Among other actions, the MOA establishes a framework for coordination of actions by the USEPA, the Services, and CWA delegated States on CWA permit issuance under Section 402 of the CWA [66 Fed. Reg., 11202 – 11217].

5. ~~USEPA regulations at 40 CFR 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that Permittees implement a program to monitor and control pollutants in discharges to the municipal system from industrial and commercial facilities that contribute a substantial pollutant load to the MS4. The regulations require that Permittees establish priorities and procedures for inspection of industrial facilities and priority commercial establishments. This permit, consistent with the USEPA policy, incorporates a cooperative partnership, including the specifications of minimum expectations, between the Regional Board and the Permittees for the inspection of industrial facilities and priority commercial establishments to control pollutants in storm water discharges (58 *Fed. Reg.* 61157).~~

   The sections cited do not support the Finding. Section 122.26(d)(2)(iv)(A) requires a description of structural and source control measures to reduce runoff pollutants from commercial and residential areas. It does not apply to industrial facilities. Section 122.26(d)(2)(iv)(C) applies only to landfills, hazardous waste treatment, disposal or recovery facilities, facilities subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986, and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the MS4. There is no reference in these sections to inspecting, monitoring or controlling pollutant loads from "discharges from industrial facilities" in general, i.e. the entire category of all industrial permittees, as implied by the finding.

6. Section 402 (p) of the Clean Water Act (33 U.S.C. Section 1342(p) provides that MS4 permits must "require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design engineering method and such other provisions as the [EPA] Administrator or the State determines appropriate for the control of such pollutants." The State Board Office of Chief Counsel has issued a memorandum interpreting the meaning of

MEP to include technical feasibility, cost, and benefit derived with the burden being on the municipality to demonstrate compliance (dated February 11, 1999).

7. Section 122.2 of the CWA authorizes the USEPA to delegate its NPDES permitting authority to states with an approved environmental regulatory program. The State of California is a delegated State. The Porter-Cologne Water Quality Control Act (California Water Code) authorized the State Water Resources Control Board (State Board), through the Regional Boards, to regulate and control the discharge of pollutants into waters of the State and tributaries thereto. The State Board entered into a Memorandum of Agreement [MOA] with the USEPA, on 22 September 1989, to administer the NPDES Program.

8. Section 303(d) of the CWA requires that the State identify a list of impaired water-bodies and develop and implement Total Maximum Daily Loads (TMDLs) for these waterbodies. A TMDL specifies the maximum amount of a pollutant that a water-body can receive and still protect beneficial uses. The USEPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This permit incorporates a provision to implement and enforce approved load allocations for municipal storm water discharges and require changes to the Storm Water Quality Management Plan after pollutants loads have been allocated and approved.

9. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. CZARA (16 U.S.C. Sections 1451-1465), amends the Coastal Zone Management Act of 1972, to address five sources of non-point pollution: agriculture, silviculture, urban, marinas, and hydromodification. This NPDES permit addresses the management measures required for the urban category, with the exception of septic systems. The Regional Board addresses septic systems through the administration of other programs.

~~10. On May 18, 2000, the USEPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule) 65 *Fed. Reg.* 31682, for the protection of human health and aquatic life. These apply as ambient water quality criteria for inland surface waters, and enclosed bays and estuaries. The State Board adopted the, *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California – 2000)* on March 2, 2000, for implementation of the California Toxics Rule (State Board Resolution No. 2000-15 as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL derived load allocations as soon as possible but no later than 20 years from the effective date of the policy. This Policy also establishes reporting protocols for the results on~~

~~analytical determinations of chemical constituents and reporting levels (Minimum Level) in wastewater and storm water discharges.~~
The State Board's *Policy for Implementation of Toxics Standards for Inland Surface Water, Enclosed Bays, and Estuaries of California* specifically provides that the standards do not apply to storm water discharges.

11. The State Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) on July 23, 1997. The Ocean Plan contains water quality objectives for the coastal waters of California.

12. The State Board In Re: California Department of Transportation (State Board Order WQ 2001-08), determined that the discharge of storm water to Areas of Special Biological Significance (ASBS) are subject to the prohibition in the Ocean Plan against the discharge of wastes to an ASBS.

13. The Regional Board adopted an updated Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994, *'Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*, (1994).' The Basin Plan, and amendments thereto, which are incorporated in this Order by reference, designates beneficial uses of receiving waters and specifies both narrative and numerical water quality objectives for the receiving waters in Los Angeles County.

14. The Regional Board on April 13, 1998, approved best management practices for sidewalk washing to minimize the discharge of wash waters to the storm drain system (Resolution No. 98-08). By the same Resolution, the Regional Board prohibited the discharge of municipal street wash waters to the storm drain system.

15. The Regional Board on April 13, 1998, approved recommended best management practices for industrial/ commercial facilities (Resolution No. 98-08).

16. The Regional Board on April 22, 1999, approved a list of best management practices for use in development planning and development construction (Resolution No. 99-03)

17. The Regional Board adopted and approved requirements for new development and significant redevelopment projects in Los Angeles County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000. The State

Board in large part affirmed the Regional Board action and SUSMPs in State Board Order No. WQ 2000-11 issued on October 5, 2000.

- The State Board's Chief Counsel has issued a statewide policy memorandum (dated December 26, 2000,) which interprets the Order to provide broad discretion to Regional Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in environmentally sensitive areas, and water quality design criteria for retail gasoline outlets.

- The State Board's Chief Counsel interprets the Order to encourage regional solutions and endorses a mitigation fund or "bank" that may be funded by developers who obtain waivers from the numerical design standards for new development and significant redevelopment.

~~18. The Regional Board has determined that the creation of structural or treatment control BMPs for storm water mitigation in waters of the U.S. is not permissible. 40 CFR Part 131.10(a) prohibits states from designating waste transport or waste assimilation as a use for any waters of the U.S. Authorizing the construction of a storm water/ urban runoff treatment facility in a jurisdictional water body would tantamount to accepting waste assimilation as an appropriate use for that water body. Furthermore, the construction and operation of a pollution control facility in a water body can impact the physical, chemical and biological integrity as well as the beneficial uses of the water body. Therefore, storm water treatment and/or mitigation in accordance with SUSMPs and any other requirements of this Order must occur prior to the discharge of storm water into a water of the U.S.~~

This language contradicts current practices for trash removal, such as, the trash collection boom/net in the Los Angeles River and Ballona Creek.

19. The Regional Board supports a Watershed Management Approach to address water quality protection in the region. The objective of the Watershed Management Approach should be to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources.

20. To promote a watershed management approach, the County of Los Angeles is divided into five Watershed Management Areas (WMAs) as follows:

Malibu Creek and Rural Santa Monica Bay WMA
Ballona Creek and Urban Santa Monica Bay WMA
Los Angeles River WMA

San Gabriel River WMA
Dominguez Channel/Los Angeles Harbor WMA
Santa Clara River WMA

Attachment A shows the list of Permittees under each WMA and some Permittees have expressed an intent to form sub-watershed groups within the WMA to promote regional solutions for the mitigation of storm water discharge pollution.

21. To facilitate compliance with federal regulation, the State Board has issued two statewide general NPDES permits: one for storm water from industrial sites [NPDES No. CAS000001, General Industrial Activity Storm Water Permit (GIASP)] and the other for storm water from construction sites [NPDES No. CAS000002, General Construction Activity Storm Water Permit (GCASP)]. The GCASP was reissued on August 19, 1999. The GIASP was reissued on April 17, 1997. Facilities discharging storm water associated with industrial activities and construction projects with a disturbed area of five acres or more are required to obtain individual NPDES permits for storm water discharges, or be covered by these statewide general permits by completing and filing a Notice of Intent (NOI) with the State Board. The USEPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.

The Regional Board is the enforcing authority in the Los Angeles Region for the two statewide general permits regulating discharges from industrial facilities and construction sites, and all NPDES storm water and non-storm water permits issued by the Regional Board. These industrial and construction sites and discharges are also regulated under local laws and regulations.

22. The State Board, on October 28, 1968, adopted Resolution No. 68-16, "Maintaining High Quality Water" which established an anti-degradation policy for State and Regional Boards. This Policy restricts the degradation of surface waters and protects waterbodies where existing water quality is higher than is necessary for the protection of beneficial uses.

23. The State Board, on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitations language to be included in all municipal storm water permits issued by the State and Regional Boards. The receiving water limitations included herein are consistent with the State Board Order, USEPA Policy, and the U.S. Appellate court decision in, *Defenders of Wildlife v. Browner* (9th. Cir, 1999). The State Board Office of Chief Counsel has determined that the federal court decision did not conflict with State Board Order No. WQ 99-05 (memorandum dated October 14, 1999)

24. California Water Code (CWC) Section 13263(a) requires that waste discharge requirements issued by the Regional Board shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; the need to prevent nuisance, and provisions of CWC Section 13241.

25. California Water Code Section 13370 *et seq.* requires that waste discharge requirements issued by the Regional Boards be consistent with provisions of the Federal Clean Water Act and its amendments.

F. Implementation

1. Permittees established an Executive Advisory Committee (EAC) to facilitate permit compliance and enhance consistency in program implementation. The EAC is formally incorporated within this permit as a representative committee of the Permittees.

2. The California Environmental Quality Act (CEQA) (Cal Pub Resources Code Section 21000 *et seq.*) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary and does not apply to ministerial projects, which involve the use of established standards or objective measurements. A ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion . In the alternative, standards and objective criteria may be established administratively for storm water mitigation for ministerial projects. For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements.

3. On March 12, 2001, the United States Court of Appeals ruled that it is necessary to obtain a NPDES permit for application of aquatic pesticides to waterways. (*Headwaters, Inc. vs. Talent Irrigation District, 9th Cir.)* This decision is controlling in California for nonagricultural applications of pesticides to waterways.

4. The objective of this Order is to protect the beneficial uses of receiving waters in Los Angeles County. To meet this objective, this Order requires that the SQMP specify BMPs that will be implemented to control the discharge of pollutants in storm water to the maximum extent practicable. Further, Permittees are to assure that storm water discharges from the MS4 shall neither cause or contribute to the exceedance of water quality standards and objectives nor create conditions of nuisance in the receiving waters, and that the discharge of non-storm water to the MS4 has been effectively prohibited.

5. The SQMP required in this Order builds upon the programs established in Order No. 90-079, and No. 96-054, consists of the components recommended in the USEPA guidance manual, and was developed with the cooperation of representatives from the regulated community and environmental groups. The SQMP includes provisions that promote customized initiatives, both on a countywide and watershed basis, in developing and implementing cost-effective measures to minimize discharge of pollutants to the receiving water. The various components of the SQMP, taken as a whole rather than individually, are expected to reduce pollutants in storm water and urban runoff to the maximum extent practicable. Provisions of the SQMP are fully enforceable under provisions of this Order.

6. The emphasis of the SQMP is pollution prevention through education, public outreach, planning, and implementation as source control BMPs first and then structural and treatment control BMPs next. Successful implementation of the provisions of the SQMP will require cooperation

and coordination of all public agencies in each Permittee's organization, among Permittees, and the regulated community.

7. The implementation of a Public Information and Participation Program is a critical component of a storm water management program. An informed and knowledgeable community is critical to the success of a storm water management program since it helps insure the following: (i) greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, and (ii) greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters.

8. This Order provides flexibility for Permittees to petition the Regional Board Executive Officer to substitute a BMP or requirement under the SQMP with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

9. This Order contemplates that the Permittees are responsible for considering potential storm water impacts when making planning decisions. This Order or any of its requirements are not intended to restrict or control local land use decision-making authority.

G. Public Process

1. The Regional Board has notified the Permittees and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to submit their written view and recommendations.

2. The Regional Board, in a public hearing, heard and considered all comments pertaining to the discharge and to the tentative requirements.

3. The Regional Board has conducted public workshops to discuss the draft permit.

4. The Los Angeles County Flood Control District, the County of Los Angeles and the other municipalities are Co-permittees as defined in 40 CFR 122.26 (b)(1). Los Angeles County Flood Control District will coordinate with the other municipalities and facilitate program implementation. Each Permittee is only responsible for discharge for which it is the operator.

5. This Order shall serve as a National Pollutant Discharge Elimination System (NPDES) Permit, pursuant to Section 402 of the Federal Clean Water Act, or amendments thereto, and shall take effect 50 days from Order adoption provided the Regional Administrator of the USEPA has no objections.

6. The action to adopt an NPDES permit is exempt from the provisions of Chapter 3 of CEQA (Cal Pub. Resources Code Section 21100 et seq.), in accordance with California Water Code Section 13389.

7. Pursuant to California Water Code Section 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board. A petition must be sent to the State Water Resources Control Board, P.O. Box 100, Sacramento, California, 95812, within 30 days of adoption of the Order by the Regional Board.

8. This Order may be modified or alternatively revoked or reissued prior to its expiration date, in accordance with the procedural requirements of the federal NPDES program, and the California Water Code for the issuance of waste discharge requirements.

IT IS HEREBY ORDERED that the Los Angeles County Flood Control District, Los Angeles County, and the Cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bell, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Cañada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Clean Water Act, as amended, and regulations and guidelines adopted thereunder, shall comply with the following:

Part 1. DISCHARGE PROHIBITIONS

Each Permittee shall within its jurisdiction effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are:
This prohibition can be clarified by indicating that the Permittees can only prohibit discharges within their own jurisdictions.

1. covered by a separate individual or general NPDES permit for non-storm water discharges; or

2. within one of the categories below, and meet all conditions specified by the Regional Board Executive Officer:

   a) Category A - Natural flow:

      (1) Natural springs and rising ground water;

      (2) Flows from riparian habitats or wetlands;

      (3) Stream diversions, permitted by the State Board; and

(4) Uncontaminated ground water infiltration ~~[as defined by 40 CFR 35.2005(20)].~~

This citation applies only to the sanitary sewer.

b) Category B - Flows from emergency fire fighting activity.

c) Category C - Flows incidental to urban activities, all of which are subject to conditions that shall be approved by the Regional Board Executive Officer:

(1) Reclaimed and potable landscape irrigation runoff;

(2) Water line flushing of potable water distribution systems;

(3) Drains for foundations, footings, and crawl spaces;

(4) Air conditioning condensate;

(5) Dechlorinated swimming pool discharges;

(6) Dewatering of lakes and decorative fountains;

(7) Non-commercial car washing by residents or by non-profit organizations; and

(8) Sidewalk rinsing;

The Regional Board Executive Officer may add or remove categories of non-storm water discharges above. Furthermore, in the event that any of the above categories of non-storm water discharges are determined to be a source of pollutants by the Regional Board Executive Officer, the discharge will no longer be exempt from this prohibition unless the Permittee implements conditions approved by the Regional Board Executive Officer to ensure that the discharge is not a source of pollutants. Notwithstanding the above, the Regional Board Executive Officer may impose additional prohibitions of non-storm water discharges in consideration of anti-degradation policies.

There are neither criteria nor procedures included in the draft permit for the addition of categories of non-storm water discharges subject to conditions in the paragraph above.

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Part 2. RECEIVING WATER LIMITATIONS

1. ~~Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.~~

2. ~~Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible for, shall not cause or contribute to a condition of nuisance.~~

Parts 2.1 and 2.2 are inconsistent with the Clean Water Act. The Clean Water Act sets forth the specific standard to be applied to municipal

permittees. Under the Clean Water Act, a municipal permittee shall "reduce the discharge of pollutants *to the maximum extent practicable*...." CWA § 402(p)(3)(B)(iii), 33 U.S.C. §1342(p)(3)(B)(iii).

This MEP standard is explicit recognition that a municipal permit, unlike industrial storm water permits, should not include an absolute prohibitions. Under this standard the discharge of pollutants are required to be reduced to the maximum extent practicable. There is no absolute prohibition.

Parts 2.1 and 2.2 violate this statutory directive. Parts 2.1 and 2.2 prohibit discharges without regard to the permittee's compliance with MEP. As such, these sections either should be eliminated or they should be modified to make clear that only discharges which have not been reduced to the maximum extent practicable are prohibited.

Moreover, the prohibitory language in Parts 2.1 and 2.2 create the potential for contradictory enforcement regimes that violate the Clean Water Act. As presently worded, it could be argued that even a discharge that could contribute, but not cause, a violation of a water quality standard or a condition of nuisance, violated the permit, without regard to MEP. Although we assume that such an interpretation is not the permit's intent, such an interpretation would create an enforcement "exception" that swallows the MEP "rule." Again, the statutory obligation of a municipal permittee is to comply with the MEP standard, not to insure that a discharge from the MS4 does not cause or contribute to the violation of a state water quality standard or a nuisance without regard to the MEP standard.

If it is the Board's intent that compliance with Part 2.3 is sufficient to achieve compliance with Parts 2.1 and 2.2, then this should be explicitly stated by amending Part 2.4 with the following words in italics:

So long as the Permittee has complied with the procedures set forth *in Part 2.3* and is implementing the revised SQMP and its components, the Permittee *is in compliance with this permit notwithstanding Parts 2.1 and 2.2, and* does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

3. **The Permittee shall comply with Part 2.1. and 2.2. through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SQMP and its components and other requirements of this Order including any modifications. The SQMP and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of water quality objectives or water quality standards (collectively, water quality standards) persist, notwithstanding implementation of the SQMP and its components and other requirements of this permit, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:**

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a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance of an applicable water quality standard, the Permittee shall promptly notify and thereafter submit a report to the Regional Board that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of water quality standards. This report may be incorporated in the ~~annual update of the SQMP and its components~~ Annual Storm Water Report and Assessment unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the Report.

The SQMP is not updated annually. It would be appropriate to incorporate the report asked for above in the Annual Storm Water Report and Assessment.

b) Submit any modifications to the report required by the Regional Board within 30 days of notification.

c) Within 30 days following the approval of the report, the Permittee shall revise the SQMP and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.

d) Implement the revised SQMP and its components and monitoring program according to the approved schedule.

4. So long as the Permittee has complied with the procedures set forth in Part 2.3 above and is implementing the revised SQMP and its components, the Permittee is in compliance with this permit notwithstanding Parts 2.1 and 2.2, and does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to develop additional BMPs.

Part 3. STORM WATER QUALITY MANAGEMENT PLAN (SQMP) IMPLEMENTATION

A. General Requirements

1. Each Permittee shall, at a minimum, implement the SQMP. The SQMP is an enforceable element of this Order.

2. The SQMP shall, at a minimum, comply with the applicable storm water program requirements of 40 CFR 122.26(d)(2). The SQMP and its components shall be implemented so as to reduce the discharges of pollutants in storm water to the maximum extent practicable.

3. Each Permittee may develop a SQMP, incorporating the countywide SQMP, which identifies additional provisions intended to reduce the

discharges of pollutants in storm water to the maximum extent practicable.

~~B. Best Management Practice Implementation~~

~~The Permittees shall require implementation of the most effective BMPs for storm water/urban runoff pollution control benefits. When implemented, BMPs shall result in the reduction of pollutants in storm water to the maximum extent practicable.~~

This statement seems to be misplaced. This requirement is too general and needs some clarification. Please indicate what type of implementation program is needed, who the Permittee is to require implemenation of the BMP from, when is this applicable, and how is this to be accomplished.

C. Modification of the Storm Water Quality Management Plan

The Permittees shall modify the SQMP, at the direction of the Regional Board Executive Officer, to incorporate additional provisions. Such provisions may include to the maximum extent practicable regional, watershed specific requirements, and/or waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Daily Maximum Loads (TMDLs) for impaired water bodies. In the notice to the Permittees, the Regional Board Executive Officer shall provide reasons for seeking modifications to the SQMP and its components and his or her legal authority for such comments.

Modification of the SQMP must be consistent with the Clean Water Act and its statutory requirement that the permit "shall require controls to reduce the discharge of pollutants to the maximum extent practicable . . ." 33 U.S.C. 1342(p)(3).

As currently drafted, this section does not set forth the standard to be applied by the Executive Officer in requesting changes to the SQMP. Because the SQMP is part of the Order, its modification should follow the standards set forth in 40 CFR 122.62 for amending permits.

D. Designation and Responsibilities of the Principal Permittee

The Los Angeles County Flood Control District is hereby designated as the Principal Permittee. As such, The Principal Permittee shall:

1. Coordinate and facilitate activities necessary to comply with the requirements of this Order, but is not responsible for ensuring compliance of any individual Permittee.

1.2. Coordinate permit activities among Permittees and act as liaison between Permittees and the Regional Board on ~~permitting issues~~ requirements.

Wording is vague, please verify.

2. Provide personnel and fiscal resources ~~for compilation, evaluation and submittal of all reports required under this Order and~~ for the necessary updates of the SQMP and its components;

   This item contains two requirements. The first requirement is outlined in item #6, therefore is removed due to redundancy.

3. Provide technical and administrative support for committees that will be organized to implement the SQMP and its components;

4. Convene the Watershed Management Committees (WMCs) constituted pursuant to Part F, below, upon designation of representatives;

5. Implement the Countywide Monitoring Program required under this Order and evaluate, assess and synthesize the results of the monitoring program;

6. Provide personnel and fiscal resources for the ~~preparation~~ collection and submittal to the Regional Board of annual reports and summaries of other reports required under the SQMP; and

   The Principal Permittee should not be responsible for the preparation of annual reports required under the SQMP. For example, each Permittee is responsible for their own Annual Storm Water Report and Assessment.

7. Comply with the "Responsibilities of the Permittees" in Part 3.E., below.

E. Responsibilities of the Permittees

Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries, and not for the implementation of the provisions applicable to the Principal Permittee or other Permittees. Each Permittee shall, within its geographic jurisdiction:

1. Comply with the requirements of the SQMP and any modifications thereto;

2. Coordinate among its internal departments and agencies, as appropriate, to facilitate the implementation of the requirements of the SQMP applicable to such Permittee in an efficient and cost-effective manner;

3. Designate a technically knowledgeable representative to the appropriate WMC; and

4. Participate in intra-agency coordination (e.g. Fire Department, Building and Safety, Code Enforcement, etc.)necessary to successfully implement the provisions of this Order and SQMP.

5. Prepare an Annual Report and Assessment which includes an annual summary of expenditures applied to the storm water management program. This summary of budget expenditures shall identify the storm water budget for the following year, using estimated percentages and written explanations where necessary, for the specific categories noted below:

   Is the Budget Summary part of the Annual Report and Assessment? It is not currently included in section T-I.

   a) Program management

      (1) Administrative costs

      (2) Capital costs

   ~~b) Illicit connection/illicit discharge~~

   ~~c) Development planning~~

   d) ~~Development construction~~

   e) Industrial/Commercial inspection/site visit activities

   ~~f) Construction inspection activities~~

   ~~g) Public Agency Activities~~

      ~~(1) Maintenance of structural BMPs and treatment control BMPs~~

      ~~(2) Municipal Street Sweeping~~

      ~~(3) Catch basin clean-up~~

      ~~(4) Trash collection~~

   h) Public Information and Participation

   i) Monitoring Program

   j) Miscellaneous Expenditures

   This budget summary would be an impossible task with respect to the County's $16 Billion budget. The cost of compiling this information would far exceed any possible value of the report. Items related to storm water quality could be best addressed in the summary provided by the Los Angeles County Flood Control District.

6. Each Permittee, in addition to the budget summary, shall report any supplemental dedicated budgets, if any, for the same categories.

F. Watershed Management Committees (WMCs)

1. Each WMC shall be comprised of a voting representative from each Permittee in the Watershed Management Area (WMA).

2. The WMC's chair and secretary shall be chosen by the WMC upon Order adoption and on an annual basis, thereafter. In the absence of volunteer Permittee(s) for the positions, the Principal Permittee shall assume those roles until the WMC chooses members of the committee for the positions.

3. Each WMC shall:

   a) Facilitate cooperation and exchange of information among Permittees;

   b) Establish additional goals and objectives and associated deadlines for the WMA, as the program implementation progresses;

   c) Prioritize pollution control efforts based on beneficial use impairment(s), watershed characteristics and analysis of results from studies and the monitoring program;

   d) Develop and/or update and monitor the adequate implementation, on an annual basis, of the tasks identified for the WMA;

   e) Assess the effectiveness of, prepare revisions for, and recommend appropriate changes to the SQMP and its components;

   f) Continue to prioritize the Industrial/Commercial critical sources for investigation, outreach and follow-up.

   g) Conduct joint WMC meetings four times per year and, as necessary.

G. Executive Advisory Committee (EAC)

1. The EAC shall be composed of one representative from the Malibu Creek WMA, two representatives from each of the other WMAs, one representative from the City of Los Angeles, and one representative from the Los Angeles County Flood Control District.

2. The EAC shall facilitate program compliance in each watershed and enhance consistency among Permittees.

~~3. The EAC shall conduct its meetings in compliance with the Cal. Gov. Code § 54950 et seq.~~

The EAC is not a legal entity.

H. Legal Authority

1. Permittees shall possess the necessary legal authority to prohibit non-storm water discharges, to the maximum extent practicable, to the storm drain system, including, but not limited to:

   In items a through j the repetition of the word "prohibit" is unnecessary.

   a) ~~Prohibit~~ illicit discharges and illicit connections and a requirement for removal of illicit connections;

   b) ~~Prohibit~~ the discharge of wash waters to the MS4 from the cleaning of gas stations, auto repair garages, or other types of automotive service facilities;

   c) ~~Prohibit~~ the discharge of runoff to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;

   d) ~~Prohibit~~ the discharge of runoff to the MS4 from areas where repair of machinery and equipment which are visibly leaking oil, fluid or antifreeze, is undertaken;

   e) ~~Prohibit~~ the discharge of runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;

   f) ~~Prohibit~~ the discharge of chlorinated swimming pool water and filter backwash to the MS4;

   g) ~~Prohibit~~ the discharge of runoff from the washing of toxic materials from paved or unpaved areas to the MS4;

   h) ~~Prohibit~~ washing impervious surfaces in industrial/commercial areas that results in a discharge of runoff to the MS4; and

   i) ~~Prohibit~~ the discharge of concrete or concrete laden wash water from concrete trucks, pumps, tools, and equipment to the MS4.

   j) ~~Prohibit~~ spills, dumping, or disposal of materials into the MS4, other than storm water, such as:

      (1) Litter, landscape debris and construction debris;

      (2) Any state or federally banned pesticide, fungicide or herbicide;

      (3) Food wastes; and

      (4) Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials that have potential adverse impacts on water quality.

2. Permittees shall posses the necessary legal authority to:

a) ~~k)~~Comply with conditions in Permittees ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows);

b) ~~l)~~Utilize enforcement mechanisms to require compliance with Permittees ordinances, permits, contracts, or orders;

c) ~~m)~~Control of pollutants (~~including potential contribution~~) in discharges of storm water runoff associated with industrial activities (including construction activities) to its MS4 and control the quality of storm water runoff from industrial sites (including construction sites). This requirement applies to source control, treatment control, and structural control BMPs; and,

The potential contributions are difficult to define and indentify, furthermore controls are variable.

~~d)~~ ~~n)~~In cases where a Permittee has probable cause to suspect a violation of discharge provisions of their stormwater ordinance, follow due process to carry out ~~all~~ inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance. ~~with permit conditions, including the prohibition of illicit discharges to the MS4. Permittees must possess authority, to enter, sample, inspect, review and copy records, and require regular reports from industrial facilities discharging polluted or potentially polluted storm water runoff into its MS4 (including construction sites).~~

We cannot inspect private property without the permission of the property owner or a court warrant.

Requiring regular reports from industrial facilities is beyond the scope of an illegal discharge investigation by a permittee and is the RWQCB's responsibility.

40 CFR Section 122.26(d)(2)(i), in pertinent part, provides only that a permittee shall demonstrate that it has the legal authority to "(F) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer." The second sentence of Section H.1.n. should be eliminated as it contains requirements that go beyond the CWA and this implementing regulation.

e) ~~o)~~Require the use of best management practices (BMPs) to prevent or reduce the discharge of pollutants to MS4s to the maximum extent practicable.

f) ~~p)~~On or before July 1, 2002, if necessary, amend and adopt a Permittee-specific storm water and urban runoff ordinance to enforce all requirements of this permit.

3. ~~2.The Principal Permittee shall~~, on or before July 1, 2002, ~~amend the Los Angeles County Public Health Code to require inspections at restaurants that will address~~ Permittees are required to have the legal authority to address, during public health restaurant inspections, the following items:

   a) Oil and Grease residue to verify that it is not poured onto a parking lot, street or adjacent catch basin.

   b) Dumpster areas to verify that the dumpster area is clean, dumpster lid closed, not filled with liquid or washed out.

   c) Parking lot, alley, sidewalk and street areas to verify that floormats, filters and garbage containers are not washed in those areas and that no washwater is poured in those areas.

   ~~d)~~ Parking lot area to verify that it is cleaned by sweeping and not by hosing down and that the facility operator uses dry methods for spill cleanup.

   The Regional Board cannot order a publicly elected board to amend or modify its ordinances. This part goes far beyond the requirements of 40 CFR Section 122, which requires only that the permittee demonstrate its legal authority to carry out the permit requirements, and does not require that the permittee specifically amend its ordinances. This part also exceeds the Regional Board's powers under either federal or state law and impermissibly dictates the actions of an elected Board of Supervisors.

4. ~~3.~~Each Permittee shall submit no later than July 31, 2002, a statement by the legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications.

Part 4. SPECIAL PROVISIONS

A. Best Management Practice Substitution

The Regional Board Executive Officer may approve any Best Management Practice (BMP) substitution upon petition by the Permittee(s), if the Permittee can document that:

1. The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of storm water pollutants; or

2. The fiscal burden of the original BMP or program is substantially greater than the proposed alternative and does not achieve a substantially greater improvement in storm water quality; and,

3. The proposed alternative BMP or program will be implemented within a similar period of time.

B. Public Information and Participation Program (PIPP)

The Principal Permittee shall implement a PIPP that incorporates the components of the five-year education plan and the provisions of this section.

The Principal Permittee's maximum obligation under this section shall not exceed $10,000,000 for the five-year program.

The public education needs are unlimited. We need to establish a spending cap to ensure that we will be able to fund the program.

Permittees shall work collaboratively to implement a comprehensive education/outreach program with the following objectives:

a) To measurably increase the knowledge of the target audiences regarding the MS4, the impacts of storm water pollution on receiving waters, and potential solutions to mitigate the problems caused;

b) To measurably change the behavior of target audiences by encouraging implementation of appropriate solutions;

c) To involve and engage all socio-economic and ethnic groups in Los Angeles County to participate in mitigating the impacts of storm water pollution.

The Principal Permittee shall submit the PIPP to the Regional Board Executive Officer for review and approval on or before ~~December 31, 2001, and annually thereafter~~ July 1, 2002.

The Regional Board already reviews and approves the five-year Public Educaton Model Program, on which all our outreach activities are based. Annual re-approvals would be time-consuming and unnecessary.

1. PIPP - Residential Program

a) The Principal Permittee shall implement the Public Education Program as outlined in the SQMP, including the continuation of the following activities:

Advertising
Media Relations
Public Service Announcements
"How To" Instructional Material Distributed in a Targeted and Activity-Related Manner
Corporate, Community Association, Environmental Organization and Entertainment Industry Tie-Ins
1-888-CLEAN-LA and 888CleanLA.com
Events Targeted to Specific Activities and Population Sub-groups

b) "No Dumping" Message

Each Permittee shall mark all storm drain inlets that they own with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping must be posted at designated public access points to creeks, other relevant water bodies, and channels by October 25, 2003. Legible signage and storm drain messages shall be maintained as necessary.

c) Countywide Hotline

The 888-CLEAN-LA hotline will serve as the general public reporting contact for reporting clogged catch basin inlets and illicit discharges/dumping, faded or lack of catch basin stencils, and general storm water management information. Each Permittee may establish its own hotline if preferred. Permittees shall include this information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed/published.

d) Outreach and Education

(1) The Principal Permittee shall implement the second Five-Year Education Plan as detailed in the SQMP.

(2) Each Permittee shall conduct educational activities within its jurisdiction and participate in countywide events.

(3) The Principal Permittee shall organize Public Outreach Strategy meetings with all Permittees on a quarterly basis. The Principal Permittee shall provide guidance for Permittees to augment the countywide outreach and education program. Permittees shall coordinate regional and local outreach and education to reduce duplication of efforts.

(4) The Principal Permittee shall ensure that a minimum of 35 million impressions per year are made on the general public about storm water quality via print, local TV access, local radio, or other appropriate media.

(5) The Principal Permittee, in cooperation with the Permittees, shall provide ~~all~~ schools within each School Districts in the County ~~within its jurisdiction~~ with materials, including, but not limited to, videos, live presentations, ~~brochures~~, and other ~~media~~ information necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution. Permittees shall provide the contact information for their appropriate storm water staff to the Principal Permittee on November 25, 2001. Cooperative efforts with other agencies may also be used to accomplish this requirement.

e) Pollutant-Specific Outreach

Permittees shall coordinate to develop outreach programs that target the watershed-specific pollutants listed in Table 1on or before October 25, 2002. Metals may be appropriately addressed through the businesses program. Region-wide pollutants may be included in the Principal Permittee's mass media efforts. Programs shall focus on the anthropogenic sources of each pollutant.

Table 1.	
Watershed	***Target Pollutants for Outreach***
Ballona Creek	Trash, Indicator Bacteria, ~~Metals~~, PAHs
Malibu Creek	Trash, Nutrients (Nitrogen), Indicator Bacteria, Sediments
Los Angeles River	Trash, Nutrients (Nitrogen), Indicator Bacteria, ~~Metals~~, Pesticides, PAHs
San Gabriel River	Trash, Nutrients (Nitrogen), Indicator Bacteria, ~~Metals~~
Santa Clara River	*Reserved*
Dominguez Channel	Trash, Indicator Bacteria, PAHs

Metals cannot be effectively addressed through an education campaign. For example, how can education reduce copper deposition from brake pads?

Each Permittee shall make outreach materials available to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate public counters and events. Outreach material shall include information on pollutants, sources of concern, and source abatement measures.

2. Businesses Program

a) Corporate Outreach

The Principal Permittee shall develop and implement a Corporate Outreach program to educate and inform corporate environmental management about storm water regulations. The program shall target retail gasoline outlet and restaurant chains. At a minimum, this program shall include:

~~(1)~~ (2)Make available to ~~Conferring with~~ corporate ~~environmental~~ management ~~to explain storm water regulations~~ located within Los Angeles County, on site programs;

We can not compel corporate management to grant us time. However, if we make an attractive informative

program available. it is likely many will avail themselves to it.

(2) (1)Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide environmental managers with suggestions to facilitate employee compliance with storm water regulations.

Corporate Outreach for all retail gasoline outlet and restaurant chain corporations shall occur once every 2 years, but not less than twice during the permit term.

b) Business Assistance Program

(1) The Principal Permittee and Permittees with the available resources, including but not limited to the City of Los Angeles, may implement a Business Assistance Program to provide confidential, technical resource assistance to small businesses to advise them in BMPs implementation to reduce the discharge of pollutants in storm water runoff. At a minimum, programs may include:

(i) On-site technical assistance or consultation via telephone to identify and implement storm water pollution prevention methods and best management practices; and

(ii) Availability, distribution, and discussion of applicable BMP and educational materials.

C. Industrial/Commercial Facilities Program

Each Permittee shall implement an Industrial and Commercial Program with the objective of controlling and reducing pollutants in storm water runoff from Phase I, Automotive, RGOs and Restaurants to the maximum extent practicable. At a minimum, the Program shall include the following requirements:

1. **Restaurants**

The ~~Principal Permittee~~ applicable Permittee Health Departments shall inspect all restaurants to determine that each restaurant is effectively implementing storm water BMPs.

a) Frequency: The ~~Principal Permittee~~ applicable Permittee Health Departments shall inspect each restaurant once every 24 months.

b) Level of inspection: The ~~Principal Permittee~~ applicable Permittee Health Departments shall confirm that BMPs are effectively implemented in accordance with County ordinances, Regional Board Resolution 98-08, and the SQMP.

2. **Retail Gasoline Outlets**

The Principal Permittee shall communicate appropriate BMPs to each RGO ~~to help ensure that RGOs are effectively implementing BMPs~~ in accordance with the SQMP and Regional Board Resolution 98-08.

3. **Automotive Service Facilities**

Each Permittee shall ~~inspect~~ field survey all Automotive Service Facilities within its jurisdiction to confirm that such facilities are effectively implementing storm water BMPs.

a) Frequency: Each automotive service facility shall be ~~inspected~~ field surveyed once every 24 months. If a ~~inspection~~ survey shows non-compliance with the SQMP and local storm water ordinances (including failure to implement pollution prevention BMPs), the facility shall be ~~re-inspected~~ re-surveyed within 90 days.

b) Level of ~~inspection~~ survey: The Permittees shall determine that BMPs are effectively implemented, in accordance with the SQMP, Regional Board Resolution 98-08, and storm water ordinances. As necessary, Permittees shall advise owners/operators of Automotive Service Facilities to implement additional BMPs, necessary to reduce the discharge of pollutants in storm water to the maximum extent practicable.

4. **USEPA Phase I Facilities**

It is the RWQCB's direct responsibility to visit Phase I facilities, determine GIASP eligibility, and conduct ongoing inspections. This requirement does not belong in the Permit.

a) Database for Source Identification: Each Permittee shall annually update a watershed-based inventory of all USEPA Phase I facilities, Retail Gasoline Outlets, Automotive Service Facilities, and Restaurants within its jurisdiction, regardless of whether or not the facility is subject to the GIASP or other individual or general NPDES permits. The update of the database may be accomplished through the collection of new information obtained through field activities or through other readily available intra-

agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits). The inventory shall include the following minimum fields of information for each industrial and commercial facility:

(1) Name of facility and name of owner/operator;

(2) address;

(3) coverage under the GIASP or other individual or general NPDES permits; and

(4) a narrative description including SIC codes that best reflects the principal products or activities performed by each facility.

The use of an automated database system, such as Geographical Information System (GIS) or web-based system is highly recommended, but not required. The Permittees may add other fields of information, as necessary (e.g. to point out discrepancies between SIC Code designation and type of activities actually performed on-site, exposure of activities and/or materials to storm water, etc.).

b) Site Visits to USEPA Phase 1 Facilities: Based on the inventory developed under 4.a) above, each Permittee shall visit facilities that appear to be subject to requirements of USEPA Phase I storm water regulations, as specified below.

(1) Frequency: Each Permittee shall visit all facilities within 24 months from the Order adoption date.

(2) Level of visit: Each Permittee shall confirm that each owner/operator: (a) filed a Notice of Intent, and that a Storm Water Pollution Prevention Plan is available on-site, and (b) is in compliance with model programs for industrial and commercial facilities, with Permittees' storm water ordinances, and with Regional Board Resolution 98-08.

(3) Enforcement Referral: For any facility not enrolled under the GIASP (i.e. a non-filer), Permittees shall advise the owner/operator of such facility of its requirement to enroll in the GIASP, and shall document this action. On a quarterly basis, Permittees shall provide the Regional Board a copy of their records to identify non-filers.

c) Each Permittee shall develop a program to conduct spot checks of USEPA Phase I facilities, excluding those previously determined to pose no risk of exposure, in each year subsequent to the completion of the first inventory of USEPA Phase I facilities (i.e., first 24 months), but not less than 20% of the total number in each year. Facilities determined at no risk of exposure will be so identified in the inventory database.

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d) ~~In the event that particular minimum BMPs are infeasible at any site, Permittees shall require implementation of other equivalent BMPs. Furthermore~~, Permittees may require additional site-specific BMPs as necessary to comply with this Order, including BMPs that are more stringent than those required under the statewide GIASP. For industrial and specified commercial sites tributary to Clean Water Act section 303(d) impaired water bodies (where a site discharges pollutants for which the water body is impaired), Permittees may require implementation of additional controls as necessary to comply with this Order. For industrial and specified commercial sites within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas, Permittees may require implementation of additional controls as necessary to comply with this Order.

The first sentence of this section requires a Permittee to analyze the feasibility of BMPs at these sites and then require implementation of equivalent BMPs if the Permittee determines that particular BMPs are infeasible. By forcing the Permittees to review and possibly require additional or different BMPs. this section impermissibly requires the Permittees to enforce the GIASP, a task within the exclusive authority of the Regional Board.

e) Nothing in this section precludes Permittees from performing additional activities to control storm water runoff from industrial and commercial facilities to their MS4, as they deem necessary, or through an already existing program. Also, nothing in this section precludes Permittees from enforcing their own municipal ordinances as they pertain to discharges of storm water runoff from industrial and commercial sites within their jurisdiction.

f) The RWQCB is working with the Principal Permittee to develop a contract for inspecting State permitted Phase I facilities. The contract will include a level of effort requirement for identifying non-filers. Such a contract will fulfill the Permittees site visit/inspection requirement for Phase I facilities under this permit, as long as, the contract is in effect. However, it will be a requirement that each Permittee develop and implement an effective program to screen potential non-filers from a reliable data source and provide the Principal Permittee with a prioritized list, updated annually

5. Interagency Coordination

In response to any complaint related to storm water or non-storm water discharges or a specific request by the Regional Board, a Permittee shall visit any facility, to determine if the facility is effectively complying with the SQMP and municipal storm water ordinances. In addition, Permittees shall provide compliance assistance to the Regional Board through various supporting activities, including but not limited to: referrals of

complaints, assisting in searches for current owners, operators, and leasees in conjunction with activities performed at any facility within its jurisdiction, appearing as witnesses in Regional Board enforcement hearings, and participating in joint inspections when requested by Regional Board staff.

Copies of the ~~inspection~~ survey/site visit report and any follow-up documentation performed as required in this section shall be provided to the Regional Board Executive Officer upon request.

D. Development Planning Program

1. The Permittees shall implement a development-planning program that will require all ~~planning~~ priority development and redevelopment projects to:

   Define priority projects.

   a) Minimize, to the MEP, impacts from storm water and urban runoff on the biological integrity of natural drainage systems and water bodies in accordance with requirements under CEQA, Section 404 of the CWA, local ordinances ~~and other legal authorities~~;

      Clarify what other legal authorities are.

   b) Maximize, to the MEP, the percentage of permeable surfaces to allow more percolation of storm water into the ground;

   c) Minimize, to the MEP, the quantity of storm water directed to impermeable surfaces and the MS4;

   d) Minimize, to the MEP, pollution emanating from parking lots through the use of appropriate treatment control BMPs and good housekeeping practices;

   e) Provide for appropriate permanent measures to reduce storm water pollutant loads in storm water from the development site to the MEP.

      Adding MEP to items a) through e) is consistent with the CWA. Section 402(p)(3)(B)(iii) of the CWA requires that municipal permits "shall require control to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

2. Peak Flow Control

   The Permittees, the Regional Board Staff, and a third Party will collaborate to conduct exploratory assessment of peak flow control impact on erosion and water quality. The assessment would be conducted by evaluating the Peak Discharge Impact Study required under the Monitoring Program of this permit.

First, this requirement will create a very significant burden on the development community, most notably single lot developers, small business owners, etc. The requirements may render many projects infeasible. Second, the requirement should be substantiated with adequate science. It has not been proven that the only solution to water quality issues with regards to impervious area creation is the restriction of flows/volumes. Many jurisdictions in the Pacific Northwest have been trying to deal with reductions in peak flows for many years, and have experienced many problems, both with execution and results. Those jurisdictions are looking to alternate analyses/solutions to the issue, such as verification studies to determine the extent of effect(if any) to river biology due to changes in flow, environmentally friendly streambank stabilization, etc. Some believe that some increases in flow may actually improve river ecosystems, especially in arid regions such as ours. Therefore, it is recommended that the Regional Board should give flexibility to the Permittees with regards to alternate solutions/analyses to solve the water quality issues. We should first conduct this field study, which is already required in the Monitoring Program, to determine the feasibility of establishing a numerical criterion.

~~The Permittees shall develop and implement numerical criteria on or before October 31, 2002, to control the post-development peak storm runoff discharge rates in natural drainage systems to maintain or reduce pre-development peak discharge rates to prevent down-stream erosion, and to protect stream habitat. Natural drainage systems include the following:~~

~~a) Malibu Creek~~

~~b) Topanga Canyon Creek~~

~~c) Upper Los Angeles River~~

~~d) Upper San Gabriel River~~

~~e) Santa Clara River~~

f) ~~Named and unnamed coastal drainages~~

3. Standard Urban Storm Water Mitigation Plans

a) Each Permittee shall require that single-family hillside home developments:

~~(1) Conserve natural areas~~

Single-family hillside developments qualify as ministerial projects under County definition. The proposed provision is discretionary in nature. No legal authority exist to impose such conditions.

(2) Protect slopes and channels

(3) Provide storm drain system stenciling and signage

(4) Divert roof runoff to vegetated areas before discharge

(a) Unless diversion has potential to reduce site stability If a landslide is created as a result of diversion. Permittees will be subjected to lawsuits by property owners.

(5) Direct surface flow to vegetated areas before discharge

(a) Unless diversion has potential to reduce site stability

If a landslide is created as a result of diversion. Permittees will be subjected to lawsuits by property owners.

b) Each Permittee shall require that a Standard Urban Storm Water Mitigation Plan as approved by the Regional Board in Board Resolution No. R 00-02 be implemented for the following categories of discretionary developments projects with immediate effect:

To be consistent with the definition of priority projects in the model program.

(1) Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)

(2) A 100,000 or more square feet industrial/ commercial development

(3) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539)

(4) Retail gasoline outlets

(5) Restaurants (SIC 5812)

(6) Parking lots 5,000 square feet or more or with 25 or more parking spaces

c) The Permittees shall require the implementation of SUSMPs provisions for all discretionary development projects located in or directly adjacent to or discharging directly to an environmentally sensitive area, where, the development will:

(1) create 2,500 square feet or more of impervious area, or

(2) alter the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and

(3) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat

4. Numerical Design Criteria

The Permittees shall require that post-construction treatment control BMPs incorporate, at a minimum, the following design criteria to mitigate (infiltrate, filter or treat) storm water runoff:

a) Volumetric Structural or Treatment Control BMP

(1) the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)*, or

(2) the volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in *California Stormwater Best Management Practices Handbook – Industrial/ Commercial,* (1993), or

(3) the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or

(4) the volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event,

and/or

b) Flow Based Structural or Treatment Control BMP

(1) the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity, or

(2) the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County

(3) the flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above,

5. Applicability of Numerical Design Criteria

The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment and structural controls to mitigate storm water pollution:

a) Single-family hillside residential developments of one acre or more of disturbed area

~~b) Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of one acre or more.~~

Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)
To be consistent with the language in Section 3.b.(1).

c) A 100,000 square feet or more industrial/ commercial development

d) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more]

e) Retail gasoline outlets [5,000 square feet or more and with projected Average Daily Traffic (ADT) of 100 or more vehicles]

f) Restaurants (SIC 5812) [5,000 square feet or more]

g) Parking lots 5,000 square feet or more or with 25 or more parking spaces

h) Projects located in, adjacent to or discharging directly to environmentally sensitive areas that meet threshold conditions identified above in 3.c.

6. Not later than March 9, 2003, each Permittee shall require the implementation of SUSMP and post-construction control requirements for the industrial/commercial category to discretionary projects one acre and greater to conform to USEPA Phase II storm water regulations.

7. Site Specific Mitigation

a) Each Permittee shall require the implementation of a site-specific plan to mitigate post-development storm water for discretionary developments projects not requiring a SUSMP but which may potentially have adverse impacts on post-development storm water quality, where the following project characteristics exist:

(1) Vehicle or equipment fueling areas;

(2) Vehicle or equipment maintenance areas, including washing and repair

(3) Commercial or industrial waste handling or storage

(4) Outdoor handling or storage of hazardous materials;

(5) Outdoor manufacturing areas

(6) Outdoor food handling or processing

(7) Outdoor animal care, confinement, or slaughter

(8) Outdoor horticulture activities

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8. Redevelopment Projects

The Permittees shall apply the SUSMP, or site specific requirements including post-construction storm water mitigation to all planning priority

projects that undergo significant redevelopment in their respective categories. Significant redevelopment means land-disturbing activity that results in the creation or addition ~~or replacement~~ of 5,000 square feet or more of impervious surface area on an already developed site. Where significant redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.

To be consistent with State Board Resolution (WQ2000-11).

9. Maintenance Agreement and Transfer

Each Permittee shall require that all developments subject to SUSMP and site specific plan requirements provide verification of maintenance provisions for structural and treatment control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and or conditional use permits. Verification at a minimum shall include:

a) The developers signed statement accepting responsibility for maintenance until the responsibility is legally transferred, and either

b) A signed statement from the public entity assuming responsibility for structural or treatment control BMP maintenance and that it meets all local agency design standards, or

c) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year, or

d) Written text in project conditions, covenants and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the structural and treatment control BMPs; or

e) Any other legally enforceable agreement that assigns responsibility for the maintenance of post-construction structural or treatment control BMPs

10. Regional Storm Water Mitigation Program

A Permittee or Permittee group may apply to the Regional Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly SUSMP requirements for ~~new~~ development/redevelopment. Upon review and a determination by the Regional Board Executive Officer that the proposal is technically valid and appropriate, the Regional Board may consider for approval such a program if its implementation will result in equivalent or improved storm water quality and protect stream habitat.

11. Mitigation Funding

The Permittees may propose a management framework, for endorsement by the Regional Board Executive Officer, to support regional or sub-regional solutions to storm water pollution, where the following situations occur:

a) A waiver for impracticability is granted

b) Legislative funds become available

c) Off-site mitigation is required because of loss of environmental habitat

d) An approved watershed management plan exists that incorporates an equivalent or improved strategy for storm water mitigation for new development

~~12. California Environmental Quality Act (CEQA) Document Update~~

~~Each Permittee shall modify planning procedures for preparing and reviewing CEQA documents to consider potential storm water quality impacts and provide for appropriate mitigation, with immediate effect. The CEQA guidelines shall require consideration of the following:~~

~~a) Potential Impact of project construction on storm water runoff~~

~~b) Potential Impact of projects post-construction activity on storm water runoff.~~

~~c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.~~

~~d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit~~

~~e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies~~

~~f) Potential for significant changes in the flow velocity or volume of storm water runoff that can cause environmental harm~~

~~g) Potential for significant increases in erosion of the project site or surrounding areas~~

This section impermissibly delineates the scope of CEQA guidelines, a task that is within the discretion of the Board of Supervisors, guided by California statute. The Regional Board cannot dictate to the Board the content of the CEQA guidelines.

In any event, the consideration of potential storm water quality impacts is already an element of the CEQA guidelines. It does not need to be included in this draft permit.

13. General Plan Update

~~a) Each Permittee shall amend, revise or update its General Plans to include watershed and storm water quality and quantity management considerations and policies when the following General Plans elements are updated or amended: (i) Land Use, (ii) Housing, (iii) Conservation, (iv) Open Space.~~

As noted above with respect to the sections purporting to require amendment of the County Public Health Code and the CEQA guidelines, this section impermissibly orders the Board of Supervisors to take certain actions within the exclusive discretion of that elected body.

b) Each Permittee shall provide the Regional Board with the draft amendment or revision when a listed General Plan element or the General Plan is noticed for comment in accordance with Govt. Code § 65350 et seq.

14. Targeted Employee Training

Each Permittee shall train its employees in targeted positions (whose jobs or activities are engaged in development planning) regarding the requirements of the development planning on an annual basis beginning no later than ~~March~~ October 31, 2002, and more frequently if- necessary.

The County has almost 500 employees in targeted positions that need to be trained; therefore, we need a year to complete our training. Moreover, the one year schedule is consistent with the other programs.

15. Developer Technical Guidance and Information

a) Each Permittee shall ~~develop and~~ make available to developer development planning guidelines (SUSMP manual) immediately.

The County has already developed a SUSMP manual as guidelines for developers, and most Permittees adapted the manual.

~~b)~~ The Principal Permittee in partnership with Permittees shall ~~issue no later than March 31, 2003,~~ provide a ~~technical~~ manual for the ~~siting and design of~~ BMPs for the development community in Los Angeles County. The technical manual may be adapted from the revised California Storm Water Quality Task Force Best Management Practices Handbooks scheduled for publication in September 2002. ~~The technical manual shall at a minimum include:~~

~~(1) Specifications for treatment control BMPs based on flow-based and volumetric water quality design criteria for the purposes of countywide consistency;~~

~~(2) Criteria for control of peak discharge rates, velocities and duration;~~

~~(3) Expected pollutant removal performance ranges~~

~~(4) Maintenance considerations~~

(5) ~~Cost considerations~~

We participated in the update of the State BMPs Handbooks which are expected to be completed in 18 months. Therefore, the requested technical manual is unnecessary and would require considerable amount of time, expertise, and staff that we do not have.

E. Development Construction Program

Each Permittee shall implement a program to control runoff from construction activity at all construction sites within its jurisdiction. The program shall ensure the following minimum requirements are effectively implemented, to the maximum extent practicable, at all construction sites:

Adding MEP is consistent with the Ventura Permit and the CWA.

a) ~~Sediments shall not be discharged to the MS4 or receiving waters.~~ Sediments generated on the project site shall be retained using adequate structural drainage controls;

The first sentence is redundant.

b) ~~No~~ construction-related materials, wastes, spills, or residues shall be ~~discharged~~ retained on site to minimize transport from the project site to streets, drainage facilities, receiving waters, or adjacent properties by wind or runoff;

c) Non-storm water runoff from equipment and vehicle washing ~~and any other activity~~ shall be contained at the project site; and

Watering is required to reduce dust in the grading period according to the AQMD regulation.

d) Erosion from slopes and channels will be prevented by implementing BMPs including, but not limited to: ~~limiting of grading scheduled during the wet season;~~ inspecting graded areas during rain events; planting and maintenance of vegetation on slopes; and covering erosion susceptible slopes; and

We have regulations that require properly engineered erosion control to be used on all projects that have the need for grading; therefore it is impractical to impose limitation on grading schedules during the wet season.

e) ~~Discourage grading during the wet season. Proper justification for the need to grade during the wet season shall be provided to the Permittee.~~ All erosion susceptible slopes shall be covered, netted, planted, or protected in any way that prevents sediment discharge from the site.

Discouraging and asking developers to provide proper justification is neither necessary nor appropriate to control erosion and prevent sediment wash off the MS4.

2. In addition, for construction sites between one acre and ~~greater~~ and five acres, each Permittee shall require compliance with all conditions in section E. above and:

a) Shall require the preparation, submittal, and implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP), prior to issuance of a grading permit for construction projects, that meets one or more of the following criteria:

(1) Will result in soil disturbance of one acre or more in size;

(2) Is within, directly adjacent to, or is discharging directly to an environmentally sensitive area; or

(3) Is located in a hillside area.

The Local SWPPP shall include appropriate construction site BMPs and maintenance schedules. (A State required SWPPP may be substituted by a Local SWPPP if the Local SWPPP is at least as inclusive as the requirements for a State SWPPP). The Local SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

"As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

~~The landowner shall sign a statement to the effect:~~

~~*"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and*~~

~~*belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/or adequately implement the Local SWPPP may result in revocation of grading and/or other permits or other sanctions provided by law."*~~

~~The Local SWPPP certification shall be signed by the landowner as follows, for a corporation: by a responsible corporate officer which means (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; for a partnership or sole proprietorship: by a general partner or the proprietor; or for a municipality or other public agency: by an elected official, a ranking management official (e.g., County Administrative Officer, City Manager, Director of Public Works, City Engineer, District Manager), or the manager of the construction activity if authority to sign Local SWPPPs has been assigned or delegated to the manager in accordance with established agency policy.~~

It is the responsibilities of the project architect/engineer to insure that the plan is in compliance of all regulations (state and local laws).

b) Shall inspect all construction sites with Local SWPPPs for storm water quality requirements during routine inspections a minimum of once during the wet season. The Local SWPPP shall be reviewed for compliance with local codes, ordinances, and permits. For inspected sites that have not adequately implemented their Local SWPPP, a follow-up inspection to ensure compliance will take place within 2 weeks. If compliance has not been attained, the Permittee will take additional actions to achieve compliance (as specified in municipal codes). ~~If compliance has not been achieved, and the site is covered under the State General Construction Activity Storm Water Permit, each Permittee shall enforce their local ordinance requirements, and if non-compliance continues the Regional Board shall be notified for further joint enforcement actions.~~

This section needs to be modified to reflect that it is not the Permittees' obligation to inspect, oversee or enforce the General Construction Activity Storm Water Permit. The draft permit, as written, violates Article XIIIB, section 6, of the California Constitution, and the GCASP itself. The federal regulations also do not authorize imposition of these obligations on the Permittees.

Article XIIIB, Section 6, of the California Constitution provides in pertinent part, "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service . . . ." The imposition of the obligation to inspect to assure compliance with the GCASP is to shift responsibility for enforcement of the general permit from the regional board to the permittees. As such it is mandating a new program or a higher level of service on each permittee. Because the Board is not reimbursing the permittees for the costs of this program or higher level of service, these requirements violate the California Constitution.

The requirements also violate the General Construction Permit itself. That permit delegates to the Regional Boards the authority to implement the permit, including, but not limited to, reviewing SWPPs, reviewing monitoring reports, conducting compliance inspections, and taking enforcement actions." (State Board Order No.99-08-DWQ, Section D.1.a.) The General Permit does not give that authority to municipal storm water permittees. The federal regulations also do not authorize imposition of these obligations on the Permittees. 40 CFR 122.26(d)(2)(iv)(D) requires a description of a program to implement best management practices to reduce pollutants in storm water from constructions sites. There is no reference in this section to overseeing or enforcing the General Construction Permit.

c) **Commencing March 10, 2003, shall require, prior to issuing a grading permit for all projects requiring coverage under the state general permit, proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a certification that a SWPPP has been prepared by the project developer. The prepared SWPPP may satisfy the requirement under E.1. (in-lieu of Local SWPPP).**

3. ~~In addition~~, **for sites five acres and greater, each Permittee shall:**

Through the use of the phrase "In addition," this section requires the Permittees to inspect sites covered under the State GCASP. The Permittees are not authorized to inspect such sites; such power is delegated exclusively to the Regional Board.

Again, this section needs to be modified to reflect that it is not the Permittees' obligation to inspect, oversee or enforce the General Construction Activity Storm Water Permit. The draft permit, as written, violates Article XIIIB, section 6, of the California Constitution, and the GCASP itself. The federal regulations also do not authorize imposition of these obligations on the Permittees.

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part, "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service . . . ." The imposition of the obligation to inspect to assure compliance with the GCASP is to shift responsibility for enforcement of the general permit from the regional board to the permittees. As such it is mandating a new program or a higher level of service on each permittee. Because the Board is not reimbursing the permittees for the costs of this program or higher level of service, these requirements violate the California Constitution.

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a) **Require, prior to issuing a grading permit for all projects requiring coverage under the state general permit, proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a certification that a SWPPP has been prepared by the project developer. The prepared SWPPP may satisfy the requirement under E.1. (in-lieu of Local SWPPP).**

b) Each Permittee shall require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

c) Each Permittee shall use an effective system to track grading permits issued by each Permittee. A database or GIS system is encouraged, but not required, to be used to satisfy this requirement.

4. Each Permittee shall train employees in targeted positions (whose jobs or activities are engaged in construction activities including construction inspection staff) regarding the requirements of the storm water management program no later than ~~March 31~~October 31, 2002, and annually thereafter. A list of trained employees shall be maintained by each Permittee.

The County has almost 500 employees in targeted positions that need to be trained; therefore, we need a year to complete our training. Moreover, the one year schedule is consistent with the other programs.

F. Public Agency Activities Program

1. Each Permittee shall implement a Public Agency program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:

Sewage Systems Operations
Public Construction Activities
Vehicle Maintenance/Material Storage Facilities Management
Landscape and Recreational Facilities Management
Storm Drain Operation and Management
Streets and Roads Maintenance
Parking Facilities Management
Public Industrial Activities
Emergency Procedures
~~Dry Weather Diversions~~

There is no formal dry weather diversion construction program, therefore this category should be removed.

~~2. Each Permittee shall conduct an assessment of measures that can be implemented to reduce and/or prevent trash from entering the MS4 system. The Assessment and a schedule for implementation shall be submitted to the Regional Board Executive Officer for review by July 1, 2003.~~

This requirement, if needed, should be listed in the trash TMDLs only. Furthermore, the trash TMDLs have not been approved yet.

3. Sewage System Operations

Each Permittee shall implement a response plan for overflows of the sanitary sewer system within their respective jurisdictions which shall consist at a minimum of the following:

a) Investigation of any complaints received;

b) Immediate response to overflows by containment; and

c) Notification to appropriate sewer and public health agencies when a sewer overflows to the MS4.

In addition to 3.a, 3.b, and 3.c above, for those Permittees which own and/or operate a sanitary sewer system, each Permittee shall also implement the following requirements (until such time that the proposed Capacity, Management, Operation and Maintenance Regulations (CMOM) are promulgated by the USEPA. After which, the CMOM regulations shall be enforceable under this Order until such time they are added into an individual NPDES permit):

d) A program to prevent sewage spills or leaks from sewage facilities from entering the MS4; and

e) Identify, repair, and remediate sanitary sewer blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4.

4. Public Construction Activities Management

a) Each Permittee shall implement a program to control runoff from construction activity at all construction sites. To accomplish this, the Permittees shall revise their Development Construction Program in the SQMP no later than March 31, 2002. The revisions shall specify a schedule for implementation by each Permittee, and must contain the following minimum elements, including performance measures, schedules for implementation, and shall include the following categories of construction:

(1) Less than one acre;

(2) Between one and five acres; and

(3) Five or more acres.

b) Each Permittee shall comply with requirements in section E. and with the following conditions, at all public construction sites:

(1) Design and construction of public facilities shall be consistent with the requirements and dates specified for private development in Part 4.D.;

(2) Prepare and retain site-specific SWPPPs for municipal construction sites;

(3) Implement construction and post-construction storm water controls as required of private construction projects, including numerical mitigation criteria for post-construction BMPs;

(4) Implement a program to ensure that SWPPPs and BMPs implemented are effective;

(5) Inspect public construction sites and implement changes as necessary to maintain or replace ineffective BMPs in order to protect water quality; and

(6) Each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction sites for sites 5 acres or greater (or part of a larger area of development, etc...) except that a municipality under 100,000 in population need not obtain coverage under a separate permit until March 10, 2003.

c) ~~No later than March 9, 2003, each Permittee shall obtain coverage under the State of California General Construction Activities Storm Water Discharge Permit coverage for public construction sites for sites one acre or greater~~.

This is based on a requirement that doesn't currently exist and t herefore shouldn't be included at this time.

5. Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management

a) Each Permittee shall implement pollution prevention plans for public vehicle maintenance facilities and material storage facilities which have the potential to discharge pollutants into storm water.

b) Each Permittee shall implement BMPs to minimize pollutant discharges in storm water including but not be limited to:

(1) Good housekeeping practices;

(2) Material storage control;

(3) Vehicle leaks and spill control; and

(4) Illicit discharge control;

c) Each Permittee shall require that all vehicle/equipment wash areas be self-contained or covered, or equipped with a clarifier, or other pretreatment device, and properly connected to the sanitary sewer to prevent the discharge of pollutants to the MS4 for new facilities or during redevelopment of existing sites.

6. Landscape and Recreational Facilities Management

Each Permittee shall implement the following requirements:

a) A standardized protocol for the routine and non-routine application of pesticides, herbicides (including pre-emergents), and fertilizers;

b) Ensure no application of pesticides or fertilizers immediately before, during, or immediately after a rain ~~or~~ when water is anticipated or flowing off the area to be applied;

Rain event needs to be defined. Please insert suggested wording or provide a measurement such as 0.25" of rain.

c) Ensure that no banned pesticides, herbicides, fungicides, or rodenticides are stored or applied;

d) Ensure that staff applying pesticides are certified by the California Department of Food and Agriculture, or are under the direct supervision of a certified pesticide applicator;

e) Where possible, implement procedures ~~to encourage retention and planting of native vegetation and~~ to reduce water, fertilizer, and pesticide needs;

Planting native vegetation has no relation to water quality.

f) Store fertilizers and pesticides indoors or under cover on paved surfaces or use secondary containment;

g) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills; and

h) Regularly inspect storage areas.

7. Storm Drain Operation and Management

Each Permittee shall:

a) designate catch basin inlets within its jurisdiction as one of the following:

Priority A – catch basins that are designated as consistently generating the highest volumes ~~and~~ of trash and/or litter.

Priority B - catch basins that are designated as consistently generating moderate volumes ~~and~~ of trash and litter

Priority C – catch basins that are designated as generating low volumes of trash and/or litter.

b) Clean all catch basins once per year just prior to the start of the rainy season. In addition, clean priority A and B catch basins according to the following schedule:

Priority A – inspected at least once every month during the wet season and cleaned if the catch basin is found to be 40% full. ~~per month during the wet season.~~

Priority B - ~~Between the effective date of this Order and July 1, 2003, each Permittee shall ensure that each catch basin is cleaned whenever the catch basin reaches 40% full. From July 1, 2003 to the date this Order is renewed, each Permittee shall ensure that each catch basin is cleaned whenever the catch basin reaches 25% full during the wet season.~~ inspected at least once during the wet season and cleaned if the catch basin has reached 40% full.

These changes are necessary to define how often designated catch basins must be inspected and cleaned. Without this wording, permittees would have to inspect all basins on a daily basis to ensure permit compliance.

~~Priority C – as necessary but at least once per year.~~

c) For any special event that can be reasonably expected to generate quantities of trash and litter, the Permittee shall, as a condition of the special use permit issued for that event, include provisions that provide for the proper management of trash and litter generated from the event. At a minimum, the Permittee shall arrange for either temporary screens to be placed on catch basins or for catch basins in that area to be cleaned out subsequent to the event and prior to any rain.

d) For each Permittee subject to a trash TMDL, the Permittee may implement a program which maximizes trash removal by using an effective combination of street sweeping, catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve waste load allocations).

e) Each Permittee shall:

(1) Keep record of Permittee owned catch basins cleaned;

(2) Record the total quantity of catch basin waste collected in tons. ~~[The data shall be reported in a single unit of measure that is reproducible and measures the amount of trash, irrespective of water content (e.g., compacted volume based on a standardized compaction rate. dry~~

~~weight, etc.). The Permittees may select the unit, but all Permittees shall use the same unit of measure.~~];

(3) Inspect the legibility of the catch basin stencil or label nearest the inlet. Illegible stencils shall be recorded and re-stenciled or re-labeled within 180 days of inspection; and

(4) Submit a record (preferably but not required, as a GIS layer) of all Permittee owned catch basins ~~in a municipality and identify which are city-owned/county-owned,~~ and which to note priority for more frequent cleaning.

It is very important that each Permittee only be responsible for providing data on its own catch basins. The county can provide data collectively on county owned basins. To sort 73,000 records between 85 cities would create a large workload. Since the trash TMDLs have extensive monitoring requirements we hope that data will be sufficient and any further monitoring will be developed directly in conjunction with the TMDL.

f) Each Permittee shall implement BMPs for Storm Drain Maintenance that shall include:

(1) A program to visually monitor open channel storm drains for debris at least annually and identify and prioritize problem areas of illicit discharge for regular inspection;

(2) A review of current maintenance activities to assure that appropriate storm water BMPs are being utilized to protect water quality;

(3) Removal of trash and debris from open channel storm drains shall occur a minimum of once per year before the storm season;

(4) Minimize the discharge of contaminants during MS4 maintenance and clean outs;

(5) Record the quantity of open channel waste collected by stream or channel segment [The data shall be reported in a single unit of measure that is reproducible and measures the amount of trash, irrespective of water content (e.g., compacted volume based on a standardized compaction rate, dry weight, etc.). The Permittees may select the unit, but all Permittees shall use the same unit of measure.]; and

(6) Proper disposal of material removed.

8. Streets and Roads Maintenance

a) Each Permittee shall designate streets and/or street segments within its jurisdiction as one of the following:

Priority A – streets and/or street segments that are designated as consistently generating the highest volumes ~~and~~ of trash and/or litter.

Priority B - streets and/or street segments that are designated as consistently generating moderate volumes ~~and~~ of trash and/or litter.

Priority C – streets and/or street segments that are designated as generating low volumes of trash and/or litter.

b) Each Permittee shall perform street cleaning according to the following schedule:

Priority A – These streets and/or street segments shall be swept at least two times per month.

Priority B - ~~Between the effective date of this Order and July 1, 2003,~~ each Permittee shall ensure that each streets and/or street segments is cleaned at least once per month.

Priority C – These streets and/or street segments shall be cleaned as necessary but in no case less than once per year.

c) Each Permittee shall require that sawcutting wastes be recovered and disposed of properly and that in no case shall waste be left on a roadway or allowed to enter the storm drain.

d) Concrete and other street and road maintenance materials and wastes shall be managed to prevent pollutant discharges; and

e) The washout of concrete trucks and chutes shall only occur in designated areas and never into storm drains, open ditches, streets, or catch basins leading to the storm drain system.

f) Each Permittee shall implement a program which maximizes trash removal by using an effective combination of street sweeping, catch basin clean outs, installation of treatment devices, and/or implementation of any other BMPs that achieve TMDL waste load allocations.

g) Each Permittee shall train their employees in targeted positions (whose interactions, jobs, and activities affect storm water quality) regarding the requirements of the storm water management program to:

(1) Promote a clear understanding of the potential for maintenance activities to pollute storm water; and

(2) Identify and select appropriate BMPs.

9. Parking Facilities Management

Permittee-owned parking lots shall be kept clear of debris and oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.

10. Public Industrial Activities

Each Permittee shall, for any municipal activity considered an industrial activity covered under USEPA Phase I storm water regulations, obtain separate coverage under the State of California General Industrial Activities Storm Water Discharge Permit no later than November 25, 2001, except that a municipality under 100,000 in population need not file the NOI until March 10, 2003.

11. Emergency Procedures

Each Permittee shall continue to repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as: earthquakes; fires; floods; landslides; or windstorms. BMPs shall be implemented to the extent that measures do not compromise public health and safety. After initial emergency response or emergency repair activities have been completed, each Permittee shall implement BMPs as required under this Order.

~~12. Dry Weather Diversions~~

~~a) Each Permittee shall prioritize drains for possible diversion of dry weather flows from areas within their jurisdiction that flow to areas where the public may be impacted (for public health and safety and/or environmental reasons). The Permittees shall collectively review their individual prioritized lists and create a watershed based priority list of possible drains for diversion no later than March 31, 2002 and submit a listing of priority diversions to the Regional Board Executive Officer. The Permittees shall immediately begin a feasibility study and discussions with the appropriate sewer agency for diversion of selected dry weather flows to the sanitary sewer for treatment, subject to approvals of the Regional Board and the appropriate sewer agency.~~

b) ~~The Permittees shall investigate and determine the location of potential dry weather urban runoff treatment devices for strategic placements in areas of the watersheds where most appropriate. This information shall be submitted to the Regional Board Executive Officer no later than March 31, 2002.~~

There is no formal dry weather diversion construction program. This category should be removed. The effectiveness of existing

diversions should first be investigated in a regional BMP study. The study could also assist in prioritizing storm drains for future diversions.

G. Illicit Connections and Illicit Discharges Elimination Program

Permittees shall eliminate all illicit connections and illicit discharges to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.

1. General

a) Implementation: Each Permittee must develop an Implementation Program which specifies how each Permittee is implementing revisions to the IC/ID Program. This Implementation Program must be documented, and available for review and approval by the Regional Board Executive Officer, upon request.

~~b)~~ Tracking: ~~All Permittees shall develop and maintain a baseline map of their storm drain system, showing all storm drain connections permitted by the Permittee, at a scale and in a format specified by the Lead Permittee~~. On an annual basis, all Permittees shall map all illicit connections and discharges ~~on their baseline maps, and shall transmit this information to, and in a format specified by, the Principal Permittee. No later than October 25, 2002, the Principal Permittee~~ One year from the adoption of this permit, Permittees shall use this information as well as results of baseline and priority screening for illicit connections (as set forth in subsection 2 below) to start an annual evaluation of patterns and trends of illicit connections and illicit discharges, with the objectives of identifying priority areas for elimination of illicit connections and illicit discharges~~, and making recommendations for corrective action.~~

Comments on first sentence of paragraph:
The first sentence should be removed as already agreed by Dennis Dickerson during the EAC meeting of July 11, 2001. Additionally, the Board members, at the July 26th workshop, discouraged requirements that would impose financial burdens on permittees and encouraged staff and permittees to work together to find the solution. As explained at the presentation to the Regional Board before the first draft came out and again during the meeting of July 11, this is an un-attainable requirement for the following reasons:

- The Department does not have the storm drain system in GIS in a format suitable for analysis. It is estimated that creating such a file would run in the millions of dollars and would require several years to accomplish.

- Existing storm drain connections database exceeds 100,000 records and the only feasible way of mapping them requires the existence of the storm drain system file in GIS (which we don't have). Furthermore, the expense and time required to map all existing permitted connections does not justify the negligible (if any) benefit in evaluating trends of illicit connections. The current database has the capability of identifying illicit connections.

Comments on rest of the paragraph:

- GIS analysis should focus on cluster analysis (i.e. points representing Illicit Connections and Illicit Discharges)
- We reiterate the need to focus on IC/ID (not permitted connections, including new ones)
- This element calls for the Department to pose requirements on all Cities. Namely, it puts the Department in a position to require all cities to develop a GIS program (since the only way to do cluster analysis using data from all 84 cities requires all data to be in the same format, the Department would be forced to require all cities to submit their data in GIS). The Department can not take the role of the regulatory agency and does not have legal authority to pose unenforceable requirements on other agencies.
- Each permmittee should evaluate trends and patterns of illicit connections and illicit discharges with their own data and with the technology available to them (GIS, tabular databases, etc.) since the purpose of this evaluation is to determine hot spots and priority areas, the information will be used by the permmittees themselves.
- To evaluate patterns and trends of Illicit Connections and Illicit Discharges, the County's data may suffice and at most, if the City of L.A. agrees, we can combine City of L.A. and County's data. Between these two agencies, enough data should be available to do cluster analysis. Additionally, any City that already has a GIS program implemented, may participate by sharing their data in a GIS format.

c) Training: **All Permittees shall train all targeted employees who are responsible for identification, investigation, termination, cleanup, and reporting of illicit connections and discharges. For Permittees with a population of less than 250,000, training shall be completed no later than ~~March 31, 2002~~** 6 months from the adoption of this permit. **For Permittees with a population of 250,000 or more, training shall be completed no later than ~~October 25, 2002~~** 12 months from the adoption of this permit. **Furthermore, all Permittees shall conduct refresher training on an annual basis thereafter.**

Since permit adoption date is not known (it has now been pushed to November), dates shall be adjusted accordingly.

d) Documentation and Reporting: Document and report all illicit connections, illicit discharges, and hazardous substances that enter the storm drain, within times specified in subsections 2 and 3 below.

2. Illicit Connections

a) Baseline Screening: All Permittees shall continue to screen the storm drain system for illicit connections during scheduled infrastructure maintenance. ~~On an annual basis~~, Permittees shall report, to the Regional Board Executive Officer, as part of their Annual Storm Water Report ~~to the Lead Permittee~~, on the location and length of open channels or closed storm drains that have been screened, and on the status of suspected, confirmed, and terminated illicit connections.

Permittees can incorporate these figures as part of their Annual Storm Water Report and Assessment.

b) Priority Screening: In addition to the baseline screening that will occur during regularly scheduled maintenance, Permittees shall design and implement a plan on or before October 31, 2002, subject to Regional Board Executive Officer approval, for proactive storm drain screening of priority areas that are, or are suspected to be a source of non-storm water discharges.

c) Investigation: Upon discovery through either baseline or priority screening, or upon receiving a report of a suspected illicit connection, Permittees shall initiate an investigation within 21 days, to determine the source of the connection, the nature and volume of discharge through the connection, and the responsible party for the connection.

~~d)~~ Termination: Upon confirmation of the illicit nature of a storm drain connection, Permittees shall ensure termination of the connection within 180 days, using enforcement authority as needed. For those cases of illicit connections that require more than 180 days to eliminate due to lengthy ~~court~~ legal proceedings, ~~the~~ Permittees shall provide written notification to the Regional Board Executive Officer ~~may grant time extensions on a case by case basis.~~

For cases that go to court, it greatly simplifies the process if we notify the Regional Board as these cases come up rather than to go through a whole process of time extensions requests. Additionally, the duration of these legal processes (which are outside of our control) is often uncertain.

3. Illicit Discharges

a) Abatement and Cleanup: Respond, within 72 hours of discovery or a report of a suspected illicit discharge, with activities to abate,

contain, and clean up all illicit discharges, including hazardous substances.

b) Investigation: As soon as practicable, during or immediately following containment and cleanup activities, take enforcement action as appropriate.

Part 5. DEFINITIONS

The following are definitions for terms applicable to this Order:

"Adverse Impact" means a detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants.

"Anti-degradation policies" means the *Statement of Policy with Respect to Maintaining High Quality Water in California* (State Board Resolution No. 68-16) which protects surface and ground waters from degradation. In particular, this policy protects waterbodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water.

"Applicable Standards and Limitations" means all State, interstate, and federal standards and limitations to which a "discharge" or a related activity is subject under the CWA, including "effluent limitations, "water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403 and 404 of CWA.

"Authorized Discharge" means any discharge that is authorized pursuant to an NPDES permit or meets the conditions set forth in this Order.

"Automotive Service Facilities" means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 5511, 7532-7534, or 7536-7539.

"BAT/BCT Criteria" means treatment-based standards for reducing the discharge of pollutants, as defined in 40 CFR subchapter N, for specific categories of industrial facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards. Effluent limitations have been defined in 40 CFR for the reduction of toxic pollutants using Best Available Technology Economically Achievable (BAT) and for the reduction of conventional pollutants using Best Conventional Pollutant Control Technology (BCT).

"Basin Plan" means the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Board on June 13, 1994 and subsequent amendments.

"Beneficial Uses" means the existing or potential uses of receiving waters in the permit area as designated by the Regional Board in the Basin Plan.

"Best Management Practices (BMPs)" are methods, measures, or practices designed and selected to reduce or eliminate the discharge of pollutants to surface waters from point and

nonpoint source discharges including storm water. BMPs include structural and nonstructural controls, and operation and maintenance procedures, which can be applied before, during, and/or after pollution producing activities.

"Commercial Development" means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, ~~multi-apartment buildings~~, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

Please clarify or remove multi-apartment buildings.

"Construction" means constructing, clearing, grading, or excavation that results in soil disturbance. Construction includes structure teardown. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

"Control" means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

"Dechlorinated Swimming Pool Discharge" means swimming pool discharges which have no measurable chlorine and do not contain any detergents, wastes, or additional chemicals not typically found in swimming pool water. The term does not include swimming pool filter backwash.

"Development" shall mean any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction.

"Directly Adjacent" means situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

"Director" shall mean the Director of Public Works of the County and Person(s) designated by and under the Director's instruction and supervision.

"Directly Discharging" means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

"Discharge" when used without qualification means the "discharge of a pollutant."

"Discharge of a Pollutant" means: Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source" or, Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead

to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect Discharger."

"Disturbed Area" means an area that is altered as a result of clearing, grading, and/or excavation.

"Effluent limitation" means any restriction imposed by the Regional Board on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

"Environmentally Sensitive Areas" means an area "in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments" (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are: areas designated as Significant Ecological Areas by the County of Los Angeles (*Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976)* and amendments); or an area designated as a Significant Natural Area by the California Department of Fish and Game, Significant Natural Areas Program; or an area listed in the Regional Board Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" beneficial use; or an area identified by the Permittees as environmentally sensitive for water quality purposes[1]. See Attachment B for details of each listing.
The SEA designated by LA County is an extensive list that has considered threatened and endangered species, therefore we do not need the other two designations.

"Executive Advisory Committee" means the committee composed of representatives of the Los Angeles County Flood Control District, the City of Los Angeles, and the five Watershed Management Areas.

"General Construction Activities Storm Water Permit (GCASP)" is the general NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water from construction activities under certain conditions.

"General Industrial Activities Storm Water Permit (GIASP)" is the general NPDES permit adopted by the State Water Resources Control Board which authorizes the discharge of storm water from certain industrial activities under certain conditions.

"Hillside" means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25% or greater and where grading contemplates cut or fill slopes.

"Illicit Connection" shall mean any man-made conveyance that is connected to the storm drain system without a permit and through which prohibited non-storm water flows are discharged, excluding roof drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.
This simply incorporates the language from the existing approved model program for clarification purposes.

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[1] Regional Board is currently working with the City of Rancho Palos Verdes to recognize their identified local conservation areas

"Illicit Discharge" means any discharge to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non storm-water discharges except discharges pursuant to an NPDES permit, discharges that are identified in Part 1 of this order, and discharges authorized by the Regional Board Executive Officer.

"Illicit Disposal" means any disposal, either intentionally or unintentionally, of material(s) or waste(s) that can pollute storm water.

"Industrial/Commercial Facility" means any facility involved and/or used in either the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. This category of facilities includes, but is not limited to, any facility defined by the Standard Industrial Classifications (SIC). Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

"Infiltration" means the downward entry of water into the surface of the soil.

"Large Municipal Separate Storm Sewer System (MS4)" means all MS4s that serve a population greater than 250,000. The complete definition is contained in 40 CFR Section 122.26 (b)(4). The Regional Board designated Los Angeles County as a large MS4 in 1990, based on: (i) the U.S. Census Bureau 1990 population estimate of 8.9 million, and (ii) the interconnectivity of the MS4s in the incorporated and unincorporated areas within the County.

"Local SWPPP" means the Storm Water Pollution Prevention Plan required by the local agency if the project is not subject to the Statewide Construction Activities General Permit.

"Maximum Extent Practicable (MEP)" means the standard for implementation of storm water management programs to reduce pollutants in storm water. It is the maximum extent possible taking into account equitable consideration and competing facts, including, but not limited to: the gravity of the problem, public health risk, societal concern, environmental benefits, pollutant removal effectiveness, regulatory compliance, public acceptance, implementability, cost and technical feasibility. Section 402(p)(3)(B)(iii) of the CWA requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"Method Detection Limit (MDL)" is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR 136, Appendix B.

"Minimum Level (ML)" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

"Municipal Separate Storm Sewer System (MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs,

gutters, ditches, manmade channels, or storm drains) owned by a State, city, county, town or other public body, that is designed or used for collecting or conveying storm water, which is not a combined sewer, and which is not part of a publicly owned treatment works, and which discharges to Waters of the United States.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program."

"New Development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

"Non-Storm Water Discharge" means any discharge to a storm drain that is not composed entirely of storm water.

"Nuisance" means anything that meets all of the following requirements: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; (3) occurs during, or as a result of, the treatment or disposal of wastes.

"Parking Lot" means land area or facility for the parking or storage of motor vehicles used personally, for businesses or for commerce with a lot size of 5,000 square feet or more, or with 25 or more parking spaces.

"Permit" means an authorization, license, or equivalent control document issued by USEPA or an "approve State" to implement the requirements of 40 CFR Parts 122, 123, and 124. "Permit" includes an NPDES "general permit" (§ 122.28). Permit does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

"Permittee(s)" means Co-Permittees and any agency named in this Order as being responsible for permit conditions within its jurisdiction. Permittees to this Order include the Los Angeles County Flood Control District, Los Angeles County, and the cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Canada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier.

"Pollutants" means those "pollutants" defined in Section 502(6) of the federal Clean Water Act (33.U.S.C.§1362(6)), or incorporated into California Water Code §13373. Examples of pollutants include, but are not limited to the following:

- Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
- Metals such as cadmium, lead, zinc, copper, silver, nickel, chromium, and non-metals such as phosphorus and arsenic;
- Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease)
- Excessive eroded soils, sediment, and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the State;
- Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities);
- Substances having characteristics such as pH less than 6 or greater than 9, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;

The term "pollutant" shall not include uncontaminated storm water, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

The term "pollutant" also shall not include any substance identified in this definition, if through compliance with the best management practices available, the discharge of such substance has been eliminated to the maximum extent practicable. ~~In an enforcement action, the burden shall be on the person who is the subject of such action to establish the elimination of the discharge to the maximum extent practicable through compliance with the best management practices available.~~

Reverses the burden of proof and violates the basic premise of our legal system.

"Potable Water Distribution Systems" means sources of flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, well development, pump testing fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and wells.

"Priority Pollutants" are those constituents referred to in 40 CFR 401.15 and listed in the USEPA NPDES Application Form 2C, pp. V-3 through V-9.

"Project" means all development and land disturbing activities. The term is not limited to "Project" as defined under California Environmental Quality Act (Pub Resources Code Section 21065).

"Rain Event" means any rain event greater than 0.1 inch in 24 hours.

"Receiving Waters" means all surface water bodies within the permit area that are identified in the Basin Plan.

"Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition ~~or replacement~~ of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related with

structural or impervious surfaces. Where redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated. Where redevelopment results in an increase in less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the addition must be mitigated, and not the entire development.

"Regional Administrator" means the Regional Administrator of the Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

"Restaurant" means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812).

"Retail Gasoline Outlet" means any facility engaged in selling gasoline and lubricating oils.

"Runoff" means any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of many base flow components either contaminated with pollutants or uncontaminated.

"Side Walk Rinsing" means pressure washing of paved pedestrian walkways with average water usage of 0.006 gallons per square foot, with no cleaning agents, and properly disposing of all debris collected, as authorized under Regional Board Resolution No. 98-08.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Source Control BMP" means any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

"SQMP" shall mean the Los Angeles Countywide Stormwater Quality Management Program.

"Storm Water Pollution Prevention Plan (SWPPP)" shall mean a plan, as required by a State General Permit, identifying potential pollutant sources and describing the design, placement and implementation of BMPs, to effectively prevent non-stormwater Discharges and reduce Pollutants in Stormwater Discharges during activities covered by the General Permit.

"Storm Water" shall mean storm water runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater Quality Management Program" shall mean the Los Angeles Countywide Stormwater Quality Management Program, which includes descriptions of programs, collectively developed by the Permittees in accordance with provisions of the NPDES Permit, to comply with applicable federal and state law, as the same is amended from time to time.

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g. canopy, structural enclosure). The category may include both treatment control BMPs and source control BMPs.

"SUSMP" means the Los Angeles Countywide Standard Urban Stormwater Mitigation Plan. The SUSMP shall address conditions and requirements of new development.

"Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background.

"Toxicity Identification Evaluation" means a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.

"Toxicity Reduction Evaluation" is a study conducted in a step-wise process to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity.

"Treatment" means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

"Treatment Control BMP" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

"USEPA Phase I Facilities" are facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR 122.26(c). These categories include:

i. facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards (40 CFR N)
ii. manufacturing facilities
iii. oil and gas/mining facilities
iv. hazardous waste treatment, storage, or disposal facilities
v. landfills, land application sites, and open dumps
vi. recycling facilities
vii. steam electric power generating facilities
viii. transportation facilities
ix. sewage of wastewater treatment works
x. light manufacturing facilities

"Water Column Toxicity" means a 70 percent survival rate for a single test or an average of 90 percent survival for three consecutive tests.

"Water Quality Standards and Water Quality Objectives" applicable to the Permittee include those contained in the Los Angeles Regional Water Quality Control Plan (Basin Plan), the California Ocean Plan, the National Toxics Rule, the California Toxics Rule, and other state or federally approved surface water quality plans. Such plans are used by the Regional Board to regulate all discharges, including storm water discharges.

"Waters of the State" means any surface water or groundwater, including saline waters, within boundaries of the state.

"Waters of the United States" or "Waters of the U.S." means:

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
b. All interstate waters, including interstate "wetlands";
c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
    1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
    2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
    3. Which are used or could be used for industrial purposes by industries in interstate commerce;
d. All impoundments of waters otherwise defined as waters of the United States under this definition;
e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
f. The territorial sea; and
g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraph (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.22(m), which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with US EPA.

"Wet Season" means the calendar period beginning October 1 through April 15.

"Whole Effluent Toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

Part 6. STANDARD PROVISIONS

A. Standard Requirements

1. ~~The~~ Each Permittees shall comply with all provisions and requirements of this permit applicable to it.

2. Should ~~the~~ a Permittees discover a failure to submit any relevant facts or that it submitted incorrect information in a report, it shall promptly submit the missing or correct information.

3. ~~The~~ Each Permittees shall report all instances of non-compliance not otherwise reported at the time monitoring reports are submitted.

4. This Order includes the attached Monitoring and Reporting Program, and Standard Urban Storm Water Mitigation Plan, which are a part of the permit and must be complied with in the same manner as with the rest of the requirements in the permit.

   Changes suggested to clarify that violation is on a Permitte-by-Permittee basis.

B. Regional Board Review

1. Any formal determination or approval made by the Regional Board Executive Officer pursuant to the provisions of this Order may be reviewed by the Regional Board. Such review may be requested upon petition by a Permittee(s) or a member of the public within 30 days of the effective date of the notification of such decision to the Permittee(s).

C. Public Review

1. All documents submitted to the Regional Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. Section 552 (as amended) and the Public Records Act (California Government Code Section 6250 *et seq.*).

2. All documents submitted to the Regional Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

D. Duty to Comply

1. ~~The Principal~~ Each Permittee must comply with all of the terms, requirements, and conditions of this Order applicable to it. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance or modification, denial of an application for reissuance; or a combination thereof.

2. A copy of these waste discharge specifications shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees and members of the public.

3. Any discharge of wastes by any Permittee at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

   Changes suggested to clarify that violation is on a Permitte-by-Permittee basis and also to conform wording to U.S. EPA Regulations.

E. Duty to Mitigate [40 CFR 122.41 (d)]

~~The~~ Each Permittees shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

Change suggested to clarify that violation is on a Permitte-by-Permittee basis.

F. Inspection and Entry [40 CFR 122.41(i), CWC Section 13267]

The Regional Board, USEPA, and other authorized representatives shall be allowed:

1. Entry upon premises where a regulated facility is located or conducted, or where records are kept under conditions of this Order;
2. Access to copy any records that are kept under the conditions of this Order;
3. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and,
4. To photograph, sample, and monitor for the purpose of assuring compliance with this Order, or as otherwise authorized by the Clean Water Act and the California Water Code.

G. Proper Operation and Maintenance [40 CFR 122.41 (e), CWC Section 13263(f)]

The Permittees shall at all times properly operate and maintain all facilities and systems of treatment and (and related appurtenances) that are installed or used by the Permittees to achieve compliance with this Order. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar system that are installed by a Permittee only when necessary to achieve compliance with the conditions of this Order.

H. Signatory Requirements [40 CFR 122.41(k)]

Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Board shall be signed by the Director of Public Works, City Engineer, or authorized designee ~~under penalty of perjury~~ and certified as set forth in 40 CFR 122.22.

R0004671

I. Reopener and Modification [40 CFR 122.41(f)]

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Board, in accordance with the procedural requirements of the Water Code and Title 23 of the California Code of Regulations for the issuance of waste discharge requirements, and upon prior notice and hearing for any of the reasons set forth in 40 CFR 122.62 or, to:

   a) ~~Address changed conditions identified in the required reports or other sources deemed significant by the Regional Board~~;

   b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan;

   ~~c) Comply with any applicable requirements, guidelines, and/or regulations issued or approved pursuant to CWA Section 402(p); and/or,~~

   ~~d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.~~

   The U.S. EPA Regulations provide detailed criteria for the amendment of a permit, which are not reflected in current language.

2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

   a) Violation of any term or condition contained in this Order;

   b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts; or,

   c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

~~3. This Order may be modified, revoked and reissued, or terminated for cause.~~

This provision is superfluous.

4. The filing of a request by the Principal Permittee for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

5. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR Part 122.63, if processed as a minor modification. Minor modifications may only:

   a) Correct typographical errors, or

   b) Require more frequent monitoring or reporting by the Permittee.

J. Severability

The provisions of this permit are severable; and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected.

K. Duty to Provide Information [40 CFR 122.41(h)]

The Permittees shall furnish, within a reasonable time, any information the Regional Board or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Permittees shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.

L. Twenty-four Hour Reporting [40 CFR 122.41(l)(6)][2]

1. The Permittees shall report ~~any noncompliance~~ the exceedance of any narrative effluent limitations that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time any Permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

   As noted above, footnote moved into the text, and assumption made that violation effluent limit is the only circumstance requiring reporting under this provision.

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[2] ~~This provision applies to incidents where effluent limitations (numerical or narrative) as provided in this Order or in the Los Angeles County SQMP are exceeded, and which endanger public health or the environment.~~

2. The Regional Board may waive the required written report on a case-by-case basis.

M. Bypass [40 CFR 122.41(m)][3]

Bypass (the intentional diversion of waste streams from any portion of a treatment facility) of any storm water control or BMP as provided in this Order or in the SQMP and installed by a Permittee is prohibited. The Regional Board may take enforcement action against Permittees for bypass unless:
Footnote moved in the text for clarity.

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.);

2. There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that could occur during normal periods of equipment downtime or preventive maintenance;

3. The Permittee submitted a notice at least ten days in advance of the need for a bypass to the Regional Board; or,

4. Permittees may allow a bypass to occur that does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. In such a case, the above bypass conditions are not applicable. The Permittee shall submit notice of an unanticipated bypass as required.

N. Upset [40 CFR 122.41(n)][4]

1. A Permittee that wishes to establish the affirmative defense of an "upset" (as defined in 40 CFR 122.41(n)) in an action brought for non compliance shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   Suggest deleting the footnote and adding reference to the definition of "upset."

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[3] ~~This provision applies to the operation and maintenance of storm water controls and BMPs as provided in this Order or in the SQMP.~~

[4] *Supra*. See footnote number 2.

a) An upset occurred and that the Permittee can identify the cause(s) of the upset;

b) The permitted facility was being properly operated by the time of the upset;

c) The Permittee submitted notice of the upset as required; and,

d) The Permittee complied with any remedial measures required.

2. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.

3. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

O. Property Rights [40 CFR 122.41(g)]

This Order does not convey any property rights of any sort, or any exclusive privilege.

P. Enforcement

1. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The Clean Water Act provides the following:

a) Criminal Penalties for:

(1) Negligent Violations:

The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations:

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment:

The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or

serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement:

The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed of required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309(c)(4) of the Clean Water Act.)

b) Civil Penalties

The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation.

2. The California Water Code provides that any person who violates a waste discharge requirement provision of the California Water Code is subject to civil penalties of up to $5,000 per day, $10,000 per day, or $25,000 per day of violation; or when the violation involves the discharge of pollutants, is subject to civil penalties of up to $10 per gallon per day or $25 per gallon per day of violation; or some combination thereof, depending on the violation or combination violations.

Q. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41(c)]

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

R. Modifications to this Order

~~This Order may be modified, revoked, or reissued, prior to the expiration date as follows:~~

~~1. To address changed conditions identified in the required technical reports or other sources deemed significant by the Regional Board;~~

~~2. To incorporate applicable requirements or statewide water quality control plans adopted by the State Board, or amendments to the Basin Plan;~~

~~3. To comply with any applicable requirements, guidelines, or regulations issued or approved under Section 402(p) of the CWA, if the requirement, guideline, or regulation so issued or approved contains different conditions or additional requirements not provided for in this Order. The Order as modified or reissued under this paragraph shall also contain any other requirements of the CWA then applicable; or,~~

~~4. Any amendments under the Clean Water Act.~~

Provision is superfluous; already covered above.

S. Rescission

Regional Board Order No. 96-054 is hereby rescinded.

T. Expiration

This Order expires on [October 25, 2006]. The Principal Permittee must submit a Storm Water Quality Management Plan in accordance with Title 23, California Code of Regulation, not later than 180 days in advance of such date as application for reissuance of waste discharge requirements.

I, Dennis A. Dickerson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on October 25, 2001.

_____

Dennis A. Dickerson
Executive Officer

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

MONITORING AND REPORTING PROGRAM - CI 6948

FOR

MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES, EXCEPT THE CITY OF LONG BEACH

(NPDES PERMIT NO. CAS004001)

I. Program Reporting Requirements

A. Program Management

~~Permittees shall submit, no later than (3 months following the adoption of this Order), the Annual Storm Water Report and Assessment (Annual Report) for the period July 1, 2000, through October 25, 2001 documenting the status of the storm water management program (Program) up to permit reissuance and the results of analyses from the monitoring and reporting program.~~

Permittees shall submit, by October 15, 2002, the Annual Storm Water Report and Assessment for the period July 1, 2001, through June 30, 2002 documenting the status of the general program. The report shall consist of two parts; one is for the period from July 1, 2001, to the date of permit reissuance (currently set for October 25, 2001) and the second is for the period from October 26, 2001 through June 30, 2002.

The ~~Principal~~ Permittees shall submit, by October 15 of each year beginning the year 2002, an Annual Report documenting the progress of Permittee implementation of the Storm Water Quality Management Plan (SQMP) and the requirements of this Order.

The responsibility of annual reporting should not be solely that of the Principal Permittee, but that of all Permittees.

The Principal Permittee shall submit a**An** integrated summary of the results of analyses from the Monitoring Program described under *II. Monitoring Requirements* shall also be included.

The Principal Permittee, as part of the Annual Report, shall evaluate the ~~Annual Report with the~~ results of analyses from the Monitoring Program to measure the effectiveness of the SQMP. ~~(e.g. if the monitoring results show a particular constituent consistently at elevated levels, that may be a trigger for Permittees to address their programs specifically for that particular situation and change them accordingly to address the problem).~~

It is more appropriate to link the SQMP and the result of analyses from the Monitoring Program together. The Regional Board should specify how to relate the result of the monitoring program with the SQMP.

R0004678

The Annual Report shall cover each fiscal year from July 1 through June 30. At a minimum, the Annual Report will include the following:

1. All proposed changes to the SQMP as approved by the Executive Advisory Committee (EAC).

2. A comparison of program implementation results to performance standards established in this Order and in the SQMP.

3. Status of compliance with permit requirements including implementation dates for all time-specific deadlines. If permit deadlines are not met, Permittees shall report the reasons why the requirement was not met, how the requirements will be met in the future, including projected implementation date.

4. An assessment of the effectiveness of SQMP requirements to reduce storm water pollution. This assessment will be based upon the specific record-keeping information requirement in each major section of the permit, monitoring data, and any other information related to program effectiveness. ~~Beginning in the Year 2002, to the extent that data collected in monitoring requirements included herein and existing monitoring data allows, the Principal Permittee shall include an analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses.~~ Suggestions may be made for improvements to the SQMP based on the assessment.

   Analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses are moved to the monitoring program reporting section.

5. ~~An analysis of the data to identify areas of the Program coverage which cause or contribute to exceedances of water quality standards or objectives, predominate land uses in those areas, and potential sources of pollutants in those areas.~~

   This portion has already been addressed in Part I.I.1.e).

6. Discussion of the compliance record and the corrective actions taken or planned that may be needed to bring the discharge into full compliance with the waste discharge requirements.

B. Public Information and Participation Program (PIPP)

The Principal Permittee shall submit an annual PIPP Update to the Regional Board Executive Officer for approval. The PIPP Update shall include a summary of the overall strategy and any updates or modifications to the PIPP.

Programs for Residents

1. Number of storm drain inlets and designated public access points to creeks, channels, and other relevant water bodies in each Permittees' systems that are marked or posted with a no dumping message. If the requirement that 100 percent of storm drains inlets are marked/signed is

not met, each Permittee shall report the reasons why, and how the requirement will be met in the future, including the implementation date.

2. Description of activities on distributing brochures, community outreach efforts, public communication efforts and educational programs in schools including an estimate of the number of impressions per year made on the general public about storm water quality via print, local TV access, local radio presentations, meetings or other appropriate media.

3. Description of the quarterly Public Outreach Strategy meetings, including percentage of Permittee attendance, effectiveness at coordinating Permittee education programs, and overall effectiveness based on Permittee evaluations. Also, a description of each Permittee's participation in and contribution to the PIPP.

4. Description of activities for the Pollutant-Specific Outreach programs, including creating and distributing outreach materials to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate counters and events.

Programs for Businesses

1. Description of the Corporate Outreach program, including the number of consultations with corporate-level management of gas stations and restaurant chains and the percentage of the total.

2. Description of the Business Assistance Program, including the number of businesses that requested assistance and the number that were assisted through site visits, telephone consultations, presentations, or material distribution.

C. Industrial/Commercial Facilities Program

1. An annual update of the watershed-based inventory of all Industrial/Commercial sites identified as a threat to water quality. This includes all Phase I industrial facilities, motor vehicle repair shops, motor vehicle body shops, motor vehicle parts and accessories facilities, restaurants, and other facilities that contribute or have the potential to contribute to impairments of receiving waters. The inventory shall include at a minimum: facility name, site address, SIC code and narrative description of activities performed at each facility.

2. Number of restaurants, automotive businesses, industrial facilities, and other commercial facilities targeted under the program. During the past year, the number of industrial and commercial inspections conducted, the number of non-compliant sites, and the number of industrial facilities the Permittees have identified that have failed to file an NOI.

3. The percentage of targeted staff trained annually.

D. Development Planning Program

1. Total number and percent of all development projects reviewed and conditioned to meet SUSMP requirements by category such as residential, commercial, and industrial.

2. Total square feet of impervious area conditioned for mitigation by development and redevelopment category.

3. Significant date rewrite completed of General Plan with storm water considerations.

4. Percent and total number of targeted staff trained annually [100 percent].

~~5. Date CEQA guidelines revision completed to include storm water mitigation conditions.~~

The consideration of potential storm water quality impacts is already an element of the CEQA guidelines. It does not need to be included in this draft permit.

R0004681

6. Date BMP design and sizing technical manual completed and made available electronically.

E. Construction Development Program

1. Number of construction projects requiring local SWPPPs in the past year and the percentage of projects in categories requiring submittal of a local SWPPP for which local SWPPPs were completed.

2. Number and type of enforcement actions, applicable to storm water enforcement, taken at construction sites during the past year.

~~3. Description of the outreach program to the construction community and assessment of its effectiveness; This assessment should include a discussion of the number of inspections, or other meetings conducted.~~

The requirement was taken out in the program section because the outreach program is already being done in the pre-construction meeting with developers and contractors.

R0004682

4. The percentage of targeted staff trained annually.

F. Illicit Connections and Illicit Discharges Elimination Program

1. Annual update of the analytical tool used to manage and track illicit connections and discharges, including an evaluation of patterns and trends of illicit connections and illicit discharges in the entire storm drain system.

2. Location and length of open channels and closed storm drains that were screened by all Permittees, and the status of all suspected, confirmed, and terminated illicit connections.

3. Number of reports of illicit discharges that Permittees responded to, percentage that were identified as actual illicit discharges, and percentage of the actual illicit discharges where the incident was either cleaned up, referred to another responsible agency and/or follow up/education with the discharger was conducted.

4. Percentage of cleanup and abatement activities that occurred within 72 hours of discovery or report of a suspected illicit discharge and justification for response activities that exceeded 72 hours.

5. For groups of identified illicit discharge types where the probable causes for the discharge can be identified, report probable causes and the actions taken to prevent similar discharges from occurring.

6. Number of illicit connections identified in the past year.

7. Percentage of investigations that were initiated within 21 days of identification or a report of an illicit connection and justification for those that exceeded 21 days.

8. Number of illicit connections eliminated in the past year.

9. Percentage of illicit connections terminated within 180 days of identification and justification for terminations that exceeded 180 days.

10. Number and type of enforcement actions for storm water illicit discharges and/or illicit connections taken in the past year.

11. A summary from records on illicit discharges and connections which includes description of discharge, source, and enforcement action taken.

12. A summary from records on illicit connections which includes the number of illicit connections terminated by the issuance of a connection permit and those terminated by removal of the connection. This summary shall also include a breakdown of identified illicit connections by land use.

13. The percentage of targeted employees trained annually.

G. Programs for Facilities Maintenance

1. A summary which at a minimum includes the quantity, predominant types and likely sources of trash removed from catch basin inlets.

2. A summary of the total curb miles of streets swept annually and the percentage of total curb miles swept annually as a function of total curb miles.

3. The percentage of targeted staff trained annually.

~~H. Pollutants of Concern~~

~~1. A progress report on sources of pollutants of concern, BMPs for their control, and implemented BMP effectiveness.~~

A progress report does not exist. Moreover, it is redundant with Part I.I.1.e)

I. Monitoring Program Management

1. The Principal Permittee shall submit a Storm Water Monitoring Report (Monitoring Report) on August 15, 2002, and annually on August 15, thereafter. The report shall include:

a) Status of implementation of the monitoring program

b) Results of the monitoring program

c) A general interpretation of the results

d) Data, results, methods of evaluating the data, graphical summaries of the data, and an explanation/discussion of the data for each component of the monitoring program, including any specific reporting requirements included in Section II. Monitoring Program

~~e) An analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses~~

An analysis of trends, land use contributions, pollutant source identifications, BMP effectiveness, and impacts on beneficial uses, if data is available.

f) ~~Suggestions for improvements to the SQMP based on the analysis~~

It is redundant with Part I.A.4.

g) All monitoring reports shall be submitted in both electronic and paper formats

~~2. The Principal Permittee shall~~

It is an incomplete sentence.

R0004684

~~3. The Principal Permittee shall submit, no later than (3 months following the adoption of this Order), the results of analyses from the monitoring and reporting program for the period July 1, 2000 through October 25, 2001 together with the Annual Report for the same period.~~

The item has been revised and addressed in Part I.A based on a discussion with Wendy Phillips.

J. All applications, reports, or information submitted to the Regional Board shall be signed and certified pursuant to EPA regulations 40 CFR 122.41 (k). Each report shall contain the following completed declaration:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility, of a fine and imprisonment for knowing violations.

Executed on the ___ day of _____ , 20_,

at _____.

(Signature)_____(Title)_____";

Permittee submittals to the Principal Permittee shall also be signed and certified pursuant to EPA regulations 40 CFR 122.41 (k).

The Principal Permittee shall mail the original of each annual report to:

INFORMATION TECHNOLOGY
CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD - LOS ANGELES REGION
320 W. 4TH STREET, SUITE 200
LOS ANGELES, CA 90013

A copy of the annual report shall also be mailed to:

REGIONAL ADMINISTRATOR
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105

R0004685

II. Monitoring Program

The primary objectives of the Los Angeles County Storm Water Quality Monitoring Program include, but are not limited to: 1) assessing compliance with this Order; 2) measuring and improving the effectiveness of the SQMPs; 3) assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff; 4) characterization of storm water discharges; 5) identifying sources of pollutants; and 6) assessing the overall health and evaluating long-term trends in receiving water quality. Ultimately, the results of the monitoring requirements outlined below should be used to refine the SQMPs for the reduction of pollutant loadings and the protection and enhancement of the beneficial uses of the receiving waters in Los Angeles County.

The Principal Permittee and the Permittees shall implement the Countywide Storm Water Monitoring Program as follows:
The Permittees shall be responsible for implementing Toxicity Reduction Evaluations (B.3.b) and Trash Monitoring (E), and the City of Los Angeles shall monitor shoreline stations (D).

1. Mass Emissions

The Principal Permittee shall monitor mass emissions to accomplish the following objectives: 1) estimate the mass emissions from the MS4; 2) assess trends in the mass emissions over time; and 3) determine if the MS4 is contributing to exceedances of water quality objectives by comparing results to objectives in the Basin Plan, Ocean Plan, and with emissions from other dischargers.

1. The Principal Permittee shall monitor mass emissions from the following seven mass emission stations: Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, Coyote Creek, Dominguez Channel, and the Santa Clara River (location to be determined prior to the adoption of this Order). The Principal Permittee shall monitor the first storm event and a minimum of 2 additional storm events for each season. A minimum of two dry weather samples per year at each mass emission station shall also be analyzed.

2. All storms, in addition to those required above, totaling at least 0.25 inches of rainfall shall be sampled and analyzed for TSS. Results shall be used to assess the variability of storm water constituents and provide a more accurate estimate of median mass emissions (pollutant correlation with TSS). This requirement does not apply to manual sampling stations.

3. Samples for mass emission station monitoring may be taken with the same type of automatic sampler used under Order 96-054. Grab samples shall be taken for pathogen indicators and oil and grease. The samplers shall be set to monitor storms totaling 0.25 inches or greater of rainfall. Samples taken at mass emission stations during the first storm event should be analyzed for all constituents listed in Attachment U-1. The Principal Permittee may elect not to sample Volatile Organic Compounds from the list of constituents for mass emission stations.

4. Manual samples shall be collected from mass emission stations where it is not feasible to install an automatic sampler (Santa Clara River). Manual samples shall be time-weighted composites, collected during the first 3

hours, or for the duration of the storm if it is less than 3 hours. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge[1], unless the Regional Board Executive Officer approves alternate protocol.

5. For the first storm of each year, method detection limits (MDLs) lower than or equal to the minimum levels identified in the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000 (SIP) shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year. If a constituent has been detected in 100 percent of samples during the last 2 years of monitoring, the Principal Permittee may continue to use the MDLs listed in column B until the constituent is not detected, afterwhich, the method detection limits shall be lowered to those in column A.

6. If a constituent is not detected at the method detection limit for its respective test method listed in Attachment U-1 in more than 25 percent of the first ten sampling events or on a rolling basis using ten consecutive sampling events, it need not be further analyzed, with the exception of the first storm of each season, unless the observed occurrences show high concentrations and are cause for concern.

B. Water Column Toxicity Monitoring

The Principal Permittee shall analyze mass emission samples for toxicity to evaluate the extent and causes of toxicity in receiving waters and to modify and utilize the SQMP to implement practices that eliminate or reduce sources of toxicity in storm water.

1. The Principal Permittee shall analyze two wet weather samples and two dry weather samples from each mass emission station for toxicity per year. A minimum of one freshwater and one marine species shall be used for toxicity testing. Specifically, Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization shall be used. Only Ceriodaphnia dubia shall be used for toxicity testing of samples from the Santa Clara mass emission station. If toxicity is not detected in either of the dry weather samples for any given mass emission station, the Principal Permittee may reduce dry weather toxicity testing to one sample per year at that station. If toxicity is not detected in either of the wet weather samples for any given mass emission station, wet weather toxicity testing may be reduced to one sample from the first storm of the wet season per year at that station.

2. Toxicity Identification Evaluations (TIE)

The Principal Permittee shall conduct Phase I TIEs on wet weather samples when two consecutive samples from the same monitoring station

[1] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

show toxicity and on dry weather samples when two consecutive dry weather samples from the same monitoring station show toxicity.

3. Toxicity Reduction Evaluations (TRE)

~~a) The Principal Permittee shall perform a TRE for each pollutant or pollutant class that is identified as toxic. TREs shall include the following:~~

A coalition of the permittees, Regional Board staff and a third party shall collaborate to evaluate BMPs and develop protocols/procedures for TRE implementation.

(1) An analysis of possible sources of toxicity, the identification of appropriate BMPs to eliminate toxicity and a time schedule for toxicity reduction that considers BMP implementation and effectiveness time. The Principal Permittee, the Permittees, Regional Board staff, and a third party will collaborate to develop and evaluate the analysis and recommendations.

The Permittees need to be included in the process of developing and evaluating the analysis and recommendations.

(2) Submittal of the analysis to the Regional Board Executive Officer for approval.

The Principal Permittee may use EPA manual EPA/833B-99/002 (municipal) as guidance for TRE preparation.

b) Upon approval by the Regional Board Executive Officer, each Permittee having jurisdiction over sources causing or contributing to storm water toxicity shall be responsible for implementing the recommended BMPs to reduce toxicity.

c) During TRE development and implementation, the Principal Permittee shall continue monitoring the first storm and one dry weather event per year for toxicity at the subject station. According to the time schedule included in the TRE, the Principal Permittee shall analyze two wet weather and two dry weather samples for toxicity to evaluate the effectiveness of the TRE.

d) The Principal Permittee and the Permittees shall conduct a maximum of two TREs per year. If applicable, the Principal Permittee and the Permittees may use the same TRE for the same toxic pollutant or pollutant class in different watersheds.

Both the Principal Permittee and the Permittees are responsible for implementing the recommended BMPs to reduce toxicity.

e) The Principal Permittee shall report on the development, implementation, and results for each TRE in the annual Monitoring Reports, beginning the year following the identification of each pollutant or pollutant class causing toxicity.

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f) The Principal Permittee shall contribute up to a maximum of $300,000 for the TRE analysis and monitoring.

C. Tributary/Source Identification Monitoring

The Principal Permittee shall monitor ~~select~~ selected tributaries to identify sources of pollutants in subwatersheds, prioritize locations that need management actions, provide ~~baseline~~ information for TMDL development and ~~allocate pollutant loads for TMDL development~~ generate pollutant loading information. ~~An additional purpose of this monitoring is to validate the Land Use Model.~~

The validation of the Land Use Model may not be possible in the way Tributary Monitoring is designed now.

1. The Principal Permittee shall develop and implement a tributary/source identification monitoring program[2]. The following tributaries which have been identified as contributing the greatest loads of metals per acre in each subwatershed (based on the last four years of data for land use type, area, and rainfall) shall be monitored:

   a) Centinela Creek (Ballona Creek WMA)
   b) Kenter Canyon (Ballona Creek WMA)
   c) Aliso Creek (Los Angeles River WMA)
   d) Bull Creek (Los Angeles River WMA)
   e) Compton Creek (Los Angeles River WMA)
   f) Los Cerritos Channel (San Gabriel River WMA)
   g) San Jose Creek (San Gabriel River WMA)

2. The Principal Permittee shall begin monitoring in the Los Angeles River watershed in the 2001-2002 storm season, and the San Gabriel River and Ballona Creek watersheds no later than the 2002-2003 storm season.

3. The Principal Permittee shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

4. Samples shall be time-weighted composites, collected during the first 3 hours, or for the duration of the storm if it is less than 3 hours. Samples may be collected manually or automatically. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge[3], unless the Regional Board Executive Officer approves alternate protocol. Samples shall be taken just upstream of the tributary's confluence with the mainstem. Constituents to be analyzed for each location shall include the following:

   a) pH, dissolved oxygen, temperature, conductivity, and total suspended solids

   b) Metals: aluminum, arsenic, beryllium, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

   c) All other constituents for which the water body is impaired[4].

   d) Flow (flow may be estimated using EPA methods[5] at sites where flow measurement devices are not in place).

5. For the first storm of each year, MDLs lower than or equal to the minimum levels identified in the SIP shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either

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[2] The Principal Permittee is currently working with Regional Board staff to modify this program

[3] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

[4] The 1998 California 303(d) List and TMDL Priority Schedule lists pollutants for which each water body is impaired, www.swrcb.ca.gov/tmdl/docs/303d98.pdf#reg4

[5] NPDES Storm Water Sampling Guidance Document, EPA 833-B-92-001, July 1992

not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year.

~~6.~~ The Principal Permittee shall submit a report identifying sources and/or source areas of pollutants within each watershed ~~and priority management actions~~ as part of the fourth Monitoring Report, to be submitted in 2005. ~~The SQMP shall be modified to reflect the identified priority management actions.~~

Tributary/Source Identification Monitoring can not be used to evaluate management actions or SQMPs.

D. Shoreline Monitoring

The City of Los Angeles shall monitor shoreline stations to evaluate the impacts to coastal receiving waters and the loss of recreational beneficial uses resulting from urban runoff. This component should be integrated and coordinated with similar monitoring programs in the region.

1. The City of Los Angeles shall monitor eighteen water quality sampling stations along the shoreline of the Pacific Ocean within the Santa Monica Bay to determine compliance with the State of California's bathing water standards for public beaches and ocean water-contact sport areas[6], and the related impacts of discharges from storm drains and piers. The shoreline monitoring program shall be implemented as follows:

   a) The eighteen established shoreline water quality stations listed in Attachment U-2 shall be monitored. Station locations may be modified based on recommendations from the Santa Monica Bay Restoration Project (SMBRP) and approval from the Regional Board Executive Officer;

   b) Three indicator groups shall be tested for using either membrane filtration, multiple tube fermentation, or chromogenic substrate test kits. Monitoring shall include the following types and frequencies of sampling:

Parameter	Units	Sample Frequency
Total coliforms	CFU or MPN/100 ml	6/week (Mon-Sat)[7]
Fecal Coliform[8]	CFU or MPN/100 ml	6/week (Mon-Sat)[5]
Enterococcus	CFU or MPN/100 ml	6/week (Mon-Sat)[5]

   c) Shoreline monitoring shall occur during daylight hours. Samples may be omitted in the event of hazardous weather;

   d) Shoreline monitoring frequencies at certain stations may be modified based on the use of the adjacent beaches and their proximity to storm drains, as recommended by the SMBRP's

[6] California Department of Health Services, Health and Safety Code §115880 (Assembly Bill 411, Statutes of 1997, Chapter 765

[7] Samples will be collected on Sundays preceding Monday holidays

[8] *Escherichia Coli (E. Coli)* may be substituted for Fecal Coliform if chromogenic substrate test kits are used

Technical Advisory Committee and the Los Angeles County Department of Health Services (DHS).

e) Data collected shall be transmitted daily to the Los Angeles County DHS. Data shall be assessed annually and presented in the Annual Report;

f) When exceedances of public health standards for bacteria occur, the ~~Principal Permittee~~ LA County DHS shall notify the appropriate Permittees. Permittees shall initiate an investigation to determine the source, as required in the Program to Eliminate Illicit Connections and Discharges (Part 4.F.2.c.).

Since the LA County DHS shall collect and assess the data, it should be the responsible agency that notifies the exceedances

g) The City of Los Angeles will continue to conduct all monitoring, testing, and data transferring actions as part of the Santa Monica Bay Restoration Project regional program for the Santa Monica Bay.

E. Trash Monitoring

The Principal Permittee and the Permittees in the Los Angeles River and Ballona Creek WMAs (listed in Attachment A) shall develop and implement a trash monitoring program for the Los Angeles River and Ballona Creek watersheds. The Principal Permittee is encouraged to implement the program in the watersheds that are not presently listed on the 303(d) list for impairment for trash.

This requirement seems to be a duplicate effort. Is this requirement linked to the Trash TMDL? The meaning of the watersheds that are not presently listed on the 303(d) list for impairment for trash was not clear.

The Principal Permittee shall participate on regional monitoring committees to help establish on-going regional programs that address public health concerns, monitor trends in natural resources and nearshore habitats, and assess regional impacts from all pollutant sources. Regional Monitoring participation shall include, but not necessarily be limited to, the efforts described below.

F. Estuary Sampling

The Southern California Coastal Waters Research Project (SCCWRP), in conjunction with the USEPA, the State Board, three Regional Boards, and participating dischargers, has organized an effort to implement a regional monitoring program for the southern California bight. Previous studies (in 1994 and 1998) included microbiology, water quality, sediment chemistry, sediment toxicity testing, benthic infauna, demersal fish, and bioaccumulation. A similar bight-wide monitoring effort is planned to be conducted in 2003. The Principal Permittee shall participate on the Steering Committee for this bight-wide monitoring project, and should complete the estuary sampling requirement described below in parallel with this effort.

In addition to participation in the Bight-wide study, the goal of this requirement is to sample estuaries for sediment chemistry, sediment toxicity, and benthic macroinvertibrate community to determine the spatial extent of sediment fate from storm water, and the magnitude of its effects. A map of each estuary which depicts the impacted areas shall be produced. The maps shall provide the information necessary to conduct effective sediment monitoring to determine trends and accumulation, as a future permit requirement.

1. The Principal Permittee shall sample a maximum of 25 sites in each estuary/mouth (Ballona Creek, Malibu Creek, Los Angeles River, San Gabriel River, and Dominguez Channel) once during the permit cycle. Sediment samples shall be taken at each station by means of a $0.1m^2$ ($1.1 ft^2$) modified Van Veen sediment grab sampler.

2. The Principal Permittee shall also sample a total of 25 sites outside of the direct outfalls to assess cumulative effects.

3. All samples shall be analyzed for the following:
   a) Sediment Chemistry (priority pollutants)
   b) Total Organic Carbon (TOC)
   c) Grain size
   d) Sediment Toxicity
      (1) Amphipod survival bioassays shall be conducted on each sediment sample. Toxicity shall be indicated by an amphipod survival rate of 70% or less in a single test.
      (2) Phase I TIEs of interstitial water, using Ceriodaphnia dubia and Strongylocentrotus purpuratus (sea urchin) fertilization, shall be conducted for samples from stations identified to be toxic in a single amphipod survival bioassay.
   e) Benthic Macroinvertibrates
      (1) All sediment samples shall be passed through a 1.0mm (0.039 in) screen to retrieve the benthic organisms. Benthic epifauna and infauna shall be analyzed to determine the structure of the benthic community.
      (2) The Principal Permittee shall identify all organisms to lowest possible taxon.
      (3) The Principal Permittee shall determine the Total Biomass of:
         (i) Mollusks
         (ii) Echinoderms
         (iii) Annelids/polychaetes
         (iv) Crustaceans
         (v) All other macroinvertebrates

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(4) The Principal Permittee shall determine the community structure analysis, including wet weight of each taxonomic group (listed above), number of species, number of individuals per species, total numerical abundance, species abundance per grab, species richness, species diversity, species evenness and dominance, similarity analysis, cluster analyses, or other appropriate multivariate statistical techniques approved by the Regional Board Executive Officer, and the Infaunal Index[9].

4. The Principal Permittee shall create a map of each estuary depicting degraded areas and the spatial distribution of sediment from storm water.

G. Bioassessment

The Principal Permittee shall continue participation on the Southern California Stormwater Research/Monitoring Program committee (coordinated by SCCWRP). The Regional Board anticipates that this program will organize an effort to evaluate the biological index approach for southern California and to design a research project for developing an Index of Biological Integrity (IBI) for this region. The Principal Permittee shall participate in this regional effort at least to the extent described below.

The purpose of this requirement is to detect biological trends in receiving waters and to collect data for the development of an IBI for southern California.

1. The Principal Permittee shall coordinate with the Southern California Stormwater Research/Monitoring Program and with the Surface Water Ambient Monitoring Program (SWAMP) being developed by the Regional Board to identify the most appropriate locations for bioassessment stations within Los Angeles County.

2. Station selection shall be complete within one year from the date this Order is adopted, and sampling shall begin in October of 2003.

3. The Principal Permittee shall monitor a minimum of 20 station events per year (either 20 stations in October of each year, or 10 stations in May and October of each year). A minimum of three replicate samples shall be collected at each station during each sampling event.

4. Sampling, laboratory, quality assurance, and analysis procedures shall follow the standardized "Non-point Source Bioassessment Sampling Procedures" for professional bioassessment as set forth in the California Department of Fish and Game California Stream Bioassessment Procedure (CSBP)[10]. The following results shall be included in the annual Monitoring Report:

[9] Benthic Response Index for Assessing Infaunal Communities on the Mainland Shelf of Southern California, the SCCWRP
[10] California Stream Bioassessment Procedure (Protocol Brief for Biological and Physical/Habitat Assessment in Wadeable Streams), California Department of Fish and Game - Aquatic Bioassessment Laboratory, May 1999. Located at www.dfg.ca.gov/cabw/protocols.html.

a) All physical, chemical and biological data collected in the assessment;

b) Photographic documentation of assessment and ~~reference stations~~;
Reference stations will not be monitored.

c) Documentation of quality assurance and control procedures;

d) Analysis that shall include calculation of the metrics used in the CSBP;

e) Comparison of mean biological and habitat assessment metric values between stations and year-to-year trends;

f) Electronic data formatted to the California Department of Fish and Game Aquatic Bioassessment Laboratory for inclusion in the Statewide Access Bioassessment Database.

5. A professional environmental laboratory shall perform all sampling, laboratory, quality assurance, and analytical procedures.

H. New Development Impacts Study in the Santa Clara Watershed

The Principal Permittee and the City of Santa Clarita shall monitor tributaries in the Santa Clara watershed to determine impacts from new development and to compare storm water quality between subwatersheds with and without SUSMPs.

1. The Principal Permittee and the City of Santa Clarita shall select one station that is representative of a subwatershed in which the majority of development has occurred without SUSMP implementation, and one station (SUSMP station) in a subwatershed in which the majority of the development has/will include SUSMP implementation. Other inputs to runoff, such as septic systems, in the two subwatersheds should be similar.

2. The Principal Permittee shall coordinate with the City of Santa Clarita and the Regional Board to develop a proposed study design, including a description of the drainage areas to be monitored and sampling locations, no later than 180 days from the date this Order is adopted. If appropriate, this study may be conducted in conjunction with the Peak Discharge Impact Study, described in Section I.

3. The Principal Permittee and the City of Santa Clarita shall monitor the first storm event and at least 2 additional storm events during each storm season. At least one dry weather event per year will also be sampled at each station.

4. Samples shall be time-weighted composites, collected during the first 3 hours, or for the duration of the storm if it is less than 3 hours. Samples may be collected manually or automatically. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within

each hour of discharge[11], unless the Regional Board Executive Officer approves alternate protocol. Constituents to be analyzed for each location shall include the following:

a) pH, dissolved oxygen, temperature, conductivity, chloride, nitrogen, and TSS

b) Metals: aluminum, arsenic, beryllium, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

c) Pathogen Indicators (Coliform)

d) Flow (flow may be estimated using EPA methods at sites where flow measurement devices are not in place)

There is a need for more discussion about selection of the constituents described above.

5. For the first storm of each year, MDLs lower than or equal to the minimum levels identified in the SIP shall be used. These levels are listed in column A in Attachment U-1. Where SIP minimum levels are detected, those MDLs shall continue to be used. For constituents that are either not detected or detected at a concentration higher than the MDLs listed in column B in Attachment U-1, the higher MDLs may be used for the remaining sampling events of that year.

6. The Principal Permittee and the City of Santa Clarita shall submit an analysis of the data, including a description of each subwatershed, year-to-year changes compared to the amount of development that occurred in each, comparisons between stations, and an analysis of SUSMP effectiveness, with the ~~fifth~~ fourth year Monitoring Report.

This reporting requirement needs to be consistent with others.

I. Peak Discharge Impact Study

The Principal Permittee shall participate in a study to evaluate peak storm water discharge rate (PDR) control and to determine numeric criteria to prevent or minimize erosion of natural stream channels and banks caused by urbanization ~~(Part 4.C.2.)~~ (Part 4.D.2.). The Principal Permittee may partner with the Ventura County Flood Control District to extend their stream erosion study to the Santa Clara River watershed. ~~The study shall begin no later than 360 days from the date this Order is adopted.~~

The timeline for this requirement needs to be consistent with Part 4.D.2 (Development Planning Program).

J. BMP Effectiveness Study

The Principal Permittee shall conduct or participate in studies to evaluate the effectiveness of structural and treatment control storm water best management practices. The objectives of this study shall include the following:

[11] Provisions for flow-weighted composite samples set forth in 40 CFR 122.21(g)(7)

1. Monitor the reduction of pollutants of concern in storm water (including, but not limited to: trash, suspended sediment, pathogen indicators, nutrients, heavy metals, and oil and grease) from five or more different types of BMPs that have been properly installed within the year proceeding monitoring. Monitoring shall be continued until the effectiveness of the BMP can be determined.

2. Evaluate the requirements, feasibility and cost of maintenance for each BMP.

3. Develop recommendations for appropriate BMPs for the reduction of pollutants of concern in storm water in Los Angeles County.

The Principal Permittee may participate in the Santa Monica Bay Restoration Foundation's proposed study, "Performance Evaluation of Structural BMPs for Storm water Pollution Control in the Santa Monica Bay Watershed" to meet this requirement. Participation includes collaboration and resource contribution to expand the scope of the proposed study.

K. Standard Monitoring Provisions

1. The Principal Permittee shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.

   Records of monitoring information shall include:

   a) The date, exact place, and time of sampling or measurements;

   b) The individual(s) who performed the sampling or measurements;

   c) The date(s) analyses were performed;

   d) The individual(s) who performed the analyses;

   e) The analytical techniques or methods used; and,

   f) The results of such analyses.

2. All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order.

3. All chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency.

4. If no flow occurred during the reporting period, the Monitoring Report shall so state.

5. For any analyses performed for which no procedure is specified in the EPA guidelines or in this Monitoring Program, the constituent or parameter analyzed and the method or procedure used must be specified in the Monitoring Report.

6. The Regional Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring Program, after providing the opportunity for public comment, either:

   a) By petition of the Principal Permittee or by petition of interested parties after the submittal of the annual Monitoring Report. Such petition shall be filed not later than 60 days after the Monitoring Report submittal date, or

   b) As deemed necessary by the Regional Board Executive Officer following notice to the Principal Permittee.

Ordered by:

Dennis A. Dickerson
Executive Officer
Date:

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July 19, 2001

Mr. Dennis Dickerson,
Executive Officer,
California Regional Water Quality Control Board –
Los Angeles Region
Attn: Xavier Swamikannu, Ph.D.
320 West 4th Street, Suite 200
Los Angeles, California 90013

Re: Comments on "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)"

Dear Mr. Dickerson and Dr. Swamikannu:

On behalf of the Cities of Alhambra, Compton, El Segundo, Lomita, Santa Clarita and Torrance (the Cities) let me thank you and your staff for the opportunity to offer comments on the "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)" (the Second Draft") of the new storm water permit for Los Angeles County. This letter supplements my email, of April 10, 2001, which offered comments on the earlier "Discussion Draft." and my letter of May 14, 2001, which offered comments on the "First Draft."

We are pleased to note that a substantial number of the suggestions offered in those comments have been incorporated in the Second Draft. Many of the objectionable provisions have been removed, a number of definitions have been added and revised and language changes have been made which make the Second Draft a decided improvement over prior versions. More remains to be done, however, as we will explain below and in the enclosure.

Land Use Issues

The Cities, (and, we believe, a number of other cities) are concerned over a number of serious issues raised by the First Draft which have not yet been rectified. **These concerns include the Regional Board's invasion of the land use authority of the local governmental permitees** by requiring them to impose land use restrictions through the Storm Water Quality Management Plan ("SQMP") and the incorporation of Board Resolution No. R 00-02, (the SUSMP) (with, *e.g.*, the undefined requirement to "cluster" development, which could be argued to put an end to the single-family home) into the Permit. Congress made it clear in the very first section of the Clean Water Act that the CWA, including the NPDES program, is not meant to infringe on local land use authority:

> It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use (including restoration, preservation, and enhancement) of land and water resources . . . .

The US EPA's position on this issue is clear. EPA has said flatly **"EPA recognizes that land use planning is within the authority of local governments."** 64 Fed.Reg. 68761, December 8, 1999. Under California law, it is local government, cities and counties, and not state executive agencies, which exercise land use authority. The authority of cities and counties to regulate land use comes from the California Constitution. Article XI, §7 confers on local governments the authority to regulate land use, through the exercise of the "police power." The California Legislature, in enacting Government Code § 65800, declared

> **its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.**

Case law confirms the authority of cities and counties, recognizing that in their intrinsic character and by express declaration, state laws on county and city zoning are designed as standardizing limitations over local zoning practices, not as specific grants of authority to legislate. *Scrutton v. Sacramento County,* 275 Cal.App.2d 412 (1969). An attempt by a

Regional Board, an executive agency, to dictate land use and contents of a general plan has no foundation in California law and would violate the separation of powers doctrine.

Peak Flow Control

In addition, provisions from the First Draft which are carried over to the Second Draft would impose "Peak Flow Control" (Part 4.D.2) and post-construction "Numerical Design Criteria" (Part 4.D.5) appear to be attempts to control not the discharge of pollutants, but the discharge of unpolluted storm water. We continue to believe that the Board is mistaken that the Clean Water Act authorizes it to regulate the discharge of water, rather than the discharges which the Congress addressed in the Clean Water Act, *i.e.*, the discharge of pollutants. We are also particularly concerned that the "Peak Flow Control" and post-construction "Numerical Design Criteria" exceed the Board's authority to prescribe how the Clean Water Act's goals of reducing the discharge of pollutants to waters of the United States are to be achieved, and in so doing, violate the limitations of § 13360 of the California Water Code.

And furthermore....

Although a number of definitions have been clarified, and improved, we continue to have concerns over inconsistent use of defined terms. On the other hand, we were delighted to see that our recommendation to include citations to the governing US EPA regulations has been adopted, as a number of those citations now appear in the Second Draft of the Permit.

More detailed comments may be found in the enclosure. Those comments appear in the approximate order in which the matter in question appears in the Second Draft of the Permit, and not necessarily in the order of importance.

The Cities ask that this letter be included in the administrative record of this matter. The Cities reserve the right to offer further comments.

Very truly yours,

Rufus C. Young, Jr.

RUFUS C. YOUNG, JR.
Of BURKE, WILLIAMS & SORENSEN, LLP

LA #72705 v1

cc: Honorable Mayor and Members of the City Council of the Cities of Alhambra, Lomita and Santa Clarita
Legrand H. Clegg II, City Attorney, City of Compton
John Fellows III, City Attorney, City of Torrance
Andres Santamaria, Director of Public Works, City of El Segundo
Desi Alvarez, Chair, EAC
Jorge Leon, Senior Staff Counsel

Comments on
Second Draft (June 29, 2001)
LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD
ORDER No. 01-XXX (NPDES No. CAS004001)
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES
WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES
THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)

1. **Comment**: Contrary to the provisions of the Clean Water Act and California law, the Board continues to attempt to regulate local land use, rather than simply requiring the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable. In the Second Draft, Paragraph E.17, on page 10, refers to Board Resolution No. R-00-02, (the Standard Urban Storm Water Mitigation Plans (SUSMPs) Resolution), the State Board's Order No. WQ 2000-1 and the State Board's Chief Counsel's policy memorandum of December 26, 2000. We continue with our view that that these were wrongly adopted and decided as they conflict with section 101(b) of the Clean Water Act and conflict with local governments' authority over land use. We emphatically disagree that the State Board's Order No. WQ 2000-1 has the precedential and binding effect attributed to it by the State Board's Chief Counsel in the policy memorandum of December 26, 2000. In support of our position, we point to the very first section of the Clean Water Act. In CWA § 101(b), 33 U.S.C. § 1251(b), Congress made it clear that the CWA, including the NPDES program, is not meant to infringe on local land use authority:

> **It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use (including restoration, preservation, and enhancement) of land and water resources . . . .**

This policy was relied on recently by the Supreme Court of the United States in a case in which the Court limited federal authority under the CWA over local land use matters. In *Solid Waste Agency of Northern Cook County v. Army Corps of Engineers*, 531 U.S. 159 (2001), the Court struck down a rule of the Army Corps of Engineers under which the Corps claimed jurisdiction over isolated intra-state wetlands. The Court found that the rule:

> would result in a significant impingement of the States' traditional and primary power over land and water use. *See, e.g., Hess v. Port Authority*

> *Trans-Hudson Corporation*, 513 U.S. 30, 44 (1994) ("[R]egulation of land use [is] a function traditionally performed by local governments"). Rather than expressing a desire to readjust the federal-state balance in this manner, Congress [through the CWA] chose to "recognize, preserve, and protect the primary responsibilities and rights of States ... to plan the development and use . . . of land and water resources . . . ." 33 U.S.C. § 1251(b).

The US EPA has recognized that a "command and control" approach is inappropriate in the context of post-construction measures. In promulgating the Phase II regulations, EPA said **"EPA *recommends* that municipalities consider policies and ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure, in order to meet the measure's intent."** 64 Fed.Reg. 68742, December 8, 1999. EPA acknowledged the sensitivity of the issue: **"EPA is very aware of municipal concerns about possible federal interference with local land use planning."** 64 Fed.Reg. 68742, December 8, 1999. EPA declined to impose specific requirements for permits issued to small MS4s, instead stating

> **EPA *encourages* operators of regulated small MS4s** to identify specific problem areas within their jurisdictions and initiate innovative solutions and designs **to focus attention on those areas through local planning**.

64 Fed.Reg. 68759, December 8, 1999. **Finally, and most tellingly, in responding to comments on the Phase II regulations regarding Post-Construction Storm Water Management in New Development and Redevelopment, EPA said flatly "EPA recognizes that land use planning is within the authority of local governments."** 64 Fed.Reg. 68761, December 8, 1999.

It should be clear, then, that if there is authority for the Regional Board, through the SUSMP requirements, to regulate local land use, it does not come from the CWA, as Congress, with the express approval of the Supreme Court in the *SWANCC* case, and the EPA, have unequivocally disavowed any intention to use the CWA as a land use statute. Therefore, if the Board has authority to prescribe land use controls as a condition of a WDR/NPDES Storm Water permit, that authority must come from California law.

However, under California law, it is local government, cities and counties, and not state executive agencies, which exercise land use authority. The authority of cities and counties to regulate land use comes from the California Constitution. Article XI, §7 confers on local governments the authority to regulate land use, through the exercise of

the "police power." The California Legislature, in enacting Government Code § 65800, declared

> **its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.**

Case law confirms the authority of cities and counties, recognizing that in their intrinsic character and by express declaration, state laws on county and city zoning are designed as standardizing limitations over local zoning practices, not as specific grants of authority to legislate. *Scrutton v. Sacramento County,* 275 Cal.App.2d 412 (1969). Furthermore, in *Los Angeles v. California*, 138 Cal.App.3d 526, 533 (1982), it was recognized that

> the Legislature has been sensitive to the fact that planning and zoning in the conventional sense have traditionally been deemed municipal affairs. It [the Legislature] has thus made no attempt to deprive local governments (chartered city or otherwise) of their right to manage and control such matters, bur rather has attempted to impinge upon local control only to the limited degree necessary to further legitimate state interests.

Through the SUSMP provisions of the Second Draft, the Regional Board is attempting to regulate local land use by requiring the Co-permittees to impose constraints on land use. The Board's land use measures include requirements for "clustering" of residential development, (arguably spelling the end of developments featuring single-family homes), and requiring that local governments amend their General Plans and modify their CEQA project approval processes to require new development and redevelopment projects to adhere to the SUSMP provisions.

In enacting Government Code § 65302, the legislature, implementing Article XI, §7, prescribed the elements to be included in a city's or a county's general plan. For a Regional Board to now attempt to prescribe elements of a city's general plan, or worse, to dictate land use, violates the separation of powers doctrine.

In summary, the Board's encroachments upon local land uses and land use authority not only violate § 101(b) of the CWA, and are contrary to EPA policy, they are contrary to California law, which places land use control firmly in the hands of local governments, not state agencies. **Moreover, the Board's attempt to dictate land use decisions (*e.g.*, clustering) to local governments raises is contrary to the separation of powers doctrine, as the California Constitution and the Legislature have placed land use**

decisions in the hands of local governments. Neither the California Constitution nor the Legislature assign any land use authority to Regional Water Quality Control Boards.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

2. **Comment:** Paragraph E.23, page 12, cites State Board Order No. WQ 99-05 as specifying standard receiving water language to be included in permits. We continue to disagree that State Board Order No. WQ 99-05 retains its vitality, in view of the decision by the Ninth Circuit Court of Appeals in *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1164-66 (9th Cir., 1999), and disagree with the opinion of the State Board Office of Chief Counsel.

   Recommendation: Delete Paragraph E.23 and the receiving water limitation provisions of the Second Draft.

3. **Comment:** In paragraph F.3, on page 13, the citation to the *Headwaters, Inc.* case is incomplete.

   Recommendation: The citation should be revised to read: *Headwaters, Inc., v. Talent Irrigation District,* 243 F.3d 526 (9th Cir., 2001).

4. **Comment**: On page 14, paragraph G.4 fails to reference the limitations on permit coverage set forth in Findings D.2 and 3, and for that reason is incomplete.

   Recommendation: Revise the last sentence of Paragraph G.4 to read: "Each Co-permittee is responsible only for those discharges for which it is the operator, subject to the limitations on permit coverage set forth in Findings D.2 and 3, above."

5. **Comment:** Throughout the Permit: Inconsistent use of defined terms. For example, in Part 2, RECEIVING WATER LIMITATIONS, in paragraphs 1 and 3, on page 16, the terms "water quality standards" and "water quality objectives" are used. As these are defined terms, the first letter in each word in these terms should be capitalized, as in "Water Quality Standards" and "Water Quality Objectives." Failure to conform to the style of capitalizing the first letter in defined terms could lead to confusion and raises the

possibility that an inference is to be drawn from the lack of first-letter caps that a meaning other than that set forth in the definition of the defined term was intended.

Recommendation: All defined terms, including, but not limited to "Water Quality Standards," "Water Quality Objectives," "Storm Water," "Illicit Discharge," "Retail Gasoline Outlet" and "Pollutant" used in the Permit should be used in the same manner, *i.e.*, the first letter in each should be capitalized, each time the term is used.

6. **Comment:** Part 2, RECEIVING WATER LIMITATIONS, paragraph 1, on page 16, states that "Discharges from the MS4 that cause ***or contribute*** to the violation of water quality standards or water quality objectives are prohibited." This absolute (no contribution, in any quantity) prohibition conflicts with Finding B.2, under "Nature of Discharges and Sources of Pollutants," beginning on page 1. There, the Board recognizes that "[c]ertain pollutants present in storm water and/or urban runoff may be derived from extraneous sources over which "Permittees have no or limited" authority or jurisdiction. We also suggest that the provisions of paragraph 1, page 16, conflict with the Board's limitations on Permit Coverage, set forth in Findings D.2 and 3 on page 6.

In any event, the "or contribute" prohibition, of even *de minimis* contributions, ignores the CWA's "Maximum Extent Practicable" standard. MS4 permits are issued under Section 402(p)(3)(B)(iii) of the CWA, 33 U.S.C. § 1342(p)(3)(B)(iii). That section does not impose an absolute prohibition on the discharge of pollutants. Instead, the section requires that:

> Permits for discharges from municipal storm sewers --
>
> > (iii) shall require controls to reduce the discharge of pollutants to the ***maximum extent practicable***, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. (Emphasis added.)

Section 13263(a) of the California Water Code requires regional boards, when prescribing waste discharge requirements, to take into consideration the provisions of §§ 13241(c) and (d). Those sections require a balancing similar to that required by § 402(p)(3)(B)(iii) of the CWA, 33 U.S.C. § 1342(p)(3)(B)(iii). Among the factors regional boards must consider are:

(c) ***Water quality conditions that could reasonably be achieved*** through the coordinated control of all factors which affect water quality in the area.

(d) Economic considerations.

The balancing required by CWA § 402(p)(3)(B)(iii) and California Water Code §§ 13241(c) and (d) clearly authorizes a regional board to reject inclusion of an "or contribute" standard, notwithstanding SWRCB Memorandum on Receiving Water Limits in Municipal Storm Water Permits, of 1999.

Moreover, there is no basis for a regional board to conclude that the "zero contribution" level of "or contribute" can be reasonably achieved. The Office of the Chief Counsel for the SWRCB has addressed this last point. In a 1993 memorandum, Elizabeth M. Jennings, Senior Staff Counsel for the SWRCB, wrote:

> On [Section 402(p)'s] face, it is possible to discern . . . the intent of Congress in establishing *the MEP standard.* First, the requirement *is to reduce, the discharge of pollutants, rather than totally prohibit such discharge.* Presumably, the reason for this standard. . . is the knowledge that *it is not possible for municipal dischargers to prevent the discharge of all pollutants in storm water.* (Memo from Elizabeth Miller Jennings, Senior Staff Counsel, SWRCB, to Archie Mathews, Division of Water Quality, at 2 (Feb. 11, 1993) (emphasis added)).

By inclusion of the "zero contribution" standard of the "or contribute" language, the Permit conflicts with the CWA's Maximum Extent Practicable" standard, CWA § 402(p)(3)(B)(iii) and California Water Code § 13241.

Recommendation: For all of the foregoing reasons, we suggest that paragraph 1, page 16, be revised to read: "Discharges from a MS4 that cause or contribute to the violation of Water Quality Standards or Water Quality Objectives, subject to the limitations of Findings B.2 and D.2 and D.3, in which the discharge of Pollutants has not been reduced to the Maximum Extent Practicable, are prohibited."

7. **Comment:** Part 2, RECEIVING WATER LIMITATIONS, paragraph 2, page 16, provides that "Discharges from the MS4 of storm water, or non-storm water, for which a permittee is responsible for (sic), shall not cause or contribute to a condition of nuisance." This provision should be revised to incorporate the Board's recognition of the limitation of the authority of the Co-permitees.

Recommendation: We suggest that this provision be revised to read as follows: "Discharges from the MS4 of storm water, or non-storm water, for which a Co-permittee is responsible, subject to the limitations on permit coverage set forth in Findings D 2 and 3, above, shall not cause a condition of nuisance."

8. **Comment:** In Part 2, RECEIVING WATER LIMITATIONS, in paragraph 3, page 16, in the second and third sentences, the term "receiving water limitations" is used, apparently as a defined term. However, as the term is not defined, it is elastic, as it appears that it might mean something other than Water Quality Standards or Water Quality Objectives, as those defined terms are used in the 3rd sentence. This elasticity exposes permittees, to say nothing of the Board, to potential CWA citizen suit litigation.

   Recommendation: The term "receiving water limitations" should be defined or deleted.

9. **Comment:** Part 3, STORM WATER QUALITY MANAGEMENT PLAN (SQMP) IMPLEMENTATION, Section E, "Responsibility of the Permittees," on page 18, the first sentence of the introductory paragraph provides "Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries, and not...." This statement does not reflect consideration of the possibility that pollutants may be present in flows (e.g., sheet flows on parking lots or streets) which originate outside a Permittee's boundaries, or which originate on federal or state facilities, including school districts, and which flow into a Co-permittee's boundaries. Nor does this provision recognize the limitations on the authority of the Co-permittees set forth in Findings D.2 and D.3.

   Recommendation: Revise the sentence to read, in pertinent part: "Each Co-permittee is required to comply with the requirements of this Order applicable to discharges which originate within its boundaries, subject to the limitations of Findings B.2 and D.2 and D.3, and not...."

10. **Comment:** In Part 3, Section H "Legal Authority" (beginning on page 20) is a paraphrased, and somewhat inaccurate restatement of 40 CFR § 122.26(d)(2)(i). For example, 3.H.1.e) and h), on page 21, would prohibit the discharge of runoff of any kind, whether or not the runoff contained any pollutants. The Board's authority does not reach so far.

Recommendation: In 3.H.1.e) and h), on page 21, change the words "discharge of runoff" to "discharge of a Pollutant." Section 122.26(d)(2) should be cited as authority for this requirement.

11. **Comment:** In Part 3.H.1.j).(2), on page 21, the term "state or federally banned pesticide, fungicide or herbicide" is used, but no guidance is provided as to just how a Co-permittee is to determine just which pesticides, fungicides or herbicides are banned at any given time. Asking each city to undertake the task of monitoring which agency has banned which pesticide, fungicide or herbicide is to impose an unrealistic burden. Moreover, we renew our previous concerns that the prohibition of the disposal of pesticides is an area preempted by federal law. See the Federal Insecticide, Fungicide and Rodenticide Act, § 19(a)(2)(C), 7 U.S.C. § 136q.(a)(2)(C). We point out in this connection that 40 C.F.R. § 122.26(d)(2)(iv)(A)(*6*) limits the limits the controls on application of pesticides and herbicides to "application in public right-of-ways and at municipal facilities."

Recommendation: Part 3.D, "Designation and Responsibilities of the Principal Permittee," on page 18, should be revised to add a new item 8: "Compile and maintain a list of state and federally banned pesticides, fungicides and herbicides, and make the list available to Co-permittees."

12. **Comment:** In Part 3.H.1.j).(3), on page 21, the term "food wastes" is used, but not defined.

Recommendation: The term "food wastes" should be defined. We suggest the following: "Food Waste" means food-related waste, including restaurant and other commercial and residential kitchen waste, cooking oils and grease, restaurant kitchen mat wash and rinse water and trash container wash and rinse water.

13. **Comment:** Part 3.H.1.l), on page 21, re compliance with contracts, ordinances, etc. restates, and is based on, but fails to cite as authority for this requirement, 40 CFR § 122.26(d)(2)(i)(E). The word "Permittees" should be singular possessive and not plural.

Recommendation: Change the "C" in "Comply" to lower case and add the following: "In accordance with the requirements of 40 CFR § 122.26(d)(2)(i)(E), comply...." Change the word "Permittees" to the word "Permittee's."

14. **Comment:** Part 3.H.1.m), (page 21) which implements 40 CFR § 122.26(d)(2)(i)(A), without citing that section, goes beyond the requirements of the CWA and 40 CFR § 122.26(d)(2)(i)(A) by attempting to impose a requirement that Co-permittees are to

possess the legal authority to control something called "potential contribution." of Pollutants. Neither the Clean Water Act nor EPA's Storm Water regulations say anything about "potential contribution" of pollutants. The "potential contribution" notion is also contrary to the exemption afforded by the "no exposure" conditional exclusion of 40 C.F.R. § 122.26(g). Drawing a line between the presence of a pollutant within city boundaries, but within the "no exposure" exclusion and the point at which the potential pollutant lapses to a state of "potential contribution" is to ask the impossible. The Board's authority is limited to requiring permitees to reduce the discharge of pollutants to the maximum extent practicable, and does not extend to the regulation of "potential contributions." See also Comment 23, below.

Recommendation: Part 3.H.1.m), (page 21) should be revised by deleting the parenthetical "(including potential contribution)."

15. **Comment:** Part 3.H.1.n), on page 22, implements the requirement of 40 CFR § 122.26(d)(2)(i)(B) and (F) that Co-permittees are to possess the legal authority to prohibit "Illicit Discharges" and to conduct inspections, but fails to cite or refer to 40 CFR § 122.26(d)(2)(i)(B) or (F). See also comment 18, below, regarding limitations on the scope of requirements to inspect Automotive Service Facilities.

Recommendation: Change the "C" in "Carry" to lower case and add the following: "In accordance with the requirements of 40 CFR § 122.26(d)(2)(i)(B) and 40 CFR § 122.26(d)(2)(i)(E), carry....".

16. **Comment:** In Part 3.H.2.b), on page 22, the term "Dumpster" is used. "Dumpster™" is a trademark owned by Dempster, Inc., and it should not be used as a generic term, and not in a permit, as use of the term would limit the applicability of this section to those bins which are within the ambit of the "Dumpster™" trademark.

Recommendation: Use the term "trash bin" instead of the trademark term Dumpster.™

17. **Comment:** Part 4.B.2.b)(1), on page 26, provides that co-permittees with available resources are to provide confidential resource assistance to small businesses." There is no provision in either the California Evidence Code or the Public Records Act for confidential communications between a City and a business in this context.

Recommendation. Part 4.B.2.b)(1), on page 26, should be revised to delete the word "confidential."

18. **Comment:** Part 4.C.3, on page 26, would impose a requirement on each Co-permittee to inspect all Automotive Service Facilities. We suggest that the imposition of this Permit requirement exceeds the Board's authority. Under 40 C.F.R. § 122.26(d)(2)(i)(A), cities are required to demonstrate authority to control the contribution of pollutants, but not all pollutants from all sources, only those discharges associated with industrial activity. Automotive Service Facilities do not fall within the EPA's definition of "discharges associated with industrial activity." 40 C.F.R. § 122.26(b)(14).

Recommendation: Delete Part 4.C.3.

19. **Comment:** Part 4.D.2, on pages 29 and 30, in the section on "Peak Flow Control," the Permit would impose the following requirement:

> ...control the post-development peak storm water runoff discharge rates in natural drainage systems to maintain or reduce pre-development peak discharge rates to prevent down-stream erosion, and to protect stream habitat.

It is beyond the authority of the Regional Board to regulate these effects. Such effects do not constitute the "discharge of pollutants," as that phrase is defined in the CWA. The MS4 program is limited to controls on pollutant discharges. MS4 permits must include, "controls to reduce the *discharge of pollutants* ... and such other provisions ... appropriate for the control of such *pollutants*." CWA § 402(p)(3)(b)(iii), 33 U.S.C. § 1342(p)(3)(b)(iii), (emphasis added). The term "pollutant" as used in sections 301 and 402 is defined by the CWA to mean:

> dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. (33 U.S.C § 1362(6), CWA § 502(a))

Water itself is simply not within this statutory definition. Simply because urban runoff may not be of pristine water quality, does not mean that its erosive capacity, once it enters waters of the United States or the State, is subject to the MS4 program.

CWA case law uniformly has found the definition of "pollutant" to not include the release of water which causes downstream erosion. In *National Wildlife Fed'n v. Gorsuch*, 693 F.2d 156 (D.C. Cir. 1982), the National Wildlife Federation argued that dams require NPDES permits, and that discharges from dams amounted to a "discharge

of a pollutant." The court acknowledged that among the water quality problems that may be caused by dams is the discharge of waters with the potential to cause downstream erosion. While stating that discharges from dams usually contain less sediment than upstream water, the court stated that, "the river will 'tend to restore its equilibrium [sediment] loading by scouring the downstream channel.'" *Id.* at 164 (alteration in original). However, the court held that discharges of water from dams were not discharges of pollutants, and did not fall within the CWA definition of "pollutant" and did not require a NPDES permit. *See id.* at 171-72.

Recommendation: Delete Part 4.D.2, on pages 29 and 30.

20. **Comment:** Part 4.D.3, Standard Urban Storm Water Mitigation Plans, at page 30, exceeds the Board's authority. See comment 1, above.

Recommendation: Revise Part 4.D.3, Standard Urban Storm Water Mitigation Plans, to make their use optional at the discretion of a Co-permitee, as part of its strategy for reducing the discharge of Pollutants to the Maximum Extent Practicable.

21. **Comment:** Part 4.D.3.b), on page 30 of the Permit, would require each Co-permittee to require the application of SUSMPs to commercial developments, including Retail Gasoline Outlets and restaurants. However, in the preamble to the promulgation of the Phase I regulations, the U.S. EPA stated that "EPA views gas stations as retail commercial facilities not covered by this regulation. It should be noted that SIC classifies gas stations as retail." 55 Fed.Reg. 48013-14, Nov. 16, 1990.

Recommendation: In view of EPA's statement that gas stations, as they are retail facilities, are not covered by the Phase I regulations, Part 4.D.3.b.(4), on page 30 of the Permit, should be revised to cite specific authority for the proposition that gas stations and restaurants may be covered by the Permit, or Part 4.D.3.b.(4) and (5), on page 30 of the Permit, should be deleted. Inclusion of commercial, including retail, facilities in other parts of the Permit, such as Part 4.C.1 and 2, on page 26, should also be deleted.

22. **Comment:** Part 4.D.4, Numerical Design Criteria, at page 31, which requires BMPs to incorporate specific design criteria, exceeds the Board's authority to prescribe how MEP is to be achieved. While the Regional Board is the permitting agency, its power to specify the particular manner in which compliance may be achieved is limited. Cities and counties have broad discretion to comply in any lawful manner. Section 13360(a) of the California Water Code states in pertinent part:

> No waste discharge requirement or other order of a regional board ... shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner.

Recommendation: The volume- and flow-based design standards for structural BMPs clearly run afoul of § 13360. The Permit should be revised to make their use optional at the discretion of each Co-permittee.

23. **Comment:** The requirement for Site Specific Mitigation, Part 4.D.7.a).(4), on page 32, is overbroad, as applied to "Outdoor handling or storage of hazardous materials" and is inconsistent with the EPA's "no exposure" rule promulgated as part of the Phase II regulations. EPA has stated that "EPA believes that drums and barrels that are stored outdoors pose little risk of storm water contamination unless they are open, deteriorated or leaking." 64 Fed.Reg. 68786, December 8, 1999. As to "handling" EPA explains "Moving the containers while outside does not create 'exposure' provided that the containers are not open, deteriorated or leaking." 64 Fed.Reg. 68786, December 8, 1999.

Recommendation: Revise Part 4.D.7.a).(4), on page 32, to read: "Outdoor handling or storage of hazardous materials in containers which are open, deteriorated or leaking."

24. **Comment:** Part 4.D.9, "Maintenance Agreement and Transfer" on page 33, has several grammatical errors.

Recommendation: In 4.D.9.a), on page 33, change "developers" (plural) to "developer's" (possessive). In 4.D.9.b), change "the public entity" to "a public entity." In 4.D.9.c), change "requires" to "require" (as in "conditions...require"). Add a period after BMPs" in 4.D.9.e).

25. **Comment:** In Part 4.D.13. "General Plan Update" on page 34, the Permit would exceed the Board's authority by requiring Co-permitees to amend their respective General Plans. See comment 1, above.

Recommendation: Make revision of general plans discretionary with the local governments, not a requirement imposed by the Board.

26. **Comment:** The preface to Part 4.E, Development Construction Program, on page 35, fails to provide that the requirement to control runoff is to control the discharge of

pollutants to the standard required by the Clean Water Act, i.e., to the "Maximum Extent Practicable." As you are aware, and as was discussed during the EAC conference call on July 18, 2001, § 402(p)(3)(B)(iii) of the CWA, 33 U.S.C. § 1342(p)(3)(B)(iii), does not impose an absolute prohibition on the discharge of pollutants. Instead, the section requires that:

> Permits for discharges from municipal storm sewers --
>
> > (iii) shall require controls to reduce the discharge of pollutants to the ***maximum extent practicable***, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. (Emphasis added.)

Recommendation: Change the period at the end of the first sentence in the preface to Part 4.E, Development Construction Program, on page 35, to a comma and add the words: "to the Maximum Extent Practicable." In addition, add a new Finding F.10, on page 14, to read as follows:

> "Nothing in this Permit shall be construed to require an absolute prohibition on the discharge of Storm Water or any Pollutant. This Permit is issued pursuant to § 402(p)(3)(B)(iii) of the CWA, 33 U.S.C. § 1342(p)(3)(B)(iii), which does not impose an absolute prohibition on the discharge of pollutants. Instead, the section requires that permits for discharges from municipal storm sewers --
>
> > (iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

27. **Comment:** Part 4.E.d) and e), on page 36, imposing limitations on grading during the wet season, are unduly restrictive, especially as applied to construction sites smaller than five acres.

Recommendation: Delete Part 4.E.d) and e), on page 36.

28. **Comment:** In Part 4.1, on page 36, the introductory provision is overly broad, and could be argued to make the provisions which follow applicable to projects which do not involve disturbance of soil.

Recommendation: In Part 4.1, on page 36, revise the introductory provision to read: "In addition, for projects which involve disturbance of one or more acres of soil, each Co-permittee shall require...."

29. **Comment:** On page 40, the permit requirement exception referred to in Part 4.F.4.b)(6), should be clarified. First, the exception, as we understand it, does not apply to airports, power plants and uncontrolled sanitary landfills. Second, there is potential for confusion, as many may regard this exception as having its basis in the Clean Water Act, when the exception is based on § 1068(c) of the Intermodal Surface Transportation and Efficiency Act of 1991, as extended by the EPA when it promulgated the Phase II final rules. 64 Fed.Reg. 68780, December 8, 1999.

Recommendation: Revise the permit requirement exception referred to in Part 4.F.4.b)(6), on page 40, beginning with the word "except" to read as follows: "except that, pursuant to § 1068(c) of the Intermodal Surface Transportation and Efficiency Act of 1991, until March 10, 2003, storm water discharges associated with industrial activity, including construction, that are owned or operated by a municipality with a population under 100,000 are exempt from the need to apply for or obtain a storm water discharge permit,. See 40 C.F.R. 1262.26(e)(1)(ii), 64 Fed.Reg. 68780, December 8, 1999.

30. **Comment:** As was discussed during the EAC conference call on July 18, 2001, the Dry Weather Diversions provisions in Part 4.F.12.a) and b), beginning at the bottom of page 44, seem redundant and overbroad.

Recommendation: Delete Part 4.F.12.a), and revise Part 4.F.12.b) and revise the language to provide that: "Co-permittees are to study approaches for determining...."

31. **Comment:** In part 4.G.1.b), "Tracking," on page 45, the undefined term "Lead Permittee" is used. In addition, the "Lead Permittee" is assigned the duty of prescribing the scale and format for a baseline storm drain system map to be prepared by each Co-permittee. However, these storm drain system map duties do not appear in the section which describes the responsibilities of either the Principal Permittee (Part 3.D, on page 18) or the section on the responsibilities of the Permittees (Part 3.E, beginning at the bottom of page 18).

Recommendation: In part 4.G.1.b), "Tracking," on page 45, change the undefined term "Lead Permittee" to the defined term "Principal Permittee." In Part 3.D, on page 18, add a new item 8, to read as follows: "In consultation with Co-permittees, prescribe the scale and format for the storm drain system maps required by Part 4.G.1.b)." In Part 3.E, "Responsibilities of the Permittees," add a new item 7, to read as follows: "Prepare and submit the storm drain system maps required by Part 4.G.1.b)."

32. **Comment:** In PART 5, DEFINITIONS, on page 49, "Illicit Disposal" is defined to mean "any disposal, either intentionally (sic) or unintentionally (sic) of material(s) or waste(s) that can pollute storm water." This definition would carry this Permit far beyond the reach of the Clean Water Act. The Congress, in enacting the Clean Water Act, prohibited the discharge of "Pollutants," a term which it defined. While the term "Pollutant" is defined in PART 5, DEFINITIONS, that definition is not used here in the definition of "Illicit Disposal." Instead, the definition of "Illicit Disposal" uses the vague term "can pollute." As the use of the term "can pollute" rather than the defined term "Discharge of a Pollutant" might be construed as meaning something other than "Discharge of a Pollutant." This lack of precision invites disagreement and, potentially, litigation. Moreover, the definition is not limited to discharges into MS4s, but could be construed to apply to disposal into solid waste containers.

Recommendation: The definition of "Illicit Disposal" should be changed to "the unpermitted Discharge of a Pollutant into a Municipal Separate Storm Sewer System."

33. **Comment:** In PART 5, DEFINITIONS, on page 52, "Redevelopment" is defined to mean "land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site." The definition further provides that "Redevelopment" includes exterior remodeling. These aspects of the definition of "Redevelopment" conflict with the EPA's definition of the term. In promulgating the Phase II final rules, EPA stated

> EPA intends the term "redevelopment" to refer to alterations of a property that change the "footprint" of a site or building in such a way that results in the disturbance of equal to or greater than 1 acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls.

64 Fed.Reg. 68760, December 8, 1999. The Cities are aware of no evidence to support the use of a 5,000 square foot, rather than one acre, threshold, or to apply the redevelopment requirements to remodeling.

Recommendation: The definition of "Redevelopment" should be changed to

> alterations of a property that change the "footprint" of a site or building in such a way that results in the disturbance of equal to or greater than 1 acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls.

34. **Comment:** PART 6.F.2, in the section on "Inspection and Entry," on page 57, fails to include the limitation imposed by 40 CFR § 122.41(i), which provides that that access to all documents as may be required by law shall be conducted at "reasonable times."

Recommendation: PART 6.F.2, in the section on "Inspection and Entry," on page 57, should be revised to read as follows: "Access, at reasonable times, to inspect and copy any records required by this Order, in accordance with 40 CFR § 122.41(i)."

35. **Comment:** As was discussed during the EAC conference call on July 18, 2001, the standard provisions for "Bypass" and "Upset" in Parts 6.M, beginning on page 59, and 6.N, beginning on page 60, respectively, seem inappropriate in a MS4 permit.

Recommendation: Persuade EPA that it is inappropriate to include POTW standard provisions in a MS4 permit.

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OUR FILE NO.
00006-0875, 02012-0181
00219-0146, 00111-0539
01047-0011; 01516-0017

August 6, 2001

VIA FACSIMILE TO: (213) 576-6640

Mr. Dennis Dickerson,
Executive Officer,
California Regional Water Quality Control Board –
Los Angeles Region
Attn: Xavier Swamikannu, Ph.D.
320 West 4th Street, Suite 200
Los Angeles, California 90013

Re: Additional Comments on "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)"

Dear Mr. Dickerson and Dr. Swamikannu:

On behalf of the Cities of Alhambra, Compton, El Segundo, Industry, Lomita, Santa Clarita, Signal Hill and Torrance (the Cities) let me thank the Board, and you and your staff for the workshop on July 26th and the opportunity to offer these additional comments on the "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)" (the "Second Draft") of the new storm water permit for Los Angeles County. This letter supplements my letter of July 19, 2001, which offered comments on the Second Draft and my presentation at the Workshop.

In this letter, I address how the application of the SUSMP provisions, especially those requiring the clustering of development, could be argued to violate the "Takings Clause" of the U.S. Constitution. The Fifth Amendment provides that "no person shall ... be deprived of ... property without due process of law; nor shall private property be taken for public use, without just compensation." I also address how the application of permit requirements to non-discretionary/ministerial decisions by local government officials would create significant process difficulties, and could be seen to run afoul of the concept of vested rights. These are issues which I do not believe have been addressed by other commenters, nor, to my knowledge, in comments on the original SUSMP hearings or appeal.

THE TAKINGS CLAUSE ISSUES

If a property owner with ten one-acre lots who intends to build ten homes, each on a one-acre lot, is required, by virtue of the clustering provision of the SUSMP, to build all ten homes on one of the lots, and to leave the remaining nine lots vacant, that property owner might well argue that she has been deprived of the value of the nine lots which must be left vacant. Similarly, if the property owner had already had a ten-acre subdivision approved, and all that remained was to pull the building permits, a city, typically through its Building Official, would be required to issue the permits if the permit application meets the fixed, defined requirements, e.g., single family residences on lots zoned for single family. Imposition of additional requirements, such as clustering the development, as a condition of issuance of the building permits, even for the achievement of a public goal, such as reduction of unpolluted storm water runoff, could be regarded as a "taking" of private property (the difference in price of 10 homes each on a one-acre lot, rather than the lower value of ten homes clustered on one acre, with the property owner required to leave the remaining nine acres undisturbed) for public use without just compensation. Moreover, imposition of the clustering requirement would require redesign of the subdivision, a procedure beyond the scope of discretion of a typical Building Official.

"CAUSE OR CONTRIBUTE"

This letter also addresses SWRCB WQ99-05, and its requirement that the Board use the receiving water limitations language prescribed by the US EPA in permits issued by that agency, and by State Water Resources Control Board in State Board Order WQ 99-05. The additional language found in Part 2.1 and 2., on page 16 of the Second Draft, with particular reference to the "cause or contribute" language, should be deleted. The State Board's language, which excised the "cause or contribute" language from Order 98-01, is the required language to be used in municipal storm water permits. In this connection, see also comments 5, 6 and 7 in my letter dated July 19, 2001.

More detailed comments are submitted in the enclosure.

The Cities ask that this letter be given most careful consideration, as we submit that the "Takings" issues raised here have enormous implications. We ask that these comments be included in the administrative record of this matter. The Cities reserve the right to offer further comments.

Very truly yours,

RUFUS C. YOUNG, JR.
Of BURKE, WILLIAMS & SORENSEN, LLP

cc: Honorable Mayor and Members of the City Council of the Cities of Alhambra, Lomita and Santa Clarita
Ken Farfsing, City Manager, City of Signal Hill
Legrand H. Clegg II, City Attorney, City of Compton
John Fellows III, City Attorney, City of Torrance
Andres Santamaria, Director of Public Works, City of El Segundo
John Ballas, Director of Public Works, City of Industry
Desi Alvarez, Chair, EAC
Jorge Leon, Senior Staff Counsel
Michael A. M. Lauffer, Staff Counsel

Additional Comments of the
Cities of Alhambra, Compton, El Segundo, Industry, Lomita,
Santa Clarita, Signal Hill and Torrance
on the
Second Draft (June 29, 2001)
LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD
ORDER No. 01-XXX (NPDES No. CAS004001)
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)

1. **Comment: The SUSMP Clustering provisions could be argued to violate the "Takings Clause" of the U.S. Constitution.** The SUSMP requires that local governments' subdivision design and approval processes must include a requirement to

   - Concentrate or cluster Development on portions of a site while leaving the remaining land in a natural undisturbed condition.

   The Fifth Amendment to the United States Constitution provides that "no person shall ... be deprived of ... property without due process of law; nor shall private property be taken for public use, without just compensation."[1] It does not appear that consideration has been given to the "Takings Clause" issues created by the SUSMP's clustering and other land use provisions. The Cities submit that they will face "takings" claims if they attempt to condition land development approvals on the imposition of the SUSMP's clustering requirements.[2] Property owners might well claim that the clustering requirement is a taking of private property for public use.

   Consider this example: an application for a residential development permit by an owner of ten acres, who seeks to develop ten homes, each on a one-acre lot. Inclusion of the SUSMP provisions in the Permit would seem to require the local government co-permittees to condition development approval on a requirement that the property owner build all ten homes on one acre, and to deny the owner any rights to develop the remaining nine one-acre lots. In *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992), the Supreme Court held that where a regulation denies all economically beneficial or productive use of land (in this example, the nine one-acre lots), a "taking" has occurred, requiring that the owner be compensated. In the case of *Dolan v. City of Tigard*, 512 U.S. 374 (1994), a City's requirement imposed on the owner of a 1.67-acre parcel who sought a building permit to dedicate approximately 7,000 square feet of the

[1] This provision is commonly referred to as the "Takings Clause."

[2] This discussion sets aside for the moment, but should not be construed to waive, the Cities' argument that the Congress never intended to authorize the EPA, or the states, when acting pursuant to a delegation of authority from EPA, to invade the well-established land use prerogatives of local government, an issue raised in Comment #1 of the comment letter dated July 19, 2001 submitted on behalf of the Cities.

lot was an unconstitutional exaction, entitling the owner to just compensation.[3] While, to be sure, the reduction of runoff or polluted storm water is an objective which the Cities support, the Cities are constrained to point out that a property owner who is denied the opportunity to develop nine one-acre lots, and forced to cluster development on one one-acre lot, may argue that she is being forced to bear a disproportionate share of the burden relative to other members of the community and may well raise a takings challenge (to which the Regional Board would seem to be a necessary party).

The Cities must also point out that the Permit's SUSMP provisions requiring clustering appear to be intended to apply to all subdivision approvals, regardless of the physical setting and runoff potential of the subdivision in question. This lack of "nexus" between the condition for approval and the benefit raises due process and equal protection issues which merit reconsideration and substantial modification of the SUSMP provisions.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

2. **Comment: The Application of SUSMPs to non-discretionary, or ministerial, approvals could be said to violate the "Takings Clause."** Not only are the SUSMPs to be applied to discretionary decisions, apparently the Board contemplates that the co-permittees will apply the SUSMPs to non-discretionary, or ministerial decisions[4]. Let's consider another example: a property owner already has satisfied all requirements for discretionary approvals for construction of homes in a 100-home subdivision, through the approval of a "vesting tentative map" [5] and now seeks to pull building permits for construction of a last phase of 10 homes on contiguous lots. Absent the SUSMP, a City, typically through its Building Official, would be required to issue the building permits if the Building Official determines that the permit application meets fixed, defined requirements, *e.g.*, single family residences on lots zoned for single family. Imposition of an invasive additional requirement, such as clustering the last ten single-family homes in the development, while leaving nine lots undisturbed, as a condition of issuance of the

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[3] *See also, Palazzolo v. Rhode Island*, 533 U.S. ___, 121 S.Ct. 2448 (2001) (landowner's claim that a state's application of its wetlands regulations took his property without compensation in violation of the Takings Clause ripe for review); *Florida Rock Industries, Inc. v. United States*, 45 Fed.Cl. 21 (Fed.Cl. 1999)(the notion that the government can take two thirds of your property and not compensate you but must compensate you if it takes 100% has a ring of irrationality and unfairness about it; the court held that 73.1% of the value of the land was diminished, a regulatory taking had occurred and Florida Rock was entitled to just compensation).

[4] Finding F.2, on page 13, in the last sentence provides

> For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories that receive approval or a permit from a local government are subject to storm water mitigation requirements.

[5] A vesting tentative map, if granted, will confer a vested right to proceed with the development in accordance with ordinances, policies and standards in effect at the time the application for approval of the vesting tentative map is complete. California Gov't Code § 66498.1; *see, Kaufman & Broad Central Valley, Inc. v. City of Modesto*, 25 Cal.App.4th 1577 (1994).

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10 building permits to which the landowner is otherwise entitled, even if the condition is for the achievement of a public goal, such as reduction of unpolluted storm water runoff, could be argued to be a "taking" of private property (the nine lots which now must be left undisturbed, when the requirement to cluster development is applied), for public use without just compensation. It is one thing to condition the issuance of a building permit on adherence to a new building code requirement. It is another thing altogether to tell a landowner that development must be clustered, and that nine out of ten lots must be left undisturbed.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

3. **Comment: Application of the SUSMPS to non-discretionary approvals would create enormous practical problems.** The attempt to apply the development approval process not only to projects subject to local discretionary approvals ("discretionary projects"), but also to projects that have been processed to the point that they have already obtained all locally-required discretionary approvals ("non-discretionary projects") poses enormous practical problems in how this process would be implemented.[6] Ordinarily, the authority of an official such as a Building Official, who issues building permits, would not extend to land use design decisions already approved by a planning commission or a city council. Therefore, it would appear that matters such as imposing a requirement to cluster development would not be within the authority of a building official at the building permit stage. Generally, developers pull building permits only after all other approvals have been received, and only for the lots they are going to build upon immediately. If the Regional Board intends the SUSMP to apply to the issuance of building permits, this would put the local jurisdiction in the position of having to alter its development standards after the development has been approved, for projects that have already achieved all required discretionary approvals, by requiring an official such as a building official to refer an application for building permits back to a planning commission or city council. The Cities suggest that it is entirely possible that a court might regard this last-minute referral back to the start, or at least the middle, of the approval process as a compensable temporary taking based on needless bureaucratic re-referrals.[7]

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[6] CEQA applies only to discretionary projects. Public Resources Code § 21080(a). To the extent that a particular development project has obtained its local entitlements, by definition the local CEQA analysis would then be complete. This raises the issue that any subsequent modification of the project (i.e., clustering a non-clustered subdivision) would not have been analyzed. Further analysis may be required to address new or changed significant impacts associated with the altered development should a subsequent approval be required, for instance, the issuance of building permits.

[7] *See, e.g., City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 698 (1999); *Littoral Development Co. v. San Francisco Bay Conservation Com.* 33 Cal. App.4th 211, 221 (1995).

The Cities submit that the takings issues presented by the SUSMP have not been examined in prior SUSMP proceedings, and respectfully request that the Board carefully reconsider the SUSMPs, and that the matter be referred to Board Counsel.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

4. **Comment:** In Part 2, RECEIVING WATER LIMITATIONS, paragraphs 1 and 2, on page 16 of the Permit must be modified. The State Board's language in SWRCB WQ99-05, excised the "cause or contribute" language from Order 98-01, and is the language which must be used in municipal storm water permits.

Recommendation: In Part 2, RECEIVING WATER LIMITATIONS, in paragraphs 1 and 2, on page 16, the "cause or contribute" language should be deleted.

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FACSIMILE MESSAGE

TO: Dennis Dickerson, Executive Officer
CRWQCB; Attn: Xavier Swamikannu, Ph.D.

DATE: 8/6/01

FROM: Rufus C. Young, Jr. Esq.

ACCOUNT #: 00006-0875; 02012-0181; 00219-0146; 00111-0539; 01047-0011; 01516-0017

SUBJECT: Additional Comments on "Second Draft"

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TIME SENT: 2:28

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OUR FILE NO:
00070-0307; 01359-0105

August 6, 2001

2001 AUG -7 P 2:22

Mr. Dennis Dickerson,
Executive Officer,
California Regional Water Quality Control Board –
Los Angeles Region
Attn: Xavier Swamikannu, Ph.D.
320 West 4th Street, Suite 200
Los Angeles, California 90013

Re: Comment of the Cities of Camarillo and Moorpark on the "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)" (the Second Draft") of the new storm water permit for Los Angeles County.
And
Consideration by the Regional Water Quality Control Board for the Los Angeles Region of the PETITION OF THE CITY OF CAMARILLO AND CITY OF MOORPARK (REVISION TO WASTE DISCHARGE REQUIREMENTS ORDER 00-108 AND STORM WATER QUALITY URBAN IMPACK MITIGATION PLAN [NPDES NO. CAS004002]) LOS ANGELES REGION: SWRCB/OCC File A-1357

Dear Mr. Dickerson and Dr. Swamikannu:

On behalf of the Cities of Moorpark and Camarillo (the Cities) we submit these comments on the "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)" (the Second Draft") of the new storm water permit for Los Angeles County. You will recall that the Regional Board's

consideration of the PETITION OF THE CITY OF CAMARILLO AND CITY OF MOOR-PARK (REVISION TO WASTE DISCHARGE REQUIREMENTS ORDER 00-108 AND STORM WATER QUALITY URBAN IMPACK MITIGATION PLAN [NPDES NO. CAS004002]) LOS ANGELES REGION: SWRCB/OCC File A-1357 has been deferred pending the Regional Board's consideration of the Los Angeles County Permit.[1] In view of that deferral, the Cities submit these comments on the Second Draft of the Los Angeles County Permit for your consideration.

The Board Lacks the Authority to Impose the SUSMP (SQUIMP) Requirements

The Cities of Camarillo and Moorpark, as well as the Los Angeles County Cities of Alhambra, Compton, El Segundo, Industry, Lomita, Santa Clarita, Signal Hill and Torrance, are concerned over a number of serious issues raised by the Los Angeles County's SUSMP provisions. **Chief among these is the Regional Board's invasion of the land use authority of the local governmental permitees** by requiring them to impose land use restrictions through the Storm Water Quality Management Plan ("SQMP") and the incorporation of Board Resolution No. R 00-02, (the SUSMP) (the SQUIMP in the Ventura County Permit) with, *e.g.*, the undefined requirement to "cluster" development, into the Permit. The Cities respectfully submit that Congress made it clear in the very first section of the Clean Water Act that the CWA, including the NPDES program, is not meant to infringe on local land use authority:

> It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use (including restoration, preservation, and enhancement) of land and water resources. . . .

The US EPA's position on this issue is clear. EPA has said flatly **"EPA recognizes that land use planning is within the authority of local governments."** 64 Fed.Reg. 68761, December 8, 1999. Under California law, it is local government, cities and counties, and not state executive agencies, which exercise land use authority. The authority of cities and counties to regulate land use comes from the California Constitution. Article XI, §7 confers on local governments the authority to regulate land use, through the exercise of the "police power." The California Legislature, in enacting Government Code § 65800, declared

> **its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.**

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[1] Letter from Dennis Dasker, Assistant Executive Officer, CRWQCB-LA, to Brian Pierik and Rufus C. Young, dated May 4, 2001.

Case law confirms the authority of cities and counties, recognizing that in their intrinsic character and by express declaration, state laws on county and city zoning are designed as standardizing limitations over local zoning practices, not as specific grants of authority to legislate. *Scrutton v. Sacramento County,* 275 Cal.App.2d 412 (1969). An attempt by a Regional Board, an executive agency, to dictate land use and contents of a general plan has no foundation in California law and would violate the separation of powers doctrine.

By this letter, the Cities also raise the issue that the application of the SUSMP (SQUIMP) provisions, especially those requiring the clustering of development, could be argued to violate the "Takings Clause of the U.S. Constitution. The Fifth Amendment provides that "no person shall ... be deprived of ... property without due process of law; nor shall private property be taken for public use, without just compensation." We also address how the application of permit requirements to non-discretionary/ministerial decisions by local government officials would create significant process difficulties, and could be seen to run afoul of the concept of vested rights.

More detailed comments are submitted in the enclosure.

The Cities ask that this letter be given most careful consideration. We ask that these comments be included in the administrative record of their Petition as well as the Los Angeles County Permit. The Cities reserve the right to offer further comments.

Very truly yours,

RUFUS C. YOUNG, JR.
Of BURKE, WILLIAMS & SORENSEN, LLP

cc: Kenneth Gilbert, Director of Public Works, City of Moorpark
City Attorney, City of Camarillo
City Attorney, City of Moorpark
Elizabeth Jennings, SWRCB, Office of Chief Counsel
Jorge Leon, Senior Staff Counsel
Michael A. M. Lauffer, Staff Counsel

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Comments of the
Cities of Moorpark and Camarillo
on the
"*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)"
and the
PETITION OF THE CITY OF CAMARILLO AND CITY OF MOORPARK (REVISION TO WASTE DISCHARGE REQUIREMENTS ORDER 00-108 AND STORM WATER QUALITY URBAN IMPACK MITIGATION PLAN [NPDES NO. CAS004002]) LOS ANGELES REGION: SWRCB/OCC File A-1357

1. **Comment: The Regional Board Has No Authority to Impose SUSMP (or SQUIMP) Provisions as a Condition of a MS4 NPDES Permit.** Contrary to the provisions of the Clean Water Act and California law, the Board continues to attempt to regulate local land use, rather than simply requiring the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable. In the Second Draft, Paragraph E.17, on page 10, refers to Board Resolution No. R-00-02, (the Standard Urban Storm Water Mitigation Plans (SUSMPs) Resolution), the State Board's Order No. WQ 2000-1 and the State Board's Chief Counsel's policy memorandum of December 26, 2000. The Cities of Camarillo and Moorpark share the views of the Los Angeles County Cities of Alhambra, Compton, El Segundo, Industry, Lomita, Santa Clarita, Signal Hill and Torrance that these were wrongly adopted and decided as they conflict with section 101(b) of the Clean Water Act and conflict with local governments' authority over land use. We emphatically disagree that the State Board's Order No. WQ 2000-1 has the precedential and binding effect attributed to it by the State Board's Chief Counsel in the policy memorandum of December 26, 2000. In support of our position, we point to the very first section of the Clean Water Act. In CWA § 101(b), 33 U.S.C. § 1251(b), Congress made it clear that the CWA, including the NPDES program, is not meant to infringe on local land use authority:

> **It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use (including restoration, preservation, and enhancement) of land and water resources . . . .**

This policy was relied on by the Supreme Court of the United States in a case in which the Court limited federal authority under the CWA over local land use matters. In *Solid Waste Agency of Northern Cook County v. Army Corps of Engineers*, 531 U.S. 159 (2001), the Court struck down a rule of the Army Corps of Engineers under which the Corps claimed jurisdiction over isolated intra-state wetlands. The Court found that the rule:

> would result in a significant impingement of the States' traditional and primary power over land and water use. *See, e.g., Hess v. Port Authority Trans-Hudson Corporation*, 513 U.S. 30, 44 (1994) (**"[R]egulation of land use [is] a function traditionally performed by local governments**"). Rather than expressing a desire to readjust the federal-state balance in this manner, Congress [through the CWA] chose to "recognize, preserve, and protect the primary responsibilities and rights of States ... to plan the development and use . . . of land and water resources . . . ." 33 U.S.C. § 1251(b).

The US EPA has recognized that a "command and control" approach is inappropriate in the context of post-construction measures. In promulgating the Phase II regulations, EPA said **"EPA *recommends* that municipalities consider policies and ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure, in order to meet the measure's intent."** 64 Fed.Reg. 68742, December 8, 1999. EPA acknowledged the sensitivity of the issue: **"EPA is very aware of municipal concerns about possible federal interference with local land use planning."** 64 Fed.Reg. 68742, December 8, 1999. EPA declined to impose specific requirements for permits issued to small MS4s, instead stating

> **EPA *encourages* operators of regulated small MS4s** to identify specific problem areas within their jurisdictions and initiate innovative solutions and designs **to focus attention on those areas through local planning**.

64 Fed.Reg. 68759, December 8, 1999. **Finally, and most tellingly, in responding to comments on the Phase II regulations regarding Post-Construction Storm Water Management in New Development and Redevelopment, EPA said flatly "EPA recognizes that land use planning is within the authority of local governments."** 64 Fed.Reg. 68761, December 8, 1999.

It should be clear, then, that if the EPA recognizes that land use planning is within the province of local governments, and not the EPA, then the Regional Board, which issues the Permit through a delegation of authority from the EPA, has no basis for imposing the SUSMP (SQUIMP) provisions as part of the MS4 permit. Congress, with the express approval of the Supreme Court in the *SWANCC* case, and the EPA, have unequivocally disavowed any intention to use the CWA as a land use statute. Therefore, if the Board has authority to prescribe land use controls as a condition of a WDR/NPDES Storm Water permit, that authority must come from California law.

However, under California law, it is local government, cities and counties, and not state executive agencies, which exercise land use authority. The authority of cities and counties to regulate land use comes from the California Constitution. Article XI, §7 confers on local governments the authority to regu-

late land use, through the exercise of the "police power." The California Legislature, in enacting Government Code § 65800, declared

> **its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.**

Case law confirms the authority of cities and counties, recognizing that in their intrinsic character and by express declaration, state laws on county and city zoning are designed as standardizing limitations over local zoning practices, not as specific grants of authority to legislate. *Scrutton v. Sacramento County*, 275 Cal.App.2d 412 (1969). Furthermore, in *Los Angeles v. California*, 138 Cal.App.3d 526, 533 (1982), it was recognized that

> the Legislature has been sensitive to the fact that planning and zoning in the conventional sense have traditionally been deemed municipal affairs. It [the Legislature] has thus made no attempt to deprive local governments (chartered city or otherwise) of their right to manage and control such matters, bur rather has attempted to impinge upon local control only to the limited degree necessary to further legitimate state interests.

Through the SUSMP provisions of the Second Draft, the Regional Board is attempting to regulate local land use by requiring the Co-permittees to impose constraints on land use. The Board's land use measures include requirements for "clustering" of residential development, (arguably spelling the end of developments featuring single-family homes), and requiring that local governments amend their General Plans and modify their CEQA project approval processes to require new development and redevelopment projects to adhere to the SUSMP provisions.

In enacting Government Code § 65302, the legislature, implementing Article XI, §7, prescribed the elements to be included in a city's or a county's general plan. For a Regional Board to now attempt to prescribe elements of a city's general plan, or worse, to dictate land use, violates the separation of powers doctrine, as it is the legislature, not the Regional Boards, which prescribe makeup of general plans.

In summary, the Board's encroachments upon local land uses and land use authority not only violate § 101(b) of the CWA, and are contrary to EPA policy, they are contrary to California law, which places land use control firmly in the hands of local governments, not state agencies. **Moreover, the Board's attempt to dictate land use decisions (*e.g.*, clustering) to local governments raises is contrary to the separation of powers doctrine, as the California Constitution and the Legislature have placed land use decisions in the hands of local governments.** Neither the California Constitution nor the Legislature assign any land use authority to Regional Water Quality Control Boards.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

2. **Comment: The SUSMP Clustering provisions could be argued to violate the "Takings Clause" of the U.S. Constitution.** The SUSMP requires that local governments' subdivision design and approval processes must include a requirement to

    - Concentrate or cluster Development on portions of a site while leaving the remaining land in a natural undisturbed condition.

The Fifth Amendment to the United States Constitution provides that "no person shall ... be deprived of ... property without due process of law; nor shall private property be taken for public use, without just compensation."[2] It does not appear that consideration has been given to the "Takings Clause" issues created by the SUSMP's clustering and other land use provisions. The Cities submit that they will face "takings" claims if they attempt to condition land development approvals on the imposition of the SUSMP's clustering requirements.[3] Property owners might well claim that the clustering requirement is a taking of private property for public use.

Consider this example: an application for a residential development permit by an owner of ten acres, who seeks to develop ten homes, each on a one-acre lot. Inclusion of the SUSMP provisions in the Permit would seem to require the local government co-permittees to condition development approval on a requirement that the property owner build all ten homes on one acre, and to deny the owner any rights to develop the remaining nine one-acre lots. In *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992), the Supreme Court held that where a regulation denies all economically beneficial or productive use of land (in this example, the nine one-acre lots), a "taking" has occurred, requiring that the owner be compensated. In the case of *Dolan v. City of Tigard*, 512 U.S. 374 (1994), a City's requirement imposed on the owner of a 1.67-acre parcel who sought a building permit to dedicate approximately 7,000 square feet of the lot was an unconstitutional exaction, entitling the owner to just compensation.[4] While, to be

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[2] This provision is commonly referred to as the "Takings Clause."

[3] This discussion sets aside for the moment, but should not be construed to waive, the Cities' argument that the Congress never intended to authorize the EPA, or the states, when acting pursuant to a delegation of authority from EPA, to invade the well-established land use prerogatives of local government, an issue raised in Comment #1, above and in the comment letter dated July 19, 2001 submitted on behalf of the Los Angeles County Cities.

[4] *See also, Palazzolo v. Rhode Island*, 533 U.S. ___, 121 S.Ct. 2448 (2001) (landowner's claim that a state's application of its wetlands regulations took his property without compensation in violation of the Takings Clause ripe for review); *Florida Rock Industries, Inc. v. United States*, 45 Fed.Cl. 21 (Fed.Cl.

sure, the reduction of runoff or polluted storm water is an objective which the Cities support, the Cities are constrained to point out that a property owner who is denied the opportunity to develop nine one-acre lots, and forced to cluster development on one one-acre lot, may argue that she is being forced to bear a disproportionate share of the burden relative to other members of the community and may well raise a takings challenge (to which the Regional Board would seem to be a necessary party).

The Cities must also point out that the Permit's SUSMP provisions requiring clustering appear to be intended to apply to all subdivision approvals, regardless of the physical setting and runoff potential of the subdivision in question. This lack of "nexus" between the condition for approval and the benefit raises due process and equal protection issues which merit reconsideration and substantial modification of the SUSMP provisions.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

3. **Comment: The Application of SUSMPs to non-discretionary, or ministerial, approvals could be said to violate the "Takings Clause."** Not only are the SUSMPs to be applied to discretionary decisions, apparently the Board contemplates that the co-permittees will apply the SUSMPs to non-discretionary, or ministerial decisions[5]. Let's consider another example: a property owner already has satisfied all requirements for discretionary approvals for construction of homes in a 100-home subdivision, through the approval of a "vesting tentative map" [6] and now seeks to pull building permits for construction of a last phase of 10 homes on contiguous lots. Absent the SUSMP, a City, typically through its Building Official, would be required to issue the building permits if the Building Official determines that the permit application meets fixed, defined requirements, *e.g.*, single family residences on lots zoned for single family. Imposition of an invasive additional requirement, such as clustering the last ten single-family homes in the development, while leaving nine lots undisturbed, as a condition of

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1999)(the notion that the government can take two thirds of your property and not compensate you but must compensate you if it takes 100% has a ring of irrationality and unfairness about it; the court held that 73.1% of the value of the land was diminished, a regulatory taking had occurred and Florida Rock was entitled to just compensation).

[5] Finding F.2, on page 13, in the last sentence provides

> For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories that receive approval or a permit from a local government are subject to storm water mitigation requirements.

[6] A vesting tentative map, if granted, will confer a vested right to proceed with the development in accordance with ordinances, policies and standards in effect at the time the application for approval of the vesting tentative map is complete. California Gov't Code § 66498.1; *see, Kaufman & Broad Central Valley, Inc. v. City of Modesto*, 25 Cal.App.4th 1577 (1994).

issuance of the 10 building permits to which the landowner is otherwise entitled, even if the condition is for the achievement of a public goal, such as reduction of unpolluted storm water runoff, could be argued to be a "taking" of private property (the nine lots which now must be left undisturbed, when the requirement to cluster development is applied), for public use without just compensation. It is one thing to condition the issuance of a building permit on adherence to a new building code requirement. It is another thing altogether to tell a landowner that development must be clustered, and that nine out of ten lots must be left undisturbed.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

4. **Comment: Application of the SUSMPS to non-discretionary approvals would create enormous practical problems.** The attempt to apply the development approval process not only to projects subject to local discretionary approvals ("discretionary projects"), but also to projects that have been processed to the point that they have already obtained all locally-required discretionary approvals ("non-discretionary projects") poses enormous practical problems in how this process would be implemented.[7] Ordinarily, the authority of an official such as a Building Official, who issues building permits, would not extend to land use design decisions already approved by a planning commission or a city council. Therefore, it would appear that matters such as imposing a requirement to cluster development would not be within the authority of a building official at the building permit stage. Generally, developers pull building permits only after all other approvals have been received, and only for the lots they are going to build upon immediately. If the Regional Board intends the SUSMP to apply to the issuance of building permits, this would put the local jurisdiction in the position of having to alter its development standards after the development has been approved, for projects that have already achieved all required discretionary approvals, by requiring an official such as a building official to refer an application for building permits back to a planning commission or city council. The Cities suggest that it is entirely possible that a court might regard this last-minute referral back to the start, or at least the middle, of the approval process as a compensable temporary taking based on needless bureaucratic re-referrals.[8]

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[7] CEQA applies only to discretionary projects. Public Resources Code § 21080(a). To the extent that a particular development project has obtained its local entitlements, by definition the local CEQA analysis would then be complete. This raises the issue that any subsequent modification of the project (i.e., clustering a non-clustered subdivision) would not have been analyzed. Further analysis may be required to address new or changed significant impacts associated with the altered development should a subsequent approval be required, for instance, the issuance of building permits.

[8] *See, e.g., City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 698 (1999); *Littoral Development Co. v. San Francisco Bay Conservation Com.* 33 Cal. App.4th 211, 221 (1995).

The Cities submit that the takings issues presented by the SUSMP have not been examined in prior SUSMP proceedings, and respectfully request that the Board carefully reconsider the SUSMPs, and that the matter be referred to Board Counsel.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permittees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions which require the Co-permittees to reduce the discharge of pollutants to the maximum extent practicable.

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August 8, 2001

VIA FACSIMILE TO: (213) 576-6640

2001 AUG -9 P 3:51

Mr. Dennis Dickerson,
Executive Officer,
California Regional Water Quality Control Board –
Los Angeles Region
Attn: Xavier Swamikannu, Ph.D.
320 West 4th Street, Suite 200
Los Angeles, California 90013

Re: First Supplement to Additional Comments on "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)"

Dear Mr. Dickerson and Dr. Swamikannu:

On behalf of the Cities of Alhambra, Compton, El Segundo, Industry, Lomita, Santa Clarita, Signal Hill and Torrance (the Cities) please consider the following supplemental comment to the my letter of August 6, 2001, which offered additional comments on the "*Second Draft (June 29, 2001)*, LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT FOR THE CITY OF LONG BEACH)" (the "Second Draft") of the new storm water permit for Los Angeles County. The supplemental comment is submitted to bring to the Board's attention a recent case, now pending before the Supreme Court of the United States, in which the actions of the Tahoe Regional Planning Agency, in the adoption of regulations imposing a moratorium on

construction of single-family homes was held to constitute a taking of private property for public use, requiring compensation, despite TRPA's objective of protecting Lake Tahoe from storm water runoff.

Supplemental Comment

Please add the following after the third sentence in the second full paragraph of Comment 1, which addresses the "Takings Clause" of the U.S. Constitution, and the *Lucas* and *Dolan* cases:

> A regulation adopted by the Tahoe Regional Planning Agency, although intended to protect Lake Tahoe from storm water runoff, which prohibited residential single-family home construction was not defensible under the "nuisance exception" of the *Lucas* case, because under California law construction of a single-family house does not constitute a nuisance, was held to have effected a taking, entitling property owners to compensation. *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 34 F.Supp.2d 1226, 1251-55 (D. Nev., 1999). Although the trial court's decision was reversed in part, and remanded by *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 216 F.3d 764 (9th Cir., 2000), *Rehearing denied by, Rehearing en banc denied by Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 228 F.3d 998 (9th Cir., 2000), the Supreme Court of the United States has granted certiorari, apparently to examine the decision by the Ninth Circuit. *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, (Writ of Certiorari granted), 150 L.Ed.2d 749, 121 S.Ct. 2589, 2001 U.S. LEXIS 5208 (2001).

The Cities ask that this letter be given most careful consideration, and that it be addressed by counsel before the Third Draft is released, as we submit that the "Takings" issues raised here have enormous implications. We ask that these comments be included in the administrative record of this matter. The Cities reserve the right to offer further comments.

Very truly yours,

RUFUS C. YOUNG, JR.
Of BURKE, WILLIAMS & SORENSEN, LLP

LA #74075 v1

cc: Honorable Mayor and Members of the City Council of the Cities of Alhambra, Lomita and Santa Clarita
Ken Farfsing, City Manager, City of Signal Hill
Legrand H. Clegg II, City Attorney, City of Compton
John Fellows III, City Attorney, City of Torrance
Andres Santamaria, Director of Public Works, City of El Segundo
John Ballas, Director of Public Works, City of Industry
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August 6, 2001

VIA MESSENGER

Dr. Xavier Swamikannu
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Los Angeles Region
Storm Water Program
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Los Angeles Regional Water Quality Control Board June 29, 2001 Draft NPDES Permit No. CAS004001

Dear Dr. Swamikannu:

This office represents various Cities in the County of Los Angeles who are members of an ad hoc coalition known as the Coalition For Practical Regulation. The purpose of this letter is to provide further comment to the Regional Board on its Second Draft of the subject NPDES permit (June 29, 2001), and to ***supplement*** the extensive comments already provided to Regional Board staff in several meetings with Regional Board representatives since dissemination of the Second Draft.

Although various changes were made to the first draft of the Permit to address certain legal deficiencies with the draft Permit, a number of legal deficiencies remain.

The following comments are intended to further supplement the comments previously submitted on behalf of the Coalition on May 15, 2001, and to address changes made to the Second Draft of the Permit. Thank you for your consideration of these comments.

A. THE INSPECTION, ENFORCEMENT, MONITORING AND REPORTING OBLIGATION IMPOSED ON THE PERMITTEES FOR INDUSTRIAL/COMMERCIAL FACILITIES CONTINUES TO BE IN EXCESS OF THE AUTHORITY PROVIDED UNDER STATE AND FEDERAL LAW.

As discussed in prior comments submitted in connection with the first draft of the Permit, concerning the authority of the Regional Board to require the "control" of the discharge of pollutants to the MS4, the regulations under the Clean Water Act ("CWA") only require that municipalities demonstrate "Adequate Legal Authority" as necessary to "[c]ontrol through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with ***industrial activity*** and the quality of storm water discharges from sites of ***industrial activity***." There are no other requirements imposed upon a municipality to "control" the contribution of pollutants ***to*** the MS4 and thus, no authority to require municipalities to regulate through "ordinance, permit, contract, order or similar means" discharges from any other facilities "***to***" its MS4.

In addition, with respect to requiring municipalities to inspect certain commercial facilities, such as restaurants, automotive repair shops, and retail gasoline outlets, the regulations are very clear that municipalities are only required to conduct inspections of "industrial facilities," and even further, with limited exception not applicable here, only those industrial facilities that "***the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system.***" (See 40 CFR § 122.26(d)(2)(iv)(C).)

The subject draft Permit far exceeds the authority provided under the CWA to the State to require that municipalities "control" the discharge of pollutants and "inspect" ***commercial*** facilities. For example, on page 21, under section H, entitled "Legal Authority," subsection (m), the Permit requires the Permittees to possess necessary legal authority to prohibit non-storm water discharges to the maximum extent practicable to the storm drain system, including but not limited to: "Control of pollutants (***including potential contribution***) in discharges of storm water runoff associated with industrial activities (including construction activities) to its MS4 and control of the quality of storm water from industrial sites (including construction sites)... and (n) Carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with permit conditions, including the prohibition of illicit discharges to the MS4. Permittees must possess authority to ***enter, sample, inspect, review and copy records, and require regular reports*** from industrial facilities discharging polluted or ***potentially polluted*** storm water runoff into its MS4 (including construction sites)."

The requirements of controlling pollutants including "***potential contribution,***" and requiring the entry, inspection, and copying of records and regular reporting, from industrial facilities that are discharging "polluted or ***potentially polluted*** storm water runoff," are requirements that are ***not*** authorized under the CWA or the Porter-Cologne Act.

Requiring the control of "***potentially polluted***" storm water is a nebulous unobtainable standard, and is particularly restrictive and contrary to the Clean Water Act as, by definition, storm water includes "storm water ***runoff***, snow melt ***runoff***, and surface ***runoff*** and drainage." Accordingly, since controlling storm water discharges associated with industrial activity is specifically limited to the "contribution of pollutants," not the ambiguous and unworkable standard of "potential contribution," the language of the Permit must similarly be limited.

Further, the inspection requirement under the CWA is expressly limited to inspections as necessary to determine compliance and noncompliance with permit conditions, which would only be required with respect to ***industrial facilities*** where the "***municipal permit applicant***" determines that such industrial facilities "are contributing a ***substantial pollutant*** loading to the municipal storm sewer system." There is no requirement or other legal authority to control pollutants from any "commercial" facility, or to inspect any "commercial" facility.

In addition, there is no requirement or authority that either requires or authorizes Permittees to ***enter, sample, inspect, review*** and ***copy records*** of facilities without a warrant and probable cause. Without consent of the property owner, and without at least reasonable suspicion of a violation combined with exigent circumstances, warrantless searches of facilities and the seizure of company records violates the Fourth Amendment to the Constitution. Accordingly, such a request is not only legally unsupportable under the CWA, it moreover violates the U.S. Constitution.

At the workshop on July 26, 2001, as support for its position on inspections, Regional Board staff referred to ordinances adopted by certain Los Angeles County cities, which it claimed authorized inspections of facilities for purposes of carrying out the Cities' obligations under the existing NPDES Permit, claiming that such Ordinances were broad enough to comply with the inspection terms of the draft Permit. The Ordinances of three of the cities referenced at the workshop (Beverly Hills, Hermosa Beach and El Monte),[1] were reviewed, yet, all contained language showing that these Cities were concerned about appropriate authority to enter upon private property, without a warrant, and in fact, each Ordinance expressly conditioned entry upon

[1] There was only sufficient time to obtain copies of three of the ordinances referenced by staff at the July 26, 2001 workshop, and as discussed below, the sections of each of these ordinances dealing with inspections were conditioned upon receiving ***consent*** from the property owner or upon obtaining an ***inspection warrant***.

consent by the property owner, or upon obtaining a warrant to conduct the inspection. For example, the El Monte Ordinance referenced at the Workshop provides as follows:

> 7811. AUTHORITY TO INSPECT. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the office by this Chapter; provided that (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.
>
> *Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.*

Accordingly, it is apparent that the contentions made by Board staff at the workshop on July 26, were not correct. Copies of the relevant portions of the stormwater ordinances for the Cities of El Monte, Hermosa Beach and Beverly Hills are enclosed with these comments for the Regional Board's review and consideration, and are marked as Attachment A.

Finally, the provisions of the draft Permit requiring the inspection of restaurant, retail gasoline outlets, and automotive service facilities (in most cases once every twenty-four months, see p. 26, section C, Industrial/Commercial Facilities Program) are requirements that are ***not*** similarly authorized anywhere under the CWA or State law as such facilities are not industrial facilities. Nor is the requirement that Permittees visit USEPA Phase I facilities every twenty-four months, or the requirement that Permittees develop a program to conduct spot checks of Phase I facilities in each year subsequent to the completion of the first inventory of such Phase I facilities, requirements that are authorized under State or federal law.

In a 1993 California Attorney General Opinion involving the responsibility of local building departments to enforce the access requirements of the Americans with Disabilities Act ("ADA") (see 76 Op. Atty. Gen. Cal. 130), the Attorney General concluded that since the ADA does not provide for the enforcement of federal law by local building officials, State law does not and cannot mandate local building officials to enforce the federal access requirements under the ADA. The Attorney General found that in enforcing State and local building regulations, local building officials may not elect to assume greater or different enforcement powers than those specifically or necessarily implied under California law (citing *Ferdig v. State Personnel Board* (1969) 71 Cal.2d 96, 103-104), and concluded that: "[w]e ***therefore conclude that local building departments are not responsible for enforcing the access requirements of the ADA; however, they are required to enforce state and local building codes which have incorporated the federal requirements. Local building departments are not authorized to elect to enforce the federal access standards apart from the CBSC and local codes.***"

Similarly, in a 1984 Attorney General decision involving whether a city or county has the authority to establish a licensing and inspection program to regulate the transportation of hazardous materials over roadways within its jurisdiction (67 Op. Atty. Gen. Cal.1), the Attorney General again concluded that a city or county has only limited authority and that unless the state Legislature "expressly authorized" a licensing or inspection program at the local level, a local program would be in conflict with among other matters, the "***constitutional grant of the police powers authority***" to the local agencies.

Accordingly, the inspection and enforcement provisions within the draft Permit are not authorized anywhere under the Clean Water Act or the Porter-Cologne Act, and are thus invalid, as neither the Regional Board nor the Permittees have the respective authority to impose such inspection requirements or to conduct such inspections. Further, as discussed above, such provisions would violate the Fourth Amendment of the U.S. Constitution and the California Constitution.

B. THE RECEIVING WATER LIMITATION LANGUAGE UNDER PART II OF THE DRAFT PERMIT EXCEEDS THE STANDARDS AND AUTHORITY PROVIDED UNDER STATE AND FEDERAL LAW

Under Section 402 of the CWA, permits for discharges from municipal storm sewers are to be issued to "require controls to reduce the discharge of pollutants to the ***maximum extent practicable*** . . . ." Similarly, under Section 13263 of the Porter-Cologne Act, waste discharge requirements ("WDRs") are to be issued:

> . . . with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and

shall take into consideration the beneficial uses to be protected, ***the water quality objectives reasonably required for that purpose,*** other waste discharges, the need to prevent nuisance, and the provisions of ***Section 13241.*** (Cal. Water Code § 13263.)

Under Section 13241 of the Porter-Cologne Act, the factors to be considered are to include:

(a) Past, present, and probable future beneficial uses of water.

(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.

(c) Water quality conditions ***that could reasonably be achieved*** through the coordinated control of all factors which affect water quality in the area.

(d) ***Economic considerations.***

(e) ***The need for developing housing within the region.***

(See Cal. Water Code § 13241).

As presently written, Parts 2.1 and 2.2 of the draft Permit prohibit "discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives," and discharges from the MS4 storm water which "cause or contribute to a condition of nuisance." Such prohibitions and requirements are directly contrary to the express explicit standard under the CWA, i.e., to control the discharge of pollutants "***to the maximum extent practicable,***" and the standard set forth under the Porter-Cologne Act, i.e., water quality objectives "***reasonably required***" and water quality conditions that "***could reasonably be achieved.***"

As indicated in the attached, the very purpose of issuing an NPDES Permit and WDRs is to specifically allow the discharge of storm water (which, by definition, includes storm water runoff) and to specifically allow the discharge of "waste" (to the extent the pollutants in storm water runoff constitute waste) to, among other areas, "receiving waters."

In fact, the CWA includes a very specific process, i.e., the 303(d) listing process and the TMDL process, which recognizes that water quality objectives are to be met over time, and the language in the draft Permit effectively repudiates this process and would cause the Permittees to be in violation of the terms of the draft Permit from its inception. Again, such language is directly contrary to the clear standards under both State and federal law.

The proposed language in the Second Draft imposes an "open-ended" ever changing standard that ignores the specific requirements and objectives of an NPDES Permit under the CWA and the Porter-Cologne Act. It, moreover, is effectively including a standard that violates the basic substantive rights of the Permittees to due process of law.

C. NUMEROUS PROVISIONS OF THE PERMIT VIOLATE THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA").

1. The Development Planning Requirements are Pre-empted by CEQA.

The provisions of the California Environmental Quality Act ("CEQA") "occupy the field" of mitigating adverse environmental impacts when it comes to a public agency's review of "projects" and imposing mitigation measures to mitigate potentially significant adverse impacts created by the project, and/or the need to consider alternative projects. In *Leslie v. Superior Court* (1999) 73 Cal.App.4th 1042, the Court found that the State Legislature had clearly expressed its intent to fully occupy the field of building standards by enacting uniform State-wide building laws, and demanding that local governments adopt Uniform Building Codes and California building standards. In *Leslie*, the local government was precluded from enacting building standards that differed from State standards, unless a State statute specifically authorized the local government to do so. Also *see Building Industry Assn. v. City of Livermore* (1996) 45 Cal.App.4th 719, 724, cited by *Leslie v. Superior Court*, where the Court found that:

> "Our state Legislature has clearly expressed its intent to fully occupy the field of building standards. Consequently, a local government is precluded from enacting building standards that differ from state standards unless a state statute specifically authorizes the local government to do so."

Under Public Resources Code sections 21000 and 21001, the Legislature expressed its intent in adopting CEQA, that:

> "(f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality ***and to control environmental pollution.***
>
> ***(g)*** It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities

> ***so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian."***

(Pub. Res. § 21000.)

Further, under Public Resources Code section 21001, the Legislature provided that:

> The Legislature further finds and declares that it is the policy of the State to:
>
> "(d) Ensure that the long-term protection of the environment, ***consistent with the provision of a decent home and suitable living environment for every Californian***, shall be the guiding criteria in public decisions.
>
> (e) Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.
>
> . . .
>
> ***(g) Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment.***"

(Pub. Res. Code § 21001.)

In adopting CEQA, the Legislature further determined that public agencies are not to approve "projects" if there are ***feasible alternatives*** or ***feasible mitigation*** measures available which would substantially lessen the significant environmental effects of such projects and that "in the event specific ***economic, social, or other conditions*** make infeasible such project, alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof." (Pub. Res. § 21002.) The term "feasible" is defined under CEQA to mean "capable of being accomplished in a successful manner within a reasonable period of time, ***taking into account economic, environmental, social, and technological factors***." (Pub. Res. Code § 21061.1)

The Legislature has, moreover, identified through statute and regulation, various statutory and category exemptions to CEQA. For example, CEQA, by its own terms, only applies to

"**discretionary**" projects. "***Ministerial***" projects are expressly ***exempt*** from CEQA's application, *i.e.*, public agencies have no authority to review ministerial projects for purposes of imposing feasible mitigation measures to address potentially significant adverse impacts. (Pub. Res. § 21080(b)(1).) The exemption of all "ministerial" projects from the application of CEQA, and thus, from review by local agencies for purposes of imposing feasible mitigation measures under CEQA, is significant in connection with the existing draft Permit, as the draft Permit seeks to impose mitigation measures under the SUSMP provisions to all "projects," whether they are "discretionary" or "ministerial." As CEQA expressly exempts ministerial projects from its terms, there is no authority for the Regional Board to require municipalities to, in effect, impose mitigation measures on projects that are otherwise exempt from such mitigation measures by State law.

The State guidelines under CEQA identify a series of additional exemptions on various types of projects from the environmental review process, many of which appear to be "projects" in which the Regional Board is now seeking to impose its own environmental mitigation measures thereon. Specifically, Class 2, Class 3, Class 4, Class 11 and Class 15 "categorical exemptions" under CEQA would likely be overridden by the terms of the draft Permit, if adopted. Such exemptions exempt the following projects: the replacement or the reconstruction of the existing structures or facilities when a new structure is located on the same site as the original facility and will serve the same purpose and capacity of the original structure (14 CCR 15302); the construction of small new facilities, new equipment and facilities and small structures, and the construction of three or fewer single family homes in urban areas (14 CCR 15303); minor alterations to land such as grading, gardening and landscaping that do not affect sensitive resources (14 CCR 15304); the construction or replacement of minor structures to existing facilities (*e.g.*, signs, small parking lots, portable structures) (14 CCR 15311); and the subdivision of four or fewer parcels in urban areas (14 CCR 15315). Each of these categorical exemptions will likely be overridden by the Regional Board's attempt to impose the subject development planning requirements on various projects throughout the County.

Given that the State Legislature has already "occupied the field" on the process to follow in imposing mitigation measures on development, any attempt by a regional board to adopt provisions that are contrary to State law provisions adopted by the State Legislature, are impliedly, if not expressly, preempted. (See e.g., *Leslie v. Superior Court*, *supra*, 73 Cal.App.4th 1042, where the Court found that a conflict exists between a City ordinance and general State laws, where the ordinance ***duplicates, contradicts or enters an area which is fully occupied by general law, either expressly or by Legislative implication.***) In the instant case, both the Regional Board and the Permittees are without authority to take action to adopt mitigation measures, unless such mitigation measures are otherwise expressly required by State or federal law, where the projects are categorically or statutorily exempted from the requirements of CEQA, and/or to take action that is inconsistent with and contrary to the policies and provisions of CEQA.

2. The Regional Board Has No Authority to Modify the Guidelines and Regulations to CEQA.

In addition to the concerns of preemption created by the draft Permit, under section 12 of the draft Permit, entitled "California Environmental Quality Act (CEQA) Document Update," the Regional Board seeks to require modifications to the existing State CEQA guidelines, i.e., the draft Permit requires the adoption of new regulations to modify existing CEQA regulations under State law.

Given that the Regional Board does not have the authority to impose regulations to modify the terms of CEQA, or otherwise, and that the Regional Board has failed to comply with requirements of the Administrative Procedures Act in adopting the subject permit (discussed below), provisions requiring that the Permittees update their CEQA guidelines (page 34 of the draft Permit) are unsupportable and legally invalid.

Further, it should be recognized that such requested changes to CEQA are not only invalid, they are also unnecessary, as the existing language in the CEQA guidelines already accomplishes the apparent purpose of the proposed changes required by the Regional Board to CEQA. Specifically, the CEQA guidelines already contain an Environmental Checklist (Appendix G to the State regulations), and under Section VIII of this Checklist, the potential impacts on water quality and impacts to the environment from storm water runoff, are expressly identified as being impacts to be evaluated. A copy of the Checklist from the regulations is enclosed herein for your review and consideration, and is marked as Attachment B.

Under section VIII, of the Checklist, entitled "Hydrology and Water Quality," the following questions are to be asked to determine whether there is a potential significant impact on the environment, or whether the impact may be less than significant where mitigation measures are incorporated:

> "(a) ***Violate any water quality standards or waste discharge requirements?***
>
> . . .
>
> (c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, ***in a manner which would result in substantial erosion or siltation on- or off-site?***
>
> (d) ***Substantially alter the existing drainage pattern of the site or area***, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of

surface runoff in a manner which would result in flooding on- or off-site?

(e) Create or contribute runoff water which would exceed the capacity of the existing or planned storm water drainage systems ***or provide substantial additional sources of polluted runoff***?

(f) ***Otherwise substantially degrade water quality.***"

In light of the existing requirements under CEQA, and beyond the fact that the Regional Board does not have the authority to amend the CEQA guidelines, and otherwise has not complied with the requirements of the Administrative Procedures Act, the proposed changes to the guidelines are unnecessary, as they are already addressed in the existing guidelines.

3. The Regional Board has Itself Failed to Comply with CEQA.

Water Code Section 13389 exempts the State and Regional boards from compliance with the requirements from CEQA and the adoption of "waste discharge requirements," except requirements for "new sources" as defined in the Clean Water Act. In the instant case, the proposed Permit will impose permanent requirements on "new sources" as defined in the Clean Water Act, and thus the requirements of CEQA must be complied with by the Regional Board prior to the adoption of the subject Permit.

Under the Clean Water Act, "new sources" are defined to mean "any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section." (33 U.S.C. § 1316(a)(2).) Further the term "source" is defined to mean "***any building, structure, facility, or installation from which there is or may be the discharge of pollutants.***" (33 U.S.C. § 1316(a)(3).)

With the instant Permit, any new construction or new facility is a potential "new source," and thus the requirements of CEQA apply and must be adhered to by the Regional Board.

D. THE REGIONAL BOARD HAS NO AUTHORITY TO MODIFY STATE LAW GOVERNING GENERAL PLAN REQUIREMENTS.

Similar to the concerns created by the Regional Board's attempt to impose mitigation measures on "projects" and to impose changes to CEQA where such changes are unnecessary, under section 13, on page 34 of the draft Permit, the Regional Board seeks to require the Permittees to amend, revise or update certain elements of their General Plans, contrary to

existing State law governing General Plans. Further, the draft Permits required General Plan updates to address matters that are already addressed under existing State law.

Government Code sections 65300 and 65307 require cities to prepare a Comprehensive General Plan including specific required elements of the General Plan, such as a land use element, a circulation element, a housing element, a conservation element, an open space element, a noise element and a public safety element. Under Government Code section 65302(d), a General Plan must include a conservation element "for the conservation, development and utilization of natural resources including water and its hydraulic force, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources." (Gov. Code § 65302(d)). The General Plan requirements further allow for the "conservation element" to include, among other issues, the following:

- *Prevention and control of the pollution of streams and other waters.*
- *Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.*
- *Prevention, control, and correction of the erosion of soils, beaches and shores.*
- *Protection of watersheds.*
- *Flood control.*

(*See* Gov. Code § 65302(d)(2).)

Accordingly, pursuant to Government Code section 65302(d)(2), as well as the other provisions referenced above, municipalities are already required to consider within their "conservation element," the prevention and control of the pollution of streams and other waters. Any attempt by the Regional Board to impose additional requirements on municipalities to amend their General Plans differently, other than as prescribed by the State Legislature, is not only preempted by exiting law, it is unnecessary.

In addition, pursuant to Government Code § 65300.9, the Legislature expressed its intent, in enacting the General Plan requirements, that they are to:

> . . . provide an opportunity for ***each city and county*** to coordinate its local budget planning and local planning for federal and state program activities, such as community development, with the local land use planning process, ***recognizing that each city and county is required to establish its own appropriate balance in***

the context of the local situation when allocating resources to meet the purposes. (Gov. Code § 65300.9.)

Thus, it is apparent that State law specifically allows each city and county to establish their own appropriate balance when allocating resources and when planning for any federal and State program activities. Accordingly, the attempt by the Regional Board to impose additional requirements on the Permittees to revise their General Plans, is directly contrary to the Legislative policy set forth by the State Legislature, and is a direct infringement on the sovereign of the Permittees, in particular the local land use authority of the Permittees. (See Yost v. Thomas (1984) 36 Cal.3d 561, 565 "... the front line role in land use planning and zoning is in the hands of the local government;" also see *Leslie v. Superior Court, supra*, 73 Cal.App.4th 1042, 1051, where the court concluded that the California Coastal Commission can only conduct limited administrative review to ascertain whether a local general plan conforms to minimal requirements of the California Coastal Act, and that the California Coastal Commission per the Public Resources Code, "***is not authorized to . . . diminish or abridge the authority of the local government to adopt and establish, by ordinance, the precise content of its land use plan.***")

Here, similarly, the Regional Board is not authorized to diminish or abridge the authority of a local government to adopt and establish its own general plan requirements, and the provisions with the draft Permit which infringe on such authority are invalid.

E. THE DEVELOPMENT PLANNING ("SUSMP") REQUIREMENTS CONFLICT WITH STATE BOARD ORDER NO. WQ-2000-11, AND VIOLATE VARIOUS OTHER LEGAL REQUIREMENTS AND MANDATES.

1. The .75 inch Standard is Inappropriate.

As discussed at the Workshop, the regulatory authority for imposing a SUSMP is set forth in 40 CFR Section 122.26(d)(2)(iv)(A). These regulations require that the Proposed Management Program include a description of structural and source control measures to reduce pollutants from runoff in commercial and residential areas that are discharged "***from***" the municipal storm system, to be implemented during the life of the Permit, and to be accompanied with an "***estimate of the expected reduction of pollutant loads***" and a proposed schedule for implementing such controls.

First, the reference to areas that are discharged "***from***" the MS4, shows that in fact, regional approaches are contemplated in developing the SUSMPs. Second, as to the .75 standard, the draft Permit does not contain any findings identifying the "***expected reduction of pollutant loads,***" or the sources or types of such pollutant loads. The .75 inch standard further does not appear to have been developed based on "quantitative data," "source identification," and "source characterization" (40 CFR 122.26(d)(1), and an analysis of the reduction of pollutant

loads expected from the SUSMP has not been performed. The CWA regulations have not been complied with.

Further, Water Code Section 13263(a) requires the consideration of the "***conditions existing in the disposal area or receiving waters***" where the discharge is made or proposed. As discussed further below, the proposed SUSMP requirements impose a "one size fits all" requirement and do not give fair consideration to the "conditions existing" in the respective development areas, and to the specific types of development in question.

2. The SUSMP provisions do not take into account the considerations required by Water Code Sections 13263 and 13241, and other important considerations, such as housing needs in the region.

The .75 standard is a one-size fits all standard, and is one that fails to consider the objectives required to be considered in issuing a set of Waste Discharge Requirements as required under Water Code Sections 13263 and 13241, e.g., "***economic considerations***" and "***the need for developing housing within the region***." Further, there are no findings and no indication that "***economic considerations***" have been accounted for or that ***the need for developing housing*** within the Region has been considered. This failure similarly constitutes a violation of CEQA and general State law. (See Pub. Res. §§ 21000(g), 21001(d) and 21061.1, and Gov. Code §§ 65580 & 65589.5.)

For example, Government Code Section 65580 confirms the vital statewide importance of decent housing for every Californian:

> The Legislature finds and declares as follows:
>
> (a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.
>
> . . .
>
> (c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.
>
> (d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.
>
> (e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and

fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

With the present draft Permit, at a minimum, low and moderate-income housing developments must be exempted from the SUSMP requirements, and the .75 standard should not apply to ***any*** housing developments until the pollutants of concern and their sources have been identified, and the ***benefits*** and ***costs*** of implementation of the .75 design standard on residential developments have been analyzed.

In addition, under Water Code Section 13263(a), Waste Discharge Requirements to achieve water quality objectives must be "***reasonably*** required for that purpose," and under Section 13241, only water quality conditions that "could ***reasonably be achieved*** through the coordinated control of all factors which affect water quality in the area," may be imposed. (Water Code §13263(a); 13241(c).)

Here, the .75 inch standard, along with the over-breadth of the categories to which it is to be applied, combined with the overbroad definition of "Redevelopment," the insistence that all "non-discretionary" projects be included, and the inclusion of "environmentally sensitive areas," are all terms of the SUSMP which are not "***reasonably required,***" or terms that will result in water quality conditions that "could ***reasonably*** be achieved."

Finally, with the proposed .75 standard, Board staff has failed to consider the impact on ***ground water quality***, ***vector control problems***, and the financial constraints that are already inhibiting the ability of cities and the County to provide other essential health and safety services to their citizens.

3. The Regional Board may not regulate environmentally sensitive areas.

The SUSMP was developed contrary to the admonitions and directives provided by the State Board pursuant to Order WQ-2000-11. Specifically, under Order WQ-2000-11, the State Board ***invalidated*** the prior SUSMP imposed by the Regional Board, in part because of the Regional Board's insistence on including a category defined as development within "environmentally sensitive areas" ("ESAs"). The State Board reasoned that ESA's were already "***subject to extensive regulation under other regulatory programs***." (See Order WQ-2000-11, p. 25.)

The application of the SUSMP requirements to ESAs is, therefore, inappropriate as such areas are already heavily regulated, as the Regional Board only has jurisdiction over "receiving waters" within such areas, and as the Regional Board per se has no jurisdiction over "environmentally sensitive areas."

ESAs are defined in the draft Permit to include areas containing critical habitat, endangered species or other areas defined as "environmentally sensitive." In this case, the Regional Board's authority starts and stops with "receiving waters," and thus any impact "pollutants of concern" may have on an "environmentally sensitive area" beyond receiving waters, is outside the jurisdiction and authority of the Regional Board.

The California Environmental Quality Act, the Federal Endangered Species Act, the California Endangered Species Act, and numerous other State and federal laws already impose significant restrictions, limitations and prohibitions on development in "environmentally sensitive areas." These laws have been adopted for the very purpose of protecting the species, habitat or wildlife that have caused the area to be "environmentally sensitive" in the first instance. The Regional Board has no such authority, and is moreover ***preempted*** from regulating the field. In addition, a SUSMP that effectively requires "pollutants of concern" to remain ***onsite***, on an environmentally sensitive area, is intuitively not protective of the environment or sensitive to the species and/or habitat of concern.

4. The term "Redevelopment" is overly broad, as is the general application of the SUSMP provisions.

The proposed SUSMP provisions are again overly broad given the revisions to the definition of "***redevelopment***," and the inclusion of non-discretionary projects into the SUSMP. Unfortunately, the Regional Board has chosen to attempt to broaden the definition of "redevelopment," in spite of some two days of hearing before the State Board challenging the previous SUSMP issued by the Regional Board, and the State Board's revision of the definition of the term "Redevelopment" at that time. It has also determined to again attempt to apply the SUSMP provisions to both "discretionary" and "non-discretionary" projects, despite the State Board's deletion of "non-discretionary" projects from the terms of the existing SUSMP.

For example, with the expanded definition of "Redevelopment" to include the "***replacement***" of 5,000 square feet of impervious surfaces, along with the inclusion of non-discretionary projects, the replacing of a roof on a commercial or a large residential structure, such as a large home or an apartment complex, would trigger compliance with the SUSMP's .75 inch requirement. Similarly, replacing or repaving a parking lot of 5,000 square feet or more could result in the need for a complete redesign of the development, beyond just the parking lot, as parking requirements often play an important role in the use and design of a particular facility. The result of the expanded definition of "Redevelopment" and the inclusion of non-discretionary/ministerial projects, is that if any required replacement is to be done, it may well be done piecemeal over a period of years, in an inefficient and costly manner.

In addition, with the overbroad definitions of "New Development" and "Redevelopment" as presently defined in the draft Permit, the SUSMP is ambiguous as the term "Redevelopment"

is completely subsumed in the definition of "New Development." The concern is that given the definition of "New Development," i.e., "land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision," all "Redevelopment" would constitute "New Development." Accordingly, the definitions of both "New Development" and Redevelopment" should be revised, with the term "New Development" being redefined to limit its terms to the "***creation or addition of 5,000 square feet or more of impervious surfaces,***" and the definition of "Redevelopment" being revised to delete the word "replacement" from its terms. These changes are necessary to avoid the circumstance where the "Redevelopment" of a particular area actually results in the reduction of impervious surface, and/or results in less than the addition of 5,000 square feet of impervious surface, but yet the SUSMP provisions are interpreted as applying to the project.

5. The SUSMP once again improperly attempts to include "non-discretionary projects."

There is nothing within the draft Permit or the findings thereto, to support the application of the SUSMP to "***non-discretionary***" projects. One of the primary arguments made and upheld by the State Board in connection with the prior challenge to the Regional Board's SUSMP, was that it inappropriately applied to "non-discretionary" projects. In ***Finding No. F.2*** of the draft, the Permit appears to be designed to modify the regulations to CEQA and the entire land use decision-making process throughout the region, so that "a ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion." (See p. 13, Finding No. F.2.)

The implication of the inclusion of "non discretionary" projects within the SUSMP, is that ***any*** development and redevelopment project within the specified categories would require the application of the .75 standard, leading to absurd and unintended consequences. In addition, as discussed above, any attempt to transform "ministerial projects" into "discretionary projects," conflicts with and would be preempted by CEQA.

Finally, there are no findings and no evidence to support any finding, for the need to apply the SUSMP requirements to "non-discretionary" projects. Before such an expansive and overly broad application of this SUSMP is mandated on the Permittees, findings supporting the need for such an expansion, and evidence supporting such findings, must be identified. Without such, the inclusion of all "non-discretionary" projects within the development categories of the SUSMP, is arbitrary and capricious and is not supported by the evidence in the record, and is not otherwise shown to be "reasonably required" to protect the water quality of the region. (Water Code §13263(a).)

6. "Regional Solutions" have not been adequately considered.

In spite of the various admonishments from the State Board to develop "regional solutions" for purposes of implementing the SUSMP program, and in spite of the requirements under State and federal law to consider regional solutions in protecting the quality of the region's waters, the draft Permit again fails to adequately allow for regional solutions.

In Order WQ-2000-11, the State Board recommended that:

> "The Cities and the County, along with other interested agencies, work to develop regional solutions so that individual dischargers are not forced to create numerous small scale projects. While the SUSMP are an appropriate means of requiring mitigation of storm water discharges, we also encourage innovative regional approaches." (Order WQ-2000-11, p.21.)

With the proposed Permit, it is essential that regional solutions be developed, not only to insure cost effective measures of resolving our water quality problems, but also to insure technically effective programs and to avoid "numerous small scale projects." The Coalition for Practical Regulation has proposed a specific plan to develop regional solutions and we would strongly encourage the Regional Board to consider this plan in developing the subject NPDES Permit. The draft Permit improperly limits regional solutions to "new development" only, and further, to very limited circumstances. The "regional alternative" provisions within the draft Permit should be expanded.

7. Liability from private illicit discharges cannot be transferred to municipalities, and municipalities have no authority to mandate contractual provisions in private party agreements.

Under Section D.9 on page 33 of the draft Permit entitled "Maintenance Agreement and Transfer," the Board attempts to impose obligations on Permittees to verify "[w]ritten conditions in the sales or lease agreements, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year...." The language seeks to have Permittees impose conditions in private sale and/or lease agreements, and effectively, to legislate language into sales and lease agreements requiring the assumption of responsibility for the maintenance of the SUSMP structures, or to alternatively assume responsibility for structural or treatment control BMP maintenance. Yet, there is no authority under State or federal law which would enable the Regional Board to impose such a requirement on municipalities, and nor is there any authority that would allow the municipality to impose such terms and conditions on a private parties and improvements agreements.

F. THE DRAFT PERMIT IMPROPERLY SEEKS TO TRANSFER THE BURDEN OF PROOF IN ENFORCEMENT ACTIONS ONTO THE PERMITTEES, IN VIOLATION OF STATE AND FEDERAL LAW AND BASIC PRINCIPALS OF DUE PROCESS OF LAW.

Buried in the definition section of the draft Permit, at the end of the definition of the term "Pollutants," is the following:

> "In an enforcement action, the ***burden shall be on the person who is the subject of such action*** to establish the elimination of the discharge to the maximum extent practicable through compliance with the best management practices available."

The apparent intent of this language is to invert the burden of proof and to require the Permittees to effectively prove that their actions were not in violation of the Permit, and thus, the Clean Water Act and the Porter-Cologne Act.

In effect the apparent intent is to include a provision that the Permittees are deemed "guilty" of a violation, until they prove themselves "innocent." Obviously, this attempt to flip flop the burden of proof is a violation of the most basic principle of our American system of justice.

G. THE DRAFT PERMIT SEEKS TO IMPOSE NUMEROUS UNFUNDED MANDATES IN VIOLATION OF THE CALIFORNIA CONSTITUTION.

Article XIII B, Section 6 of the California Constitution prohibits the State Legislature or any State agency from shifting the financial responsibility of carrying out governmental functions to local governmental entities. In particular, Article XIII B, Section 6 provides in relevant part that:

> "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local governments for the cost of such program or increased level of service ...."

This reimbursement requirement was intended to provide permanent protection for taxpayers from excessive taxation and to provide discipline in tax spending at both state and local levels. (*County of Fresno v. State* (1991) 53 Cal.3d 42, 46.) It was moreover enacted as a part of Proposition 4 in 1979, ***to preclude the state from shifting financial responsibility to local entities that were ill equipped to handle the task.*** (Id. at 47.)

Here, the draft Permit plainly attempts to shift the responsibility of the State and Regional Boards on to the Permittees, by attempting to force the municipalities to, among other matters, regulate construction and industrial sites that are already otherwise regulated by the State Board. Irrefutable evidence of this attempt to shift an unfunded mandate on to the municipalities is provide by two correspondence from US EPA, one dated December 19, 2000 and a second is dated April 30, 2001. In such correspondence, US EPA explains that as a result of meetings with Regional Board's staff and the NRDC, that:

> "NRDC also recognizes, however, that the root of the problem is ***the lack of adequate staffing at the Regional Board to implement the program***. At the October 5 meeting, we [US EPA] suggested that the upcoming MS4 permit re-issuance for Los Angeles County ***require*** that the MS4 permittees provide ***more assistance to the Regional Board in this regard***." (See December 19, 2000 letter from Alexis Strauss, US EPA, p. 1)

To emphasize the point that US EPA would like to help impose a State mandate on municipalities because the State does not have "adequate staffing," Ms. Strauss goes on to state, in a follow up communication, that:

> "The State currently collects about $3 million in fees annually from storm water dischargers, and these fees are used entirely to fund storm water program activities, including inspections, enforcement, permitting and other activities. However, the storm water fees cover only about 30% of the costs of the current program, with the rest of the funding coming from other sources. As such, the fees are not adequate to fully fund the State's program and its various activities including inspection." (April 30, 2001 letter from Alexis Strauss of US EPA to Congressman Stephen Horn.)

(See April 30, 2001 letter from US EPA, Region 9, Alexis Strauss to Congressman Horn.)

The evidence could not be stronger and US EPA has emphatically made the point that because the fees charged by the State are "not adequate to fully fund the State's program," the Regional Board is attempting to shift a State ***mandate*** to municipalities, without providing funding, i.e. the State is attempting to impose an unfunded mandate.

The Regional Board's attempt under the draft Permit to "shift financial responsibility to local agencies that are ill equipped to handle the task," and to put primary responsibility on the Cities to enforce a General Statewide Permit issued by the State Board, is a direct violation of

Article XIII B, Section 6 of the California Constitution, thereby making the draft Permit invalid, without adequate funding to the Permittees. (*County of Fresno v. State, supra*, 53 Cal. 3d at 42, 47.) Other violations of this Constitutional prohibition exists with the shifting of other unfunded mandates to the municipalities, e.g. the SUSMP program.

H. THE DRAFT PERMIT FAILS TO PROPERLY CONSIDER "ECONOMIC" CONSIDERATIONS AND HAS NOT BEEN DEVELOPED BASED ON A "COST/BENEFIT" ANALYSIS.

When issuing any NPDES Permit for alleged point source discharges, economic considerations are required to be taken into account under both State and federal Law. (See 33 USC §§ 1288, 1313, 1315(b), and 64 Federal Register 68722, 68732; Water Code §§ 13000, 13165, 13241, 13225, 13267 and related provisions thereto.) In particular, under Section 13263 of the Porter-Cologne Act, Waste Discharge Requirements ("WDRs") require a consideration of, among other matters, "the provisions of Section 13241." (Water Code § 3263 (a)) Section 13241(d) specifically requires that the Regional Board, in establishing water quality objectives, consider, among other matters, "***economic considerations***." As referenced above, Federal law also requires the consideration of "economic" considerations. (64 Federal Register 68722, 68732.) Further, under CEQA, "feasible alternatives" are to be considered, and the term "feasible" is defined to include taking into "account ***economic*** environmental, social, and technological factors." (Pub. Res. Code § 21061.1.)

The importance of "economic considerations" was, moreover, specifically recognized by the State Board in Order WQ-2000-11, where the Board found that the maximum extent practical ("MEP") standard requires Permittees to choose ***cost-effective***, best management practices ("BMPs"), and to reject applicable BMPs where the BMPs would not be technically feasible or "the cost would be prohibitive." (State Board Order 2000-11, p. 20.) Although the State Board did not agree that a formal "cost/benefit analysis" was required, it clearly recognized a need to consider costs in adopting BMPs, and here as well, at a minimum, the Porter-Cologne Act requires the Regional Board to consider "economic considerations," in imposing WDRs.

In addition, a cost/benefit analysis is plainly required under Water Code Section 13225(c) and 13267(b), since the Regional Board is seeking to require local agencies to investigate and report on "technical factors involved" in water quality control. In this instance, Section 13225(c) requires that "***the burden, including costs, of such reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained therefrom.***" (See Water Code § 13225(c); also see Water Code §§ 13165.) Similarly, Section 13267(b) requires that "***[t]he burden, including costs, of these reports shall bear a relationship to the need for the report and the benefits to be obtained from the reports***."

The draft Permit is replete with language requiring local municipalities to conduct numerous investigations, monitoring and inspections, and to provide various reports to either the Executive Officer or the Regional Board itself. Pursuant to the express requirements of the Porter-Cologne Act, a cost/benefit analysis must be conducted prior to the imposition of such mandates.

We respectively request that the Board consider "***economic considerations***" in issuing the subject Permit, and that it perform the requisite "***cost/benefit analysis***" required by State law.

I. THE DRAFT PERMIT FAILS TO INCLUDE APPROPRIATE SAFE HARBOR LANGUAGE, AND FAILS TO INCLUDE AN APPROPRIATE ADMINISTRATIVE REVIEW PROCESS POTENTIALLY RESULTING IN OPEN-ENDED LIABILITY TO MUNICIPALITIES.

The intent and goal of the draft Permit should be to, in effect, issue a "permit" that ***allows*** for the discharge of pollutants from the Municipalities' MS4, but requires the municipalities control such discharges "to the maximum extent practicable." Such is the standard specifically set forth in the Clean Water Act, and the standard widely recognized by both the State and regional boards throughout the State, as being the appropriate standard for issuing MS4 NPDES Permits. Accordingly, where "pollutants" from an MS4 are being controlled to the maximum extent practicable, in accordance with "best management practices," the Permittees should be found to be in compliance with the permit, and thus CWA and the Porter-Cologne Act. Still, further, where a Permittee complies with the objective terms of the Permit, irrespective of whether or not a nuisance has been created by a private party's discharge to the MS4, and/or irrespective of whether there has been a water quality exceedance, so long as the terms of the Permit have been complied with, the Permittees should be deemed to be in compliance of the Clean Water Act and State law.

Accordingly, appropriate "safe harbor" language confirming that compliance with the terms of the Permit will constitute compliance with the provisions of the Clean Water Act and State law, is appropriate and should be expressly included within the draft Permit so as to provide the protections envisioned by State and federal law, and so as to avoid the potential for spurious lawsuits against Permittees based on a strained reading of either the Permit, the Clean Water Act, or State law. For example, under the ***existing*** NPDES Permit, on page 12, the Permit provides that: "***Timely and complete implementation by a Permittee of the storm water management programs prescribed in this Order shall satisfy the requirements of this Section and constitute compliance with receiving water limitations.***" Similar language should be added to the subject Permit providing a necessary "Safe Harbor" to the Permittees.

In addition, the Regional Board should include a specific Administrative Review Process as exists in the present Permit, as such a process goes hand in hand with an appropriate Safe

Harbor. An Administrative Review Process provides important due process protections for the Permittees, and an opportunity for both Permittees and the Regional Board to present their respective positions prior to the commencement of a more formal and expensive dispute resolution process. Further, an Administrative Review Process provides an opportunity for the Board itself to address minor violations that may otherwise go unchecked through a more formal process, short of subjecting both parties to an expensive and timely dispute resolution process. It further allows the Regional Board to use a scalpel as opposed to a sledgehammer, in addressing what are perceived as minor violations.

In addition, the Administrative Review Process should include a "meet and confer" process to allow the parties an opportunity to resolve their differences through discussion of communications, followed up by a mediation and/or an arbitration process. Further communication and dialogue through the meet and confer process would be in the best interest of all parties involved.

J. THE REGIONAL BOARD HAS FAILED TO COMPLY WITH THE ADMINISTRATIVE PROCEDURES ACT IN DEVELOPING THE SUBJECT PERMIT.

As discussed below, only State agencies with "statewide jurisdiction over a class of activities or discharges," and who have filed appropriate applications with the U.S. EPA, are authorized to administer NPDES programs. The lack of State direction in the instant case to individual regions throughout the State, has resulted in the present problem of different regional boards following similar, but different and inconsistent procedures and standards when developing NPDES permits. The lack of statewide jurisdiction of the Regional Board, in and of itself, invalidates the issuance of the subject permit. However, and in addition, in developing any "regulation," order" or "standard of general application," the State Board, and any Regional Board acting pursuant to State Board delegation, is required to comply with the clear rule making requirements of the Administrative Procedures Act, Government Code Section 11340, *et seq.* ("APA").

Although California law does not require administrative agencies to comply with the APA in simply issuing permits, including the issuance of waste discharge requirements, because the draft Permit in question is, in effect, a set of regulations, and is an order and sets forth standards of general application, the APA plainly applies and must be complied with. (Gov. Code § 11342(g).) This conclusion is further supported by comments by Board Staff that the permit requirements have and/or will be applied to various other agencies as well, thereby confirming that the Regional Board believes it will be issuing an order of general application, i.e., a regulation.

Government Code section 11342(g) defines the term "regulation" broadly to include "every rule, regulation, order, or standard of general application or the amendment, supplement or revision of any rule, regulation, order or standard adopted by any state agency to implement, interpret or make specific law enforced or administered by it . . . ." (Gov. Code § 11342(g).) California courts have found that "any regulation promulgated contrary to the provisions of Chapter 3.5 of the Administrative Procedures Act is invalid." (See, e. g., *Goleta Valley Community Hospital v. Department of Health Services* (1983) 149 Cal.App.3d 1124, 1129.) Accordingly, where an agency does not promulgate a regulation in substantial compliance with the APA, the regulation is without legal affect. (*Grier v. Kizer* (1990) 219 Cal.App.3d 422, 431.) In short, the APA expressly prohibits public agencies from issuing, utilizing and enforcing any order, rule or standard of general application, unless the same has been adopted as a formal regulation. (See *Union of American Physicians and Dentists v. Kizer* (1990) 223 Cal.App.3d 490, 496.)

The Permit when adopted, will plainly be a set of regulations, an order and a standard of general application that has no legal affect unless and until the requirements of the APA have be met.

K. THE REGIONAL BOARD HAS NO AUTHORITY TO ISSUE THE NPDES PERMIT IN QUESTION.

In accordance with California Water Code Section 13160, the State Water Resources Control Board ("State Board") is the designated agency to exercise the powers delegated to the State of California under the Clean Water Act, specifically including the right and obligation to administer the National Pollutant Discharge Elimination System ("NPDES") Program. The delegation of the authority to the State Board was outlined in a Memorandum of Understanding entered into by and between the United States Environmental Protection Agency ("EPA") and the State Board, dated September 22, 1989. Federal regulations allow NPDES authority within a state to be shared between two or more state agencies, ***but only if each agency has statewide jurisdiction over a class of activities or discharges***. Further, when more that one agency is responsible for issuing NPDES Permits within the state, under the CWA, each agency is required to make a submission meeting the requirements of the federal regulations. (40 CFR § 123.1(g)(1).)

Unlike the State issued General NPDES Industrial and Construction Permits, the subject NPDES Permit is being developed and proposed by the Los Angeles Regional Water Quality Control Board. By definition, the Regional Water Quality Control Board is a regional agency with regional jurisdiction, and thus does not have "***state-wide jurisdiction over a class of activities or discharges***," as required by the federal regulations. Further, nor has the State Board provided regulatory direction to the various regional boards in the State on the procedural and substantive processes to be followed in issuing a National Pollutant Discharge Elimination

System Permit. Without such specific regulatory direction by the State Board, and given the mandate of Federal Law that each NPDES issuing agency is to be a ***State agency*** with ***state-wide jurisdiction over a class of activities or discharges***, the Los Angeles Regional Board has no authority to issue the subject Permit.

Finally, the only mechanism for which the ***State Board*** may be in a position to delegate the terms of an order, regulation or rule of general application to a class of activities or discharges, i.e., to have a regional agency issue an NPDES Permit on its behalf, is to do so in accordance with the requirements of the Administrative Procedures Act, Gov. Code § 11340 et seq. Presently, however, as this process has not been followed, ***the Los Angeles Regional Water Quality Control Board has no jurisdiction and no authority to issue the subject Permit.***

L. THE REGIONAL BOARD HAS FAILED TO CONSIDER THE TYPES AND SOURCES OF POLLUTANTS IN DEVELOPING THE DRAFT PERMIT IN QUESTION, AS REQUIRED BY STATE AND FEDERAL LAW.

Under the Porter-Cologne Act, specifically Water Code Section 13263(a), Waste Discharge Requirements are to be issued "***with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed***." (See Water Code § 13263(a).) In addition, under the CWA, Municipal Separate Storm Sewer System ("MS4") NPDES Permits are to be issued based on information concerning "source identification," "discharge characterization," and "characterization data." (See 40 CFR §§ 122.26(d)(1)(iii), (iv), and (d)(2)(ii) and (iii).) In fact, one of the primary purposes of the permit process is to develop quantitative data on the types and sources of the pollutants in the effected receiving waters, and to thereafter develop particular management programs based on the "quantitative data" developed. (40 CFR § 122.26(d)(2)(iv).)

With the subject draft Permit, the Regional Board has gone beyond its authority under the CWA and State law, as the Regional Board has failed to customize and particularize the terms of the draft Permit to account for the "conditions existing in the disposal area or receiving waters," or for such "source identification," "discharge characterization," and "characterization data," as required by the Act. (Water Code §13263(a); 40 CFR § 122.26(d)(1)(ii)).

In proposing a Permit that is not based on "quantitative data," nor on information on the particular types and sources of pollutants in the subject receiving waters, the Regional Board is acting contrary to the policies and procedures set forth in the Act itself, and in the Porter-Cologne Act. For example, Part 2 of the draft Permit entitled "Receiving Water Limitations," subsections 1 and 2, contains very broad and ambiguous language imposing a prohibition on all discharges from the MS4 "that cause or contribute to the violation of water quality standards or water quality objectives." Yet, the purpose of the CWA in requiring the identification of the sources and pollutants of concern through the development of "quantitative data," is to have

these sources of pollutants and pollutants identified in the development process, and to then issue a Permit that considers these pollutants and imposes "controls to reduce the discharge of pollutants to the maximum extent practicable" from the MS4. (42 U.S.C. § 1342(p)(3)(B).)

Other language throughout the draft Permit further highlights the problems created by a draft Permit that was not developed based on the pollutants of concern and the sources of those pollutants, or on the "conditions existing in the disposal area or receiving waters."

M. THE DRAFT PERMIT VIOLATES THE PROHIBITION SET FORTH UNDER CALIFORNIA WATER CODE SECTION 13360.

California Water Code Section 13360(a) provides in pertinent part that:

> "No waste discharge requirement or other order of a Regional Board or the state board or decree of a court issued under this division shall specify the ***design***, location, type of construction, or ***particular manner*** in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner."

In short, Section 13360 allows a State or regional board to identify the "disease and command that it be cured," but prohibits the State or Regional Board from "dictating the cure." (See *Tahoe Sierra Preservation Council v. State Water Resources Control Board* (1989) 210 Cal.App.3d 1421, 1438.) The .75 inch numerical SUSMP standard is clearly a ***"design"*** standard and a ***particular manner*** in which "compliance may be had," and represents "dictating the cure." As such, it violates the requirements of Water Code Section 13360(a).

In addition, the draft Permit violates Water Code Section 13360(a) in each instance where the Regional Board seeks to impose a ***"particular manner"*** in which compliance may be had. In particular, specific requirements that are imposed on the municipalities to amend CEQA or to add additional elements to the General Plan, or to adopt and implement a particular Business Assistance Program, or to impose particular language in private sale or lease agreements, all constitute a ***"particular manner"*** in which compliance may be had. The imposition of such "particular manners" of compliance violates the express prohibition under Water Code Section 13360(a).

N. THE DRAFT PERMIT FAILS TO INCLUDE A FINDING OF CONSISTENCY WITH THE AREA-WIDE WASTE TREATMENT MANAGEMENT PLAN.

The Southern California Association of Governments ("SCAG") is a joint powers authority, created pursuant to California Government Code Section 6500, *et seq.*, and is an agency that represents 184 or more cities in Southern California, in the counties of Los Angeles,

Orange, San Bernardino, Riverside, Ventura and Imperial. SCAG's region encompasses some 38,000 square miles and a population of over 15,000,000 residents. SCAG has been designated as an Area-Wide Waste Treatment Management Planning Agency, pursuant to 33 USC Section 1288(a)(2), i.e., Section 208 of the Clean Water Act. SCAG is therefore an agency responsible for continuing an area-wide waste treatment management planning process. Thus, under Section 208 of the Clean Water Act, particularly subsection (e), before an NPDES Permit can be issued, the issuing agency must make a finding of consistency with the area-wide waste treatment management plan. (42 U.S.C. § 1288(e).) In the instant case, the draft Permit fails to include a finding of consistency with the Area-Wide Waste Treatment Management Plan, and as such, Section 208 of the Clean Water Act has not been complied with.

O. NUMEROUS FINDINGS IN THE DRAFT PERMIT ARE NOT SUPPORTED BY THE EVIDENCE, AND/OR DO NOT SUPPORT THE TERMS OF THE PERMIT.

Finding No. B.3 and B.6 attempt to regulate the volume and velocity of stormwater discharged from the MS4, as opposed to controlling "pollutants from" the MS4, or the discharge of waste to receiving waters. Specifically ***Findings B.3 and B.6*** provide in relevant part as follows: "In addition, the high volumes of stormwater discharge from MS4s in areas of urbanization can significantly impact aquatic ecosystems due to physical modifications such as bank erosion and widening of channels," and that "development and urbanization increase pollutant load, volume and discharge of velocity. . . . Second, urban development creates new pollution sources as the density of human population brings with it proportionally higher levels of vehicle emissions, vehicle maintenance waste, municipal sewage waste, pesticides, household hazardous wastes, pet waste, trash, and other anthropogenic pollutants. Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the circumstance." (Draft Permit, pp. 2-3.)

As the purpose of an NPDES Permit and WDRs is to control the discharge of pollutants from MS4s, and to regulate the discharge of waste considering water quality objectives "reasonably required," ***there is no authority for the Regional Board under this Permit to regulate the volume or velocity of stormwater runoff.***

Further, and, of equal importance, is the obvious attempt by the Regional Board to legislate, based on its perception of the potential environmental impacts that are created and need to be mitigated from "urban development." The creation of "new pollution sources as the density of human population brings with it proportionally higher levels of vehicle emissions, vehicle maintenance waste, municipal sewage waste, pesticides, household hazardous waste, pet waste, trash, and other anthropogenic pollutants," *(See finding B.6)* are all environmental factors to be considered in the evaluation of a "project" under the express requirements of the California Environmental Quality Act. The State Legislature over thirty years ago, provided a process to

follow in considering these potential environmental impacts, and the Regional Board plainly has no authority to modify the terms of CEQA and this process, and to issue an NPDES Permit to per se regulate "urban development."

In ***Finding No. D.2***, the Regional Board recognizes "that the Permittees will not be held responsible" for federal, State, regional and other local facilities within its jurisdiction and/or for discharges from such facilities. Unfortunately, there are no provisions anywhere in the draft Permit itself which exempt the Permittees from such responsibility, and, to the contrary, the definition of Industrial/Commercial Facility is defined to include federal, State and municipal facilities. Accordingly, not only are the provisions of the draft Permit dealing with Industrial/Commercial Facilities not supported by the findings, they are expressly controverted by ***Finding No. D.2***.

Finding No. D.4 provides that the Permit is intended to develop, among other things, a ***"cost-effective storm water control program"*** and ***"cost-effective"*** measures to control the discharge of pollutants in stormwater to the maximum extent practicable to the waters of the United States. Yet, the terms of the draft Permit itself are not based on these findings, as the terms do not provide the flexibility for ***"cost-effective"*** control measures and "***cost-effective***" programs. Further, there are no findings in the draft Permit to show that its terms are "***cost effective***" or that "***economic considerations***" were considered in its development. To the extent that there is evidence that exists to support Finding No. D.4, i.e. to support the determination of the Regional Board that its programs and measures are "***cost-effective***," this information should be disclosed to the public and the public should be given an opportunity to review the same. To date, no such evidence has been presented.

Finding No. D.5 provides in pertinent part that: "Permittees may control the contribution of pollutants to the municipal separate storm sewer system from non-permittee dischargers such as Caltrans, the U.S. Department of Defense, and other State and federal facilities, through interagency agreements." Obviously, without cooperation and participation with Caltrans, the U.S. Department of Defense and other State and federal facilities, through interagency agreements or otherwise, Permittees may not be in a position to control the contribution of pollutants to their MS4s, and there is nothing under the CWA or the Porter-Cologne Act that would require that Permittees control the contribution of pollutants from such State and federal facilities. Accordingly, Finding D.5 is factually inaccurate and legally deficient.

Finding No. E.1 refers to USEPA Phase II Stormwater Regulations and references various provisions and requirements under the Phase II final rule published on December 8, 1999. As the existing cities are all subject to the ***Phase I*** Stormwater Regulations, and are not subject to the ***Phase II*** requirements, reliance upon specific requirements of the Phase II Regulations to Phase I cities, as support for the provisions within the Subject Permit, is inappropriate.

Finding No. E.5 states that certain EPA regulations "require that Permittees implement a program to monitor and control pollutants in discharges to the municipal system from industrial and commercial facilities that contribute a substantial pollutant load to the MS4." As discussed above, this is not an accurate representation of the regulations, as the referenced regulations only apply to the control of pollutants and discharges of storm water runoff associated with ***industrial activities***, as specifically defined in the regulations themselves (see 40 CFR §122.26(b)(14), which does not apply to "commercial" facilities), and to industrial facilities that the municipality determines are "contributing a substantial pollutant loading to the municipal storm sewer system." (See 40 CFR 122.26 (d)(2)(iv)(c).) The requirement that the Permittees implement a program to monitor and control pollutants and discharges from all "industrial/commercial facilities" is not supported by the regulations and is directly contrary to the CWA regulations cited in ***Finding No. E.5***.

Finding No. E.7 states that the State of California is a delegated state for purpose of issuing NPDES Permits under the Clean Water Act and that: "The Porter-Cologne Water Quality Control Act (California Water Code) authorized the State Water Resources Control Board (State Board), through the Regional Boards, to regulate and control the discharge of pollutants into the waters of the State and tributaries thereto." Yet, neither this finding nor any other finding provides authority for the Regional Board, as opposed to the State Board, to issue NPDES Permits, as the Regional Board is ***not*** an agency with "***statewide jurisdiction over a class of activities or discharges***." (40 C.F.R. § 123.1(g)(1).)

Finding No. E.15 provides that the Regional Board, on October 13, 1998, "approved recommended best management practices for industrial/commercial facilities (Resolution No. 98-08)." A review of Resolution No. 98-08, however, shows that it only applies to a few select "commercial" facilities, and further, only imposes best management practices on certain specified industrial facilities and/or activities. The definition of "Industrial/Commercial Facility" under the draft Permit is far broader than the facilities described in Resolution No. 98-08, and the draft Permit plainly exceeds the terms of Resolution No. 98-08.

Finding No. E.17 indicates that a December 26, 2000 memorandum from the State Board's Chief Counsel constitutes "a state-wide policy" memorandum, and is cited to support the proposition that the SUSMP requirements are to include "ministerial projects, projects in an environmentally sensitive areas, and retail gasoline outlets." The December 26, 2000 directive from the State Board's Chief Counsel, if it is to be followed, can only be followed after the requirements of the Administrative Procedures Act ("APA") have been complied with, which, to date, has not occurred.

Finding No. E.24 references California Water Code Section 13263(a) and the provisions of said section which require the Regional Board to "take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose." Yet,

Finding No. E.24 fails to cite the complete language within Water Code Section 13263(a), and specifically fails to consider the factors delineated in Water Code Section 13241, including the need to consider "***economic considerations***," and "***the need for developing housing within the region***," along with "water quality conditions that could ***reasonably*** be achieved through the coordinated control of all factors which effect water quality in the area."

In addition, under Section 13263(a), the waste discharge requirements are to take into consideration "the water quality objectives ***reasonably required*** for that purpose...," and are to be considered in "relation to the conditions existing in the disposal area or receiving waters upon, or into which the discharge is made or proposed." (Water Code §13263(a).) ***Finding E.24*** thus, omits critical language from the standard for the issuance of waste discharge requirements, and the draft Permit fails to follow the standards set forth in Water Code Section 13263. The findings throughout the draft Permit do not support the Regional Board's consideration of these factors and other important factors, and the terms of the draft Permit do not comply with the requirements of Water Code Section 13263.

In ***Finding No. F.2***, the draft Permit provides that "[a] ministerial project may be made discretionary by adopting local ordinance provisions that create decision-making discretion." ***Finding No. F.2*** implies that municipalities have the authority to make all ministerial projects, discretionary, and that it would make regulatory or legal sense to do so. In short, the finding suggests that every building permit, grading permit, plumbing permit, electrical permit and occupancy permit, should be issued directly by the City Council, the Board of Supervisors and/or the Flood Control District Boards. With one felt swoop, for the sole purpose of addressing some ***undefined*** and ***unidentified*** problem with the existing SUSMP program, the Regional Board is seeking to change the entire planning, building and development process throughout the County of Los Angeles. ***Finding No. F.2*** is not supported by the evidence and would have disastrous consequences on planning and development throughout the County.

In ***Finding No. F.4***, the Regional Board contends that the Permit is "to protect the beneficial uses of receiving waters in Los Angeles County," and that to meet this objective, the Order requires implementation of BMPs intended to reduce pollutants in storm water and urban runoff such that ultimately their discharge will neither cause violations of water quality objectives nor create conditions of nuisance in receiving waters. This standard, however, is contrary to the standards set forth under the Porter-Cologne Act, as discussed above, and the standards set forth in the Clean Water Act, which require the control of discharges of pollutants from MS4s "***to the maximum extent practicable***." (42 USC § 1342(p)(3)(B).) ***Finding No. F.4*** is not supported by State or federal law, and moreover, as discussed above in connection with the receiving water limitation language, would result in the application of an open-ended standard and one that is unobtainable within the five (5) year term of the permit. Such provisions are contrary to the standards of the CWA and State law, and would also violate the Permittee's right

to substantive due process of law, thereby denying the municipalities a "meaningful" Permit that allows for the discharge of waste and the discharge of pollutants from their MS4s.

Finding No. G.6 provides that: "The action to adopt an NPDES Permit is exempt from the provisions of Chapter 3 of CEQA (Cal. Pub. Resources Code Section 21100 et seq.), in accordance with California Water Code Section 13389." Unfortunately, the finding fails to cite the entirety of Water Code Section 13389, and specifically fails to address the exception to 13389 for "requirements for new sources as defined in the Federal Water Pollution Control Act or acts amendatory thereof or supplementary thereto." (See Water Code § 13389.) As discussed above, there will be "new sources" as defined in the CWA, which the Regional Board is seeking to regulate with the subject NPDES Permit, and as such, the impact of these requirements on "new sources" must, at a minimum, be reviewed under the requirements of CEQA.

In short, the findings throughout the draft Permit are not supported by the evidence in the record, and such findings do not support the proposed terms of the draft Permit. Further, there are a number of provisions throughout the draft Permit which are not supported by any findings.

We continue to look forward to improvements in the NPDES Permit and to the adoption of a permit that addresses these legal deficiencies, and to a Permit that is issued in accordance with the authority set forth under State and federal law.

Sincerely,

RUTAN & TUCKER, LLP

Richard Montevideo

RM:ctm:kmh:jlk

ATTACHMENT "A"

Part 3 — INSPECTION AND ENFORCEMENT

7811. AUTHORITY TO INSPECT. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the office by this Chapter; provided that (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Chapter, including but not limited to random sampling and/or sampling in areas with evidence of stormwater contamination, illicit discharges, discharge of non-stormwater to the stormwater system, or similar factors.

(a) AUTHORITY TO SAMPLE AND ESTABLISH SAMPLING DEVICES. With the consent of the owner or occupant or pursuant to a search warrant, any authorized enforcement officer may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the officer may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site.

(b) NOTIFICATION OF SPILLS. All persons in charge of a facility or responsible for emergency response for a facility have a personal responsibility to train facility personnel and maintain notification procedures to assure immediate notification is provided to the City of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the City storm drain system.

As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any suspected, confirmed or unconfirmed release of materials, pollutants or waste which may result in pollutants or non-stormwater discharge entering the City storm drain system, such person shall take all necessary steps to ensure the discovery and containment and clean up of such release and shall notify the City of the occurrence by telephoning 818-580-2058 and confirming the notification by correspondence to Director of Public Works, 11333 Valley Boulevard, El Monte, CA 91731, Attention: Spill Notification.

(c) REQUIREMENT TO TEST OR MONITOR. Any authorized enforcement officer may request that any person engaged in any any activity and/or owning or operating any facility which may cause or contribute to

(Continued)

ARTICLE VII — PUBLIC WORKS
Chapter 8 — Stormwater Management and Discharge Control

Part 1 — TITLE, PURPOSE AND GENERAL PROVISIONS

7800. TITLE. This Chapter shall be known as the "City of El Monte Stormwater Management and Discharge Control Ordinance" and may be so cited.

7801. PURPOSE AND INTENT. The purpose of this Chapter is to ensure the future health, safety, and general welfare of City of El Monte citizens by:

(a) **eliminating non-stormwater discharges** to the municipal separate storm drain.

(b) **controlling the discharge** to municipal separate storm drains from spills, dumping or disposal of materials other than stormwater.

(c) **reducing pollutants** in stormwater discharges to the maximum extent practicable.

The intent of this Chapter is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act.

7802. DEFINITIONS.

(a) Any terms defined in the federal Clean Water Act and acts amendatory thereof or supplementary thereto, and/or defined in the regulations for the stormwater discharge permitting program issued by the Environmental Protection Agency on November 16, 1990 (as may from time to time be amended) as used in this Chapter shall have the same meaning as in that statute or regulations. Specifically, the definition of the following terms included in that statute or regulations are hereby incorporated by reference, as now applicable or as may hereafter be amended: discharge, illicit discharge, pollutant, and stormwater. These terms presently are defined as follows:

(1) DISCHARGE. (a) any addition of any pollutant to navigable waters from any point source, or (b) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(2) ILLICIT DISCHARGE. any discharge to the City storm drain system that is not composed entirely of stormwater except discharges pursuant to an NPDES permit, discharges resulting from fire fighting activities, and discharges further exempted at Section 7801 of this Chapter.

(3) POLLUTANT. dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into water.

(3) STORMWATER. stormwater runoff, snow melt runoff, and surface runoff and drainage.

(b) When used in this Chapter, the following words shall have the meanings ascribed to them in this section:

(1) DIRECTOR OF PUBLIC WORKS. The Director of Public Works of the City of El Monte.

(2) AUTHORIZED ENFORCEMENT OFFICER. Authorized enforcement officers shall be the Director of Public Works and those individuals designated by the Director of Public Works as authorized enforcement officers.

(Chapter 8 entitled "Stormwater Management and Discharge Control" containing Parts 1 through 4 added by Ord. 2377, 5/25/93.)

7811 AUTHORITY TO INSPECT. (Continued)

(c) (Continued)
stormwater pollution or contamination, illicit discharges, and/or discharge of non-stormwater to the stormwater system, undertake such monitoring activities and/or analyses and furnish such reports as the officer may specify. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and reports required.

7812. VIOLATIONS CONSTITUTING MISDEMEANORS. Unless otherwise specified by Chapter, the violation of any provision of this Chapter, or failure to comply with any of the mandatory requirements of this Chapter shall constitute a misdemeanor; except that notwithstanding any other provisions of this Chapter, any such violation constituting a misdemeanor under this Chapter may, at the discretion of the authorized enforcement officer may be charged and prosecuted as an infraction.

7813. PENALTY FOR VIOLATION. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code Section 36900. After a third conviction for a violation of the same provision subsequent violations within a twelve (12) month period may be charges as a misdemeanor.

7814. CONTINUING VIOLATION. Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

7815. CONCEALMENT. Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter shall constitute a violation of such provision.

7816. ACTS POTENTIALLY RESULTING IN VIOLATION OF FEDERAL CLEAN WATER ACT AND/OR PORTER-COLOGNE ACT. Any person who violates any provision of this Chapter, any provision of any permit issued pursuant to this Chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the federal Clean Water Act and/or Porter-Cologne Act and may be subject to the sanctions of those Acts including civil and criminal penalty. Any enforcement action authorized under this Part should also include notice to the violator of such potential liability.

7817. VIOLATIONS DEEMED A PUBLIC NUISANCE. In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to the public health, safety and welfare, is declared and deemed a nuisance, may be summarily abated and/or restored by any authorized enforcement officer, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken by the City Attorney.

The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, a lien shall be placed upon and against the property. If the lien is not satisfied within three (3) months, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.

ATTACHMENT "B"

SAMPLE QUESTION:
Issues:

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS—Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☐
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☐
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☐
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☐
III. AIR QUALITY—Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES—Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☐
V. CULTURAL RESOURCES—Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	☐	☐	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☐	☐	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☐
VI. GEOLOGY AND SOILS—Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☐	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist–Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
iii) Strong seismic ground shaking?	☐	☐	☐	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☐
iv) Landslides?	☐	☐	☐	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☐
VII. HAZARDS AND HAZARDOUS MATERIALS— Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☐
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY—Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☐
f) Otherwise substantially degrade water quality?	☐	☐	☐	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☐
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☐
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☐
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☐
IX. LAND USE AND PLANNING—Would the project:				
a) Physically divide an established community?	☐	☐	☐	☐
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES—Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☐
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☐
XI. NOISE—				
Would the project result in:	☐	☐	☐	☐
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐
XII. POPULATION AND HOUSING—Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or directly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	☐	☐	☐	☐
Fire protection?	☐	☐	☐	☐
Police protection?	☐	☐	☐	☐
Schools?	☐	☐	☐	☐
Parks?	☐	☐	☐	☐
Other public facilities?	☐	☐	☐	☐
XIV. RECREATION—				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☐
XV. TRANSPORTATION/TRAFFIC—Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☐	☐	☐	☐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☐
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☐
e) Result in inadequate emergency access?	☐	☐	☐	☐
f) Result in inadequate parking capacity?	☐	☐	☐	☐
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS—				
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☐
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☐
XVII. MANDATORY FINDINGS OF SIGNIFICANCE—				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☐

NOTE: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.3, 21093, 21094 and 21151, Public Resources Code; *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296 (1988); *Leonoff v. Monterey Board of Supervisors*, 222 Cal.App.3d 1337 (1990).

HISTORY

1. New Appendix G filed 10–8–76; effective thirtieth day thereafter (Register 76, No 41). NOTE: Order designated that compliance with this appendix is authorized but not mandatory before 1–1–77.

2 Amendment of subsections (n) and (o) filed 2-2-78; effective thirtieth day thereafter (Register 78, No. 5)
3 Amendment of subsections (j) and (v) and new subsections (y) and (z) filed 5-8-80; effective thirtieth day thereafter (Register 80, No. 19)
4 Amendment of first paragraph and subsection (c) filed 5-27-97; operative 5-27-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 22)
5 Repealer of former Appendix G and relettering and amendment of former Appendix I to new Appendix G filed 10-26-98; operative 10-26-98 pursuant to Public Resources Code section 21087 (Register 98, No. 44).
6 Change without regulatory effect amending Appendix G filed 2-1-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 5).

Appendix H

Environmental Information Form

(To be completed by applicant)

Date Filed _____

GENERAL INFORMATION

1. Name and address of developer or project sponsor: _____

2. Address of project: _____

Assessor's Block and Lot Number _____

3. Name, address, and telephone number of person to be contacted concerning this project: _____

4. Indicate number of the permit application for the project to which this form pertains: _____

5. List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies: _____

6. Existing zoning district: _____

7. Proposed use of site (Project for which this form is filed): _____

PROJECT DESCRIPTION

8. Site size.
9. Square footage.
10. Number of floors of construction.
11. Amount of off-street parking provided.
12. Attach plans.
13. Propose scheduling.
14. Associated projects.
15. Anticipated incremental development.
16. If residential, include the number of units, schedule of unit sizes, range of sale prices or rents, and type of household size expected.
17. If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage of sales area, and loading facilities.
18. If industrial, indicate type, estimated employment per shift, and loading facilities.
19. If institutional, indicate the major function, estimated employment per shift, estimated occupancy, loading facilities, and community benefits to be derived from the project.
20. If the project involves a variance, conditional use or rezoning application, state this and indicate clearly why the application is required.

Are the following items applicable to the project or its effects? Discuss below all items checked yes (attach additional sheets as necessary).

YES NO

___ ___ 21. Change in existing features of any bays, tidelands, beaches, lakes or hills, or substantial alteration of ground contours.
___ ___ 22. Change in scenic views or vistas from existing residential areas or public lands or roads.
___ ___ 23. Change in pattern, scale or character of general area of project.
___ ___ 24. Significant amounts of solid waste or litter.
___ ___ 25. Change in dust, ash, smoke, fumes or odors in vicinity.
___ ___ 26. Change in ocean, bay, lake, stream or ground water quality or quantity, or alteration of existing drainage patterns.
___ ___ 27. Substantial change in existing noise or vibration levels in the vicinity.
___ ___ 28. Site on filled land or on slope of 10 percent or more.
___ ___ 29. Use of disposal of potentially hazardous materials, such as toxic substances, flammables or explosives.
___ ___ 30. Substantial change in demand for municipal services (police, fire, water, sewage, etc.).
___ ___ 31. Substantially increase fossil fuel consumption (electricity, oil, natural gas, etc.).
___ ___ 32. Relationship to a larger project or series of projects.

ENVIRONMENTAL SETTING

33. Describe the project site as it exists before the project, including information on topography, soil stability, plants and animals, and any cultural, historical or scenic aspects. Describe any existing structures on the site, and the use of the structures. Attach photographs of the site. Snapshots or polaroid photos will be accepted.
34. Describe the surrounding properties, including information on plants and animals and any cultural, historical or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, apartment houses, shops, department stores, etc.), and scale of development (height, frontage, set-back, rear yard, etc.). Attach photographs of the vicinity. Snapshots or polaroid photos will be accepted.

CERTIFICATION: I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Date _____ _____
(Signature)

For _____

NOTE: This is only a suggested form. Public agencies are free to devise their own format for initial studies.)

NOTE: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21000-21176, Public Resources Code.

HISTORY

1. New Appendix H filed 10-8-76; effective thirtieth day thereafter (Register 76, No. 40). NOTE: Order designates that compliance with this appendix is authorized but not mandatory before 1-1-77.
2. Amendment filed 2-2-78; effective thirtieth day thereafter (Register 78, No. 5).

Appendix I

Notice of Preparation

TO: _____ FROM: _____
(Responsible Agency) (Lead Agency)

_____ _____
(Address) (Address)

SUBJECT: Notice of Preparation of a Draft Environmental Impact Report

_____ will be the Lead Agency and will prepare an environmental impact report for the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency will need to use the EIR prepared by our agency when considering your permit or other approval for the project.

The project description, location, and the probable environmental effects are contained in the attached materials. A copy of the Initial Study ☐ is, ☐ is not, attached.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than 30 days after receipt of this notice.

This Chapter shall be known as the "City of Hermosa Beach Storm Water Management and Discharge Control Ordinance."

8.44.020. Findings.

A. The federal Clean Water Act (33 U.S.C. § 1251, et seq.) provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System (hereinafter "NPDES") requirements to storm water and urban runoff discharge into municipal storm drain systems.

B. Storm water and urban runoff flows from individual properties onto streets, then through storm drains passing through the City.

C. The City of Hermosa Beach is a co-permittee under the "Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los

City of Hermosa Beach

Enforcement Officer prior to the issuance of any grading, building or occupancy permits, or any other type of permit or license issued by the City.

8.44.100. Inspection authority.

A. Authority to Inspect. The City's Director of Public Works, building officials, and representatives thereof, are authorized and directed to enforce all provisions of this Section.

B. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever an authorized enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provision of this Chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this Chapter; provided, that: (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of an inspection warrant. In the event the owner and/or occupant refuses entry after such request has been made, the officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

C. Authority to Conduct Samplings and Establishing Sampling Devices. With the consent of the owner or occupant or pursuant to an inspection warrant, any authorized enforcement officer may establish on any property such devices as necessary to conduct sampling and monitoring activities necessary to determining the concentrations of pollutants in stormwater and/or nonstormwater runoff. During the inspections as provided herein, the authorized enforcement officer may take any samples deemed necessary.

D. Requirement of Sample or Monitor. Any authorized enforcement officer may order that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or contamination, illicit discharges, and/or

discharge of nonstormwater to the stormwater system, undertake such monitoring activities and/or analyses and furnish such reports as the officer may specify. All costs incurred for such activity shall be borne by the party ordered to do the sampling. In the event the owner or operator of a facility subject to a monitoring and/or analyses order fails to conduct required monitoring and/or analyses and furnish the required reports in the form required, the authorized enforcement officer may cause such monitoring and/or analyses and the cost, therefore, including the reasonable additional administrative costs incurred by the City shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days of the issuance thereof, the costs shall be a lien upon and against the property and continue in existence until the same shall be paid. If the lien is not satisfied by the owner of the property within three months after the completion by an authorized enforcement officer of the required monitoring and/or analyses and reports, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.

E. Facility Inspections. Every restaurant, gas station, automobile repair facility, nursery, lumber yard, car wash, warehouse, grocery store, repair shop, dry cleaning facility, and launderette for which a license or permit has been issued by the City shall be periodically inspected by a representative of the director of public works. Inspections shall be conducted no less than once every year and as often as necessary to insure compliance with this Chapter as the director of public works deems appropriate.

8.44.110. Enforcement.

A. Enforcement Procedure.

1. For the first failure to comply with any provision contained in this Chapter, the Director of Public Works shall issue to the violator a written notice which includes the following information: (i) a description of the violation being committed; (ii) a specified time within which the violation must be corrected or within which the violator may file a written response to the Director disputing the existence of a violation; and (iii) a description of the penalties which may be imposed for continued noncompliance.

ORDINANCE NO. 01-0-2363

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE CITY'S STORM WATER AND URBAN RUNOFF POLLUTION REGULATIONS AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Subsection (c) of Section 9-4.501 of Article 5 of Chapter 4 of Title 9 of the Beverly Hills Municipal Code is hereby amended to read, as follows:

"(c) The City of Beverly Hills is a co-permittee under the "Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles," issued by the California Regional Water Quality Control Board- Los Angeles Region," (Order No. 96-054), dated July 15, 1996, which also serves as an NPDES Permit under the Federal Clean Water Act (NPDES No. CAS614001), as well as Waste Discharge Requirements under California law [the "Municipal NPDES Permit"], and, as a co-permittee under the Municipal NPDES Permit, the City is required to adopt ordinances and implement procedures with respect to the entry of Non-Storm Water Discharges into the Municipal Separate Storm Sewer System. Additionally, the federal Clean Water Act (33 U.S.C. § 1251, et seq.,) provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System (hereinafter "NPDES") requirements to storm water and urban runoff discharge into municipal storm drain systems."

Section 2. Section 9-4.501 of Article 5 of Chapter 4 of Title 9 of the Beverly Hills Municipal Code is hereby amended to add thereto new subparagraphs (h), (i) and (j), to read as follows:

"(h) Part 1, Section I of the Municipal NPDES Permit requires the City to effectively prohibit Non-Storm Water

other applicable laws, rules or regulations. Additionally, the following conditions shall be considered a public nuisance:

(1) Any failure to comply with any applicable requirement of either the SUSMP or an approved Storm Water Mitigation Plan with respect to a property;

(2) Any false certification or verification, or any failure to comply with a certification or verification provided by a project applicant or the applicant's successor in interest; or

(3) Any failure to properly operate and maintain any Structural or Treatment Control BMP on a property in accordance with an approved Storm Water Mitigation Plan or the SUSMP.

The above listed conditions are hereby determined to be a threat to the public health, safety and welfare, are declared and deemed a public nuisance, and may be abated or restored by any Authorized Enforcement Officer, and a civil or criminal action to abate, enjoin or otherwise compel the cessation of such nuisance may be brought by the City Attorney. The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property, as provided by law or ordinance for the recovery of nuisance abatement costs. If any violation of this Article constitutes a seasonal and recurrent nuisance, the Authorized Enforcement Officer shall so declare. The failure of any person to take appropriate annual precautions to prevent storm water pollution after written notice of a determination under this paragraph shall constitute a public nuisance and a violation of this Article.

(b) Inspections.

Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever an Authorized Enforcement Officer has reasonable cause to believe that there exists on any construction site any condition which constitutes a violation of the provisions of this Section, the officer may, upon consent or upon obtaining an inspection warrant, enter such construction site at all reasonable times to inspect the same or perform any duty imposed upon the officer by this Section.

Routine or area inspections shall be based upon such reasonable selection process as may be deemed necessary to carry out the objectives of this Article, including but not limited to random sampling and/or sampling in areas with evidence of stormwater contamination, discharges of non-stormwater to the MS4, discharges which are not pursuant to an NPDES permit, or similar factors.

Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation of such provision.

(c) Civil Actions. In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the City. In any such

RICHARDS, WATSON & GERSHON

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August 6, 2001

VIA FACSIMILE
AND U.S. MAIL

2001 AUG -7 A 11:16

Mr. Dennis Dickerson
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, California 90013

Re: June 29, 2001 Draft Waste Discharge Requirements For Discharge Of Storm Water In Los Angeles County (NPDES No. CAS614001)

Dear Mr. Dickerson:

We have received and have reviewed the Regional Water Quality Control Board's June 29, 2001, Second Draft "Waste Discharge Requirements for Municipal Storm Water Discharges Within the County of Los Angeles" (the "Draft Permit"). We have been asked by the Cities of Agoura Hills, Carson, Artesia, Beverly Hills, Hidden Hills, Norwalk, La Mirada, Monrovia, Rancho Palos Verdes, San Marino, San Fernando and Westlake Village (the "Cities") to submit comments to the Draft Permit on their behalf. Some of these cities will also be submitting their own separate comments. This letter supplements my letter of May 16, 2001, which included comments on the First Draft of the Permit ("First Draft Comments"), as well as the comments that I made at the recent Board workshop on the Draft Permit .

We appreciate the time that you and the Regional Board Staff ("Staff") have taken to meet with us and other Permittees to consider and discuss our concerns regarding the Draft Permit and to try to address the concerns of the Permittee cities, while trying to balance the legitimate concerns of the other stakeholders that have also been involved in the process. While a number of significant and fundamental policy issues regarding the scope and cost of the Storm Water Management Program prescribed by the Draft Permit have not been completely resolved, we are still committed to work with the Board and all other stakeholders to accommodate their respective concerns and to produce a Municipal NPDES Permit that continues the substantial progress in reducing pollution in and to

Southern California water bodies that has already been achieved through the implementation of the programs developed under the 1990 and 1996 permits for the Los Angeles Basin.

While our comments address a number of different issues and unresolved questions, we thought it important to highlight some particularly glaring omissions in the Draft Permit. As I discussed at the Board workshop, as well as in our Comments, we are particularly troubled about the deletion of the "Safe Harbor" provisions that were included in Receiving Water Limitations and Discharge Prohibition sections of the current Los Angeles County Municipal Storm Water Permit, Order No. 96-054 (the "Current Permit"). Neither the Discharge Prohibition of the Draft Permit (Part 1 at pages 15-16) nor the Receiving Water Limitations (Part 2, p.16) provide any assurance to our Cities that, once they have implemented the storm water management programs set forth in the Draft Permit in a timely and complete manner, then they will be deemed to be in compliance with the Receiving Water Limitations and Discharge Prohibitions.

Specifically, the Discharge Prohibition in Part 1, Section1 at page 12 of the Current Permit provides: "Compliance with this Order through the timely development and implementation of programs described herein shall constitute compliance with this prohibition."

Similarly, the Receiving Water Limitations Part II at page 12 provides in pertinent part: "Timely and complete implementation by a Permittee of the storm water management programs prescribed in this Order shall satisfy the requirements of this section and constitute compliance with receiving water limitations."

These "Safe Harbor" provisions provide the Permittees with important protections from third-party liability once they have implemented the storm water management programs prescribed in of the Permit. If these provisions are not included in the Permit, then the Cities and the other Co-Permittees may potentially be exposed to unwarranted third party suits. These are not just academic concerns. In Carson Harbor Village, Ltd. v. Unocal Corporation, 990 F. Supp. 1188 (C.D. Cal 1997), the owner of land allegedly contaminated by small quantities of lead allegedly contained in storm water runoff sued the County of Los Angeles and two Permittee cities under the Clean Water Act, CERCLA, RCRA and California common law. The District Court granted summary judgment on the CWA and state court claims based on the Permittees' compliance with the 1990 and 1996 Permits and that determination has upheld on appeal. (See, Carson Harbor Village, Ltd. v. Unocal Corporation, 227 F.3d 1196 (9th Cir. 200), en banc rehearing granted and vacated on other grounds, 240 F.3d 841 (9th Cir. 2001).

Board staff have stated that they feel constrained by the State Board's adoption of Receiving Water Limitation language for municipal NPDES permits in its Order No. 98-01, which was subsequently amended in Order No. 99-05. However, the State Board *specifically approved* the inclusion of these Safe Harbor provisions in Order No. 98-01. In Environmental Health Coalition, WQO Order No. 98-01 (1998), the petitioner contended that the receiving water limitations section in the NPDES Permit for certain Orange County cities violated the CWA and implementing regulations because it did not require compliance with water quality standards. That permit, like the Current Permit, stated "...that the permittees 'will not be in violation of [receiving water limitations] so long as they are in compliance with the requirements' for evaluating the DAMP." The State Board specifically rejected the petitioners' contention, noting that it had previously approved the same Safe Harbor provision in SWRCB Order WQ 96-13, with respect to the storm water permit for certain permittees in the Santa Clara Valley issued by the San Francisco Bay Regional Board. As the State Board stated:

> "The SWRCB has already determined that the use of BMPs to achieve both the technology-based effluent limitations and the water quality-based effluent limitations complies with the CWA and the Porter-Cologne Act. See SWRCB Order WQ 91-03. Accordingly, the SWRCB agrees that use of the phrase that the "permittees will not be in violation of . . ." complies with the CWA and, in fact, used that same phrase in SWRCB Water Quality Order 97-03-DWQ (Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, NPDES General Permit No. CAS000001) (the General Industrial Permit)."

Furthermore, as the State Board noted in In the Matter of the Petition of Save San Francisco Bay Association, et al., Order No. WQ 96-13 , USEPA has approved the inclusion of a Safe Harbor provision in Receiving Water Limitations.

Accordingly, inclusion of the Safe Harbor provision certainly would not be contrary to the State Board's order dictating the Receiving Water Limitations found in the Draft Permit, and , in fact, would be complementary to those limitations. Furthermore, no State Board order or directive dictates the deletion of the Safe Harbor provision from the Discharge Prohibitions.

Regional Board staff has indicated its belief that Part 2, Paragraph 4, p. 17 of the Draft Permit contains the same protections as the Safe Harbor provisions of the Current Permit. However, while the language is helpful, it does not provide the clear and explicit projections found in the Current Permit and approved by the State Board on multiple occasions. We strongly encourage the Regional Board to adopt the Safe Harbor language of the Current Permit in the Draft Permit.

Another important section missing from the Draft Permit and referenced in our Comments is the "Meet and Confer" process found in the Current Permit at Part I, Section G, page 21, which provides that, if the Executive Officer determines that a Permittee's storm water program is insufficient to meet the provisions of the Current Permit, then a "Notice of Intent to Meet and Confer" ("NIMC") will be issued to the Permittee. The NIMC is a very important, productive and non-contentious vehicle for Permittees to resolve storm water management program issues with the Regional Board without litigation. The Regional Board has stated in discussions regarding the Draft Permit that rather utilizing the NIMC procedure, staff will rely on the issuance of a Notice of Violation ("NOV"). That sentiment was further echoed at the July 26, 2001 Public Workshop where legal counsel for the State Water Resources Control Board ("SWRCB") stated that the NIMC process is not an element of SWRCB Water Quality Enforcement Policy Resolution No. 96-030, as amended by Resolution No. 97-085 ("Enforcement Policy"), or its "Guidance to Implement the Water Quality Enforcement Policy" ("Guidance Document") and therefore should not be contained in the Draft Permit.

We do not believe that the NIMC process is contrary in any respect to the State Board's Resolution No. 97-085. The NIMC is a unique identification and dispute resolution process specifically designed to address deficiencies in a Permittees' storm water programs, rather than addressing actual discharge exceedances. For example, to remedy potential deficiencies in its storm water program, the NIMC first provides a Permittee the opportunity to demonstrate that the Permittee's program is sufficient to meet the requirements of the Permit. Thereafter, if it is established that the Permittees' program is not sufficient to meet the requirement of the Permit, the Permittee is then provided the opportunity to submit a written "Storm Water Program Compliance Amendment" ("SPCA") to the Executive Officer to remedy the identified deficiencies in the Permittee's storm water program.

An NOV, however, which, while described in the Guidance Document as an "informal enforcement action", does not provide either the Board or a Permittee with the same flexibility that the NIMC does to allow the Permittee to work with the Regional Board staff to remedy misunderstandings regarding storm water programs or to allow further development of those programs. Once an NOV is issued, nothing precludes the Regional Board from bringing an enforcement action against a Permittee. In spite of the Regional Board's intentions to use the NOV as a tool to "meet and confer", an NOV effectively commences a litigation process which ultimately can delay and obstruct our joint objective of the prompt development and cooperative implementation of effective storm water management programs.

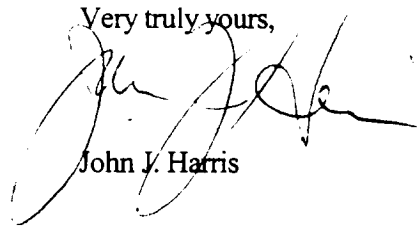
In our First Draft Comments, we raised a number of questions regarding the legal implications of the process by which the Draft Permit was developed. To date, we have not received a full or direct response to our questions and concerns. As set forth in my Comments to the First Draft, we continue to believe that the Draft Permit, and the process which generated it, does not comply with applicable principles of California administrative law, and as a result, the Draft Permit has been developed without compliance with California's Administrative Procedure Act. California Government Code §§11340, et seq. (the "APA").

Also, as referenced in my First Draft Comments, we are concerned that, by setting specific design standards, the Regional Board and the State Board are crossing the line into an area typically handled through building codes which are supposed to be uniform throughout the state.

We would also like to express our concern on behalf of the Cities that in the Draft Permit the Regional Board may be exceeding its authority by attempting to prohibit the discharge of all storm water rather than the discharge of pollutants. In addition, the "Peak Flow Control" and post-construction "Numerical Design Criteria" requirements in the Draft Permit exceed the Regional Board's authority by specifically providing how the Permittees are to achieve the goal of reducing the discharge of pollutants to the waters of the United States. This precise directive to the Permittees also violates the limitations of the § 13360 of the California Water Code.

Our Cities have the same objectives of the Regional Board and the other stakeholders to achieve a consensus to preserve, restore and enhance the many beneficial uses of the ocean and the water bodies of Southern California. We hope that you will consider our comments and suggested changes in this spirit.

Very truly yours,



John J. Harris

Enclosure

cc: Wendy Phillips (w/encl.)
Dr. Xavier Swamikannu (w/encl.)
12131\0002\662091.1

COMMENTS ON JUNE 29, 2001 DRAFT WASTE DISCHARGE REQUIREMENTS FOR DISCHARGE OF STORM WATER IN LOS ANGELES COUNTY (NPDES NO. CAS614001)

by
John J. Harris
Richards, Watson & Gershon

1. Comment - We believe that, contrary to the provisions of the Clean Water Act and California law, the Regional Water Quality Control Board is attempting in the Draft Permit to regulate local land use, rather than simply requiring the co-permittees to reduce the discharge of pollutants to the waters of the United states to the maximum extent practicable.

2. Part E, Section 6, Page 8. - This finding states "The State Board's Chief Counsel has issued a statewide policy memorandum (dated December 26, 2000) which interprets the Order to provide broad discretion to Regional Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary." A legal memorandum by the State Board's Chief Counsel, while informative, is not a regulation and has no legal effect. We believe the reference should be deleted.

3. Part E, Section 8, Page 8. - The NPDES Permit is not a vehicle to "implement and enforce" the TMDLs. Tthe last sentence of this section should be deleted.

4. Part E, Section 17, Page 10, bullet 1. - The State Board's Order WQO No. 2000-11 specifically stated:

   " We conclude that because RGOs are already heavily regulated and may be limited in their ability to construct infiltration facilities or to perform treatment, they should not be subject to the BMP design standards at this time, and **recommend that the Regional Water Board undertake further consideration of a threshold relative to size of the RGO, number of fueling nozzles, or some other relevant factor.** This Order should not be construed to preclude inclusion of RGOs in the SUSMP design standards, with proper justification, when the permit is reissued."

   The Draft Permit does not reflect the State Board's directive regarding "a threshold relative to size of the RGO, number of fueling nozzles,..." or other factors.

   Similarly, Order 2000-11 stated:

   "While it may be appropriate to include more stringent controls for developments in ESAs, we also note that such developments are already subject to extensive regulation under other regulatory programs. Moreover, in light of the permit language limiting the SUSMPs to development categories, ESAs are not an appropriate category within the SUSMPs. The

Regional Water Board may choose to consider the issue further when it reissues the permit."

The Draft Permit does not reflect any further consideration as to how the proposed controls of "environmentally sensitive areas" enhance the existing "extensive regulation under other regulatory programs."

5. Part F, Section 2, Page 16. - We disagree with the proposed language that: "For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements." As discussed in the comments of other Permittees, cities have a very limited ability to prescribe storm water mitigation requirements for ministerial permits.

6. Part 1, Section 2(c)- Discharge Prohibitions- Page 16 - We believe that the discharges that were conditionally exempt under Part II, Section II.C.2.(a), (g) and (h) of the existing Permit for landscape irrigation and lawn watering should be included in Part1, Section 2(c) of the Draft Permit.

7. Part1- Discharge Prohibitions- Page 16. - The proposed Discharge Prohibitions omit a important exception set forth in Section1(C) of Part 1 at Page 12 of the current Permit for "Discharges originating from federal, state or other facilities which the Permittee is pre-empted from regulating."

8. Part1- Discharge Prohibitions- Page 16. - As discussed in detail in our cover letter, the Discharge Prohibitions omit a very significant and critically important provision of the Current Permit found in Section1 of Part 1 at Page 12, which states:

   "Compliance with this Order through the timely development and implementation of programs described herein shall constitute compliance with this prohibition."

   This provision should be included in the new Permit.

9. Part 2- Receiving Water Limitations- Page 16. - We agree with the County that proposed sections 1 and 2 are inconsistent with State Board Order WQ 99-05 and should be eliminated. We also agree with the comments on the limitations submitted by the City of Alhambra. If this language is to remain, we propose that it be consistent with the draft language of the Santa Ana Region Permit and replace Section 1 and Section 2 with the following:

   1. Discharges of storm water to and from the MS4s to waters of the United states containing pollutants that have not been reduced to the maximum extent practicable is prohibited.

2. Discharges from the MS4s shall not cause or contribute to a condition of contamination, nuisance, or pollution in waters of the State as defined in Section 13050 of the Water Code.

10. Part 2- Receiving Water Limitations- Page 17. - The Receiving Water Limitations also omit an important provision of the current permit in Part II at Page 12, which states:

"Timely development and complete implementation of the storm water management programs described in this Order shall satisfy the requirements of this section and constitute compliance with receiving water limitations."

This provision should also be included in the new Permit after Section 4 on page 17.

11. Part 3.H.1(f)- Legal Authority- Page 21. - The reference to discharges from swimming pools should match the existing permit language to "prohibit the discharge of commercial swimming pool filter backwash to the MS4." (See, Section 1.E.1.(a)(v)of the current Permit, at page 18).

12. Part 3.H.1(h)- Legal Authority- Page 21. - This section should be modified to track the language of Section 1.E.1(a)(vii), at page 18 of the existing permit, and, in particular, to refer to *untreated* runoff.

13. Part 3.H.1(j)(2) - Legal Authority- Page 21. - A list setting forth the state or federally banned pesticide, fungicide or herbicide should be provided.

14. Part 3.H.1(n)- Legal Authority- Page22. - We agree with the County's and other Permittees' concerns regarding both the feasibility and enforceability of the new inspection requirements set forth in the Draft Permit.

15. Administrative Review- As discussed in our cover letter, we are particularly concerned by the Board's failure to include the Administrative Review and "Meet and Confer" provisions from Part 2, Section G.2 of the existing Permit at pages 21 and 22. These provisions provided a very important and informal procedure for resolving differences and misunderstandings regarding permit interpretation and implementation.

16. Part 4.C.- Industrial /Commercial Facilities Program - Pages 26-29. - We agree with the comments of most of the Permittees with respect to questionable legality and practicality of the proposed inspection program, particularly as it relates to facilities which are already regulated by the Board itself.

17. Part 4.D.1-Development Planning- Page 29. The existing Permit clearly provides that it applies to "all development projects requiring discretionary approval" (See, II.A.1. at page 33). The broad definitions of "development"and "redevelopment" contained in the Draft

Permit greatly extend the scope of the proposed controls without consideration of either the municipalities' primacy in local land use decisions or the limitations on their authority. Nothing in the Draft Permit or the Board's fact sheet provides any justification for this extension. Furthermore, the scope of the proposed controls on *all* "development"and "redevelopment" goes beyond the scope of EPA's Phase I and Phase II Rules for Construction and Post-Construction Runoff Control. We believe that development control should only apply to"Discretionary Projects", as defined in Section 15357 of the Guidelines for Implementation of the California Environmental Quality, which applies to projects requiring the exercise of judgment or deliberation by a city in connection with the decision to approve or disapprove the project, as distinguished from situations where the city merely must determine whether there has been conformity with applicable statutes, ordinances, or regulations.

18. Part 4.D.1- Development Planning- Page 29. - The term "planning priority development" should be defined.

19. Part 4.D.3. - SUSMP- Page 30. - Without re-arguing the issues and questions regarding the original SUSMP as ultimately revised and adopted by the State Board, the fundamental issue remains regarding the Board's compliance with Water Code § 13360 while dictating specific design standards in the Draft Permit.

20. Part 4.D.5.- Applicability of Numerical Criteria - Page 31. - The term "planning priority project" should be defined.

21. Part 4.F.4(c).-Public Construction Activities Management - Page 39. We agree with the County that public agencies should be not be required to obtain a general construction permit for activities not currently regulated by the State Board.

22. Definitions-"Environmentally Sensitive Areas"- Page 48- The project categories identified in the current NPDES Permit were based upon a conclusion that these types of projects have a greater likelihood of contributing contaminated run-off to the Municipal Separate Storm Sewer System ("MS4"). The State Water Resources Control Board in Order WQO No. 2000-11 excluded the additional category of "environmentally sensitive areas" from the SUSMP proposed by the RWQCB. The State Board did state that the "Regional Board may choose to consider the issue further when it reissues the permit." We can appreciate the Board's desire to protect wetlands from the impacts of development. However, the fundamental question still has not been addressed as to whether these areas, as defined in Public Resources Code § 30107.5, are adequately regulated and protected under existing laws and regulations administered by other agencies.

CAA

RECEIVED

2001 AUG -1 P 2:20

August 6, 2001

Mr. Dennis Dickerson
Executive Officer,
California Regional Water Quality Control Board –
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

Re: 2nd Draft Municipal NPDES Permit, June 29, 2001
Review Comments from Charles Abbott Associates, Inc.

Dear Mr. Dickerson:

Attached please find comments on the referenced draft permit document, "DRAFT WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN, EXCEPT FOR THE CITY OF LONG BEACH" (Draft Permit).

These comments are respectfully submitted on behalf of the cities of Bell, Hidden Hills, and Norwalk. While we have not had an opportunity to review all of the written comments on the Draft Permit by other organizations representing the Permittees – the Executive Advisory Committee (EAC), Coalition for Practical Regulation (CPR), and the Principal Permittee (L.A. County Dept. of Public Works) – we are familiar with many of their issues and comments. As in the past, we generally support the positions of these organizations on this subject, and request that their comments be carefully considered during the Regional Board's preparation of the next version of this Draft Permit.

I am an environmental consultant who provides consulting services for the Municipal NPDES Programs of the three aforementioned cities. If you have any questions or comments regarding this matter, please contact me at (310) 548-8454.

Sincerely,

Mark Smith

Mark Smith
Charles Abbott Associates

cc: Carlos Alvarado, City of Bell
Cherie Paglia, City of Hidden Hills
Rey Alfonso, City of Norwalk

Enclosure

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R0004797

GENERAL COMMENTS

Other Permittees' Comments

We did not have an opportunity to review comments of other Permittees with regard to the 2nd Draft NPDES Permit. However, given our record of support for comments on this subject provided by the Executive Advisory Committee (EAC), Coalition for Practical Regulation (CPR), and the County, we give our general support to their comments and issues raised, and ask that they be given careful attention by the Regional Board during the development of the next version of this Permit.

PERMIT COMMENTS

Administrative Review Process
(current NPDES Permit, Order No. 96-054, Part 2.I.G., page 21)

The Draft Permit does not provide for the continuance of the Administrative Review process, also referred to by some Permittees as the "safe harbor process". The Administrative Review process under the current Permit provides for a very important interactive process between the Regional Board and any Permittee(s) that the Regional Board may believe is in non-compliance with one or more Permit requirements. The language that provides for this process has been deleted from the Draft Permit. We believe that this language , in similar form to its appearance in the current Permit, should be reinserted into the new Permit. The Administrative Review process is a very important basic element of any municipal NPDES permit. The process is an essential mechanism by which the Regional Board and Permittees can minimize unnecessary confrontation on issues were the parties may disagree. The process is vital with regard to the proper resolution of contentious issues which may involve a substantial degree of individual interpretation and subjectivity, as well as opportunity for a full disclosure of many relevant facts. The Administrative Review process promotes a productive dialogue between the Regional Board and Permitees in a spirit of cooperation toward the common goal of improving water quality, something that all parties have continually voiced their support for. Regional Board's strong support for cooperative interagency relationships is emphasized in the Draft Permit itself (see the first lines of text at the top of page 11). Without the benefit of the Administrative Process, the Regional Board may prematurely issue a Notice of Violation against a Permittee for an apparent deficiency, before knowing all relevant facts, some of which may exonerate the Permittee.

FINDINGS

Page 1, top of page
With regard to format, prior to the first sentence at the top of page 1 there should be a revision to indicate that this section of the Permit is titled, "FINDINGS". Although this important and basic Permit section title is indicated in the Permit's Table of Contents, it is not so indicated in the text of the Permit.

Part D. Permit Coverage, Finding No. 4. (page 6, 2nd to last paragraph)
This paragraph appears to come closer than any other in defining the overall purpose of this NPDES permit. Therefore, it should be called out as such and should be the first paragraph in the Permit instead of buried so deeply in the introductory text back on page 6. This paragraph is also an extremely important foundational element of the Permit as it defines the basic "Maximum Extent Practicable" (MEP) standard for program development, including the recognition that "cost-effectiveness" must be part of the Permit compliance effort.

Part E. Federal, State, and Regional Regulations, Finding No. 18 (page 10, 2nd to last paragraph)
This paragraph appears to incorrectly prohibit the creation of structural or treatment control BMPs for storm water mitigation in waters of the U.S. We know that this prohibition directly contradicts policy under the Regional Board for the Los Angeles Region as we already have such BMPs in the Region's water bodies (e.g., the trash booms across the L.A. River in Long Beach). This paragraph should be completely deleted from the Permit.

Part E. Federal, State, and Regional Regulations, Finding No. 20 (page 11, 2nd paragraph)
The introductory sentence of Finding No. 20 refers to five Watershed Management Areas (WMAs) but the following WMA list appears to indicate a total of six WMAs. While we understand the reason for the difference, the current wording of Finding No. 20 may create confusion for most readers. We understand that the Santa Monica Bay WMA actually consists of two major sub-WMAs per Attachment A to the Draft Permit, bringing the total listed in Finding No. 20 to six. Most other readers of the Permit, however, may not be aware of this distinction.

PART 3. STORM WATER QUALITY MANAGEMENT PLAN (SQMP) IMPLEMENTATION

C. Modification of the Storm Water Quality Management Plan (page 18)
When implementing this section of the Permit, the Regional Board's direction to Permittees on incorporating new requirements in the Permit needs to fully consider the potentially time-consuming logistics of incorporating certain new requirements, especially with regard to the more complicated requirements such as new TMDLs.

PART 4. SPECIAL PROVISIONS

D. Development Planning Program

D.2. Peak Flow Control (last paragraph, page 29)
This section proposes a new requirement for the Permittees to develop and implement numerical criteria to control the post-development peak storm runoff discharge rates in natural drainage systems. Post-development discharge rates must be equal to or less than pre-development rates. This concept is a significant new requirement, the feasibility of which has not been adequately ascertained through research and discussion between the Regional Board and the Permittees. The proposed requirements in the Draft Permit are moving much too quickly on this issue, ignoring all the preliminary work that needs to be done. Instead, the language should be revised to require that the Permittees work with the Regional Board on defining the problem and potential solution options.

D.3. Standard Urban Storm Water Mitigation Plans (top of page 30)
SUSMP requirements should pertain only to discretionary projects, as ruled by the State Water Resources Control Board.

D.3.(a)(3) Single Family Hillside Home Developments – storm drain system stenciling and signage (top of page 30)
Requiring new single-family hillside home developments to have storm drain stenciling and signage seems to be an unreasonable requirement. We are having difficulty envisioning what the Regional Board is suggesting here and would like to get more details on the design of the required stenciling and signage.

D.5(d) Automotive Service Facilities (SIC codes) (top of page 32)

We see the need to continue use of SIC codes for categorizing various types of industrial/commercial facilities. However, this Permit should also acknowledge that there is an increasing reliance on the new NAICS business classification system. Some municipal administrative departments are currently transitioning from SIC codes to the NAICS codes. It would be helpful if the Permit provided the corresponding NAICS codes when listing SIC codes, or at least acknowledge that both are legitimate systems that are mutually accepted under this Permit.

D.7(a) Site-Specific Mitigation Plan (mid-page, page 32)

This paragraph refers to each Permittee having to require the implementation of a "site-specific plan to mitigate post-development storm water." This plan appears to be defined as the equivalent of what is referred to under the current Permit as an "Urban Storm Water Mitigation Plan. Would the Draft Permit result in the discontinuance of the Urban Storm Water Mitigation Plan terminology and requirements? The relationship between the current terminology/requirements and proposed terminology/requirements should be clarified in a Regional Board document.

D.10, 2nd paragraph from bottom (page 33)

This paragraph would provide for each Permittee, or any group of Permittees, to be able to apply to the Regional Board for approval of a regional or sub-regional storm water mitigation program to substitute in whole or in part SUSMP requirements for new development. We believe that this is an important provision as it appears to recognize the MEP standard by allowing the implementation of what may be much more reasonable and cost-effective controls to be located off-site. Also, this provision recognizes the value of larger group efforts. Noting that the term, "sub-regional" is not defined, we request that it have no lower project size limit. That would allow the efficient use of smaller scale controls that serve a smaller area, such as a subdivision.

D.15.(b), (page 35) Developer Technical Guidance

In addition to referencing the Calif. Storm Water Quality Task Force BMP Handbooks as it does, this paragraph should also refer to the County's SUSMP design manual, *Development Planning for Storm Water Management* (May 2000). The County manual provides substantial guidance information that is specific to the permitted area.

E Development Construction Program

E.(a), (b), and (c) Construction Project Requirements (final paragraphs, page 35)

These paragraphs contain unreasonably stringent language regarding potential storm water pollutants from construction projects. The language used appears to require an absolute prohibition (zero tolerance) on the discharge of common potential pollutants from construction sites. In addition to being impracticable, this approach does not follow the MEP standard for NPDES programs. Possible alternative language might include, in part, "..(pollutants) shall be controlled to the "maximum extent practicable" (MEP).

F. Public Agency Activities Program

F.12 Dry Weather Diversions (page 44)

These requirements are rather vague and difficult to interpret. Does this require that every Permittee will prepare a list of prioritized drains for possible diversion of dry weather flows, regardless of any other conditions? That may not be a cost-effective approach. The qualifying criteria for identifying appropriate runoff flows and storm drains, and their prioritization, need to be carefully considered taking into account competing factors per the MEP standard.

The phrase, " ... that flow to areas where the public may be impacted (for public health and safety and/or environmental reasons)." is particularly difficult to understand as it may be argued that essentially all storm drains flow to such areas. It appears that the qualifying term, "directly discharging", as defined in the Draft Permit, should be included here to more clearly define the areas covered under this requirement.

G. Illicit Connections and Illicit Discharges Elimination Program

G.1.(b) General, Tracking (page 45)

The language used in defining which Permittees are subject to the proposed baseline storm drain system map requirement is not clear. It indicates that all Permittees shall develop and maintain a map of *their storm* drain system. The wording should be revised to clarify that *only the owner* of the storm drain system is covered under this requirement.

This paragraph uses two different terms, neither of which is defined in the "DEFINITIONS" section of the Draft Permit, but both of which appear to refer to the County. We suggest that only the term, "Principal Permittee" should be used to designate the County, consistent with past practice.

PART 5. DEFINITIONS.

"Permittees" (page 51)

A list of Permittees is included as part of the definition, but the City of Bell appears to have been inadvertently omitted. We request that the City's name be added to the list in the definition of this term.

Coalition for Practical Regulation

Arcadia
Artesia
Bellflower
Bell Gardens
Burbank
Cerritos
Commerce
Compton
Diamond Bar
Downey
Hawaiian Gardens
Industry
Irwindale
La Mirada
Lakewood
Lawndale
Monrovia
Montebello
Norwalk
Palos Verdes Estates
Paramount
Pico Rivera
Pomona
Rancho Palos Verdes
Rosemead
Santa Fe Springs
San Gabriel
Sierra Madre
Signal Hill
South Gate
South Pasadena
Temple City
Vernon
Walnut
Whittier

August 6, 2001

Mr. Dennis Dickerson
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Second Draft – Municipal NPDES Permit

Dear Mr. Dickerson:

The Coalition for Practical Regulation submits the following comments on the Second Draft of the Municipal NPDES Permit. We want to thank the Regional Board, your staff and yourself for the time devoted to discussing the permit and in conducting the workshop. We were disappointed that our governmental representative on the Board was not present for the workshop. The Board did not seem to grasp the fundamental procedural and legal issues that the cities are having with the proposed permit. We still believe that a facilitator is the best way to reach consensus on the remaining issues. Our previous offer to fund the facilitator still stands, and recall that several parties wrote to support the use of a facilitator, and no party informed us that they were opposed to it.

Although the second draft has provided some major improvements, there still remain fundamental problems and issues that require modification. The Coalition presented several written proposals to the Board at the workshop. We have attached additional copies of these proposals. Unfortunately, we did not receive any Board feedback on these proposals. This Coalition letter is supplemented with additional separate correspondence from Mr. Richard Montevideo, which outlines various legal and procedural concerns.

The Coalition requests that the proposed permit not include the Phase II community requirements at this time. The State is expected to adopt the new requirements for implementation in March of 2003.

2175 Cherry Avenue ♦ Signal Hill, CA 90806 ♦ (562) 989-7302 ♦ (562) 989-7393 Fax

Phase II will require development controls on all construction projects of one acre in size or greater. However, the State has not gone through the rule making process, so the specific requirements are unknown.

The Coalition also requests that the proposed permit contain a "meet and confer" clause. Although you believe that the current meet and confer clause is cumbersome, you have not discussed any modifications that would make the "meet and confer" process work. We have reviewed the State Board policy on "progressive enforcement." The policy was established for inspections and enforcement at permitted facilities. Additionally, your staff has been unwilling to commit to a specific program under the State Board policy. Unfortunately, the State Board policy is vague in terms of how best to resolve communication and interpretation issues with the NPDES Permit. We believe that the "meet and confer" clause allows for resolution through communication and an understanding of the issues, without elevating the disputes to violation status and litigation.

The following are the six fundamental issues (in addition to those issues outlined in Mr. Montevideo's letter), which the Coalition has with the proposed permit:

1. **The "Legal Safe Harbor" was removed – exposing cities unnecessarily to third party litigation**

The current Municipal NPDES Permit provides a legal "safe harbor," when cities implement the permit's provisions. The "safe harbor" clause insures that the cities are in compliance when they implement the permit's programs. The "safe harbor" clause is not included in the proposed permit. It should be added to help the cities implement programs that improve storm water quality, rather than spending scarce city resources on defending against third party lawsuits. The Coalition supplied copies of the existing permit language at your workshop for your consideration.

2. **The proposed permit is "Open Ended"/Authorizes the Board to unilaterally add new programs after the Permit is adopted**

The current draft NPDES Permit contains language under the Receiving Waters section which is opened-ended and contrary to the MEP standard in the Clean Water Act. The current draft Permit also requires that the cities implement various programs identified in the permit with language allowing the Executive Officer to modify such requirements at any time during the life of the permit (e.g., see page 16). New programs can be added, no matter the costs to the cities or the benefit to the environment.

Cities have experienced with two decades of budget problems created by unfunded State mandates, and having an open-ended permit that is contrary to the Clean Water Act and one that can be amended at the discretion of the Executive Officer, adds to these financial woes.

We also believe that having an open-ended permit violates basic tenants of fairness in dealing with the cities when you issue a permit. The cities should know in advance what programs the Board is going to require during the five-year life of the permit. The Coalition has supplied a copy of our proposed Receiving Waters Limitation language for your consideration, which addresses many of these issues.

3. Receiving Waters Clause renders the cities out of compliance the day the permit is adopted

Regional Board staff has added Sections 1 & 2 to the Receiving Waters Limitation clause, modifying State Board language. These new sections hold the cities accountable to compliance with impossible water quality standards and objectives. These new sections would result in every city being out of compliance the day the permit is issued. In practice, a water sample taken from any city street in the region would exceed water quality standards and objectives. If the State Board intended this language, they would have added it to their standard permit language. The Coalition has supplied a copy of our proposed Receiving Waters Limitation language for your consideration, which addresses these issues. This language is in keeping with the State Board's intent.

4. The State is attempting to force Cities to conduct the State's industrial inspections/The proposed Auto Related Use inspections and enforcement is an illegal "search and seizure"

We believe that the Regional Board and staff do not understand our basic concerns regarding the proposed inspections, plan check and enforcement program.

A. Phase I Facilities -

The proposed permit requires that the cities inspect and enforce industrial facilities already regulated under a State permit. Regional Board Staff has estimated that they can inspect and enforce only 600 of the 2,400 State

permitted Phase I facilities. They are asking the cities to inspect and plan check the remaining 1,800 permits, with no fee reimbursement. Just as importantly, the cities have no authority to enforce the State permits, and no authority to enter upon and search and inspect private property without a warrant or exigent circumstances and reasonable suspicion of a violation.

B. Auto Related Businesses

The Coalition presented information on conflicts with the definition of auto related businesses, which would result in cities inspecting retail gas outlets. We also believe that SIC Code 5513 is overly broad. It would result in cities conducting inspections on wholesale suppliers with no evidence that they contribute to storm water quality problems. We also believe that SIC Code 7356, related to replacement of automotive glass, should be deleted from the inspection requirement, for this very same reason.

In addition, contrary to implications of the terms of the draft Permit that special attention needs to be given to the enforcement of BMP's and Clean Water Act requirements as against Automotive Repair Facilities, the Integrated Receiving Waters Impact Report completed for purposes of the existing NPDES Permit by the County, showed no discernable differences in concentrations before and after BMP implementation at Auto Repair shops and Auto dismantling Facilities. This data suggests that targeting Automotive Repair Facilities for inspection and enforcement of BMP's is unnecessary and a waste of valuable resources. A copy of this report is included herein for your review and consideration and inclusion in the administrative record.

Further, Mr. Montevideo presented information that the cities do not posses the legal authority to conduct inspections and warrantless searches and seizures on private property. Mr. Leon presented copies of local ordinances purporting to give Cities the ability to perform inspection and warrantless searches and seizures, (which cannot be done at the local level without a change in State and federal law.) In fact, careful review of these ordinances reveals that they only provide the ability for cities to inspect private property if the city has a warrant or consent from the property owner. This is consistent with our understanding of the law.

The Coalition proposed an alternative inspection program, which would involve a voluntary site education visit to auto related businesses. If the inspector observed any evidence of a prior illicit discharge, the business would be scheduled for an inspection during a rain event. The business would then be subjected to full enforcement action should an illicit discharge be documented during the rain event inspection. We believe that this proposal addresses the search and seizure problems in the proposed permit.

5. NPDES Permit attempts to supercede CEQA/Permit conflicts with General Plan Statutes/Permit attempts to regulate Replacement Projects which are exempt under CEQA

a. CEQA Concerns

The proposed permit is mandating that the cities add storm water conditions to projects that are exempted from environmental review under CEQA (Page 52). The proposed permit also mandates that cities require a different degree of environmental review than what CEQA and the Guidelines require. The proposed permit requirements would add another layer of environmental regulations that overlap and conflict with existing CEQA and State approved guidelines. The permit would subject the cities to conflicts between the NPDES Permit and CEQA requirements, opening the cities to "third party" litigation on projects exempted by State law.

b. General Plan Concerns

The proposed permit requires that cities amend four elements of their general plans – land use, conservation, open space and housing, as well as provide additional review rights to the Regional Board (Page 34). State law specifically addresses storm water quality in the Conservation Element. General plans are legislative acts, taken by a city council. Adequacy issues are initially determined by the council and ultimately determined by the courts. The proposed permit opens up adequacy issues to the Regional Board, through a permit enforcement action and not through the courts as the legislature intended.

c. Replacement Project Concerns

The proposed permit expands the definition of redevelopment by requiring that cities impose storm water conditions on all replacement projects (Page 52). State law specifically exempts replacement or reconstruction under a Class Two Categorical Exemption.

6. The Permit will impose a series of unfunded mandates, impacting other necessary municipal services

Similar NPDES Programs were imposed on the San Diego County cities in January of this year. We have studied the San Diego Permit extensively and

discussed the budget impacts with the San Diego cities. These cities have been forced into a series of budget cuts and increased fees and assessments to fund the new NPDES programs. We do not know how these cities are avoiding the revenue restrictions imposed by Proposition 218 and other State statutes.

The City of Encinitas plans to spend $800,000 on new NPDES programs, more than double the $370,000 they spent in their prior year's budget. The City of Escondido is attempting to raise an additional $600,000 for new storm water programs. The City of Oceanside is attempting to find $300,000 in start-up funding for new storm water programs and $1.2 million of new funding for each subsequent year. They have reported that about $650,000 would come from developer fees and $900,000 from the City's General Fund budget. These cities have expressed the concern that the State imposed new unfunded mandates. Copies of these articles from the wire service are included herein for inclusion in the administrative record.

Many of the Los Angeles communities are not as affluent as the San Diego cities. Los Angeles County and its cities have been hit hard by continuous revenue takeaways and new State mandates. The County and cities are losing over $2 billion annually in local property taxes alone, when local property taxes were shifted to the public schools beginning in 1992. The Coalition remains extremely concerned over the scope of the unfunded new programs contained in the proposed permit.

The Coalition continues to desire to work with you and Board in resolving these issues. We would be pleased to meet with you to discuss these concerns and the suggested amendments to the permit.

Sincerely,

Larry Forester
Mayor, City of Signal Hill
Coalition for Practical Regulation

cc: CPR Steering Committee
CPR Members
Mr. Art Baggett, State Water Resources Control Board
Mr. David Nahai, Los Angeles Regional Water Quality Control Board
Mr. Christopher Pak, LARWQCB, Municipal Government Representatives
Hon. Betty Karnette, Senator
Hon. Alan Lowenthal, Assemblyman

PROPOSED ALTERNATIVE PERMIT LANGUAGE

Industrial/Commercial Facilities Program

Page 26, paragraph 3:

3. **Automotive Service Facilities**

Each Permittee shall inspect all Automotive Service Facilities within its jurisdiction, to confirm that such facilities are effectively implementing storm water BMPs.

a) Frequency: Each automotive service facility shall be inspected once every 24 months. If an inspection shows physical evidence of non-compliance with the ~~SQMP and~~ local storm water ordinances ~~(including failure to implement pollution prevention BMPs)~~ (such as staining or other signs of previous non-storm water discharges) the facility shall be ~~reinspected within 90 days~~ scheduled for level 2 inspection:

b) Level of inspection: ~~The Permittees shall determine that BMPs are effectively implemented, in accordance with the SQMP, Regional Board Resolution 98-08, and storm water ordinances. As necessary, Permitees shall advise owners/operators of Automotive Service Facilities to implement additional BMPs, necessary to reduce the discharge of pollutants in storm water to the maximum extent practicable.~~ Level 1 – Each Permittee shall advise the owner/operator of the facility of the City's prohibition of non-storm water discharges and provide the owner/operator with the appropriate list of BMPs and/or other written material for automotive facilities. Each Permittee shall also endeavor to walk the site with the owner/operator pointing out areas of concern and identifying evidence of probable previous non-storm water discharges. Facilities where evidence of probable prior non-storm water discharges is observed shall be scheduled for Level 2 inspection. Level 2 – During the next rainy season, facilities where evidence of probable previous non-storm water discharges had been identified, will be visited during a rain event. The Permittee will inspect for non-storm water discharges from the site. Facilities with no observable illegal discharges require no further actions. Where illegal discharges are found, the Permittee shall initiate appropriate legal action to enforce the provisions of its local ordinance.

PROPOSED ALTERNATIVE PERMIT LANGUAGE

Public Agency Activities Program

Page 46, paragraph 2. b:

b) Priority Screening: In addition to the baseline screening that will occur during regularly scheduled maintenance, Permittees shall ~~design and implement a plan on or before October 31, 2002, subject to Regional Board Executive Officer approval, for proactive storm drain screening of priority areas that are, or are suspected to be a source of non-storm water discharges.~~ annually proactively screen by means of visional video, smoke or other approved method an average 20% of the Permittee's storm drain lines which serve areas that are predominantly zoned Industrial. By October 31, 2006, each Permittee shall have completed the above referenced screening of all Permittee owned storm drain lines which serve areas predominantly zoned Industrial.

PROPOSED ALTERNATIVE PERMIT LANGUAGE

Public Agency Activities Program

Page 44, paragraph 12:

12. Dry Weather Diversions

~~Each~~ All of the Permittees and the Principal Permittee, ~~shall prioritize drains for possible~~ in cooperation with the County Sanitation Districts of Los Angeles County, shall prepare a study which investigates the possible diversion of dry weather flows from areas within their jurisdictions that flow to areas where the public may be impacted (for public health and safety and/or environmental reasons). The Permittees and the Sanitation District shall collectively review their individual prioritized lists and create a watershed based priority list of possible drains for diversion no later than March 31, 2002~~2~~3 and submit a listing of priority diversions to the Regional Board Executive Officer. ~~The Permittees shall immediately begin a feasibility study and discussions with the appropriate sewer agency for diversion of selected dry weather flows to the sanitary sewer for treatment, subject to approvals of the Regional Board and the appropriate sewer agency.~~

~~The Permittees shall investigate and determine the location of potential dry weather urban runoff treatment devices for strategic placements in areas of the watersheds where most appropriate. This information shall be submitted to the Regional Board Executive Officer no later than March 31, 2002.~~

7.4 540-7J2J

The Integrated Receiving Water Impacts Report is a requirement of the Los Angeles County Municipal Stormwater Permit No. CAS0061654. Part VII.D of the Permit states:

"The Principal Permittee shall not later than July 31, 2000, prepare and submit an Integrated Receiving Water Impacts Report. The report shall include, but not be limited to a comprehensive analysis of the results of the different monitoring data (land use, mass emissions, critical source, load assessment, receiving waters, and other pertinent studies available), and feasible environmental indicators. It should also include recommendations on future monitoring requirements, e.g., integration of storm water receiving water monitoring with regional receiving water monitoring, if applicable. This report will be an integral part of the ROWD."

1.1 PURPOSE

The goal of the Monitoring Program is to develop information to support effective watershed stormwater quality management programs. The purpose of these management programs is to reduce pollutants in stormwater discharges to the maximum extent practicable. The major objectives of the Monitoring Program outlined in the Municipal Permit are to:

- track water quality status, pollutant trends and pollutant loads, and identify pollutants of concern;
- monitor and assess pollutant loads from specific land uses and watershed areas;
- identify, monitor, and assess significant water quality problems related to stormwater discharges within the watershed;
- identify sources of pollutants in the stormwater runoff;
- identify and eliminate illicit discharges;
- evaluate the effectiveness of management programs, including pollutant reductions achieved by implementation of BMPs; and
- assess the impacts of stormwater runoff on receiving waters.

These objectives are met through three major types of monitoring and additional studies as their need arises.

1.2 REPORT ORGANIZATION

Section 2 contains a brief history of the station selection process and site descriptions. Maps and tabular descriptions of the tributary areas of each monitored watershed are displayed as Figures 2-1 through 2-14. Section 3 covers methods used for measuring, sampling and analyzing stormwater. Section 4 presents and interprets results, and Section 5 draws conclusions and makes recommendations.

- Identify, Monitor, and Assess Significant Water Quality Problems Related to Stormwater Discharges Within the Watershed

  The monitoring program was successful at identifying toxic levels of zinc and copper from Ballona Creek discharge, toxicity in the Los Angeles and San Gabriel Rivers, and the extent and severity of bacterial indicators in both dry and wet weather.

- Identify Sources of Pollutants in Stormwater Runoff

  In addition to the Bay receiving water impacts study's identifying Ballona Ck., and not Malibu Ck., as a contributor of stormwater toxicity, the mass emission monitoring identified the Los Angeles River as consistently contributing the most zinc, copper, and suspended solids. The land use monitoring identified light industrial, transportation, and retail/commercial land uses as developing the highest median concentrations for total and dissolved zinc. Light industrial and transportation land uses displayed the highest median concentrations for total and dissolved copper, and light industrial produced the highest concentrations of suspended solids. Finally, the critical source monitoring program identified fabricated metal businesses as producing the highest median concentrations for zinc, copper, and suspended solids.

- Identify and Eliminate Illicit Discharges

  Each Permittee has a program to identify and eliminate illicit connections to the storm drain system to the maximum extent practicable. The County has been successful in the inspection of open channels and underground storm drains to identify illicit connections.

  Most Permittees perform random area surveillance during dry and wet weather to inspect for potential illegal discharges. The Permittees also conduct educational site visits at businesses. During these visits, flyers with information on Best Management Practices (BMPs) applicable to that business are distributed.

  The Department has also been successful in developing and implementing a standard program for public reporting of illicit discharges and reporting hazardous substances via the 1-888-CleanLA hotline.

- Evaluate the Effectiveness of Management Programs, including Pollutant Reductions Achieved by Implementation of Best Management Practices (BMPs)

  The Critical Source element of the monitoring program was successful at examining the potential effectiveness of voluntary good housekeeping and preventive types of Best Management Practices at one critical source industry. There was no significant difference at other critical source industries at which BMPs were implemented. The inability to control the voluntary usage of good housekeeping BMPs at these critical industries may have compromized the study's effectiveness for those industries.

dissolved zinc and about 360 μg/l for total zinc. Runoff concentrations for metals from the high density single family residential, education, multifamily residential, and mixed residential land uses were significantly less.

- Light industrial and transportation land uses displayed the highest median values for total and dissolved copper, with transportation the highest at about 28 μg/l for dissolved copper and about 40 μg/l for total copper.

- Median concentrations of total suspended solids were highest coming off of the light industrial land use category, at about 130 mg/l.

- Among all the critical industry monitoring sites, the highest median value for total zinc (approx. 450 μg/l), dissolved zinc (approx. 360 μg/l), total copper (approx. 240 μg/l), and dissolved copper (approx. 110 μg/l) were produced at the fabricated metal business sites.

- Levels for total and dissolved zinc did not appear to be significantly different between any of the industry types.

- Levels for total and dissolved copper did appear significantly higher for the fabricated metals sites over the other critical industry categories.

- The highest median level for suspended solids was also produced at the fabricated metals sites, but no industry was significantly higher or lower than another for suspended solids.

EVALUATION OF CRITICAL INDUSTRY BMP EFFECTIVENESS

- Limited success was achieved in evaluating BMPs for the auto dismantling and auto repair industries. The reasons for no discernable differences in concentrations before and after BMP implementation at the two industries are not obvious, but may include the voluntary nature of the BMP usage.

- For total and dissolved zinc, the median concentration lowered or stayed nearly the same with the implementation of BMPs at the auto dismantling, auto repair, and fabricated metals industries.

- For total and dissolved copper, where the fabricated metal industry had displayed the highest median concentrations, levels were significantly reduced with the implementation of BMPs.

- The auto dismantling and auto repair businesses showed no significant difference for copper pre- and post-BMP.

The land use monitoring was successful at characterizing runoff from land use specific drainage areas and developing seasonal mean concentrations. Seasonal mean concentrations (also called Event Mean Concentrations) were used for calculating loading from unmonitored watersheds. It was found that seasonal mean concentrations were below the 25% error rate in 77% of circumstances.

Monitoring at the land use stations and mass emission stations included a broad constituent suite including bacteria, metals, organics, major ions, and nutrients. The laboratory analytical efforts achieved detection limits (DL) as required by the Permit for all constituents, and achieved DLs that were lower than Permit requirements for many analytes, particularly for constituents of concern.

5.1.2 Monitor and Assess Pollutant Loads from Specific Land Uses and Watershed Areas

The mass emission and land use monitoring elements were successful at assessing loading. Loading was first reported in the 1994-95 Los Angeles County Stormwater Monitoring Report. Subsequent loading based on both observed and modeled data was also reported in the 1998-99 and 1999-2000 Reports. The County's GIS Loading Model has been recognized as an innovative solution to estimating loading in unmonitored watersheds.

5.1.3 Identify, Monitor, and Assess Significant Water Quality Problems Related to Stormwater Discharges Within the Watershed

The monitoring program was successful at identifying significant water quality problems associated with stormwater discharge. First, the Santa Monica Bay receiving waters impacts study identified zinc and copper from Ballona Creek discharge as being toxic to the fertilization rate of simple marine animals. Toxicity testing of dry and wet weather flow in the Los Angeles and San Gabriel Rivers also identified toxicity problems. The extent and severity of bacterial indicators was better understood through wet weather mass emission sampling and ad hoc dry weather sampling.

5.1.4 Identify Sources of Pollutants in Stormwater Runoff

All of the major monitoring program elements were used successfully to identify stormwater pollutant sources. The Santa Monica Bay receiving waters study identified Ballona Ck., and not Malibu Ck., as a contributor of stormwater toxicity. Further, it identified zinc and copper as two metals contributing to the toxicity. The mass emission monitoring identified the Los Angeles River as consistently contributing the most zinc, copper, and suspended solids.

The land use monitoring identified light industrial, transportation, and retail/commercial land uses as developing the highest median concentrations for total and dissolved zinc. Light industrial and transportation land uses displayed the highest median concentrations for total and dissolved copper, and light industrial produced the highest concentrations of suspended solids.

Finally, the critical source monitoring program identified fabricated metal businesses as producing the highest median concentrations for zinc, copper, and suspended solids.

5.1.5 Identify and Eliminate Illicit Discharges

Each Permittee has a program to identify and eliminate illicit connections to the storm drain system to the maximum extent practicable. One of the programs developed for the elimination of illicit connections is open channel and underground storm drain inspections.

Most Permittees perform random area surveillance during dry and wet weather to inspect for potential illegal discharges. The Permittees also conduct educational site visits at businesses. During these visits, flyers with information on Best Management Practices (BMPs) applicable to that business are distributed.

The County, maintaining the majority of the storm drains within Los Angeles County, conducts routine inspections of the storm drain system for illicit connections/illicit discharges. Maps and connection inventory reports for 1,304 storm drains have been prepared to facilitate these inspections, which have resulted in the discovery of 1,993 undocumented connections as of July of 1999. These connections are either removed or permitted.

A toll free number 1-888-CleanLA was created for the public to report observed illicit connections/illicit discharges to the storm drain system.

Also interest. INS

It is recommended that the IC/ID model program approved by the Regional Board on March 23, 1999, be continued.

5.1.6 Evaluate the Effectiveness of Management Programs including Pollutant Reductions Achieved by Implementation of Best Management Practices (BMPs)

The Critical Source element of the monitoring program was successful at examining the potential effectiveness of good housekeeping and preventive types of voluntary Best Management Practices at one critical source industry. While two of the industries showed no significant improvement as the result of implementing BMPs, the fabricated metal industry showed significant improvement for total and dissolved copper.

5.1.7 Assess the Impacts of Stormwater Runoff on Receiving Waters

The receiving waters impact study, one of the first to assess stormwater impacts on the marine environment, was very successful at assessing stormwater impacts on Santa Monica Bay. The study was performed by the Southern California Coastal Waters Research Project, the University of Southern California, and the University of California Santa Barbara. The plume study found that freshwater plumes extended for a number of miles out to sea and often persisted for a number of days after a storm. The toxicity study found that the stormwater discharge from Ballona Creek was toxic to sea urchin fertilization and that dissolved zinc and copper were contributors to the toxicity. The study also found that sediments offshore of Ballona Creek generally had higher concentrations of urban contaminants, including common stormwater constituents such as lead and zinc.

5.2 WIDE CHANNEL PILOT STUDY

The purpose of the wide channel pilot study (Woodward-Clyde et al, 1996) was to evaluate the accuracy of a single point water quality intake in representing the water quality in wide channels. Ballona Creek, Los Angeles River, San Gabriel River, and Coyote Creek can be considered wide

BROWN AND CALDWELL

SoCal Water Resources News

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NEWS

Oceanside is up to its neck in water fees

Talk of going to court over costs

San Diego Union-Tribune - 5/10/01
By Lois Sherman, staff writer

OCEANSIDE – Ratepayers face an increase in their monthly utility bills because of a state order to clean storm drains and an expected increase in the cost of water.

In a study session yesterday, members of the City Council made it clear they would like to oppose the required storm-drain work in court.

In the meantime, city Public Works Director Peter Weiss said he is required to report on how the city intends to meet its obligations: $1.2 million in estimated annual costs, in addition to the $600,000 a year the city already spends to keep pollution out of its storm drains.

Weiss said the city might have as many as 200 miles of storm drains.

The council informally agreed to an alternative plan that will impose an expected $1.35 a month fee on ratepayers. Another choice would be to take some money from the city's general fund so the ratepayer would pay about 50 cents a month.

Councilwoman Betty Harding wants an explanation printed on the bills so residents will know the additional cost is caused by a state order.

Harding described the increase, on top of the rising costs of electricity, over which the city has no control, as a hardship for ratepayers. "This scares me for our people," she said.

People always complain of increases in their water rates, she said, without realizing that their water bills also cover the costs of sewers and trash removal.

However, water rates might also rise next year.

On top of the $1.35 monthly for the storm-drain work, a $1.30 monthly fee could be added to cover a possible 4 percent increase in the cost of water imported by the County Water Authority. Barry Martin, water utilities director, said exact figures haven't been set.

Oceanside avoided a rate increase this year because of additional interest in the city's Water Enterprise Fund, Martin said.

An average single-family home in Oceanside pays about $55 a month for water, sewer and trash removal. Weiss said the trash collection rate is among the lowest in the county, and Martin said the city's water and sewer rates are about average.

Cities pay to stem stormwater pollution

SPENCER SOPER
Staff Writer

Facing tough standards on what can go down storm drains toward the ocean — and stiff fines for failing to comply — Encinitas, Solana Beach and Del Mar are each preparing to spend more than ever to sweep streets, repair storm drains and discourage pollution.

The three cities plan to more than double what they spend to control storm drain pollution in the 2001-02 fiscal year, which begins July 1.

Controversial new regulations from the state Regional Water Quality Control Board have prompted the increase. The new laws go into effect Feb. 21.

"We're just throwing money at this thing," Solana Beach finance director Gavin Cohen said. "The cities really don't have much of a choice."

The new standards demand that developments and businesses block pollutants from reaching storm drains. The permit also would require cities, the county and the Port of San Diego to provide greater scrutiny of storm-water runoff and controls.

Local governments that don't comply with the new law could face fines of $10,000 per day, said Kathy Weldon, who oversees Encinitas' stormwater monitoring program.

Solana Beach plans to spend nearly $300,000 next year to put together a pollution control plan, repair and clean storm drains and monitor storm water, Cohen said. The amount is more than triple what the city spent on storm water this fiscal year.

Del Mar plans to double what it spends to $160,000 to monitor stormwater pollution.

Encinitas plans to spend $800,000 to clean, repair and monitor storm drains in the 2001-02 fiscal year, more than double the $370,000 it spent this year for the same purpose.

In Encinitas, the money will help pay for two contract employees to monitor water in storm drains and look for polluters. It will also pay to clean out two pipes that empty onto Moonlight Beach.

The pipes are clogged with cobble, which has provided a home for rats whose feces can contaminate the beach, city officials said.

"It's about time they spend money on something the people want: clean water," environmental attorney Marco Gonzalez said. "I think we'll see some noticeable improvements (in ocean water quality) within a year or two."

Lax stormwater runoff standards have led to increased fecal coliform and streptococcus bacteria, toxic pesticides and heavy metals such as cadmium, copper, lead and zinc in the ocean and waterways, according to the Regional Water Quality Control Board.

Not everyone is excited about the mandate.

"It's going to be an extremely expensive proposition for all cities," Encinitas Councilman James Bond said.

Contact staff writer Spencer Soper at (760)943-2313 or ssoper@nctimes.com.

5/1/01

R0004819

Escondido to consider raising water rates

ERIN MASSEY
Staff Writer

ESCONDIDO — Local residents would have to pay a total of $7.56 more each month for water, wastewater and stormwater service if the City Council decides to raise rates at its meeting Wednesday.

The council is poised to consider the rate increases to pay for additional water imported because of a lack of local rainfall and higher cost of electricity that have driven up the price of pumping water this fiscal year.

The meeting is set for 4 p.m. and 7:30 p.m. Wednesday in Council Chambers at City Hall, 201 N. Broadway.

A lack of rainfall this year has caused the city's water utility to spend more money importing water from the San Diego County Water Authority, said John Hoagland, the city's utility manager, in a report to the council.

The city also has had to spend more money on electricity to run its water pumps, Hoagland said. Like energy users all over the state, Escondido has been hit with soaring electricity bills caused by the 1996 deregulation of the state's utility industry.

The lack of adequate rainfall and electricity crisis have caused an additional $1 million in expenses at the city's wastewater treatment plant, called the Hale Avenue Resource Recovery Facility, Hoagland said.

A residential user would see his water bill increase by 10 percent or $4.50 extra per month. The wastewater bill would also increase by 10 percent to about $2 more per month.

The storm water bill will be $1.06 higher and is also affected by the city needing an additional $400,000 next year for its stormwater permit, Hoagland said.

In other news, the council will take another look at the $57.5 million general fund budget for the next fiscal year. This version includes a new recommendation of how to finance the nearly $500,000 requested by local organizations.

The budget subcommittee, which is made up of council members June Rady and Ed Gallo, found another $108,300 through a combination of more budget cuts and other unallocated money, said Clay Phillips, the deputy city manager and director of administrative services.

The new budget proposes a 10 percent cut in training and meeting costs for all general fund departments, as well as a 3.4 percent cut in money earmarked for replacing city vehicles. The city also squeezed out another $44,215 from funding for workers' compensation costs, Phillips said.

The original budget recommended the city fund $325,000 of the $419,000 in requests from local groups and nonprofit agencies as part of the city's 2001-2002 budget starting July 1.

In May, the council asked the committee to go back and find the $419,000 in requests and added another $165,000 in new financial need to add to the city's budget.

The budget is already tight this year because of a slowing economy, increased electricity costs, higher worker's compensation costs and the loss of government grants from state surpluses this year, Phillips said.

Overall, the city is projecting $56.7 million in revenue for the fiscal year starting July 1, or a 4.2 percent increase from the $54.4 million projected for the current fiscal year. The city is expecting to spend $57.5 million next fiscal year compared with $54.1 million for the current fiscal year, a 6.3 percent increase, according to budget figures.

Contact staff writer Erin Massey at (760) 740-5416 or emassey@nctimes.com.

6/12/01

Water, trash rate increases considered

RON RAPOSA
Staff Writer

OCEANSIDE ---- Monthly water and trash rates could increase by $1.35 per household to help pay $3.9 million in projected new annual costs from tougher state clean water requirements and past work on the San Luis Rey River Flood Control project.

Although no action was taken, the majority of the City Council at a Wednesday afternoon workshop agreed with the recommendation from Public Works Director Peter Weiss and Water Utilities Director Barry Martin that a monthly rate increase would be the best way to pay costs from the two projects.

Weiss told the council that the new state clean water requirements would cost Oceanside $300,000 in start-up costs and $1.2 million a year in ongoing expenses. The city also needs additional money to repay $2.4 million a year for flood-control work along the San Luis Rey River, Weiss said.

The rate hike would account for about $2.35 million of the $3.9 million in additional clean water and flood-control expenses. About $650,000 would come from increased developer fees and $900,000 from the city's general fund budget.

The council asked Weiss and Martin to bring back some additional cost figures. Councilwomen Betty Harding and Carol McCauley also asked City Attorney Duane Bennett to study the possibility of supporting a legal challenge to the state water requirements.

"If there's any possible way to fight this, I think we should do it," Harding said.

A public hearing would be held prior to the council adopting a rate increase.

McCauley and Councilman Jack Feller complained that the state imposed the requirements on cities without providing additional funding to pay for them.

Weiss said cities throughout the state are looking for ways to pay for actions required by the California Water Quality Control Board's order to more closely control storm-water runoff by February.

Among the requirements are increased monitoring of new industrial and commercial development and yearly cleaning of all storm drains to reduce pollution going into the ocean and other bodies of water.

The proposed monthly rate increase would average 65 cents for water (a hike of 2 percent) and 70 cents for trash (a 3 percent hike).

The trash rate increase would be the first in the city since 1994, although a 3.1 percent increase had been projected for 2003. The hikes discussed Wednesday simply would put that increase into effect a year early, Weiss said.

An increase in water rates of up to 4 percent had been projected for next year to pay for the increased wholesale price of water and other expenses. The increase discussed Wednesday would be in addition to that.

At its regular Wednesday night meeting, the council adopted the city Housing and Community Development Department's 2001 plan for spending $22 million in federal, state and local money.

Among key elements are rental assistance for 1,300 low-income households, new low-income housing construction, construction of 175 curb ramps for disabled access, and construction of a teen room at Balderrama Park.

Adoption of the plan came on a 4-1 vote. Councilwoman Esther Sanchez, who voted against it, wanted the Partners for a Healthy Neighborhood group removed from the plan because it might not continue to participate.

Contact staff writer Ron Raposa at (760) 901-4067 or rraposa@nctimes.com

5/10/01

Construction Industry Coalition on Water Quality

August 6, 2001

2001 AUG -7 A 11:00

Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Municipal Storm Water Permit for Los Angeles County and Cities

Dear Mr. Dickerson:

On behalf of the more than 3,300 member companies of the Construction Industry Coalition on Water Quality (CICWQ), we would like to acknowledge the time, effort and expertise that went into developing the proposed Municipal Storm Water Permit (Permit) and thank the Los Angeles Regional Water Quality Control Board for this opportunity to express our concerns with the Permit.

CICWQ is comprised of the four major construction and building industry trade associations in Southern California. These include the Associated General Contractors of California (AGC), Building Industry Association of Southern California (BIA/SC), Engineering Contractors Association (ECA) and the Southern California Contractors Association (SCCA). These organizations work collectively to provide the necessary infrastructure and support for the region's business and residential needs.

The membership of CICWQ is comprised of construction contractors, labor unions, landowners, developers, and homebuilders throughout the region and state. All segments of the coalition are impacted by the proposed Permit, including construction employees who rely on jobs in the region, landowners within the Board's jurisdictional boundaries and potential builder who require land resources to satisfy the ever-growing demand for housing.

While CICWQ appreciates the Board's well-intentioned regulatory efforts to improve water quality, the proposed Permit could have significant detrimental effects on every CICWQ member employee – and more specifically – California's shrinking middle- and working-class. According to an August 6, 2001 *Los Angeles Times* article entitled, "Middle-Class Families Put in Economic Bind," a shrinking middle class and high housing costs represent key challenges to the state's economy and quality of life.

This Permit will most likely yield a number of unintended consequences that could further exacerbate the shrinking middle-class and increasing housing costs. These regulations will result in fewer, but more expensive residential projects being completed in the future, due to additional costs and restrictions involved in complying with these regulations. This will, in turn,

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compromise job growth, housing production and the ability of residents to own their own home. These factors can have a significant negative effect on the regional economy.

CICWQ is very supportive of the Board's efforts to develop new ways for improving our quality of life through improved water quality. However, the building and construction industries want to ensure that these efforts are practicable, achievable and will result in improved water quality.

Based on the foregoing, we ask that you consider the following comments pertaining to the Permit and that you work with CICWQ to find solutions that will protect jobs, housing and good water quality for the residents in our region.

Findings Discussion

1. **Finding B.1** states the following:

Storm water discharges consist of surface runoff generated from various land uses in all the hydrologic drainage basins that discharge into water bodies of the State. The quality of these discharges varies considerably and is affected by the hydrology, geology, land use, season, and sequence and duration of hydrologic events. The primary constituents of concern currently identified by the Los Angeles County Flood Control District 1994-2000 Integrated Receiving Water Impacts Report are cyanide, indicator bacteria, total dissolved solids, turbidity, total suspended solids, nutrients, total aluminum, dissolved cadmium, copper, lead, total mercury, nickel, zinc, bis(2-ethylhexyl)phthalate, polycyclic aromatic hydrocarbons (PAHs), diazinon, and chlorpyrifos.

Comment: We find it appropriate that the Permit recognize that different land uses impact water quality in very different ways and implicate different pollutants of concern. The establishment of these pollutants of concern is an important step toward achieving the water quality that we all strive for. However, we are concerned that the Permit does not distinguish between land uses or project location, with regard to the appropriate level of regulation. Let's remember that a major role of the Regional Water Quality Control Board is to establish water quality standards for its region and then to pass and enforce achievable and practicable regulations in furtherance of meeting these water quality standards. Putting aside our concern that the development process of these water quality standards did not consider economics, housing needs or wet weather characteristics, and instead focusing only on the Permit at hand, it is apparent that the goal of the Permit should be to establish BMPs that can be implemented to the maximum extent practicable (MEP), and also that promote further progress toward meeting water quality standards. To reach this goal, the Permit should focus on establishing pollutants of concern for the various receiving waters (not just one size fits all), causes of these pollutants of concern and then the implementation of BMPs that actually address these pollutants of concern. We feel that the Permit should, consistent with its own findings, recognize distinctions in the various land uses and regulate accordingly.

Additionally, we contend that the failure to make such regulatory distinctions between land uses is contrary to both the letter and spirit of MEP standards.

2. **Finding B.3** states the following:

These compounds can have damaging effects on both human health and aquatic ecosystems. In addition, the high volumes of storm water discharged from MS4s in areas of urbanization can significantly impact aquatic ecosystems due to physical modifications such as bank erosion and widening of channels. It is anticipated that, due to the nature of storm water events (i.e., large volumes of water and high velocities) that there may be short-term, reversible impacts to beneficial uses that are not directly related to water quality.

Comment: While it is true that urbanization affects hydrology, such effects on the flow regime occur regardless of what pollutants are present in stormwater or, indeed, regardless of whether or not any pollutants are added to stormwater as it traverses the land. While such effects may constitute "pollution" as that term is defined in the Clean Water Act, they do not constitute the "discharge of pollutants," as that phrase is defined in the Clean Water Act. "EPA does not consider flow to be a pollutant."[1] The public storm drain program is limited to controls on pollutant discharges. Other Clean Water Act programs not administered by the Regional Board are designed to address general pollution problems, such as might result from bank erosion and widening of channels. Water per se, regardless of what constituents are in it, is not a "pollutant" regulated under the NPDES program, within the statutory definition. Thus, the regulation of stormwater flows in this Permit is void under the Clean Water Act to the extent it is regulating downstream erosion caused by stormwater.

3. **Finding B.5** states the following:

Studies and research conducted by other Regional agencies, academic institutions, and universities have also identified storm water and urban runoff as significant sources of pollutants to surface waters in Southern California. [Surface Runoff to the Southern California Bight, Southern California Coastal Water Research Project, (1992); Impacts of Urban Runoff on Santa Monica Bay and Surrounding Ocean Waters (Gersberg,R.M., 1995); State of the Bay 1998, Santa Monica Bay Restoration Project; Storm Water Impact, In,

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[1] Revisions to the Water Quality Planning and Management Regulation and Revisions to the National Pollutant Discharge Elimination System Program in Support of Revisions to the Water Quality Planning and Management Regulation, 65 Fed. Reg. 43586,43619 (July 13, 2000). Case law interpreting the Clean Water Act uniformly has found the definition of "pollutant" to not include downstream erosion. See e.g., National Wildlife Fed'n. v. Gorsuch, 693 F.2d 156, 171-172 (D.C. Cir. 1982) (holding that discharges from dams were not discharges of pollutants, but rather were discharges that altered water quality conditions – namely scouring the downstream channel – and as such, did not fall under the definition of "pollutant" and did not require an NPDES permit); Missouri, ex rel. Ashcroft v. Department of the Army, 672 F.2d 1297, 1303 (8th Cir. 1982) (finding that fluctuations in flow rates of water that created downstream erosion did not result in the "discharge of a pollutant" under the CWA and the relevant permit was void to the extent it regulated downstream erosion).

Southern California Environmental Report Card 1999, Institute of the Environment, University of California, Los Angeles (Stenstrom, M.S., 1999); Distribution of Anthropogenic and Natural Debris on the Mainland Shelf of Southern California Bight, Shelly L. Moore and M. James Allen (1999); The Health Effects of Swimming in Ocean Water Contaminated by Storm Drain Runoff, Haile, R.W. et al.(1999); Huntington Beach Closure Investigation: Technical Review(University of Southern California, 2000); A Regional Survey of the Microbiological Water Quality Along the Shoreline of the Southern California Bight, Rachel T. Noble et al. (2001).

Comment: While we understand the point of this statement, the wording is inaccurate and inappropriate. Storm water and urban runoff are not, *indeed cannot*, be "sources" of pollutants. Unless we are prepared to classify rain and clouds themselves as "sources" of pollution, neither can we slap such a label generically across storm water and runoff. Storm water and runoff may be *conduits* for the deposit of pollutants into receiving water in any given instance, but they are not themselves *sources*.

4. **Finding B.6** states the following:

Development and urbanization increase pollutant load, volume, and discharge velocity. First natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification process. In contrast, pavement and concrete can neither absorb water nor remove pollutants, and thus the natural purification characteristics are lost. Second, urban development creates new pollution sources as the density of human population brings with it proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage waste, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants. Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. These environmentally sensitive areas include Areas of Special Biological Significance, water bodies designated with a RARE beneficial use, Significant Natural Areas, and Significant Ecological Areas.

Comment: While such a statement *may* be true in a given instance, it does not stand as an absolute proposition. In fact, a wetland may have a much greater filtering and cleansing capacity than other areas, while at the same time qualifying as an environmentally sensitive areas ("ESA"). Further, the terms of the Permit encourage the creation of natural and green filtration systems on open landscape, for the express purpose of satisfying the Permit's treatment mandates. However, just such a system may later be labeled an ESA, subject to *heightened* regulation. The categories relied upon by the Permit in defining ESAs for the

purpose of the Permit were not designed with storm water regulation in mind. Therefore, it is arbitrary for the Permit to now single such areas out on a categorical basis and subject them to heightened treatment and regulation.

5. **Finding B.7** states the following:

The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development. (Impervious Cover as An Urban Stream Indicator and a Watershed Management Tool, Schueler, T. and R. Claytor, In, Effects of Water Development and Management on Aquatic Ecosystems (1995), ASCE, New York.)

Comment: There appears to be a logical/analytical disconnect here. The first sentence relates to the regulation of velocities and flows. (See comments above.) The second sentence, however, jumps to impervious surfaces leading to degradation of receiving waters. If the implication is that they are one and the same, there is no apparent evidentiary basis for the leap. As to the impropriety of the regulation of velocity, absent consideration of specific pollutants, see comment above. As to making broad based conclusory statements regarding imperviousness, we ask that the Permit recognize a more sophisticated level of analysis. While we recognize the superficial conclusion that more imperviousness may mean more deposit of contaminants (such as car exhaust) and less natural absorption of runoff, to brand imperviousness as categorically negative ignores some significant planning and environmental objectives. There cannot be increased density development without some increase in imperviousness. However, it is specifically higher density that is the key to concepts such as "smart growth" and more concentrated urban centers. This is not density for density's sake, but density for the sake of concentrating development and increasing the potential for conservation. To inhibit imperviousness across the board, without sufficient acknowledgment and consideration of density's potential to result in increased open space and conservation elsewhere is, *at best*, short-sighted and counter-productive. The Permit must allow for and encourage a more comprehensive consideration as to whether density and imperviousness are in reality an exchange for greater undisturbed preservation elsewhere.

6. **Finding D.4** states the following:

This permit is intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to control the discharge of pollutants in

storm water to the maximum extent practicable (MEP) from the permitted areas in the County of Los Angeles to the waters of the United States.

Comment: We dispute that the record demonstrates that compliance with the Permit is either cost-effective or satisfies the CWA's maximum extent practicable standard. As to the claim of cost effectiveness, relative to what? Specifically, what is the anticipated efficacy of this Permit in terms of improving overall water quality? The Permit should provide actual improvement of water quality, not simply attempts at incremental decreases in future contributions. As to cost, the city of San Marcos (population 54,000) is setting aside almost $1.4 million this fiscal year, which began July 1, to comply with the San Diego Municipal Stormwater Permit, regulations very similar to this Permit. Beginning July 1, 2002, the City expects that the budget could rise to $2.5 million. These are huge costs for a small city with an operating budget of $29.9 million. For fiscal year 2001 ($1.4 million), that equates to almost $26/person and approximately 4.7% of the operating budget. For 2002 ($2.5 million), it equates to over $46/person and approximately 7.7% of the operating budget. In addition, the cost for a discharger to meet the hillside stabilization requirement, mandated throughout this Permit, using the option of spray-on substances ranging from mulch, to seed, to stabilizing solutions, varied from five cents per square foot to fifteen cents per square foot. At fifteen cents a square foot, the cost is $6,534 per acre, just for slope stabilization. As to the maximum extent practicable consideration, both the Regional and State Boards have not properly addressed key elements of the "practicality" component – i.e., technical and cost feasibility. While cleaning up a problem decades in the making certainly must be a priority, it will not be accomplished on the back of other critical social needs in California, such as housing. Even with the marginal cost estimates relied upon by Regional Board staff (figures we vigorously dispute), there is no consideration as to the effect of those marginal costs on driving the availability of housing *further* out of the reach of those residents of our state most in need.

7. **Finding E.17** states the following:

The Regional Board adopted and approved requirements for new development and significant redevelopment projects in Los Angeles County to control the discharge of storm water pollutants in post-construction stormwater, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000. The State Board in large part affirmed the Regional Board action and SUSMPs in State Board Order No. WQ 2000-11 issued on October 5, 2000.

??? *The State Board's Chief Counsel has issued a statewide policy memorandum (dated December 26, 2000,), which interprets the Order to provide broad discretion to Regional Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in*

environmentally sensitive areas, and water quality design criteria for retail gasoline outlets.

- *The State Board's Chief Counsel interprets the Order to encourage regional solutions and endorses a mitigation fund or "bank" that may be funded by developers who obtain waivers from the numerical design standards for new development and significant redevelopment.*

Comment: The Building Industry Legal Defense Foundation had a series of correspondence with the Office of Chief Counsel regarding this Memorandum. We enclose copies of those letters herewith and ask that they be included in the administrative record.

8. **Finding E.21** states the following:

To facilitate compliance with federal regulation, the State Board has issued two statewide general NPDES permits: one for storm water from industrial sites [NPDES No. CAS000001, General Industrial Activity Storm Water Permit (GIASP)] and the other for storm water from construction sites [NPDES No. CAS000002, General Construction Activity Storm Water Permit (GCASP)]. The GCASP was reissued on August 19, 1999.The GIASP was reissued on April 17, 1997. Facilities discharging storm water associated with industrial activities and construction projects with a disturbed area of five acres or more are required to obtain individual NPDES permits for storm water discharges, or be covered by these statewide general permits by completing and filing a Notice of Intent (NOI) with the State Board. The USEPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.

The Regional Board is the enforcing authority in the Los Angeles Region for the two statewide general permits regulating discharges from industrial facilities and construction sites, and all NPDES storm water and non-storm water permits issued by the Regional Board. These industrial and construction sites and discharges are also regulated under local laws and regulations.

Comment: We are concerned more with the GCASP than the industrial permit, but our comments apply in either circumstance. This Permit clearly seeks to override all operative provisions of the GCASP, forcing enforcement responsibility for compliance onto the municipal permittees. Rather than following the USEPA guidance anticipating coordination of the state-administered programs, this Permit does not seek to "coordinate" with the GCASP, but rather alters its most fundamental provisions and requirements. The result is inconsistent standards in this region from the rest of the state. Inconsistent standards result in uncertainty in implementation, enforcement, and regulated community understanding of its obligations from one site to the next. While the provisions of this Permit state that its provisions should be enforced along with those of the GCASP, such duplicative and

inconsistent regulation is contrary to the provisions of the GCASP itself, which, as a State Board Order, will control. Specifically, the GCASP provides:

> "RWQCBs shall: . . . [¶] . . . b. Issue permits as they deem appropriate to individual dischargers, categories of dischargers, or dischargers in a geographic area. *Upon issuance of such permits by a RWQCB, the affected dischargers shall no longer be regulated by this General Permit.*" (SWRCB WQ Order No. 99-08-DWQ, p. 7, ¶ D.1.b.)

By adopting this Permit, this Regional Board is issuing a permit they appear to deem appropriate both for a "category of dischargers" as well as "dischargers in a geographic area." Accordingly, by the express terms of the GCASP, adoption of the Permit in this regard will automatically nullify the responsibility of regulated entities to comply with the GCASP. This is an outcome we believe this Regional Board did not intend; nor is it an outcome we believe is appropriate.

But whether intended or not, this will be the effect of adoption of the Permit as written. (Below, we address the specific ways in which the Permit's "Development Construction Program" departs from the GCASP.) By superceding the GCASP for this region through the MS4 permit, the Regional Board abandons what has been a well-functioning, statewide system of uniform requirements, implementation, and – *usually* – enforcement. We do not believe the State Board will be anxious to abandon this system and accept differing implementation and enforcement standards, region by region. There is no evidence in the record that the Los Angeles County region has such unique circumstances that a region-wide abandonment of the GCASP is appropriate. If this Regional Board feels that the GCASP is deficient generally, then the appropriate course of action is to seek amendment of he GCASP by the State Board, not abandon the GCASP without just cause or an adequate evidentiary foundation.

9. **Finding E.23** states the following:

> *The State Board, on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitations language to be included in all municipal storm water permits issued by the State and Regional Boards. The receiving water limitations included herein are consistent with the State Board Order, USEPA Policy, and the U.S. Appellate court decision in. Defenders of Wildlife v. Browner (9th. Cir, 1999). The State Board Office of Chief Counsel has determined that the federal court decision did not conflict with State Board Order No. WQ 99-05 (memorandum dated October 14, 1999)*

Comment: On the contrary, the receiving water limitation language does not comply with Order 99-05. In fact, it is the "shall not cause or contribute" language that Order 99-05 expressly struck and replaced. "It is hereby ordered that Order WQ 98-01 will be amended to

remove the receiving water limitation language contained therein and to substitute the EPA language." (Order 99-05, p. 1, emphasis added.) The "EPA language" referred to does not include the "cause or contribute" language that was present in Order 98-01. On the contrary, the EPA language outlines a series of practicable safeguards to reasonably accomplish Basin Plan objectives. Thus, this Permit's strict receiving water prohibitions do not comport with Order 99-05. Further, Order 99-05 expressly includes in its language that it is a "precedential decision," unlike the SUSMP Order. In defending continued inclusion of the "cause or contribute" receiving water limitation language from rejected Order 98-01, the administrative record appears to rely on a pattern of including identical receiving water limitation language in other permits. This defense of "well, we've always done it that way" does not in any way validate an inappropriate practice. At every turn, the point is made that the receiving water limitation language is consistent with Order 99-05. From the plain face of Order 99-05, this is clearly not the case.

As to the *Defenders of Wildlife* case, it, too, is clear that strict compliance with water quality standards is not mandated under the CWA for municipal dischargers. "[T]he structure of the Water Quality Act as a whole, and this court's precedent all demonstrative that Congress did not require municipal storm-sewer discharges to comply strictly with [CWA Section 301derived water quality standards]." (*Defenders of Wildlife v. Browner* (9th Cir.) 191 F.3d 1159, 1166.)

10. **Finding F.4** states the following:

The objective of this Order is to protect the beneficial uses of receiving waters in Los Angeles County. To meet this objective, this Order requires that the SQMP specify BMPs that will be implemented to control the discharge of pollutants in storm water to the maximum extent practicable. Further, Permittees are to assure that storm water discharges from the MS4 shall neither cause or contribute to the exceedance of water quality standards and objectives nor create conditions of nuisance in the receiving waters, and that the discharge of non-storm water to the MS4 has been effectively prohibited.

Comment: As discussed more fully below, it is inappropriate and illegal for this Permit to mandate by delegation that Permittees do what State statute prohibits the Regional Board from doing. Specifically, the Permit appears to mandate that the SQMP prescribe which BMPs will be acceptable and which BMPs will not be acceptable. As this Regional Board and the State Board are well aware, no requirement or order of the Regional or State Board may make such a prescription. (Water Code § 13360.) Further, the concepts of the strict receiving water limitation language and compliance with the maximum extent practicable language may be mutually exclusive at this time. To impose strict prohibitive language without due and direct consideration of practicality considerations nullifies the maximum extent practicable standard. The record supporting this permit has not established how strict compliance with receiving water standards is either technically or economically justified or

feasible. Again, the record may recite marginal cost estimates in any given instance for any given BMP implementation, but the record does not establish what exactly will be required to achieve strict compliance with water quality standards and what the economic and land costs will be for such compliance. Accordingly, there cannot have been compliance with the maximum extent practicable standard in the adoption of this Permit.

11. **Finding F.9** states the following:

This Order contemplates that the Permittees are responsible for considering potential storm water impacts when making planning decisions. This Order or any of its requirements are not intended to restrict or control local land use decision-making authority.

Comment: Whether or not intended, there can be no question that the provisions of the Permit have a tremendous impact on the land use decision-making authority of local agencies. The Permit mandates Permittees to limit grading during the rainy season, make CEQA changes, General Plan amendment procedure changes, and to place limits on land uses in areas designated ESAs, regardless of the fact that preexisting designations on which the Permit relies had nothing to do with storm water considerations.

12. **Finding G.6** states the following:

The action to adopt an NPDES permit is exempt from the provisions of Chapter 3 of CEQA (Cal Pub. Resources Code Section 21100 et seq.), in accordance with California Water Code Section 13389.

Comment: The Regional Board correctly cites the provision of the California Water Code exempting waste discharge requirements from Chapter 3 of the California Environmental Quality Act ("CEQA"); however, CEQA does apply to Regional Board permits to the extent that they contain provisions not required by the Clean Water Act.[2] The Clean Water Act does not require that municipal stormwater meet WQBELs. Since the permit includes provisions not required by the Clean Water Act, the Regional Board cannot issue the permit without first conducting environmental review under CEQA. Where, as here, the action triggering CEQA compliance is a permit of county-wide applicability with significant environmental implications, the Regional Board should prepare an Environmental Impact Report, including an alternatives analysis.

Part 1. Discharge Prohibitions states the following:

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[2] See e.g., Committee for a Progressive Gilroy v. State Water Res. Control Bd., 192 Cal. App. 3d 847, 862 (limiting the CEQA exemption of § 13389 of the Cal. Water Code to those "actions required under" the Clean Water Act).

Each Permittee shall effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges are:

1. *covered by a separate individual or general NPDES permit for non-storm water discharges; or*
2. *within one of the categories below, and meet all conditions specified by the Regional Board Executive Officer:*

   a) *Category A - Natural flow:*

      (1) Natural springs and rising ground water;

      (2) Flows from riparian habitats or wetlands;

      (3) Stream diversions, permitted by the State Board; and

      (4) Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)]

   b) *Category B - Flows from emergency fire fighting activity.*

   c) *Category C - Flows incidental to urban activities, all of which are subject to conditions that shall be approved by the Regional Board Executive Officer:*

      (1) Reclaimed and potable landscape irrigation runoff;

      (2) Water line flushing of potable water distribution systems;

      (3) Drains for foundations, footings, and crawl spaces;

      (4) Air conditioning condensate;

      (5) Dechlorinated swimming pool discharges;

      (6) Dewatering of lakes and decorative fountains;

      (7) Non-commercial car washing by residents or by non-profit organizations; and

      (8) Sidewalk rinsing.

The Regional Board Executive Officer may add or remove categories of non-storm water discharges above. Furthermore, in the event that any of the above categories of non-storm water discharges are determined to be a source of pollutants by the Regional Board Executive Officer, the discharge will no longer be exempt from this prohibition unless the Permittee implements conditions approved by the Regional Board Executive Officer to ensure that the discharge is not a source of pollutants. Notwithstanding the above, the Regional Board Executive Officer may impose additional prohibitions of non-storm water discharges in consideration of anti-degradation policies.

Comment: As with any entitlement approval, the "conditions" can quite frequently render an otherwise beneficial "approval" completely infeasible or otherwise of no use or benefit. The Executive Officer should not have unfettered discretion to establish conditions. Either the range of possible conditions should be included expressly in the Permit – appropriately subject to public review and comment – or some other proscriptive boundary must be included to specify a reasonable range of discretion being delegated to the Executive Officer. In addition, the specified categories of non-storm water discharges are significant and operative provisions of the Permit upon which the regulated community may rely for future activities. Should categories be proposed for addition or removal, such an action constitutes an amendment of the Permit and should come before the Regional Board for consideration, with all appropriate public notice and comment opportunities. With all due respect, this is an inappropriate level of discretion to vest solely in the Executive Director.

Part 2. Receiving Water Limitations:

1. **Receiving Water Limitations 1 and 2** state the following:

   1. *Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited.*
   2. *Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible shall not cause or contribute to a condition of nuisance.*

Comment: These two requirements are not included in State Water Resources Control Board (State Board) Order No. WQ 99-05, which required specific receiving water limitation language to be included in future municipal storm water permits. These two items, if left in the Permit, would most likely create a situation where all dischargers would be in non-compliance of this Order from day one of implementation. In fact, these provisions violate, SWRCB Order No. 99-05. It was the "shall not cause or contribute" language that Order 99-05 expressly struck and replaced. "It is hereby ordered that Order WQ 98-01 will be amended to remove the receiving water limitation language contained therein and to substitute the EPA language." (Order 99-05, p. 1, emphasis added.) The "EPA language" referred to does not include the "cause or contribute" language that was present in Order 98-01. On the contrary, the EPA language outlines a series of practicable safeguards to reasonably accomplish Basin Plan objectives. Thus, this Permit's strict receiving water prohibitions do not comport with Order 99-05. Further, Order 99-05 expressly includes in its language that it is a "precedential decision," unlike the SUSMP Order. In defending continued inclusion of the "cause or contribute" receiving water limitation language from rejected Order 98-01, the administrative record appears to rely on a pattern of including identical receiving water limitation language in other permits. This defense of "well, we've always done it that way" does not in any way validate an inappropriate practice. At every turn, the point is made that the receiving water limitation language is consistent with Order 99-05. From the plain face of Order 99-05, this is clearly not the case. The Permit's later

inclusion of the language contained in Order 99-05 does not rectify this error. Order 99-05 states outright that the "cause or contribute" language of 98-01 is removed and replaced with the language of Order 99-05. The provisions are mutually exclusive, and Order 99-05 resolved which controls.

Part 3 Storm Water Quality Management Plan (SQMP) Implementation

1. **Part 3.B Best Management Practice Implementation** states the following:

The Permittees shall require implementation of the most effective BMPs for storm water/urban runoff pollution control benefits. When implemented, BMPs shall result in the reduction of pollutants in storm water to the maximum extent practicable.

Comment: This requirement could be interpreted to go beyond the implementation of BMPs to the maximum extent practicable. The first sentence, as written, requires implementation of the most effective BMPs. There is no mention in this first sentence to maximum extent practicable. There may exist a BMP that is 99% effective at removing all contaminants of concern, but it costs $1 million to install. Direct compliance with the first sentence would require that this $1 million BMP be used. We suggest deleting the second sentence and adding, "to the maximum extent practicable" to the first sentence after the word implementation. We believe this will accomplish the intent of this requirement without exceeding MEP standards.

Part 4.D Development Planning Program

1. **Section D.1** states the following:

The Permittees shall implement a development-planning program that will require all planning priority development and redevelopment projects to,

a) Minimize impacts from storm water and urban runoff on the biological integrity of natural drainage systems and water bodies in accordance with requirements under CEQA, Section 404 of the CWA, local ordinances and other legal authorities;

b) Maximize the percentage of permeable surfaces to allow more percolation of storm water into the ground;

c) Minimize the quantity of storm water directed to impermeable surfaces and the MS4;

d) Minimize pollution emanating from parking lots through the use of appropriate treatment control BMPs and good housekeeping practices;

e) Provide for appropriate permanent measures to reduce storm water pollutant loads in storm water from the development site.

Comment: The use of the words minimize and maximize are overly broad and subject to wide discretion and problematic enforcement. We suggest inserting the wording "to the extent technically and economically feasible" after each of these words. In addition, the requirement to maximize the percentage of permeable surfaces may have the unintended consequence of creating urban sprawl and decreasing the amount of housing that will become available in the future. To create more permeable surfaces will potentially lead developers to build with lower densities in outlying areas, thus flying in the face of high density "smart growth" development that attempts to address the housing supply issue with minimal impact to open space. Item (e) is already addressed in the SUSMP portion of the Permit and also in the State General Construction Permit and is not necessary in this section, and should therefore be deleted.

2. **Section D.2 Peak Flow Control** states the following:

The Permittees shall develop and implement numerical criteria on or before October 31, 2002, to control the post-development peak storm runoff discharge rates in natural drainage systems to maintain or reduce pre-development peak discharge rates to prevent down-stream erosion, and to protect stream habitat. Natural drainage systems include, but are not limited to, the following:

a) Malibu Creek

b) Topanga Canyon Creek

c) Upper Los Angeles River

d) Upper San Gabriel River

e) Santa Clara River

f) Named and unnamed coastal drainages

Comment: The requirement for developing and implementing numerical criteria, on or before October 31, 2002, to control the post-development peak storm runoff discharge rates is without merit, as there is no justification for assuming that increased runoff flows automatically contribute to exceedances of water quality standards. Ventura County is in the process of conducting studies to determine the impacts that increased flows have on receiving waters. In the absence of scientific foundation that increased flows constitutes a "discharge of pollutants" (see comment to Finding B.3); we suggest that the Regional Board delete this requirement from the Permit and work to determine the need for implementing numerical criteria. In the interim, BIA/SC, as part of its CLEAN water plan, will move forward with its goal to advance technological and design innovations, which improve water quality and can be used in building designs. We are in the process of determining demonstration projects that we can use to design and monitor cost-effective methods of decreasing runoff flows and comparing them to traditional site designs.

3. **Section D.3 Standard Urban Storm Water Mitigation Plans** states the following:

a) Each Permittee shall require that single-family hillside home developments:

(1) Conserve natural areas

(2) Protect slopes and channels

(3) Provide storm drain system stenciling and signage

(4) Divert roof runoff to vegetated areas before discharge

(5) Direct surface flow to vegetated areas before discharge

b) Each Permittee shall require that a Standard Urban Storm Water Mitigation Plan as approved by the Regional Board in Board Resolution No. R 00-02 be implemented for the following categories of developments with immediate effect:

(1) Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)

(2) A 100,000 or more square feet industrial/ commercial development

(3) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539)

(4) Retail gasoline outlets

(5) Restaurants (SIC 5812)

(6) Parking lots 5,000 square feet or more or with 25 or more parking spaces

c) The Permittees shall require the implementation of SUSMP provisions for all projects located in or directly adjacent to or discharging directly to an environmentally sensitive area, where, the development will:

(1) create 2,500 square feet or more of impervious area, or

(2) alter the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and

(3) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat

Comment: The requirements for single-family hillside residence listed in section C.3.a should be deleted, as there have been no studies to justify the inclusion of single-family hillside residence as a priority development category to include in the SUSMP. The pollutant loading from single-family hillside residence are minimal when compared to other development categories and the downstream erosion potential is still yet to be determined, as discussed in Section C.2, Peak Flow Control. It is our belief that this category was originally placed as a priority planning category in the current Los Angeles Municipal Storm Water Permit due to the confusion between post-construction and construction phase. This

development category is obviously of high concern during the construction phase due to the high potential for slope erosion, however the post-construction pollutant loading from these hillside developments is minimal when compared to other development categories due to the requirements already in the State General Construction Permit to provide slope stabilization prior to obtaining a Notice of Termination. In addition, it does not make sense to require a single-family hillside homeowner to provide storm drain system stenciling and signage. It could also be structurally dangerous to divert roof runoff and surface flow to vegetated areas before discharge. One has to ask, "What are the benefits of implementing these requirements in comparison to the cost and potential risks involved?" Especially considering that a single-family hillside residence has not been shown to contribute substantially to water quality impairments. What is the purpose of this requirement, if it is not to address potential water quality impairment?

Section C.3.b requires that a SUSMP as approved by the Regional Board in Board Resolution No. R 00-02 be implemented. We object to the Permit's "one size fits all" approach to implementation of the SUSMP. Lumping all of these development categories into the same regulatory program ignores obvious thresholds that would result in development and regulatory savings without compromising the efficacy of the program. Although it might be appropriate to focus on certain categories of development for addressing water quality concerns, the selection of these categories should be based on tangible scientific data that determines these categories to be of higher concern or requiring additional attention than other development categories. It is not clear why residential development is even included as a priority development category when the water quality data collected to date has not shown residential land use to be of a high concern. Furthermore, even if residential development is included as a priority development, there is no reason why it should have a lower threshold (1 acre) than industrial/commercial development (100,000 square feet) when the water quality data (Los Angeles County Flood Control District 1994-2000 Integrated Receiving Water Impacts Report) has not shown residential land use to be of higher concern. Also, the inclusion of residential development, as a category in the SUSMP, with a threshold of 1 acre, is helping to prevent "smart growth" by creating a disincentive to high density, infill development that is needed to responsibly increase housing supply and affordability in urban, job rich areas. With the existing housing and affordability crisis, low or moderate-income housing should be exempt from these requirements anyway.

In light of these issues, we suggest that the ten or more unit homes category be combined with the commercial category to read, "A commercial or residential development with 100,000 or more square feet of directly connected impervious area which is not considered low or moderate income housing." Directly connected impervious area can be defined as follows: "the area covered by a building, impermeable pavement, and/or other impervious surfaces, which drains directly into the storm drain without first flowing across permeable land area (e.g. lawns)." It is clear throughout this Proposed Permit that the Regional Board is

trying to promote natural drainage and less impervious area. This proposed category definition provides the incentive to help get there.

Section C.3.c requires that a SUSMP be implemented for all projects located in or directly adjacent to or discharging directly to an environmentally sensitive area (ESA). This requirement should be deleted because the State Water Resources Control Board expressly rejected the inclusion of ESAs as a "development category" in Order WQ 2000-11. In particular, the State Board held that the proposal to include ESAs was inappropriate for three reasons: (1) the proposal lacked meaningful application thresholds; (2) such areas are already subject to "extensive regulation under other regulatory programs"; and (3) ESAs are not a "development category." (SWRCB Order WQ 2000-11, pp. 24-25 [hereinafter "SUSMP Order"].) The Permit as presently drafted does not resolve any of these three improprieties. (1) the proposed "thresholds" for ESAs at page 30, paragraph 3.c) are meaningless in that they are so broad that they could apply to virtually any project; (2) the Permit, as with the proposal rejected in the SUSMP Order, fails to make any showing as to why the existing extensive regulation of such areas is inadequate (indeed, the Permit is able to single them out only by virtue of the fact that they have been singled out for heightened regulatory scrutiny elsewhere); and (3) ESAs continue to not be a "development category" relative to the prior and continued format of the Permit. The projects that we should be concerned about are already required to address impacts to ESA's through their CEQA, Army Corps, Coastal Commission, Fish and Game or Fish and Wildlife Service review. You can now see why the State Water Resources Control Board determined that developments within ESA's were already subject to extensive regulation. The advantage of the oversight of these other agencies is the project-by-project requirements based on site-specific concerns. The SUSMP approach to ESA's will create a one size fits all requirement to all sites, regardless of location and potential impact to these areas. This could lead to devastating results as an abundance of money is spent on project solutions that have not proven successful, but also could lead to nuisance and mosquito situations created by improperly maintained BMPs, not to mention the potential economic impact to jobs, housing and the economy. For what? To try to regulate areas that are already heavily regulated and not in need of further regulations, especially ones that have no proven or expected additional benefit.

4. **Section D.4 Numerical Design Criteria** states the following:

The Permittees shall require that post-construction treatment control BMPs incorporate, at a minimum, the following design criteria to mitigate (infiltrate, filter or treat) storm water runoff:

a) Volumetric Structural or Treatment Control BMP

(1) the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff

Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998), or

(2) *the volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (1993), or*

(3) *the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system, or*

(4) *the volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event,*

AND/ OR

b) *Flow Based Structural or Treatment Control BMP*

(1) *the flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity, or*

(2) *the flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County*

(3) *the flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above*

Comment: At a presentation before a committee at the Southern California Association of Government last year, Dennis Dickerson stated that the SUSMP is a long-term solution to our water quality concerns. Although it would take many many years to notice any appreciable benefit from SUSMP implementation, 100 years from now we will be happy with the water quality that we leave for our children. In addition, the San Diego Regional Board has stated that its SUSMP, nearly identical to the SUSMP included with this Permit, will not result in water quality improvement for at least 10 to 20 years.[3] Since the SUSMP approach appears to be admittedly ineffective, it is imperative that the permittees and the regulated community subject to the Los Angeles Regional Board's permit are provided a clear path towards an approach that works.

As described above, the San Diego region does not think its SUSMP will improve water quality, if at all, for several decades. On this basis alone one must wonder whether the SUSMP is worth the cost, even if the costs truly were nominal. However, aggregate costs are

[3] Reporter's Transcript of Proceedings: Waste Discharge Requirements for Discharges of Urban Runoff form the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watershed of the County of San Diego, the Incorporated Cities of San Diego County and the San Diego Unified Port District; Public Hearing on Tentative Order No. 2001-01 (NPDES No. CAS0108758), Item 5 before the Regional Water Quality Control Board, San Diego Region, at 36 (Dec. 13, 2000) (statement of Deborah Jayne, environmental specialist on staff at the Regional Board.

unlikely to be nominal. Over the many years during which Los Angeles County residents will await possible water quality improvements from the SUSMP, the costs will accumulate.

It was stated by the City of Santa Monica during the SUSMP appeal that the cost to implement SUSMP requirements would be 1-3 percent. We are not aware of any actual economic analysis to determine whether the real cost is less than one percent or more than three percent. It is not clear whether this figure reflects the loss of units or square footage of built-out space or the private and public economic benefits associated with that housing or development. The figure appears to be a gross average that shows no sensitivity to the disproportionate impact SUSMP-type BMP requirements have on affordable and low-income housing, where the costs are spread over a smaller economic base.

Even assuming one percent is the correct amount, the actual, absolute value of the investment incurred before the SUSMP has the potential to result in any meaningful water quality improvement is likely to be very high. Estimates for the San Diego region, assuming 20 years of SUSMP-type construction adding a one percent increment to each new development, were on the order of one to two billion dollars.

At a hearing on June 1, Santa Ana Regional Board staff suggested that the cost of the SUSMP was reasonable given the coastal pollution it might avert, referring to the hundreds of millions of dollars lost by the City of Huntington Beach due to beach closures in 1999 and 2000. Given the fact that the SUSMP's water quality benefits, if any, will not be felt for decades, this cause-and-effect connection does not appear reasonable. Furthermore, subsequent to the June 1 hearing, a study was published regarding Huntington Beach that found urban runoff was not a primary cause of beach closures there.

On June 15, prominent Southern California scientists studying the bacterial contamination that forced the beach closures in Huntington Beach published an article that concluded the bacterial contamination in Huntington Beach was primarily the result of natural sources. The article identified a coastal marsh frequented by birds—not urban runoff—as the "primary source" of bacteria flowing into the ocean from the watershed adjacent to the beach area.[4] Bird feces were reported to be a "significant source" of the bacteria found in the marsh.

Their results are reported in the June 15, 2001 edition of the journal Environmental Science & Technology. The authors concluded as follows:

> Surprisingly, urban runoff appears to have relatively little impact on surf zone water quality because of the long time required for this water to travel from its source to the ocean. On the other hand, enterococci bacteria generated in a tidal

[4] S. B. Grant, et al., "Generation of Enterococci Bacteria in a Coastal Saltwater Marsh and Its Impact on Surf Zone Water Quality," 35 Environmental Science & Tech. 2407 (June 15, 2001).

saltwater marsh located near the beach significantly impact surf zone water quality.[5]

The results of this study question the validity of the widely reported linkage between beach closures and urban runoff. This suggests that the presumed linkage requires more careful scrutiny, in order to ensure that proposed solutions address real problems.

5. **Section D.5 Applicability of Numerical Design Criteria** states the following:

The Permittees shall require the following categories of planning priority projects to design and implement post-construction treatment and structural controls to mitigate storm water pollution prior to issuing grading or building permits:

a) Single-family hillside residential developments of one acre or more

b) Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of one acre or more

c) A 100,000 square feet or more industrial/ commercial development

d) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539)[5,000 square feet or more]

e) Retail gasoline outlets [5,000 square feet or more and with projected Average Daily Traffic (ADT) of 100 or more vehicles]

f) Restaurants (SIC 5812) [5,000 square feet or more]

g) Parking lots 5,000 square feet or more or with 25 or more parking spaces

h) Projects located in, adjacent to or discharging directly to environmentally sensitive areas that meet threshold conditions identified above in 3.c.

Comment: See comments from above.

6. **Section D.6** states the following:

Not later than March 9, 2003, each Permittee shall require the implementation of SUSMP and post-construction control requirements for the industrial/commercial category to projects one acre and greater to conform to USEPA Phase II storm water regulations:

Comment: This requirement is meant to comply with USEPA Phase II requirements, however Phase II requirements do not require implementation of SUSMP requirements. Phase II requires the operator of a small MS4 to develop, implement and enforce a program to reduce pollutants in post-construction runoff to the MS4 from new development and redevelopment projects that result in the land disturbance of greater than or equal to 1 acre.

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[5] Id.

This does not mean that projects 1 acre or larger require SUSMP compliance, only that a program be developed to reduce pollutants in post-construction runoff. Requiring this program to be the SUSMP goes beyond what would be considered maximum extent practicable (MEP) and should be deleted.

7. **Section D.8 Redevelopment Projects** states the following:

The Permittees shall apply the SUSMP, or site-specific requirements including post-construction storm water mitigation to all planning priority projects that undergo significant redevelopment in their respective categories. Significant redevelopment means land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Where significant redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.

Comment: We request the removal of the word "replacement" from this definition so as to remain in compliance with the State Water Resources Control Board (State Board) Order emanating from the SUSMP appeal. The redevelopment definition was a main point of contention for this appeal and the State Board rendered a decision regarding this item. Since no new evidence or information has emerged since the State Board SUSMP appeal decision, there remains no reason to differentiate from their definition of redevelopment, which did not include "replacement" as part of the redevelopment definition.

8. **Section D.10 Regional Storm Water Mitigation Program** states the following:

A Permittee or Permittee group may apply to the Regional Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly SUSMP requirements for new development. Upon review and a determination by the Regional Board Executive Officer that the proposal is technically valid and appropriate, the Regional Board may consider for approval such a program if its implementation will result in equivalent or improved storm water quality and protect stream habitat.

Comment: We are very happy to see a regional mitigation program alternative in the current version of the Permit, however we are concerned that this section, as written will not promote regional solutions. We suggest that regional programs be extended to allow the regional program to substitute for any requirements in the Permit that will be addressed using the regional solution. We also suggest changing the wording from "the Regional Board may consider for approval" to "the Regional Board will consider for approval". If a proposal were technically valid and appropriate, why would the Regional Board not consider it for approval? We also suggest adding the word "likely" before the word result in the last sentence of this section. There should not be a requirement of a strict burden of proof to a

regional solution proponent, when the best approach available at this time is to propose regional solutions that are likely to result in equivalent or improved storm water quality.

9. **Section D.11 Mitigation Funding** states the following:

The Permittees may propose a management framework, for endorsement by the Regional Board Executive Officer, to support regional solutions to storm water pollution, where the following situations occur:

a) A waiver for impracticability is granted

b) Legislative funds become available

c) Off-site mitigation is required because of loss of environmental habitat

d) An approved watershed management plan exists that incorporates an equivalent or improved strategy for storm water mitigation for new development

Comment: Section C.10 requires one of the listed situations to occur before a project can opt out of the Development Planning requirements and pay an in-lieu fee instead. It would be much more effective to delete these four criteria and just allow the option for an in-lieu fee to be available for any project requiring the numerical objective requirement of the SUSMP.

9. **Section D.12 California Environmental Quality Act (CEQA) Document Update** states the following:

Each Permittee shall modify planning procedures for preparing and reviewing CEQA documents to consider potential storm water quality impacts and provide for appropriate mitigation, with immediate effect. The CEQA guidelines shall require consideration of the following:

a) Potential Impact of project construction on storm water runoff

b) Potential Impact of projects post-construction activity on storm water runoff

c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas

d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit

e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies

f) *Potential for significant changes in the flow velocity or volume of storm water runoff that can cause environmental harm*

g) *Potential for significant increases in erosion of the project site or surrounding areas*

Comment: The California Environmental Quality Act (CEQA) was formed to function as follows, "The Legislature finds and declares that it is the policy of the state to ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions." As you can see, CEQA is intended to balance environmental protection with adequate housing. Unfortunately, this draft Permit is heavily weighted with attempts at protecting the environment and no attempts or concerns related to increasing California's housing supply in order to meet the needs of a growing population and workforce. Therefore, we suggest adding wording in this CEQA requirement that is consistent with the Legislature's intent to balance housing needs with environmental concerns. We also suggest that the listed CEQA considerations be listed as examples of CEQA guidelines and not as specific requirements, since the Regional Water Quality Control Board has no explicit authority to specifically order municipalities to require detailed items in their CEQA review.

10. **Section D.15.b** states the following:

The Principal Permittee in partnership with Permittees shall issue no later than March 31, 2003, a technical manual for the siting and design of BMPs for the development community in Los Angeles County. The technical manual may be adapted from the revised California Storm Water Quality Task Force Best Management Practices Handbooks scheduled for publication in September 2002. The technical manual shall at a minimum include:

Comment: It is inappropriate and illegal for this Permit to mandate by delegation that Permittees do what State statute prohibits the Regional Board from doing. Specifically, this provision of the Permit mandates that the Permittees prescribe siting and design for BMPs. As this Regional Board and the State Board are well aware, no requirement or order of the Regional or State Board may make such a prescription. Lest anyone forget, California Water Code section 13360 provides:

> "No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner."

The Regional Board may not push off by delegation onto the Permittees through this Permit what the Regional Board itself is legally prohibited from doing. It should be made clear that any such document or mandate, such as that presently included in the Permit, is merely

advisory and that, consistent with Section 13360, the Regional Board in no way intends for such a document or mandate to compromise the legal right of any regulated person or entity to "comply with the [Permit's mandates] in any lawful manner."

Section E Development Construction Program states the following:

Each Permittee shall implement a program to control runoff from construction activity at all construction sites within its jurisdiction. The program shall ensure the following minimum requirements are effectively implemented at all construction sites:

a) Sediments shall not be discharged to the MS4 or receiving waters. Sediments generated on the project site shall be retained using adequate structural drainage controls;

b) No construction-related materials, wastes, spills, or residues shall be discharged from the project site to streets, drainage facilities, receiving waters, or adjacent properties by wind or runoff;

c) Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at the project site; and

d) Erosion from slopes and channels will be prevented by implementing BMPs including, but not limited to: limiting of grading scheduled during the wet season; inspecting graded areas during rain events; planting and maintenance of vegetation on slopes; and covering erosion susceptible slopes; and

e) Discourage grading during the wet season. Proper justification for the need to grade during the wet season shall be provided to the Permittee. All erosion susceptible slopes shall be covered, netted, planted, or protected in any way that prevents sediment discharge from the site.

Comment: Item (a) implies that sediments consisting of naturally occurring material/soil carried to the MS4 and or receiving waters is categorically a pollutant. Science does not demonstrate or support this proposition. Item (a) also constitutes an absolute prohibition – zero tolerance, zero discharge – for sediment from a construction site, effectively a zero tolerance TMDL for the entire region without any regard whatsoever as to the quality of the receiving water. There is nothing in the record to demonstrate that such a standard is practicable or feasible in any regard. The prohibition makes no allowance for naturally occurring baseline discharges from the site. Natural, undisturbed open space will cause a certain amount of sediment to be discharged to receiving waters under natural conditions. In addition, the prohibition actually has the unintended consequence of upsetting the natural sediment allowance needed for a healthy environment. The prohibition also ignores the fact that 100% removal of all sediment may actually be *detrimental* to downstream habitats by increasing the flow rate of the water entering the streams and, among other things, increasing downstream scouring and erosion. Sediment in receiving waters actually has been shown to slow down the flow rate of water moving downstream. Thus, the Permit actually mandates

in some instances what it generally tries to prevent, i.e., downstream erosion. There is nothing practicable or even logical about such a mandate. Additionally, this mandate far exceeds the provisions of the GCASP.

Item (b) is also an absolute prohibition of the discharge of any "construction-related materials." This far exceeds the Regional Board's authority to regulate non-stormwater discharges to the receiving waters, by including all substances involved in the construction process, regardless of their status as a pollutant. Arguably, non-polluted water could be prohibited from discharge, if such water was utilized in the construction process though remained pure. The statement is so overbroad as to render it vague and arbitrary. The provision also violates discharge to adjacent properties, streets and drainage facilities. Here again, the Permit far exceeds the Regional Board's jurisdiction. This Permit should regulate discharges from the MS4 system. Whether or not a discharge occurs to the street or a drainage facility or from one site to another, in and of itself, has no bearing on the status of discharges from the MS4. Arguably, this provision could prohibit discharges from one site into a detention pond on the other site, never implicating in any way the receiving water body.

The provision also purports to regulate discharges "by wind." Again, the Permit fails to constrain itself within the bounds of the law. The NPDES program is part of the Clean *Water* Act, not the Clean *Air* Act, and nothing in the Clean Water Act empowers the Regional Board to regulate ambient materials in the air. Finally, the provision in its entirety far exceeds and is inconsistent with the GCASP.

Items (d) and (e) are extremely burdensome and overly vague, so as to create an extreme hardship to the building and construction industries, due to the impact on the ability to provide housing and also the loss of jobs that will occur by enforcing the "limit" or "discourage" grading component. Besides, there is no justification for an arbitrary, blanket prohibition of this sort under any circumstances. Although there may be a higher potential of sediment runoff from grading construction sites during the rainy season, it should not be assumed that these sites will automatically result in water quality violations. These sites should require the implementation of BMPs necessary to keep sediments on site, but should not be restricted from grading during the rainy season. If grading were disallowed during the rainy season, it would have a major impact to the building and construction industries. Not only would this cause many workers to be without employment during the rainy season, it would cause projects to take substantially longer to complete, thus increasing the cost of the project and the ultimate cost to the consumer. This would have the effect of putting more people out of reach of the American Dream, home ownership.

1. **Section E.1** states the following:

In addition, for construction sites one acre and greater each Permittee shall require compliance will all conditions in Section E. above and:

a) Shall require the preparation, submittal, and implementation of a Local Storm Water Pollution Prevention Plan (Local SWPPP), prior to issuance of a grading permit for construction projects, that meets one or more of the following criteria:

(1) Will result in soil disturbance of one acre or more in size;

(2) Is within, directly adjacent to, or is discharging directly to an environmentally sensitive area; or

(3) Is located in a hillside area.

The Local SWPPP shall include appropriate construction site BMPs and maintenance schedules. (A State required SWPPP may be substituted by a Local SWPPP if the Local SWPPP is at least as inclusive as the requirements for a State SWPPP). The Local SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

> *"As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."*

The landowner shall sign a statement to the effect:

> *"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/or adequately implement the Local SWPPP may result in revocation of grading and/or other permits or other sanctions provided by law."*

The Local SWPPP certification shall be signed by the landowner as follows, for a corporation: by a responsible corporate officer which means (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the

corporation, or (b) the manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; for a partnership or sole proprietorship: by a general partner or the proprietor; or for a municipality or other public agency: by an elected official, a ranking management official (e.g., County Administrative Officer, City Manager, Director of Public Works, City Engineer, District Manager), or the manager of the construction activity if authority to sign Local SWPPPs has been assigned or delegated to the manager in accordance with established agency policy.

b) *Shall inspect all construction sites with Local SWPPPs for stormwater quality requirements during routine inspections a minimum of once during the wet season. The Local SWPPP shall be reviewed for compliance with local codes, ordinances, and permits. For inspected sites that have not adequately implemented their Local SWPPP, a follow-up inspection to ensure compliance will take place within 2 weeks. If compliance has not been attained, the Permittee will take additional actions to achieve compliance (as specified in municipal codes). If compliance has not been achieved, and the site is covered under the State General Construction Activity Storm Water Permit, each Permittee shall enforce their local ordinance requirements, and if non-compliance continues the Regional Board shall be notified for further joint enforcement actions.*

c) *Commencing March 10, 2003, shall require, prior to issuing a grading permit for all projects requiring coverage under the state general permit, proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a certification that a SWPPP has been prepared by the project developer. The prepared SWPPP may satisfy the requirement under E.1. (in-lieu of Local SWPPP).*

Comment: In order to maintain consistency with the Development Construction Model Program that was approved by your Board, we suggest changing the category threshold for projects requiring a Local SWPPP to projects resulting in soil disturbance of between 2 and 5 acres. We also suggest the deletion of environmentally sensitive area as one of the criteria for requiring a Local SWPPP. As noted before, ESA's are already heavily regulated and thus have water quality concerns adequately addressed. Besides, the ESA criteria would apply to every construction project within, directly adjacent to or is discharging directly to an ESA. This is regardless of project type, size of project or the potential impact the project has on the receiving water. Can you imagine the amount and types of projects that will require Local SWPPPs? Any grading, what so ever, will require compliance if within the vast definition of ESA, which appears to be roughly 25% of Los Angeles County. It is difficult to tell the exact amount of ESA since a good map containing a compilation of all the various categories constituting ESA's does not exist and the boundaries are not defined. This requirement will place an extreme hardship on small builders and contractors, as well as the municipalities that will have to review all of these Local SWPPPs. Section E.1.a.3 should be changed to read, "Is located in a hillside area and soil disturbance will occur at the project site in the rainy season." This will help maintain consistency with the Development Construction

Model Program that was developed with a multi-stakeholder effort and eventually adopted by your Board.

The ability for a Local SWPPP to substitute for a State required SWPPP is yet another example of the Permit treading on the territory of the GCASP. Also, the requirement that states, "The Local SWPPP must include the rationale used for selecting or rejecting BMPs" is inappropriate and illegal. This Permit cannot legally mandate by delegation that Permittees do what State statute prohibits the Regional Board from doing. Specifically, this provision of the Permit mandates justification for choosing a particular BMP, when the law explicitly allows compliance in "any lawful manner." As this Regional Board and the State Board are well aware, no requirement or order of the Regional or State Board may make such a prescription. Lest anyone forget, California Water Code section 13360 provides:

> "No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner."

The Regional Board may not push off by delegation onto the Permittees through this Permit what the Regional Board itself is legally prohibited from doing. It should be made clear that any such document or mandate, such as that presently included in the Permit, is merely advisory and that, consistent with Section 13360, the Regional Board in no way intends for such a document or mandate to compromise the legal right of any regulated person or entity to "comply with the [Permit's mandates] *in any lawful manner.*" Requiring the SWPPP to justify the selection of one BMP over another is inconsistent with Section 13360's mandate to the Regional Board to accept "any lawful manner" of compliance.

3. **Section E.2** states the following:

   In addition, for sites five acres and greater, each Permittee shall:

   a) Require proof of filing of a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a copy of the SWPPP prior to issuing a grading permit for all projects requiring coverage under the state general permit. On March 10, 2003, for sites one acre and greater, each Permittee shall require proof of filing a Notice of Intent (NOI) for coverage under the State General Construction Activity Storm Water Permit and a copy of the SWPPP prior to issuing a grading permit for all projects requiring coverage under the state general permit. The prepared SWPPP may satisfy the requirement under D.2. (in-lieu of Local SWPPP).

b) *Each Permittee shall require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.*

c) *Each Permittee shall use an electronic system to track grading permits issued by each Permittee.*

Comment: This requirement is not entirely consistent with the State General Construction Permit. We suggest that the SWPPP's be required to be prepared and available at the site before commencement of grading activity and not be required to be submitted to the Permittee before permit approval. The State General Construction Permit creation was a collaborative process involving all stakeholders leading to a successful permit program. We should not start changing this process using the Municipal Stormwater Permits.

GENERAL ISSUES

1. **The Clean Water Act's receiving water quality based provisions do not apply to public storm drain permits, are inconsistent with the practicability standard for public storm drain permits, and are likely to be unattainable.**

Public storm drain permits are issued under the authority of Section 402(p) of the federal Clean Water Act. Section 402 of the federal Clean Water Act establishes the National Pollutant Discharge Elimination System ("NPDES") permitting program. Public storm drain permits—also called MS4 or municipal separate storm sewer system permits—are a kind of NPDES permit.

The general rule is that NPDES permits must contain effluent limits "necessary to meet water quality standards." This requirement is contained in Section 301(b)(1)(C) of the Clean Water Act. It has been interpreted as requiring Water Quality-Based Effluent Limits, or WQBELs, in certain NPDES permits.

In 1999, the governing federal appellate court interpreting the Clean Water Act in the western United States held that Section 301(b)(1)(C) does not apply to MS4 permits.[6] Rather, the Ninth Circuit held that the practicability standard of Section 402(p) replaced Section 301(b)(1)(C).[7] Section 402(p)'s practicability standard and Section 301(b)(1)(C) are mutually exclusive in that Section 301(b)(1)(C) "require[s] that level of effluent control which is needed to implement existing water quality standards *without regard to* the limits of *practicability*."[8] The Ninth Circuit observed that if Section 301(b)(1)(C) applied to MS4

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6 Defenders of Wildlife v. Browner, 191 F.3d 1159 (9th Cir. 1999).

7 Id. at 1165.

8 Id. at 1163 (quotation marks and citations omitted; emphasis added).

permits, it would always trump the practicability standard of Section 402(p), in effect eviscerating the practicability standard. The court stated in pertinent part:

> [I]f § 1311 [Clean Water Act Section 301] continues to apply to municipal storm-sewer discharges, the more stringent requirements of that section always would control.[9]

The court said this would render Section 402(p) "superfluous," and would fail to "give effect to all provisions that Congress had enacted."[10]

Several sections of the draft permit contain WQBELs. Part 2.1 proscribes discharges from the public storm drain that "cause or contribute" to the violation of water quality standards. This type of provision clearly derives from Section 301(b)(1)(C) of the federal Clean Water Act. This can readily be seen by comparing Part 2.1 to a U.S. EPA regulation acknowledged to derive from Section 301(b)(1)(C). That regulation is 40 C.F.R. Section 122.44 (d)(1)(i).[11] *It likewise is a "cause or contribute" provision.*

In addition, the Permit incorporates a provision to implement and enforce approved waste load allocations (WLA's) for municipal storm water discharges and require changes to the Storm Water Quality Management Plan after pollutant loads have been allocated and approved. WLA's are required by U.S. EPA's Total Maximum Daily Load ("TMDL") program. U.S. EPA regulations state that WLA's "constitute a type of quality-based effluent limit."[12]

"Cause and contribute" provisions and WLA's are not based on notions of practicability. It is not known whether water quality objectives can be met during wet weather with "appropriate control measures." It is anyone's guess as to what level of water quality can practicably be achieved in the public storm drain. Until that knowledge is obtained, it is irresponsible to include WQBELs that may be unattainable.

2. The Regional Board has no independent basis to include water quality based limits in a public storm drain permit.

The Fact Sheet refers to two sources of authority for permit requirements "more stringent than the federal storm water regulations."[13] *These are: (1) the Regional Board's*

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9 Id. at 1165-66.

10 Id. at 1165.

11 In the preamble to the regulations promulgating 40 C.F.R. 122.44(d)(1)(i), EPA stated that the language in the regulation regarding causing or contributing to water quality exceedances was inherently connected with CWA § 301(b)(1)(C). 54 Fed. Reg. 23868, 23872 (June 2, 1989).

12 40 C.F.R. § 130.2

13 Permit Fact Sheet, § IX.

interpretation of the requisite practicability standard of Section 402(p); and (2) Section 402(p)(3)(iii) of the federal Clean Water Act. The Regional Board does not explicitly identify a single permit provision that is in fact more stringent than federal law. To the extent there are such provisions in the permit, the Regional Board needs to identify those aspects, so that the regulated community can understand the authority under which it is being regulated. To the extent the Regional Board is hoping to rely on one of these three sources of authority to justify the permit's water quality based provisions, such reliance is misplaced.

a. **The Regional Board's interpretation of the practicability standard.**

The practicability standard of Section 402(p) is called the Maximum Extent Practicable, or MEP, standard. While it is true that MEP is a flexible, and continually evolving, standard, the Regional Board is not free to read the word "practicable" out of MEP. Nor does MEP give permitting agencies the authority to impose unattainable or infeasible requirements.

In this instance, the agency simply does not know whether it is practicable or feasible to require the public storm drain to comply strictly with water quality standards. A feasibility or attainability study evaluating what it would take in terms of infrastructure and engineering commitments to achieve the standards has not been conducted. Would treatment works for stormwater be required? Without substantial evidence that it is practicable to meet the standards, the agency cannot by edict declare it to be so.

b. **Section 402(p)(3)(iii) of the Clean Water Act.**

Section 402(p)(3)(iii) of the Clean Water Act allows permitting authorities to include in MS4 permits "such other provisions as the Administrator or the State determines appropriate." The Regional Board may believe this provision provides a federal law exception to MEP. It does not. It simply refers to one category of controls governed by the "extent practicable" standard. This can be seen from the structure of Section 402(p)(3)(iii) which states that:

> Permits for discharges from municipal storm sewers . . .shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions appropriate for the control of such pollutants.[14]

Parsing this provision indicates that the "other provisions" language is qualified by the MEP standard, just as are "management practices," "control techniques," and "engineering methods." While Section 402(p)(3)(iii) may be somewhat awkward in

[14] 33 U.S.C. § 1342(p)(3)(B)(iii).

construction, there is no indication that Congress intended to nullify the MEP standard by the "other provisions" term.

3. **State Board decisions predating the Browner case provide no basis for including water quality-based limits in a public storm drain permit.**

The federal appellate case that discussed the standard applicable to MS4 permits (Defenders of Wildlife v. Browner), was decided in September 1999 by the Ninth Circuit federal appellate court. As the State Board recently acknowledged, the Ninth Circuit is the "federal circuit court that controls the interpretation of the Clean Water Act in California."[15] The Court overturned prior U.S. EPA policy by which EPA was directing the states, including California, to include WQBELs and strict compliance provisions in MS4 permits. In response to EPA's direction on this issue, the State Board prior to September 1999 had issued several decisions holding that such provisions were required.[16] Since the Ninth Circuit issued its Browner decision, the State Board has not had occasion to revisit this issue.

The Regional Board is an agency independent of the State Board. It is entitled to presume that the State Board, like the Regional Board, will conform its practices to the Ninth Circuit's Browner ruling. Importantly, the State Board's prior decisions were based on the U.S. EPA's interpretation of Section 402(p) that was overturned in Browner. The law as it exists today is that WQBELs, such as "cause and contribute" provisions and WLAs, are not required in MS4 permits. Since the Regional Board has no other legitimate basis for including them in this permit, they should be removed.

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[15] See, In the Matter of the Petition of the Department of Boating and Waterways, SWRCB/OCC File A-1338, Draft Order WQ 2001-.

[16] In State Board Order WQ 98-01, the State Board found that MS4 permits "must include limitations necessary to achieve water quality standards," and that permittees must "control discharges that contribute to exceedances of water quality objectives." State Board Order WQ 98-01, § II, Finding I. The State Board also ordered that certain receiving water limitation language be included in future MS4 permits. U.S. EPA later issued the permits that were the subject of State Board Order WQ 98-01 and included different receiving water limitation language. By Order WQ 99-05, the State Board mandated that the revised language be included in future MS4 permits. Among other provisions, the specified language states,:

> The permittees shall comply with Discharge Prohibitions [ ] and Receiving Water Limitations [ ] . . . . The SWMP shall be designed to achieve compliance with Receiving Water Limitations . . . .
> State Board Order WQ 99-05.

4. **The permit may in effect subject stormwater discharges, at least to impaired waters, to numeric limits, in conflict with case law and prior agency rulings.**

The "cause and contribute" provision of the permit (Permit Part 2.1) in effect may impose end-of-the-pipe numerical effluent limits on stormwater. We are concerned that others may argue that stormwater discharges containing concentrations exceeding the numeric water quality objectives of the Basin Plan and the California Toxics Rule violate the permit's "cause and contribute" provision.[17] *This would be tantamount to the imposition of numeric effluent limits.*

Numerical limits on stormwater have been deemed infeasible by U.S. EPA and the SWRCB. For stormwater discharges from public storm drains, EPA has found that numeric limits are infeasible given the significant complication and variability of stormwaters. Given that the "currently availability methodology for derivation of numeric water quality-based effluent limitations is significantly complicated when applied to wet weather discharges from MS4s," "EPA considers narrative [as opposed to numeric] effluent limitations requiring implementation of BMPs to be the most appropriate form of effluent limitations for MS4s."[18]

The SWRCB has held consistently that numeric limits for stormwater discharges are infeasible. The SWRCB recently explained this position to the court in the Keeper groups' challenge to the Construction Permit. The court agreed with the SWRCB, holding that the SWRCB had:

> a substantial factual basis for concluding that numeric effluent limitations on pollutants in storm water discharges from construction sites are not feasible. Given the regulatory and case law permitting narrative effluent limitations in the form of BMPs when numeric limitations are infeasible, the [SWRCB] can properly require BMPs instead of numeric limitations.[19]

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17 Permit § Part 2.1

18 NPDES Phase II Storm Water Rules, 64 Fed. Reg. at 68753; see also Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits, 61 Fed. Reg. 43761 (Aug. 26, 1996); Questions and Answers Regarding Implementation of an Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits, 61 Fed. Reg. 57425, 57426-27 (Nov. 6, 1996).

19 San Francisco Baykeeper v. California State Water Res. Control Bd., No. 99CS01929, Ruling on Submitted Matter (Sac. Sup. Ct. July 27, 2000) at 7. See also Waste Discharge Req. for City of Santa Rosa, Laguna Subreg. Wastewater Treatment, Reuse, and Disposal Fac., SWRCB WQ Order No. 2000-02 (March 3, 2000) (finding "it is not feasible at this time to establish numerical storm water effluent limits for that facilities which are not covered in 40 CFR Subchapter N [non-industrial facilities]."); Natural Res. Defense Council, SWRCB Order WQ 91-04, at *20 (May 16, 1991), 1991 Cal. ENV LEXIS 14 ("There are no numeric objectives or numeric effluent limits required at this time, either in the Basin Plan or in any statewide plan that apply to storm water discharges.").

5. **The permit relies on water quality objectives that may not be relevant to stormwater and may not reflect applicable statutory factors or reasonably achievable water quality.**

The permit incorporates and relies upon the water quality objectives from the Basin Plan.[20] *The Regional Board provides no evidence that the relevant factors—economics, housing need, and wet weather—were considered. Under Section 13263 of the Water Code, the Regional Board is required to consider all of the factors enumerated in Section 13241 when issuing an MS4 permit. Cal. Water Code § 13263(a). Under Section 13241, the Regional Board is authorized to issue waste discharge requirements designed to achieve "[w]ater quality conditions that* could reasonably be achieved *through the coordinated control of all factors which affect water quality in the area."*[21]

The permit should not rely on flawed water quality objectives, and certainly should not require strict compliance with such objectives. The Basin Plan's water quality objectives must be revised to appropriately reflect wet weather conditions, land use patterns, housing, and the economy.

6. **The Regional Board's definition of MEP does not correspond with the definition found in federal regulations and other guidance materials.**

The permit's definition of Maximum Extent Practicable swaps the word "practicable" with the word "possible." This definition is incorrect, however, because things may be possible that are not practicable. As Merriam-Webster's Webster's Ninth New Collegiate Dictionary explains, "POSSIBLE implies that a thing may certainly exist or occur given the proper conditions; PRACTICABLE implies that something may be easily or readily affected by available means or under current conditions."[22] Here it would be possible to send all stormwater to a POTW and treat it to meet drinking water standards. Such a feat, however, would be enormously costly, and certainly not "readily affected by available means or under current conditions." We suggest the Regional Board revise the definition of MEP so that it states MEP "means to the maximum extent practicable . . ."

Although we commend the Regional Board for including "technical feasibility" in the list of considerations that are represented by the MEP standard, we do not believe that the definition, as it is currently drafted, is consistent with U.S. EPA and State Board guidance. EPA has provided factors to be considered in determining what constitutes MEP, as follows:

> . . . conditions of receiving waters, specific local concerns, and other aspects included in a comprehensive watershed plan. Other

[20] Permit § E.13 and § Part 2.1
[21] Cal. Water Code § 13241(c) (emphasis added).
[22] Merriam-Webster, Webster's Ninth New Collegiate Dictionary, 1989, p. 918 (following definition of "possible").

> factors may include MS4 size, climate, implementation schedules, current ability to finance the program, beneficial uses of receiving water, hydrology, geology, and capacity to perform operation and maintenance.[23]

Although some of these factors—e.g., financing—appear to be included in the Regional Board's definition, not all of the factors are included in the permit.

State Board guidance emphasizes technical feasibility as the most important factor to consider, with other factors being effectiveness, regulatory compliance, public acceptance, and cost.[24]

We urge the Regional Board to replace its current list of considerations in the permit's definition of MEP with those factors identified by EPA and the State Board.

7. **The permit includes requirements beyond the reach of the MS4 program.**

The permit, by regulating flow both into and out of the MS4, exceeds the jurisdiction of NPDES program. Neither federal nor state law provides the Regional Board with the authority to regulate discharges into the MS4. Clean Water Act Section 402(p)(3)(B)(iii) is limited to "discharges from municipal storm sewers" (emphasis added). The statute does not authorize the regulation of discharges into MS4s. Congress likely refrained from regulating discharges into MS4s because any such regulation would impinge upon the authority of local officials to regulate land use and development.[25]

8. **The permit, by requiring local authorities to implement certain land use controls, constrains their jurisdiction over local land use and planning matters, and essentially imposes a regional land use plan.**

Contravening both the Clean Water Act and California law, the permit attempts to regulate activities inextricably bound to local land use authority. Permittees are required to amend their General Plan and development-approval processes and procedures.

The Clean Water Act recognizes the rights and responsibilities of the states over development and land use. The permit's encroachments upon local land uses and land use authority are inconsistent with the Clean Water Act, since the encroachments do not protect and preserve

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[23] Id.

[24] Memorandum from Elizabeth Jennings, Senior Staff Counsel, State Water Resources Control Board, "Definition of Maximum Extent Practicable" (Feb. 11, 1993).

[25] And thus, would appear to disregard the Congressional intent stated in CWA § 101(b) which reserves primary land use authority to the States, as opposed to the federal government or an agency operating under federal authority.

local government's traditional sphere of influence.[26] *California courts have recognized that "the front line role in land use planning and zoning is in the hands of the local government,"*[27] *as opposed to state government or executive agencies thereof. "[T]he state land use planning and zoning law 'leaves wide discretion to a local government not only to determine the contents of its land use plan, but to choose how to implement these plans.'"*[28] *Through the permit, the Regional Board is attempting improperly to remove this discretion, which is required to be left to the local authorities. Those permit provisions that improperly regulate activities within the purview of local governments should be removed or revised from the permit.*

CONCLUSION

In consideration of our aforementioned comments and recommendations, CICWQ respectfully requests that the Board give further review to the proposed Permit and make modifications that will result in a more equitable and balanced approach for addressing our collective regional water quality needs. CICWQ would be pleased to discuss these issues in greater detail at any time and assist Board staff with making any of the recommended modifications.

CICWQ recognizes that the stakes are very high with regard to the development of a permit that the Board believes will improve water quality in Los Angeles. The coalition also recognizes that there are a number of stakeholders involved in the process – all of which have specific concerns they want to have addressed. Yet, the most important thing to keep in mind is that this permit is not just about water quality. It is also about housing, jobs and economic growth. The absence of any meaningful consideration of these issues, in an effort to improve water quality at any cost, will have an immediate and significant impact on affordable housing, jobs, wages and livability. Meanwhile, there would be little, if any, certainty as to just how much water quality improvement would really be achieved.

We urge you to thoroughly review the comments provided by CICWQ and ask yourselves at what point water quality improvement efforts should be allowed to compromise the economic livelihoods of our working families, diminish new home production, increase housing costs, and jeopardize our regional economic strength.

We are confident that, by working together, CICWQ can assist you in achieving balance that will greatly improve water quality while also meeting our other regional obligations and needs. We thank you for your consideration of our comments.

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[26] Section 101 of the Clean Water Act states that "It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of the States ... to plan the development and use ... of land." 33 U.S.C. § 1251(b).

[27] Building Indus. Assoc. of San Diego v. Superior Ct. of San Diego County, 211 Cal. App. 3d 277, 291 (1989).

[28] Id. at 296 n.12 (quoting Yost v. Thomas, 36 Cal. 3d 561, 565 (1984)).

If you have any questions, please feel free to contact me, or our Director of Environmental Affairs, Tim Piasky at (909) 396-9993 or tpiasky@biasc.org.

Respectfully,

Tim Piasky for

Michael W. Lewis
Executive Vice-President

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January 24, 2001

VIA U.S. MAIL

Craig M. Wilson, Chief Counsel
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STATE WATER RESOURCES CONTROL BOARD
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Sacramento, CA 95812-4025

Re: December 26, 2000 Memorandum re: State Water Board Order WQ 2000-11 (SUSMP)

Dear Mr. Wilson:

We received a copy of your December 26, 2000 memorandum to all Regional Water Quality Control Board Executive Officers ("Memorandum") regarding State Water Board Order WQ 2000-11: SUSMP ("SUSMP Order"). We write to ask that you retract the Memorandum, given that the express language of the SUSMP Order contradicts the position stated in the Memorandum.

In the Memorandum, the SUSMP Order is formally recognized as a "precedential decision," and appears to direct all regional boards to include SUSMPs in all future municipal permits. (Memorandum, pp. 2-3 ["The general principles of the Order – that design standards for BMPs for new development and redevelopment are required – must be implemented"].) The Memorandum relies on Government Code Section 11425.60 as the authority for designating the SUSMP Order as a precedential decision.

Government Code Section 11425.60 allows for designation of precedential decisions only where

> "a decision or part of a decision . . . contains a significant or legal or policy determination ***of general application*** that is likely to recur." (Section 11425.60, subd. (b), emphasis added.)

The SUSMP Order itself, however, states that it is not such a decision:

> "While the SUSMPs are not a permit, they are implementing documents for a permit, and are therefore subject to the [Administrative Procedures Act] exemption. Moreover, ***they are relevant only to this permit, and are not a general rule of application***." (SUSMP Order, p. 15, emphasis added.)

Given that the SUSMP Order itself expressly disclaims the requirements for application of Section 11425.60 for designating a precedential decision, we ask that you retract your Memorandum, and notify all regional boards accordingly.

We appreciate your attention to this matter.

Very truly yours,

/s/

David C. Smith
General Counsel

cc: Art Bagget, Acting Chair, State Water Resources Control Board

bcc: BILD Foundation Directors
Paul Campos
Nick Cammorata
Macie Cleary-Milan
Cyndy Day-Wilson
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February 26, 2001

VIA U.S. MAIL

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Re: December 26, 2000 Memorandum re: State Water Board Order WQ 2000-11 (SUSMP)

Dear Mr. Wilson:

We appreciate the Office of Chief Counsel's February 2, 2001, response ("Response") to our January 24, 2001, letter regarding the designation of State Water Board Order WQ 2000-11: SUSMP ("SUSMP Order") as a "precedential decision" pursuant to a December 26, 2000 memorandum to all Regional Water Quality Control Board Executive Officers ("Memorandum"). In the February 2 Response, the Chief Counsel's Office distinguishes between Regional Board decisions *not being* precedential and State Board decisions *being* precedential as justification for the incongruity between the governing statute and the SUSMP Order. Given the lack of any such qualification in the language at issue in the SUSMP Order, however, we believe this distinction to be irrelevant and inapplicable, and we respectfully continue to request that the Memorandum be withdrawn.

You will recall that our January 24 letter called attention to the apparent irreconcilability of an express statutory prerequisite for designation of a precedential decision and certain language in the SUSMP Order. Specifically, the California Government Code limits designation of precedential decisions to:

> "a decision or part of a decision that contains a significant or legal or policy determination ***of general application*** that is likely to recur." (Section 11425.60, subd. (b), emphasis added.)

The SUSMP Order, however, provides:

> "While the SUSMPs are not a permit, they are implementing documents for a permit, and are therefore subject to the [Administrative Procedures Act] exemption. Moreover, ***they are relevant only to this permit, and are not a general rule of application***." (SUSMP Order, p. 15, emphasis added.)

The Office of Chief Counsel's Response claimed that there is no inconsistency between the statute and the SUSMP Order in that "the SUSMPs when they were adopted by the Regional Water Board, were not precedential decision [sic], and were limited in their application to the Los Angeles Permit. In adopting Order WQ 2000-11, the State Water Board itself did adopt a precedential decision, pursuant to the designation in Order WR 96-1 and Government Code section 11425.60." (Response, p. 2, emphasis in original.)

This contention, however, does not reconcile the inconsistency of the statute and the SUSMP Order.

As a threshold matter, the February 2 Response states that, with limited exceptions, "all decisions or orders" of the State Board are precedential decisions, pursuant to footnote 11 of Order WR 96-1. We are sure you would agree, however, that the State Board's authority to designate precedential decisions is in no instance greater than as prescribed by statute. Thus, regardless of footnotes in prior orders, the statutory mandates must be satisfied in all instances.

Substantively, nothing in the language of the SUSMP Order confines or limits the qualifying language quoted above to the action of the Regional Board, as opposed to that of the State Board. Quite to the contrary, the language employed by the State Board is "*this* permit," as in "*this* permit upon which we, the State Board, are acting." (See SUSMP Order, p. 15, quoted above.) In fact, the State Board, in issuing the SUSMP Order, was superseding the action of the Regional Board in its entirety and making its own determination as to the propriety of the adoption and implementation of the SUSMPs for Los Angeles County and its co-permittee municipalities. It was in the context of this comprehensive action that the State Board stated outright that the SUSMPs "are relevant *only* to this permit, and *are not a general rule of application*." (SUSMP Order, p. 15, emphasis added.)

Indeed, such a limitation is wholly appropriate. At both the Regional Board and the State Board hearings on the SUSMP, all of the testimony and evidence, while voluminous, bore solely on the propriety of implementation of the SUSMPs in Los Angeles County and its co-permittee municipalities. Never was there reference to implementation of the SUSMP program to other jurisdictions in California or by other regional boards. To our knowledge, no notice of the proceedings or issues was given to jurisdictions outside of Los Angeles County. Thus, to now attempt to apply the SUSMP Order on a statewide basis would be not only illegal (i.e., contrary

to Government Code Section 11425.60), it would also be inequitable and a denial of due process, no notice or opportunity to be heard having been afforded to the other regional boards, potential permittees outside of Los Angeles County, or the regulated community outside of Los Angeles County.

Accordingly, we ask that the Chief Counsel's Office reconsider the position stated in the Response, and we, again, respectfully request that the Memorandum be withdrawn.

Very truly yours,

David C. Smith
General Counsel

cc: Art Bagget, Acting Chair, State Water Resources Control Board

bcc: BILD Foundation Directors (w/ February 2, 2001 letter from SWRCB)
Nick Cammorata (w/ February 2, 2001 letter from SWRCB)
Paul Campos (w/ February 2, 2001 letter from SWRCB)
Macie Cleary-Milan (w/ February 2, 2001 letter from SWRCB)
Cyndy Day-Wilson (w/ February 2, 2001 letter from SWRCB)
Charles Gale (w/ February 2, 2001 letter from SWRCB)
Howard Gest (w/ February 2, 2001 letter from SWRCB)
Amy Glad (w/ February 2, 2001 letter from SWRCB)
Steve LaMar (w/ February 2, 2001 letter from SWRCB)
Richard Lambros (w/ February 2, 2001 letter from SWRCB)
Jerry Livingston (w/ February 2, 2001 letter from SWRCB)
Cliff Moriyama (w/ February 2, 2001 letter from SWRCB)
Tim Piasky (w/ February 2, 2001 letter from SWRCB)
Paul Singarella (w/ February 2, 2001 letter from SWRCB)
Michele Staples (w/ February 2, 2001 letter from SWRCB)
Sat Tamaribuchi (w/ February 2, 2001 letter from SWRCB)
Richard Watson (w/ February 2, 2001 letter from SWRCB)

Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

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Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.

FEB 02 2001

Mr. David C. Smith
Building Industry Legal Defense Foundation
1330 S. Valley Vista Drive
Diamond Bar, CA 91765

Dear Mr. Smith:

DECEMBER 26, 2000 MEMORANDUM RE: STATE WATER BOARD ORDER WQ 2000-11 (SUSMP)

I am writing in response to your letter dated January 24, 2001. In your letter, you asked me to retract the December 26, 2000 memorandum concerning application of State Water Resources Control Board (State Water Board) Order WQ 2000-11. As will be explained below, there is no reason to retract the memorandum.

In Order WQ 2000-11, the State Water Board reviewed the issuance of Standard Urban Storm Water Mitigation Plans (SUSMPs) by the Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) and its Executive Officer. The SUSMPs were the result of implementation of the municipal storm water permit for Los Angeles County. A number of the cities within the county had filed a petition for review of the SUSMPs. Order WQ 2000-11 upheld, in part, the SUSMPs, and also made revisions to the SUSMPs. The decision was not challenged in court. The memorandum in question states that in issuing Order WQ 2000-11, the State Water Board adopted a precedential decision.

The basis of your request is that the memorandum states that Order WQ 2000-11 is a precedential decision by the State Water Board, which must be followed by all Regional Water Boards, while the Order itself found that the SUSMPs issued by the Regional Water Board "are relevant only to [the Los Angeles] permit, and are not a general rule of application." (Order WQ 2000-11, at page 15.) You claim that this language in the Order contradicts the position stated in the memorandum. As will be explained below, your letter confuses the SUSMPs as adopted by the Regional Water Board with the Order issued by the State Water Board. In fact, there is no contradiction between the language in Order WQ 2000-11 and the conclusion that it is a precedential decision.

Pursuant to Government Code section 11425.60, the State Water Board's decisions in response to water quality petitions may be deemed to be precedential. The State Water Board has designated all decisions or orders it adopts at public meetings to be precedent decisions, except to the extent that a decision or order indicates otherwise, or is superseded by later enacted statutes, judicial opinions, or actions of the State Water Board. (State Board Order WR 96-1 (Lagunitas Creek), at footnote 11.) The State Water Board has not designated any decisions by Regional Water Boards to be precedential.

In the portion of Order WQ 2000-11 that you quoted, the State Water Board determined that the SUSMPs, as adopted by the Regional Water Board, were not subject to the rulemaking provisions of the Administrative Procedure Act (APA). (Order WQ 2000-11, at pages 14-15.) The bases for that determination were that the SUSMPs were implementing documents for a permit, and permits are exempt from the rulemaking requirements of the APA. Further, Order WQ 2000-11 points out that the SUSMPs as adopted by the Regional Water Board were relevant only to the Los Angeles permit and were not a general rule of application. Thus, as stated above, the SUSMPs when they were adopted by the Regional Water Board, were not precedential decision, and were limited in their application to the Los Angeles permit. In adopting Order WQ 2000-11, the State Water Board itself did adopt a precedential decision, pursuant to the designation in Order WR 96-1 and Government Code section 11425.60. The conclusions in Order WQ 2000-11 are precedential, except to the extent that the order indicates otherwise. The purpose of the memorandum was to explain the extent to which Order WQ 2000-11 is precedential. Thus, for example, the memorandum explains that the conclusion that the design standard in the SUSMPs reflects MEP is precedential, while the decision to exclude retail gasoline outlets from the SUSMPs is not precedential since Regional Water Boards are granted discretion to include RGOs in future SUSMPs.

I hope that this letter clarifies the decisions of the State and Regional Water Boards that may or may not be precedential. Please call Elizabeth Miller Jennings, Senior Staff Counsel, in my office at 916-341-5175 if you have any questions about this letter.

Sincerely,

Craig M. Wilson
Chief Counsel

cc: Arthur C. Baggett, Acting Chair
State Water Resources Control Board

Edward C. Anton, Acting Executive Director
State Water Resources Control Board

Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

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Gray Davis
Governor

TO: RWQCB Executive Officers

FROM: Craig M. Wilson
Chief Counsel
OFFICE OF CHIEF COUNSEL

DATE: DEC 15 2000

SUBJECT: STATE WATER BOARD ORDER WQ 2000-11: SUSMP

On October 5, 2000, the State Water Resources Control Board (State Water Board) adopted a precedential decision concerning the use of Standard Urban Storm Water Mitigation Plans (SUSMPs) in municipal storm water permits (Order WQ 2000-11; hereafter referred to as "the Order.") The Order arose from the municipal storm water permit in the Los Angeles region. As a precedential decision, the State Water Board has recognized that the decision includes significant legal or policy determinations that are likely to recur. (Gov. Code §11425.60.) The Regional Water Quality Control Board (Regional Water Board) orders must be consistent with applicable portions of the State Water Board's precedential decisions

In the Order, the State Water Board considered SUSMPs related to new development and redevelopment. The SUSMPs include a list of best management practices (BMPs) for specific development categories, and a numeric design standard for structural or treatment control BMPs The numeric design standard created objective and measurable criteria for the amount of runoff that must be treated or infiltrated by BMPs The purpose of the SUSMPs is to control runoff both during and after construction

Several of the conclusions reached in the Order are likely to recur, and future municipal storm water permits must be consistent with the principles set forth therein.[1] Pursuant to the Clean Water Act, municipal storm water permits must require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP). The Order finds that the provisions in the SUSMPs, as revised in the Order, constitute MEP. The Order also discusses areas where the Regional Water Boards may exercise more discretion.

[1] The Order considered a Phase I storm water permit, applicable to urban areas with populations of 100,000 and greater. The State Water Board will soon embark on Phase II, which will include municipal permits for smaller municipalities The Order did not address Phase II requirements, which may be different than Phase I requirements

1. The Order finds that the design standard in the SUSMPs, which essentially requires that 85 percent of the runoff from specified categories of development be infiltrated or treated, reflects MEP. It is conceivable that the specific design standard could vary depending on such factors as rainfall and soil characteristics.

2. The Order determined that SUSMPs appropriately applied to the following categories of development: single-family hillside residences, 100,000 square foot commercial developments, automotive repair shops, restaurants, home subdivisions with 10 to 99 housing units, home subdivisions with 100 or more housing units, and parking lots with 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff. Redevelopment projects that are within one of these categories are included if the redevelopment adds or creates at least 5,000 square feet of impervious surface to the original developments; if the addition constitutes less than 50 percent of the original development, the design standard only applies to the addition. The Order approved a waiver from compliance with the design standard where there is a risk of groundwater contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than 10 feet from the soil surface.

3. The Order allows broader discretion by the Regional Water Boards to decide whether to include additional types of development in future SUSMPs. These areas for potential future inclusion in SUSMPs include retail gasoline outlets, ministerial projects (only discretionary projects are included in the approved SUSMPs), and projects in environmentally sensitive areas. If Boards include these types of developments in future permits, the Order explains the types of evidence and findings that are necessary.

4 The Order encourages regional solutions. The Order endorses establishment of a mitigation fund or "bank" that could be funded by developers who obtain waivers from the design standards. The Order explains that such a funding mechanism must be developed after consultation with appropriate local agencies.

The SUSMPs as developed by the Los Angeles Regional Water Board resulted from a requirement in a municipal storm water permit to draft and submit a proposal. The Regional Water Board then made revisions to the SUSMPs, and the State Water Board made further revisions prior to approving the SUSMPs. In light of the specificity and detail in the Order, Regional Water Boards should simply incorporate SUSMP requirements for new development and redevelopment into new municipal permits, rather than adopting a process of submittal, review and revision of proposals. In adopting SUSMPs in permits, the requirements should be substantially similar to the SUSMPs approved in the Order. If, for example, the Regional Water Board determines that a different design standard than 85 percent of the runoff is appropriate, the permit findings should explain how the alternative design standard is generally equivalent to the standards approved in the Order, and why the alternative standard is appropriate to the area. The

general principles of the Order—that design standards for BMPs for new development and redevelopment are required—must be implemented.

cc: Edward C. Anton
Acting Executive Director

bc: Art Baggett, Acting Chair
RWQCB Attorneys, OCC
Betsy Jennings, OCC
Debbie Matulis, OCC

BMJennings/seh
12/21/00
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Winston H. Hickox
Secretary for Environmental Protection

State Water Resources Control Board

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Governor

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FEB 02 2001

Mr. David C. Smith
Building Industry Legal Defense Foundation
1330 S. Valley Vista Drive
Diamond Bar, CA 91765

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Sincerely,

Craig M. Wilson
Chief Counsel

cc: Arthur C. Baggett, Acting Chair
State Water Resources Control Board

Edward C. Anton, Acting Executive Director
State Water Resources Control Board

WEST'S ANNOTATED CALIFORNIA CODES
GOVERNMENT CODE
TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA
DIVISION 3. EXECUTIVE DEPARTMENT
PART 1. STATE DEPARTMENTS AND AGENCIES
CHAPTER 4.5. ADMINISTRATIVE ADJUDICATION: GENERAL PROVISIONS
ARTICLE 6. ADMINISTRATIVE ADJUDICATION BILL OF RIGHTS

Current through end of 1999-2000 Reg.Sess.
and 1st Ex.Sess. and Nov. 7, 2000, election.

§ 11425.60. Precedent; designation; index

(a) A decision may not be expressly relied on as precedent unless it is designated as a precedent decision by the agency.

(b) An agency may designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur. Designation of a decision or part of a decision as a precedent decision is not rulemaking and need not be done under Chapter 3.5 (commencing with Section 11340). An agency's designation of a decision or part of a decision, or failure to designate a decision or part of a decision, as a precedent decision is not subject to judicial review.

(c) An agency shall maintain an index of significant legal and policy determinations made in precedent decisions. The index shall be updated not less frequently than annually, unless no precedent decision has been designated since the last preceding update. The index shall be made available to the public by subscription, and its availability shall be publicized annually in the California Regulatory Notice Register.

(d) This section applies to decisions issued on or after July 1, 1997. Nothing in this section precludes an agency from designating and indexing as a precedent decision a decision issued before July 1, 1997.

CREDIT(S)

2001 Electronic Pocket Part Update

(Added by Stats.1995, c. 938 (S.B.523), § 21, operative July 1, 1997. Amended by Stats.1996, c. 390 (S.B.794), § 8, eff. Aug. 19, 1996, operative July 1, 1997.)

<General Materials (GM) - References, Annotations, or Tables>

LAW REVISION COMMISSION COMMENTS

2001 Electronic Pocket Part Update

1995 Addition

Section 11425.60 limits the authority of an agency to rely on previous decisions unless the decisions have been publicly announced as precedential.

The first sentence of subdivision (b) recognizes the need of agencies to be able to make law and policy through adjudication as well as through rulemaking. It codifies the practice of a number of agencies to designate

important decisions as precedential. See Sections 12935(h) (Fair Employment and Housing Commission), 19582.5 (State Personnel Board); Unemp.Ins.Code § 409 (Unemployment Insurance Appeals Board). Section 11425.60 is intended to encourage agencies to articulate what they are doing when they make new law or policy in an adjudicative decision. An agency may not by precedent decision revise or amend an existing regulation or adopt a rule that has no adequate legislative basis.

Under the second sentence of subdivision (b), this section applies notwithstanding Section 11340.5 ("underground regulations"). See 1993 OAL Det. No. 1 (determination by Office of Administrative Law that agency designation of decision as precedential violates former Government Code Section 11347.5 [now 11340.5] unless made pursuant to rulemaking procedures). The provision is drawn from Government Code Section 19582.5 (expressly exempting the State Personnel Board's precedent decision designations from rulemaking procedures). See also Unemp.Ins.Code § 409 (Unemployment Insurance Appeals Board). Nonetheless, agencies are encouraged to express precedent decisions in the form of regulations, to the extent practicable.

The index required by subdivision (c) is a public record, available for public inspection and copying.

Subdivision (d) minimizes the potential burden on agencies by making the precedent decision requirements prospective only. [25 Cal.L.Rev.Comm. Reports 55 (1995)]

1996 Amendment

Subdivision (d) of Section 11425.60 is amended to make clear that if an agency designates as precedential a decision issued before July 1, 1997, the decision must be indexed pursuant to subdivision (c). [26 Cal.L.Rev.Comm. Reports 107 (1996) (App. 4)]

HISTORICAL AND STATUTORY NOTES

2001 Electronic Pocket Part Update

1996 Legislation

The 1996 amendment, in the second sentence of subd. (d), inserted "and indexing" following "designating".

LIBRARY REFERENCES

1992 Main Volume

Legal Jurisprudences
Cal Jur 3d Adm L § 155; Heal Art § 264.

Treatises and Practice Aids
Witkin, Procedure (4th ed) Admin Proc §§ 41, 52, 57.

Forms
B-W Cal Civil Practice: Employment Litigation § 7:12.

West's Ann. Cal. Gov. Code § **11425.60**

CA GOVT § **11425.60**

END OF DOCUMENT

Executive Advisory Committee

Stormwater Program – Los Angeles County

2001 AUG -6 P 4:44

August 6, 2001

Mr. David Nahai, Chair
California Regional Water Quality
Control Board–Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-1105

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MUNICIPAL STORMWATER PERMIT FOR LOS ANGELES COUNTY
SECOND DRAFT, ISSUED JUNE 29, 2001

The Los Angeles County Municipal Stormwater Permitees want to thank Mr. Dennis Dickerson and the Regional Board staff for their efforts in preparing a second draft of the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit for Los Angeles County (the permit) that will continue to ensure that stormwater quality in Los Angeles County is improved. The second draft of the permit includes many changes which we believe have significantly improved the workability of the permit. This has been the result of many meetings between the permitees and Regional Board staff that allowed all of us to better understand the issues that separate us. Philosophically, we have the same goals, to improve runoff water quality and, thereby, the receiving water quality in the waterways, estuaries, and bays of Los Angeles County. However, there remain some differences in the details of how best to accomplish this.

Since issuing the second draft of the permit, Regional Board staff and a working group of the Executive Advisory Committee (EAC) have devoted a substantial amount of resources and time to addressing issues on which we have differences. We appreciate the significant energy put into this effort. We have met with Regional Board staff a total of over 110 hours. This has resulted in a dialogue that has made the Regional Board staff much more sensitive to the limitations faced by the permitees and, more importantly, made the permitees aware of the Board's intent in several sections of the permit.

We are looking forward to the third draft of the permit where we hope to see the remaining differences/concerns addressed.

OVERVIEW

The permitees are dedicated to improving stormwater quality in Los Angeles County. The permitees have dedicated considerable resources to reduce the adverse effects of urban runoff. Permitees currently review development plans to ensure that stormwater mitigation is addressed in all new developments; and new development construction is inspected for implementation of stormwater quality mitigation, both during construction and with appropriate post-construction Best Management Practices (BMPs). Permitees have aggressively conducted code enforcement activities in construction projects. A significant amount of energy has been placed into educational outreach programs. We all would agree probably the most significant venue to improving stormwater quality is public education, since it is all of the little activities and actions of living in an urban environment that introduce pollutants to the storm drain system.

Educational outreach programs enacted by the permitees includes significant investment in radio and television advertisements to reach a wide cross section of residents of Los Angeles County as well as a significant outreach in our schools, and to many civic groups.

The permitees also have aggressive programs to eliminate trash and debris from our streets and highways and spend significant amounts of money in street sweeping, catch basin cleaning and general litter abatement. As a result of stormwater quality awareness, litter abatement today is given much higher priority than was otherwise the case. Permitees are implementing the recently adopted Standard Urban Stormwater Mitigation Plan (SUSMP) development requirements and have conducted aggressive site educational visits to selected businesses which we agree are the higher priority pollutant sources, such as auto service establishments, restaurants, and retail gas stations.

Regional Board staff has indicated that each new NPDES permit cycle needs additional requirements in order to push the permitees to do more. We agree that there are areas where technology allows for improvement to the permits and these are clearly areas where the Board staff has a reasonable expectation of imposing additional permit requirements. However, there are areas where mandatory additional requirements may not make technical or economic sense. It is inappropriate to push for increased requirements where there is no sensible basis for them. Pushing for these changes is extremely costly to the permitees and will not result in any benefits to water quality.

There are eight overarching issues where we have fundamental concerns with the second draft of the permit.

WATER QUALITY LIMITATIONS

The most contentious difference we have with the draft permit has to do with the language used in the receiving water limitation section. We believe that it is appropriate to highlight the need for stormwater to meet the water quality criteria necessary to maintain water quality objectives in the permit. However, the second draft permit language goes much further. As currently written, the permitees will be in a position of non-compliance from the very issuance of the permit because the water quality limitations language in effect sets water quality standards which stormwater does not meet. This leaves the permitees in an untenable position. We would like to see the permit reflect the intent of the Clean Water Act where the activities required of the permitees are based on a maximum extent practical (MEP) approach. The permit language should clearly reflect that as long as the permitees have programs in place that will improve the quality of urban runoff to the maximum extent practical, the permitees are in full compliance with the permit.

OPEN-ENDED PROVISIONS

The draft permit contains many open-ended provisions. There are many sections of the permit which are ill defined or lack specific standards to guide the Regional Board's actions to make changes in the permit at a future date. One example is the provision for future modifications to the stormwater quality management plan (pg. 18, ¶ C). The permit allows for Executive Officer to incorporate additional provisions to the stormwater quality management plan which the permitees shall incorporate without any specific criteria as to how this would take place. A second example would be the inter-agency coordination section which requires that a permitee shall determine "if the facility is effectively complying with the stormwater quality management plan and other municipal stormwater regulations" (pg. 28 ¶ 5). Although it appears to be a fairly non-controversial statement, the word "effectively" creates a potential for misunderstanding that should be avoided. Either the facility is complying or not, and that is relatively straightforward for a permitee to determine. However, introducing the word "effectively" creates an open-ended situation. These and many other items like these can be easily resolved by working on the wording of the permit. We trust that the Regional Board will continue to work with the permitees to address these issues.

INSPECTION PROGRAM

The permitees have an aggressive educational site visit program in place. We agree that certain types of businesses such as gas stations, restaurants, and automotive

service facilities may be a potentially greater source of pollutants to urban runoff. The requirement for inspections of these facilities should be based on the fact that such inspections will lead to improvement in stormwater quality. If the facts indicate that is not the case, then we should redirect our resources to better placed efforts. The permitees also have serious reservations about our ability to actually conduct inspections of these facilities and also feel that the cost associated with some of these inspections makes doing them prohibitive. We also strongly disagree with the shifting of responsibility for inspections of Phase I facilities to the permitees.

IMPLEMENTATION SCHEDULES

Many of the Implementation timelines in the second draft are unrealistic. For example, the second draft has a requirement that the permitees shall issue a technical manual for the siting and design of BMPs for the development community of Los Angeles County by March 31, 2003 (pg. 35 ¶ 15.b). If this technical manual is to have any meaning and not be just a verbatim reproduction of existing manuals, it will require a significantly longer period of time to prepare. The development of such a manual requires the collection of data, which in and of itself will take over a year to complete. The Regional Board needs to work with the permitees on developing realistic implementation schedules.

ILLICIT CONNECTION/ILLICIT DISCHARGE

The illicit connection and illicit discharge elimination program remains an area of contention. The permitees have aggressively pursued illicit discharges and will continue to do so. Whenever an illicit discharge is identified, either by field inspection or other means, it is quickly cleaned up and investigated. This investigation includes evaluating whether the source is a spill or an illicit connection. Our experience has shown that the overwhelming majority of illicit discharges do not come from illegal connection but rather from spills of one type or another. We believe that the requirement to identify all illegal connections through inspection of our storm drain systems is prohibitively expensive and will not result in improving stormwater quality. The permitees do not object to identifying illicit connections in a prudently paced manner, however, the requirement to map all illicit connections at one time is an unfair economic burden and will not result in any significant stormwater quality improvement.

DEVELOPMENT PLANNING

We agree that the most effective way of dealing with stormwater runoff is to deal with it at the source before it becomes a problem. It is appropriate to look at measures which can be implemented in new construction to assist in this. The permitees would like to see the

reinstatement of the SUSMP requirement recently approved by the State Board for the Los Angeles permit instead of making changes to them so soon. These SUSMP requirements have been in effect for a short while and the development community as well as the permitees are just becoming comfortable with them. These requirements will go a long way toward reducing the impact of development and redevelopment sites in our communities and we do not feel it is appropriate to expand the SUSMP requirements at this time.

The requirement to control peak flow is unwarranted. It is inappropriate to assume that all runoff will cause erosion. A better approach is to look at the overall impact on natural drainage systems and see how that can be mitigated as opposed to putting a blanket requirement on development.

The permitees also have significant issues with how the permit deals with existing statutes and case law on California Environmental Quality Act, General Plan, and land use authority.

UNFUNDED MANDATES

Finances are the primary concern for the permitees and affects what we can reasonably accomplish. The permit contains a series of requirements to revise ordinances, adopt environmental procedures, increase frequency of various municipal operations, etc. that are very costly to implement. Do not forget that Los Angeles County contains some of the poorest and most economically challenged cities in the entire nation; although it also happens to contain some of the wealthiest cities. The permit requirements should carefully weigh the improvement in water quality that will result from their implementation versus their cost. There does not appear to be any consideration given to the cost associated with implementation of the permit. Unfunded mandates in the proposed permit will have a negative effect on communities' ability to deliver public services.

MONITORING REQUIREMENTS

The monitoring requirements of the permit will not collect information that will assist you or us in determining the effectiveness of the stormwater permit. Modifications are warranted. A recently completed report by the United States General Accounting Office

- *Water Quality Better Data and Evaluation of Urban Runoff Programs Needed to Assess Effectiveness* (GAO-01-679) found that the permit monitoring requirements need considerable work. The report concludes that "no systematic effort to evaluate the program's results has been started." The permit monitoring requirements should focus

on collecting data to determine the effectiveness of the programs. The requirements for water column toxicity monitoring, shoreline monitoring, estuary sampling, and bioassessments although well intended will not result in determining the effectiveness of any programs that are required in the permit and should be removed. These are costly data collection efforts that should be replaced with better-targeted monitoring programs. This section also imposes a monitoring program on the permitees which parallels the one required in the Trash Total Maximum Daily Load. To avoid duplication of effort and unreasonable expenditures, we suggest this be removed.

Sincerely,

Desi Alvarez
Chair
Executive Advisory Committee

DA:kk
A:\EAC LTR RE NPDES 2ND DRAFT AUG 6.WPD

cc: Dennis A. Dickerson
All Permittees
Chief Administrative Office (John Lounsbery)
State Water Resources Control Board

Heal the Bay
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Facsimile Cover Sheet

to: Xavier Swamikanu + Wendy Phillips
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pages including this cover page: 13

comments:

Comments on LA County MS4 permit

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August 6, 2001

Dr. Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 W. 4th Street. Suite 200
Los Angeles, California 90012

Re: Comments on the Second Draft of the LARWQCB NPDES No. CAS614001 – Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles and the Incorporated Cities, Except for Long Beach and Santa Clarita

Dear Dr. Swamikannu:

On behalf of Heal the Bay, an environmental group with over 10,000 members dedicated to making Santa Monica Bay and Southern California coastal waters safe and healthy again for people and marine life, we have the following comments on the second draft L.A. County storm water NPDES permit. As in our previous comments, we have numerous concerns about the draft permit.

The following concerns were not addressed in your revisions to the first draft. We believe that these and other changes must be made before the permit is finalized, if this permit is to succeed in protecting the quality of receiving waters and preventing further degradation to those waters. We wish to incorporate by reference the comments submitted by the Santa Monica Baykeeper and the Natural Resources Defense Council on the Draft Permit.

Our greatest concerns with the second draft permit are (1) the failure of the permit to meet the baselines set in the Long Beach (1999) permit and the Ventura County (2000) permit, (2) the lack of a true watershed approach to water quality regulation, (3) the failure to implement numeric effluent criteria for stormwater, and (4) the lack of specific requirements in a number of important sections in the permit. We detail these and other concerns below. We also discuss our concerns with the Monitoring and Reporting requirements of the second draft permit.

Waste Discharge Requirements

Comparison with Recent Stormwater Permits Issued by the LARWQCB

In some sections, the permit falls short of the standards set by the City of Long Beach (1999) and Ventura County (2000) municipal stormwater permits. The previous stormwater permits approved by the LARWQCB should be considered baseline standards to be met by all future permits, including this LA County permit. No section within this permit (the third for L.A. County) should be weaker than a section of the Ventura County (their 2nd permit) or Long Beach (their first) permit.

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Failure to Require a Watershed Approach

The permit fails to truly require a watershed approach to storm water pollution abatement. As we stated in our previous comment letter, inclusion of watershed-specific requirements for each of the watersheds within the storm water permit is long overdue. The second draft permit represents a storm water regulatory approach without watershed-specific requirements. The permit is a one size fits all approach to curtailing stormwater pollution even though, for example, the runoff caused water quality problems in the L.A. River are substantially different than those in the Malibu Creek watershed. Watershed-specific issues were addressed and studied extensively as part of the 1996 permit, which required all the watershed groups prepare a watershed management area plan (WMAP). However, the RWQCB has failed to require implementation of these plans in order to achieve receiving water quality objectives. For example: most of the Malibu Creek watershed is listed for nutrients and fecal bacteria on California's S.303d list, yet there are no specific requirements in the permit for BMP implementation to achieve water quality objectives within the watershed. Also, there are no requirements to implement any of the watershed's WMAPs.

In light of the region's current efforts on TMDLs, watershed planning, the Santa Monica Bay Restoration Project, and the Los Angeles/San Gabriel River Watershed Council, it is unconscionable for the Regional Board to abandon a watershed approach to stormwater regulation. Heal the Bay makes the following suggestions: There should be six stormwater permits for L.A. County – Ballona Creek, Malibu Creek, L.A. River, San Gabriel River, Santa Clara River and Dominguez Channel. A watershed based permitting approach would insure that site-specific water quality impairments would be prioritized for clean-up under the permits. Also, in the 1996 permit negotiations, there was a great deal of discussion on the need for watershed permitting, but the Regional Board felt that postponing this approach to the next permit cycle would be prudent. It is now the "next" permit cycle, yet the Regional Board has chosen to rely solely on TMDLs for a watershed management approach. Considering the pace of TMDL development and the controversy surrounding TMDLs, it is critical for the Regional Board to take a watershed approach to stormwater regulation.

In the event that the Regional Board chooses to go forward with a single permit for all of L.A. County, then they must require the implementation of watershed specific BMPs targeting water quality impairments as soon as possible. We suggest the following language: *Permittees must implement BMPs to eliminate discharges to the MS4 that cause or contribute to water quality impairments by January 2003. The implementation strategy, including BMPs and rationale for implementing the chosen BMPs, must be included as part of the 2002 annual report. Progress on BMP implementation and the efficacy of the BMPs in pollutant removal shall be summarized in subsequent annual reports.*

Failure to set numeric effluent limits for stormwater

The permit should set numeric effluent limits for stormwater to ensure that beaches and streams are safe for people and aquatic life. Heal the Bay has consistently made this comment since the 1990 permit, and considering the lack of regional progress towards cleaning up our beaches and watersheds, we still strongly support a numeric effluent limit approach to stormwater regulation. Numeric effluent limits have led to remarkable regulatory success at effectively reducing pollutants

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from industrial and sewage treatment plant point sources. The lack of numeric effluent limits and the sole reliance of the Regional Water Board on the ambiguous MEP standard have perpetuated the region's dismal record on protecting beneficial uses impaired by stormwater. Although the permit contains a provision that requires an out-of-compliance municipality that caused or contributed to an exceedance of a receiving water standard to implement a Best Management Practice-based plan to reduce the impairing pollutant(s), the Regional Board's sole reliance on an iterative approach to meeting water quality standards is hardly the same as numeric effluent limits.

Lack of specific requirements in the permit

There are no specific requirements in a number of important sections of the second draft permit. Please go back through the permit to insure that all sections are clear, all requirements include deadlines, and all provisions will lead to improved water quality. Many of the current sections are too open-ended, or do not go far enough to ensure water quality protection. In particular we are concerned about the following sections:

- **Additional requirements are needed when implementation of the revised SQMP fails to result in the abatement of violations of water quality objectives and/or standards** – As the second draft permit is written on page 16, Part 2 - #3, there are no further requirements stated for permittees in the event that implementation of the modified SQMP fails to result in the abatement of violations of water quality standards and objectives. The iterative process laid out in the permit must continue until the violations are abated if the permittee still has the reasonable potential to cause or contribute to these violations. Please modify the permit accordingly. The following language should replace part 2, #3d): "*Implement the revised SQMP and its components and monitoring program according to the approved schedule. Submit a report detailing changes to the SQMP, monitoring and results, to the Regional Board. If monitoring does not show abatement of the violation, steps 3a) through 3d) shall be repeated until monitoring shows the violation has been abated.*"

- **The permit fails to state goals for, or require implementation by a date certain of, site-specific mitigation plans (Part D.7.a on pg. 32).** Site-specific mitigation is an important element of stormwater management because it applies to developments not covered by the SUSMP but which have potential adverse effects on receiving waters. The goal of site-specific mitigation plans is to prevent runoff that will cause or contribute to an exceedance of water quality standards in the receiving water. Specific implementation requirements need to be added to insure that the plans are implemented and implemented effectively. Site-specific mitigation plans must be implemented by January 2003, to protect receiving water quality.

- **The RWQCB will require development planning guidelines under this permit, but no minimum guideline requirements are provided (Part D.15.a on pg. 35).** Without specific minimum guideline requirements, the development planning guidelines will likely be ineffective. Minimum guideline requirements should be stated in the permit to ensure the development planning guidelines are effective, as was done in the San Diego County MS4 permit (NPDES NO. CAS0108758). If this

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section refers to the specific requirements under the SUSMP provisions, then please clarify.

- **Quantifiable requirements must be included in the program to eliminate illicit connections and discharges (Part G.1-G.3 on pg 45-46).** All storm drains should be inspected over the life of the permit. We suggest the following monitoring frequency: *All open channels shall be inspected for illicit connection and discharges at least annually. All commercial and industrial storm drains shall be inspected at least once every three years. All problem drains (based on past inspections and historic number of illegal discharges and illicit connections) must be inspected on an annual basis. All remaining drains shall be inspected at least once over the life of the permit.* Except for inspections of all drains every six years, these requirements are **currently** met or exceeded by the L.A. County Department of Public Works. Although we support the aforementioned proposed language, for comparison we've included the IC/ID language from the Long Beach permit: *1) The Permittee shall eliminate all illicit connections the Permittee becomes aware of through City inspections or public reporting within 6 months after the Permittee gained knowledge of the connection. 2) The Permittee shall inspect at a minimum: a) those portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, for illicit connections within 5 years after permit adoption; b) areas of the MS4 designated as high priority, within 2 years after the permit is adopted, based on the priorities identified in the LBSWMP; and c) open channels within one year after permit adoption.*

  We stated in our comments on the first draft of the MS4 permit that permittees must determine if existing municipal stormdrain connection and/or discharge permits are valid. As part of the IC/ID program, each permittee should be required to review existing and historic local storm drain connection and/or discharge permits given to businesses. The permittee should determine which, if any, non-storm water discharges are authorized under the existing stormwater NPDES permit requirement. Those facilities that do not have a valid permit for a legal non-storm water discharge must be forced to cease discharge within 30 to 60 days, or obtain an NPDES permit from the Regional Water Board.

- **More specific requirements in the storm water monitoring reports should be included in the permit.** The purpose of the annual reports is to provide the Regional Board with information on the effectiveness of municipal stormwater management programs. The annual monitoring report provision should require an assessment of BMP efficacy on a programmatic (educational, site inspections, municipal staff trainings, etc.) and structural basis, and status and trends results for ongoing monitoring programs. The status and trends analysis should include loadings and receiving water impacts.

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Other Comments

The definition of Environmentally Sensitive Area (ESA) is incomplete (in findings on page 3, #6 and in definitions). The definition of ESAs needs to be further clarified in this permit. The Regional Board includes County SEAs as part of its definition. Los Angeles County has an extensive, ongoing process using numerous scientific experts to peer-review, identify and precisely delineate SEAs based on natural resource values, endangered species and other factors. The County SEA list includes the entire list of SEAs in the County (including those in unincorporated areas) except for those City specific SEAs determined after 1976. The Regional Board should check with County Regional Planning to get a list of all new SEAs identified by cities subsequent to 1976. These SEAs should be added to the ESA definition. Then, the Regional Board should determine if the additional CDFG-Significant Natural Areas Program and Basin Plan habitats designated as RARE protect any additional ESAs not covered by the County's and cities' SEA programs. Also, are the State designated areas precisely mapped? It is critical that the ESA definition is as clear as possible. The delineation of the ESAs must be precisely marked and this information must be provided to the permittees and the interested public.

The findings should include justification for the use of SIP minimum levels. This issue has been brought up by the County in discussions about monitoring requirements. SIP MLs are the only MLs that take into consideration recent improvements in chemical analytical methods. If there were other RWQCB, SWRCB or EPA analytical methods that had more current MLs, then the use of those MLs certainly would be an option for the Board. However, there really are no sensible alternatives to the SIP MLs. Low detection limits are needed to provide information on land-use, tributary and watershed mass loadings. Until recently, PAHs were found at concentrations of concern in sediments in local estuaries, yet PAHs were not detected in runoff because of the high MLs in the analytical methods used. Also, non-detects cannot be used to accurately determine mass loadings. Finally, quantifiable data will allow the RWQCB to better assess water quality and to develop Waste Load Allocations and Load Allocations for TMDLs. Use of the SIP MLs should help overcome this problem and this should be stated in the permit findings.

We pointed out in our comments on the first draft of this permit that dry-weather dam releases are not included in the discharge prohibition section. Does that make dry-weather dam releases illegal? – The discharge prohibition section includes numerous dry-weather runoff discharges that are legal under the permit. However, the permit makes no mention of how to categorize occasional dry weather discharges from dams. These discharges can severely alter the natural dry-weather flow regime for a given stream segment. Also, because waters held in reservoirs and lakes behind dams often have siltation, nutrient and fecal bacteria problems, dam releases can lead to exceedances of water quality objectives downstream. Dam releases are currently either unregulated or poorly regulated by the RWQCB. Language is needed in the permit to insure that these dry-weather runoff discharges from dams are prohibited except as needed to prevent imminent harm to public health, aquatic life, or property. At a minimum, the Regional Board must convene an effort with the County

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Department of Public Works, Malibu Creek watershed cities, California Department of State Parks, and other interested parties to develop a dam management plan for the watershed that does not cause or contribute to impairments in the watershed and at Malibu Surfrider Beach.

Strong local compliance is necessary to impact storm water pollution. Please add the following requirement under Part 3 D (8) on page 18 – "*All permittees must ensure that residents, businesses and local government properties and employees all comply with the permittee's local storm water pollution control ordinances.***"** Without strong local compliance assurance and enforcement programs, the ordinances will have little to no impact on storm water pollution.

The MEP language in the Legal authority Section on Page 20 should be deleted – Any inclusion of MEP for issues such as legal authority is a complete misuse of the MEP standard. The bottom line is that the cities must prohibit illegal non-storm water discharges – period. The Ventura County storm water permit includes the following language: *Co-permittees shall possess the necessary legal authority to prohibit non-storm water discharges and control the contribution of pollutants to the storm drain system from storm drain discharges . . . .* For consistency and to avoid misuse of the MEP, the language in this permit should be the same as the Ventura County permit.

Sediment discharges from construction and grading activities can cause major water quality and habitat degradation problems and must be prohibited. Please add a sediment discharge prohibition to the list (Part 3.H.1 on p. 21).

The Public Information and Participation Section should be modified as follows:

- Please change the B(b) requirement on page 23 to the following: To measurably change the *waste disposal and polluted runoff generation* behavior of target audiences by encouraging implementation of appropriate solutions.
- Insert a sentence after the first sentence: *This message must remain legible during the life of the permit* (pg. 24, Part B.1.c).
- 1st sentence in the top paragraph – please add *and interested parties* after co-permittees. The public and other agencies (school districts, universities, aquaria, etc.) should be encouraged to participate in this process to strengthen educational efforts (pg 24, Part B.1.d.3).
- There should also be a requirement to assess program effectiveness for the in-school educational programs. An assessment of students' knowledge of storm water pollution problems and solutions before and after the program should be a permit requirement. Currently, it is difficult to assess how effective educational efforts by the County, City of L.A. and others have been.
- Also, as part of the outreach and education section and as a follow-up to the B(b) requirement to measurably change waste disposal behavior, the Principal Permittee should be required to develop a behavioral change target within three months of permit adoption. The objective of the PIPP must be to reach this target by the end of the permit.

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The corporate outreach section should be modified (Part B.2.a on pg 25). Please add the following to the second sentence. The program shall target retail gasoline outlet, restaurant chains *and those businesses that have the reasonable potential to cause or contribute to violations of water quality objectives and/or standards.* This language clarifies additional types of commercial businesses that should be targeted in the corporate outreach program.

The Industrial/Commercial Facilities Program section must require that permittees conduct industrial site inspections to insure compliance with local ordinances and permit requirements (Section C on pg 26) – The first draft of the permit contained the following language: *Each permittee shall conduct industrial site inspections for compliance with its ordinances, permits* (sic), yet no rationale was provided for deletion of the provision. The current draft permit and the 1996 permit contain extensive discharge prohibitions, yet there are few if any compliance assurance activities required in the permit. How could permittees object to a requirement to assure compliance with their own local ordinances and permit requirements? The argument over whether it is a State or local responsibility is moot on the issue of compliance assurance for local laws and regulations. As part of this change, **Section C.4.e on page 28 should be deleted** because it is ambiguous, provides no additional water quality protection or stormwater management program enhancements, and it is not a permit requirement.

It is not sufficient to focus on peak flow control, since this may not prevent down-stream erosion and sedimentation problems (Part D.2 on pg 29) After development, runoff flows throughout the storm must mimic pre-existing conditions. Although controlling peak storm runoff discharge rates is critical to protecting stream and wetland habitat, it is by no means the only important hydrologic parameter that needs to be addressed. Maintaining a hydrograph that mimics natural conditions is the best way to prevent sedimentation and erosion. Flow controls should take in to account the total volume of runoff discharged from a site and when and at what magnitude the runoff is discharged from the site. Without taking the entire hydrograph into account, one may design and implement BMPs that manage the peak storm flow without abating sedimentation and erosion problems.

After talking to the City of L.A. and the County, it is clear to Heal the Bay that this is one of the most controversial provisions in the permit. Based on our experiences in the Malibu Creek watershed, it is clear that erosion and sedimentation problems are enormous. Also, it is clear that the strategy to eliminate habitat destruction caused by sedimentation and erosion needs to be carefully developed, yet rapidly implemented. Please clarify this section to address the following: what size development will be covered by the criteria?; and why were these specific watersheds chosen?

(Part D.3.c on pg 30). As stated in our earlier comments, Heal the Bay strongly supports the inclusion of ESAs and retail gasoline outlets in the SUSMP requirements.

These criteria have been weakened from the first draft of the permit (Part D.5 on pg 31). In the first draft, numerical design criteria applied to single-family hillside residential developments of 10,000 square feet or more, and to housing developments of ten units or more. The change to single-family hillside residential developments of one acre or more, and housing developments of one acre or more, is a significant weakening of these criteria, since

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the numeric design criteria will now apply to fewer developments. We strongly object to this change and why was it made in the first place?

Clarification and definition issues -

"Directly adjacent" should be defined as areas within 100 meters of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area (Part 5, pg 48). Why was 200 feet chosen as the distance to define directly adjacent? Clearly storm flows from developed areas can impact receiving waters more than 200 feet from the site.

"Outdoor animal care" needs to be defined (Part D.7.a.7 – pg 32). Does it include any horse stable? Commercial stable? A certain size facility? Also, **golf courses must be added to this list** because they use enormous amounts of water, pesticides, herbicides, fungicides, and fertilizers, which, without site-specific mitigation, may have serious adverse effects on receiving waters.

To clarify this section, please add "as long as the program is equally as effective or more effective than the SUSMP" after the first sentence (Part D.10 on pg 33).

The mitigation funding section must be clarified (Part D.11 on pg 33). Please define situations that will be granted a waiver for impracticability. Other than geologic hazard and very high groundwater, no development should merit a waiver. Also, wouldn't the waiver only apply to the infiltration requirement of the SUSMP? One can always provide some level of treatment for runoff coming off site, and this should be required regardless of impracticability waivers for SUSMP infiltration requirements. The permit must clarify when a permittee can opt to help fund a regional solution, the process by which the funding amount will be determined, and the criteria to determine if the funded project is an acceptable mitigation alternative.

Part D. 15. a) (2) on pg. 35 – Please add *of discharge* after duration.

Permittees that may contribute to chronic poor beach water quality (high fecal bacteria densities) near a storm drain must implement a sanitary survey to determine the likely sources of beach contamination (Add to Part F.2. on pg 38). Storm drains contain high bacteria densities that may be due to illegal discharges, illicit connections or leaky sewer lines. Where storm drains contribute to chronic water quality problems at beaches, the permittee must conduct a sanitary survey to investigate these potential causes. Also, the permittee must revise the SQMP and implement appropriate BMPs to abate the water quality problem as quickly as possible. "Chronic poor water quality" at beaches may be defined as, for example, ">10% of days exceed state health standards, or a beach receives a D or an F grade on Heal the Bay's Beach Report Card for three consecutive dry-weather months". This permit should specify these requirements in this section.

As we stated in our earlier comments, we believe the following prohibitions are important and should be added for landscape and recreational facilities management (Add a section under Part F. 6. on pg 41). *Disposal of landscape waste in the MS4 and receiving waters is prohibited. The storm water monitoring program must analyze runoff*

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samples for all pesticides, herbicides, rodenticides and fungicides that are used by public agencies.

Guidelines are necessary for prioritizing catch basins for cleaning (Part F.7. on pg 41). The different priority categories need to be clearly defined. For example, Priority A may be basins that reach half full every month, Priority B may be basins that reach half full in three months, and Priority C may be basins that take more than three months to reach half full. Furthermore, a deadline should be specified for designation of catch basin inlets as Priority A, B or C.

The storm drain maintenance BMP requirement to review activities and ensure appropriate BMPs are used needs clarification (Part F.7.f.2. on pg 42). Will the Permittees report findings on BMP utilization to the RWQCB? What actions are required if Permittees find inappropriate or insufficient BMPs in use?

As in part F. 7. of the permit and as we stated in our previous comments, the priority screening section should be strengthened and clarified (Part G.2. on pg 46). Requirements must to be included on how prioritization must occur. For example, should prioritization consider land use, EMCs based on land uses, county mass loadings data, and source identification and/or critical source monitoring?

Illicit connection termination (Part G.2.d on pg 46). The second sentence is not necessary. Clearly, the RWQCB's intent on this section is to insure that illicit connections are eliminated as quickly as possible, not to enforce against a municipality that is making a good faith effort to enforce ordinance requirements to eliminate illicit connections.

Add the TMDL section that was included in the Ventura County Storm Water Permit. The language from the permit was as follows: *The permittee shall modify (either directly or through and appendix) the Los Angeles County Stormwater Management Plan to comply with waste load allocations developed and approved pursuant to the process for the designation and implementation of TMDLs for impaired water bodies.*

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Monitoring and Reporting Program

The monitoring and reporting program in the second draft permit is improved but some sections remain of concern for us.

Requirements for Exemption from Monitoring

The requirements for exemption of pollutants from full monitoring program are not stringent and are inconsistent with the Ventura County MS4 Permit (Part A.6 on pg T-8). The second draft allows a pollutant that is not detected in 25% of ten consecutive storm events to be dropped from further monitoring (except for the first storm of the season). The Ventura County permit contains the following language: *If a constituent is not detected at the Method Detection Limit for its respective test in more than 75% of the first 48 sampling events, it will not be further analyzed unless the observed occurrences show concentrations greater than state water quality standards.* We believe it is the intention of the Regional Board to make the LA County permit consistent with the Ventura County permit and we recommend this change for the sake of consistency and greater water quality protection.

Exemption from Use of SIP Minimum Levels

Non-detection of pollutants at SIP minimum levels (MLs) does not justify use of higher detection limits (DLs) in future monitoring (Part A.5 on pg T-8). SIP MLs should be used to monitor stormwater over the life of the permit. The SIP provides the most comprehensive list of MLs available, and these MLs detect most of the toxic levels of pollutants to human health and aquatic life as defined in the California Toxics Rule. We do not believe the provision allowing higher DLs is protective of water quality or public health, or that this will allow the collection of the comprehensive water quality data that are needed by the Regional Board for water quality assessments, status and trends analysis, S.303(d) listing decisions, and other regulatory needs.

Requirements for Reduced Toxicity Testing

There should be no reduced toxicity testing for receiving waters (Part B.1 and B.2 on pg T-8). As stated in our earlier comments, lack of toxicity at a site for two sampling events in one year does not justify reduced testing at that site. Stormwater discharge is highly variable, and one sample per season may miss toxic discharges. Also, as prior efforts to assess runoff toxicity have been for short time periods, we have very little toxicity monitoring data for the region's watersheds. The reduction of toxicity monitoring efforts during the life of the permit will result in a lost opportunity to accurately assess how runoff toxicity varies over time.

Furthermore the draft monitoring program requires a TIE when two consecutive dry-weather or two consecutive wet-weather samples show toxicity, but only one dry-weather and one wet-weather sample may be required for toxicity testing after the first year. Even if this protocol detects toxicity at a site, it may not trigger a TIE for a given site in a single year. Nor will it provide sufficient information to determine causes of toxicity. We recommend two storm samples and two dry-weather samples must be tested for toxicity every year, and, since

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little is known about the causes of toxicity in stormwater, a TIE should be triggered whenever a single sample shows toxicity, for the life of this permit. This information could prove invaluable in efforts to target pollution sources to reduce receiving water toxicity. Toxicity is indicated by an amphipod survival rate of 70% or less in a single test. These toxicity testing requirements would make the LA County stormwater permit consistent with the Ventura County permit, as is the stated intention of the Regional Board.

Tributary/Source ID Monitoring Program

Tributary/source identification monitoring sites were selected using modeling data for metals, rather than real data for all constituents (Part C on T-9 and 10). We recognize that few real data are available to assist in site selection at this time. We request that the sites included in the tributary monitoring program be allowed to evolve over the life of the permit, as real data are collected, so that the most important sites are eventually included to meet the stated goals of the tributary/source identification monitoring program. Also, preliminary results of field verification efforts of the County's Land Use Model should be provided in the third annual monitoring report in 2004.

Estuary Monitoring

We recommend annual sediment toxicity testing and benthic community analysis at five sites in at least the Los Angeles River, Ballona Creek and the Dominguez Channel estuaries as part of the estuary monitoring program (Part F on pg T-12). As we stated in our earlier comments, monitoring these parameters once in the life of this permit may be sufficient for the Malibu Creek and San Gabriel River estuaries because these receiving waters are not listed for impacts to benthic communities or sediment contamination. However, the estuaries for the L.A. River, Ballona Creek and the Dominguez Channel are impaired for sediment toxicity and/or benthic community assemblage degradation. Also, all three creeks and rivers have contaminated sediment accumulation and subsequent disposal problems in the estuary that are exacerbated by polluted runoff. As you know, ocean dischargers are required to implement extensive programs on a quarterly or semi-annual basis. Heal the Bay is requesting annual sampling in order for the Regional Board, the County, the Contaminated Sediment Task Force, and the public to assess the biological impacts of runoff on estuary receiving waters. Fewer sites may be used in the estuary mapping studies (e.g. 15 sites instead of 25) to reduce the cost of annual monitoring. During the year that the Principal Permittee participates in the Bight Wide Study, annual sediment toxicity and benthic community analyses need not occur.

If you have any questions about our comments, please don't hesitate to call Mark Gold or Shelley Luce at 310-453-0395.

Sincerely,

Mark Gold, D.Env.
Executive Director

Shelley Luce
Staff Scientist

R0004892

NRDC
THE EARTH'S BEST DEFENSE

NATURAL RESOURCES DEFENSE COUNCIL

August 6, 2001

Dr. Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

2001 AUG -8 P 1:11

Re: Comments on the June 29, 2001 Draft of the LARWQCB NPDES Permit No. CAS614001 – Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles and the Incorporated Cities Therein

Dear Dr. Swamikannu:

On behalf of the Natural Resources Defense Council, ("NRDC") and its over 500,000 NRDC members, including over 50,000 who reside in Southern California, we submit the following comments on the second draft (June 29, 2001) of the 2001 Los Angeles County NPDES Municipal Storm Water Permit ("Draft Permit"). We appreciate the opportunity to provide these written comments on the Draft Permit. NRDC also joins in and hereby incorporates by reference the comments of the Santa Monica BayKeeper and Heal the Bay on the second Draft Permit.

General Comments

The Permit Language Must Be Strengthened

Our first general comment is that the second draft permit appears weaker overall than the first draft permit, in part by making more requirements optional and extending timeframes for the requirements to be met. We emphasize again, as we did in our earlier comments on the first draft that the permit must be specific as to what is required and must be enforceable. We urge the Board to strengthen the permit by making it clear that requirements must be met and by the earliest possible time. We also urge the Board to include more stringent enforcement language to address the situation in which permit requirements are not met.

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Los Angeles, CA 90048
TEL 323 934-6900 FAX 323 934-1210

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Permittees Must Submit Required Information Before the Permit is Issued

EPA's storm water regulations set forth specific permit application requirements for municipal storm water permits. See 40 C.F.R. § 122.26. We are seriously concerned that, even after 10 years of the storm water program, these application requirements have never been met. Pursuant to the Clean Water Act, this information must be submitted ***before*** a municipal storm water permit is issued. This information is essential if the storm water program is to be successful. Further, this information is important for the successful development and implementation of other programs under the Regional Board's authority, all of which are part of an integrated approach to cleaning up our waterways in the Los Angeles region.

The Santa Monica BayKeeper letter to the Regional Board on the Draft Permit, dated August 6, 2001, lays out our specific questions regarding information submittal pursuant to the federal application requirements. Therefore we will not repeat them in this letter. However, NRDC also requests a response from staff as to whether the enumerated information has ever been submitted. Further, if the information is on file, we request that the location and/or source of the information be identified and that the information be included in the administrative record for this Permit. If all of the required information is not on file, then the application requirements have not been met. Under these circumstances, the Regional Board cannot issue the Permit until such information is obtained from the dischargers.

It is not appropriate for staff to characterize this information request as not being necessary due to the EPA's guidance on municipal storm water permit renewal applications. Indeed, that policy was designed to assist state and federal authorities where the information is already on file with the permitting authority. In this case, we believe it was never submitted. Moreover, EPA guidance cannot override the plain language of the formal regulations contained in 40 CFR § 122.26.

Adequacy of Regional Board Enforcement and Audits Must Be Ensured

As you know, due to severe under-funding the Regional Board's enforcement and audit program for municipal entities has been virtually non-existent during the last ten years. This violates the terms the State of California's agreement with the United States Environmental Protection Agency allowing the Regional Board to implement this NPDES permit program—and is also a violation of the Clean Water Act. See Storm Water Program Five-Year Work Plan at V-9 (State of California, 1994; NRDC Petition at 22-24.

It is NRDC's position that the Regional Board's approval of the new permit would be unlawful unless the Board articulates a reasonable basis to believe that it will comply with the annual inspection and audit requirements, including onsite visits to each permittee each year. While the permit will impose obligations on many cities, issuance of the Permit imposes obligations on the Board, including those that arise as a function of California's agreements with EPA. See Draft Permit at 8 (Finding E.7, discussing delegation of authority by EPA to the State of California and Regional Board.) Based on information compiled in the NRDC Petition, it is clear that the Board has never before met these requirements. If the Board were to approve the

Permit without the ability or intent to enforce it, the Board's action—which must comply not only with the substantive provisions of the Clean Water Act but also with the general legal provisions that apply to any agency action—would violate the Clean Water Act and also constitute an abuse of discretion. California Code of Civil Procedure Section 1094.5(b).

Furthermore, unless the Regional Board can demonstrate capacity that will allow it to meet the terms of the State's agreement with EPA regarding implementation of the NPDES program, the EPA would have no choice but to object to and disapprove the Permit. EPA has a responsibility to assure not only that the terms of NPDES permits meet basic Clean Water Act requirements but also that they are administered by state agencies that possess the capacity to meet basic enforcement requirements. As discussed in the NRDC Petition, these requirements are set forth both in EPA regulations and policy and also in state workplans, administrative procedure manuals, and other formal documents on which EPA delegation is based.

Adequacy of SQMP

We are still unsure as to why the Draft Permit refers to the SQMP as "meeting the minimum requirements of federal regulations." Draft Permit at 4 (Finding C.4). We have received no response to our similar comment on the first draft of the Permit. Given that the Draft Permit appears to be predicated on the assumption that faithful implementation of the SQMP may constitute compliance with the Permit itself, the Permit must justify the consistency of the SQMP with Clean Water Act requirements, including MEP. Yet, there is demonstrable and undeniable evidence showing that water quality violations continue to occur as the result of storm water discharges in this region.[1] We have received no indication to date that the SQMP has been improved to address these violations. Specifically, in what ways has the SQMP been upgraded to deal with water quality violations? How has the SQMP been calibrated to address exceedences of water quality standards?

As we also stated in our previous letter, allowing flaws in the management plan to be addressed and made adequate ***after*** the Permit is issued does not assure that an adequate storm water program will be implemented concurrent with the issuance of the Permit itself. Given that this is the third iteration of the municipal permit, there is simply no justification for such delays, especially as applied to the most basic storm water control actions.

Addition of Regional Solutions

As discussed above and in our previous comment letter, water quality standards are not being met in this region. This indicates that regional solutions are needed, *in addition to* the SUSMP program and other existing requirements, in order to ensure that water quality standards and

[1] See e.g., Letter from David Beckman to Dr. Swamikannu re the first draft of the permit, dated May 16, 2001.

beneficial uses are attained and maintained. Yet the Draft Permit does not contain any requirements for the development of regional solutions to urban runoff and storm water problems.

Regional Board leadership is needed in this area. We are increasingly concerned about the Permittee's commitment (or lack thereof) to developing regional programs and solutions. Notably, we are already over ten years into the storm water program for the Los Angeles region, yet the Permittees have failed to voluntarily develop or implement workable regional solutions, although several permittees often tout them as the most effective solution. Clearly, specific requirements are needed to ensure that regional programs are developed. Therefore, we suggest that the Board add a new section to the permit requiring the development of a minimum of 1-2 regional approaches to address storm water pollution over the next 2-3 years. The Permit should further require the Permittees to submit these proposed regional solutions, along with supporting documentation demonstrating effectiveness, to the Regional Board for approval. Upon approval, the Permit should require the proposed regional solutions to be fully implemented by the Permittees before the end of the permit term.

Specific Comments

TMDL Language

To ensure consistency, the TMDL language in the Draft Permit should be equivalent to the language in the Long Beach and Ventura County Permits. We therefore request that the following language (from the Ventura County Permit) be inserted into Part 1.C. on page 18 of the Draft Permit:

> Total Maximum Daily Loads [40 C.F.R. § 130.7]
>
> The Permittees shall modify the SQMP to comply with waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Maximum Daily Loads (TMDLs) for impaired water bodies.

SUSMP Program

We are pleased to see that the Draft Permit expands the SUSMP program to include retail gasoline outlets, environmentally sensitive areas and ministerial projects. We strongly support this expansion. To the extent there are any further inconsistencies with the existing Los Angeles County program, we urge the Board to ensure that the SUSMP program in this third round permit is at least as strong as the County program, including requirements for municipally-owned maintenance and other related facilities and parking lots with less than 25 spaces. The County has been implementing its broader program for over two years and this program is by definition MEP. There is no distinction for the rest of the municipalities covered by the Permit that merits the implementation of anything less than the County program.

We also have a couple of specific comments regarding the SUSMP program, as follows:

1. Definition of Environmental Sensitive Areas

We are concerned about the definition of "environmentally sensitive area," as set forth on page 30 of the Draft Permit. This definition lists three conditions for applying the SUSMPs provisions to environmentally sensitive areas. Specifically, the SUSMPs would be applied where the development will:

(1) create 2,500 square feet or more of surface area, or

(2) alter the area of imperviousness of the site to ten or more percent of the naturally occurring condition, and

(3) discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat.

There is no justification given for the inclusion of these conditions. In fact, their inclusion weakens the protection for environmental sensitive areas from new and redevelopment projects that will impact those areas. Notably, the Ventura County Storm Water Permit does not contain these conditions. Thus, the inclusion of these conditions makes the Los Angeles County new and redevelopment program weaker than the Ventura County program.

Specifically, what is the justification for choosing 2,500 square feet for the cut off for application of the SUSMP requirements? If a new or redevelopment project affects an environmental sensitive area, the SUSMPs requirements should apply regardless of the size of the project. Again, the Ventura County Permit contains no similar size limitation or any limitation due to change in impervious surface for the site (the second condition).

In addition to the lack of any justification, the third condition is far too subjective. What does it mean to be "likely to impact a sensitive biological species or habitat?" How is "sensitive" defined? Who makes this determination? Not only is the meaning of this condition unclear, but it is not adequately protective of water quality or identified environmentally sensitive areas. By their very definition, environmentally sensitive areas are sensitive and thus likely to be impacted by *any* change in water quality. Therefore, this condition should be eliminated.[2]

In sum, consistent with the Ventura County permit and the very nature of environmentally sensitive areas, the SUSMP requirements should apply to ***all*** projects located in, or directly adjacent to, or discharging directly to an environmentally sensitive area. This is necessary to adequately protect these special areas. We urge the Board to delete these conditions from the Draft Permit in their entirety.

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[2] Alternatively, and at a minimum, the language should be modified to state "likely to affect water quality of receiving waters, or sensitive biological species or habitat." While this language is broader and more likely to actually protect water quality as well as species in these special areas, it is still subjective and thus difficult to apply and to enforce.

2. Deletion of Hillside Homes From SUSMP Categories

The requirement for the implementation of SUSMPs requirements for hillside homes over 10,000 feet was deleted from this draft of the permit. What is the justification for deleting this category of development from the SUSMP requirements and instead imposing the less protective requirements identified in subsection (a)? See Draft Permit at 30. Again, this is inconsistent with the Ventura County permit, which includes single-family hillside residences as a category of development subject to the SUSMP requirements. It is our understanding that the Board does not intend that the Los Angeles permit should be any weaker than the Ventura permit. Moreover, the County program, which should be considered MEP, includes hillside residences. Therefore, we request that the hillside development category be reinserted into subsection (b) on page 30.

Industrial/Commercial Facilities Program

This program has been substantially weakened from the previous draft of the permit. It is NRDC's position that the federal regulations *require the Permittees to conduct inspections* of industrial facilities. See 40 C.F.R. § 122.26(d)(2)(i); USEPA, Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems (1992). Therefore, we request that the Board revise the language in the permit to replace the word "visit" with "inspection" wherever it appears in section Part 4.C.4. (pages 27-28). In addition, in Part 4.C.4.b. (bottom of page 27), the phrase "shall visit" in the first (and only) sentence of that paragraph should be replaced with the phrase "shall inspect for compliance with local ordinances...."

Further, subsection (d) on page 28 has been substantially and improperly weakened from the first draft by making the imposition of further BMPs or controls optional to the Permittees under specified circumstances. This language must be revised and strengthened to replace the "mays" in this paragraph with "shalls" to ensure proper compliance with the Permit. Specifically, the Permittees must require additional controls or BMPs to provide appropriate protection when further site-specific BMPs or controls are needed (1) to ensure compliance with the Permit, (2) to ensure compliance with the Permit for waters listed as impaired on the state's 303(d) list, and (3) to protect water quality within environmentally sensitive areas in compliance with the Permit. All three of these statements foresee a situation in which additional controls are necessary to ensure compliance with the terms of the Permit. Thus, imposition of these additional controls should not be left to the option of the Permittees. The Permittees must be *required* to impose any further controls necessary to ensure compliance with the Permit.

Finally, subsections on reporting and enforcement are conspicuously absent from this draft. As stated above, inspection and enforcement provisions for industrial facilities are required by the federal regulations. 40 C.F.R. § 122.26(d)(2)(i); see also USEPA, Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems (1992). Thus, the Board should reinsert the following

language from the first draft in place of the existing subsection (e) of Part 4.C.4. on page 28 of the Draft Permit[3]:

> Enforcement: Each Permittee shall enforce its storm water ordinance at all sites as necessary to maintain compliance with this Order. The Ordinance shall include sanctions to ensure compliance.

We also urge the Board to reinsert the subsection from the first draft of the permit on reporting of non-compliant sites into the Draft Permit. What is the basis for removing this requirement? Timely reporting is critical for ensuring that the Regional Board is made aware of non-compliant sites and that appropriate action is taken.

The Education Program Should Be Expanded and Strengthened

We support the objectives of the Public Information and Participation Program that require the Permittees to work collaboratively to measurably increase the knowledge of the impacts of storm water pollution and to measurably change the behavior of target audiences. See Draft Permit at 23. However, the Draft Permit lacks specificity as to *how* these components are to be measured. Similarly, the Permit lacks details as to the *quality* of the educational activities. For instance, the Draft Permit requires the Principle Permittee to ensure a minimum of 35 million impressions per year. However, there are no requirements as to the quality and ultimate effect of those impressions. There is a significant difference, for example, in quality of impact between prime-time television or radio ads and late night ads.

Further, there is no evidence that the educational program in the Draft Permit has been designed to meet the maximum extent practicable or MEP standard. How is this program equivalent to MEP? To be effective, the Permit must not only increase awareness, but effect actual behavioral change. A specified number of impressions in general terms is helpful, but it is not sufficient to solve the problem – nor is it sufficient to meet MEP. The Permit must contain quantifiable targets capable of measuring actual changes in the public's behavior in order for the educational program to be ultimately effective in improving water quality. In this regard, the Regional Board should require that the Permittees show, through sociological data and studies and other means, that their program is designed to be demonstrably effective in changing the behavior of the public and also that their program meets the MEP standard.

Definition of "Pollutant"

The last paragraph in the definition of "pollutant" on page 51 should be deleted. This definition does not comport with either the Clean Water Act definition or the Porter-Cologne Act definition or usage of this term.

---

[3] The existing language of the first paragraph of the existing subsection (e) is unnecessary and the second sentence is wholly inadequate.

Take Out Findings Regarding EAC

The Regional Board should eliminate the reference in the Draft Permit to the Executive Advisory Committee (EAC). See Draft Permit at 13 (Finding F.1.). The EAC is not a Permittee or other party to the Permit and cannot properly be incorporated as such. In addition, formal recognition of the EAC will require formal recognition of other groups interested in the Permit.

Moreover, it is a gross misstatement of fact to state in the permit findings that the objective of the EAC is to "facilitate permit compliance and enhance consistency in program implementation." Draft Permit at 13 (Finding F.1.) It is plain from the letters submitted to the Board on behalf of the EAC, as well as our attendance at public meetings of the EAC, that the main objective of the EAC is to organize opposition to more stringent requirements in future permits as well as opposition to enforcement attempts by the Board. Therefore, we strenuously object to the inclusion of this statement in the findings of the Draft Permit.

* * * * *

Again, we appreciate the opportunity to provide comments on the second Draft Permit. If you have any questions regarding our comments, please give me a call at 323-934-6900.

Sincerely,

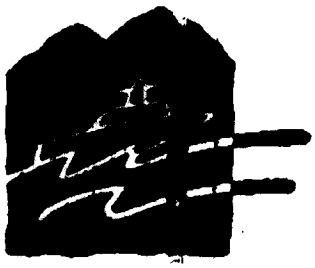
David Beckman/D.M.

David S. Beckman

Heather L. Hoecherl

**Enclosures

cc: Ms. Alexis Strauss, Director, Water Division, United States Environmental Protection Agency, Region IX



SANTA MONICA
BAYKEEPER
Protecting Our Bay
in cooperation with
The Frank G. Wells
Environmental Law Clinic &
the Water Keeper Alliance

August 6, 2001

Dennis Dickerson
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Los Angeles County Municipal Storm Water Permit Renewal

Dear Mr. Dickerson:

Santa Monica BayKeeper hereby submits the following comments regarding the second draft of the Los Angeles County Municipal Stormwater Permit.[1] In general, BayKeeper has serious concerns that the dischargers have not provided the Board with the necessary information to justify issuance of this NPDES permit. After 10 years of permit coverage the municipalities should have provided minimum information necessary for permit issuance. This information is essential if the stormwater program is to be successful. Moreover, this information is also important for the successful development and implementation of other programs under the Regional Board's authority (e.g. TMDLs, watershed management, industrial stormwater, etc.), all of which are part of an integrated approach to clean water regulation. It is our belief that much of this information is lacking.

As part of these comments BayKeeper requests a response from the staff as to whether the following information is on file with the Regional Board as part of this permitting effort. If this information is on file with the Regional Board, we request that the location or source of the information be identified in a response to us and that such information be made a part of the administrative record for this matter. If the information is not on file, we submit that the Regional Board lacks the authority to issue the permit in the absence of obtaining such information from the dischargers. See e.g. 40 C.F.R. 122.26(d). The information for which a response is requested is as follows:

(1) A description of the existing legal authority to control discharges to the municipal separate storm sewer. Where this authority is not sufficient to meet the requirements of inspection and monitoring under 40 CFR 122.26(d)(2)(i), a description of additional authorities as will be

[1] We also incorporate by reference our prior comments submitted to the Board on the first draft on May 15.

R0004901

nece sary to meeting the criteria. See 40 CFR 122.26(d)(1)(ii

(2) A map depicting the location of known municipal storm s wer system outfalls discharging to wate s of the United States. See 40 CFR 122.26(d)(iii)(1). This information will obviously be critic il to the future development of TMDLs and associated waste load allocations.

(3) A map depicting the location and permit number of any k own discharge to the municipal storm sewer that has been issued an NPDES permit. See 40 CFR 122.26(d)(iii)(4). This will also be critical to TMDL development.

(4) A map depicting the major structural controls for storm w ater discharges (retention basins, dete tion basins, major infiltration devices, etc.). See 40 CFI 122.26(d)(iii)(5).

(5) E xisting quantitative data describing the volume and quar ity of discharges from the MS4. See 0 CFR 122.26(d)(iv)(B). This information will obvious y be critical in the development of TMI LS and would prevent the type of debate ongoing debat about the technical basis for estal lishing baseline waste load allocations (see e.g. the Los ngeles River trash TMDL).

(6) Results of field screening analysis for illicit connections a d illicit discharges, including the nece sary mapping and protocol requirements under 40 CFR 122.26(d)(iv)(D), or the field screen map ing of at least 500 major outfalls under 40 CFR 122.26(1)(iv)(D)(7).

(7) A description of the existing program to identify illicit co nections to the MS4, including inspe tion procedures and methods for detecting and prevent ng illicit discharges. 40 CFR 122. 6(d)(v)(B).

(8) A demonstration that the applicant can operate pursuant o legal authority established by statute, ordinance, or series of contract which authorizes or e ables the applicant at a minimum to:

(a) Control through ordinance, permit, contract, orde or similar means, the contribution of pollutants to the municipal storm sewer by storm w ater discharges associated with industrial activity and the quality of storm water disch rged from sites of industrial activity.
(b) Prohibit through ordinance, order or similar mean , illicit discharges to the municipal storm sewer;
(c) Control through ordinance, order or similar mean , the discharge to a municipal separate storm sewer of spills, dumping or disposal o materials other than storm waters;
(d) Control through interagency agreements among c applicants the contribution of pollutants from one portion of the municipal system t another portion of the municipal system;
(e) Require compliance with conditions in ordinance , permits, contracts or orders; and
(f) Carry out all inspections, surveillance and monito ing procedures necessary to determine compliance and non-compliance with perm t conditions including the prohibition on illicit discharges to the municipal separ te storm sewer.

(9) A description of a program to monitor and control pollutants in storm water discharges to municipal systems from ...industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. 40 CFR 122.26(d)(2)(iv)(C). Similar provisions exist for construction inspection and enforcement programs. See e.g. 40 CFR 122.26(d)(2)(iv)(D).

(10) The location of any major outfall that discharges to waters of the United States that was not reported under 40 CFR 122.26(d)(1)(iii)(B)(1), including an inventory of the name, address, and a description (such as SIC codes) which best reflects the principal products or services provided by each facility which may discharge to the MS4 stormwater associated with industrial activity. See 40 CFR 122.26(d)(2)(ii). This information is obviously critical to the Board's implementation of the industrial stormwater program, which by all accounts currently fails to include thousands of facilities in the Los Angeles region.

(11) Characterization data as described by 40 CFR 122.26(d)(2)(iii), including sampling analysis for the listed organic, toxic and other pollutants..

(12) Estimates of annual pollutant loads from ALL identified outfalls and the event mean concentration of the cumulative discharges from all identified outfalls during a storm event for BOD, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorous, cadmium, copper, lead and zinc. 40 CFR 122.26(d)(2)(iii)(B).

(13) Estimated reductions in loadings of pollutants from discharges to the MS4 expected as a result of the municipal stormwater quality management program. 40 CFR 122.26(d)(2)(v).

From BayKeeper's perspective it is not acceptable for staff to respond to the above information request as not being necessary due to the EPA's guidance on MS4 permit renewal applications. Indeed, that policy was designed to assist state and federal authorities where the information is already on file with the permitting authority. Moreover, it is merely guidance and cannot override the plain language of the formal regulations contained in 40 CFR 122.26.

Finally, in addition to our prior comments, we would like to highlight the need for this permit to include a prohibition on discharges to Areas of Special Biological Significance. This provision has been in the Ocean Plan for some three decades and should be acknowledged in the permit.

Thank you for the opportunity to participate in the commenting process. If you have any questions, please do not hesitate to contact me.

Sincerely,

Steve Fleischli
Executive Director

R0004903

BULL SHOT SYSTEMS INC.
336 South Occidental Boulevard, Los Angeles, California 90057 (213) 382-450(

July 30, 2001

Dr. Xavier Swamikannu
California Regional Water Quality Control Board
320 West 4th. Street, Suite 200
Los Angeles, CA 90013

Dear Xavier;

From our research over the last ten years, stormwater pollution by trucks is about equal to that from autos.

Without reading and understanding SIC codes, it is not clear from the NPDES drafts if automotive maintenance and repair includes truck maintenance and repair.

I am a great fan and advocate of user friendly regulations, easy-to-understand manuals and KISS. I would like to ask that the word "automotive", appearing throughout the NPDES draft be modified to one of the following:

"all vehicles"
"automotive and truck"
"cars and trucks"

These three are also the nomenclature used in the technology and trade literature of the vehicle field.

Thank you for the opportunity to provide input on the NPDES drafts.

Sincerely yours,

Arthur R. Cuse
President

R0004904

NOW – YOU CAN HELP STOP THE BIGGEST SINGLE SOURCE OF STORMWATER POLLUTION FROM U.S. CARS AND TRUCKS

- Car and truck stormwater pollution is oil and grease drip from on-board lube systems, leaks through seals, boots, gaskets, exposed fittings and washoff from truck 5th wheels. Please note NOTHING ELSE is included, such as spills, used oil dumping, dealer, service station, and other disposal.

- Assume both car and truck life at 10 years. In 1999, 7,951,737 trucks of all sizes were sold. (Source: *Commercial Carrier Journal*). Sales were lower in 2000 and will be lower in 2001. Multiply 7,951,737 x 10 year life. This indicates 79.5 million trucks on U.S. highways.

- CARS: Wards Communications of Southfield, Michigan, estimates, as of 7-01-99, there were 126.9 million cars on U.S. roads.

- Combining 79.5 million trucks with 126.9 million cars totals 206.4 million. This does not include farm, construction and other off-road vehicles. Wards' combined is 209.5 million vehicles, so 206.4 million seems reasonable.

- The key assumption now is how much leak or drip there is per month from each vehicle. Based on looking for many years at drip quantities, we estimate one oz. per vehicle per month, not including truck 5th wheels.

- 206.4 million vehicles x 1 oz. per month . . . . . 206.4 million oz. per month
  = 12.9 million pounds per month
  = 154.8 million lbs. per year

- Add 100 million pounds of grease pollution from truck 5th wheels each year. The 5th wheel is the bearing connecting a tractor to its trailer. (Source: BSI 1999 data sheet)

- Pollution from above vehicles . . . . . 155 million pounds per year
  ADD: 5th wheel truck pollution . . . . . 100 million pounds per year
  255 million pounds per year
  = 699,000 pounds per day
  = 29,000 pounds per hour

- Please note truck 5th wheel stormwater pollution is about 39% of the total stormwater pollution from the combined cars and trucks above mentioned. Pollution from truck 5th wheels can be easily prevented. Help eliminate polluting, dripping, contaminating grease from trucks. Please insist on the use of Adhesive Lube, plastic plates or 5th wheels with plastic inserts.

- NOTE: We at Bullshot would be pleased to put on a no-cost absolutely non-commercial seminar about the trucking business and trucking technology. No literature we have ever seen covers this source of stormwater pollution. As far as is known, we are the first people to identify as well as quantify it. Just give a call to Los Angeles 213-382-4500, or fax us at 213-382-9300. We look forward to visiting with you.

R0004905

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA FACSIMILE

July 25, 2001

Dennis Dickerson, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Subject: Comments on the Second Draft of the Waste Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles and the Incorporated Cities Therein (Except for Long Beach)

Dear Mr. Dickerson:

The California Coastal Commission appreciates the opportunity to comment on a subject that has long been of high priority to the Coastal Commission: contaminated storm water runoff and its prevention. We applaud your vision and leadership and strongly support the second draft of the Los Angeles Waste Discharge Requirements for the Municipal Storm Water Mitigation Plan.

Every day precious coastal and marine resources such as wildlife and recreational opportunities are adversely affected by nonpoint source pollution transported to our coastal waterways. The constant flow of contaminants washed through storm water drains and the potent plumes of contaminants from storm events endanger all marine life as well as impact public access to the beach. The good news is that this is preventable; and the great news, we think, is that the amended SUSMP permit will allow us to see cleaner waters in the very near future.

The Coastal Commission has long been committed to reducing the nonpoint source pollution in our coastal environment; this mission is inherent in all of the work that we do. Primarily, the Coastal Commission's dedication to eliminating urban runoff centers around our partnership with the State Water Resources Control Board and the Regional Water Quality Control Boards in implementing the State's coastal Nonpoint Source Pollution Control Plan. Our commitment also extends to a variety of programs including the Boating Clean and Green public education program and the Model Urban Runoff Program.

The Municipal Storm Water and Urban Runoff Discharge guidelines are a great step towards the mititgation of nonpoint source pollution and urban runoff, and towards the eventual restoration of the ecological integrity of our coastal waters. The addition of retail gasoline outlets and environmentally sensitive areas to the development projects

necessitating permits were critical inclusions. Both of these additions will help preserve the ecological integrity of our land and coastal environment. The permit was greatly strengthened by the addition of both flow-based and volume-based calculations of storm events.

We would encourage the LARWQCB to continue to look for ways to mitigate runoff from all development projects, including those that are exempt in this review. Just as we believe all developments, no matter how small, may contribute to urban runoff and nonpoint source pollution, we also believe there are common sense and simple means of reducing runoff from small developments. In example, the development projects of fewer than ten unit homes, less than 100,000 square feet industrial/commercial development, and parking lots of less than 5,000 square feet or 25 parking spaces. Moreover, the Coastal Commission would encourage you to periodically assess the cumulative impact of development not currently covered under the permit. We suggest including such language and provisions as the requirement of permittees to revise their General Plans to include water quality and watershed protection principles.

Please refer to San Diego's Municipal Storm Water Permit sections F.1.a. (1) to (8) for suggestions of such provisions. Some pre-structural management practices you might want to consider include, but are not limited to, a) minimizing the amount of impervious surfaces in areas of new development; b) implementing pollution prevention methods supplemented by pollutant source controls and treatment; c) preserving, and where possible, creating or restoring areas that provide important water quality benefits such as riparian corridors, wetlands, and buffer zones; and d) limiting disturbances of natural water bodies and natural drainage systems caused by development. Adding such language will help minimize the effects of development projects exempt from the SUSMP requirements.

The continual encroachment upon environmentally sensitive habitat areas is of great concern to us, and we would encourage you to include provisions that limit the extent to which these habitats will be developed in the future. Environmentally sensitive areas are those habitats cited for ecological importance or rarity, and the protection of such systems is strongly recommended.

We applaud your work on the SUSMP, for it is an important step towards attaining the goal of healthy, clean watersheds and beaches. The Coastal Commission looks forward to our continued partnership with you on these issues.

Sincerely,

for
Jaime C. Kooser, Ph.D.
Deputy Director
Energy, Ocean Resources, and Water Quality

Winston H. Hickox
Secretary for Environmental Protection

California Regional Water Quality Control Board

Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, CA 90013
Phone (213) 576-6600 FAX (213) 576-6640

Gray Davis
Governor

TO: Xavier Swamikannu

FROM: Nonpoint Source Unit

DATE: August 6, 2001

SUBJECT: Comments on Second Draft – County of Los Angeles Municipal Storm Water NPDES Permit

Members of the Nonpoint Source Unit have reviewed the Second Draft of the Los Angeles Municipal Storm Water NPDES Permit. In response to your request for comments, the following comments have been made:

FINDINGS

(A.) This section covers discharges to storm drain systems and explains that these discharges flow to water courses within the LACFCD and into receiving waters of the LA Region. Will the permit cover illicit discharges directly to a receiving water (i.e., river or bay) of a storm drain system?

(C.1) (iv) motor freight - How will the MS4 address the motor freight industry, especially in the event of a spill by an independent truck driver who is under contract to an Industrial Permittee, but the spill does not occur within the permittee's designated site map/area?

(E.18) The creation of structural or treatment control BMPs for storm water mitigation in waters of the STATE is not permissible. Waters of the state are inclusive of waters of the U.S., and should be included in this permit.

Also, storm water treatment and/or mitigation in accordance with SUSMP and any other requirements of this ORDER must occur prior to the discharge of storm water into a water of the STATE.

(E.20) There are six Watershed Management Areas (WMAs) listed, not five as specified.

Part 3. STORM WATER QUALITY MANAGEMENT PLAN (SQMP) IMPLEMENTATION

(F.1.p) An amendment or adoption of a Permittee-specific storm water and urban runoff ordinance to enforce all requirements of the permit should be mandatory.

(H.1.) Change to: Permittees shall possess the necessary legal authority to prohibit non-storm water discharges, to the maximum extent practicable, to the storm drain system or receiving water bodies, including, but not limited to:

(H.1.f) Add: "Brominated water". Bromine is slated to be marketed as a chlorine substitute. It is a direct chemical cousin to chlorine and has similar beneficial as well as deleterious properties.

Add: "and chlorinated/brominated water generated in the course of industrial, commercial, confined animal or agricultural sanitizing activities."

(H.1.j.1) Add: "synthetic material waste generated by the course of urban or wildland fire."

(H.1.j.2) Add after "banned": "or unregistered". Either delete "fungicide or herbicide" or include the family use names of all pesticides, including acaricides, avicides, nematicides, and rodenticides.

Add: "Other chemical plant input including fertilizers, growth hormones, and soil/crop amendments.

(H.1.j.3) Add: "and food processing" before "wastes".

(H.1.m) Add: golf courses, large private and public landscaped properties (>1 ac.), and agricultural lands. The tile drains, tailwater, nursery and greenhouse effluent from these developments emit high concentrations of pesticides, nutrients, and trash.

Part 4. SPECIAL PROVISIONS

(B) The first sentence refers to a five-year education plan. It might help to know what the plans components are.

The second sentence states "permittees shall work collaboratively to implement...". This statement might be changed to " work collaboratively with stakeholders to implement..."

(B.c.) Add "in order to measurably change behavior and societal negligence of target audience by encouraging stewardship and implementation of appropriate solutions."

A fourth objective should be added to include, "To enhance public participation and coordination of watershed planning efforts for the LA River and its tributaries."

(B.1.e) The last sentence should include, "Outreach material shall include information on pollutants, sources of concern, and source abatement Best Management Practices (BMPs)."

(C.4.a.) A fifth field should be added to include a narrative description of the types and quantities of wastes produced at each facility, and the disposal method utilized.

(C.4.e.) Discharges of storm water runoff from construction sites should be added to the industrial and commercial sites within the Permittees jurisdiction.

(D.2) Peak flow criteria are to be developed in order to prevent downstream erosion and protect stream habitat. In controlling post-development peak storm runoff with detention basins or other structures, the natural erosion processes of the drainage systems can be altered. The impacts associated with preventing erosion from occurring should be considered. If downstream erosion is prevented, habitats could be altered and a depletion of beach sand at the end of the drainage system can occur.

(D.7.a.8) Add: "to include golf courses and large landscaped areas >1ac."

Add: "D.7.a.9. Outdoor handling or storage of construction materials."

Add: "D.7.a.10. Outdoor handling or storage of agricultural materials."

(D.8) Include land conversion projects (e.g., one type agricultural activity to a different type; agriculture to housing development).

(D.9.p) Add after "developments": "'to include commercial, horticultural, residential, and agricultural types' subject to SUSMP..."

(D.9.e) Add after "post-construction": "'on-going agricultural or horticultural', structural or treatment control BMPs."

(D.12.a) Add after "construction": "'and development' on storm water runoff"

(D.12.b) Add after "construction": "'and development' activity on storm water runoff"

(E.p) Add after "construction": "'and development' activity at all construction..."

Add after "construction": "'and development' sites within its jurisdiction."

(G.) Illicit Connections and Illicit Discharges Elimination Program - Will the MS4 address illicit discharges from an independent truck driver (in route) who is contracted to a facility covered under an industrial permit?

Part 5. Definitions

("Dechlorinated Swimming Pool Discharge") Add: "bromine" after "chlorine".

("Development") Add: "land conversion projects that disturb soil"

("Discharge of a pollutant") Why are vessels or other floating craft excluded from the statement: Any addition of any pollutant or combination of pollutants to the waters of "the contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation?

("Disturbed Area") Add: "tillage and soil disturbance"

("Hillside") Change: "25%" to "15%". Several counties in the state are adopting this lower number taking into consideration the rate of land conversion activities, highly erodible soils, liquidity factors.

(Pollutants) Add: Animal wastes should include discharges from food processing facilities.

General Staff Comments and Clarifications

How will the MS4 permit address storm water or illicit discharges flowing directly into a receiving water body or water of the State, rather than the storm drain system?

If an overlap exists between the industrial and municipal permits, who will be responsible for ensuring compliance with the permit conditions? (i.e., For example, in the Los Angeles Harbor, a portion of the harbor is included under the jurisdiction of the industrial permittee, will the municipal permit cover those areas of the harbor not covered by the industrial permit?) Is there any hierarchy of coverage, if so is it outlined?

Will facilities not covered under the industrial permit be covered under the municipal permit? Have those facilities not covered by either permit been identified?

CALIFORNIA WATER SERVICE COMPANY
1720 NORTH FIRST STREET • SAN JOSE, CA 95112-4598 • (408) 367-8200

July 31, 2001

RECEIVED
2001 AUG -6 P 4:41

Dr. Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Subject: NPDES No. CAS004001
County of Los Angeles Municipal Storm Water NPDES Permit
Second Draft (June 29, 2001)

Dear Dr. Swamikannu:

The California Water Services Company (CWSC) appreciates the opportunity to provide comments on the Second Draft Los Angeles County Municipal Stormwater NPDES Permit, NPDES Permit No. CAS004001 (Second Draft Permit). We hope you find these comments constructive with your preparation of a tentative permit.

The CWSC provides potable water service to over 500,000 residents, commercial, and industrial users throughout the Los Angeles County area. A large amount of this water is provided from a series of 34 groundwater wells located within the service area. Miscellaneous discharges of potable water are infrequently generated from pump testing required by the California Department of Health Services, testing of idle and standby wells, well redevelopment, line flushing, and reservoir draining. The water from these miscellaneous discharges is typically discharged to surface streets and flows to municipal stormwater catch basins.

Presently, such discharges are covered under the existing Los Angeles County Municipal Storm Water Permit, Order No. 96-054, NPDES No. CAS614001, Part 2, Section II.C.2 which states,

> "*Conditionally Exempted Dischargers...Potable water sources provided the discharges are managed in accordance with an approved industry-wide Standard Pollution Prevention Practices developed by the American Water Works Association, California-Nevada Section, or equivalent document: and in compliance with any requirements established by the Permittee(s)*".

The Second Draft Municipal Stormwater NPDES Permit has eliminated the language referenced above specific to potable source water conditionally exempted discharges. The CWSC is concerned with the removal of the exemption language within the Second Draft Permit. The following summarizes our concerns and comments associated with the Second Draft Permit:

1) Miscellaneous potable water discharges from the CWSC system are infrequent and unpredictable;

2) As presently written within the Second Draft Permit, miscellaneous potable water discharges are not included under the Storm Water Permit language, and individual NPDES coverage may be required for each discharge that reaches a surface water body. Submittal of a Report of Waste Discharge for individual NPDES permitting for non-exempted potable water discharge within our service area would inundate Regional Board staff and be a costly and time consuming process which would ultimately be passed on to the consumer;

3) The Regional Board has not specifically developed a General Order NPDES permit that would allow for an expedited, low cost permitting process for miscellaneous potable water discharges. A General Order Permit is available for untreated groundwater derived from well development and is loosely interpreted by Regional Board staff to accommodate other operation and maintenance issues associated with groundwater supply wells but does not specifically cover potable water discharges;

4) The CWSC has been using best management practices in concert with the existing stormwater permit for the past five years to successfully manage miscellaneous potable water discharges to storm drains;

5) The Second Draft Permit allows exemptions for the dewatering of lakes and decorative fountains. It is unclear to CWSC how these types of discharges are much different from a miscellaneous potable water discharge. In many cases chemicals are added to decorative fountains and lakes to deter algae growth and provide artificial coloring. In comparison to the decorative lakes and fountains discharge, miscellaneous untreated potable groundwater discharges described within this letter are benign and do not present a threat to aquatic life; and.

6) Page 52 of the Second Draft Permit defines "*Potable Water Distribution Systems*" as "*...sources of flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, well development, pump testing fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and wells*". However, page 22 of the Second Draft Permit provides a Category C exemption for "*water line flushing of potable water distribution systems*", but does not specifically identify other miscellaneous potable water distribution system discharges as defined on page 52.

Based on these concerns, CWSC respectfully requests the Regional Board to reconsider the existing language for the Category C exemptions of the Second Draft Permit and either (1) retain the language of the existing conditionally exempted discharge which is allowed under the current permit (Order No. 96-054, NPDES No. CAS614001, Part 2, Section II.C.2) as previously cited above; or, (2) include discharges from *Portable Water Distribution Systems* (as defined on Page 52 of the Second Draft Permit) within the Category C exemption

The CWSC applauds the efforts of the Regional Board staff in the preparation of this important permit and looks forward to receiving a copy of the tentative permit once it is available. If you have any questions or need additional information, please call Leah O'Connell at (408) 367-8377.

Sincerely,
CALIFORNIA WATER SERVICE COMPANY

Chet Auckly, R.E.H.S.
Director of Water Quality and Environmental Affairs

cc: Dennis A. Dickerson, Executive Officer, Region 4, California Regional Water Quality Control Board
Wendy Phillips, Storm Water Section Chief, Region 4, California Regional Water Quality Control Board
Robert Guzzetta, VP Water Quality & Engineering, California Water Service Company

CENTRAL BASIN WATER ASSOCIATION

CBWA

RECEIVED

2001 AUG -3 P 2:24

August 1, 2001

Xavier Swamikannu, D.Env.
California Regional Water Quality Control Board
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Subject: NPDES No. CAS004001
County of Los Angeles Municipal Storm Water NPDES Permit
Second Draft (June 29, 2001)

Dear Dr. Swamikannu:

The Central Basin Water Association, representing more than 50 water purveyors, hereby requests that discharges from potable water sources be exempted in the proposed permit under Part 1, Section 2.c, Flows incidental to urban activities. This request is to maintain the following conditionally-exempted discharge which is allowed under the current permit (Order No. 96-054, NPDES No. CAS614001, Part 2, Section II.C.2):

> "Potable water sources provided the discharges are managed in accordance with an approved Industry-wide Standard Pollution Prevention Practices developed by the American Water Works Association-Nevada Section, or equivalent document; and in compliance with any requirements established by the Permitee(s)."

The discharges will be intermittent and generally short in duration and will include discharges from pump tests to obtain pump curves, testing of idle and standby wells (not including discharges from wells which are inactive due to contamination), discharges for water quality analyses required by the California Department of Health Services, line flushing to maintain water quality integrity, reservoir draining and water resulting from main and service repairs as well as fire hydrant repairs.

The continuation of the conditional exemption should not cause contamination problems or cause damage to the environment, as evidenced by the operations of several hundred wells in Central and

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West Basins and San Gabriel Valley during the past five years under the current conditional exemption. The water purveyors are very cognizant of the effects of contaminated discharges, and have worked diligently to clean up and protect the water supplies and maintain the highest water quality while protecting the environment. Without the exemption, a reallocation of personnel and limited financial resources will be required, providing no real benefits to the communities and adding unnecessary costs to the consumers.

We appreciate the opportunity to comment on the Second Draft of the County of Los Angeles Municipal Stormwater NPDES Permit. By working together, we trust that a mutually-acceptable conditional exemption can be established. If you have any questions or need additional information, please call me at (562) 697-6769 or Rick Sase, CBWA staff, at (626) 815-1305.

Sincerely,

CENTRAL BASIN WATER ASSOCIATION

Anthony C. Zampiello
President

cc: Dennis A. Dickerson
Wendy Phillips
CBWA Board of Directors

COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY

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JAMES F. STAHL
Chief Engineer and General Manager

August 6, 2001
File No.: 31-370.10

2001 AUG -8 P 1:33

RECEIVED

Dr. Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Dear Dr. Swamikannu:

Draft Order No. 01-XXX (NPDES No. CAS004001)
Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles and the Incorporated Cities Therein (Except for the City of Long Beach)

The County Sanitation Districts of Los Angeles County (Districts) have reviewed the Second Draft (June 29, 2001) *Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles and the Incorporated Cities Therein (Except for the City of Long Beach)* (Draft Permit). Below are our comments, which can be divided into two categories: general comments and comments directed at specific items in the Draft Permit.

General Comments

- **Dry Weather Diversions**

  The Draft Permit requires: (1) each Permittee to prioritize drains for possible diversion of dry weather flows from areas within their jurisdiction that flow to areas where the public may be impacted (for public health and safety and/or environmental reasons), and (2) the Permittees to collectively review their individual lists and create a watershed-based priority list which will be used for a feasibility study for diversions. The Districts support the concept of prioritizing drains for possible diversions; however, we believe that it is critical to involve from the beginning the leading agency (Los Angeles County Department of Public Works), the Regional Board and POTWs to: (1) avoid duplication of efforts, (2) establish a consistent and regional approach for data collection, and (3) identify all past, present and future studies that may be pertinent. For example, the Districts recently proposed a study on the feasibility of dry weather runoff diversions as a supplemental environmental project (SEP), which would be conducted in response to an Administrative Civil Liability (ACL) that is under consideration by the Regional Board for the Districts' Joint Water Pollution Control Plant (JWPCP). Specifically, in a June 26, 2001 letter submitted to the Regional

Board, the Districts proposed a dry weather runoff characterization study, which would consist of characterizing water quality from storm drains in coastal and other sensitive recreational areas within the Districts' service area to determine the need for and feasibility of routing dry weather runoff from selected storm drains with poor water quality to the Districts' sewerage system. Regional Board staff have informed Districts staff that this proposal will likely be heard in a special hearing by the Regional Board in late August, 2001. Projects such as this may be useful to other permittees and stakeholders that are affected by the proposed permit. The Districts also request that the deadline to create a watershed-based priority list be extended from March 31, 2001 to at least March 31, 2003 to allow all the permitees sufficient time to implement this program. If the SEP is approved, we request that language be added to the Draft Permit to clearly allow for the results of the SEP to be used in the prioritizing effort. Towards this end, we propose that Part 4.F.12.(a) be revised as follows:

> "Each Permittee shall work under the direction of the Los Angeles County Department of Public Works (the lead agency), Regional Board staff and the sewerage agency to prioritize drains for possible diversion of dry weather flows from areas within their jurisdiction that flow to areas where the public may be impacted (for public health and safety and/or environmental reasons). The Permittees shall cooperate and use a regional approach to coordinate the prioritizing effort with Los Angeles County Department of Public Works and the appropriate sewer agencies that have approval discretion over diversion of selected dry weather flows to the sanitary sewer for treatment. The Permittees shall create a watershed based priority list of possible drains for diversion no later than March 31, 2003 and submit a listing of priority diversions to the Regional Board Executive Officer."

- **Economic Considerations**

When issuing any NPDES permit for point source discharges, economic considerations are required to be taken into account under both State and federal law (See 22 USC §§ 1288, 1313, 1315(b), and 64 Federal Register 68722, 68732; Water Code §§ 13000, 13165, 13241, 13224, 13267 and related provisions thereto). The importance of "economic considerations" was specifically recognized by the State Board in Order WQ-2000-11, where the Board found that the maximum extent practical ("MEP") standard requires Permittees to choose effective best management practices ("BMPs"), and to reject applicable BMPs, where the BMPs would not be technically feasible or "the cost would be prohibitive" (State Board Order 2000-11, p. 20.). The Draft Permit is replete with language requiring local municipalities to conduct numerous investigations and inspections, and to provide countless reports to either the Executive Officer or the Regional Board itself. Pursuant to the express requirements of the Porter-Cologne Act, a cost/benefit analysis must be conducted prior to the imposition of such mandates. We request that the Board consider "economic considerations" in issuing the subject Permit, and that it perform the requisite "cost/benefit analysis" required by State law.

- **Use of Collected Data**

The Districts request that the Regional Board be more specific and include details in the Permit on

how monitoring data will be used in assessing the effectiveness of an urban runoff management program. The Districts believe that some of the monitoring requirements may be excessive, such as river toxicity studies. The primary goal of collecting monitoring data should be to determine the performance or effectiveness of stormwater programs. The Districts are concerned that the Draft Permit fails to include appropriate "safe harbor" language particularly for alleged exceedences of water quality objectives. Thus, even if appropriate BMPs were implemented to control pollutants "to the maximum extent practicable," cities may still be subject to enforcement actions and/or third-party litigation.

Comments on Specific Items in the Draft Permit

- **Findings**

  - Finding B.5 states that studies and research have identified storm water and urban runoff as significant sources of pollutants to surface waters in Southern California. This finding should be revised to state specifically that studies and research have identified storm water and urban runoff as significant sources of pollutants to coastal waters in Southern California. The references quoted in this finding all involve coastal waters.

  - Finding E.5 states that the Permit incorporates a cooperative partnership, including the specifications of minimum expectations, between the Regional Board and the Permittees for the inspection of industrial facilities and priority commercial establishments to control pollutants in storm water discharges. Industrial facilities are already regulated under the General Permit for Storm Water Discharges Associated with Industrial Activities and should not also be subject to inspections by multiple agencies for the same purpose.

  - Finding F.4 should be revised to state that the objective of this Order is to reasonably protect the beneficial uses of receiving waters in Los Angeles County. In addition, the objective of this Order should not be to prohibit all non-storm water discharges to the MS4; rather, it is to reduce to the maximum extent practicable the discharge of pollutants. Non-storm water discharges that neither cause or contribute to the exceedance of water quality standards and objectives, nor create conditions of nuisance in the receiving waters should be allowed. If they are disallowed, it is probable that illicit connections to the sanitary sewer system will increase.

  - Finding F.6
    A phased approach is necessary in the implementation of the SQMP. As each phase of the SQMP is implemented, an assessment should be conducted to determine if the next step is still needed.

- **Part 1. Discharge Prohibitions**

  - Item 2
    The list of non-storm water discharges may not include all possible sources. For example, the list does not include water from accidental breaks of water lines such as fire hydrants and potable/reclaimed water lines. Regional Board staff should expand the presented list to include other sources.

- **Part 2. Receiving Water Limitations**

  - Item 3.a
    The Districts request clarification from the Board on this requirement for notification upon a determination that discharges are causing or contributing to an exceedance of an applicable water quality standard. Specifically, if the receiving water is included on the 303(d) list, will this notification requirement be triggered for every pollutant involved? Will the assimilative capacity of the receiving water be taken into account in the determination of whether the discharge is causing of contributing to the exceedance? How will the implementation of the proposed permit be coordinated with the development and implementation of TMDLs in the Region? Also, the requirement for BMP implementation should state that permittees are required to implement BMPs to the maximum extent practicable and to consider technical feasibility, cost and benefit when selecting BMPs.

- **Part 3. Storm Water Quality Management Plan (SQMP) Implementation**

  - Item A
    The Districts are concerned that the SQMPs that will be developed may contain requirements that go beyond those of the Industrial Activities Storm Water General Permit or the Construction Activity Storm Water General Permit. Some of the requirements in the Draft Permit are already duplicative of those in the two above referenced permits.

  - Item F
    It is important to include other stakeholder participants in the Watershed Management Committees (WMCs), since they will bring other perspectives that may be helpful.

  - Item H.1
    All these prohibitions will result in more water and wastewater being disposed of in the sanitary sewer through either permitted connections, illicit connections or septic waste dump stations. The Districts are concerned about the impacts these discharges will have on our sewerage system capacity and our compliance with future water quality requirements. In particular, item m duplicates the requirements of the Industrial Activities Storm Water General Permit and the Construction Activity Storm Water General Permit, which are overseen by the State Board and the Regional Board. Also, would the proposed permit prohibit discharges from swimming pools even if there is no residual chlorine left? Regional Board's list of prohibitions for swimming pools and other items (i.e., item h prohibiting runoff from impervious surfaces from commercial/industrial facilities) is onerous and may impact the sewerage system. These impacts to POTWs should not be ignored.

  - Item E
    Each Permittee is required to implement a program to control runoff from construction activity at <u>all</u> construction sites within its jurisdiction. Currently, construction projects which disturb more than 5 acres (and effective 2003, construction projects which disturb more than 1 acre) of land are already subject to the General Permit for Discharges of Storm Water Associated with Construction Activity and fall under the jurisdiction of the State Board and the Regional Board. Construction projects should not have to be subject to

multiple agencies overseeing the same aspect (i.e., stormwater).

- **Part 4. Special Provisions**

  - Item F.3

    The Districts agree with the Regional Board that it is necessary for permittees to implement a response plan for overflows of the sanitary sewer system within their respective jurisdictions. However, the Districts believe that the Regional Board may have overstepped its authority when it prescribed that permittees respond to overflows by containment. Many factors affect the decision of how to respond to an overflow (availability of personnel and equipment, location of overflow, etc.), and the decision should rest with the people in the field.

    The Draft Permit states that "... Permittees which own and/or operate a sanitary sewer system ... shall also implement [items d and e] until such time that the proposed Capacity, Management, Operation and Maintenance Regulations (CMOM) are promulgated by the USEPA. After which, the CMOM regulations shall be enforceable under this Order until such time they are added into an individual NPDES permit." The Regional Board cannot prospectively incorporate regulations into permits by reference (See Calif. Association of Nursing Homes v. Williams, 4 Cal. App. 3d 800, 814 (3d. Dt. 1970); Decision re: Approval and Disapproval of a Rulemaking Action for the State Implementation Policy for the California Toxics Rule, OAL File No. 00-03-17-15 (April 28, 2000)). Notwithstanding this major issue, item d needs to be revised for clarification. The Districts believe that permittees should not be penalized if a spill occurs and enters the MS4, but is contained in the MS4 and prevented from reaching the receiving waters.

The Districts appreciate the opportunity to comment on the Second Draft Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles and the Incorporated Cities Therein (Except for the City of Long Beach). If you have any questions or concerns regarding the information, please contact June Nguyen at (562) 699-7411, extension 2831.

Very truly yours,

James F. Stahl

Jose A. Saez
Supervising Engineer, Monitoring Section
Technical Services Department

JAS:JN:dhs

cc: Dennis Dickerson - LARWQCB

L:\NGUYEN\stormwater\municipal permit\comments to municipal permitFINAL.wpd:01.08.06

naiop
National Association of Industrial and Office Properties
The Forum for Commercial Real Estate

SoCal Chapter

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August 2, 2001

Dennis Dickerson, Executive Officer
California Regional Water Quality Control Board -
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

RECEIVED
2001 AUG -6 P 4: 03

Attn: Xavier Swamikannu, Ph.D.

Re: Comments on "*Second Draft* (June 29, 2001), LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT THE CITY OF LONG BEACH)"

Dear Mr. Dickerson and Dr. Swamikannu:

On behalf of NAIOP SoCal, The National Association of Industrial and Office Properties, we would like to acknowledge the time, effort and expertise that went into developing the "*Second Draft* (June 29, 2001), LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDER No. 01-XXX (NPDES No. CAS004001) WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES AND THE INCORPORATED CITIES THEREIN (EXCEPT THE CITY OF LONG BEACH)" (Proposed Permit). NAIOP is a dynamic network of 46 chapters representing more than 9,000 commercial real estate members across the United States and Canada. For 34 years, NAIOP has represented the interests of developers, owners, investors, managers, brokers, attorneys, architects, lenders, contractors and public officials in protecting and shaping the commercial real estate industry. In January 2000 the Los Angeles Chapter and the Orange County Chapter merged creating the largest voice for the Southern California commercial real estate industry. The NAIOP SoCal Chapter encompasses nearly 600 members making it the second largest NAIOP chapter in the United States and the second largest commercial real estate trade organization in Southern California.

R0004922

Thank you very much for the opportunity to comment on the Proposed Permit. We are very appreciative of your efforts to help protect water quality for the benefit of the citizens of our region. We feel this Permit has many areas that will go a long way toward meeting our water quality goals, however we feel that there are also several areas that will not go very far in addressing our water quality concerns. Not only will several of the requirements in the Permit have minimal benefit to our water quality, but they will also have a negative impact to jobs, housing, the economy, and potentially human health. It is very important that we balance the need to protect our environment, the economy, and the well being of humans living in and visiting southern California.

1. **Comment**: We believe that site-by-site mitigation is not effective in addressing water quality issues; rather, we believe regional or watershed based solutions are more appropriate. Although the Proposed Permit has options for regional solutions, some areas discourage it. Certain provisions have the effect of requiring strict compliance with water quality objectives (Findings E.18 FEDERAL, STATE AND REGIONAL REGUALTIONS, page 10). Since natural treatment systems may not solve all remaining impairment (even with effective non-structural BMPs at developments), these provisions may impede the use of watershed-based solutions. The provisions regulate pollutants entering - not just exiting - the public storm drains. Since watershed-based BMPs generally control pollutants after they have already entered the MS4, these provisions may also prevent the use of watershed-based solutions.

   Recommendation: A more balanced approach would focus less on the development site and more on a regional scale. We feel that there may ultimately be a wide scale infrastructure problem that should be addressed before we focus on potential point sources. Unfortunately, focusing on every potential source of pollution is not pragmatic. Instead, we feel further studies are necessary to determine the exact pollutants that are threatening water quality in specific watersheds. Once these contributors have been determined, the Board should then assign specific BMPs that mitigate those pollutants on a regional infrastructure level. For example, a study by Stanley Grant of the University of California, Irvine indicated that urban runoff appears to have relatively little impact on surf zone water quality in Huntington Beach, whereas, enterococci bacteria (from bird feces) generated in a tidal saltwater marsh located near the beach significantly impact surf zone water quality. A copy of this study is attached as a supplement to this comment letter. It is important to research the impacts of storm water runoff on a regional level since new studies are indicating other sources of water pollution other than urban runoff.

2. **Comment:** NAIOP SoCal is concerned over a number of serious issues raised by the Proposed Permit. These concerns include the Regional Board's invasion of the land use authority of the local governmental permitees by requiring them to

impose land use restrictions through the Storm Water Quality Management Plan ("SQMP") and the incorporation of Board Resolution No. R 00-02, (the SUSMP) into the Permit. Congress made it clear in the very first section of the Clean Water Act that the CWA, including the NPDES program, is not meant to infringe on local land use authority:

> It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use (including restoration, preservation, and enhancement) of the land and water resources . . . .

The US EPA's position on this issue is clear. EPA has said flatly "EPA recognizes that land use planning is within the authority of local governments." 64 Fed.Reg. 68761, December 8, 1999. Under California law, it is the local government, cities and counties, and not state executive agencies, which exercise land use authority. Through the SUSMP provisions of the Second Draft, the Regional Board is attempting to regulate local land use by requiring the Co-permitees to impose constraints on land use. The Board's land use measures will require that local governments amend their General Plans and modify their CEQA project approval processes to require new development and redevelopment projects to adhere to the SUSMP provisions.

Recommendation: Convert the SUSMP provisions into an option to be considered by Co-permitees in the exercise of their discretion over land use matters, but do not make the adoption of SUSMPs mandatory. Focus the Permit on conditions that require the Co-permitees to reduce the discharge of pollutants to the maximum extent practicable (MEP).

3. **Comment**: Part 2, RECEIVING WATER LIMITATIONS, paragraph 2, page 16, provides that

> (1) Discharges from the MS4 that cause or contribute to the violation of water quality standards or water quality objectives are prohibited. (2) Discharges from the MS4 of storm water, or non-storm water, for which a permitee is responsible for, shall not cause or contribute to a condition of nuisance.

This provision should be revised to incorporate the Board's recognition of the limitation of the authority of the Co-permitees. Additionally, if this language is left in the permit, both of these items will create a situation where all dischargers would be in non-compliance of this Order from day one of implementation.

National Association of Industrial and Office Properties
SoCal Chapter

2900 Bristol Street, Ste. G-105, Costa Mesa, CA 92626
(949) 380-3300; (714) 979-0403 (f)

Recommendation: We suggest that this provision be revised to read as follows: "Discharges from the MS4 of storm water, or non-storm water, for which a Co-permitee is responsible, subject to the limitations on permit coverage set forth in Findings D 2 and 3, above, shall not cause a condition of nuisance."

4. **Comment**: In Part 5, DEFINITIONS, on page 52, "Redevelopment" is defined to mean "land-disturbing activity that results in the creation, addition, or **replacement** of 5,000 square feet or more of impervious surface area on an already developed site." The definition further provides that "Redevelopment" includes exterior remodeling. These aspects of the definition of "Redevelopment" conflict with the EPA's definition of the term. In promulgating the Phase II final rules, EPA stated

> EPA intends the term "redevelopment" to refer to alterations of a property that change the "footprint" of a site or building in such a way that results in the disturbance of equal to or greater than 1 acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls (64 Fed.Reg. 68760, December 8, 1999).

We are concerned with the word "replacement" in the definition of redevelopment found in the Permit. The redevelopment definition was a main point of contention for the SUSMP appeal at the State Water Resources Control Board (State Board). The State Board rendered a decision regarding the redevelopment definition. Since no new evidence or information has emerged since the State Board SUSMP appeal decision, there remains no reason to differentiate from their definition of redevelopment, which did not include "replacement" as part of the redevelopment definition.

Recommendation: We request removal of the word "replacement" from this definition so as to remain in compliance with the State Board Order emanating from the SUSMP appeal. We suggest the definition of Redevelopment should be changed to:

> alterations of a property that change the "footprint" of a site or building in such a way that results in the disturbance of equal to or greater than 1 acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls.

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5. **Comment**: In Section E. DEVELOPMENT CONSTRUCTION PROGRAM, page 35, we are concerned with the language since it is not consistent with the Development Construction Model Program approved by your Board.

   Recommendation: We suggest changing the category threshold for projects requiring a Local SWPPP to projects between 2 acres and 5 acres. We also suggest changing section 1.a to read, "Will result in soil disturbance of two acres or more in size or." Section 1.b should be deleted because, as the State Water Resources Control Board stated in response to the SUSMP appeal, environmentally sensitive areas are over-regulated as it is. Section 1.c should be changed to read, "Is located in a hillside area and soil disturbance will occur at the project site in the rainy season." This will help maintain consistency with the Development Construction Model Program that was developed with a multi-stakeholder effort and eventually adopted by your Board.

   As for the minimum requirements to be implemented at all construction sites, we suggest adding Maximum Extent Practicable (MEP) wording to all of the requirements, as there needs to be this threshold to comply with the intent of the Clean Water Act. We also suggest deleting the requirement for "limiting of grading scheduled during the wet season." The intent of construction regulations is to keep sediments on site. The sites are already required to implement BMPs necessary to keep sediments on site. Grading should not be restricted, but should only require sediment and erosion control BMPs, which meet MEP standards of implementation.

6. **Comment**: In Part 4, DEVELOPMENT PLANNING PROGRAM, page 29, the use of the words "minimize" and "maximize" are overly broad and subject to wide discretion and problematic enforcement. Without incorporating the Maximum Extent Practicable (MEP) wording, the language invites litigation as there needs to be this threshold to comply with the intent of the Clean Water Act.

   Recommendation: We suggest inserting the wording "to the extent technically and economically feasible" after each of the words "minimize" and "maximize." The addition of MEP language must be incorporated.

7. **Comment**: Based on information presented by Marco Medsker from the State Board for Disease and Vector Control, NAIOP SoCal is concerned with the possible negative impact BMPs may have on people's health and well-being. A study conducted with CALTRANS determined some BMPs provided excellent breeding grounds for vectors, namely mosquitoes. These vectors have the potential of infecting people with diseases that would otherwise be avoided provided that these BMPs were not built. Therefore, these BMPs may ultimately threaten the health of Southern Californian residents and tourists.

National Association of Industrial and Office Properties
SoCal Chapter

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Recommendation: We suggest re-evaluating the BMPs currently approved by the Board. If these BMPs provide habitats for disease-spreading vectors, it will be important to eliminate their use. Further research may be necessary to determine new BMPs to be implemented at a regional level.

Based on the foregoing, we respectfully request that you consider the ramifications of having your Board adopt the Proposed Permit in its current format. We have raised many issues that should be thoughtfully reviewed and addressed. We are very willing to discuss these issues in more detail at any time.

We urge you to thoroughly review the comments we have provided and to concentrate on what is best for water quality and the livelihood of our society. We thank your for your consideration of our comments.

If you have any questions, please feel free to contact our Storm Water Project Coordinator, Michelle Drousé at (949) 380-3300 x21.

Sincerely,

Guy Johnson
President
NAIOP SoCal

A. Martin Stradtman
Legislative Affairs Committee Chairman
NAIOP SoCal

National Association of Industrial and Office Properties
SoCal Chapter

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SOUTHERN CALIFORNIA WATER COMPANY

630 EAST FOOTHILL BLVD. • SAN DIMAS, CALIFORNIA 91773 • (909) 394-3600 • FAX (909) 394-0711

August 6, 2001

Mr. Dennis A. Dickerson
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Subject: **NPDES No. CAS004001**
County of Los Angeles Municipal Storm Water NPDES Permit
Second Draft (June 29, 2001)

Dear Mr. Dickerson:

The Southern California Water Company (SCWC) appreciates the opportunity to comment on the Second Draft (June 29, 2001) of the County of Los Angeles Municipal Stormwater NPDES Permit. As a major potable water purveyor throughout California, SCWC operates 12 water systems in Los Angeles County and provides potable water service to more than 500,000 persons.

As a water purveyor, we are required to provide a continuous and reliable supply to our customers and the water we serve must meet all drinking water standards. There are numerous operational and maintenance related activities which are critically important to ensure that we meet these requirements. Annually, we deliver approximately 35,000 million gallons of water; about 5% of this supply (i.e. 1,750 million gallons) is used for various operational and maintenance (O&M) activities and not delivered to our consumers. These activities include but are not limited to:

- Discharge associated with well development, testing and purging
- Discharge from maintenance of distribution system pipelines, tanks, reservoirs, etc.
- Discharges from hydrostatic testing of vessels, pipelines, tanks, etc.
- Discharges from fire hydrant flow and testing

The water from these activities in general meets drinking water standards. All activities are carried out per nation-wide as well as State of California Waterworks Standards. Most of the discharges are almost impossible to schedule in advance and pose a de minimus threat to water quality within the basin.

Under Part 2, Section II c of the current permit (Order NO. 96-054, NPDES No, CAS614001), such discharges are conditionally exempt from compliance,

> *The following non-storm water discharges need not be prohibited.*
> *. . . c. Potable water sources provided the discharges are managed in accordance with an approved industry-wide Standard Pollution Prevention Practices developed by the American Water Works Association, California-Nevada Section, or equivalent document; and in compliance with any requirements established by the Permittee(s);*

The Second Draft of the proposed permit does not contain similar language. Rather, it suggests that separate individual or general NPDES permits cover these discharges for non-storm water discharges. We believe that this is unnecessary and that these potable water discharges should be exempt, just like the Category C discharges in Part 1, Section 2 c) from irrigation runoff, water line flushing, air conditioning condensate, de-chlorinated swimming pool discharges, dewatering of lakes and decorative fountains, non-commercial car washing, and sidewalk rinsing.

We appreciate your careful consideration of these comments. We look forward to working with you to establish mutually acceptable conditions, while maintaining and promoting water quality.

Please call me at 909-394-3600 extension 624 if you need more information or have any questions.

Sincerely,

William C. Gedney
Water Quality and Environmental Manager

cc: File
D. Kruger
C. Chau
K. Cohen
J. Wen

South Montebello Irrigation District

Since 1922

A PUBLIC CORPORATION

[illegible] WASHINGTON BOULEVARD
MONTEBELLO, CA 90640

Telephone Numbers

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August 6, 2001

Dr. Xavier Swamikannu
California Regional Water Quality Control Board Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Subject: NPDES No. CAS004001 County of Los Angeles Municipal Storm Water NPDES Permit Second Draft (June 29, 2001)

Dear Dr. Swamikannu:

South Montebello Irrigation District, one of more than 50 water producers in the Central Groundwater Basin, and serving 15,000 plus customers, hereby requests that discharges, (Order No. 96-054, NPDES No. CAS614001, Part 2, Section II.C.2):

> "Potable water sources provided the discharges are managed in accordance with an approved Industry-wide Standard Pollution Prevention Practices developed by the American Water Works Association Cal-Nevada Section, or equivalent document; and in compliance with any Requirements established by the Permitee(s)."

The discharges will be intermittent and generally short in duration and will include discharges from pump tests to obtain pump curves, testing of idle and standby wells (not including discharges from wells which are inactive due to contamination), discharges for tests required by the California Department of Health Services, water line flushing, reservoir draining and water from leaks and hydrant repairs.

The continuation of the conditional exemption should not cause contamination problems or cause damage to the environment, as evidenced by the operations of several hundred wells in Central and West Basins, and San Gabriel Valley during the past five years under the current conditional exemption. The water producers are very cognizant of the effects of contaminated discharges, and have worked diligently to clean up and protect the water supplies and the environment. Without the exemption, a reallocation of amounts of the limited resources will be required, providing no real benefits to the communities and adding unnecessary costs to the consumers.

We are pleased to comment on the 2nd Draft of Los Angeles Municipal Storm water NPDES Permit and would be pleased to offer any information needed that we can provide. Please call me at (323) 721-4735 if I can be of assistance.

Sincerely,

Patricia D. Sinclair
Corporate Secretary

R0004930

State of California

Department of Health Services

Memorandum

August 6, 2001

To: Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

From: Charles Myers
Supervising Public Health Biologist
Department of Health Services
Vector-Borne Disease Section
2151 Convention Center Way, Suite 218B
Ontario, CA 91764-5429
(909) 937-3440

Subject: Comments on the 2nd Draft of Order No. 01-XXX (NPDES No. CAS004001) "Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County and Los Angeles and the Incorporated Cities therein (Except for the City of Long Beach)"

The California Department of Health Services, Vector-Borne Disease Section (VBDS) is responsible for assisting local vector control agencies in the prevention and control of vector-borne disease. In 1998, VBDS and local vector control agencies in Los Angeles and San Diego Counties entered into a Memorandum of Understanding (MOU) with Caltrans to provide technical expertise regarding vector[1] production and the potential for vector-borne diseases within its stormwater Best Management Practice (BMP) Retrofit Pilot Study. The MOU required VBDS to establish a comprehensive vector surveillance and monitoring study, develop vector abatement protocols, and recommend appropriate engineering modifications to Caltrans BMPs that would reduce the potential of these structures to produce or harbor vectors. In addition, VBDS conducted studies to identify which designs were least conducive to vector production.

Extensive monitoring data has established that BMPs that hold standing water, even for a short period of time, may pose a nuisance and public health threat by providing vector habitat, particularly for mosquitoes. Under Section 2270 of the Health and Safety Code, vector control agencies have the authority to take all necessary or proper steps for the control of vector species. This includes inspection, abatement, and treatment of any public nuisances on any property. Public nuisances include all sources of standing

[1] California Health & Safety Code, Section 2200. "Vector" means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, other insects, ticks, mites, and rodents.

water and other breeding places for mosquitoes, flies, and other vectors. In addition, Section 2270 allows vector control agencies to assess civil penalties where nuisances occur.

With the changes in stormwater management requirements, we expect that many more structural BMPs will be constructed. We would like to take a proactive rather than a reactive approach to the potential vector problems that could occur as a result of the construction of these BMPs. Therefore, we would like for the plans and specifications for new BMPs to be submitted to the local vector control agency or VBDS for review and approval prior to construction, so that any design features that could result in the breeding of vectors may be eliminated or modified wherever possible. This could ultimately result in cost savings to the property owner and project proponent by reducing the need for ongoing vector surveillance and control and possible legal action. We do, however, recognize that some BMPs will require ongoing surveillance and control.

To ensure that plans and specifications for BMPs are adequately reviewed, and steps are taken to prevent breeding of vectors, we would like you to incorporate the following changes into the proposed tentative Order No. 01-XXX for Los Angeles County.

1. Page 12, after finding number E. 25, add the following provision:

   Certain BMPs implemented or required by municipalities for urban runoff management may create habitat for vectors (e.g. mosquitoes and rodents) if not properly designed or maintained. Close collaboration and cooperative effort between municipalities and local vector control agencies and the State Department of Health Services during the development and implementation of urban runoff management programs is necessary to minimize potential vector habitat and public health impacts resulting from vector breeding. Nothing in this permit is intended to prohibit inspection or abatement of vectors by the State or local Vector Control agencies in accordance with the Health and Safety Code.

2. Page 22 (Part 3. SQMP Implementation, Legal Authority) after H. 1. p), add:

   q. Prohibit breeding of vectors in BMPs in violation of the Health and Safety Code

3. Page 29 (Part 4. Special Provisions, Development Planning Program) after D. 1. d), add:

   e) Ensure that BMPs are properly designed and maintained in a manner that prevents the breeding of vectors.

4. Page 43 (Part 4. Special Provisions, Public Agency Activities Program) after F. 7. f) (6), add:

   (7) Minimize ponding of water

We appreciate the opportunity to comment on the tentative order and look forward to working with you to ensure that these vector concerns are resolved. If you have any questions, please feel free to contact me by phone or by e-mail at CMyers@dhs.ca.gov.

cc: Jack E. Hazelrigg, Ph.D.
Greater Los Angeles County Vector Control District
12545 Florence Ave.
Santa Fe Springs, CA 90670

Robert Saviskas
Los Angeles County West Vector Control District
6750 Centinela Ave.
Culver City, CA 90230

Kenn K. Fujioka, Ph.D.
San Gabriel Valley Mosquito & Vector Control District
1145 N. Azusa Canyon Road
West Covina, CA 91790

UPPER LOS ANGELES RIVER AREA WATERMASTER

CITY OF LOS ANGELES VS. CITY OF SAN FERNANDO, ET AL
CASE NO. 650079 -- COUNTY OF LOS ANGELES

MELVIN L. BLEVINS – WATERMASTER

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P.O. Box 51111, Room 1463
Los Angeles, CA 90051-0100

July 27, 2001

2001 JUL 30 P 2:20

Dr. Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Dear Dr. Swamikannu:

Renewal of Municipal Storm Water Permits

This letter is in response to your letter of July 20, 2001 soliciting comments regarding the upcoming renewal of the Los Angeles County Municipal Storm Water Permits (permits). Unfortunately, I could not attend the workshop scheduled for July 26, 2001 to deliver my comments in person.

It is my understanding that as part of the permit renewal process, each permittee must have adopted a Standard Urban Storm Water Mitigation Plan (SUSMP). We have had several conversations with Los Angeles Regional Water Quality Control Board (RWQCB) staff regarding our concerns over provisions in SUSMP that apparently require, or at least allow, the infiltration of untreated storm water runoff into the groundwater. As Watermaster for the Upper Los Angeles River Area (ULARA), I have serious concerns over this policy in the groundwater basins within my jurisdiction. A majority of this groundwater is pumped and delivered without any treatment other than chlorination. Infiltration of contaminated runoff into these groundwater basins could inadvertently contaminate this important source of supply.

The Watermaster Office is working closely with the RWQCB on the Technical Advisory Committee of the Los Angeles and San Gabriel Rivers Watershed Council to investigate the effects of stormwater infiltration on groundwater quality. **Until water quality studies indicate otherwise, I request the RWQCB to allow municipalities where groundwater is served to opt out of the stormwater infiltration provision of SUSMP without jeopardizing the renewal of their permits.**

If you have any questions, please contact me at (213) 367-1020.

Sincerely,

MELVIN L. BLEVINS
ULARA Watermaster

c: Mr. Dennis Dickerson, RWQCB Executive Officer
Mr. Ernest Wong, City Los Angeles

Administrative Committee Members
Mr. Fred Lantz, City of Burbank
Mr. Michael Sovich, Crescenta Valley Water District
Mr. Michael Drake, City of San Fernando
Mr. Donald Froelich, City of Glendale
Mr. Thomas M. Erb, City of Los Angeles

Watermaster Staff
Mr. Melvin L. Blevins, Watermaster
Mr. Frederic Fudacz, Special Counsel
Mr. Mark G. Mackowski, Assistant Watermaster
Ms. Patricia T. Kiechler, Administrator

WRD
WATER REPLENISHMENT DISTRICT
OF SOUTHERN CALIFORNIA

August 6, 2001

Mr. Dennis A. Dickerson
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Subject: NPDES No. CAS004001
County of Los Angeles Municipal Storm Water NPDES Permit
Second Draft (June 29, 2001)

Attention: Dr. Xavier Swamikannu

Dear Mr. Dickerson:

The Water Replenishment District of Southern California (WRD) appreciates the opportunity to comment on the Second Draft of the County of Los Angeles Municipal Stormwater NPDES Permit. WRD manages the groundwater in the Central and West Coast Groundwater Basins, which supply water to almost four million people in a service area that covers 420 square miles in southern Los Angeles County. We are responsible for maintaining adequate groundwater supplies, preventing seawater intrusion into the groundwater aquifers, and protecting groundwater quality against contamination. Within the two basins are about 125 active pumpers that produce around 250,000 acre-feet of groundwater from approximately 300 drinking water wells. Groundwater represents about one-third of the water supply consumed in Southern California.

From time to time, these wells are temporarily taken out of service for routine maintenance and repair, when peak demand that certain wells provide are not needed, and for other reasons. Before such wells can be brought back into service and re-introduce water into the purveyor's distribution system, pump tests and bacteriological tests required by the Department of Health Services must be conducted. The tests typically run for 30 minutes with the discharge historically going to the closest storm drain. The waters from these wells have generally met drinking water quality standards for years. The discharged waters do not contain chlorine residuals. They are not discharged in a manner that would cause erosion or any other environmental problems. These wells range in capacity from about 200 to 3,000 gallons per minute (gpm). Typically, the capacity is about 800 gpm. The volume discharged would typically range from 6,000 to 90,000 gallons, with a total typically about 24,000 gallons.

Under Part 2, Section II c of the current permit (Order NO. 96-054, NPDES No, CAS614001), such discharges are conditionally exempt from compliance,

> *The following non-storm water discharges need not be prohibited.*
> *. . . c. Potable water sources provided the discharges are managed in accordance with an approved industry-wide Standard Pollution Prevention Practices developed by the American Water Works Association, California-Nevada Section, or equivalent document; and in compliance with any requirements established by the Permittee(s);*

The Second Draft of the proposed permit does not contain similar language. Rather, it suggests that separate individual or general NPDES permits cover these discharges for non-storm discharges. We believe that this is unnecessary and that these potable water discharges should be exempt, just like the Category C discharges in Part 1, Section 2 c) from irrigation runoff, water line flushing, air conditioning condensate, de-chlorinated swimming pool discharges, dewatering of lakes and decorative fountains, non-commercial car washing, and sidewalk rinsing.

Such discharges from drinking water wells that have historically met drinking water standards should be differentiated from the discharges from development of new wells, which have no track record.

We thank you for giving careful consideration to these comments. We look forward to working with you to establish mutually acceptable conditions, while maintaining and promoting water quality.

If you have any questions, please contact Jim Leserman.

Very truly yours,

Bruce Mowry

Bruce A. Mowry, Ph.D., P.E.
General Manager

cc: Central Basin Water Association
West Basin Water Association
Wendy Phillips, LARWQCB

WSPA
Western States Petroleum Association
Creative Solutions • Responsive Service • Since 1907

August 6, 2001

VIA HAND DELIVERY

Dr. Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

RE: **WSPA Comments on the Second Draft Los Angeles County Stormwater NPDES Permit (NPDES No. CAS614001)**

Dear Dr. Swamikannu:

The Western States Petroleum Association ("WSPA") appreciates the opportunity to submit comments on the Draft Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges in Los Angeles County (NPDES No. CAS614001) ("Draft Permit") issued on June 29, 2001. WSPA is a trade association representing approximately thirty companies engaged in all aspects of exploration, production, refining, transportation and marketing of petroleum and petroleum products in the Western United States. WSPA continues to have concerns regarding the application of the numeric design criteria to retail gasoline outlets ("RGOs") because such an approach ignores the advantages of appropriately tailored source control best management practices ("BMPs") in favor of requiring the installation of unnecessary and potentially problematic treatment devices, or worse, the option of infiltration.

WSPA has previously challenged the application of numeric design criteria to RGOs as inappropriate, and on October 12, 2000, the State Water Resources Control Board ("State Board") agreed. State Board Order No. WQ 2000-11 ("State Board Order"), p. 23. The State Board found that "proper justification" was required before the numeric design criteria could be imposed on RGOs. Id. On June 12, 2001 we received a "Technical Report" prepared jointly by staff of the Los Angeles and San Diego Regional Boards which purports to provide the "proper justification" required by the State Board. After a thorough review of this report, we conclude that it does not provide the justification contemplated by the State Board, and therefore, does not support the application of numeric design criteria to RGOs.

505 North Brand Blvd.,
Suite 1400
Glendale, CA 91203
(818) 545-4105

On June 15, 2001, WSPA submitted comments asserting that imposition of the numeric design criteria to RGOs exceeds the Maximum Extent Practicable ("MEP") standard, violates the State Board Order and Section 13360 of the California Water Code ("CWC"), is overly broad, and constitutes an unfunded mandate. In addition, WSPA asserted that the Los Angeles Regional Water Quality Control Board ("Regional Board") failed to adequately evaluate economic considerations and has not satisfied the requirements of the California Environmental Quality Act ("CEQA") and the California Administrative Procedures Act ("APA"). WSPA also presented comments at the Los Angeles County Municipal Storm Water Permit Workshop held by the Regional Board on July 26, 2001. Because our previous comments remain applicable, we hereby incorporate them by reference.

COMMENTS

1. Stormwater Pollution at RGOs is Best Controlled Through the Implementation of the Task Force BMPs

WSPA continues to believe that stormwater pollution at RGOs is best controlled through the implementation of the BMPs published by the California Stormwater Quality Task Force in March 1997 ("Task Force BMPs"), and that implementation of the Task Force BMPs constitutes compliance with the MEP standard. The Task Force BMPs were developed specifically for RGOs to assist both municipal agencies and RGOs in attaining compliance with storm water regulations.[1] By controlling potential sources of pollutants, the Task Force BMPs will prevent and/or reduce storm water pollution in a safer, more efficient and more cost effective manner than the structural treatment controls required by the Draft Permit.

In its decision, the State Board mandated that all of the Task Force BMPs be required at RGOs. State Board Order No. WQ 2000-11, p. 23. WSPA supports this requirement even at existing RGOs so that water quality improvements will be achieved more quickly. However, implementation of all Task Force BMPs as required by the State Board will render additional treatment BMPs unnecessary. Staff has provided no evidence, in the record or in the Technical Report, to support the conclusion that RGOs present a storm water pollution problem that cannot be managed by implementation of the Task Force BMPs.

2. The Technical Report does not Provide "Proper Justification"

To comply with the State Board Order, Regional Board Staff ("Staff") must provide "proper justification" that the numeric design criteria meets the MEP standard. Staff has prepared a Technical Report that purports to provide this justification; however, an analysis of

[1] The California Storm Water Task Force working group that developed the Task Force BMPs included representatives from a wide cross-section of interests including the State Board, county storm water agencies, cities, Regional Boards and the oil industry.

this report indicates that it is wholly inadequate to either support a finding that RGOs present a water pollution problem that cannot be remedied through the use of Task Force BMPs, or to demonstrate the appropriateness of infiltration or treatment for RGOs.

WSPA's major points regarding the insufficiency of the Technical Report as "proper justification" are provided in the following subsections. However, a complete analysis of the Technical Report has been performed by Mr. Timothy Simpson, Vice President and Principal Engineer of Geomatrix Consultants. Mr. Simpson is a California Registered Civil Engineer with over seventeen years of experience, including over ten years of experience with projects relating to storm water NPDES permitting. A copy of the Geomatrix Report is provided as Appendix A, and is hereby incorporated by reference.

A. Requiring Structural Treatment Controls at RGOs Exceeds the MEP Standard

The State Board Order elaborates on what is required to meet the MEP standard. The standard focuses not just on technical feasibility, but also on cost and effectiveness.

> "[I]f a permittee employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, **or whose cost would exceed any benefit derived**, it would have met the standard. MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where **other effective BMPs will serve the same purpose**, the BMPs would not be technically feasible, or the **cost would be prohibitive**." State Board Order No. WQ 2000-11, p. 20. (Emphasis added.)

Based on the direction provided by the State Board, a permittee has complied with the MEP standard if other effective BMPs that serve the same purpose are employed, or if costs of a particular BMP exceed any benefit derived. Therefore, any justification for requiring structural treatment devices for storm water runoff from RGOs must consider, among other things, (1) whether effective BMPs that are already identified, such as the Task Force BMPs, serve the same purpose as the structural treatment devices, (2) whether the structural treatment devices are effective, and (3) whether such devices are cost prohibitive.

B. The Task Force BMPs Constitute Other Effective BMPs That Serve the Same Purpose as Treatment Control Devices

The most glaring deficiency of the Technical Report is that it fails to assess the efficiency of the Task Force BMPs. In fact, neither the Technical Report, nor the draft permit, even acknowledges the existence of the Task Force BMPs. WSPA believes that this omission is unacceptable, especially since the State Board Order specifically references and recommends that the Task Force BMPs be incorporated. The Task Force BMPs serve the same purpose as the treatment devices by reducing pollutants contained in storm water runoff that is discharged from

the facility, and nothing in the Technical Report suggests, let alone demonstrates, that the Task Force BMPs are not appropriate and effective. Because the Technical Report fails to consider this necessary aspect, it cannot constitute "proper justification" as required in the State Board Order.

In addition, the Los Angeles Regional Board ("Regional Board") has previously found that implementation of the Task Force BMPs was appropriate and complied with the MEP standard. On June 30, 1999, the Regional Board adopted the Municipal Storm Water Permit for the City of Long Beach (Order No. 99-060, NPDES No. CAS004003). The Long Beach Permit does not include the numeric design standard contained in the Draft Permit. Instead, the Regional Board found that the Task Force BMPs, "when fully implemented, [are] expected to be consistent with the statutory standard of [MEP]." Id. at 2. Staff has not presented any information to justify a completely different conclusion from that made just two years ago.

C. Structural Treatment Devices Have Not Been Proven Effective, are Potentially Problematic and are Unnecessary When the Task Force BMPs are Implemented

During development of the Task Force BMPs, the efficiency of structural treatment devices was considered. The Task Force found that they could not be recommended because their effectiveness had not been proven. Task Force BMP Guide, p. 5. Other recent studies have reached similar conclusions showing that the findings of the Task Force remain valid. See *"Investigation of Structural Control Measures for New Development"* by Larry Walker Associates, Inc. (November 1999). See also *"Performance Evaluation of Structural BMPs: Drain Inlet Inserts and Oil/Water Separators,"* by Othmer, Edward et al. (May 2001).

Staff points to two studies which they assert supports a finding that online filter media systems are effective treatment devices for RGOs. However, Staff has failed to give a complete picture of those studies, and instead, selectively uses the information that suits its position while ignoring the information that suggests a different conclusion. The first study relates to an analysis of an on-line filter media device at a large RGO in Washington State. Staff asserts that the treatment device "was effective in removing between 50 and 90 percent of pollutants of concern in storm water discharges from RGOs." Technical Paper, p. 6. However, Staff fails to provide other information that is adverse to their position. A notable effect revealed by the study was that the discharge of oil/grease and nutrients (total phosphorus) actually increased by 84.3 and 95 percent respectively suggesting that these devices may have other unanticipated negative impacts on water quality.

The second study used by Staff to support a finding that treatment devices are effective is the Rouge River National Wet Weather Demonstration Project. This study did not analyze actual storm water data. Instead, it merely analyzed the accumulation of debris and filter media installed in catch basins. Analysis of accumulated debris and filter media from an RGO that is

not implementing any storm water BMPs is not an accurate measure of storm water quality improvement provided by these devices, and does not support a finding that such devices are appropriate or effective in protecting water quality when RGOs implement the Task Force BMPs.

Other recent studies not considered by Staff have found very different results (i.e., that storm water treatment devices have significant shortcomings). A comprehensive study of the effectiveness of drain inlet filters was recently conducted by the California Department of Transportation ("Caltrans") as part of their BMP Retrofit Pilot Program. See *"Performance Evaluation of Structural BMPs: Drain Inlet Inserts and Oil/Water Separators,"* by Othmer, Edward et al. (May 2001) ("Caltrans Report"). The study analyzed actual storm water samples from two different drain inlet filters at various maintenance stations in Los Angeles County.[2] The conditions at the maintenance facilities were similar to those at RGOs. "[T]he [filters] were sited in locations where vehicular storage, fueling, and/or maintenance operations were conducted. . . . Also, maintenance stations were selected because of the routine use of source controls (e.g., sweeping), which minimized the potential for sediment clogging the [filters]." Id. at 2. The Caltrans Report indicates that the average removal rate of these filters was just ten percent primarily due to flow bypass and clogging -- two common and well documented problems with these devices -- showing that the efficiency of these devices remains unproven. Caltrans Report, p. 5. A copy of the Caltrans Report is provided as Appendix B.

Given the shortcomings of the studies relied on by Staff, in conjunction with recent and more complete studies showing that these devices are problematic and resulted in low average removal rates, Staff's finding that such devices are efficient at removing pollutants from storm water discharges is not supported by the Technical Report. Therefore, the efficiency of these devices at RGOs implementing the Task Force BMPs remains unproven, and the Technical Report fails to provide the justification required by the State Board.

D. Maintenance Costs Associated with Structural Treatment Devices is Prohibitive

Staff has also asserted, based on the Rouge River study, that annual maintenance costs are only $240. However, the Caltrans study again had very different results. Despite the high level of routine maintenance performed by Caltrans, extensive cleanout and repair costs were incurred to remedy problems related to flow bypass and clogging. In a presentation made in relation to the Caltrans study at an American Public Works Association workshop held on June 19, 2001, the annual operations cost was reported to be $15,000 per site, or 1250% of the cost of installation. Smith, T., and Lantin, A., 2001 RBF Consulting,: *Caltrans BMP Retrofit Pilot Program; A Real World Experience:* from: Water Quality Elements in Development Today APWA Seminar, San Diego, CA., June 19, 2001. The costs presented by Caltrans are substantially higher than the $240 per year maintenance cost identified in the Technical Report.

[2] Curiously, one of the filters is the same type as was used in the Rouge River study cited by Staff.

Such high annual maintenance costs would be a significant burden on RGO operators, and are not proportional to the water quality benefits achieved when the Task Force BMPs are already being implemented.

E. Other Concerns Regarding the Technical Report

WSPA is also concerned that, in Staff's technical basis to justify the application of the numeric design criteria to RGOs, relevant information from the studies relied on by Staff is omitted when that information does not support Staff's conclusion. For example, Staff cites a study that looked to evaluate the performance of oil/grit separators as storm water treatment BMPs in Maryland as support for their assertion that RGOs are "toxic hotspots." However, that study ultimately found that "[s]ource control may hold the greatest promise to reduce the delivery of pollutants from hotspots."[3] (Emphasis added.) This oversight weighs heavily against the conclusions of the Technical Report. Staff's selective use of information cannot overcome the fact that no information has been provided to suggest that structural treatment devices are necessary or that, conversely, the Task Force BMPs are ineffective.

Another significant omission was made regarding the requirements for RGOs in Washington State. Staff asserts that RGOs in the western region of Washington are required to install treatment devices for storm water runoff. Technical Report, p. 5 (citing the Stormwater Management Manual for Western Washington, Vol. V, Runoff Treatment BMPs, (2000)). However, the requirements cited by Staff are still under development and have not yet been adopted. Previous regulations in Puget Sound require treatment of storm water runoff, but only if runoff occurs from the fuel islands. To the extent that a new facility prevents runoff from the fuel island area through the use of grading and canopies, no treatment is required.

3. Staff has Provided No Basis or Rationale for the Threshold Criteria Developed

The State Board recommended that Staff develop some relevant criteria to preclude inclusion of smaller RGOs that may have space constraints limiting their ability to install treatment control devices. Staff has proposed a criteria of 5,000 square feet of impervious surface and an average daily traffic flow of 100 or more vehicles. WSPA believes that this criteria is over inclusive as it would include virtually every RGO within its scope. Thus, the purported "criteria" are really only a surrogate for saying that all RGOs will fall under the purview of the requirements.

In addition, Staff has provided no basis for this criteria. Instead, it merely states that these devices may be placed underground. However, Staff has failed to provide any analysis that

[3] Schueler, T. and D. Shepp, 1993, The Quality of Trapped Sediments and Pool Water Within Oil Grit Separators in Suburban MD. Metro Washington COG.
Schueler, T. 2000, Hydrocarbon Hotspots in the Urban Landscape: Can They Be controlled? The Practice of Water Shed Protection by Thomas R Schueler and Heather K, Holland.

it has performed indicating that space for such subsurface structures is available at small facilities despite the presence of structures and large underground storage tanks. Staff merely points to requirements in Washington and Oregon. However, the requirements in Washington are still under development and have not yet been adopted, and, as the Technical Report indicates, Portland's requirements relate treatment requirements to building space so that where buildings onsite are larger, a higher daily traffic flow is required before treatment is necessary.[4]

WSPA requests that Staff provide the basis for the criteria developed and any feasibility analysis regarding the impact of additional subsurface structures at smaller RGOs where space is already limited by the presence of buildings and large underground storage tanks with their associated subsurface piping and conduit systems.

4. Other Issues Overlooked by Staff

Staff also fails to specifically address important safety concerns associated with more sophisticated treatment BMPs such as sand filters, and completely ignores the very real threat to groundwater posed by infiltration.

Public safety concerns arise from the possible use of underground structures required for many types of treatment devices. As WSPA has stated on numerous previous occasions, any gasoline which is spilled must not be allowed to drain into a closed structure containing air. The same conduit which directs spillage into the structure, becomes a vent for vapors to reach the surface where they could be exposed to a source of ignition.

With respect to the option of promoting infiltration of storm water at RGOs, our concern is not so much with storm water as it is with spilled gasoline. As WSPA has stated on numerous previous occasions, we have worked for several years with the staff of the State Board on the issue of requirements for underground storage tanks (USTs). Our joint efforts, leading to amendments of the UST regulations last February, have been motivated by the need to protect the subsurface environment, and the focus has been on eliminating pathways for pollutants to enter the subsurface environment. We note with interest that the staff of the San Diego Regional Board has agreed that infiltration is not appropriate for RGOs, and we wonder why the staff of the Los Angeles Regional Board stands alone in their support of this option.

In conclusion, WSPA believes that the Technical Report does not provide sufficient justification to require the installation of structural treatment devices at new and redeveloped RGOs for the following reasons:

[4] The Technical Report indicates that treatment is required for RGOs expected to generate 100 vehicles or more average daily traffic **per 1000 square feet of gross building space**. No such relation is provided in Staff's proposed criteria.

(1) The Technical Report does not consider the effectiveness of the Task Force BMPs which serve the same purpose as structural treatment devices;

(2) The references and studies cited by Staff are not representative because storm water was not sampled, the results suggest that unanticipated water quality impacts may result, or the studies simply do not have any technical merit or justification to support the basis of their recommendations; and,

(3) Recent studies analyzing actual storm water samples indicates that the effectiveness of these devices remains unproven and that these devices are very costly to maintain due to well documented problems with flow bypass and clogging.

As such, application of the numeric design criteria to RGOs violates State Board Order No. WQ 2000-11. Therefore, WSPA respectfully urges the Regional Board to modify the Draft Permit by exempting RGOs from the structural treatment controls and the numeric design standards, and, instead, be consistent with the State Board Order, and mandate that all of the Task Force BMPs be implemented at both new and existing RGOs.

Sincerely,

R. Wilkniss for

Ron Wilkniss

cc: Dennis Dickerson - LARWQCB, Executive Director
Los Angeles Regional Water Quality Control Board Members

Attachments

APPENDIX A

GEOMATRIX REPORT

GEOMATRIX

REVIEW OF RETAIL GASOLINE OUTLETS: NEW DEVELOPMENT DESIGN STANDARDS FOR MITIGATION OF STORM WATER IMPACTS

Prepared for:

Western States Petroleum Association

Prepared by:

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August 6, 2001

Project No. 2498

Review of Retail Gasoline Outlets: New Development Design Standards For Mitigation of Storm Water Impacts

This report summarizes comments prepared by Geomatrix Consultants Inc. (Geomatrix) based upon a review of the "Retail Gasoline Outlets: New Development Design Standards For Mitigation of Storm Water Impacts" ("Technical Report"), June 2001 prepared by the Los Angeles and San Diego Regional Water Quality Control Boards.

As discussed in the following sections, the Technical Report attempts to establish proper justification that numerical mitigation standards are appropriate for RGOs based primarily on conclusions made by the RWQCBs regarding the quality of storm water runoff from RGOs and assertions regarding the ease and effectiveness of storm water treatment systems for RGOs.

RGO Storm Water Quality

The RWQCB's Technical Report states that RGOs are "toxic pollutant hotspots" and that RGOs have been identified as generators of significantly higher concentrations of hydrocarbon and heavy metals than parking lots, convenience store lots, and streets. These statements are based upon an unpublished study and subsequent article both prepared by Schueler and Shepp[1] and Shepp[2] that evaluated and contrasted analytical results from samples of pool water and trapped sediments collected from oil/grit separators installed to treat storm water runoff from gas stations, convenience stores, all-day parking lots, streets, and residential parking areas in suburban Maryland. Because the study was not based on analysis of actual storm water runoff samples, the results should not be construed to characterize storm water quality from these various sites. The intent of the study was to evaluate the "dismal" performance of oil/grit separators as storm water treatment BMPs. One finding of the study was that of the 100 separators inspected, not a single separator had ever been maintained. For this reason it is not

[1] Schueler, T. and D. Shepp, 1993, The Quality of Trapped Sediments and Pool Water Within Oil Grit Separators in Suburban MD. Metro Washington COG. 48 pp.

[2] Schueler, T. 2000, Hydrocarbon Hotspots in the Urban Landscape: Can They Be controlled? The Practice of Water Shed Protection by Thomas R Schueler and Heather K, Holland.

surprising that the separators would act as sumps and accumulate materials handled at the facility, which in the case of an RGO would be hydrocarbons and related materials.

The study confirms the difficulties associated with relying on structural treatment to improve storm water quality. These difficulties were also considered by the Storm Water Quality Task Force Work Group during development of the "Best Management Practice Guide for Retail Gasoline Outlets" ("Task Force BMP Guide"). At that time the Work Group, comprised of representatives from the State Water Resources Control Board, Regional Water Quality Control Boards, municipalities, and industry, considered structural treatment devices to augment the source control BMPs recommended in the Task Force BMP Guide and concluded:

> "the evidence reviewed by the Work Group indicated that the effectiveness and efficiency of these and other BMPs not listed was insufficient for them to pass peer review and therefore these BMPs can not be generally recommended for use statewide. There may be situations in which these BMPs would be effective and efficient (as evidenced by research), and therefore appropriate, but these situations should be the exception, not the rule."

In fact, the source control approach taken in the Task Force BMP Guide is consistent with the following conclusion presented in the same Schuler and Shepp article referenced in the RWQCB's Technical Report:

> "*Source control* may hold the greatest promise to reduce the delivery of pollutants from hotspots. This pollution prevention approach stresses the importance of eliminating the spills, leaks, and emissions that create hotspots in the first place. A series of better handling, recycling, storage, and disposal practices can reduce the chance that automotive fluids and cleaning solvents come into contact with rainwater and run off the site. The Santa Clara Valley Nonpoint Source Program has published an excellent summary of pollution prevention practices for gas stations."

Dr L. Donald Duke, a U.C.L.A. researcher expanded on the Santa Clara Valley's prevention approach.

> "The intend of the pollution prevention approach is to control pollutants so well that stormwater need not be treated in a hydraulic detention facility or a pollutant removal device. The approach is highly practical from a business standpoint because it focuses on industrial operations and low-cost pollution control practices rather than expensive constructed solutions like new industrial structures or new storm water detention or treatment facilities. This approach is especially preferable in the kind of highly seasonal semi-arid rainfall regimes that are found in much of California and most of the western U.S."[3] (emphasis added)

The Santa Clara Valley Nonpoint Source Control Program BMP Guide for Automotive-Related Industries referenced by Schuler and Shepp was used as a reference by the work group during development of the Task Force BMP Guide and many of the pollution prevention practices in the Santa Clara document are incorporated into the Task Force guide.

The RWQCB's Technical Report also references the findings of a Rouge River National Wet Weather Demonstration Project as evidence that oil and grease from RGOs are a concern.[4] As with the Schuler and Shepp reference, the Rouge River study is not based upon storm water quality sampling but rather on analysis of filter media from catch basin inserts installed over an approximate one year period at two RGOs in Michigan. According to the principal investigator of the Rouge River study, neither of the RGOs monitored during the study performed any source control measures and for this reason, the presence of oil and grease in filter media is not surprising. In fact, the RGO operators were instructed not to implement source control measures and it is inappropriate to imply

[3] Santa Clara Valley Nonpoint Source Pollution Control Program. 1992. Duke, L.D. and Shannon, J.A. Best Management Practices for Industrial Storm Water Pollution Control.

[4] Rouge River National Wet Weather Demonstration Project, MI, Evaluation of On-Line Media Filters in the Rouge River Watershed, Report No. RPO-NPS-TPM59.00 (1999), 36 pp.

that the results of the Rouge River study are indicative of actual storm water quality from a RGO practicing BMPs such as those presented in the Task Force BMP Guide. A more accurate assessment of storm water quality from RGOs would be based upon actual water quality information. The results of three such studies are summarized in Table 1. The studies include a WPSA/API study published in 1994, another study published by Shepp in 1995, and Sacramento County's Action Plan Demonstration Project published in 1994. Collectively, these studies provide runoff characterization information for ten RGOs, 21 storm events, and 12 simulated storm events. Additionally, the mean concentrations for residential and commercial land uses from the National Urban Runoff Program (NURP) are summarized in Table 1. NURP was a comprehensive study conducted from 1978 through 1983 with funding and guidance provided by EPA. The results of NURP provide insight on what can be considered background levels for urban runoff.

As summarized in Table 1, the mean concentrations of total suspended solids, lead, copper and zinc in runoff from RGOs are below the background concentrations established by NURP. Additionally, in most cases, the mean concentrations of oil and grease, total suspended solids, and chemical oxygen demand are below the limitations established for a number of NPDES permits, including storm water discharge limitations established for transportation-related industrial facilities located in Alabama, Oregon, Louisiana, and North Carolina. On this basis, it appears that the mean concentrations of chemical constituents in runoff from the RGOs studies are below background and are generally below levels that require additional controls or treatment, as established by the effluent limitations developed for storm water discharges from sites where vehicle fueling, maintenance, and repair occur.

The preceding conclusions are based upon the mean concentrations in runoff samples collected from ten RGOs. Of course the analytical results for individual RGOs and storm events are variable, as would be expected based upon typical variability in RGO age, construction, throughput, and management practices. Notwithstanding this consideration, the results of this data compilation suggest that the RWQCB's characterization of RGOs

as "toxic pollutant hotspots" is inaccurate and misleading. Furthermore, the fact that the chemical composition in runoff from RGOs is consistent with urban background supports an approach of protecting the runoff water quality from RGOs through the pollution prevention measures documented in the Task Force BMP guide. The RWQCBs have failed to accurately demonstrate the need for measures beyond the pollution prevention measures presented in the Task Force BMP guide.

Another potentially misleading statement presented in the Technical Report is a reference to the *Study of the Impact of Storm Water Discharge on Santa Monica Bay*[5] and the statement "heavy metals, significant concentrations of which occur in storm water discharges from RGOs, have been demonstrated to be the main cause of toxicity in Santa Monica Bay during wet weather." While the study does report that a high percentage of samples collected offshore of Ballona and Malibu Creeks were toxic during dry and wet weather conditions and that dissolved metals contributed to the toxicity, the study does not speculate on the specific source of the metals. In fact, there is no mention of RGOs or RGO runoff quality in the RWQCB's reference. Interestingly, the Santa Monica Bay study points out that "dry weather toxicity results suggest that factors other than stormwater discharge have a major influence on surface water quality in Santa Monica Bay." This finding provides additional evidence that the RWQCB's attempt to attribute toxicity in Santa Monica Bay to RGOs is inaccurate and misleading.

Treatment Control BMPs

In the Technical Report, the RWQCBs indicate that the various studies cited by WSPA showing that the quality of RGO runoff is no worse than commercial parking lots and diffuse runoff is evidence that "existing BMPs do not address pollutants generated by motor-vehicle traffic." This statement is unfounded particularly because the studies cited by WSPA were performed prior to development of the Task Force BMPs and no data are presented to suggest that the Task Force BMPs are not effective. It is apparent that the RWQCBs have condemned the balanced pollution prevention approach provided by the

[5] "Study of the Impact of Storm Water Discharge on Santa Monica Bay – Executive Summary", Los Angeles County Department of Public Works (1999).

Task Force BMPs without adequate technical justification and instead are pushing dischargers towards treatment BMPs.

Furthermore, with respect to the effectiveness of the Task Force BMPs, the Technical Report indicates that heavy metals and oil and grease are of concern for RGOs. It is well understood and documented that the presence of heavy metals is correlated with sediment.[6] On this basis, BMPs that are effective in reducing the concentrations of sediment in storm water, such as regular sweeping, will also be effective in reducing the concentrations of total and dissolved heavy metals in storm water. Additionally, there are numerous BMPs that are effective for reducing exposure of oil and grease to storm water. These include but are not limited to grading to prevent runon across fuel islands, canopies for fueling areas, and spot cleaning of leaks and drips using appropriate materials and procedures.

In the Technical Report, the RWQCBs indicate that online media filter systems can be effective treatment devices for RGOs. In the Technical Report, the RWQCBs have recommended use of online media filters based upon their review of water quality data results for a proprietary on-line filter media device located at a large RGO in Washington. The Technical Report states that "the treatment device was effective in removing between 50 and 90 percent of pollutants of concern in storm water discharges from RGOs." The average removal results as reported in the referenced document are summarized in Table 2. The actual reported average removal rates for composite samples for total suspended solids, total zinc, and dissolved zinc are 43, 42.5, and 57.8 percent, respectively. More important than the RWQCBs' overstatement regarding filter performance is the failure of the RWQCBs to report all of the results from the study, including results for oil and grease and total phosphorous which actually increased by 84.3 and 95 percent, respectively as a result of filtering storm water through the media filter. Perhaps this selective use of data is an oversight but one must question the environmental benefit of requiring RGOs to install treatment systems that result in a net

[6] See "A Water Quality Characterization for Runoff from Discrete Land Use Types in the Washington Metropolitan Area" (Shepp, 1995); and Storm Water NPDES Monitoring in Santa Clara Valley (Cooke et. Al, 1994) where correlations between TSS, hydrocarbons, and heavy metals are established.

export of oil and grease and nutrients, particularly when many of California receiving waters are impaired by nutrients.

The only other treatment approach suggested by the RWQCBs based upon their review of performance data are storm drain filters inserts. The study cited in the Technical Report was the same Rouge River National Wet Weather Demonstration Project used by the RWQCBs as evidence that "oil and grease from RGOs are a concern." The conclusions in that study regarding filter performance were not based upon storm water quality sampling but on analysis of accumulated debris and filter media installed in the catch basins. As previously discussed in this comment letter, neither of the RGOs monitored during the study performed any source control measures and in fact, the RGO operators were instructed not to implement BMPs. On this basis, the quality of storm water entering the filters is not representative of RGOs implementing appropriate source control BMPs. Furthermore, analysis of the accumulated debris and filter media is not an accurate measure of storm water quality improvement or filter performance and is inconsistent with the BMP monitoring effectiveness approaches established by EPA and the American Society of Civil Engineers in the Urban Storm Water Best Management Practices Study. [7]

One study that did evaluate the effectiveness of drain inlet filters based upon extensive inflow and outflow monitoring was recently completed by Caltrans.[8] The study included monitoring two different types of drain inlet filter at six Caltrans maintenance stations in Los Angeles County. One of the drain inlet filters studied by Caltrans was also studied in the Rouge River study referenced in the Technical Report. The reported removal efficiencies for the drain inlet filters studied by Caltrans were very low, with average

[7] ASCE/EPA, 1999, Determining Urban Stormwater Best Management Practice (BMP) Removal Efficiencies, May 14. See also Strecker, E.W., Constituents and Methods for Assessing BMPs.

[8] Othermer Jr., E.F et al. 2001, Performance Evaluation of Structural BMPs: Drain Inlet Inserts (Fossil Filter™ and StreamGuard™ and Oil/Water Separator: American Society of .Civil Engineer's Environmental and Water Resources Institute's (EWRI's) World Water & Environmental Resource Congress, Orlando, Florida, May 20 to 24.

efficiencies of 10 percent for hydrocarbons, 14.5 percent for total suspended solids, and 5.8, 17.8, and 6 percent, respectively, for total copper, lead, and zinc. In addition to overestimating the performance of the drain inlet filters, the RWQCBs greatly underestimated the costs associated with this BMP. The Technical Report states that first year capital costs range between $250 and $900 per year and annual operations and maintenance costs are $240. These relatively low costs are in stark contrast to the findings of the Caltrans study, which report the annual operations and maintenance of the drain inlet filters to be $15,000 per year or 1250 percent of the initial purchase and installation cost.[9] The significant costs reported by Caltrans were the result of extensive cleanout and repair of the filters required throughout the study period. Additionally, the RWQCBs also have failed to consider the costs associated with constructing drainage systems at RGOs that would allow for installation of drain inlet filters or other treatment systems. Currently, storm water runoff from most RGOs is via sheet flow and installation of treatment systems would require installation of catch basins and subsurface piping. In many cases, extensive site grading or pump stations would be required to allow for proper site drainage.

In the Technical Report, the RWQCBs state that "storm water treatment at RGOs is both feasible and safe." While it may be feasible to install the storm water treatment systems recommended by the RWQCBs, the Technical Report fails to prove that the treatment systems are effective and whether treatment is necessary at all for RGOs implementing the Task Force BMPs. With respect to safety, the Technical Report states that "sub-surface fabricated treatment systems have been commonly used at RGOs to separate waste-oil before discharge to the sanitary sewer system" and that "there is no reason to suppose that storm water treatment in California introduces new and different safety and feasibility considerations, as when compared to waste water treatment systems which RGOs have readily installed in California." In fact there are significant differences in safety considerations between oil/water separators installed for discharge of oily waste to the sanitary sewer and subsurface storm water treatment systems at RGOs. Oil/water

[9] Smith, T., and Lantin, A., 2001 RBF Consulting,: Caltrans BMP Retrofit Pilot Program; A Real World Experience: from: Water Quality Elements in Development Today APWA Seminar, San Diego, CA., June 19.

separators are typically required when vehicle maintenance shop drains are connected to the sanitary sewer. The drain inlets are typically located inside a shop or in locations where they are isolated from the pump islands and consequently, there is little potential for the separator to accumulate spilled gasoline in significant quantities. However, in the case of a subsurface storm water treatment system installed to handle runoff from a fueling area, because the spill would flow into the RGO drainage/treatment system, there is a greater potential for a gasoline spill to occur undetected by the RGO operator and for the gasoline to accumulate in the enclosed underground structure resulting in a potential exposure hazard. In the absence of a subsurface treatment system, there is a greater likelihood that the spill would be noticed by the RGO operator so that appropriate spill control and countermeasure procedures could be implemented.

One additional consideration in regards to subsurface storm water treatment systems for RGOs is that from a practical perspective, any subsurface "treatment box" installed to receive runoff would act as a sump during dry weather accumulating debris, dirt and hydrocarbons. This concern is consistent with the results of the Rouge River Study where sediment and hydrocarbons were found to accumulate in the drain inlets. The presence of such a sump impedes the ability for the RGO operator to effectively clean the RGO using standard good housekeeping procedures and to perform the necessary inspections to determine when sweeping and other housekeeping activities are necessary. Cleaning a sump can be difficult and can result in significant safety issues including but not limited to confined space, lifting hazards, traffic hazards, and spider bites. Worse yet, if the subsurface treatment system retains water after the end of a storm event, an outside service would be required to perform the cleanout and handle any wastes removed. As described by the Schuler and Shepp study, the end result of installing subsurface storm water treatment systems in Maryland was that none of the more than 100 systems inspected were ever maintained and what was initially installed to improve storm water quality actually created a significant water quality concern.

Conclusions

In summary, the RWQCB's Technical Report fails to justify the need for storm water treatment at RGOs. There is no information provided in the Technical Report that proves that storm water quality concerns can't be effectively addressed through implementation of the Task Force BMPs. The RWQCB's fail to recognize the advantages of the pollution prevention approach provided by the Task Force BMPs, including the fact that all stations, whether existing, remodeled, or newly constructed, will realize improvements in storm water quality. Furthermore, as described in this report, there are significant technical concerns regarding the treatment BMPs recommended in the Technical Report, including significant and unrealistic maintenance requirements, questions regarding true performance, potential pollutant export, and the actual costs to install, operate, and maintain the treatment devices.

Table 1

Comparison of RGO Results with Typical Permit Limitation and NURP

Constituent (units)	Results from RGO Studies			Typical Permit Limitations and Results from NURP					
	WSPA/API Study (mean of all results)	Discrete Land Use Study (mean of all results)	Action Plan Demonstration Project (mean of all pre-BMP results)	AL NPDES Permit[1] (daily maximum average)	LA NPDES Permit[3] (daily maximum average)	NC NPDES Permit[4] (daily maximum average)	OR NPDES Permit[5] (daily maximum average)	PA NPDES Permit[7] (daily maximum average)	NURP - Residential/ Commercial Land Use[9]
Oil and Grease (mg/l)	7.1	3.7	4.61	15	15	30	10/15[6]	15/30[8]	--
Total Suspended Solids (mg/l)	11.5	41.3	59.33	502	--	100	--	--	239
COD (mg/l)	--	57.1	--	--	--	--	--	--	94
Lead (mg/l)	7.5	17.8	26	--	--	--	--	--	238
Copper (mg/l)	20	9	20	--	--	--	--	--	53
Zinc (mg/l)	170	204.3	195	--	--	--	--	--	353

1. NPDES General permit by the state of Alabama Department of Environmental Management for storm water discharges associated with vehicle and equipment storage, maitnenance, repair and washing (permit no. ALG140000).
2. Effluent limitations for vehicle and equipment exterior washing operations that do not use solvents.
3. NPDES General permit by the Louisiana Department of Environmental Quality for all industrial storm water discharges (based on the original EPA "core" industrial permit).
4. NPDES General permit by the North Carolina Department of Health and Natural Resources for storm water discharges associated with oil/water separators, petroleum bulk storage and terminals secondary containment areas (permit no. NCG080000).
5. NPDES General permit (waste discharge permit) issued by the Oregon Department of Environmental Quality for storm water discharges associated with storing, transferring, formulating and/or packaging bulk petroleum products or vegetable oil (permit no. 1300-J).
6. Oil & Grease discharge limitations for sources not controlled by an oil/water separator is 10mg/l, and 15mg/l for sources that have oil/water separators.
7. NPDES General permit by the Pennsylvania Department of Environmental Protection for storm water discharges of facilities required to sample for oil and grease.
8. Effluent limits for grease and oil are 15mg/l and 30mg/l, respectively.
9. Results of the National Urban Runoff Program, US EPA, 1983.

P:\S2498\DOCS\Tables\Table 1

Table 2
Concentration and Average Mass Loading Percent Removal
Storm Filter Performance Results
Burwell/Straley's Union 76 Station
Bremerton, Washington

Constituent	Average Percent Removal
TSS	43 (42.6)
Total-P	-84.3 (-17.3)
O&G	-95
Total-Zn	42.5 (43.3)
Dissolved-Zn	57.8 (54.6)

Note: Numbers in parenthesis refer to the percent removal by mass loading.
Negative values indicated percent increases.

Source: Stormwater Sampling - Storm Filter™ Performing Results, Burwell/Straley's Union 76 Station Storms Captured - April 2000 through March 2001 (4 storms).

APPENDIX B

CALTRANS REPORT

Performance Evaluation of Structural BMPs: Drain Inlet Inserts (Fossil Filter™ and StreamGuard™) and Oil/Water Separator

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J. Steven Borroum, T.E., P.E.***, and Brian K. Currier, P.E.****

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Abstract

The performance of Drain Inlet Inserts (Fossil Filter™ and StreamGuard™) in treating runoff from three California Department of Transportation (Caltrans) maintenance stations was evaluated as part of the Best Management Practice (BMP) Retrofit Pilot Program. Additionally, the effectiveness of an oil/water separator was evaluated at one Caltrans maintenance station. The study included 1) retrofitting the structural BMPs in existing maintenance stations and documenting those costs; 2) estimating percent pollutant removal efficiencies; 3) assessing the causes and frequency of flow bypass; and 4) documenting the type and level of effort required to maintain the structural BMPs. Drain Inlet Insert results to date show that reductions in metals, hydrocarbons, and solids are consistent with expectations for the technology; however, frequent flow bypass required more maintenance than anticipated. Oil/water separator results show no discernable difference between influent and effluent hydrocarbon concentrations at the low levels measured.

Introduction

Concern about the potential adverse impacts of urban and highway runoff on receiving waters has resulted in increased pressure on municipal and highway agencies to treat stormwater discharges. There are a variety of land uses managed by highway agencies and the runoff quality from these areas may differ significantly. In addition, receiving waters have different designated beneficial uses and varying sensitivity to stormwater discharges. Consequently, there is a need to identify a "toolbox" of structural Best Management Practices (BMPs) for implementation downstream of specific land uses to achieve a quality of discharge sufficient to preserve the environmental quality of a given receiving water.

The California Department of Transportation (Caltrans) has embarked on a comprehensive analysis of the siting requirements, cost (both installation and maintenance), and performance of a number of structural BMPs for retrofitting existing highway infrastructure. Elsewhere, use of Drain Inlet Inserts (DIIs) is becoming common but with little understanding of their effectiveness and maintenance needs. Oil/water separators are commonly used near industrial processes where hydrocarbon concentrations are in excess of 15 mg/L, but their effectiveness in treating stormwater discharge from a transportation facility is not well understood. These are important considerations for assessing the overall feasibility of this type of device. The goal of

this paper is to present the interim findings related to the evaluation of two DII types and an oil water separator.

Siting and Selection

Drain Inlet Inserts

A total of six DIIs were sited, installed, maintained, and monitored for this study in Caltrans District 7 (Los Angeles County) maintenance stations (MSs). A wide-range of proprietary DII products was commercially available. Initial candidates for the study included the Aquafend Filter, Fossil Filter™, Gullywasher® Geotextile CB Insert, Hydro-Kleen, StreamGuard™, and Zero Discharge Storm Drain Liner. These candidates use a variety of treatment mechanisms (e.g., trays, bags, and baskets), are manufactured from a variety of materials (e.g., stainless steel, fiberglass, polypropylene, PVC, and galvanized steel), have different flow capacities, and have anywhere from less than 10 to more than 20,000 installations (according to the manufacturers). The process of selecting two DIIs for the study was restricted to review of manufacturer's literature and the limited test data available. Also, because the purpose of the study was to determine the effectiveness of the DII technology as a BMP, consideration was not necessarily given to any one specific proprietary product. Given that, the Fossil Filter™ "Drop In" insert, which is manufactured by KriStar Enterprises, Inc.; and the StreamGuard™ Oil & Grease Catch Basin Insert (#3001), which is manufactured by Foss Environmental Services were selected for the study.

The original siting criteria for identifying locations where DIIs could operate effectively were established with the aid of manufacturer's literature. For example, Fossil Filter™ literature said "*Fossil Filter was developed and designed to remove petroleum hydrocarbons from water runoff and its most logical use is where motor vehicles park, are refueled or serviced. Customer and employee parking lots and corporation yards, service stations, airport ramps and refueling areas, even some marinas, are excellent prospects for the installation of Fossil Filter...*" The process of locating sites involved extensive field review. Each site required at least two drain inlet structures so that comparison between each DII type could be made. Consideration was also given to the types of maintenance activities and equipment storage at the station. Since the primary function of the DIIs tested is to remove petroleum hydrocarbons, the DIIs were sited in locations where vehicular storage, fueling, and/or maintenance operations were conducted. For comparability, each DII was installed in similar-sized watersheds. Also, maintenance stations were selected because of the routine use of source controls (e.g., sweeping), which minimized the potential for sediment clogging the DIIs.

In the case of the Fossil Filter™ DII, there were locations where sediment, leaves, and debris discharged into the DII and blocked the filter cartridges. Even though source controls were practiced at maintenance stations, small quantities of sediment, leaves, and debris clogged the filter cartridges, rendering the DII ineffective in removing petroleum hydrocarbons. Though installed and tested in locations meeting the manufacturer's guidance, it seems that this may not be the application for which the DII was designed.

In the case of the StreamGuard™ DII, their literature says "*Great for parking lots and storage areas.*" However, when consulting with Mr. John Macpherson (StreamGuard™ DII inventor) during the study, he said that the StreamGuard™ was best suited for industrial locations where

high hydrocarbon concentrations could be expected. He also noted that the StreamGuard™ DII was developed to improve water quality at a reasonable price but was not intended to be implemented as a long-term BMP.

Characteristics of the contributing watersheds for the selected sites are shown in Table 1.

Oil/Water Separator

The oil/water separator selected for the study was an Areo-Power® 5,000-gallon ST1-P3. As with the DIIs, the process of locating sites involved extensive field review of twenty-two maintenance stations. Site characteristics considered included presence of heavy equipment, method of asphalt containment, likelihood of oil storage, site exposure to rain, type of onsite drainage, and availability of operating hydraulic head. In addition, runoff from top ranking sites were sampled during storms and analyzed for oil and grease. Locations with concentrations less than 10 mg/L of oil and grease were not considered. Characteristics of the contributing watersheds for the selected sites are shown in Table 1.

Table 1: Summary of Contributing Watershed Characteristics for Drain Inlet Inserts and the Oil/Water Separator

Site Location	BMP Type	Watershed Area (ha)	Imp. Cover(%)
Foothill MS	Fossil Filter™	0.64	100
Las Flores MS	Fossil Filter™	0.32	70
Rosemead MS	Fossil Filter™	0.10	100
Foothill MS	StreamGuard™	0.07	100
Las Flores MS	StreamGuard™	0.09	62
Rosemead MS	StreamGuard™	0.49	100
Alameda MS	Oil/Water Separator	0.32	100

Design

Fossil Filter™ Drain Inlet Insert

The Fossil Filter™ DII (Figure 1) is a trough structure that is installed under the grate of a drain inlet. Within the structure are stainless steel filter cartridges containing amorphous alumina silicate for the removal of petroleum hydrocarbons and other potential contaminants. The trough is fabricated using fiberglass material and consists of a large center opening for the bypass of water when the filter's flow-through capability is exceeded.

StreamGuard™ Drain Inlet Insert

The StreamGuard™ DII (Figure 2) is a conical-shaped porous sock made of polypropylene fabric. The StreamGuard™ Oil and Grease model used in this study is equipped with an oil absorbent polymer. As runoff enters the insert, the fabric absorbs oil and retains sediment. Floating oil and grease are absorbed by the absorbent polymer. The insert is also fabricated with two overflow cutouts near the top of the cone to allow bypass when the fabric's flow-through capacity is exceeded.

Oil/Water Separator

The Areo-Power® 5,000-gallon ST1-P3 Oil/Water Separator (Figure 3) is designed to remove free oil and grease from stormwater runoff. This oil/water separator separates oil and water by allowing oil droplets to collide and coalesce to become larger globules, which are captured in the separator. The separator consists of three compartments: a forebay, an oil separation cell, and an afterbay. The forebay is a cistern that traps and collects sediments. The central oil separation cell captures and holds oil. Vertical metal plates allow oil to migrate away from the stormwater. The afterbay is designed to discharge stormwater at concentrations of 10 ug/L of oil and grease or less.

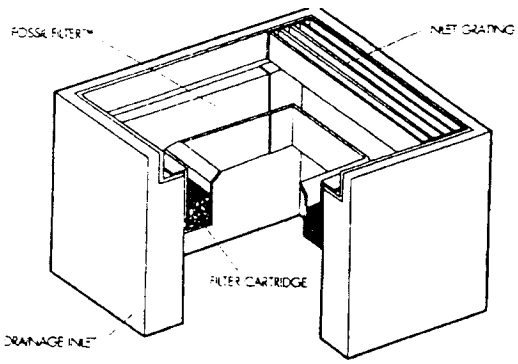

Figure 1: Schematic of a Fossil Filter™ "Drop In" Drain Inlet Insert

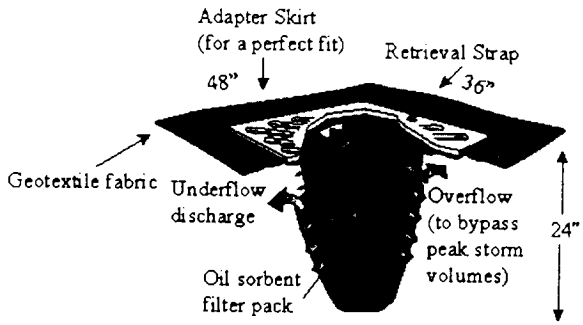

Figure 2: Schematic of a StreamGuard™ Oil and Grease Drain Inlet Insert

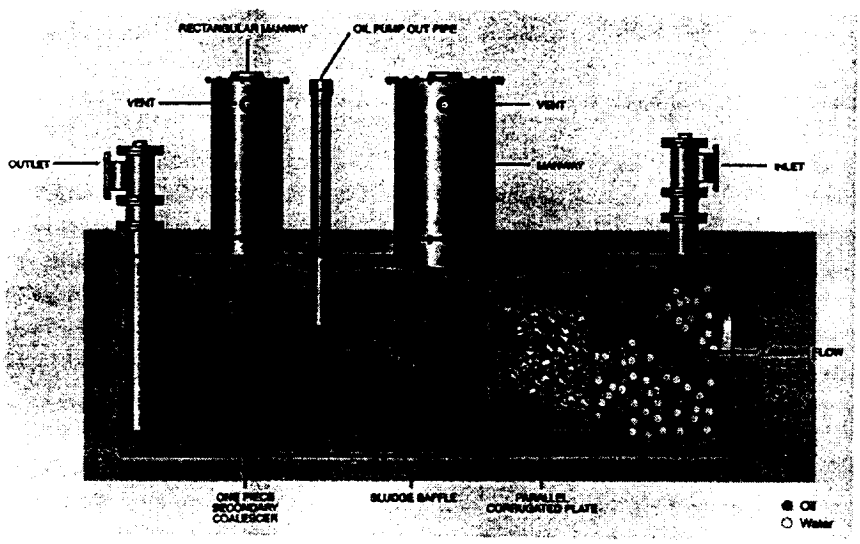

Figure 3: Schematic of an Areo-Power® ST1-P3 Oil/Water Separator

Installation

Typically, installation of DIIs is simple and requires no specialized equipment. Both DIIs used in this study are sized to fit standard Caltrans G2 drain inlets. Conversely, retrofit of the oil/water separator required extensive construction including excavation, construction of storm drain conveyance system, and field modifications to accommodate unanticipated buried utilities. Runoff from the maintenance station generally sheet flowed offsite. To maximize the amount of runoff treated by the oil/water separator, a trench drain had to be retrofitted at the MS; this trench drain channelized flow directly into the oil/water separator. Excavation for the oil/water separator became complicated because of unanticipated buried utilities. Consequently, the oil/water separator had to be rotated ninety degrees to accommodate the buried utilities.

Operation and Maintenance

Maintenance is dependent on the rate pollutants accumulate, storage capacity, and requirements to maintain hydraulic function. Consequently, DIIs had greater maintenance requirements than many other types of stormwater treatment BMPs. Conversely, the oil/water separator required less maintenance. Following is a summary of maintenance conducted at each BMP.

Fossil Filter™ Drain Inlet Inserts

Early in the study manufacturers maintenance guidance was followed to ensure proper functioning of the DII. Based on empirical observations during initial storm events, it was noted that the DIIs were highly subject to flow bypass because of sediment and debris clogging the cartridges. Additional steps were subsequently taken to remove sediment and debris from on top the cartridges both before and once during storm events. Even with this excessive maintenance, moderate flow continued to bypass the DIIs because of flow exceeding the capacity of the filter cartridges or more material flowing into the DII and impeding its filtering ability.

Routine inspections were conducted at each site prior to and during each storm event as well as monthly. Generally, small amounts of trash, debris, and sediment were removed from the DII both before and once during a storm event. Removed trash, debris, and sediment were placed in an on-site storage container designed to emulate DII conditions, and were subsequently sent to a laboratory with the DII for analysis. In addition, each DII was inspected weekly for the presence of vectors.

The thresholds for replacement of the DII filter media provided by the manufacturer were not reached. The adsorbent granules were removed at the end of the wet season. Subsequently, the adsorbent granules from the cartridges and trash, debris, and sediment collected during the wet season were sent to the laboratory for analysis. Results of the analyses were used to estimate pollutant removal efficiencies.

StreamGuard™ Drain Inlet Inserts

As with the Fossil Filter DII, manufacturer's maintenance guidance was followed to ensure proper DII functioning. Based on observations during storm events, oil sheens were observed passing through the DII and water was observed to pond within the DII. Subsequently, the manufacturer was consulted as to whether maintenance was required. The manufacturer responded that seeing an oil sheen passing through the DII and water ponding within the DII was to be expected and that maintenance was not required. The most common maintenance activity

of the StreamGuard™ DII was the need to refit the DII in the drain inlet after it had slipped because of the weight of water and material collected within it. Close pre-storm inspection and maintenance of the insert fit were necessary to minimize it slipping into the drain inlet during storms.

Routine inspections were conducted at each site prior to and during each storm event and monthly. At one location, organic material, mostly leaves, was removed from the DII once during the fall. Removed material was placed in an on-site storage container designed to emulate DII conditions. The thresholds for replacement of the DIIs provided in the manufacturer were not reached. At the end of the wet season, the DIIs and trash, debris, and sediment collected during the wet season were sent to the laboratory for analysis. Results of the analyses were used to estimate pollutant removal efficiencies. In addition, each DII was inspected weekly for the presence of vectors. Figure 4a summarizes the frequency of maintenance activities (i.e., number of times maintenance was conducted at the BMP) and Figure 4b summarizes the average amount of time spent performing each activity.

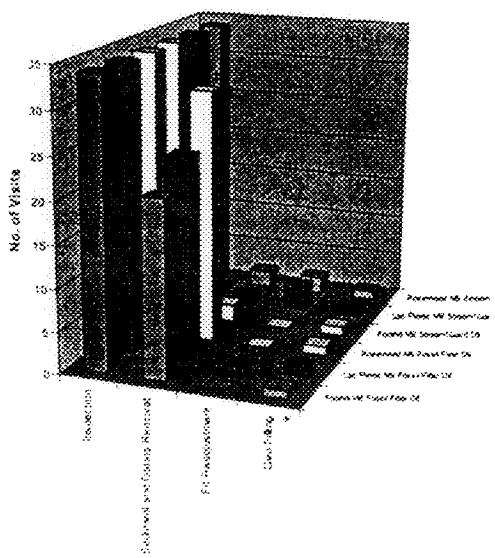

Figure 4a: Frequency of Maintenance Activities at the DII Sites (1999-2000)

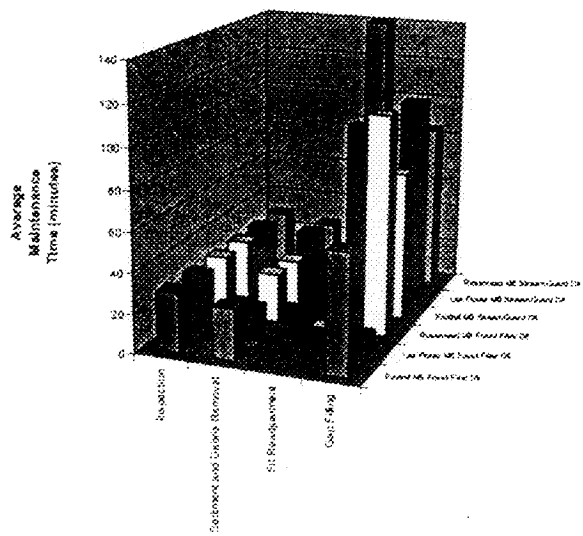

Figure 4b: Average Maintenance Times at the DII Sites (1999-2000)

Oil/Water Separator

Unlike the DIIs, monthly inspection of the internal components of the oil/water separator appeared to be excessive. This was because the amount of sediment and oil collected by the oil/water separator were far below manufacturer's maintenance thresholds. Consequently, inspection of the oil/water separators internal components was reduced to a quarterly frequency.

As expected, minimal maintenance was required of the oil/water separator. Maintenance conducted at the site included monthly inspections, removing debris from the conveyance system upstream of the oil/water separator, general site maintenance, and vector inspection. Figure 5a summarizes the frequency of maintenance activities (i.e., number of times maintenance was conducted at the BMP) and Figure 5b summarizes the average amount of time spent performing each activity.

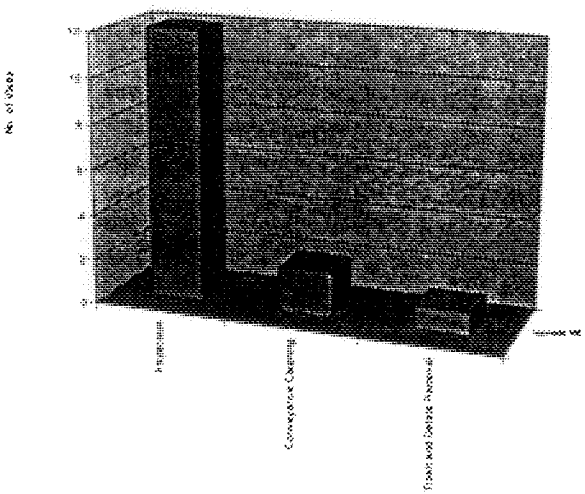

Figure 5a: Frequency of Maintenance Activities at the Oil/Water Separator (1999-2000)

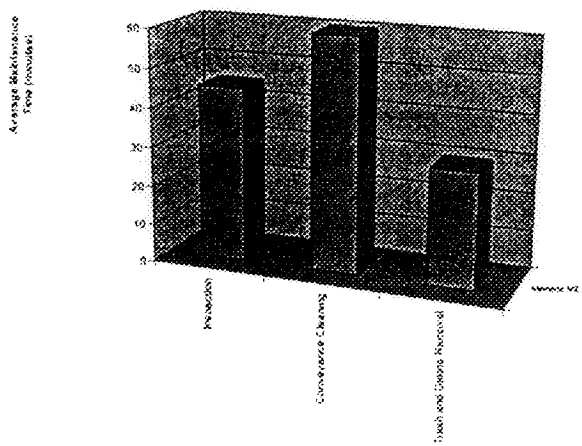

Figure 5b: Average Maintenance Times at the Oil/Water Separator (1999-2000)

Performance (Chemical Monitoring)

Drain Inlet Inserts

Pollutant removal efficiencies were estimated using a mass-balance approach for three Fossil Filter™ DIIs and three StreamGuard™ DIIs at the Foothill, Las Flores, and Rosemead Maintenance Stations, which were installed on 27 September 1999 and removed on 1 June 2000. Because of the inability to capture litter and debris bypassing the DIIs (a key component in estimating efficiency using a mass-balance approach), efficiencies presented in Table 2a do not account for the entrapment of litter and debris by the DIIs. However, the mass and associated pollutant load of the entrapped material is presented in Table 2b as anecdotal information.

To estimate the removal of contaminants by a DII, the procedure below was used. For purposes of these calculations, the value of the reporting limit was used in cases where an analyte was reported as undetected.

1. Calculate percent efficiency representing the time interval since the last time the insert medium was changed, using the equation:

$$\text{Efficiency (\%)} = \frac{\text{Estimated Influent Pollutant Mass} - \text{Effluent Pollutant Mass}}{\text{Estimated Influent Pollutant Mass}} \times 100$$

2. Estimate the influent pollutant mass for the time interval according to:

Estimated Influent Pollutant Mass = Insert Medium Pollutant Mass + Total Effluent Pollutant Mass for the Time Interval

3. Calculate total effluent pollutant mass in two ways, and compute efficiency with each method for comparison:

I. Storm-by-storm method:

A. Estimate the effluent mass for each storm event in the time interval according to:

Estimated Event Effluent Pollutant Mass = Effluent Event Mean Concentration (EMC) x Event Runoff Volume

B. For storm events that were successfully monitored, use the measured data.

C. For any storm event during the time interval that met the deployment criteria but was not successfully monitored, estimate the EMC for that event as the mean of all EMCs measured for that case in all storm events during the time interval. How the mean EMC is determined depends on whether the data tend more to be normally or log-normally distributed. If the concentrations tend more to be normally distributed, use the arithmetic mean of the effluent EMCs. If they tend more to be log-normally distributed, calculate the mean effluent EMC by log-transforming individual storm EMCs, averaging, and then transforming back.

D. Add the effluent pollutant masses from all storm events in the time interval.

II. Aggregated storm method:

A. Estimate the total effluent mass for all storm events in the time interval according to:

Estimated Total Effluent Pollutant Mass = Mean EMC x Total Runoff Volume

B. How the mean EMC is determined depends on whether the data tend more to be normally or log-normally distributed. If the concentrations tend more to be normally distributed, use the arithmetic mean of the effluent EMCs measured for that case in all storm events during the time interval. If they tend more to be log-normally distributed, calculate the mean effluent EMC by log-transforming individual storm EMCs, averaging, and then transforming back.

4. Compute mean efficiencies for each pollutant and each wet season by averaging results computed according to Steps 1-3 for all time intervals in that wet season.

Pollutant removal was within expectations for both DII types. Solids, metals, and hydrocarbon removal efficiency by the Fossil Filter™ DII decreased with increased flow volume. Solids removal efficiency by the Fossil Filter™ DII at Rosemead MS and the StreamGuard™ DIIs at

Foothill and Las Flores MSs was comparatively higher than the other DIIs because of the quantity of wind-blown material and leaves entrapped by the DIIs. Efficiencies by the StreamGuard™ DII at Rosemead MS were especially poor and are attributed to the large flow volume passing through the DII and the relatively small amount of sediment and debris in its watershed.

Oil/Water Separator

Pollutant removal efficiencies (based on load reduction) were estimated for the oil/water separator using analytical data from first-flush grab samples collected at the influent and effluent monitoring sites and flow data. Table 3 summarizes average, minimum, and maximum wet season efficiencies based on loads. Minimum and maximum constituent concentrations are also listed in the table. For purposes of these calculations, the value of the reporting limit was used in cases where an analyte was reported as undetected. Negative values indicate increases in loads. The following equation was used:

$$\text{Efficiency (\%)} = \frac{\text{Load in} - \text{Load out}}{\text{Load in}} \times 100$$

With the exception of Total Petroleum Hydrocarbon (Diesel), pollutant removal efficiency by the oil/water separator was generally poor. In fact, there was a net export of total suspended solids over the wet season. The relatively poor hydrocarbon removal efficiencies are attributed to the inability of the oil/water separator to remove hydrocarbons at low concentrations.

Table 2a: Removal Efficiencies for Drain Inlet Inserts

	Efficiency (%)					
	Fossil Filter DII			StreamGuard DII		
Constituent/Efficiency Method	Foothill MS	Las Flores MS	Rosemead MS	Foothill MS	Las Flores MS	Rosemead MS
Total Flow (cubic feet)	27,257	20,609	9,805	8,462	2,831	39,422
Solids w/o Litter Component - Storm-by-Storm	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Solids w/o Litter Component - Aggregate	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Copper w/o Litter Component - Storm-by-Storm	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Copper w/o Litter Component - Aggregate	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lead w/o Litter Component - Storm-by-Storm	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lead w/o Litter Component - Aggregate	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Zinc w/o Litter Component - Storm-by-Storm	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Zinc w/o Litter Component - Aggregate	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Hydrocarbons w/o Litter Component - Storm-by-Storm	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Hydrocarbons w/o Litter Component - Aggregate	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Table 2b: Quantity of Material and Associated Pollutant Load of Material Entrapped by Drain Inlet Inserts

	Entrapped Load (lbs)					
	Fossil Filter DII			StreamGuard DII		
Constituent	Foothill MS	Las Flores MS	Rosemead MS	Foothill MS	Las Flores MS	Rosemead MS
Mass of Entrapped Material (lbs)	5.0	14.0	31.0	10.0	15.0	3.3
Copper	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lead	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Zinc	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Hydrocarbons	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Table 3: Removal Efficiencies for the Oil/Water Separator

Constituent	Influent Concentration		Effluent Concentration		Efficiency (%)		
	Minimum	Maximum	Minimum	Maximum	Minimum Removal (Storm)	Maximum Removal (Storm)	Seasonal Load Removal
Total Suspended Solids (mg/L)	9.3	68	13	170	-1298	81	-181
TPH - Gasoline (ug/L)	<50	<50	<50	<50	0	0	0
TPH - Diesel (ug/L)	200	3100	270	690	-35	78	66
TPH - Heavy Oil (ug/L)	<200	420	<200	260	-4	52	20
Oil & Grease (mg/L)	<5	13	<5	<5	0	62	30

Performance (Empirical Observations)

Performance assessments of BMP operations were determined using empirical observations. Empirical observations were taken at variable times during monitored events.

Fossil Filter™ Drain Inlet Inserts

Prior to the 1999-2000 storm season, steps were taken to eliminate or minimize flow bypass around the peripheral of the Fossil Filter™ DIIs. This was accomplished by sealing the DII-inlet interface with foam material. Additionally, to promote flow into the DII at Rosemead MS, a section of rubber was attached along interface of the curb inlet and the insert.

Hydraulic capacity of the units is an inherent limiting factor in the performance of the DIIs. The Fossil Filter™ DIIs are designed not to impede flow (due to flood control considerations). During higher discharge rates, runoff has sufficient velocity and/or volume to pass over the lip of the cartridges and go directly into the storm drain system. No alterations in the design of the units were undertaken to eliminate this factor.

A third factor that caused flow bypass was blockage and clogging of the DII. Blockage occurred from the accumulation of trash, debris, and/or sediment on top of the filter cartridge screens. This accumulation blocked the filter cartridge screens so that stormwater runoff could not pass through the screens. The resultant standing water pooled and eventually achieved a depth where it spilled over the cartridge lip into the storm drain. Clogging also occurred when sediment passed through the cartridge screens and settled in the pore spaces between the adsorbent granules. This appeared to cause a slowing in the infiltration of water through the adsorbent. Water pooled and reached a depth where it spilled over the cartridge lip into the storm drain.

To minimize flow bypass because of blockage and clogging, it was decided to increase the maintenance of the units to maintain hydraulic capacity. Trash, debris, and/or sediment were removed from the units once prior to a storm event and once during a storm event. The removed trash, debris, and sediment were placed in an on-site storage container designed to emulate ambient conditions at the top of the cartridges.

Although extreme measures were taken to prevent or minimize flow bypass during moderate events, flow bypass still occurred because of the following reasons:

1. Hydraulic capacity. This was observed at both Foothill and Rosemead MSs. Based on several observations of hydraulic capacity exceedance at the Foothill MS, bypass generally was observed to occur when a flow rate of 0.07 cfs (31 gpm) was reached.

2. Blockage and clogging of cartridges. Despite removing trash/debris/sediment prior to a storm event and once during a storm event, bypass continued to be observed. Typically, after the removal of trash, debris, and sediment, more trash, debris, and sediment would be deposited during the course of the storm, again leading to more bypass.
3. During the last storm at Foothill MS, the stainless steel flange holding the cartridges bent upward due to the weight of water, and bypass occurred beneath the flange.

StreamGuard™ Drain Inlet Inserts

At the beginning of the wet season StreamGuard™ DIIs were installed in the three MSs per the manufacturer's installation guidance However, due to concern that there could be flow bypass between the insert fabric-inlet interface, wood was inserted into the area between the insert and inlet edge to form a tight seal.

Flow bypass was observed at StreamGuard™ DIIs at all three sites. There were two reasons for this:

1. Hydraulic capacity. Runoff filled the cone and flowed through the overflow cut-outs. The cone of the StreamGuard™ DIIs is 24 inches in depth. When standing water in the cone reaches a depth of approximately 22 inches, bypass can occur through the two overflow cut-outs on the sides.
2. The weight of the standing water in the cone caused the insert to slip downward into the inlet, thereby causing a gap in the inlet-insert interface and subsequent bypass.

The first reason for flow bypass was investigated by evaluating the manufacturing process of the filter fabric. It was determined that the fabric pore size can vary from roll to roll of the fabric. Even though the manufacturing process is the same for each roll of fabric, variation in pore size is normal and is not subject to control. It is possible that the inserts used during the 1999/2000 wet season were constructed with a fabric having small pore size, thereby potentially reducing flow rate through the filter fabric and consequently causing standing water within the insert. Generally, standing water in the cones resulted in flow bypass only. However, on three occasions at Rosemead MS flooding was observed. The second reason for bypass was related to the first reason. More standing water in the cones meant more weight in the cones, thereby causing the inserts to slip downward into the inlet. Slippage of the insert was observed at Las Flores and Rosemead MSs, and bypass through the gap was observed once at Las Flores MS.

Oil/Water Separator

Observations of the oil/water separator indicated no bypass or short-circuiting. Influent water quality was generally brown with suspended solids with a slight oily sheen. Recent observations indicated clear effluent discharge with black suspended solids. Hydrocarbon odor was also noticed from the discharge of the oil/water separator.

Cost

Costs for the retrofit of the DIIs and oil/water separator are summarized in Table 4. Actual costs are those costs incurred for the installation of the BMP for the project including associated monitoring facilities (e.g., installation of flumes). Estimated costs without monitoring facilities

are costs incurred for the installation of the BMPs including site-specific costs. Estimated product costs are costs for the BMP itself without installation.

Table 4: Installation Costs

Site	BMP Type	Actual Cost	Estimated Cost without Monitoring Facilities*	Estimated Product Cost
Foothill MS	Fossil Filter™ DII	$36,879	$1,186	$500
Las Flores MS	Fossil Filter™ DII	$51,696	$1,186	$500
Rosemead MS	Fossil Filter™ DII	$32,116	$1,186	$500
Foothill MS	StreamGuard™ DII	$36,879	$1,186	$100
Las Flores MS	StreamGuard™ DII	$51,696	$1,186	$100
Rosemead MS	StreamGuard™ DII	$32,116	$1,186	$100
Alameda MS	Oil/Water Separator	$179,437	$165,043	$45,000

* Total cost to install both types of DIIs at a site were equally divided.

Conclusions

Siting and Selection

The selection of DIIs and oil/water separators over other stormwater treatment controls should consider relative removal efficiencies and maintenance requirements and logistics.

Drain Inlet Inserts

Consideration of anticipated flow rates should be evaluated, as flows exceeding ~ 0.07 cfs (31 gpm) tend to bypass the Fossil Filter™ DII. In the case of the StreamGuard™ DII, consideration should be given to the potential for flooding. As seen during the study, flooding has occurred and facilities upstream could be potentially impacted. Also, consider treatment goals and maintenance requirements and logistics.

Oil/Water Separator

Knowing the oil and grease concentration at a prospective site is essential when considering use of an oil/water separator. Few if any, maintenance station sites were found to have oil and grease concentration sufficiently high to be effectively removed by coalescing plate oil/water separators. The one applicable site found only had temporarily high oil and grease concentrations; these concentrations were subsequently reduced using source controls. Consequently, oil/water separators are not a recommended technology for stormwater treatment.

Installation

Fossil Filter™ Drain Inlet Inserts

A design problem noted at the Fossil Filter™ DII sites is that even though the units are sized for standard Caltrans drain inlets, the fit is imperfect, resulting in a gap between the inlet and the DII. This gap can lead to flow bypass. Sealant was used to close the gap and eliminate the potential for this type of flow bypass.

StreamGuard™ Drain Inlet Inserts

A design problem noted at the StreamGuard™ DII sites is that when the units are installed per manufacturer's direction, a gap exists between the filter fabric and the edge of the inlet. This gap can lead to flow bypass and allow for DII slippage into the drain inlet. Wood shim was forced into each gap, thereby closing it and eliminating the potential for flow bypass due to it.

Oil/Water Separator

Configuration of existing storm drain systems should be considered when selecting a site for retrofit. Where stormwater runoff is not concentrated, additional stormwater conveyance systems may need to be constructed. Also, since determining the locations of all utilities prior to construction is not practical due to limited documentation, it is suggested that a small budgetary contingency be reserved in case unknown utilities are encountered.

Operation and Maintenance

Both DII types tested required maintenance before and after storm events as small as 2.54 mm (0.1 inch). Trash, debris, and sediment in the catchment had a significant impact on the frequency of maintenance.

Oil/water separators had minimal accumulation of oil and grease. This resulted in no major clean-out activity in the two years monitored.

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References

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