



Ventura Countywide Stormwater Quality Management Program

Participating Agencies

July 31, 2009

Camarillo

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

County of Ventura

Fillmore

SUBJECT: AUGUST 4, 2009 STATE WATER RESOURCES CONTROL BOARD MEETING (CONSIDERATION OF A PROPOSED ORDER IN THE MATTER OF THE PETITION OF THE COUNTY OF LOS ANGELES AND LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, WASTE DISCHARGE REQUIREMENTS ORDER NO. R4-2006-0074 ISSUED BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION (SWRCB/OCC FILE A-1780))

Moorpark

Ojai

Oxnard

Port Hueneme

Dear Ms. Townsend:

San Buenaventura

I am writing on behalf of the Ventura Countywide Stormwater Quality Program (Program) regarding the draft State Water Resources Control Board Order in the *Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District*, SWRCB/OCC File A-1780 ("Petition"). Although the Program is not a permittee under the storm water permit at issue in the Petition, it does consist of all the permittees subject to the Ventura County Municipal Stormwater Permit (Order 09-0057), and the incorporated TMDLs therein. The Program requests that these comments in support of the Petition be placed in the record of this action and also be forwarded to the chair and members of the State Board prior to the hearing date. Additionally, we would like to take this opportunity to support the July 31, 2009 letter from the California Association of Stormwater Quality Agencies on this matter.

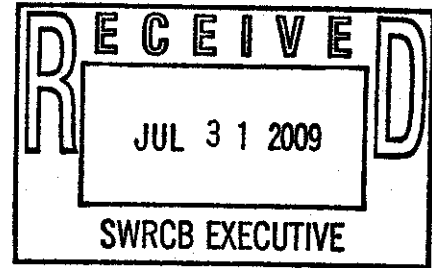
Santa Paula

Simi Valley

Thousand Oaks

The issues discussed in the Petition are of critical important to the Program because of the complex, evolving and expensive technologies that are required to address the pollutants covered by TMDLs. The requirements to implement TMDLs, including developing compliance and monitoring plans, conducting monitoring, and BMP design and installation, are proving to be the single most expensive element of storm water compliance. The pollutants covered by the TMDLs are generated by a number of sources, most of them beyond the direct control of municipalities.

Ventura County
Watershed Protection
District



In this era of shrinking government budgets, the State and local governments need to work together to achieve clean water goals using ever-limited public funds.

The Program wishes to emphasize four issues raised by the Petition that are of critical importance:

First, the Program strongly objects to the incorporation of TMDLs that are expressed as numeric effluent limits into municipal storm water permits. Such an approach could place municipalities in immediate jeopardy of civic penalties under federal and state law and would ignore the difficult task of identifying and addressing exceedances of pollutants in storm water and urban runoff. This approach was expressly rejected by the State Board's Blue Ribbon Panel of experts formed to consider numeric effluent limits in storm water permits.

Second, any amendment of a municipal storm water permit to incorporate a TMDL should adopt an iterative approach. Use of an iterative approach is extremely important because in many cases, the sources of pollutants are not under the permittees' control, and reliable technologies are not always available. Municipalities should not be burdened with the threat of civil penalty actions or citizens' suits if initial attempts to meet the TMDL waste load allocations are unsuccessful. A better approach is an iterative one employing BMPs and monitoring to demonstrate compliance.

Third, the Program urges the Board to require a finding that the amendment is consistent with the "maximum extent practicable" ("MEP") standard before a Regional Board incorporates a TMDL into a municipal storm water permit. This finding is legally required and is especially important because MEP is not considered when a TMDL is adopted. A TMDL's consistency with the MEP standard must be considered prior to its incorporation into a municipal storm water permit.

Fourth, the Program asks the Board to reject the joint liability provision found in the permit amendment before the Board in this Petition. It is fundamentally unfair to hold one city responsible for discharges from other jurisdictions over which it has no control. In addition, this provision violates both the Porter-Cologne Water Quality Act and the Clean Water Act, which apply liability only to a discharger's own discharges, not those of others.

In conclusion, the Ventura Countywide Stormwater Quality Management Program urges the Board to grant the Petition and remand the permit amendment back to the Los Angeles Regional Board for hearing and revision in light of the Board's direction.

Thank you for your attention to this matter. If you have any questions regarding these comments please contact me at (805) 654-5051.

Sincerely,


Gerhardt J Hubner, Chair

Ventura County Stormwater Quality Management Program