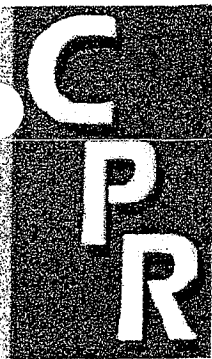


COALITION FOR PRACTICAL REGULATION

"Cities Working on Practical Solutions"



07 June 2010

VIA E-MAIL

Mr. Ivar Ridgeway
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
Electronic submittal to: July082010VCMS4@waterboards.ca.gov

Subject: **Reconsideration of Ventura County MS4 Permit (Order No. 09-0057)**

Dear Mr. Ridgeway:

I am writing on behalf of the Coalition for Practical Regulation (CPR), an *ad hoc* group of 40 cities in Los Angeles County that have come together to address water quality issues. We thank the Los Angeles Regional Water Quality Control Board for the opportunity to provide these comments regarding the reconsideration of the Ventura County MS4 permit. Although our member cities are not in Ventura County, we understand that the Ventura Permit is likely to be used as a model for future MS4 permits in the region. As we have stated in comment letters related to the 2009 Tentative Permit and previous drafts of the Permit, to that end, we are extremely interested in the process of creating a workable draft MS4 permit for Ventura County.

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- BELLFLOWER
- CARSON
- CERRITOS
- COMMERCE
- COVINA
- DIAMOND BAR
- DOWNNEY
- GARDENA
- HAWAIIAN GARDENS
- INDUSTRY
- IRVINDALE
- LA CAÑADA FLINTRIDGE
- LA MIRADA
- LAKEWOOD
- LAWNDALE
- LYNWOOD
- MONTEREY PARK
- NORWALK
- PALOS VERDES ESTATES
- PARAMOUNT
- PICO RIVERA
- POMONA
- RANCHO PALOS VERDES
- ROSEMEAD
- SANTA FE SPRINGS
- SAN GABRIEL
- SIERRA MADRE
- SIGNAL HILL
- SOUTH EL MONTE
- SOUTH GATE
- SOUTH PASADENA
- VERNON
- WALNUT
- WEST COVINA
- WHITTIER

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Permit Provisions Highlighted By Underline and Strikeout Should Have Emphasized True Source Control Rather Than Operational Source Control

CPR was extremely disappointed that the changes to the permit recommended by staff in underline and strikeout, especially the new findings, did not incorporate an emphasis on true source control. A water quality improvement strategy that focuses on removal of pollutants from stormwater is not as efficient and cost-effective as a strategy that emphasizes preventing the pollutants from getting into the stormwater in the first place. In fact, the permit adopted by Order No. 09-0057 included a finding that recognizes research indicating that dry atmospheric deposition may account for a significant load of pollutants into surface water. However, the underlined staff addition of findings to support the NRDC/Heal the Bay/city manager group agreement did not support the need for true source control to prevent the pollutants from entering the atmosphere from where they are deposited on watersheds and then washed into the receiving waters. Instead, a net increase of 11 findings to support specific approaches advocated by the environmental organizations simply moved the finding from number B-20 to number B-31. Much of the treatment included in the permit measures being reconsidered would be unnecessary if the Regional Board were to support true source control.

The Ventura Permit Continues to Be Prescriptive and Overly Restrictive

CPR is concerned that the Ventura County Permit adopted by Order No. 09-0057 is too complex, extremely prescriptive, and overly restrictive. In fact, the modifications made it much more prescriptive than the Tentative Permit originally presented to the Regional Water Board at the May 7, 2009 hearing.

The prescriptive nature of the modifications to the Permit would limit the flexibility of the Permittees to creatively respond to water quality problems as they arise – particularly given the difficulties inherent in raising fees for stormwater services in the post-Proposition 218 regulatory environment. Municipalities across the state have continued to refrain from initiating Proposition 218 stormwater utility fee votes due to the perception

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that it is extremely challenging to gain sufficient public support to pass increased fees. This was the case even prior to the current precipitous economic downturn; it would be difficult to imagine a new or increased fee gaining the support required for passage in the current economic climate.

Municipal Action Levels (MALs)

One element of the Permit presented by staff during the May 7, 2009 Board hearing, and subsequently removed as part of the all-or-nothing acceptance of the private agreement between the city managers and the environmental organizations, was the revised municipal action levels (MALs) component. This should not have been removed. Staff had revised the MALs component into a workable method of using quantifiable metrics as a tool to identify subwatersheds requiring additional best management practices (BMPs) to reduce pollutant loads. Reducing the number of conventional pollutants and metals for which MALs would be established to a core of common stormwater pollutants provided a framework to assist the permittees to focus their efforts and lead to appropriate control of the majority of stormwater pollutants.

The use of MALs in the staff-recommended Permit presented to the Regional Water Board at the May 7, 2009 hearing was consistent with the Findings of the State Water Board's Blue Ribbon Panel and could have initiated the implementation of a consistent approach to implementing the Blue Ribbon Panel's recommended use of Action Levels across the state. The Blue Ribbon Panel defined the concept of an Action Level as follows:

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

The MALs, as presented in the 2009 Tentative Order, were true action levels consistent with the iterative process in State Water Board Order 99-05. As proposed, the MALs would have triggered enhanced management measures as called for in the iterative process. As proposed in the earlier Third Draft Ventura Permit, the MALs had not been action levels as proposed by the Blue Ribbon Panel, but were inappropriate precursors to numeric effluent limits, which then would have become actual numeric effluent limits after three years. These limits would have triggered the installation of BMPs that would be required to meet very strict performance standards based on a national database rather than on local conditions.

Planning and Development Program Issues

New Sections III.1 and III.2 need to be revised to be more flexible. As amended in the permit adopted by Order No. 09-0057, these sections became more prescriptive. Any low impact development (LID) requirements remaining in the permit after reconsideration must recognize that LID is an emerging management measure and not restrict its implementation to pre-determined measures or categories of measures.

Furthermore, the New Development/Redevelopment Criteria section of the Planning and Land Development Program still inappropriately attempts to apply an effective impervious area (EIA) ratio developed through watershed research to individual project areas. This is wrongly applied and should be deleted from the permit. The EIA component, if it remains in the permit, should be expressed as a goal for both new development and redevelopment, not as a strict limit.

Flexibility for permittees to respond to water quality problems has been greatly reduced by the incorporation of EIA requirements in the New Development/Redevelopment Criteria. This is an ambiguous standard that will be difficult to implement in a consistent manner. Furthermore, Section III.1(c) further reduces flexibility by specifying that to render surfaces “ineffective” facilities have to be designed to infiltrate, store for reuse, or evapotranspire runoff. This requirement excludes the use of biofiltration, which is recognized by USEPA as a viable component of LID implementation.

The research behind Finding 16 is based on watershed and sub-watershed level research – not individual parcel or project research. There is actually more research on the volume capture approach to controlling urban runoff at the parcel or project level. As the California Stormwater Quality Association (CASQA) noted in its comment letter on the 2009 Tentative Order, “pollutant loads increase in direct proportion to increase in runoff volume.” Therefore, if runoff volume can be mitigated, pollutant loads will be reduced. The critical element is the reduction of urban runoff, as runoff transports pollutants. CPR again recommends that the volume capture approach continue to be the basis for regulation of discharges from new development and redevelopment while more experience is gained with implementation of low impact development measures and reduction of effective impervious area in Southern California.

Recommendations and Conclusions

CPR recommends that the Regional Water Board direct staff to make the following changes to the proposed Permit under reconsideration before it is brought back to the Board for adoption:

- Within the Planning and Land Development Program, eliminate the application of effective impervious area to individual parcels and projects;

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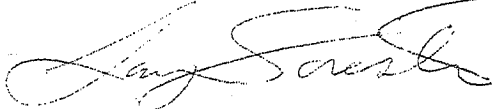
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- Revise the Planning and Land Development Program to recognize the range of scales at which water quality management measures are applied and add a Finding to reflect that an effective program will include measures at a variety of scales;
- Re-insert the Municipal Action Levels as true action levels designed to set “upset” values, which are clearly above the normal observed variability and would allow “bad actor” catchments to receive additional attention; and

In addition, the Regional Board should consider carefully the recommendations of the BIA/SC and CICWQ. Their members and consultants have extensive experience with the design and construction of BMPs to improve water quality. If you cannot make the changes requested by BIA and CICWQ, CPR strongly recommends that your Board adopt the draft permit originally presented at the May 7, 2009 hearing, as indicated in the Notice of Public Hearing that the Board may do.

Thank you again for the opportunity to submit these comments on the Reconsideration of Ventura County MS4 Permit.

Sincerely,

COALITION FOR PRACTICAL REGULATION



Larry Forester
CPR Steering Committee
Vice Mayor, City of Signal Hill

cc: CPR Steering Committee
CPR Members

From: Rebecca Burleson <RBurleson@cityofsignalhill.org>
To: <July082010VCMS4@waterboards.ca.gov>
CC: "Ken Farfsing" <kfarfsing@cityofsignalhill.org>, "Richard Watson" <rwats...>
Date: 6/7/2010 4:31 PM
Subject: Reconsideration of Ventura County MS4 Permit (Order No. 09-0057)
Attachments: Reconsideration of Ventura CountyMS4 Permit (Order No. 09-0057).pdf

Attached is a letter is from the Coalition For Practical Regulation, an ad hoc group of 40 cities in Los Angeles County that have come together to address water quality issues regarding Reconsideration of Ventura County MS4 Permit (Order No. 09-0057).

Rebecca Burleson

Assistant to the City Manager/

Deputy City Clerk

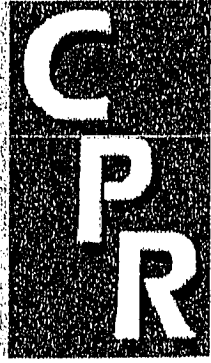
City of Signal Hill

2175 Cherry Ave.

Signal Hill, CA 90755

(562) 989-7305

(562) 989-7393 fax



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PALOS VERDES ESTATES
PARAMOUNT
PICO RIVERA
POMONA
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ROSEMEAD
SANTA FE SPRINGS
SAN GABRIEL
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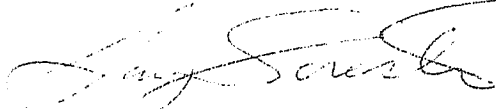
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