

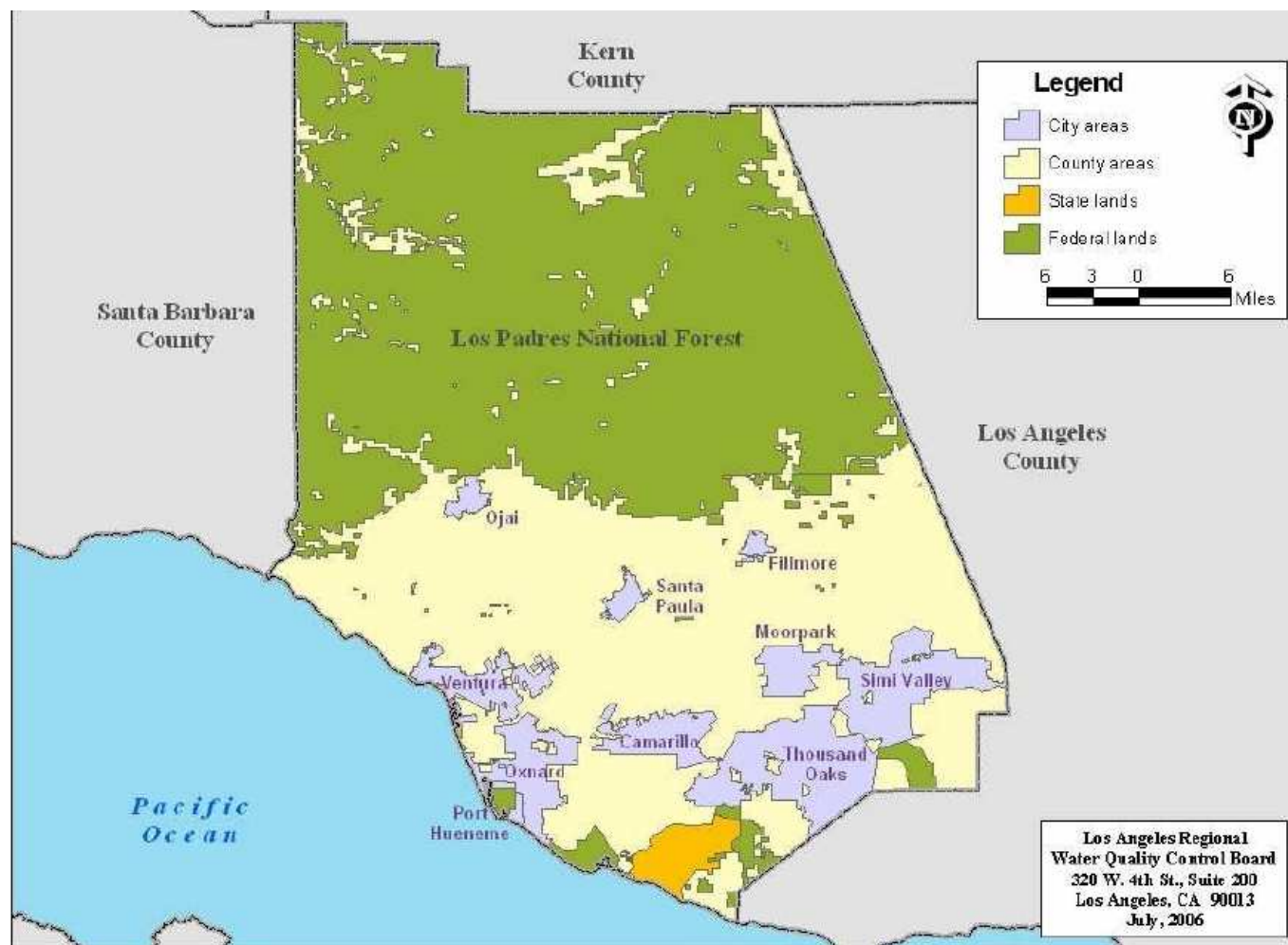
# Have Numeric Limits for MS4s Arrived?

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NACWA - Developments in Clean Water Law  
November 7, 2007  
Palm Springs, California

# Ventura County MS4 Permit

- Ventura County Watershed Protection District
- County of Ventura
- Incorporated Cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, Ventura, Santa Paula, Simi Valley, and Thousand Oaks
- Total Population - 817,000

# Ventura County



# Percentage of Land Use Type



## Ventura County by Land Use

- Open Space (Including Federal Land) - 79%
- Urban Area (subject to NPDES SW permit) - **12%**
- Agriculture - 8%
- Rural - .008%
- Military - .006%
- Harbor(s) - .0003%

## Timeline of Activities

- 12/27/06 - LA Regional Board Issued 1st Admin. Draft
- 4/6/07 - Comments Submitted on 1st Admin. Draft
- 5/05/07 - Workshop with LA Board on 1st Admin. Draft
- 8/28/07 - LA Regional Board Issued 2nd Admin. Draft
- 9/20/07 - Workshop with LA Board on 2nd Admin. Draft
- 10/15/07 - Comments Submitted on 2nd Admin. Draft

## How MALs Were Developed

- Nationwide Phase I MS4 monitoring data
- Statistical Based Population Approach
- Multiplied median with 2x Coefficient of Variance
- Intended to Define MEP Numerically

# Order Establishes Municipal Action Levels

Pollutants	pH	TSS mg/L	COD mg/L	TKN mg/L	Nitrate & Nitrite total mg/L	P total mg/L
MALs	6.0-9.0	211	120	3.50	1.16	0.82

Pollutants	Cd, total ug/L	Cr, total ug/L	Cu, total ug/L	Pb, total ug/l	Ni, total ug/L	Zn, total ug/L	Hg, total ug/L
MALs	7.34	20.4	70.7	62.2	19.2	756	1.01

# MAL Compliance Language

## (Municipal Stormwater Discharge Limitations)

- Discharges of stormwater shall not exceed MALs
- Running average of 20% or > of exceedences of any MAL creates presumption that MEP is not met
- Affirmatively required to implement all necessary controls to reduce to the MEP (i.e. meet MAL)
- “End-of-pipe” compliance points for determining compliance with MALs are major outfalls
- “End-of-pipe” means compliance and monitoring point for effluent limits



# MAL Legal Issues

- Numeric Standard to Define Flexible MEP
- Presumption in a Quasi-Adjudicatory Order
- 10th Amendment Violation
- Technology Based without Proper Considerations
- Exceeds Federal Requirements
- Fails to Comply with CA Law Where Federal Law Exceeded
- Unfunded State Mandate

## Violation of MALs - Potential Liability

- Mandatory Minimum Penalties per CA Law
- Administrative Civil Liability
- Third Party Liability

# Other Issues of Concern

- Numeric Effluent Limits to Implement Adopted TMDLs
- Prescriptive and Specific Requirements for all Program Elements
  - Educate a minimum of 50% of all school children every 2 years
  - Trash Excluders required in commercial areas, industrial areas & near educational institutions
  - Treatment Control BMPs required for Commercial Facilities that discharge to 303(d) Listed waters
- New Development/Redevelopment Program Requirements
  - Grading prohibition on slopes Oct-April
  - Low impact development
  - Hydromodification

## Anticipated Next Steps

- Series of Meetings with Stakeholders to discuss concerns in 10/15/07 comments
- Revise Draft Order (concurrently)
- Issue Tentative Order for 30-day public review and comment (late December or early January)
- Prepare Staff Report and Response to Comments
- Hold Public Hearing for Adoption (March)

## More Information

- [www.waterboards.ca.gov/losangeles](http://www.waterboards.ca.gov/losangeles)
- Link to Storm Water - Municipal Permits for County of Ventura
- Draft Permit
- Draft Comments



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