



## Watershed Protection - Storm Water Ordinance VC COLAB HAS AN IMPACT

By: Lynn Gray Jensen

The Municipal Storm Water Permit (MS4) adopted by the Los Angeles Regional Water Quality Control Board for Ventura County in 2010 is a sweeping set of regulations that will increase the cost of most building projects in the State of California. It applies to development, re-development and construction projects and will impact businesses who replace, expand or plan new facilities. It will also drive up the cost of new housing, many remodels, and make low-income housing projects more difficult to afford. We estimate that the cost for storm water management of an average building project will escalate by 5 times.

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The problem lies within the process, not necessarily the remedies. The MS4 for Ventura County is 131 pages of complicated rules requiring the County Watershed Protection District to review, manage and inspect proposed development and new construction projects for ANY potential addition, release or flow into the County storm drain system or receiving waters. The process requires reporting to County, State and sometimes Federal agencies prescribing new monitoring, reporting and fees for both pre- and post-construction phases. Engineers who assist with projects must have special education and certifications.

While the actual remedies to clean up storm water, (called Best Management

Practices or BMPs) were not significantly changed from the 2009 Order to the 2010 MS4, the bureaucracy has increased exponentially.

The MS4 was adopted in July of 2010 after significant public input including a challenge by several Building Industry Associations. Within 2 years, the County is required to update and clarify their own local ordinance to comply with the new MS4 rules. The first public hearing on their amended ordinance was presented to the Board of Supervisor's on June 12th, 2012. At this hearing, I spoke out against the new red-tape, fees and enforcement language.

VC COLAB is committed to monitoring, analyzing and commenting to the Board of Supervisor's and Planning Commission on revisions to regulations on behalf of our member's interests. We take a position from a project applicant's point of view which is unique to our organization. We have a keen eye for analyzing the "intent" and "clarity" of regulations to discourage future interpretations that could cause the process to become more expensive and restrictive over time. In reviewing the proposed language we found a number of issues with definitions and wording that in our opinion needed to be changed. **This time our hard work paid off!**

After several correspondences with Water-



### STOP THE FLOOD!

The California Farm Bureau Federation (CFBF) published an article in the June 27th issue of their weekly newsletter AgAlert announcing a campaign called "Stop the Flood of Regulation". While acknowledging the constant flood of expensive and unwarranted regulations impacting the farming industry, CFBF rightly points to perhaps the most onerous of all future red tape: the intent of the U.S. Environmental Protection Agency and Army Corps of Engineers to broaden their regulation of "Waters of the U.S." through a guidance document under the Clean Water Act. Their plan is to remove the word "navigable" from the Act as a way to transfer jurisdiction of "nearly every drop of water" in the country from state and local control to the Federal government.

The CFBF is urging farmers and ranchers to ask "their senators and representatives to support the Preserve the Waters of the U.S. Act (S 2245 and H.R. 4965) which would prevent EPA from taking action through this guidance document." In addition, there will be an effort to share regulatory stories on social media platforms like Facebook and #stoptheflood hashtag on Twitter.

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*(Storm Water Ordinance: cont. from Page 1)*

shed Protection District (WPD) personnel and a face-to face meeting on June 19th, VC COLAB submitted a [letter](#) outlining our issues in preparation for the final public hearing originally scheduled for June 26th. The recommended changes were fivefold:

- 1) Addition of references for controlling documents like the "Basin Plan" lowering the frustration level for applicants trying to find the documents.
- 2) Clarification of the "County Discharge Permit" which is NOT an additional permit and is NOT required for projects that comply with the State General Permits. Recommended extending the maximum time limit for these permits from 5 to 10 years.
- 3) Clarification of the responsibility of property owners to maintain their *private*, not public storm water structures, and alleviating the responsibility to remove excessive vegetation from drainages that might conflict with other State and Federal regulations pertaining to wetlands.
- 4) Adding back original language for inspections to include: *at all reasonable times*.
- 5) Recommended the trigger for an MS4 review be tied to a *discretionary* county approval rather than *any permit* as proposed in order to exempt small ministerial grading projects.

At the July 26th Board Hearing, our first four proposed changes were accepted into the language and the final adoption meeting was re-scheduled for July 17th.

With respect to our fifth recommendation, on the 26th, Bud Sloan, our VC COLAB President testified to the Board, again requesting that the word *discretionary* be added to the language. The Board voted to change the language to *ministerial and discretionary* from *any approval* which does not solve the issue.

It is our position that Non-Development grading, as is being defined in the new grading ordinance, should not be subject to the MS4 as it is not *Development* or *Construction*. On July 11th, VC COLAB sent an email to WPD requesting clarification and submitting suggestions for changes. We are currently waiting for an answer. One of our suggestions is to clarify the defini-

**IT IS WITH GREAT SORROW  
THAT WE  
RECOGNIZE THE PASSING OF  
JAMES ANDY WATERS, Jr.**

**Loving Husband of VC COLAB  
Board Member Patty Waters  
and Father of  
Members Andrew and Josh**

**His energy and dedication to the  
farming community and to our  
mission will be greatly missed!**

tion of Construction Activity under Article 1.d to read: "shall mean any construction or demolition activity *including* clearing, grubbing, or excavation or any other activity that results in a land disturbance *for the purpose of construction*."

In addition, we are proposing Sec. 6950 – CONSTRUCTION – to read: "Any Construction activity that requires a grading, building or *other construction related* discretionary permit shall be undertaken in accordance with ..."

The Construction section should clearly be about construction activity and not about clearing or grading for fire or agricultural purposes. Projects that have no construction purpose should not be subject to this regulation.

**The public hearing for the [Storm Water Ordinance revision](#) will be on Tuesday, July 17th in the Supervisor's Board room at the County of Ventura at 11:00 time certain. Please join us for our final opportunity to weigh in on this important regulation.**



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*(STOP THE FLOOD: cont. from Page 1)*

This is an issue that should unite all businesses in the country. It is not that farmers and ranchers are not concerned about water quality. But the solutions are local and vary greatly by area. For federal agencies to believe they need to regulate every farmer's drainage ditch is a snapshot of what is wrong with America. For every step up in level of regulatory control, innovation in problem solving is reduced while cost and time are increased.

To quote Erin Anthony in her AgAlert article: "Having to get another permit doesn't sound like that big of a deal. But at \$30,000 to well more than \$ 100,000 for some permits, these requirements sometimes force growers to avoid farming otherwise productive acreage, just so they don't trigger federal permit and extremely costly mitigation requirements. And in most parts of the country, it would be just about impossible to farm around every wet spot that EPA and the Corps want to regulate."

There are two significant issues at play here. The first is the "guidance document" process which has become a popular way for agencies to push through a one-sided agenda and to avoid stakeholder input and accountability to voters. Costs, feasibility and unintended consequences of the regulations are not fully addressed. In addition, the process averts critical rule-making by both houses of Congress and circumvents the Supreme Court whose purpose it is to reign in federal power. The Clean Water Act purposely limits federal regulation to "navigable" waters which should not be changed without congressional approval.

Second, rather than allowing entrepreneurs to innovate new solutions, agricultural and other businesses will be forced to focus on paperwork, fees, audits and attorneys. Remember the EPA underground fuel tank program where a majority of the money was spent on lawsuits rather than cleanup? Imagine the bureaucracy that would need to be created for such an expansive federal program.

We agree wholeheartedly with the CFBF - It is literally time to Stop the Flood of Regulation and this is a perfect place to draw the line! [Click HERE](#) for the Stop the Flood Facebook Page.



## CUBA CULTURAL EXCHANGE

### The Case for Private Property

By Lynn Gray Jensen

Recently, I took advantage of an opportunity to visit Cuba as part of a project inspired by artists to promote the exchange of culture and art. The purpose of such exchanges is to transcend our political differences and encourage new avenues of mutual understanding between the United States and Cuba. While both governments restrict access, the people have many common values, sharing family and culture while being physically separated by only 90 miles of ocean.

Flying into Havana reveals a city teeming with people who appreciate their well-developed culture of art, music and dance. Our one week tour led us to local artist studios, flamenco dancing, open-air opera,

street musicians, public art, sculpture and architecture. Newly allowed private restaurants called Paladars offer a bounty of Cuban cuisine featuring fish, shrimp and chicken always served with tasty fried plantains, black beans and rice.

The main purpose of our trip was to accompany our 16 year old daughter for the first week of her adventure of a lifetime - to dance with the Pro Danza dance academy for four weeks in Havana. In an unassuming facility west of the Almendares River, Cuban dancers practice their long ballet tradition under the direction of Alicia and Laura Alonzo, mother and daughter, internationally famous in the ballet world. Three American teenagers enrolled in the 2012 summer program which requires dancing from 9:00 am to 5:30 pm and includes classes in pointe, modern, flamenco, strengthening, miming etc. The culmination performance will be the ballet *Sleeping Beauty*. Our tour director/filmmaker, Bill Hendricks is filming the girls, including his 14 year-old daughter, documenting the journey and their dance experiences.

For U.S. Citizens, there is a bit of anxiety entering Cuba for the first time since our governments do not have normal relations and there is no real American Embassy.

While it was difficult to ignore my political values, I experienced Cuba as a functioning, vibrant and safe society.

However, as a staunch defender of private property rights, I believe the recent changes proposed by Raul Castro allowing Cubans to buy and sell property, including houses and cars, will be a fundamental positive change for many Cuban people. While the particulars are still in the works, there is a feeling of optimism from budding entrepreneurs that this will allow improvement in the overall standard of living and encourage critical upkeep of buildings. According to a New York Times article (8-2-2011): *"Broader effects could follow: Sales would encourage much-needed renovation, creating jobs. Banking would expand because, under the newly announced rules, payments would come from buyers' accounts. Meanwhile, the government, which owns all the property now, would hand over homes and apartments to their occupants in exchange for taxes on sales - impossible in the current swapping market where money passes under the table."*

I feel fortunate for the experience and have hope for the Cuban people that their economy and lifestyles will continue to improve.

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Andy Caldwell Talk **Radio Show**: Weekdays 3:00 to 5:00 PM

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