

# **County of San Diego Comments on Prior Lawful Approval (PLA)**

**San Diego Regional Water Quality Control Board  
Public Workshop on Tentative Order No. R9-2015-0001  
An Order Amending the Regional Municipal Separate Storm Sewer (MS4) NPDES  
Permit for the San Diego Region**

Wednesday, October 8, 2014

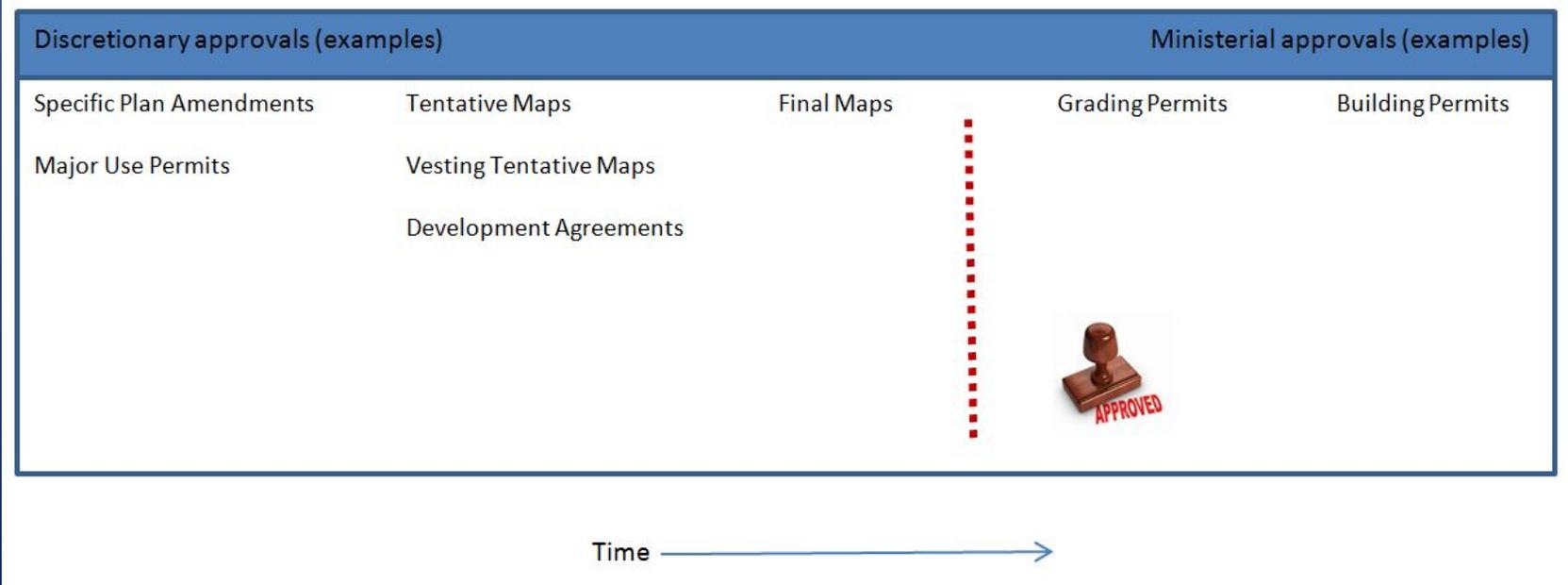
**City of Mission Viejo  
Council Chambers  
200 Civic Center  
Mission Viejo, California**

## Prior Lawful Approval (PLA)

- Prior Lawful Approval determines when and if a development or public works project will be required to comply with updated stormwater regulations
- Often referred to as “grandfathering”
- 2013 MS4 Permit requirements are effective on December 24, 2015

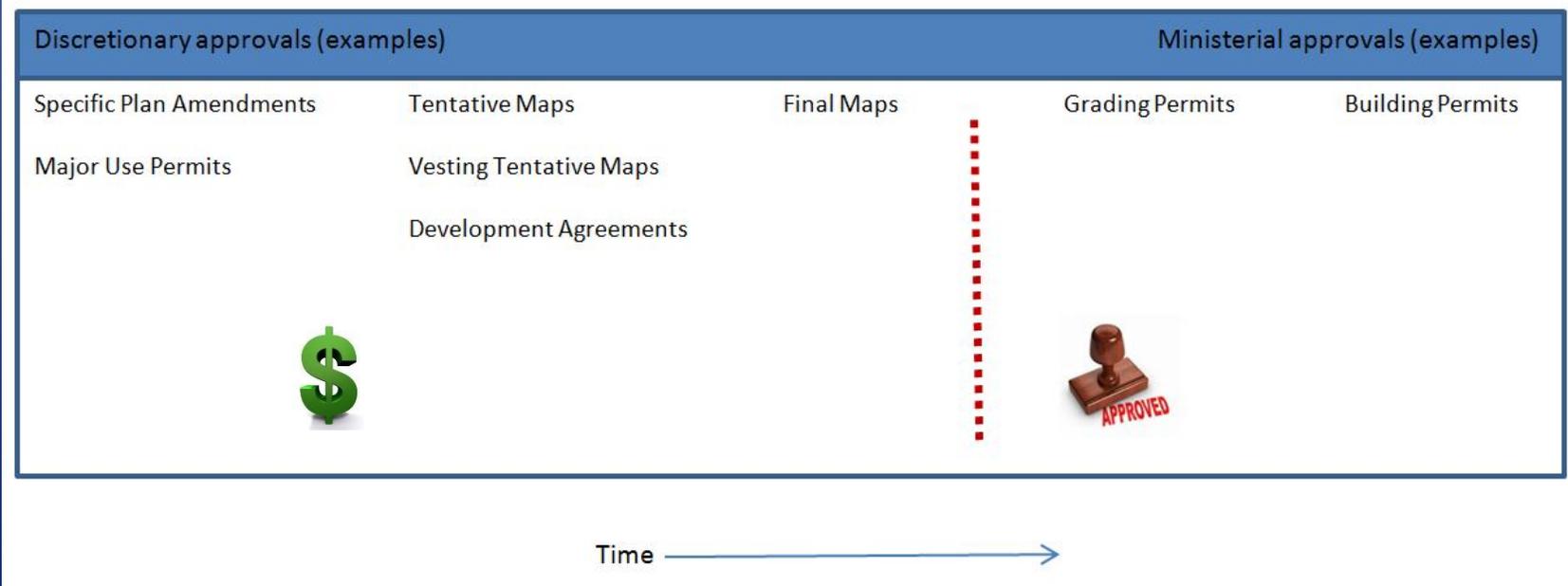
## PLA under the 2007 Permit (p. 17 footnote)

<sup>3</sup> Updated SUSMP and hydromodification requirements shall apply to all priority projects or phases of priority projects which have not yet begun grading or construction activities at the time any updated SUSMP or hydromodification requirement commences. If a Copermittee determines that lawful prior approval of a project exists, whereby application of an updated SUSMP or hydromodification requirement to the project is infeasible, the updated SUSMP or hydromodification requirement need not apply to the project. Where feasible, the Copermittees shall utilize the SUSMP and hydromodification update periods to ensure that projects undergoing approval processes include application of the updated SUSMP and hydromodification requirements in their plans.



## Ongoing Coordination

- 2013 MS4 Permit does not include a PLA definition
- County requested clarification from RWQCB staff in April 2014
- Continued meetings with other Copermitttees
- Additional concerns with the 2007 PLA approach identified



## Balancing Potential Risks

### Risks to Private & Public Projects

- Unpredictability of process
- Project redesign
- Schedule impacts
- Cost increases

### Risks for Local Jurisdictions

- Water quality impacts
- MS4 permit non-compliance
- Transfer of costs or liability to jurisdictions
- Loss of jurisdictional discretion

