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December 14, 2009

Ms. Carole H. Beswick and Members of the Board
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

**RE: NPDES STORMWATER PERMIT FOR SAN BERNARDINO COUNTY
TENTATIVE ORDER NO. R8-2009-0036**

Dear Chair Beswick and Members of the Board:

As a co-permittee of the NPDES Stormwater Permit For San Bernardino County, the City of Ontario supports the Board's objectives to protect water quality. However, our City is concerned with several major issues with the proposed permit. Consistent with comments provided to the Regional Board by the Board of Supervisors for the County of San Bernardino, San Bernardino Associated Governments (SANBAG), and other co-permittees, the City of Ontario feels that the Board should address these permit issues prior to the adoption of the Permit.

Significant Cost Increases

The implementation cost of the NPDES program under the proposed permit will be more than double than that of the last permit. Compounding the issue of revenue shortfall and the need to secure additional resources, it will be infeasible to implement this permit and accomplish all required tasks within the specified schedule. The City of Ontario recommends that the Permittees be allowed to adjust the priorities and required tasks in the proposed permit using a risk-based approach so that the total program expenditures for the next two fiscal years do not exceed the FY 2009/2010 program costs.

Numeric Water Quality Compliance Standards

Previous permits required a Best Management Practice (BMP) approach to protect water quality. The proposed permit will establish Numeric Effluent Limits (NEL) for water quality compliance. Such limitations are designed to ensure that the discharge does not cause water quality objectives to be exceeded and does not adversely affect beneficial uses regardless of whether recreational uses are actually harmed. Therefore, any exceedance of Numeric Effluent Limits (NEL) would be a permit violation.

Also, we understand the Regional Board is not required to impose numeric limits at this time because the numeric limit water quality compliance dates are outside the term of the proposed permit (December 31, 2015 for dry weather conditions and December 31, 2025 for wet weather conditions). Furthermore, we note that numeric limits requirements were not incorporated into the recently adopted permit for the San Francisco Bay area. For the above reason, we request that all language related to NEL be removed from the proposed permit.

Land Development Requirements

The proposed permit requires all new development and significant redevelopment projects to implement the Low Impact Development (LID) approach. As a result, development projects are required to retain, infiltrate, and reuse the design stormwater runoff, including all public road construction and widening projects, unless it is infeasible. Such requirement is beyond LID implementation and will become an overall impediment to projects approval and urban growth. The City recommends that biofiltration and biotreatment LID BMPs be expressly allowed to meet the volume capture standard without performing a feasibility analysis. In addition, economic feasibility should be considered as well as technical feasibility when considering the feasibility of implementing LID best practices and permit language added to reflect this omission.

We appreciate the opportunity to offer our comments on the draft Permit and would urge the Board to consider our comments in the adoption of the permit.

Sincerely



Paul Leon
Mayor
City of Ontario

PL:RL:cp

- c: Gregory Devereaux, City Manager
- Otto Kroutil, Development Director
- Louis Abi-younes, P.E., City Engineer
- Raymond Lee, P.E., Principal Engineer