

Construction Industry Coalition on Water Quality

September 7, 2010

David Barker, Supervising Water Resources Control Engineer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Public Comments Regarding Tentative Order R9-2010-0016, Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer System (MS4); the National Pollutant Discharge Elimination System (NPDES) MS4 Permit No. CAS0108740, to the County of Riverside, the Riverside County Flood Control and Water Conservation District, and the Cities of Murrieta, Wildomar, and Temecula

Dear Mr. Barker:

On behalf of the more than 3,000 member companies of the Construction Industry Coalition on Water Quality (CICWQ), we would like to thank the San Diego Regional Water Quality Control Board (Regional Board) for the opportunity to offer this public comment on the revised tentative order (Tentative Order or Permit) No. R9-2010-0016. This letter provides brief constructive suggestions that we have for the Tentative Order and is in support of those comments (written and oral) that we have made to the Regional Board previously on several occasions during the South Orange County MS4 permit adoption process (permit adopted in December 2009).

We have concerns with the Tentative Order relating to the implementation of Low Impact Development (LID) best management practices as described in Program Provisions, F.1.d.(4). Of these concerns, the principal issues that we raise here are: i) the exclusion of economic feasibility when a project proponent is required to evaluate and install LID best practices and; ii) the requirement for onsite retention of stormwater with no discharge.

Exclusion of Economic Feasibility in Considering Appropriate LID BMPs

The exclusion of economic feasibility in provisions F.1.d.(4)(a), F.1.d.(4)(c), and F.1.d.(7)(b) is readily apparent (only technical feasibility is mentioned) and we urge correction and explicit recognition of conducting both technical and economic feasibility analysis when evaluating the appropriate combination of LID controls that meet the Permit's performance sizing criteria as defined in F.1.d.(4)(c). In particular, the Tentative Order requires in F.1.d.(4)(a) that "each copermitee must require LID BMPs or make a finding of technical infeasibility for each priority development project" and in F.1.d.(4)(c) that "if onsite infiltration LID BMPs are technically infeasible per section F.1.d(7)(b), other LID BMPs may be allowed for use to treat stormwater onsite provided that other LID BMPs are sized to hold the design storm volume that

is not infiltrated.” In both instances, economic feasibility is excluded and this omission must be corrected given the importance of balancing technical and economic feasibility. In fact, the San Diego Regional Board recognized the importance of economic feasibility in the South Orange County MS4 permit and included the following language in the adopted permit (R9—2009-0002, Section F.(7)(b)):

*“For each PDP participating, a technical feasibility analysis must be included demonstrating that it is technically infeasible to implement LID BMPs that comply with the requirements of Section F.1.(d)(4). **The Copermitttee(s) must develop criteria for the technical feasibility analysis including a cost benefit analysis, examination of LID BMPs considered and alternatives chosen.**” (Emphasis added).*

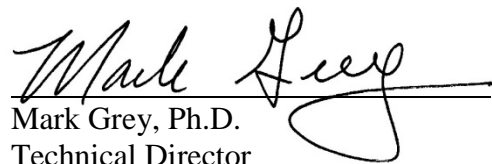
We ask that the Board make the south Riverside County permit language at least consistent with that included in the adopted south Orange County MS4 permit and explicitly allow economic feasibility to be considered when evaluating appropriate LID BMPs to meet the onsite performance standard.

Onsite Retention of Stormwater with No Discharge

We appreciate the Board’s recognition in the Fact Sheet that properly engineered LID filtration BMPs are available to a project developer to meet the LID performance standard. However, we are troubled by the pervasive use of the terms “without runoff” and “hold the design storm volume that is not infiltrated” in the Tentative Order. These terms continue to propagate the incorrect application of LID in that stormwater that has undergone filtration and/or treatment cannot be of equal or better quality than that retained on site given the performance criteria specified in F.1.d.(4)(c). We again urge the Regional Board to eliminate these terms and expressly allow biofiltration and biotreatment LID practices to meet the onsite performance standard without having to perform an exhaustive technical and economic feasibility analysis and to not relegate these controls to a lesser status.

If you have any questions or want to discuss the content of our comment letter, please feel free to contact me at (909) 525-0623, or mgrey@biasc.org.

Respectfully,



Mark Grey, Ph.D.
Technical Director

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