UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX Southern California Field Office
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Dear Dr. Grey and Mr. Henderson:

This is in response to your July 1, 2008 letter to Alexis Strauss regarding the incorporation of Low Impact Development (LID) provisions into Municipal Separate Storm Sewer System (MS4) permits in southern California.

Your letter refers to your email communications with Ms. Strauss, as well as to testimony provided at the February 13, 2008 San Diego Regional Water Quality Control Board Hearing by Dr. Cindy Lin and to the April 1, 2008 comments to the Colorado River Basin Regional Water Quality Control Board by Mr. Doug Eberhardt. Your letter asks several questions about the U.S. EPA Region 9 Water Division's positions regarding the incorporation of LID provisions into southern California MS4 permits.

Nationally, U.S. EPA has formally recognized the benefits of LID (also termed "Green Infrastructure") in several policy documents. EPA is advocating green infrastructure as an approach to wet weather management that is cost-effective, sustainable, and environmentally-sound. On April 19, 2007, EPA and four national groups signed an agreement to promote green infrastructure as an environmentally preferable approach to storm water management, and on August 16, 2007 EPA issued a memo encouraging the incorporation of Green Infrastructure into NPDES storm water permits. Ongoing efforts are described in the January 17, 2008 Action Strategy for Managing Wet Weather with Green Infrastructure. All of these materials regarding EPA's policy on green infrastructure can be found at:
http://cfpub.epa.gov/npdes/greeninfrastructure/information.cfm#greenpolicy.

In EPA Region 9, we are promoting LID strategies that infiltrate, evapotranspire, capture, and reuse storm water to maintain or restore natural hydrologies and improve water

quality. We are encouraging permitting agencies across Region 9 to incorporate LID provisions into MS4 permits as clear, measurable and enforceable requirements.

The next round of MS4 permits in the coastal Regions of southern California will be the fourth generation of these permits. It is our expectation that these latest permits be strengthened to take advantage of lessons learned from previous permits, and to contribute to the restoration of impaired waters impacted by MS4s. These new MS4 permits should include quantitative requirements to enable all parties to clearly identify performance expectations for LID implementation.

Your letter asks several questions about our position regarding permit provisions which call for LID implementation to attain a standard of no more than 5% Effective Impervious Area (EIA). Such provisions are included in the current draft (April 29, 2008) MS4 permit for Ventura County proposed by the Los Angeles Regional Water Quality Control Board, and the February 15, 2008 guidelines provided by the Central Coast Regional Water Quality Control Board to those in the Central Coast Region enrolling under the State's Phase II general MS4 permit. We support the inclusion of the 5% EIA provisions for new development and redevelopment projects in both of these examples as clear, measurable, and enforceable requirements. Use of the 5% EIA requirement is not the only acceptable, quantitative approach for incorporating LID into renewed MS4 permits in southern California. As noted in Mr. Eberhardt's April 1, 2008 letter, and his May 13, 2008 follow-up letter to the Colorado River Basin Regional Water Quality Control Board, we are open to other quantitative means for measuring how LID tools reduce storm water discharges.

Your letter asks about our use of a paper by Dr. Richard Horner concluding that the achievement of a 3% EIA standard for development in Ventura County is feasible. Dr. Horner's paper is one of many we have before us. Our positions have been informed by many documents germane to the management of municipal storm water, including the January 21, 2008 paper by your organization entitled "Integration of Low Impact Development Measures and CEQA Approvals." EPA has also considered numerous publications, case studies and guidance manuals in its consideration of LID/Green Infrastructure as a cost-effective, preferable alternative to storm water management. A partial list of these materials may be found at http://cfpub.epa.gov/npdes/greeninfrastructure/research.cfm.

While we cannot attribute our position on future MS4 permits to a single report or analysis, our views on these permits have been most comprehensively informed by the nearly 50 audits of Region 9 MS4 permits we have conducted over the past seven years. These audit reports can be found on our website at http://epa.gov/region09/water/npdes/ms4audits.html#report. Twenty of our audits have been conducted in southern California. These audits have highlighted the need for quantitative, measurable requirements in MS4 permits to ensure effective implementation of storm water controls.

I hope this has answered the questions in your July 1, 2008 letter. If you would like to discuss this further, please call me. here in EPA's Southern California Field Office, at 213-244-1832

Sincerely,

John Kemmerer
Associate Director,
Water Division

cc: Executive Officers, RWQCBs Regions 1-9
Tam Doduc, Chair SWRCB
Dorothy Rice, Executive Director, SWRCB
(all cc's transmitted electronically)