



- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

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November 23, 2009

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

**Re: Draft NPDES Stormwater Permit for San Bernardino County,  
 Tentative Order No. R8-2009-0036**

Dear Chair Beswick and Members of the Board:

On behalf of the San Bernardino Association of Governments (SANBAG), please accept this letter outlining our comments on the Draft NPDES Stormwater Permit for San Bernardino County, Tentative Order No. R8-2009-0036. SANBAG is the council of governments and transportation planning agency for San Bernardino County. SANBAG is responsible for cooperative regional planning and furthering an efficient multi-modal transportation system countywide. As the County Transportation Commission, serving the 1.9 million residents of San Bernardino County, SANBAG supports freeway construction projects, regional and local road improvements, train and bus transportation, railroad crossings, call boxes, ridesharing, congestion management efforts and long-term planning studies. SANBAG administers Measure I, the half-cent transportation sales tax approved by county voters in 1989 and extended in 2004.

Most of the construction projects that SANBAG is responsible for are completed through a cooperative effort with Caltrans. We therefore utilize the Caltrans MS4 Permit as our standard of compliance for our projects during construction, as well as post-construction. Our member agencies, however, are subject to the San Bernardino County MS4 Permit.

In addition to incorporating by reference the comments provided by San Bernardino County Flood Control District, we offer the following policy level comments on the draft Permit:

o **Low Impact Development (LID) and Green Streets**

The draft Permit states, "The permittees shall promote green infrastructure/LID BMP implementation." It also requires that all road projects of 5,000 square feet or more incorporate the EPA "Managing Wet Weather with Green Infrastructure: Green Sheets" guidance. LID/Green infrastructure principles include new street design standards, such as narrower streets, limits on parking, use of permeable paving, and more. These principles are untested in San Bernardino County. While EPA does cite examples of LID/Green Street projects, the data is limited to a few cities in the U.S.

We request that the Board delete all reference to LID/Green Streets in the MS4 Permit and instead work with SANBAG, San Bernardino County Flood Control District and the co-permittees on a pilot project(s) to test the applicability of these principles to determine water quality benefits. The proposed pilot project would guide the development of widely applicable considerations to address any water quality impacts from roads.

o **Zero Discharge/Low Impact Development**

We believe that zero discharge requirements are too restrictive and economically infeasible. A zero-discharge approach is not consistent with the widely accepted principles of Low Impact Development, which are central to the draft Permit's development project requirements. We request that flow-through BMPs be added to the menu of BMPs. This is an addition to the BMPs currently proposed in the permit such as infiltration, harvesting and re-use, and evapotranspiration. The proposed zero discharge requirements will require the preservation of more land and the potential purchase of additional land if offsite mitigation is required. The health of the economy cannot easily tolerate these requirements, and we are very concerned about the impact these measures may have on the economic recovery in San Bernardino County.

o **Numeric Limits and Water Quality Effluent Limitations (WQBELs)/Numeric Effluent Limits (NELs)**

We request that all language in the draft Permit regarding numeric effluent limits be deleted. We are particularly concerned about the Board citing violations of water quality standards when the numeric limits cannot be achieved. In addition, if it is later determined that it is impracticable to achieve the limits, the Environmental Protection Agency's anti-backsliding rule would not allow the standards to be reduced, creating a no-win situation.

o **Caltrans Permit**

SANBAG projects are typically subject to the Caltrans MS4 Permit. Please clarify in the draft MS4 Permit that the Caltrans Permit will be recognized by the Board and complies with Order No. R8-2009-0036 for State highway drainage facilities that tie into a local agency drainage system within your jurisdiction.

Again, we would like to reference the County of San Bernardino Flood Control District's comments and incorporate them by reference. We request that the Board direct staff to address the comments outlined in this letter and from the Flood Control District in a collaborative manner with SANBAG, the Flood Control District and the co-permittees prior to the new MS4 Permit being considered by the Board. For new concepts related to Low Impact Development, we request the MS4 Permit be limited to the creation of pilot projects to test the validity of these principles in our County, instead of mandating them in this challenging economic climate.

Thank you for the opportunity to make these policy level comments. Please do not hesitate to contact Garry Cohoe at (909) 884-8276 with any questions.

Sincerely,



Deborah Robinson Barmack  
Executive Director

Cc: SANBAG Board of Directors