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**To:** <mmacario@waterboards.ca.gov>  
**Date:** 9/9/2009 9:59 PM  
**Subject:** Comments on NPDES No. CAS618036 Area-wide Urban Runoff Management Program, San Bernardino County MS4 Permit

Ms. Macario,

Please accept the following comments on the subject MS4 Permit.

1. Overall, the Board has done a commendable job of drafting a permit that balances being practical with protection of the environment.
2. XI.D.3 - The purpose and level of detail in a Preliminary WQMP need to be more clearly defined, including the role of the Preliminary WQMP as the project moves into detailed design. For example, once a Preliminary WQMP is approved, does it prohibit a significant change in BMPs as the project moves into final design? If significant changes are permitted, the potentially valuable role of a Preliminary WQMP will be reduced. If the Preliminary WQMP is required, as currently written, there should be an approval of the Preliminary WQMP prior to the project receiving any approvals from the Agency. For example, a project that will go to a Planning Commission or a Design Review Board to receive conditions/approvals, should have an approved Preliminary WQMP before that approval is granted. This ensures that environmental concerns are considered by Planning Commissions and Design Review Boards or their equals. Keep in mind, that once a Planning Commission reviews a project, it becomes very difficult, time consuming, and expensive to make changes.
3. XI.D.4 - Section XIV.E suggests that WQMPs are required for Agency projects; therefore, the introduction paragraph before the 10 Priority Categories should clarify that the requirements apply to private projects, public projects, and agency projects, including projects of non-permitted agencies such as schools, water districts, state agencies, and federal agencies such as the the Postal Service. Furthermore, for categories where examples of private projects are provides, examples of public projects should be provided as well. For example, in Priority Category b, construction of libraries, city halls, city yards, municipal offices, etc. could be provided as examples. For Priority Category d, restaurants should not be the issue, rather, food preparation facilities should be the issue as this will pull in both restaurants as well as catering kitchens, school kitchens, and other types of facilities that prepare or process food and thus generate pollutants of concern related to foods. For Priority Category a, clarify what happens when a project expands impervious areas by exactly 50% - the current wording leaves loophole since one criteria is for less than 50% and the other criteria is for greater than 50%. For Priority Category g, clarify whether earth or gravel parking areas meet the category definition. For Priority Category i, why limit this to 'retail' gasoline facilities? Private and public, non retail fueling facilities usually have the same issues as retail gasoline outlets. For Priority Category j, clarify whether this is really a category or an exemption. If it is a Priority Category, it is not clear and needs to be clarified. If it is an exemption, it should not be item j, but perhaps incorporated into the introduction paragraph that introduces the categories.

4. XI.D.4 (Note, on Page 69 of 114, this heading and those that follow are incorrectly numbered, and should be XI.D.5. Comments that follow quote the numbering in the draft permit.
5. XI.D.4 - Why would you include a BMP to address a pollutant listed for a receiving water if the project is not reasonably expected to generate the pollutant? The process should be to address all pollutants likely to be generated by the project to the level required to protect receiving waters, and for pollutants for which the receiving water is listed, those pollutants should receive higher levels of attention by way of more effective BMPs.
6. XI.D.4 The terminology "unless formally substantiated as unwarranted" is too vague. What is unwarranted to a developer and what is unwarranted to an agency or the Board could likely be two very different things. Without clarification or clear criteria, this wording will result in many problems.
7. XI.D.5 - The WEF formula was clearly limited to planning level use only, and should not be used for design. Site specific or regionally specific data should be used instead. Suggest dropping this option.
8. XI.D.7.c Please define "commercial parking lot".
9. XI.D.7.c All underground treatment devices should have pretreatment, not just gas stations. The pretreatment for underground infiltration BMPs needs to be medium or highly effective.
10. XI.D.7.d - This is overly restrictive. Infiltration is essential at the many commercial warehouse facilities where all major activities are done inside. Since these facilities have such a high impervious ratio, infiltration is needed. It is suggested that facilities that store and transfer freight should be written in as an exemption, perhaps called out by SIC code.
11. XI.F.5.c - high density development alone is not compatible with water quality protection as it results in large, dense, and impervious areas that generate many pollutants in a concentrated, untreatable mass. High density development is only compatible with water quality when the density is balanced with creation of open space. Suggest dropping this example in the credit list, or more carefully setting criteria for how it must be applied to quality for a credit (density offset by created open space that buffers the higher and pollutant loads.
12. XI.F.5.i - "In-fill projects" needs to be carefully defined. Some developers and maybe even some agencies feel that since a project is in a Census urban area, the project is infill, which is not what others would say. So, clarify. At hat is meant by "in-fill"
13. XI.H.3 Treatment BMPs, once completed and operational, need to be inspected during their first rainy season to make sure they are working. At this time, Bonds are still often in place and can be used to get things that are not working fixed. As currently written, it could be three rainy seasons before an operating BMP is inspected, and this is just too long to wait to find out of something is working.
14. XI.J.3 - The database development and population needs to be accelerated, as the longer one waits the more work it will be to get the job done. This can be done in two stages. First, collect information about WQMP projects, with a suggestion of going back two or three years, and getting this information in hard copy form or optional electronic form. Then, once the electronic database is complete, the collected data can be used to populate the database. Going back 3 years is important because it will provide a look at what types

of BMPs have been going in and what types of BMPs are having problems and which ones are working well.

15. XI.K.1 Clarify that the existing requirements prevail until an updated WQMP is approved.

Thank you for considering these comments.  
Mark Diamond