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Cc: [Fischer, Adam@Waterboards](mailto:Fischer.Adam@Waterboards)
Subject: Comment Letter - North County MS4 Permit
Date: Wednesday, June 18, 2014 1:34:56 PM
Attachments: [6-18SARWQCBlettMS4.pdf](#)

Mr. Berchtold:

Attached is our comment letter on the draft MS4 permit for North Orange County. Thank you for also providing this to the Board Members for their consideration.



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Please visit the SoCal Legislative Update at www.naiopsocal.org

The NAIOP SoCal Chapter represents commercial real estate professionals in Orange and Los Angeles Counties.

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COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION

SoCAL CHAPTER

June 18, 2014

Kurt Berchtold, Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, California 92501

Sent via Email

Re: Comments on the Draft North Orange County MS4 Permit

Dear Mr. Berchtold:

Since 1967, NAIOP, the Commercial Real Estate Development Association, has become the leading organization for developers, owners and investors of office, industrial, retail and mixed-use real estate. NAIOP comprises 15,000+ members and provides strong advocacy, education and business opportunities through a powerful North American network. The NAIOP SoCal Chapter covers Orange and Los Angeles Counties. Please accept these comments to the draft MS4 Permit ("Permit") for North Orange County.

1. WQMP Guidelines: Section XII.B.16 of the Permit requires that each Co-Permittee "develop, publish, and apply guidelines" for site design and structural treatment controls that are "readily inspected and maintainable, aesthetically pleasing, and of a quality that is satisfactory to the Co-permittee."

Guidelines that fulfill these requirements are already present in the County of Orange's Model Water Quality Management Plan and Technical Guidance Document. Our cities and the development community spent substantial resources (several million dollars) and a year of stakeholder meetings creating and editing these guidelines along with the Regional Board. Further CASQA and others agencies publish engineered and peer reviewed criteria for the site design and structural treatment controls. *In light of the extensive resources the taxpayers and the development community have already poured into essentially completing this specific element of the NPDES program, why are we being asked to do this again?*

2. Biotreatment BMP Sizing: Section XII.G.1 of the Permit requires that biotreatment BMPs should be sized to treat 1.5 times the site's design capture volume when it is used in lieu of a retention LID BMP.

It seems the Technical Report provided with the Permit, indicates this requirement was based on the results of a Ventura County study that focuses on their local hydrologic and soil conditions. *Please provide the data which shows the sizing criteria that is applicable to hydrologic and soil conditions in Orange County.*

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3. WQMP Inspection Authority: Section XII.D.10 of the Permit requires the cities to “secure the authority” to enter into private property to inspect and maintain the property.

Is the Regional Board requiring individuals to waive their property and privacy rights if they have a water quality management plan associated with their property? Every element of every home and building that is approved is subject to inspection at the time of development, but no one reasonably expects that an inspector will be coming into your bathroom, kitchen, or in this case, backyard if that is where a BMP is located, in perpetuity. *We would like to know if the Regional Board is planning to place any limitations on this inspection requirement. It certainly puts the Cities in a bad position for several reasons.*

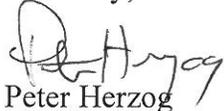
4. Staff Discipline: Section XII.E.5 of the Permit requires that the copermittees “include disciplinary procedures or policies for Co-permittees’ staff that unnecessarily deviate from standard operating procedures.”

Each city and private organization has defined labor and employment requirements which are defined by statutory and common law parameters. We would be most interested to understand why you believe Regional Board staff has the authority to decide how and when cities should be disciplining its staff. *This seems highly inappropriate and serves as an example of how this Regional Board staff is straying far from its charge to protect water quality.*

NAIOP SoCal is committed to treating water quality as a high priority for the County of Orange, but we have concerns regarding the requirements of the Permit not efficiently utilizing public resources.

We appreciate your attention to our comments and look forward to further dialogue regarding the Permit.

Sincerely,



Peter Herzog

Assistant Director of Legislative Affairs

Cc: Adam Fischer