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**Date:** 1/24/2008 4:16 PM  
**Subject:** Draft MS4 Permit for Southern Orange County

We have reviewed the latest draft MS4 permit for Southern Orange County (NPDES permit No. CAS0108740 public noticed on December 12, 2007) and we would like to offer the following comment regarding the Development Planning Component of the permit (Part D.1).

Presently the draft permit includes:

SUSMP requirements (Part D.1.d), but only for priority projects as defined in Part D.1.d.(1),  
Site design BMP requirements for all projects where applicable and feasible (Part D.1.c.(2)), and  
Low Impact Development (LID) requirements as a possible substitute for SUSMPs (Part D.1.d.(8)).

We recommend that the permit be revised to put more emphasis on LID. In April 2007, EPA entered into an agreement with several national organizations to promote green infrastructure (which is very similar to LID) to improve stormwater quality management for MS4s. In January 2008, EPA also published an action strategy for the new initiative (available at [http://cfpub.epa.gov/npdes/whatsnew.cfm?program\\_id=6](http://cfpub.epa.gov/npdes/whatsnew.cfm?program_id=6)) which encourages green infrastructure requirements in MS4 permits, and promises more guidance on this in the future.

Your Response to Comments II of December 12, 2007 (Comment #19) notes that site design BMPs are similar to LID, but apparently not quite the same since LID itself is included in a separate section of the permit (Part D.1.d.(8)) as a possible substitute for SUSMPs. To increase the emphasis on LID in the permit, we recommend that the permit include provisions similar to Part 5.E.III.2 of the August 28, 2007 draft MS4 permit for Ventura County (NPDES permit No. CAS004002), which specifically requires that LID be woven into the design of specified new development and redevelopment projects. We would recommend that the requirements apply to priority projects as defined in the Orange County permit, and also, at a minimum, all new projects disturbing one or more acres (like the draft Ventura County permit). EPA's Phase II stormwater regulations at 40 CFR 122.34(b)(5) require post-construction BMPs for all new developments and significant redevelopments disturbing one or more acres. As a Phase I permit, the requirements for Orange County should be no less stringent.

We also have concerns about the site design BMP requirements in the proposed permit (Part D.1.d.(4)). Part D.1.d.(4).(b).(ii) and (iii) have requirements for "a portion" of impervious areas, and walkways and trails, etc. The term "a portion" is vague and accordingly, we would recommend LID provisions similar to the draft Ventura County permit where more precise requirements would be developed.

We also have the following additional comments on the draft permit:

1) Page 37 (Part D.1.h.(4)) - we note that the studies upon which the future hydromodification criteria would be based have yet to be completed and are not available for public review at this time. To ensure adequate public participation, we would recommend that the RB solicit public comment on any modification of permit requirements based on the future studies.

2) Page 43 (Part D.2.d.(1)(c)) - the term "enhanced BMPs" for construction sites discharging into 303(d) waters is somewhat vague, and we believe the requirements should be clarified.

3) Page 49 (Part D.3.a.(3)) - with regards to requirements for pesticides and fertilizers, we recommend that you consider enhanced BMPs for waterbodies identified as impaired for these constituents (such as Aliso Creek, San Juan Creek). Similarly, for other waterbodies listed as impaired for other constituents, the permit should identify the waterbodies and prescribe enhanced BMPs for the constituents of concern.

Thank you for the opportunity to comment on the draft permit. I can be reached at (415) 972-3510.