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WRITER'S E-MAIL ADDRESS  
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February 8, 2011

Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Re: Joint Test Claim of Riverside County Local Agencies Concerning  
California Regional Water Quality Control Board, Santa Ana Region,  
Order No. R8-2010-0033

To the Commission:

At the request of Commission staff, attached to this letter are corrected page 2s of the Test Claim forms for the Riverside County Flood Control & Water Conservation District, the County of Riverside and the Cities of Beaumont, Corona, Hemet, Lake Elsinore, Moreno Valley, Perris and San Jacinto. These pages are corrected to reflect the effective date of California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0033.

Please contact the undersigned if additional information/corrections are required.

Very truly yours,



David W. Burhenn

cc: Claimants

**1. TEST CLAIM TITLE**

California Regional Water Quality Control  
Board, Santa Ana Region, Order No.  
R8-2010-0033

**2. CLAIMANT INFORMATION**

Riverside County Flood Control & Water Conservation Dist.

Name of Local Agency or School District

Jason Uhley

Claimant Contact

Chief, Watershed Protection Division

Title

1995 Market Street

Street Address

Riverside, CA 92501

City, State, Zip

951-955-1273

Telephone Number

951-788-9965

Fax Number

juhley@rcflood.org

E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

David W. Burhenn

Claimant Representative Name

Attorney

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

213-688-7716

Fax Number

dburhenn@burhennigest.com

E-Mail Address

For CSM Use Only

Filing Date:

Test Claim #:

10-TC-07

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

California Regional Water  
Quality Control Board,  
Santa Ana Region, Order  
No. R8-2010-0033  
(effective January 29,  
2010)

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages \_\_\_\_\_ to \_\_\_\_\_.

6. Declarations: pages \_\_\_\_\_ to \_\_\_\_\_.

7. Documentation: pages \_\_\_\_\_ to \_\_\_\_\_.

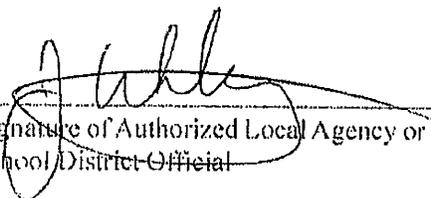
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*Read, sign, and date this section and insert at the end of the test claim submission.\**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Jason Uhley  
Print or Type Name of Authorized Local Agency  
or School District Official

Chief, Watershed Protection Division  
Print or Type Title

  
Signature of Authorized Local Agency or  
School District Official

January 27, 2011  
Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, *Governor*

**COMMISSION ON STATE MANDATES  
TEST CLAIM FORM**

Authorized by Government Code section 17553

(Revised 1/2011)

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Fax: (916) 445-0278  
E-Mail: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov)

**1. TEST CLAIM TITLE**

California Regional Water Quality Control  
Board, Santa Ana Region, Order No.  
R8-2010-0033

**2. CLAIMANT INFORMATION**

County of Riverside

Name of Local Agency or School District

Jay Orr

Claimant Contact

Assistant County Executive Officer

Title

4080 Lemon Street, Suite 400

Street Address

Riverside, CA 92501

City, State, Zip

951-955-1110

Telephone Number

951-955-1105

Fax Number

jorr@rceo.org

E-Mail Address

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Attorney

Title

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Organization

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Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

213-688-7716

Fax Number

dburhenn@burhenngest.com

E-Mail Address

For CSM Use Only

Filing Date:

Test Claim #. 10-TC-07

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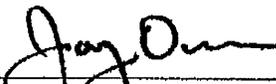
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Jay Orr  
Print or Type Name of Authorized Local Agency  
or School District Official

Assistant County Executive Officer  
Print or Type Title

  
Signature of Authorized Local Agency or  
School District Official

January 25, 2011  
Date

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**COMMISSION ON STATE MANDATES  
TEST CLAIM FORM**

Authorized by Government Code section 17553  
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E-Mail: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov)

**1. TEST CLAIM TITLE**

California Regional Water Quality Control  
Board, Santa Ana Region, Order No.  
R8-2010-0033

**2. CLAIMANT INFORMATION**

City of Beaumont

Name of Local Agency or School District

Kishen Prathivadi

Claimant Contact

Assistant Director - Public Works

Title

550 E. Sixth Street

Street Address

Beaumont, CA 92223

City, State, Zip

951-769-8520

Telephone Number

951-769-8526

Fax Number

kprathivadi@urbanlogicgroup.com

E-Mail Address

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Attorney

Title

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Kishen Prathivadi  
Print or Type Name of Authorized Local Agency  
or School District Official

Assistant Director - Public Works  
Print or Type Title

P.R. Kishen  
Signature of Authorized Local Agency or  
School District Official

January 25, 2011  
Date

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**1. TEST CLAIM TITLE**

California Regional Water Quality Control  
Board, Santa Ana Region, Order No.  
R8-2010-0033

**2. CLAIMANT INFORMATION**

City of Corona

Name of Local Agency or School District

Maria E. Perez

Claimant Contact

Principal Engineer

Title

400 S. Vicentia Ave.

Street Address

Corona, CA 92882

City, State, Zip

951-736-2447

Telephone Number

951-736-2496

Fax Number

mariap@ci.corona.ca.us

E-Mail Address

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Title

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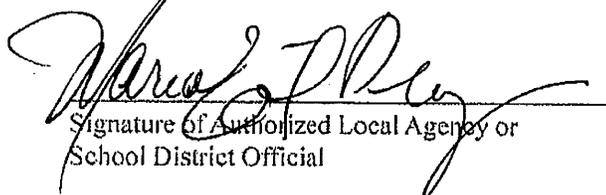
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Maria E. Perez  
Print or Type Name of Authorized Local Agency  
or School District Official

Principal Engineer  
Print or Type Title

  
Signature of Authorized Local Agency or  
School District Official

January 26, 2011  
Date

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**1. TEST CLAIM TITLE**

California Regional Water Quality Control  
Board, Santa Ana Region, Order No.  
R8-2010-0033

**2. CLAIMANT INFORMATION**

City of Hemet

Name of Local Agency or School District

Jorge Biagioni

Claimant Contact

Principal Civil Engineer

Title

510 E. Florida Avenue

Street Address

Hemet, CA 92543

City, State, Zip

951-765-2362

Telephone Number

951-765-3878

Fax Number

jbiagioni@cityofhemet.org

E-Mail Address

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Attorney

Title

Burhenn & Gest LLP

Organization

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Jorge Biagoni

Print or Type Name of Authorized Local Agency  
or School District Official

Principal Civil Engineer

Print or Type Title



Signature of Authorized Local Agency or  
School District Official

January 26, 2011

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**1. TEST CLAIM TITLE**

California Regional Water Quality Control  
Board, Santa Ana Region, Order No.  
R8-2010-0033

**2. CLAIMANT INFORMATION**

City of Lake Elsinore

Name of Local Agency or School District

Rita Thompson

Claimant Contact

NPDES Coordinator

Title

130 South Main Street

Street Address

Lake Elsinore, CA 92530

City, State, Zip

951-674-3124 ext. 308

Telephone Number

951-674-8761

Fax Number

rthompson@lake-elsinore.org

E-Mail Address

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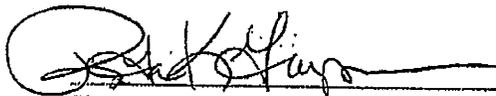
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Rita Thompson  
\_\_\_\_\_  
Print or Type Name of Authorized Local Agency  
or School District Official

NPDES Coordinator  
\_\_\_\_\_  
Print or Type Title

  
\_\_\_\_\_  
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School District Official

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Telephone: (916) 323-3562  
Fax: (916) 445-0278  
E-Mail: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov)

**1. TEST CLAIM TITLE**

California Regional Water Quality Control  
Board, Santa Ana Region, Order No.  
R8-2010-0033

**2. CLAIMANT INFORMATION**

City of Moreno Valley

Name of Local Agency or School District

Chris A. Vogt

Claimant Contact

Public Works Director/City Engineer

Title

14177 Frederick Street

Street Address

Moreno Valley, CA 92553

City, State, Zip

951-413-3105

Telephone Number

951-413-3279

Fax Number

chrisv@moval.org

E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

David W. Burhenn

Claimant Representative Name

Attorney

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

213-688-7716

Fax Number

dburhenn@burhenngest.com

E-Mail Address

For CSM Use Only

Filing Date:

Test Claim #:

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

California Regional Water  
Quality Control Board,  
Santa Ana Region, Order  
No. R8-2010-0033  
(effective January 29,  
2010)

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages \_\_\_\_\_ to \_\_\_\_\_.

6. Declarations: pages \_\_\_\_\_ to \_\_\_\_\_.

7. Documentation: pages \_\_\_\_\_ to \_\_\_\_\_.

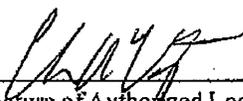
**3. CLAIM CERTIFICATION**

*Read, sign, and date this section and insert at the end of the test claim submission.\**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Chris A. Vogt  
Print or Type Name of Authorized Local Agency  
or School District Official

Public Works Director/City Engineer  
Print or Type Title

  
Signature of Authorized Local Agency or  
School District Official

January 26, 2011  
Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

**COMMISSION ON STATE MANDATES  
TEST CLAIM FORM**

Authorized by Government Code section 17553  
(Revised 1/2005)

**GENERAL INSTRUCTIONS**

- Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.
- Type all responses.
- Complete sections 1 through 8, as indicated. Failure to complete any of these sections will result in this test claim being returned as incomplete.
- Original test claim submissions shall be unbound, single-sided, and without tabs. Copies may be double-sided, but unbound and without tabs.
- Mail, or hand-deliver, one original and seven copies of your test claim submission to:

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Sacramento, CA 95814**

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**CLAIM CERTIFICATION**

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Ron Carr

Print or Type Name of Authorized Local Agency  
or School District Official

Assistant City Manager

Print or Type Title



Signature of Authorized Local Agency or  
School District Official

January 25, 2011

Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

**COMMISSION ON STATE MANDATES  
TEST CLAIM FORM**

Authorized by Government Code section 17553  
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**1. TEST CLAIM TITLE**

California Regional Water Quality Control  
Board, Santa Ana Region, Order No.  
R8-2010-0033

**2. CLAIMANT INFORMATION**

City of San Jacinto

Name of Local Agency or School District

Mike Emberton

Claimant Contact

Public Works Director

Title

270 Bissell Place

Street Address

San Jacinto, CA 92582

City, State, Zip

951-654-4041

Telephone Number

951-487-7382

Fax Number

memberton@sanjacintoca.us

E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

David W. Burhenn

Claimant Representative Name

Attorney

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

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dburhenn@burhenngest.com

E-Mail Address

*For CSM Use Only*

Filing Date:

Test Claim #:

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

*Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.*

California Regional Water  
Quality Control Board,  
Santa Ana Region, Order  
No. R8-2010-0033  
(effective January 29,  
2010)

*Copies of all statutes and executive orders cited are attached.*

Sections 5, 6, and 7 are attached as follows:

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Mike Emberton  
Print or Type Name of Authorized Local Agency  
or School District Official

Public Works Director  
Print or Type Title

  
Signature of Authorized Local Agency or  
School District Official

January 26, 2011  
Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

Section 5: Narrative Statement In Support of Joint Test Claims of Riverside County Local Agencies  
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033)

# NARRATIVE STATEMENT

In Support of Joint Test Claims of Riverside County Local  
Agencies Concerning Santa Ana RWQCB Order No. R8-2010-  
0033 (NPDES No. CAS 618033)

**NARRATIVE STATEMENT IN SUPPORT OF JOINT TEST CLAIMS**

**I. INTRODUCTION**

On January 29, 2010, the California Regional Water Quality Control Board, Santa Ana Region (“Santa Ana RWQCB”), adopted a new storm water permit, Order No. R8-2010-0033 (NPDES No. CAS 618033) (“the 2010 Permit”) regulating discharges from the municipal separate storm sewer systems (“MS4s”) operated by a number of municipal entities in portions of Riverside County.<sup>1</sup>

The 2010 Permit includes numerous new requirements that exceed the requirements of federal law and were not included in the previous MS4 permit issued by the Santa Ana RWQCB, Order No. R8-2002-0011 (“the 2002 Permit”).<sup>2</sup> These new requirements represent unfunded State mandates for which the 2010 Permit permittees, including the claimants herein, the Riverside County Flood Control and Water Conservation District (“District”), the County of Riverside (“County”), and the Cities of Beaumont, Corona, Hemet, Lake Elsinore, Moreno Valley, Perris and San Jacinto (collectively, “Claimants”) are entitled to reimbursement under Article XIII B section 6 of the California Constitution.

This Section 5 of the Test Claim identifies the activities that are unfunded mandates and sets forth the basis for reimbursement for such activities. The mandates for which the claimants seek a subvention of state funds are described in detail below, but generally encompass the following:

- A. A requirement to develop and update Local Implementation Plans, primarily set forth in Section IV of the 2010 Permit, as well as other sections;
- B. A requirement, if necessary, to promulgate and implement ordinances to address pathogen or bacterial indicator sources such as animal wastes, contained in Section VIII;
- C. Requirements relating to the development and implementation of a program to enhance existing Illicit Connections/Illegal Discharges programs, contained in Section IX;
- D. A requirement for the County to create and maintain a database of new septic systems approved since 2008, contained in Section X;
- E. Requirements relating to the creation of new criteria, best management practices (“BMPs”), fee programs, identification of facilities, enforcement strategies, evaluation and

---

<sup>1</sup> A copy of the 2010 Permit and Fact Sheet are included in Section 7, filed herewith. The permittees regulated under the 2010 Permit are the District, the County and the Cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside and San Jacinto. The City of Wildomar, originally a permittee, is now regulated under a MS4 permit issued by the California Regional Water Quality Control Board, San Diego Region.

<sup>2</sup> A copy of the 2002 Permit is included in Section 7.

Section 5: Narrative Statement In Support of Joint Test Claims of Riverside County Local Agencies  
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033)

reporting concerning the inspection of construction, industrial, commercial and residential facilities, contained in Section XI;

F. Requirements to, among other things, develop new standard designs and BMPs, a Watershed Action Plan, review planning documents to incorporate watershed protection principles, submit revised Water Quality Management Plans (“WQMPs”), develop new procedures, incorporate Low Impact Development (“LID”) and hydromodification requirements to public agency projects, develop criteria for alternatives and in-lieu funding, create databases and inspect public projects, contained in Section XII;

G. Requirements for training in WQMP review and CEQA requirements, contained in Section XV; and

H. Requirements for an assessment of urban runoff management program effectiveness on an area wide as well as a jurisdiction-specific basis, contained in Section XVII.

## II. BACKGROUND

This Test Claim concerns the choice made by the Santa Ana RWQCB, acting under its authority granted by California law, to impose requirements under the 2010 Permit that go beyond those required by the federal Clean Water Act. The Santa Ana RWQCB has such authority because, under the Porter-Cologne Water Quality Act, California Water Code § 13000 et seq., a regional board may impose additional requirements on a permittee covered by a federal National Pollutant Discharge Elimination System (“NPDES”) permit, such as the 2010 Permit. *City of Burbank v. State Water Resources Control Board* (2005) 35 Cal. 4<sup>th</sup> 613, 619. As the California Supreme Court noted in *City of Burbank*,

The federal Clean Water Act reserves to the states significant aspects of water quality policy (33 U.S.C. § 1251(b)), and it specifically grants the states authority to “enforce any effluent limitation” that is not “*less stringent*” than the federal standard (33 U.S.C. § 1370, italics added).”

*City of Burbank*, 35 Cal.4<sup>th</sup> at 627-28.

This Commission previously has found, in two test claims brought regarding MS4 permits issued by the Los Angeles RWQCB and the San Diego RWQCB, that those regional boards had issued permit requirements that exceeded the requirements of federal law and regulation and represented unfunded state mandates. *In re Test Claim on: Los Angeles Regional Quality Control Board Order No. 01-192*, Case Nos.: 03-TC-04, 03-TC-19, 03-TC-20, 03-TC-21 (“Los Angeles County Test Claim”); *In re Test Claim on: San Diego Regional Water Quality Control Board Order No. R9-2007-0001*, Case No. 07-TC-09 (“San Diego County Test Claim”).

## III. FEDERAL LAW

The 2010 Permit at issue in this Test Claim was issued, in part, under the authority of the federal Clean Water Act, 33 U.S.C. § 1251 et seq. (“CWA”). The CWA was amended in 1987 to include within its regulation of discharges from “point sources” to “waters of the United

Section 5: Narrative Statement In Support of Joint Test Claims of Riverside County Local Agencies  
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033)

States” discharges to such waters from MS4s. 33 U.S.C. § 1342(p)(2). The CWA requires that MS4 permits:

- (i) may be issued on a system or jurisdiction-wide basis;
- (ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and
- (iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

33 U.S.C. § 1342(p)(3)(B).

The 2010 Permit is an example of a “Phase I” permit, those issued to MS4s serving larger urban populations, as is the case with the Riverside County MS4 systems. In 1990, EPA issued regulations to implement Phase I of the MS4 permit program. 55 Fed. Reg. 47990 (November 16, 1990). The requirements of those regulations, as they apply to the provisions of the 2010 Permit relevant to this test Claim, will be discussed in further depth below.

#### **IV. CALIFORNIA LAW**

The CWA allows delegation of its NPDES permit powers to the states. 33 U.S.C. § 1342(b). Pursuant to that delegation, in 1972, California became the first state authorized to issue NPDES permits through an amendment of the existing Porter-Cologne Water Quality Act. California Water Code § 13370. The Porter-Cologne Act, adopted in 1969, pre-dated the CWA delegation by three years.

The Porter-Cologne Act’s scope is broader than that of the CWA, as it applies not only to navigable surface waters (the scope of permits issued under the NPDES program) but to any “waters of the state,” including “any surface water or groundwater, including saline waters, within the boundaries of the state.” Water Code § 13050(e). The 2010 Permit, in addition to being issued as an NPDES permit under the authority of the CWA, also was issued by the Santa Ana RWQCB as a “waste discharge requirement,” pursuant to the authority of Article 4, Chapter 4, Division 7 of the California Water Code, commencing with California Water Code § 13260. *See also* California Water Code § 13263. Thus, the 2010 Permit may, and does, contain programs both authorized under the federal CWA and under the state Porter-Cologne Act.

As discussed above, the California Supreme Court, in *City of Burbank*, has expressly held that a regional board has the authority to issue a permit that exceeds the requirements of the CWA and its accompanying federal regulations. The State Water Resources Control Board, which supervises all regional boards in the state, including the Santa Ana RWQCB, has acknowledged that since NPDES permits are adopted as waste discharge requirements, they can more broadly protect “waters of the State” rather than be limited to “waters of the United States,” which do not include groundwater. *In re Building Industry Assn. of San Diego County and Western States Petroleum Assn.*, State Board Order WQ 2001-15.

## V. STATE MANDATE LAW

Article XIII B, section 6 of the California Constitution requires that the Legislature provide a subvention of funds to reimburse local agencies any time that the Legislature or a state agency “mandates a new program or higher level of service on any local government.” The purpose of section 6 “is to preclude the State from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.” *County of San Diego v. State of California* (1991) 15 Cal.4<sup>th</sup> 68, 81.

The Legislature implemented section 6 by enacting a comprehensive administrative scheme to establish and pay mandate claims. Govt. Code § 17500 *et seq.*; *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331, 333 (statute establishes “procedure by which to implement and enforce section 6”).

“Costs mandated by the state” include “any increased costs which a local agency ... is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” Govt. Code § 17514. Orders issued by any regional board pursuant to the Porter-Cologne Act come within the definition of “executive order.” *County of Los Angeles v. Comm’n on State Mandates* (2007) 150 Cal.App.4th 898, 920.

Govt. Code § 17556 identifies seven exceptions to reimbursement requirement for state mandated costs. The exceptions are as follows:

- (a) The claim is submitted by a local agency . . . that requested legislative authority for that local agency . . . to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. . . .
- (b) The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.
- (c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. . . .
- (d) The local agency . . . has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

Section 5: Narrative Statement In Support of Joint Test Claims of Riverside County Local Agencies  
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033)

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies . . . that result in no net costs to the local agencies or . . . includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in, a ballot measure approved by the voters in a statewide or local election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

In addition, the program or increased level of service must impose “unique requirements on local government” that “carry out a state policy”. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *see also County of Los Angeles, supra*, 150 Cal.App.4<sup>th</sup> at 907.)

None of these exceptions would bar reimbursement for the state mandates identified in this Test Claim. First, the exceptions identified in Govt. Code §§ 17556(a), (b), (e), (f) and (g) are not relevant to this Test Claim, and will not be discussed further. The exceptions identified in Govt. Code § 17556(c), relating to federal mandates, or (d), relating to fee assessments, are expected to be raised in potential opposition to the Test Claim and will be discussed further below. Also, as will be demonstrated below, the requirements of the mandates in this Test Claim represent “unique requirements on local government” and not requirements that fall equally upon local governments and private parties, so as to obviate the need for a subvention of state funds under article XIII B, section 6.

In particular, when a new program or level of service is in part federally required, California courts have held that where the state-mandated activities exceed federal requirements, those mandates constitute a reimbursable state mandate. *Long Beach Unified School Dist. v State of California* (1990) 225 Cal.App.3d 155, 172-73. Moreover, a “new program or higher level of service” imposed by the State upon a local agency as a result of a federal law or federal program is not necessarily a “federal mandate.” In order to be a federal mandate, the obligation must be imposed upon the local agency by federal law itself. The test for determining whether the “new program or higher level of service” is a state mandate is whether the state has a “true choice” in the matter of implementation, *i.e.*, whether the state freely chose to impose that program on local municipalities as opposed to performing the obligation itself. *Hayes v. Comm’n on State Mandates* (1992) 11 Cal.App.4<sup>th</sup> 1564, 1593-94.

The 2010 Permit imposes new requirements establishing new and higher levels of service on the permittees thereunder, including the Claimants, and that are unique to the permittees’ function as local government entities. As will be clear from a review of the mandated activities

set forth below, all of the requirements relate to the Claimants' role as local governmental agencies. For those reasons, the provisions of the 2010 Permit set forth in this Test Claim are state mandates for which Claimants, and the permittees under the 2010 Permit, are entitled to reimbursement pursuant to article XIII B, section 6 of the California Constitution.

## **VI. STATE MANDATED ACTIVITIES**

### **A. Local Implementation Plan Requirement**

Section IV and other sections of the 2010 Permit requires the permittees, including Claimants, to undertake two significant and new tasks not required by federal law or regulation – first, the creation of a “template” “Local Implementation Plan” (“LIP”), that will be used to develop detailed documentation for each permittee’s individual program to implement the Drainage Area Management Plan (“DAMP”) and the requirements of the 2010 Permit, and second, the development of individual, permittee-specific LIP documents (based on the “template” LIP) that describe in detail individual permittee compliance programs. The LIP will be a comprehensive document, essentially documenting each permittee’s efforts to comply with each provision of the 2010 Permit. It must, moreover, be regularly updated to reflect changes in the details of each permittee’s compliance programs. The LIP is a requirement of the Santa Ana RWQCB and is not required by the CWA or by the federal CWA regulations. The LIP requirement was not part of the 2002 Permit.

#### **1. Applicable Requirements in the 2010 Permit<sup>3</sup>**

### **SECTION IV**

*A. Within 6 months of adoption of this Order, the Permittees shall develop and submit for approval of the Executive Officer a LIP template. The LIP template shall be amended as the provisions of the DAMP are amended to address the requirements of this Order. The LIP template shall facilitate a description of the Co-Permittee’s individual programs to implement the DAMP, including the organizational units responsible for implementation and identify positions responsible for Urban Runoff program implementation. The description shall specifically address:*

*1. Overall program management, including internal reporting requirements and procedures for communication and accountability;*

*a. Interagency or interdepartmental agreements necessary to implement the Permittee’s Urban Runoff program*

*b. A summary of fiscal resources available to implement the Urban Runoff program;*

---

<sup>3</sup> Where footnotes in the 2010 Permit test are germane to the Test Claim, they are included in this font. Non-relevant footnotes have been deleted. Footnotes that are not part of the 2010 Permit text are included in this font. Additionally, the original footnote numbers in the 2010 Permit have not been used.



Section 5: Narrative Statement In Support of Joint Test Claims of Riverside County Local Agencies  
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033)

9. *Public education and outreach (Section XIII)*
10. *Permittee Facilities and Activities (Section XIV)*
  - a. *A description of the Permittee's MS4 facilities;*
  - b. *At a minimum a list of facilities that include the following:*
    - i. *Parking facilities;*
    - ii. *Fire fighting training facilities;*
    - iii. *Facilities and activities discharging directly to environmentally sensitive areas such as 303(d) listed waterbodies or those with a RARE beneficial use designation;*
    - iv. *POTWs (including water and wastewater treatment plants) and sanitary sewage collection systems;*
    - v. *Solid waste transfer facilities;*
    - vi. *Land application sites;*
    - vii. *Corporate yards including maintenance and storage yards for materials, waste, equipment and vehicles;*
    - viii. *Household hazardous waste collection facilities;*
    - ix. *Municipal airfields;*
    - x. *Maintenance Facilities serving parks and recreation facilities;*
    - xi. *Special event venues following special events (festivals, sporting events);*
    - xii. *Other municipal areas and activities that the Permittee determines to be a potential source of Pollutants.*
11. *Compliance of Permittee Facilities and Activities with the General Construction Permit and De-Minimus Permit (Section XIV.G).*
12. *Training Program for Storm Water Managers, Planners, Inspectors and Municipal Contractors (Section XV);*
  - a. *Training log forms*
  - b. *Identify departments and positions requiring training*
- B. *Within 12 months of approval of the LIP template, and amendments thereof, by the Executive Officer, each Permittee shall complete a LIP<sup>4</sup>, in conformance with the LIP template. The LIP shall be signed by the principal executive officer or ranking elected official or their duly authorized representative pursuant to Section XX.M of this Order.*

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<sup>4</sup> As the Principal Permittee is not a general purpose government, some portions of the NPDES MS4 Program may not be applicable to it. The Principal Permittee should identify the basis for its exclusion from the applicable program elements in the appropriate LIP section.

Section 5: Narrative Statement In Support of Joint Test Claims of Riverside County Local Agencies  
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033)

- C. *Each Permittee shall annually review and evaluate the effectiveness of its Urban Runoff programs to determine the need for revisions to its LIP as necessary in compliance with Sections VIII.H of this Order, and document revisions in the Annual Report.*

**SECTION VI**

*D.1.a.vii [relevant portion] Amend the LIP to be consistent with the revised DAMP and WQMPs within 90 days after said revisions are approved by the Regional Board. Summarize any such LIP amendments in the Annual Report due to the Executive Officer by November 30 of each year.*

*D.1.c.i.(8) [relevant portion] The . . . LIPs shall be revised consistent with the CBRP no more than 180 days after the CBRP is approved by the Regional Board.*

*D.2.c. [relevant portion] Revise the . . . LIPs as necessary to implement the interim WQBEL compliance plans submitted pursuant to paragraph a and b of this section and summarize all such revisions in the Annual Report.*

*D.2.d.ii. [relevant portion] The . . . LIPs shall be revised consistent with the CNRP no more than 180 days after the CNRP is approved by the Regional Board.*

*D.2.i. [relevant portion] The . . . LIPs shall be revised as necessary to implement the plans submitted pursuant to paragraph a through h of this section and summarize all such revisions in the Annual Report.*

**SECTION VII**

*B. [relevant portion] The . . . LIPs, must be designed to achieve compliance with Receiving Water Limitations associated with discharges of Urban Runoff to the MEP.*

*D.2. [relevant portion] Within 30 days following approval by the Executive Officer of the report described above, the Permittees shall revise . . . applicable LIPs . . . to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required.*

*D.3 [relevant portion] Implement . . . applicable LIPs . . . in accordance with the approved schedule.*

**SECTION VIII**

*A. [relevant portion] The Permittees shall . . . incorporate the enforcement program into their LIP.*

*H. Annually thereafter, Permittees shall evaluate the effectiveness of implementation and enforcement response procedures with respect to the above items. The findings of these reviews, along with recommended corrective actions, where appropriate, with schedules shall be submitted as part of the Annual Report for the corresponding reporting period. The LIP shall be updated accordingly.*

## **SECTION IX**

*C. [relevant portion] The Permittees shall describe their procedures and authorities for managing Illegal Dumping in their LIP.*

## **SECTION XII**

*A.1 [relevant portion] Each Co-Permittee shall specify its verification procedure and any tools utilized for this purpose in its LIP.*

*H. Within 18 months of adoption of this Order, each Permittee shall develop and implement standard procedures and tools and include in its LIP the following:*

*1. The Permittees shall utilize a mechanism for review and approval of WQMPs, including a checklist that incorporates the minimum requirements of the model WQMP. The process for review and approval shall be described in the Permittees LIP.*

*2. The Co-Permittees shall maintain a database to track structural post-construction BMPs (consistent with XII.K.4 below).*

*3. Continue to ensure that the entity(ies) responsible for BMP maintenance and the mechanism for BMP funding is identified prior to WQMP approval.*

*4. The Permittees shall train those involved with WQMP reviews in accordance with Section XV, Training Requirements.*

## **SECTION XIV**

*D. [relevant portion] The inspection and cleaning frequency for all portions of the specified MS4 shall be included in each Permittee's LIP and shall be evaluated annually to determine the need for adjusting the inspection and cleaning frequency.*

## **SECTION XV**

*A. [relevant portion] Within 24 months of adoption of this Order . . . each Permittee's LIP shall be updated in include a program to provide formal and where necessary, informal training to Permittee staff that implement the provisions of this Order.*

### **2. Requirements of Federal Law**

No federal statute, regulation, or policy requires the preparation of the LIP. The LIP was included in the 2010 Permit as an initiative of Santa Ana RWQCB staff. The Fact Sheet prepared by RWQCB staff to explain the basis for the 2010 Permit requirements does not cite to the CWA or its regulations as specific authority for the LIP.

The CWA regulations, in 40 CFR § 122.26(d)(2)(iv), require the setting forth of a management program to address discharges from the MS4 system. This requirement was satisfied with the completion of the DAMP under the 2002 Permit. The regulations do not,

however, 1) require the preparation of or implementation of a LIP document or 2) require program documentation in the level of detail as required by the provisions in the 2010 Permit. Hence, Section IV of the 2010 Permit is not a federal mandate.

Moreover, a “new program or higher level of service” imposed by the State upon a municipality as a result of a federal law or federal program is not necessarily a “federal mandate.” In order to be a federal mandate, the obligation must be imposed upon the municipality by federal law itself. The test for determining whether the “new program or higher level of service” is a state mandate, is whether the state has a “true choice” in the manner of implementation, *i.e.*, whether the state freely chose to impose that program on local municipalities as opposed to performing the obligation itself. *Hayes, supra*, 11 Cal.App.4<sup>th</sup> at 1593-94.

### **3. Requirements of 2002 Permit**

The 2002 Permit contains no requirements relating to the LIP; neither for the development of the LIP template, nor for the development of individual (permittee-specific) LIPs, nor the updating of the LIP over the course of the permit. Hence, the LIP requirements of the 2010 Permit establish a new program and/or higher level of service.

### **4. Mandated Activities**

Develop a template LIP: The 2010 Permit require the permittees, including the Claimants, first to develop a template LIP. The development of that template LIP is being done by the District on behalf of itself and the permittees, and the funding for that work is being shared by the permittees pursuant to their joint Implementation Agreement. To date, preparation of the template has involved the work of a consultant in preparing draft templates, as well as numerous meetings among the District and the Permittees.

Develop individual LIPs: Once the template LIP has been approved by the Santa Ana RWQCB executive officer, the permittees, including Claimants, will be required to develop individual LIPs which set forth in detail the specific elements of their individual MS4 permit compliance programs, according to the detailed requirements of Section IV of the 2010 Permit set forth above. The preparation of the LIP will require permittees, including Claimants, to undertake tasks such as setting forth and identifying personnel, ordinances, plans and policies, the procedures for carrying out inspections and for incorporating programs required by the permit into the regulation of existing and new development, the identifying of public facilities in addition to the MS4 system, and the describing of procedures to promote accountability.

Update LIPs: Section IV.C of the 2010 Permit, as well as other sections of the Permit referenced above, require that each permittee’s LIP be considered for revision each year and updated as required to reflect changes to compliance programs being implemented by the permittees, including Claimants. Such requirements thus continue beyond development of the initial LIP and represent a continuing mandate.

## **5. Actual and Estimated Increased Costs**

To comply with the LIP requirements set forth in the 2010 Permit, the permittees, including Claimants, will be required to spend monies both to develop the required LIP template and to develop individual LIPs in compliance with the 2010 Permit. Moreover, as required by the 2010 Permit, each permittee's LIP will be required to be updated annually, resulting in additional costs for the permittees.

The development of the LIP template is being conducted by the District, using funding provided by the permittees, including Claimants, through a joint Implementation Agreement among the permittees. In addition to their contribution toward the development of the LIP template, each permittee will be required to individually fund the development and implementation of its own LIP, as well as any required updates.

Claimants' costs and estimated future costs for their compliance with these provisions will exceed \$1,000 during the current 2010-2011 Fiscal Year ("FY") and will exceed \$1,000 during succeeding FYs over the course of the 2010 Permit and potentially beyond. *See* Claimant Declarations included in Section 6.

## **B. Potential Promulgation and Implementation of Ordinances to Address Bacteria Sources**

Section VIII.C of the 2010 Permit requires the permittees, including Claimants, to promulgate and implement ordinances that would control known pathogen or bacteria indicator sources such as animal wastes, if necessary. This requirement is not mandated by federal law and was not part of the 2002 Permit.

### **1. Applicable Requirements in 2010 Permit**

#### ***SECTION VIII***

*C. Within three (3) years of this Order, the Co-Permittees shall promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary.*

### **2. Requirements of Federal Law**

The federal CWA regulations require, in 40 CFR § 122.26(d)(2), that MS4 permittees demonstrate that they have adequate legal authority "established by statute, ordinances or series of contracts" to the contribution of pollutions to the MS4 associated with industrial activity, prohibit illicit discharges to the MS4, control spills, dumping or disposal of materials other than storm water to the MS4, control the contribution of pollutants from one portion of the MS4 to another portion of the MS4, require compliance with conditions in ordinances, permits, contracts or orders, and carry out all inspection, surveillance and monitoring procedures required to determine compliance and non-compliance with permit conditions. 40 CFR § 122.26(d)(2)(i).

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The CWA regulations require that the MS4 permittees demonstrate that they have sufficient “legal authority” to address issues relating to the discharges from their MS4. The requirement of the 2010 Permit to adopt a specific ordinance or ordinances to address a specific pollutant goes beyond the requirements of the CWA regulations and represents the “free choice” by the Santa Ana RWQCB to impose this requirement. As such, it is a state, and not a federal mandate. *Hayes, supra*, 11 Cal.App.4<sup>th</sup> at 1593-94.

**3. Requirements of 2002 Permit**

The 2002 Permit contained no requirements to adopt ordinances such as the requirement contained in Section VIII.C of the 2010 Permit.

**4. Mandated Activities**

Section VIII.C of the 2010 permit would require the permittees, including Claimants, to research existing ordinance authority and, if insufficient to address the source of known pathogens or Bacterial Indicator sources, to develop ordinance language that meets legal requirements, to submit such language to the permittee governing bodies for consideration and approval of the ordinance/ordinances, development of a program to implement the ordinances and enforcement of the ordinances.

**5. Actual and Estimated Increased Costs**

At this juncture, it is not known whether the permittees, including Claimants, will be required to adopt ordinances to address the pollutant sources identified in Section VIII.C of the 2010 permit. If Claimants are required to adopt such ordinances, the cost will exceed \$1,000. *See* Claimant Declarations in Section 6.

**C. Incorporation of IDDE Program to Enhance Illicit Connections/Illegal Discharges Requirements**

The 2010 Permit (as well as the associated monitoring and reporting program contained in Appendix 3 of the Permit) requires the permittees, including Claimants, to review and enhance their illegal connections/illegal discharges (“IC/ID”) program to include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program using an EPA manual or equivalent program. This program then must be used to investigate and track potential illegal discharges and the permittees are required to maintain a database summarizing IC/ID incident responses, which must be updated annually and submitted with the permittees’ annual reports. All of these requirements are new from the 2002 Permit and none are required by the CWA or federal CWA regulations.

**1. Applicable Requirements in 2010 Permit**

**SECTION IX**

*D. Within 18 months of adoption of this Order, the Permittees shall review and revise their IC/ID program to include a pro-active IDDE using the Guidance Manual for Illicit Discharge,*

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*Detection, and Elimination by the Center for Watershed Protection or any other equivalent program consistent with Section IX.E below. The result of this review shall be reported in the Annual Report and include a description of the Permittees' revised pro-active program, procedures and schedules. The LIP shall be updated accordingly. [footnote deleted]*

*E. The Permittees' revised IC/ID program shall specify an IDDE program for each Co-Permittee to individually, or in combination:*

*a. Develop an inventory and map of Permittee MS4 facilities and Outfalls to Receiving Waters.*

*b. Develop a schedule to be submitted within 18 months to conduct and implement systematic investigations of MS4 open channels and Major Outfalls.*

*c. Use field indicators to identify potential illegal Discharges, if applicable;*

*d. Track Illegal Discharges to their sources where feasible; and*

*e. Educate the public about Illegal Discharges and Pollution Prevention where problems are found. [footnote deleted]*

*H. The Permittees shall maintain a database summarizing IC/ID incident response (including IC/IDs detected as part of field monitoring activities). This information shall be updated on an ongoing basis and submitted with the Annual Report.*

**APPENDIX 3, Monitoring and Reporting Program, Section III.E.3**

*3. Illicit Connection/Illegal Discharge (IC/ID) Monitoring: The Permittees shall review and update their Dry Weather and Wet Weather reconnaissance strategies to identify and eliminate IC/IDs using the Guidance Manual for Illicit Discharge, Detection, and Elimination developed by the Center for Watershed Protection or any other equivalent program. Where possible, the use of GIS to identify geographic areas with a high density of industries associated with gross Pollution (e.g. electroplating industries, auto dismantlers) and/or locations subject to maximum sediment loss (e.g. New Development) may be used to determine areas for intensive monitoring efforts. The Dry Weather monitoring for nitrogen and total dissolved solids shall be used to establish a baseline dry weather flow concentration for TDS and TIN at each Core monitoring location. [footnote deleted]*

**2. Requirements of Federal Law**

The CWA prohibits the discharge of “non-stormwater” into the MS4 system. The federal CWA regulations require that MS4 operators develop and implement a program to detect and remove illicit discharges and improper disposal into storm sewers. 40 CFR § 122.26(d)(iv)(B). However, nowhere in the CWA or the regulations is there any requirement to develop and implement an IDDE program, as required in the above-cited provisions of the 2010 Permit, nor is there any requirement to annually evaluate the increased IC/ID programs. The Fact Sheet to the 2010 Permit indicates that the requirement to add a “proactive” IDDE program was the choice of

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the RWQCB to enhance the IC/ID program after determining that the previous program had been “primarily complaint driven or an incidental component of municipal inspections or MS4 inspections for a number of Permittees.” Fact Sheet at 36.

As noted above, an NPDES permit can contain both federal and non-federal requirements. *City of Burbank, supra*, 35 Cal.4<sup>th</sup> at 618, 628. Where state-mandated activities exceed federal requirements, those mandates constitute a reimbursable state mandate. *Long Beach Unified School District, supra*, 225 Cal.App.3d at 172-73.

Moreover, as noted above, a “new program or higher level of service” imposed by the State upon a municipality as a result of a federal law or federal program is not necessarily a “federal mandate.” The test for determining whether the “new program or higher level of service” is a state mandate is whether the state has freely chosen to impose that program on local municipalities as opposed to performing the obligation itself. *Hayes, supra*, 11 Cal.App.4<sup>th</sup> at 1593-94.

Here, the Santa Ana RWQCB freely chose to impose the additional IDDE requirement on the existing IC/ID program maintained by the permittees. That additional requirement thus represents a new program or higher level of service mandated by the state.

### **3. Requirements of 2002 Permit**

While the 2002 Permit contained (in Section VI) an IC/ID program requirement, the Santa Ana RWQCB did not require the IDDE requirements set forth in this Test Claim.

### **4. Mandated Activities**

The requirement to revise existing permittee IC/ID programs to incorporate the IDDE program will require the permittees, including Claimants, to:

Develop a map of MS4 outfalls;

Schedule and conduct investigations of MS4 open channels and major outfalls;

Conduct IC/ID Monitoring and use field indicators to identify potential illegal discharges;

Track illegal discharges to their sources where feasible; and

Annually review and evaluate these increased IC/ID programs and to report upon such evaluation as part of their annual reports.

The Commission previously has determined that program assessment required beyond the federal CWA regulations constitutes an unfunded state mandate. *See San Diego County Test Claim at 85-91.*

## **5. Actual and Estimated Increased Costs**

To comply with the IDDE requirements set forth in the 2010 Permit, the permittees, including Claimants herein, will be required to spend funds both to develop the required IDDE and IC/ID monitoring programs and to revise their existing individual IC/ID programs to implement the identified requirements of the 2010 Permit. Moreover, the permittees, including Claimants herein, will be required to spend additional funds compiling information and reporting on these activities as required by the 2010 Permit.

The development of the IDDE program is being coordinated by the District using funding provided by the permittees, including the Claimants, through the Implementatin Agreement. Specific costs associated with complying with these new mandated programs will be either shared among the permittees through the Implementation Agreement or be borne individually by each permittee.

Claimants' costs and estimated future costs to fund this mandate will exceed \$1,000 during FY 2010-2011 and will exceed \$1,000 during succeeding FYs over the course of the 2010 Permit and potentially beyond. *See* Claimant Declarations in Section 6.

### **D. Creation of Septic System Database**

In Section X.D of the 2010 Permit, the County of Riverside Department of Environmental Health is specifically required to maintain updates to the inventory of all new septic systems approved since 2008 by permittees with septic systems in their jurisdiction.

#### **1. Applicable Requirements in 2010 Permit**

#### ***SECTION X***

*D. Permittees with septic systems in their jurisdiction shall maintain the inventory of septic systems within its jurisdiction completed in 2008. Updates to the inventory will be maintained by County Environmental Health via a database of new septic systems approved since 2008.*

#### **2. Requirements of Federal Law**

While the federal CWA regulations require MS4 permits to contain a "description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer," 40 CFR § 122.26(d)(2)(iv)(B)(4), nothing in the federal regulations address septic systems or the requirement to maintain a database of new septic systems. Thus, the database requirements are state mandates.

#### **3. Requirements of 2002 Permit**

Nothing in the 2002 Permit required a database of septic systems.

#### **4. Mandated Activities**

The County is being required to maintain and update a database of new septic systems installed since 2008 within permittee jurisdictions for the life of the 2010 Permit.

#### **5. Actual and Estimated Increased Costs**

The actual and/or estimated cost to the County of establishing, maintaining and updating the database of new septic systems during FY 2010-2011 and the next fiscal year will exceed \$1,000. See County Declaration in Section 6.

### **E. Enhanced Permittee Inspection Requirements**

Section XI of the 2010 Permit contains a number of enhanced permittee inspection requirements, requirements that may not be recoverable from inspection fees in that they represent administrative obligations ancillary to the actual inspection responsibilities or represent costs related to residential areas which cannot be recovered through facility inspection fees. These enhanced responsibilities relate to requirements to add additional facilities to the inspection and enforcement responsibilities of the permittees, including Claimants.

#### **1. Applicable Requirements in 2010 Permit**

### **SECTION XI**

*D.1. [applicable portions] Within 18 months, the Co-Permittees shall also identify any facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities (e.g. private golf courses, athletic fields, cemeteries, and private parks) within their jurisdiction and determine if these facilities warrant additional inspection to protect water quality.*

*D.6. Within 18 months of adoption of this Order, the Co-Permittees shall notify all mobile businesses based within their jurisdiction concerning the minimum Source Control and Pollution Prevention BMPs that they must develop and implement. For purposes of this Order, mobile businesses include: mobile auto washing/detailing; equipment washing/cleaning; carpet, drape, furniture cleaning; and mobile high pressure or steam cleaning activities that are based out of a Co-Permittee's jurisdiction. The mobile businesses shall be required to implement appropriate BMPs within 3 months of being notified by the Co-Permittees. The Co-Permittees shall also notify mobile businesses discovered operating within their jurisdiction.*

*D.7. Within 24 months of adoption of this Order, the Co-Permittees shall develop an enforcement strategy to address mobile businesses.*

*E.6. Each Co-Permittee shall include an evaluation of its residential program in the Annual Report starting with the second Annual Report after adoption of this Order.*

## **2. Requirements of Federal Law**

The CWA does not require the permittees, including Claimants, to inspect pre-production plastic facilities, managed turf facilities or mobile businesses. The CWA regulations set forth the list of facilities required to be inspected pursuant to the Act, which are municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of Title III of the Superfund Amendment and Reauthorization Act of 1986, and industrial facilities that a municipality has determined to be contributing a substantial pollutant loading to the municipal storm sewer system. 40 C.F.R. § 122.26(d)(2)(iv)(C).

Similarly, neither the CWA nor the CWA regulations require an evaluation of the residential program. The only requirement in the CWA regulations applicable to residential areas is the requirement to include

Structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implement such controls.

40 CFR § 122.26(d)(2)(iv)(A). (This provision was cited by the Santa Ana RWQCB in the Fact Sheet as support for the requirement to address residential areas. *See* Fact Sheet at 38.) These requirements do not mandate the requirements for residential area enforcement set forth in the 2010 Permit. And, as noted above, where the state freely chooses to impose costs associated with a new program or higher level of service upon a local agency, even as a means of implementing a federal program, those costs represent a reimbursable state mandate. *Hayes, supra*, 11 Cal. App.4<sup>th</sup> at 1593-94.

## **3. Requirements of 2002 Permit**

The 2002 Permit adopted by the Santa Ana RWQCB did not contain any of the requirements relating to pre-production plastic facilities or managed turf facilities, or related to specific notifications and enforcement strategies for mobile businesses or evaluation of residential area enforcement.

## **4. Mandated Activities**

The requirements in Section XI of the 2010 Permit set forth above will require the permittees, including Claimants, to

-- Identify within their jurisdictions (a) facilities that transport, store or transfer pre-production plastic pellets, and (b) managed turf facilities, which can include golf courses, athletic fields, cemeteries and private parks, and then determine whether those facilities require additional inspections to protect water quality. This effort will require investigations and possibly site visits, the cost of which cannot be recovered through fees that might be applicable once the facilities have been incorporated into an inspection regime.

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-- Identify mobile businesses within their jurisdiction, notify those businesses and develop the Source Control and Pollution Prevention BMPs that these businesses must implement;

-- Develop an enforcement strategy to address mobile businesses; and

-- Conduct an evaluation of the permittees' residential program in their Annual Reports.

Again, it may be noted that the Commission already has determined that program assessment required beyond the CWA regulations constitutes an unfunded state mandate. *See* San Diego County Test Claim at 85-91. In the case of the 2010 Permit, there is no requirement to assess residential programs in the CWA regulations nor was there any such requirement in the 2002 Permit.

### **5. Actual and Estimated Increased Costs**

To comply with the requirements set forth in Section XI of the 2010 Permit, the permittees, including Claimants herein, will be required to spend monies to comply with the mandated activities described above.

Specific costs associated with complying with these new mandated programs will be either shared among the permittees through the Implementation Agreement, or be borne individually by each permittee.

Claimants' costs and estimated future costs to fund this mandate will exceed \$1,000 during FY 2010-2011 and will exceed \$1,000 during succeeding FYs over the course of the 2010 Permit and potentially beyond. *See* Claimant Declarations included in Section 6.

### **F. Enhanced New Development Requirements**

Section XII of the 2010 Permit contains a number of requirements that expand the responsibilities required of the permittees, including Claimants, with respect to the regulation of stormwater discharges from new developments and significant re-developments. These requirements are far-ranging, and include requirements to include new and revised programs for LID BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee's general plan and related documents, such as development standards and zoning codes, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"), to revise and submit a revised WQMP to address the "new elements required" in the 2010 Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require development and significant redevelopment projects proposed by the permittees to incorporate LID principles, to revise permittee ordinances and design codes to promote LID techniques to review permittee projects for HCOCs and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for permittee streets, roads and highways projects, to develop criteria for determining the feasibility implementing

LID BMPs, and for each permittee to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the 2010 Permit.

## 1. Applicable Requirements in 2010 Permit

### SECTION XII

A.5. *Each Permittee shall ensure that appropriate BMPs to reduce erosion and mitigate Hydromodification are included in the design for replacement of existing culverts or construction of new culverts and/or bridge crossings to the MEP<sup>5</sup>.*

#### B. WATERSHED ACTION PLAN

1. *An integrated watershed management approach may facilitate integration of planning and project approval processes with water quality and quantity control measures. Management of the impacts of Permit Area urbanization on water quality and stream stability is more effectively done on a per-site, neighborhood and municipal basis based on an overall watershed plan. Pending completion of the Watershed Action Plan consistent with this section, management of the impacts of urbanization shall be accomplished using existing programs. The Permittees shall develop a Watershed Action Plan to address the entire Permit Area. The Permittees may choose to develop sub-watershed action plans based on the overall Watershed Action Plan in the future based on new 303(d) impairments, TMDL requirements, or other factors.*
2. *The Permittees shall develop and submit to the Executive Officer for approval a Watershed Action Plan that describes and implements the Permittees' approach to coordinated watershed management. The objective of the Watershed Action Plan is to address watershed scale water quality impacts of urbanization in the Permit Area associated with Urban TMDL WLAs, stream system vulnerability to Hydromodification from Urban Runoff, cumulative impacts of development on vulnerable streams, preservation of Beneficial Uses of streams in the Permit Area, and protection of water resources, including groundwater recharge areas.*
3. *Within three years of Permit adoption, the Co-Permittees shall develop the Watershed Action Plan and implementation tools to address impacts of urbanization in a holistic manner. At a minimum, the Watershed Action Plan shall include the following:*
  - a. *Describe proposed Regional BMP approaches that will be used to address Urban TMDL WLAs*
  - b. *Develop recommendations for specific retrofit studies of MS4, parks and recreational areas that incorporate opportunities for addressing TMDL Implementation Plans, Hydromodification from Urban Runoff and LID implementation.*
  - c. *Description of regional efforts that benefit water quality (e.g. Western Riverside County Multiple Species Conservation Plan, TMDL Task Forces, Water Conservation*

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<sup>5</sup> This type of project may require a CWA Section 404 Permit.

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*Task Forces, Integrated Regional Watershed Management Plans) and their role in the Watershed Action Plan. The Permittees shall describe how these efforts link to their Urban Runoff Programs and identify any further coordination that should be promoted to address Urban WLA or Hydromodification from Urban Runoff to the MEP.*

4. *Within two years of adoption of this Order, the Permittees shall delineate existing unarmored or soft-armored stream channels in the Permit Area that are vulnerable to Hydromodification from New Development and Significant Redevelopment projects.*
5. *Within two years of completion of the delineation in Section XII.B.4 above, develop a Hydromodification management plan (HMP) describing how the delineation will be used on a per project, sub-watershed, and watershed basis to manage Hydromodification caused by urban runoff. The HMP shall prioritize actions based on drainage feature/susceptibility/risk assessments and opportunities for restoration.*
  - a. *The HMP shall identify potential causes of identified stream degradation including a consideration of sediment yield and balance on a watershed or sub-watershed basis.*
  - b. *Develop and implement a HMP to evaluate Hydromodification impacts for the drainage channels deemed most susceptible to degradation. The HMP will identify sites to be monitored, include an assessment methodology, and required follow-up actions based on monitoring results. Where applicable, monitoring sites may be used to evaluate the effectiveness of BMPs in preventing or reducing impacts from Hydromodification.*
6. *Identify Impaired Waters [CWA § 303(d) listed] with identified Urban Runoff Pollutant sources causing impairment, existing monitoring programs addressing those Pollutants, any BMPs that the Permittees are currently implementing, and any BMPs the Permittees are proposing to implement consistent with the other requirements of this Order. Upon completion of XII.B.4, develop a schedule to implement an integrated, world-wide-web available, regional geodatabase of the impaired waters [CWA § 303(d) listed], MS4 facilities, critical habitat preserves defined in the Multiple Species Habitat Conservation Plan and stream channels in the Permit Area that are vulnerable to Hydromodification from Urban Runoff.*
7. *Develop a schedule to maintain the geodatabase required in Section XII.B.4 and other available and relevant regulatory and technical documents associated with the Watershed Action Plan.*
8. *Within three years of adoption of this Order, the Watershed Action Plan shall be submitted to the Executive Officer for approval and incorporation into the DAMP. Within six months of approval, each Permittee shall implement applicable provisions of the approved revised DAMP and incorporate applicable provisions of the revised DAMP into the LIPs for watershed wide coordination of the Watershed Action Plan.*

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9. *The Permittees shall also incorporate Watershed Action Plan training, as appropriate, including training for upper-level managers and directors into the training programs described in Section XV. The Co-Permittees shall also provide outreach and education to the development community regarding the availability and function of appropriate web-enabled components of the Watershed Action Plan.*
10. *Invite participation and comments from resource conservation districts, water and utility agencies, state and federal agencies, non-governmental agencies and other interested parties in the development and use of the Watershed Geodatabase.*

C.1. *Within 24 months of adoption of this Order, each Co-Permittee shall review its General Plan and related documents including, but not limited to its development standards, zoning codes, conditions of approval and development project guidance to eliminate any barriers to implementation of the LID principles and HCOC discussed in Section XII.E of this Order. The results of this review along with any proposed action plans and schedules shall be reported in the Annual report for the corresponding reporting year. Any changes to the project approval process or procedures shall be reflected in the LIP.*

D.1. *[relevant portions] Within 18 months of adoption of this Order, the Permittees shall submit a revised WQMP to incorporate new elements required in this Order.*

**E. LOW IMPACT DEVELOPMENT (LID) AND HYDROMODIFICATION MANAGEMENT TO MINIMIZE IMPACTS FROM NEW DEVELOPMENT/SIGNIFICANT REDEVELOPMENT PROJECTS:**

1. *Within 18 months of adoption of this Order, the Permittees shall update the WQMP to address LID principles and HCOC consistent with the MEP standard. A copy of the updated WQMP shall be submitted to the Executive Officer for approval. Within six months of approval, each Permittee shall implement the updated WQMP. Onsite LID principles as close to Pollution sources as possible shall be given preference, however, project site, sub-regional or regional LID principles may also be applied.*
2. *The Permittees shall require those projects identified in Section XII.D.2. to infiltrate, harvest and use, evapotranspire and/or bio-treat<sup>6</sup> the 85<sup>th</sup> percentile storm event (“Design Capture Volume”). The Design Capture Volume should be calculated as specified in Section XII.D.4.a, above. It is recognized that LID principles are not universally applicable and they are dependent on factors such as: soil conditions including soil compaction and permeability, groundwater levels, soil contaminants (Brownfield development), space restrictions (in-fill projects, redevelopment projects, high density development, transit-oriented developments), highest and best use of Urban Runoff (to support downstream uses), etc. Any portion of this volume that is not*

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<sup>6</sup> A properly engineered and maintained bio-treatment system may be considered only if infiltration, harvesting and use and evapotranspiration cannot be feasibly implemented at a project site (feasibility criteria will be established in the WQMP [Section XII.G.1]. Specific design, operation and maintenance criteria for bio-treatment systems shall be part of the WQMP that will be produced by the Permittees.

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*infiltrated, harvested and used, evapotranspired, and/or bio-treated shall be treated and discharged in accordance with the requirements set forth in Section XII.G, below.*

3. *The Permittees shall incorporate LID site design principles into the revised WQMP to reduce runoff to a level consistent with the MEP standard. The Co-Permittees shall require that New Development and Significant Redevelopment projects include Site Design BMPs during the development of the project-specific WQMP. The design goal shall be to maintain or replicate the pre-development hydrologic regime through the use of design techniques that create a functionally equivalent post-development hydrologic regime through site preservation techniques and the use of integrated and distributed infiltration, retention, detention, evapotranspiration, filtration and treatment systems. The revised WQMP should continue to consider Site Design BMPs described in Appendix O of the DAMP and LID principles described in the pending Southern California Stormwater Monitoring Coalition/CASQA LID Guidance Manual for Southern California.*
4. *Within 18 months of adoption of this Order, each Permittee shall revise, where feasible its ordinances, codes, building and landscape design standards to promote green infrastructure/LID techniques including, but not limited to, the following:*
  - a. *Landscaping designs that promote longer water retention and evapotranspiration such as 1 foot depth of compost/top soil in commercial and residential areas on top of 1 foot of non-compacted subsoil, concave landscape grading to allow runoff from impervious surfaces, and water conservation by selection of water efficient native plants, weather-based irrigation controllers, etc.*
  - b. *Allow permeable surface designs in low traffic roads and parking lots. This may require land use/building code amendment.*
  - c. *Allow natural drainage systems for street construction and catchments (with no drainage pipes) and allow vegetated ditches and swales where feasible.*
  - d. *Require landscape in parking lots to provide treatment, retention or infiltration.*
  - e. *Reduce curb requirements where adequate drainage, conveyance, treatment and storage are available.*
  - f. *Amend land use/building codes to allow no curbs, curb cuts and/or stop blocks in parking areas and residential streets with low traffic.*
  - g. *Use of green roof, rain garden, and other green infrastructure in urban/suburban area.*
  - h. *Allow rainwater harvesting and use.*
  - i. *Narrow streets provide alternatives to minimum parking requirements, etc. to facilitate LID where acceptable to public safety departments.*
  - j. *Consider vegetated landscape for storm water treatment as an integral element of streets, parking lots, playground and buildings.*

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- k. Consider and facilitate application of landform grading techniques<sup>7</sup> and revegetation as an alternative to traditional approaches, particularly in areas susceptible to erosion and sediment loss such as hillside development projects,*
- l. Other site design BMPs identified in the WQMP not included above.*
- ...*
- 6. Each Permittee shall implement effective education programs to educate property owners to use Pollution Prevention BMPs and to maintain on-site hydrologically functional landscape controls.*
- 7. To reduce Pollutants in Urban Runoff, address Hydromodification, and manage Urban Runoff as a resource to the MEP, the revised WQMP shall specify preferential use of Site Design BMPs that incorporate LID techniques, where feasible, in the following manner (from highest to the lowest priority):*
  - a. Preventative measures (these are mostly non-structural measures, e.g., preservation of natural features to a level consistent with the MEP standard; minimization of Urban Runoff through clustering, reducing impervious areas, etc.) and*
  - b. Mitigation measures (these are structural measures, such as, infiltration, harvesting and use, bio-treatment, etc.).*
- 8. The mitigation or structural Site Design BMPs shall also be prioritized (from highest to lowest priority):*
  - a. Infiltration BMPs (examples include permeable pavement with infiltration beds, dry wells, infiltration trenches, surface and sub-surface infiltration basins. The Permittees should work with local groundwater management agencies to ensure that infiltration Treatment Control BMPs are designed appropriately;*
  - b. BMPs that harvest and use (e.g., cisterns and rain barrels); and*
  - c. Vegetated BMPs that promote infiltration and evapotranspiration including bioretention, biofiltration and bio-treatment. Upon the Permittees' determination of LID infeasibility per Section XII.G, design capture volume specified in Section XII.D.4, that is not addressed by onsite or offsite LID Site Design BMPs as listed above shall be treated using Treatment Control BMPs as described in Section XII.G.*
- 9. Hydrologic Condition of Concern (HCOC):*
  - a. The Permittees shall continue to ensure, consistent with the MEP standard, through their review and approval of project-specific WQMPs that New Development and Significant Redevelopment projects do not pose a HCOC due to increased runoff volumes and velocities.*

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<sup>7</sup><http://www.epa.gov/Region3/mtnstop/pdf/appendices/d/aquatic-ecosystem-enhanc-symp/symposiumfinal.pdf>

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- b. *A New Development and Significant Redevelopment project does not cause a HCOC if any one of the following conditions is met:*
- i) *The project disturbs less than one acre and is not part of a common plan of development.*
  - ii) *The volume and the time of concentration<sup>8</sup> of storm water runoff for the post-development condition is not significantly different from pre-development condition for a 2--year return frequency storms (a difference of 5% or less is considered insignificant). This may be achieved through Site Design and Treatment Control BMPs.*
  - iii) *All downstream conveyance channels to an adequate sump (e.g. Prado Dam, Lake Elsinore, Canyon Lake, Santa Ana River or other lake, reservoir or natural resistant feature) that will receive runoff from the project are engineered and regularly maintained to ensure design flow capacity, and no sensitive stream habitat areas will be affected; or not identified in the Permittees Hydromodification sensitivity maps required in Section XII.B.3, and no sensitive stream habitat areas will be affected.*
  - iv) *The Permittees may request a variance from these criteria based on studies conducted by the Southern California SMC, SCCWRP, CASQA, or other regional studies. Requests for consideration of any variances should be submitted to the Executive Officer.*
- c. *If a HCOC exists, the WQMP shall include an evaluation of whether the project will adversely impact downstream erosion, sedimentation or stream habitat. This evaluation should include consideration of pre- and post-development hydrograph volumes, time of concentration and peak discharge velocities for a 2-year storm event, construction of sediment budgets, and a sediment transport analysis. If the evaluation determines adverse impacts are likely to occur, the project proponent shall implement additional Site Design BMPs, on-site BMPs, Treatment Control BMPs and/or in-stream BMPs<sup>9</sup> to mitigate the impacts. The project proponent should first consider Site Design BMPs and on-site BMPs prior to proposing in-stream BMPs; in-stream BMPs must not adversely impact Beneficial Uses or result in sustained degradation of Receiving Water quality and shall require all necessary regulatory approvals<sup>10</sup>:*

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<sup>8</sup> Time of concentration is defined as the time after the beginning of rainfall when all portions of the drainage basin are contributing simultaneously to flow at the outlet.

<sup>9</sup> In-stream measures involve modifying the receiving stream channel slope and geometry so that the stream can convey the new flow regime without increasing the potential for erosion and aggradation. In-stream measures are intended to improve long-term channel stability and prevent erosion by reducing the erosive forces imposed on the channel boundary.

<sup>10</sup> In-stream control projects require a Stream Alteration Agreement from the California Department of Fish & Game, a CWA section 404 permit from the U.S. Army Corps of Engineers, and a section 401

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*d. HCOC are considered mitigated if they meet one of the following conditions:*

- i. Require additional onsite or offsite mitigation to address potential erosion or habitat impact using LID BMPs.*
- ii. The project is developed consistent with an approved Watershed Action Plan that addresses HCOC for the downstream Receiving Waters.*
- iii. Mimicking the pre-development hydrograph with the post-development hydrograph, for a 2-year return frequency storm. Generally, the hydrologic conditions of concern are not significant, if the post-development hydrograph is no more than 10% greater than pre-development hydrograph. In cases where excess volume cannot be infiltrated or captured and reused, discharge from the site must be limited to a flow rate no greater than 110% of the pre-development 2-year peak flow.*

*e. If site conditions do not permit items i, through iv, above, the alternatives and in-lieu programs discussed under Section XII.G, below, may be considered.*

**F. ROAD PROJECTS**

*1. Within 24 months of adoption of this Order, the Co-Permittees shall develop standard design and post-development BMP guidance to be incorporated into projects for streets, roads, highways, and freeway improvements, under the jurisdiction of the Co-Permittees to reduce the discharge of Pollutants from the projects to the MEP. The draft guidance shall be submitted to the Executive Officer for review and approval and shall meet the performance standards for site design/LID BMPs, Source Control and Treatment Control BMPs as well as the HCOC criteria. The guidance and BMPs shall address streets, roads or highways under the jurisdiction of the Co-Permittees used for transportation of automobiles, trucks, motorcycles, and other vehicles, and excludes routine road maintenance activities where the surface footprint is not increased. The guidance shall incorporate principles contained in the USEPA guidance, "Managing Wet Weather with Green Infrastructure: Green Streets" to the MEP and at a minimum shall include the following:*

- a. Guidance specific to new road projects;*
- b. Guidance specific to projects for existing roads;*
- c. Size or impervious area criteria that trigger project coverage;*
- d. Preference for green infrastructure approaches wherever feasible;*
- e. Criteria for design and BMP feasibility analysis on a project-specific basis.*

*2. Within six months of approval by the Executive Officer, the Permittees shall implement the standard design and post-development BMP guidance for all road projects.*

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certification from the Water Board. Early discussions with these agencies on the acceptability of an in-stream modification are necessary to avoid project delays or redesign.

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*Pending approval of the standard design and post-development BMP guidance, site specific WQMPs for streets road and highway projects shall be required pursuant to Section XII.D.2.*

**G. ALTERNATIVES AND IN-LIEU PROGRAMS**

*1. [relevant portions] Within 18 months of adoption of this Order, the Permittees shall develop technically-based feasibility criteria for project evaluation to determine the feasibility of implementing LID BMPs which may include factors such as a groundwater protection assessment to determine if infiltration BMPs are appropriate for the site.<sup>11</sup>*

**K. OPERATION AND MAINTENANCE OF POST-CONSTRUCTION BMPS**

*4. Each Co-Permittee shall maintain a database to track the operation and maintenance of the structural post-construction BMPs installed after adoption of this Order. The database shall include: type of BMP; watershed where it is located; date of certification; party responsible for maintenance and any problems identified during inspection including any vector or nuisance problems.*

*5. [relevant portions] Within 18 months of adoption of this order and annually thereafter, all Permittee-owned structural post construction BMPs installed after the date of this Order shall be inspected prior to the Rainy Season. The Co-permittees shall also develop an inspection frequency for New Development and Significant Redevelopment projects, based on the project type and the type of structural post construction BMPs deployed.*

**2. Requirements of Federal Law**

The federal CWA regulations require that MS4 permits include a

description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant new redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed.

40 CFR § 122.26(d)(2)(iv)(A)(2). This is the regulation cited by the Santa Ana RWQCB in the Fact Sheet (Fact Sheet at 38.)

The requirements in Section XII of the 2010 Permit set forth above either are not required by the CWA or the CWA regulations or represent the free choice of the Santa Ana RWQCB to incorporate those provisions into the 2010 Permit and, as such, represent a state mandate. First,

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<sup>11</sup> Such feasibility determinations may be based on regional analyses conducted by the Permittees (see finding G-14) or on site specific conditions. Site specific determinations shall be certified by a Professional Civil Engineer registered in the State of California, and will be documented in the project WQMP, which shall be approved by the Permittee prior to submittal to the Executive Officer. Within 30 days of submittal to the Executive Officer, the Permittee will be notified if the Executive Officer intends to take any action.

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the requirements relating to the Watershed Action Plan (“WAP”) and the incorporation of watershed protection principles into planning processes are not a federal mandate. Instead they stem from a determination by RWQCB staff, upon evaluating the management programs established under the 2002 Permit, that there was “a need for establishing a clear nexus between the watershed protection principles (including LID) and the planning and approval processes of the Permittees.” Fact Sheet, p. 38. Thus, the decision to require development and implementation of the WAP program was the free choice of the Santa Ana RWQCB, not a federal requirement. *Hayes, supra*, 11 Cal. App.4<sup>th</sup> at 1593-94.

Second, the incorporation of similar LID and hydromodification requirements on new development projects has previously been determined by the Commission, in the San Diego County Test Claim, to represent a state mandate. San Diego County Test Claim at 41-54. However, the Commission found that the LID and hydromodification requirements were not *reimbursable* state mandates because the San Diego County test claimants were not under an obligation to construct projects that would trigger the permit requirements. San Diego Test Claim at 46, 52.

In support of this position, the Commission cited the California Supreme Court’s decision in *Department of Finance v. Comm’n on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4<sup>th</sup> 727. In that case, the Court held that certain hearing requirements imposed upon school district did not constitute a reimbursable state mandate because they were a requirement of a voluntary program that the districts had elected to participate in. The Court held that “activities undertaken at the option or discretion of a local government entity (that is, actions undertaken without any legal compulsion or threat of penalty for nonparticipation) do not trigger a state mandate and hence do not require reimbursement.

The Court relied on *City of Merced v. State of California* (1984) 153 Cal.App.3d 777. In that case, the city elected to take property by eminent domain. Then-recent legislation required the city to compensate the property owner for loss of business goodwill. The city argued that the legislation constituted a reimbursable state mandate. The Court of Appeal concluded that the city’s increased costs flowed from its voluntary decision to condemn the property. 153 Cal.App.3d at 783.

The facts that dictated the Supreme Court’s decision in *Kern High School Dist.* are not present in this Test Claim. First, the MS4 permit program is not a voluntary program, but one required of municipalities with MS4 systems of a certain size. Second, the Permit requires the permittees, including Claimants, to take various mandatory steps, including incurring costs related the imposition of LID and hydromodification requirements on any municipal project, including projects constructing or rehabilitating hospitals, medical facilities, parks, parking lots and other facilities. These projects are not “optional,” but rather are integral to the permittees’ function as municipal entities. The failure to repair, upgrade or extend such facilities can pose a threat to public health and safety, and expose the permittees to liability.

*City of Merced* likewise is not applicable. In that case, the City had the choice either of purchasing the property in question or condemning it. The 2010 Permit offers no such options to the permittees, including Claimants. Permittees have no choice in designing their development

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projects to avoid imposition of the Permit requirements, since the requirements apply uniformly to a variety of projects depending only their size or location. See 2010 Permit, Section XII.D.2.b.

It may be noted that the California Supreme Court recently has rejected application of *City of Merced* beyond the circumstances present in *Kern High School Dist.* In *San Diego Unified School Dist. v. Comm'n on State Mandates* (2004) 33 Cal.4<sup>th</sup> 859, the Court discussed *Kern High School Dist.* at length and cautioned against further reliance on the holding in *City of Merced*:

[T]here is reason to question an extension of the holding of *City of Merced* so as to preclude reimbursement under article XIII B, section 6 of the state Constitution and Government Code section 17514 whenever an entity makes an initial discretionary decision that in turn triggers mandated costs. Indeed, it would appear that under a strict application of the language in *City of Merced*, public entities would be denied reimbursement for state-mandated costs in apparent contravention of the intent underlying article XIII B, section 6 . . . and Government Code section 17514 and contrary to past decisions in which it has been established that reimbursement was in fact proper. For example . . . in *Carmel Valley, supra*, 190 Cal.App.3d 521, an executive order requiring that county firefighters be provided with protective clothing and safety equipment was found to create a reimbursable state mandate for the added costs of such clothing. . . . The court in *Carmel Valley* apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ – and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from *City of Merced* . . . such costs would not be reimbursable for the simple reason that the local agency's decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and hence we are reluctant to endorse, in this case, an application of the rule of *City of Merced* that might lead to such a result.

33 Cal.4<sup>th</sup> at 887-88.

Thus, reliance on the *City of Merced* rationale is appropriate *only* in the very limited circumstances presented in *Kern High School Dist.* These circumstances are not present with respect to the above-noted provisions of the 2010 Permit relating to the imposition of LID and hydromodification principles to public development projects.

A number of additional requirements in Section XII of the 2010 Permit do not involve even arguable “discretionary” projects, but rather the requirement to develop standard design and post-development BMP guidance for road projects, incorporation of BMPs into the design for culvert projects, the creation and maintenance of a database for tracking the operation and maintenance of structural post-construction BMPs, development of criteria and plan

documentation, including under the LID provisions discussed above, and the inspection of permittee-owned structural post-construction BMPs. These requirements do not involve the “choice” of the permittees to build a project. Moreover, these requirements mandate the outlay of local funds without the ability to recover those funds through inspection fees, as might be the case for inspections of BMPs constructed for a private project.

### **3. Requirements of 2002 Permit**

While the 2002 Permit contained requirements applicable to new development projects (2002 Permit, Section VIII), none of the requirements in the 2010 Permit set forth above are included in the 2002 Permit.

### **4. Mandated Activities**

The requirements of Section XII included in this Test Claim are numerous, but include:

-- the requirement to develop and implement, and then maintain if on a permittee road, BMPs to reduce erosion and mitigate hydromodification in the design of culverts or bridge crossings;

-- the requirement to develop a WAP, requiring the development and submittal of proposed WAP to the Santa Ana RWQCB executive officer for approval; the development and implementation of the WAP, including describing proposed regional BMP approaches used to address urban Total Maximum Daily Load wasteload allocations, recommendations for specific retrofit studies of the MS4, parks and recreational areas, describing regional efforts to benefit water quality and describing how these effort link to the permittees’ urban runoff programs and identify opportunities for further cooperation; the identification and delineation of existing unarmored or soft-armored stream channels that are vulnerable to hydromodification impacts from new development or significant redevelopment projects; development of a Hydromodification management plan (“HMP”), describing how the delineation of the channels will be used to manage hydromodification caused by urban runoff; development of the HMP to evaluate hydromodification impacts for channels deemed most susceptible to degradation, including identification of monitoring sites and followup monitoring; identification of impaired waters with identified urban runoff pollutant sources causing impairment, existing monitoring programs addressing the pollutants and BMPs that are currently implemented or proposed for implementation; develop a schedule to implement a regional geodatabase of the impaired waters, MS4 facilities, critical habitat preserves and stream channels vulnerable to urban runoff; develop a schedule to maintain the geodatabase; submit the WAP to the RWQCB executive officer for approval and incorporation into the DAMP and incorporate applicable provisions of the revised DAMP into the LIPs for watershed wide coordination of the WAP; incorporate WAP training and outreach and education to the development community; invite participation and comments from resource conservation districts and other parties in the development and use of the geodatabase.

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-- the requirement to review each permittee's general plan and related documents to eliminate any barriers to implementation of LID principles and HCOC requirements, with any changes in project approval process or procedures to be reflected in the LIP.

-- the requirement to submit a revised WQMP to incorporate the new elements required by the 2010 Permit.

-- the requirement to update the WQMP to address LID principles and HCOC, and require development projects, including permittee development projects, to infiltrate, harvest and use, evapotranspire and/or bio-treat the 85<sup>th</sup> percentile storm event; incorporate LID site design principles into the revised WQMP, and require new development and significant redevelopment projects to include site design BMPs during the development of project-specific WQMPs; revise permittee ordinances, codes and design standards to promote green infrastructure/LID techniques; develop and implement education programs to education property owners on using pollution prevention BMPs and to maintain hydrologically functional landscape controls; ensure that the revised WQMP will specify preferential use of site design BMPs that incorporate LID techniques where feasible; to prioritize site design BMPs; review WQMPs for new development and significant redevelopment projects to ensure that projects to do not pose a HCOC due to increased runoff volume and velocities; and, if a HCOC exists, evaluate the impacts and require implementation of additional BMPs to mitigate the impacts.

-- The requirement to develop standard design and post-development BMPs guidance to incorporate into street, road, highway and freeway improvement projects under the jurisdiction of the permittees; ensure that the guidance follows certain principles contained in U.S. EPA guidance; and implement the design and BMP guidance for all road projects, requiring both construction and ongoing maintenance for such BMPs.

-- The requirement to develop technically based feasibility criteria for project evaluation to determine the feasibility of implementing LID BMPs.

-- The requirement to maintain a database to track the operation and maintenance of structural post-construction BMPs and inspect within 18 months of adoption of the 2010 Permit and annually thereafter, prior to the rainy season, all permittee-owned structural post-construction BMPs installed after the effective date of the 2010 Permit.

## **5. Actual and Estimated Increased Costs**

To comply with the requirements set forth in Section XII of the 2010 Permit identified in this Test Claim, the permittees, including Claimants herein, will be required to spend monies to develop BMPs, develop and implement a WAP, to review and if required, amend each general plan and related documents, revise and submit a revised WQMP meeting specific requirements, develop a procedure for streamlining regulatory agency approval, incorporate LID principles and require permittee development and redevelopment projects to adopt those principles, revise ordinances and design codes to promote LID techniques, review permittee projects for HCOCs and mitigate such HCOCs, develop standard design and post-development BMP guidance for streets, roads and highways, develop criteria to determine the feasibility of implementing LID

BMPs, install, operate and maintain additional BMPs, maintain a database to track structural post construction BMPs, and routinely inspect post-construction structural BMPs.

The development of the WAP, revised WQMP, streamlining of regulatory requirements, development of new BMPs and design and other criteria is being conducted by the District with funding through the implementation agreement. Each permittee, however, will be required to individually fund the implementation of any regionally-devised programs, as well as carry out all other aspects of the requirements of Section XII of the 2010 Permit that apply to permittee-specific activities.

Claimants' costs and estimated future costs to fund this mandate will exceed \$1,000 during FY 2010-2011 and will exceed \$1,000 during succeeding FYs over the course of the 2010 Permit and potentially beyond. *See* Claimant Declarations included in Section 6.

### **G. Training Program Enhancement**

Section XV.C of the 2010 Permit requires that the permittees, including Claimants, conduct formal training of their employees responsible for implementing the requirements of the 2010 Permit, including with respect to WQMP review.

#### **1. Requirements of 2010 Permit**

### **SECTION XV**

*C. Formal Training: [relevant portions] The formal training programs shall educate Permittee employees responsible for implementing requirements of this Order, by providing training on the following Permittee activities: . . . WQMP review . . . . Formal training may be conducted in classrooms or using videos, DVDs or other multimedia. The program shall consider all applicable Permittee staff such as storm water program managers, construction/industrial/ commercial/residential inspectors, planners, engineers, public works crew, etc. and shall: define the required knowledge and competencies for each Permittee Activity, outline the curriculum, include testing or other procedures to determine that the trainees have acquired the requisite knowledge to carry out their duties, and provide proof of completion of training such as Certificate of Completion, and/or attendance sheets. The formal training curriculum shall:*

- 1. Highlight the potential effects that Permittee or Public activities related to their job duties can have on water quality.*
- 2. Overview the principal applicable water quality laws and regulations that are the basis for the requirements in the DAMP.*
- 3. Discuss the provisions of the DAMP that relate to the duties of the target audience, including but not limited to;*

*. . .*

- b. Overview of CEQA requirements contained in Section XII.C of this Order .*

*. . .*

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*F. Schedule: At a minimum, the training schedule should include the following:  
[relevant portions]*

- 1. New Permittee employees responsible for implementing requirements of this Order must receive informal training within six months of hire and formal training within one year of hire.*
- 2. Other existing Permittee employees responsible for implementing the requirements of this Order must receive formal training at least once during the term of this Order.*
- 3. The start date for training programs described in this Section shall be included in the schedule required in Section III.A.1.q, but shall be no later than six months after Executive Officer approval of DAMP updates applicable to the Permittee activities described in Section XIV.*

## **2. Requirements of Federal Law**

Neither the CWA nor the federal CWA regulations require the training required in Section XV as an element of MS4 permits. Thus, the requirements in Section XV.C. and F. are state mandates, not federal requirements.

## **3. Requirements of 2002 Permit**

The 2002 Permit contained some training requirements for permittee staff, such as training for persons conducting inspection of construction sites. However, the requirement to conduct training in WQMP review and in the requirements of CEQA as set forth in the 2010 Permit were not included in the 2002 Permit, and thus represent a new requirement.

## **4. Mandated Activities**

Section XV.C. requires the permittees, including Claimants, to develop an additional training program for WQMP review and CEQA requirements and Section XV.F. requires implementation of that training in formal training sessions.

## **5. Actual and Estimated Increased Costs**

At this juncture, the development and implementation of the formal training for WQMP review and CEQA requirements is planned to be done on a regional basis by the District. The costs associated with complying with these new mandated programs will be shared among the permittees through the Implementation Agreement.

Claimants' costs and estimated future costs to fund this mandate will exceed \$1,000 during FY 2011-2012 and will exceed \$1,000 during succeeding FYs over the course of the 2010 Permit and potentially beyond. *See* Claimant Declarations included in Section 6.

## **H. Program Management Assessment**

Section XVII.A.3 of the 2010 permit contains a new requirement requiring the permittees to assess Urban Runoff management program effectiveness on an area wide as a jurisdiction-specific basis, using specified guidance.

### **1. Requirements of 2010 Permit**

#### ***SECTION XVII***

*A. [relevant portions] In addition, the first Annual Report (November 2010) after adoption of this Order shall include the following:*

*3. Proposal for assessment of Urban Runoff management program effectiveness on an area wide as well as jurisdiction-specific basis. Permittees shall utilize the CASQA Guidance<sup>12</sup> for developing these assessment measures at the six outcome levels. The assessment measures must target both water quality outcomes and the results of municipal enforcement activities consistent with the requirements of Appendix 3, Section IV.B.*

Please also see Appendix 4, Monitoring and Reporting Program, Section IV.B., included in Section 7 of the Test Claim.

### **2. Requirements of Federal Law**

The federal CWA regulations contain a provision requiring “assessment of controls. Estimated reductions in loadings of pollutants from discharges of municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.” 40 CFR § 122.26(d)(2)(v).

However, the Commission already has determined in the San Diego County Test Claims that similar (albeit more elaborate) program assessment requirements in the San Diego County MS4 Permit were a state, not federal, mandate, because the federal regulatory requirements did not specify the detailed assessment set forth in that permit. San Diego County Test Claim, 83-86. Similarly, the requirements of Section XVII.A.3 are far more detailed and specific than those general assessment requirements. The 2010 Permit requires assessment on an area-wide as well as jurisdiction-specific basis, and requires use of guidance that employs assessment measures at six outcome levels, targeting both water quality outcomes and the result of municipal enforcement activities. None of this specificity is set forth in the federal regulations and the requirements of Section XVII.A.3 are therefore state, and not federal, mandates.

### **3. Requirements of 2002 Permit**

The 2002 Permit did not contain the assessment requirements set forth in Section SVII.A.3 of the 2010 Permit. Thus, those requirements impose a new program and/or higher level of service on the permittees, including Claimants.

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<sup>12</sup> CASQA, May 2007, Municipal Storm Water Program Effectiveness Assessment Guidance.

#### **4. Mandated Activities**

The requirements set forth in Section XVII.A.3 of the 2010 Permit require the permittees, including claimants, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment. This requires the permittees to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to the IC/ID programs, inspection programs, New Development Programs, Public Education and Training programs, and programs for Permittee Facilities and Activities required pursuant to the Permit. Further, it requires the Permittees to annually analyze that information for inferences that can be garnered regarding the effectiveness of their programs, and describe the findings and recommendations related to that analysis in annual reports.

#### **5. Actual and Estimated Increased Costs**

The work associated with the development of the assessment of the Urban Runoff management program will be conducted by the District on behalf of the other permittees, with the permittees paying appropriate shares of the cost of that work pursuant to the Implementation Agreement entered into between the District and the other permittees. Implementation of the requirement will be accomplished by each individual permittee.

Claimants' costs and estimated future costs to fund this mandate will exceed \$1,000 during FY 2010-2011 and will exceed \$1,000 during succeeding FYs over the course of the 2010 Permit and potentially beyond. *See* Claimant Declarations in Section 6.

### **VII. STATEWIDE COST ESTIMATE**

The provisions of the 2010 Permit only apply to portions of Riverside County within the boundaries of the Santa Ana Region and therefore, the cost estimates provided in this Test Claim relate only to that geographic area. Those costs are set forth in the declarations submitted in Section 6 of this Test Claim.

### **VIII. FUNDING SOURCES**

The Claimants are not aware of any designated State, federal or non-local agency funds that are or will be available to fund the mandated activities set forth in this Test Claim. As set forth in the Declarations contained in Section 6 of this Test Claim, some Claimants have available local or regional fees that fund some aspects of 2010 Permit activities. However, as also set forth in those declarations, in no cases do Claimants assert that such fees will cover the increased costs represented by the programs and activities set forth in this Test Claim. The Claimants, and the permittees under the 2010 Permit, do not have other fee authority to offset these new and additional costs. It should be further noted that with the passage of Proposition 26 by the voters in November, the ability of the Claimants to raise new fees has been further constrained.

## **IX. PRIOR MANDATE DETERMINATIONS**

### **A. Los Angeles County Test Claim**

In 2003 and 2007, the County of Los Angeles and 14 cities within the county (“Los Angeles County claimants”) submitted test claims 03-TC-04, 03-TC-19, 03-TC-19, 03-TC-20 and 03-TC-21. These test claims asserted that provisions of Los Angeles RWQCB Order No. 01-182 constituted unfunded state mandates. Order No. 01-182, like the 2010 Permit at issue in this Test Claim, was a renewal of an existing MS4 permit. The provisions challenged in these test claims concerned the requirement for the Los Angeles County claimants to install and maintain trash receptacles at transit stops and to inspect certain industrial, construction and commercial facilities for compliance with local and/or state storm water requirements.

The Commission, in a final decision issued on September 3, 2009, determined that the trash receptacle requirement was a reimbursable state mandate. *In re Test Claim on: Los Angeles Regional Quality Control Board Order No. 01-192*, Case Nos.: 03-TC-04, 03-TC-19, 03-TC-20, 03-TC-21. The Commission found that the portion of the test claims relating to the inspection requirement was a state mandate, but that the Los Angeles County claimants had fee authority sufficient to fund such inspections.

### **B. San Diego County Test Claim**

In 2007, the County of San Diego and 21 cities within the county (the “San Diego County claimants”) submitted test claim 07-TC-09. This test claim asserted that several provisions of San Diego RWQCB Order No. R9-2007-0001 constituted reimbursable state mandates. This order was the renewal of the existing MS4 permit for the San Diego County claimants.

On March 30, 2010, the Commission issued a final decision entitled *In re Test Claim on: San Diego Regional Water Quality Control Board Order No. R9-2007-0001*, Case No. 07-TC-09. In that decision, the Commission found the following requirements to be reimbursable state mandates:

1. A requirement to conduct and report on street sweeping activities;
2. A requirement conduct and report on storm sewer cleaning;
3. A requirement to conduct public education with respect to specific target communities and on specific topics;
4. A requirement to conduct mandatory watershed activities and collaborate in a Watershed Urban Management Program;
5. A requirement to conduct program effectiveness assessments;
6. A requirement to conduct long-term effectiveness assessments; and
7. A requirement for permittee collaboration.

Section 5: Narrative Statement In Support of Joint Test Claims of Riverside County Local Agencies  
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033)

The Commission also found requirements for hydromodification and low impact development programs to be state mandates, but determined that because local agencies could charge fees to pay for these programs, they were not reimbursable state mandates.

**X. CONCLUSION**

The permittees under the 2010 Permit maintain a good working relationship with the Santa Ana RWQCB and its staff. The permittees, including Claimants, are committed to working together with the RWQCB and other stakeholders to achieve the clean water goals set forth in the 2010 Permit.

Nonetheless, important elements of the 2010 Permit represent significant and expensive mandates at a time when the budgets of all local agencies, especially those in Riverside County, have been dramatically impacted by the recession. The Claimants believe that the mandates set forth in this Test Claim represent state mandates for which a subvention of funds is required, pursuant to article XIII B, section 6 of the California Constitution. Claimants respectfully request that the Commission make such finding as to each of the programs and activities set forth herein.

## SECTION 6

# DECLARATIONS OF CLAIMANTS

In Support of Joint Test Claims of Riverside County Local  
Agencies Concerning Santa Ana RWQCB Order No. R8-2010-  
0033

DECLARATION OF JASON UHLEY  
RIVERSIDE COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

I, JASON UHLEY, hereby declare and state as follows:

1. I am Chief of the Watershed Protection Division of the Riverside County Flood Control & Water Conservation District ("District"). In that capacity, I share responsibility for the compliance of the District with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the District.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the District's sources of funding for programs and activities required to comply with the Permit.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the District to undertake the following new and/or

upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees, including the District, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the District for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the District, with funding provided in part by the other permittees under the Permit pursuant to the Implementation Agreement (included in Section 7 of the Test Claim). The cost of these requirements exceeds \$1,000. During Fiscal Year (“FY”) 2010-2011, I am informed and believe that the cost to the District to develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the District for the development of the individual District LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the District, to develop and include a “pro-active” Illicit Discharge Detection and

Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District, with funding provided in part from the other permittees through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the District to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the District will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

c. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development (“LID”) BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the 2010 Permit, to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require District development and significant redevelopment projects to incorporate LID principles, to review District projects for new Hydrologic Conditions of Concern (“HCOC”) requirements and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for District street, road and

highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements and development of new BMPs and other criteria is being conducted by the District, with funding provided in part from the other permittees through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by each permittee, including the District. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the District to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the District will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Training Requirements: Section XV.C of the Permit requires the permittees, including the District, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided in part by the other permittees through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided in part by the other permittees through the Implementation Agreement, or may be conducted individually by the permittees, including the District. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the District to meet this requirement will exceed \$1,000. I am further

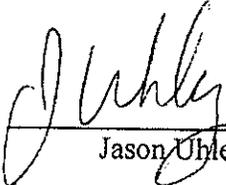
informed and believe that the cost of these new mandated activities to the District will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

e. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the District, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the District, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, it requires the permittees, including the District, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the District. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the District to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the District will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state or federal funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. In 1991, the District established the Santa Ana Watershed Benefit

Assessment to fund its MS4 compliance activities. Currently, the Benefit Assessment pays for certain aspects of the District's compliance with the Permit. The District anticipates no increase in the fees generated by the Benefit Assessment due to the number of foreclosures in Riverside County. Moreover, my understanding is that the Benefit Assessment levels cannot be increased without a vote. I am informed and believe that the proceeds from the Benefit Assessment fee are not sufficient to cover all of the programs and activities set forth in this Declaration. I am not aware of any other fee or tax that the District would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only other source to pay for these new programs and activities would be the District's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 28, 2011, at Riverside, California.

  
Jason Uhley

DECLARATION OF KISHEN PRATHIVADI

CITY OF BEAUMONT

I, KISHEN PRATHIVADI, hereby declare and state as follows:

1. I am Consulting Assistant Director – Public Works for the City of Beaumont (“City”). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region (“Santa Ana RWQCB”), Order No. R8-2010-0033 (“the Permit”) as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 (“2002 Permit”), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the City’s sources of funding for programs and activities required to comply with the Permit.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the City for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the Riverside County Flood Control & Water Conservation District (“District”), in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees under the Permit. The cost of these requirements exceeds \$1,000. During Fiscal Year (“FY”) 2010-2011, I am informed and believe that the cost to the City develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the City for the development of the individual City LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement, if it becomes necessary, will involve the development, drafting and necessary passage of City ordinances to address such wastes, as well the development of an enforcement strategy and the enforcement of the ordinances. No costs have yet been expended by the City with respect to this requirement, but if an ordinance or ordinances are required to be promulgated and implemented, I am informed and believe that the cost of such promulgation and implementation will exceed \$1,000.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE

Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the City, to develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District using funding contributed by the permittees, including the City, through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the City to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Enhanced Permittee Inspection Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit requires the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets as well as managed turf facilities to determine whether these facilities warrant additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee’s residential program in its Annual Report. The cost of these requirements will exceed \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe

that the cost of these new mandated requirements to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

e. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development (“LID”) BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee’s general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”), to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for new HCOC requirements and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements, development of new BMPs and other criteria, is being conducted by the District with funding from the City through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am

informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

f. Training Requirements: Section XV.C of the Permit requires the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided by the permittees, including the City, through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided by the permittees, including the City, through the Implementation Agreement, or may be conducted individually by the City. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the City to meet this requirement will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

g. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit.

Further, it requires the permittees, including the City, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. I am not aware of any fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only available source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 28, 2011, at Beaumont, California.

*P. R. Kishen*

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Kishen Prathivadi

DECLARATION OF KIP D. FIELD

CITY OF CORONA

I, KIP D. FIELD, hereby declare and state as follows:

1. I am Public Works Director for the City of Corona ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.
2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.
3. I have an understanding of the City's sources of funding for programs and activities required to comply with the Permit.
4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.
5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:
  - a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan ("LIP") for submission to the Santa Ana RWQCB's Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the City for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the Riverside County Flood Control & Water Conservation District ("District"), in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees under the Permit. The cost of these requirements exceeds \$1,000. During Fiscal Year ("FY") 2010-2011, I am informed and believe that the cost to the City to develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the City of the new mandated activities for the development of the individual City LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement, if it becomes necessary, will involve the development, drafting and necessary passage of City ordinances to address such wastes, as well the development of an enforcement strategy and the enforcement of the ordinances. No costs have yet been expended by the City with respect to this requirement, but if an ordinance or ordinances are required to be promulgated and implemented, I am informed and believe that the cost to the City of such promulgation and implementation will exceed \$1,000.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE

Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the City, to develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District using funding contributed by the permittees, including the City, through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the City to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Enhanced Permittee Inspection Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit requires the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets as well as managed turf facilities to determine whether these facilities warrant additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee’s residential program in its Annual Report. The cost for complying with these requirements will exceed \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and

believe that the cost of these new mandated requirements to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

e. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development (“LID”) BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee’s general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”), to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for new HCOC requirements and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements, development of new BMPs and other criteria, is being conducted by the District with funding from the City through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am

informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

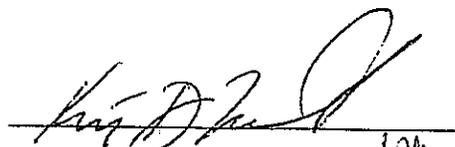
f. Training Requirements: Section XV.C of the Permit requires the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided by the permittees, including the City, through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided by the permittees, including the City, through the Implementation Agreement, or may be conducted individually by the City. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the City to meet this requirement will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

g. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit.

Further, it requires the permittees, including the City, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state or federal funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. The City has access to funding obtained through County Service Area 152 ("CSA 152"), which fund, in part, the obligations of the City under the Permit. I am informed and believe that CSA 152 funding is not sufficient to cover all or potentially any of the programs and activities set forth in this Declaration. I am not aware of any fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only other source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 27, 2011, at Corona, California.

  
Kip D. Field

*John  
Lynch  
No P*

DECLARATION OF JORGE BIAGIONI

CITY OF HEMET

I, JORGE BIAGIONI, hereby declare and state as follows:

1. I am Principal Civil Engineer for the City of Hemet ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the City's sources of funding for programs and activities required to comply with the Permit.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the City for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the Riverside County Flood Control & Water Conservation District (“District”), in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees under the Permit. The cost of these requirements exceeds \$1,000. During Fiscal Year (“FY”) 2010-2011, I am informed and believe that the cost to the City develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the City for the development of the individual City LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement, if it becomes necessary, will involve the development, drafting and necessary passage of City ordinances to address such wastes, as well the development of an enforcement strategy and the enforcement of the ordinances. No costs have yet been expended by the City with respect to this requirement, but if an ordinance or ordinances are required to be promulgated and implemented, I am informed and believe that the cost of such promulgation and implementation will exceed \$1,000.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE

Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the City, to develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District using funding contributed by the permittees, including the City, through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the City to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Enhanced Permittee Inspection Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit requires the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets as well as managed turf facilities to determine whether these facilities warrant additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee’s residential program in its Annual Report. The cost of these requirements will exceed \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe

that the cost of these new mandated requirements to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

e. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development (“LID”) BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee’s general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”), to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for new HCOC requirements and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements, development of new BMPs and other criteria, is being conducted by the District with funding from the City through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am

informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

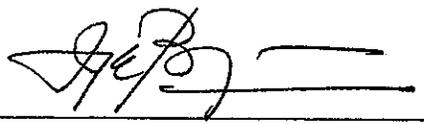
f. Training Requirements: Section XV.C of the Permit requires the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided by the permittees, including the City, through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided by the permittees, including the City, through the Implementation Agreement, or may be conducted individually by the City. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the City to meet this requirement will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

g. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit.

Further, it requires the permittees, including the City, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. The City of Hemet has a sewer and storm drain fee that is used in part for the payment of activities associated with the Permit. I am informed and believe this fee cannot be raised except by vote of the people. I am further informed and believe that the proceeds from this fee are not sufficient to cover all of the programs and activities set forth in this Declaration. I am not aware of any fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only other source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 27, 2011, at Hemet, California.



Jorge Biagioni

DECLARATION OF RITA THOMPSON

CITY OF LAKE ELSINORE

I, RITA THOMPSON, hereby declare and state as follows:

1. I am NPDES Coordinator for the City of Lake Elsinore ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the City's sources of funding for programs and activities required to comply with the Permit.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the City for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the Riverside County Flood Control & Water Conservation District (“District”), in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees under the Permit. The cost of these requirements exceeds \$1,000. During Fiscal Year (“FY”) 2010-2011, I am informed and believe that the cost to the City develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the City for the development of the individual City LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement, if it becomes necessary, will involve the development, drafting and necessary passage of City ordinances to address such wastes, as well the development of an enforcement strategy and the enforcement of the ordinances. No costs have yet been expended by the City with respect to this requirement, but if an ordinance or ordinances are required to be promulgated and implemented, I am informed and believe that the cost of such promulgation and implementation will exceed \$1,000.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE

Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the City, to develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District using funding contributed by the permittees, including the City, through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the City to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Enhanced Permittee Inspection Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit requires the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets as well as managed turf facilities to determine whether these facilities warrant additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee’s residential program in its Annual Report. The cost of these requirements will exceed \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated requirements to the City

will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

e. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development (“LID”) BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee’s general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”), to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for new HCOC requirements and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements, development of new BMPs and other criteria, is being conducted by the District with funding from the City through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am

informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

f. Training Requirements: Section XV.C of the Permit requires the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided by the permittees, including the City, through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided by the permittees, including the City, through the Implementation Agreement, or may be conducted individually by the City. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the City to meet this requirement will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

g. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit.

Further, it requires the permittees, including the City, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state or federal funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. The City has access to funding obtained through County Service Area 152 ("CSA 152"), which fund, in part, the obligations of the City under the Permit. I am informed and believe that CSA 152 funding is not sufficient to cover all or potentially any of the programs and activities set forth in this Declaration. I am not aware of any fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only other source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 27, 2011, at Lake Elsinore, California.



Rita Thompson

DECLARATION OF CHRIS A. VOGT

CITY OF MORENO VALLEY

I, CHRIS A. VOGT, hereby declare and state as follows:

1. I am Public Works Director/City Engineer for the City of Moreno Valley (“City”). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region (“Santa Ana RWQCB”), Order No. R8-2010-0033 (“the Permit”) as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 (“2002 Permit”), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the City’s sources of funding for programs and activities required to comply with the Permit.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees, including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the City for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the Riverside County Flood Control & Water Conservation District (“District”), in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees under the Permit. The cost of these requirements exceeds \$1,000. During Fiscal Year (“FY”) 2010-2011, I am informed and believe that the cost to the City develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the City for the development of the individual City LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement, if it becomes necessary, will involve the development, drafting and necessary passage of City ordinances to address such

wastes, as well the development of an enforcement strategy and the enforcement of the ordinances. No costs have yet been expended by the City with respect to this requirement, but if an ordinance or ordinances are required to be promulgated and implemented, I am informed and believe that the cost of such promulgation and implementation will exceed \$1,000.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the City, to develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District using funding contributed by the permittees, including the City, through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the City to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Enhanced Permittee Inspection Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit requires the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets as well as managed turf facilities to determine whether these facilities warrant additional inspections; to notify all mobile business

concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee’s residential program in its Annual Report. The cost of these requirements will exceed \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated requirements to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

e. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development (“LID”) BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee’s general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”), to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for new HCOC requirements and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street,

road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements, development of new BMPs and other criteria, is being conducted by the District with funding from the City through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

f. Training Requirements: Section XV.C of the Permit requires the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided by the permittees, including the City, through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided by the permittees, including the City, through the Implementation Agreement, or may be conducted individually by the City. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the City to meet this requirement will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

g. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, it requires the permittees, including the City, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state or federal funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. The City has access to funding obtained through County Service Area 152 ("CSA 152"), which fund, in part, the obligations of the City under the Permit. In addition, the City uses funds collected from new developments annexed to the City for stormwater

programs associated with those new developments pursuant to a NPDES Rate Schedule. I am informed and believe that this CSA 152 and NPDES Rate Schedule funding is not sufficient to cover all or potentially any of the programs and activities set forth in this Declaration. I am not aware of any fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only other source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 27, 2011, at Moreno Valley, California.



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Chris A. Vogt

DECLARATION OF MICHAEL MORALES  
CITY OF PERRIS

I, MICHAEL MORALES, hereby declare and state as follows:

1. I am Capital Improvements Project Manager for the City of Perris ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.
2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.
3. I have an understanding of the City's sources of funding for programs and activities required to comply with the Permit.
4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.
5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:
  - a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the City for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the Riverside County Flood Control & Water Conservation District (“District”), in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees under the Permit. The cost of these requirements exceeds \$1,000. During Fiscal Year (“FY”) 2010-2011, I am informed and believe that the cost to the City develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the City for the development of the individual City LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement, if it becomes necessary, will involve the development, drafting and necessary passage of City ordinances to address such wastes, as well the development of an enforcement strategy and the enforcement of the ordinances. No costs have yet been expended by the City with respect to this requirement, but if

an ordinance or ordinances are required to be promulgated and implemented, I am informed and believe that the cost of such promulgation and implementation will exceed \$1,000.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the City, to develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District using funding contributed by the permittees, including the City, through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the City to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Enhanced Permittee Inspection Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit requires the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets as well as managed turf facilities to determine whether these facilities warrant additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to

evaluate the permittee's residential program in its Annual Report. The cost of these requirements will exceed \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated requirements to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

e. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development ("LID") BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan ("WAP") to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee's general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"), to revise and submit a revised Water Quality Management Plan ("WQMP") to address the "new elements required" in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for new HCOC requirements and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements, development of new BMPs and

other criteria, is being conducted by the District with funding from the City through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

f. Training Requirements: Section XV.C of the Permit requires the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided by the permittees, including the City, through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided by the permittees, including the City, through the Implementation Agreement, or may be conducted individually by the City. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the City to meet this requirement will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

g. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the City,

to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, it requires the permittees, including the City, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. I am not aware of any fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only available source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 21, 2011, at Perris, California.



Michael Morales

DECLARATION OF MIKE EMBERTON

CITY OF SAN JACINTO

I, MIKE EMBERTON, hereby declare and state as follows:

1. I am Public Works Director for the City of San Jacinto ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the City's sources of funding for programs and activities required to comply with the Permit.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the City for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the Riverside County Flood Control & Water Conservation District (“District”), in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees under the Permit. The cost of these requirements exceeds \$1,000. During Fiscal Year (“FY”) 2010-2011, I am informed and believe that the cost to the City develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the City for the development of the individual City LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement, if it becomes necessary, will involve the development, drafting and necessary passage of City ordinances to address such wastes, as well the development of an enforcement strategy and the enforcement of the ordinances. No costs have yet been expended by the City with respect to this requirement, but if an ordinance or ordinances are required to be promulgated and implemented, I am informed and believe that the cost of such promulgation and implementation will exceed \$1,000.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the City, to develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District using funding contributed by the permittees, including the City, through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the City to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Enhanced Permittee Inspection Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit requires the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets as well as managed turf facilities to determine whether these facilities warrant additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee’s residential program in its Annual Report. The cost of these requirements will exceed \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe

that the cost of these new mandated requirements to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

e. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development (“LID”) BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee’s general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”), to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for new HCOC requirements and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements, development of new BMPs and other criteria, is being conducted by the District with funding from the City through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am

informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

f. Training Requirements: Section XV.C of the Permit requires the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided by the permittees, including the City, through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided by the permittees, including the City, through the Implementation Agreement, or may be conducted individually by the City. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the City to meet this requirement will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

g. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit.

Further, it requires the permittees, including the City, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the City. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the City to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the City will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state or federal funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. The City has access to funding obtained through County Service Area 152 ("CSA 152"), which fund, in part, the obligations of the City under the Permit. In addition, the City collects fees used for certain Permit activities from residents covered by Landscape and Lighting Park Districts ("LLPD"). I am informed and believe that this CSA 152 and LLPD funding is not sufficient to cover all or potentially any of the programs and activities set forth in this Declaration. I am not aware of any fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only other source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January ~~28~~<sup>29</sup>, 2011, at San Jacinto, California.



Mike Emberton

DECLARATION OF MICHAEL R. SHETLER

COUNTY OF RIVERSIDE

I, MICHAEL R. SHETLER, hereby declare and state as follows:

1. I am Senior Management Analyst and NPDES Stormwater Program Administrator for the County of Riverside ("County"). In that capacity, I share responsibility for the compliance of the County with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the County.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the County's sources of funding for programs and activities required to comply with the Permit.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the County, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, as well as other sections, require the permittees, including the County, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific programs, policies and procedures that will be implemented by the County for compliance with the Permit. The tasks required will include not only creation of individual LIPs, with the identification of personnel, programs and other tasks, but also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. Development of the template LIP is being conducted by the Riverside County Flood Control & Water Conservation District (“District”), in part through funding provided by the County pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees under the Permit. The cost of these requirements exceeds \$1,000. During Fiscal Year (“FY”) 2010-2011, I am informed and believe that the cost to the County develop the template LIP will exceed \$1,000. I am further informed and believe that the cost to the County for the development of the individual County LIP, including periodic reviews and updates, will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the County, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement, if it becomes necessary, will involve the development, drafting and necessary passage of County ordinances to address such wastes, as well the development of an enforcement strategy and the enforcement of the

ordinances. No costs have yet been expended by the County with respect to this requirement, but if an ordinance or ordinances are required to be promulgated and implemented, I am informed and believe that the cost of such promulgation and implementation will exceed \$1,000.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, require that the permittees, including the County, to develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. The cost of these requirements will exceed \$1,000. The development of the IDDE program is being coordinated by the District using funding contributed by the permittees, including the County, through the Implementation Agreement. During FY 2010-2011, I am informed and believe that the cost to the County to develop and implement the program will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the County will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

d. Enhanced Permittee Inspection Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit requires the permittees, including the County, to identify facilities that transport, store or transfer pre-production plastic pellets as well as managed turf facilities to determine whether these facilities warrant additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within

their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee's residential program in its Annual Report. The cost of these requirements will exceed \$1,000. During FY 2010-2011, I am informed and believe that the cost to the County to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated requirements to the County will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

e. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These requirements include requirements to include new and revised programs for Low Impact Development ("LID") BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan ("WAP") to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee's general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"), to revise and submit a revised Water Quality Management Plan ("WQMP") to address new elements required in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require County development and significant redevelopment projects to incorporate LID principles, to revise County ordinances and design codes to promote LID techniques, to review County projects for new HCOC requirements and to mitigate such HCOC, to develop standard design and post-development BMP guidance for County street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The

development of the WAP, revised WQMP document, streamlining of regulatory requirements, development of new BMPs and other criteria, is being conducted by the District with funding from the County through the Implementation Agreement. Implementation of these mandated new programs, as well as implementation of all other aspects of the requirements not developed by the District, will be funded by the County. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the County to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the County will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

f. Training Requirements: Section XV.C of the Permit requires the permittees, including the County, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. The development of the training requirements will be done by the District, with funding provided by the permittees, including the County, through the Implementation Agreement. The implementation of the training may be conducted by the District, with funding provided by the permittees, including the County, through the Implementation Agreement, or may be conducted individually by the County. The cost of these requirements exceeds \$1,000. During FY 2011-2012, I am informed and believe that the cost to the County to meet this requirement will exceed \$1,000. I am further informed and believe that the cost of these new mandated activities to the County will exceed \$1,000 into the future years of the Permit, and potentially in future iterations of the Permit.

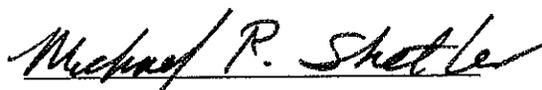
g. Program Management Assessment Requirements: Section XVII.A.3 and Section VIII.H of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the County, to develop and submit a

proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to conduct assessments which will require the permittees, including the County, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, it requires the permittees, including the County, to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. The implementation of the program assessments will be accomplished by each permittee, including the County. The cost of these requirements exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the County to meet these requirements will exceed \$1,000. I am informed and believe that the cost of these new mandated activities to the County will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

h. Septic System Database: Section X.C of the Permit requires the County Department of Environmental Health to maintain updates to an inventory of septic systems in the jurisdiction of each permittee under the Permit in a database of such systems approved since 2008. This requires the County to develop and implement such a database, and to update it periodically. The cost of this requirement exceeds \$1,000. During FY 2010-2011, I am informed and believe that the cost to the County to meet these requirements will exceed \$1,000. I am further informed and believe that the cost of these requirements to the County will exceed \$1,000 in the future years of the Permit, and potentially in future iterations of the Permit.

6. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. I am not aware of any fee or tax that the County would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only available source to pay for these new programs and activities is the County's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 31, 2011, at Riverside, California.

A handwritten signature in black ink that reads "Michael R. Shetler". The signature is written in a cursive style and is positioned above a horizontal line.

Michael R. Shetler

## SECTION 7

# DOCUMENTATION

In Support of Joint Test Claims of Riverside County Local  
Agencies Concerning Santa Ana RWQCB Order No. R8-2010-  
0033

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- TAB 2: California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0033, Fact Sheet (Appendix 6)
- TAB 3: California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2002-0011 (including Fact Sheet)
- TAB 4: California Constitution, article XIII B, section 6
- TAB 5: 33 U.S.C. § 1251
- TAB 6: 33 U.S.C. § 1342
- TAB 7: 40 Code of Federal Regulations § 122.26
- TAB 8: California Water Code § 13260
- TAB 9: California Water Code § 13263
- TAB 10: California Water Code § 13370
- TAB 11: *City of Burbank v. State Water Resources Control Board* (2005) 35 Cal.4<sup>th</sup> 613
- TAB 12: State Water Resources Control Board Order No. 2001-015
- TAB 13: Implementation Agreement

TAB 1

California Regional Water Quality Control Board, Santa Ana Region,  
Order No. R8-2010-0033

STATE OF CALIFORNIA  
 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
 SANTA ANA REGION

ORDER NO. R8-2010-0033  
NPDES NO. CAS 618033

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT AND  
 WASTE DISCHARGE REQUIREMENTS FOR  
 THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION  
 DISTRICT, THE COUNTY OF RIVERSIDE, AND THE INCORPORATED CITIES OF  
 RIVERSIDE COUNTY WITHIN THE SANTA ANA REGION

AREA-WIDE URBAN RUNOFF MANAGEMENT PROGRAM

The following Discharger(s) are subject to waste discharge requirements as set forth in this Order:

**Table 1. Municipal Permittees (Dischargers)**

<b>Principal Permittee</b>	Riverside County Flood Control and Water Conservation District (RCFC&WCD)*	
<b>Co-Permittees</b>	1. Beaumont	9. Moreno Valley
	2. Calimesa	10. Murrieta
	3. Canyon Lake	11. Norco
	4. Corona	12. Perris
	5. County of Riverside (County)	13. Riverside
	6. Hemet	14. San Jacinto
	7. Lake Elsinore	15. Wildomar
	8. Menifee	

The Principal Permittee and the Co-Permittees are collectively referred to as the Permittees or the Dischargers.

**Table 2. - Administrative Information**

This Order was adopted by the Regional Water Board on:	<b>January 29, 2010</b>
This Order will become effective on:	<b>January 29, 2010</b>
This Order will expire on:	<b>January 29, 2015</b>
The U.S. Environmental Protection Agency (USEPA) and the California Regional Water Quality Control Board have classified this discharge as a major discharge.	
The Discharger must file a Report of Waste Discharge in accordance with Title 23, California Code of Regulations, as application for issuance of new waste discharge requirements no later than 180 days in advance of the Order expiration date.	

Order No. R8-2010-0033 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

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IT IS HEREBY ORDERED, that this Order supersedes Order No. R8-2002-0011 except for enforcement purposes, and, in order to meet the provisions contained in Division 7 of the California Water Code (CWC) and regulations adopted there under, and the provisions of the federal Clean Water Act (CWA), and regulations and guidelines adopted there under, the Permittees must comply with the requirements in this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that this Order No. R8-2010-0033 with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on January 29, 2010.



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Gerard J. Thibeault, Executive Officer

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<b>Appendix Number</b>	<b>DESCRIPTION</b>
1	Permit Area
2	Other Entities that May Discharge Pollutants to the MS4
3	Monitoring And Reporting Program
4	Glossary
5	Notice of Intent and Notice of Termination for Construction Activities
6	Fact Sheet
7	Notice of Intent and Notice of Termination for De-Minimus Discharges

## I. FACILITY INFORMATION

- A. Each of the municipalities listed in Table 1, above, hereinafter called Permittees, owns and/or operates portions of the municipal separate storm sewer system (MS4<sup>1</sup>), through which Urban Runoff is discharged into Waters of the United States (Waters of the US) that are located within the jurisdiction of the Santa Ana Regional Water Quality Control Board (Santa Ana Region). The MS4 falls into one or more of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) an MS4 which contributes to a violation of a Water Quality Standard; or (3) an MS4 which is a significant contributor of Pollutants to Waters of the US; or (4) an MS4 owned and/or operated by a small municipality that is interrelated to a medium or large municipality. Section 402(p) of the CWA requires that discharges of Urban Runoff from MS4 be regulated under a National Pollutant Discharge Elimination System (NPDES) permit.
- B. This Order regulates the discharge of Pollutants in Urban Runoff from non-agricultural Anthropogenic sources from the MS4 that is owned and/or operated by the Permittees. The Permittees lack legal jurisdiction over discharges into their MS4 facilities from agricultural activities, State and federal facilities, public schools and hospitals, utilities, railroads, and special districts, Native American tribal lands, wastewater management agencies and other point and non-point source discharges otherwise permitted by the Regional Board. The Regional Board recognizes that the Permittees should not be held responsible for discharges from such facilities or Pollutants in those discharges. However, to the extent that the Permittees authorize the connection of these discharges into their MS4s, this Order requires the Permittees to provide written notification of Water Quality Management Plan (WQMP) requirements for post-construction best management practices (BMPs) and/or other applicable requirements of this Order. A WQMP approved by the Permittee who owns the MS4 may constitute compliance with the General Construction Permit post construction Standards<sup>2</sup> for the Permit Area.
- C. The Co-Permittees have established legal authority to control discharges into the MS4 facilities that they own and/or operate. As owners and/or operators of the MS4, the Permittees are responsible for discharges into their MS4 facilities to the extent of their legal authority. The discharge of Pollutants into the MS4 may cause or contribute to, or threaten to cause or contribute to, a condition of Pollution in Receiving Waters. Federal regulations, 40 CFR 122.26(d)(2)(i), require the Permittees to control the discharge of Pollutants into the MS4 to the maximum extent practicable (MEP).

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<sup>1</sup> Note: Acronyms and capitalized terms used in this document are defined in Appendix 4.

<sup>2</sup> The State General Construction Permit Section Order No. 2009-0009-DWQ XIII

Certain activities and sources that generate Pollutants present in Urban Runoff may be beyond the ability of Permittees to prevent or eliminate. Examples of these activities and sources include, but are not limited to: emissions from internal combustion engines, brake pad wear and tear, atmospheric deposition, bacteria and wildlife (including feral cats and dogs) and leaching of naturally occurring nutrients and minerals from local soils. This Order is not intended to address background or naturally occurring Pollutants or flows.

- D. The Permittees have identified Major Outfalls and have submitted maps of existing MS4 facilities. The Co-Permittees reported having approximately 269 miles of underground storm drains, and 95 miles of channels<sup>3</sup>. The RCFC&WCD reported having 75 miles in underground storm drains and 59 miles of channels in the Permit Area.
- E. On February 5, 2008 Wildomar residents voted for cityhood and the city incorporated on July 1, 2008. Menifee residents voted for cityhood on June 3, 2008 and the city incorporated on October 1, 2008. Both cities in letters dated May 5 and May 6, 2009, respectively, have expressed their intent to be a Co-Permittee in this Order and for the purposes of this Order shall be considered as such. Urban Runoff from the cities of Menifee, Murrieta and Wildomar discharges into watersheds within the Santa Ana Regional Board and the San Diego Regional Board jurisdictions. Therefore, these cities are regulated by MS4 permits issued by both Regional Boards. Urban Runoff from the County of Riverside and RCFC&WCD discharge into watersheds within the Santa Ana, San Diego and Colorado River Region Regional Board jurisdictions. Therefore, these entities are regulated by MS4 permits issued by three Regional Boards.
- F. The Permit Area contains 1,396 square miles or 19.1% of the 7,300 square miles within Riverside County and includes 15 of the 26 municipalities within Riverside County. The more densely populated areas of Riverside County are located within the Santa Ana Regional Board's jurisdiction. The population of the Permit Area was estimated at 1,237,388 as of January 1, 2006<sup>4</sup>. The California Department of Finance estimates that as of January 1, 2009, the population of Riverside County was 2,107,653<sup>5</sup>. Other portions of Riverside County are regulated by the San Diego and the Colorado River Basin Regional Boards.

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<sup>3</sup> 2008-2009 Permittee Santa Ana NPDES MS4 Annual Report.

<sup>4</sup> Section 3.3.1 of the 2007 ROWD (Western Riverside Council of Governments (WRCOG), Sub-regional Growth Forecast, Riverside County Projection (Revised Draft), November 22, 2006.)

<sup>5</sup> E-1 report dated April 30, 2009 ([http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/2008-09/documents/E-1\\_2009%20Press%20Release.pdf](http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/2008-09/documents/E-1_2009%20Press%20Release.pdf)).

## II. FINDINGS

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter the "Regional Board") finds that:

### A. BACKGROUND

1. The Co-Permittees own and operate flood control facilities. Some of the natural channels, streambeds and other drainage facilities that are generally considered as Waters of the U.S. have been converted to flood control facilities. In such cases, where a natural streambed is modified to convey storm water flows, the conveyance system becomes both a MS4 and a Water of the US.
2. The Permittees are currently discharging from the MS4 pursuant to Order No. R8-2002-0011, NPDES Permit No. CAS 618033. This Order renews Order No. R8-2002-0011 and regulates discharges of Urban Runoff from the MS4 within Riverside County.
3. On April 27, 2007, the RCFC&WCD, in cooperation with the County of Riverside, (the "County") and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, and San Jacinto, jointly submitted a permit renewal application, a Report of Waste Discharge (the "2007 ROWD"), to renew the NPDES permit for discharges of Urban Runoff from the MS4 in the Permit Area. Subsequently, the cities of Menifee and Wildomar also signed letters of intent to include discharges from their MS4 facilities under this MS4 Permit. The County and incorporated cities are hereinafter the "Co-Permittees", and collectively with the Principal Permittee referred to as the "Permittees". The Permit Area is shown in Appendix 1 and includes the urban areas and those portions of agriculture and open space as shown on Appendix 1 that may convert to industrial, commercial, or residential use during the term of this Order.
4. To more effectively carry out the requirements of this Order, the Permittees have agreed that the RCFC&WCD will continue as the Principal Permittee and the County and the incorporated cities within the Permit Area will continue as the Co-Permittees.
5. The Permittees submitted a revised Drainage Area Management Plan ("2007 DAMP") as contained in Appendix B of the 2007 ROWD. The proposed DAMP identifies programs and policies, including best management practices (BMPs), to achieve Water Quality Standards in the Receiving Waters. These BMPs can be organized into two categories: BMPs for existing facilities and BMPs for New Development and Significant Redevelopment. Both categories include regulatory activities, public education programs, waste management, and operations and

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maintenance activities. The Permittees currently implement the 2006 DAMP. With the adoption of this Order, the Permittees are required to implement the 2007 DAMP. The DAMP is a dynamic document that defines the MEP standard (see discussion of this term in the Glossary, Appendix 4) for the Permittee activities and is incorporated by reference as an enforceable element of this Order.

6. This Order requires the Permittees to revise the DAMP and associated documents to incorporate new MS4 Permit requirements which include recommendations from the 2007 ROWD. Future modifications of the DAMP, once approved by the Regional Board Executive Officer<sup>6</sup>, are also enforceable elements of this Order.
7. During the Third Term Permit, Regional Board staff conducted an evaluation of each of the Permittees' Urban Runoff programs. This evaluation indicated that most of the Permittees lacked proper documentation of procedures and policies for implementation of various elements of their Urban Runoff program. This Order requires each Permittee to develop a Local Implementation Plan (LIP) that documents its internal procedures for implementation of the various program elements described in the DAMP and this Order.
8. On July 13, 1990, the Regional Board adopted the first term Riverside County MS4 permit, Order No. 90-104 (NPDES No. CA 8000192). On March 8, 1996, the Regional Board renewed Order No. 90-104 by adopting the second term Riverside County MS4 permit, Order No. 96-30 (NPDES No. CAS618033). On October 25, 2002, the Regional Board renewed Order No. 96-30 by adopting the third term MS4 permit, Order No. R8-2002-0011(NPDES No. CAS618033).
9. This Order renews Order No. R8-2002-0011 (NPDES No. CAS618033), and regulates discharges of Urban Runoff from the MS4 within the Permit Area in Riverside County. This Order is the fourth term permit and is intended to regulate the discharge of Pollutants in Urban Runoff from non-agricultural Anthropogenic activities and sources under the jurisdiction of and/or maintenance responsibility of the Permittees and is not intended to address background or naturally occurring Pollutants or flows.
10. The Santa Ana River Basin is the major watershed within the Santa Ana Region. The Regional Board and the Permittees recognize the importance of watershed

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<sup>6</sup> The Executive Officer shall provide members of the public with notice and at least a 30-day comment opportunity for all documents submitted in accordance with this Order. If the Executive Officer, after considering timely submitted comments, concludes that the document is adequate or adequate with specified changes, the Executive Officer may approve the document or present it to the Board for its consideration at a regularly scheduled and noticed meeting. If there are significant issues that cannot be resolved by the Executive Officer, the document will be presented to the Board for its consideration at a regularly scheduled meeting.

management initiatives and regional planning and coordination in the development and implementation of programs and policies related to water quality protection.

11. It is recognized that in some cases MS4 facilities are used to convey Urban Runoff to sub-regional or regional Treatment Control BMPs or may incorporate regional BMPs directly. The Regional Board recognizes this appropriate strategy for treatment provided that Waters of the US are not used to convey Pollutants. Further, such BMPs are not considered MS4 or Waters of the US.
12. A number of regional and watershed-wide efforts are underway in which the Permittees are active participants. The Regional Board also recognizes that, in certain cases, diversion of funds targeted for certain monitoring programs to regional monitoring programs may be necessary. The Executive Officer is authorized to approve, after proper public notification and consideration of all comments received, reallocation of resources to the watershed management initiatives and regional planning and coordination programs and regional monitoring programs.
13. The Permittees are required to submit all documents, where appropriate, to the Regional Board in an electronic format. All such documents will be posted at the Regional Board's website and all interested parties will be notified. In addition, the website will include the administrative and civil procedures for appealing any decision made by the Executive Officer. Some Urban Runoff issues, such as monitoring, public education, and training can be more effectively addressed on a regional or statewide basis thereby increasing program consistency and efficiency. This Order encourages continued participation in such programs and policies.

## **B. LEGAL AUTHORITIES**

1. This Order is issued pursuant to Section 402 of the CWA, the Porter-Cologne Water Quality Control Act (Division 7 of the Water Code, commencing with Section 13000), applicable State and federal regulations, all applicable provisions of statewide Water Quality Control Plans and Policies adopted by the State Water Resources Control Board (State Board), the Water Quality Control Plan for the Santa Ana River Basin adopted by the Regional Board (Basin Plan), the California Toxics Rule (CTR), and the California Toxics Rule Implementation Plan. This Order also serves as Waste Discharge Requirements (WDRs) pursuant to Article 4, Chapter 4, Division 7 of the Water Code (commencing with Section 13260).
2. This Order is consistent with the following precedential Orders adopted by the State Board addressing municipal storm water NPDES Permits: Order 99-05-DWQ (Petition of Environmental Health Coalition/Receiving Water Limitation Language for Municipal Storm Water Permits), Order WQ-2000-11 (Petitions Bellflower, City of Arcadia, Western States Petroleum Association, Review of RWQCB and Its

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Executive Officer Pursuant to Order 96-054, Permit for Municipal Storm Water and Urban Run-Off Discharges within Los Angeles County), Order WQ 2001-15 (In the Matter of the Petitions of Building Industry Association of San Diego County and Western States Petroleum Association), and Order WQO 2002-0014 (Petitions of Aliso Viejo, et al/Order to stay provision F.5.f of the permit and part of last sentence of Finding 26, permit issued by San Diego Regional Water Quality Control Board).

3. Consistent with the State Board's orders, this Order requires the Permittees to comply with the applicable Water Quality Standards, which is to be achieved through an iterative approach requiring the implementation of increasingly more effective BMPs until Water Quality Standards are not impaired by Urban Runoff. All MS4 permits issued in California specify certain minimum BMPs and incorporate an iterative process that requires increasingly more effective BMPs if the Water Quality Standards are not met.
4. The federal Clean Water Act established a national policy designed to help maintain and restore the physical, chemical and biological integrity of the nation's waters. In 1972, the CWA established the NPDES permit program to regulate the discharge of Pollutants from Point Sources to Receiving Waters. From 1972 to 1987, the main focus of the NPDES program was to regulate conventional Pollutant sources such as sewage treatment plants and industrial facilities. As a result, on a nationwide basis, non-point sources, including agricultural runoff and Urban Runoff, now contribute a larger portion of many kinds of Pollutants than the more thoroughly regulated sewage treatment plants and industrial facilities.
5. Studies conducted by the USEPA, the states, counties, cities, flood control districts and other entities dealing with Urban Runoff indicate that the following are major sources of Urban Runoff Pollution nationwide:
  - a. Industrial Facilities where appropriate Pollution Prevention and BMPs are not implemented;
  - b. Construction Sites where erosion and sediment controls and BMPs are not implemented; and,
  - c. Runoff from urbanized areas.
6. The 1987 amendments to the CWA added Section 402(p) that required the USEPA to develop permitting regulations for storm water discharges from MS4 and from Industrial Facilities, including construction sites. The USEPA promulgated the final Phase I storm water regulations on November 16, 1990. Neither the 1987 amendments to the CWA nor the Phase I storm water regulations (40 CFR Part 122) have been amended since their effective dates.

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7. Prior to the USEPA's promulgation of the final storm water regulations, three counties (Orange, Riverside, and San Bernardino) and their incorporated cities located within the Regional Board's jurisdiction requested area-wide NPDES MS4 permits. These area-wide MS4 NPDES permits are:
  - a. Orange County, NPDES No. CAS 618030
  - b. Riverside County, NPDES No. CAS 618033
  - c. San Bernardino County, NPDES No. CAS 618036
  
8. Consistent with the CWA and the USEPA regulations promulgated pursuant thereto, the State Board and the Regional Board have adopted a number of permits to address Pollution from the sources identified in Finding 5, above. Industrial activities (as defined in 40 CFR 122.26(b)(14)) including construction activities on one or more acres are to be covered under one of the following permits and those individuals or entities that engage in such activities are required to secure permission to engage in such identified activities pursuant to the provisions of one of the following permits:
  - a. State Board Order No. 97-03-DWQ, for storm water runoff from industrial activities (NPDES No. CAS000001), (the "General Industrial Activities Storm Water Permit").
  - b. State Board Order No. 99-08-DWQ, for storm water runoff from construction activities (NPDES No. CAS000002), (the "General Construction Activity Storm Water Permit"). Order No. 99-08- DWQ was amended by State Board Resolution No. 2001-046 on April 26, 2001, to incorporate monitoring provisions as directed by the Superior Court, County of Sacramento. This Order was renewed on September 2, 2009 by State Board Order No. 2009-0009-DWQ. The requirements of Order No. 2009-0009-DWQ will be effective July 1, 2010.
  - c. State Board Order No. 99-06-DWQ (NPDES No. CAS000003) for storm water runoff from facilities (including freeways and highways) owned and/or operated by the California Department of Transportation ("Caltrans").
  - d. State Board Order No. 2003-0007-DWQ, for discharges of storm water runoff associated with small linear underground/overhead construction projects (NPDES No. CAS000005), (the "General Permit-Small Linear Underground Projects). After July 1, 2010, most linear construction projects will be regulated under State Board Order No. 2009-0009-DWQ.
  - e. The Regional Board also issues individual storm water NPDES permits for certain Industrial Facilities within the Santa Ana River watershed. Currently

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there is only one individual storm water NPDES permit that has been issued by the Regional Board for an Industrial Facility (March Air Reserve Base) located within the Permit Area. Additionally, the Regional Board has issued NPDES permits for a number of facilities that discharge process wastewater and storm water; storm water discharge requirements are included in such a facility's NPDES permit.

9. Section 402(p) of the CWA establishes two different performance standards for storm water discharges. NPDES MS4 permits require controls to reduce the discharge of Pollutants to the MEP. NPDES permits issued for industrial storm water discharges (including construction activities) must meet Best Available Technology (BAT) and Best Conventional Pollutant Control Technology (BCT) standards. The CWA and the USEPA regulations allow each state the flexibility to decide what constitutes the MEP.
10. This Order does not constitute an unfunded mandate subject to subvention under Article XIII.B, Section (6) of the California Constitution for several reasons, including the following:
  - a. This Order implements federally mandated requirements under CWA Section 402(p)(3)(B). (33 USC § 1342(p)(3)(B)).
  - b. The Permittees' obligation under this order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges.
  - c. The Permittees have the authority to levy service charges, fees, or assessments to pay for compliance with this Order<sup>7</sup>.
  - d. The Permittees requested permit coverage in lieu of compliance with the complete prohibition against the discharge of Pollutants contained in federal Clean Water Act Section 301, subdivision (a). (33 USC § 1311(a)).
11. Section 13225 of the CWC identifies the Regional Board as being the enforcement authority for NPDES permits, including the Industrial General Permit, and the Construction General Permit which are collectively referred to as the "General Stormwater Permits." However, in many areas, the Industrial Facilities and Construction Sites discharge directly into MS4 facilities owned and operated by the Permittees. These Industrial Facilities and Construction Sites are also regulated under local ordinances and regulations. The Permittees and Regional Board staff work together to avoid duplicative efforts in regulating these facilities. As part of

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<sup>7</sup> Voter approval may be required for new tax levies.

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this coordination, the Permittees have been notifying Regional Board staff when they observe, during their routine activities, conditions that result in a threat or potential threat to water quality, or when a required Industrial Facility or Construction Site fails to obtain coverage under the appropriate General Stormwater Permit.

12. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544). This Order requires compliance with Effluent Limits, Receiving Water Limits, and other requirements to protect the Beneficial Uses of Waters of the US. The Permittees are responsible for meeting all requirements of the applicable Endangered Species Act.
13. The Permittees may petition the Regional Board to issue a separate NPDES permit to any discharger of Non-storm Water into MS4 facilities that they own or operate.
14. The Regional Board has considered anti-degradation requirements, pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, for this discharge. The Regional Board finds that the Urban Runoff regulated under this Order is consistent with the federal and state anti-degradation requirements and a complete anti-degradation analysis is not necessary. This Order requires the continued implementation of programs and policies to reduce the discharge of Pollutants in Urban Runoff. This Order includes additional requirements to control the discharge of Pollutants in Urban Runoff from "Significant Redevelopment," and "New Development," as defined in Finding II.G. and Section XII of this Order.

### **C. RATIONALE FOR REQUIREMENTS**

1. The Regional Board developed the requirements in this Order based on information submitted as part of the 2007 ROWD (including the 2007 DAMP), monitoring and reporting data, program audits, and other available information and consistent with the CWA, CWC and regulations adopted thereunder.
2. The Fact Sheet (Appendix 6) which contains additional background information and rationale for requirements specified in this Order is hereby incorporated into this Order and constitutes part of the Findings for this Order. Appendices 1 through 5 and 7 are also incorporated into this Order.

### **D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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1. Under Water Code Section 13389, this action to adopt an NPDES permit is exempt from the provisions of CEQA, Public Resources Code Sections 21100 -21177 (*County of Los Angeles v. California State Water Resources Control Board* [2006] 142 Cal Appl. 4<sup>th</sup> 985, mod. [Nov. 6, 2006, B184034] 50 Cal. Rptr 3<sup>rd</sup> 619, 632-636). This action also involves the re-issuance of WDRs for existing facilities and as such, is exempt from the provisions of CEQA (commencing with Section 21100) in that the activity is exempt pursuant to Title 14 of the California Code of Regulations Section 15301.
2. Compliance with this Order and the DAMP does not necessarily constitute mitigation that is sufficiently specific to satisfy the requirements of CEQA with regards to projects. The intent of the DAMP, WQMP, Storm Water Pollution Prevention Plan (SWPPP) and other programs and policies incorporated into this order is to minimize the impacts from a specific project to a level that is below significance as defined in CEQA.

#### **E. DISCHARGE CHARACTERISTICS**

1. This Order regulates Urban Runoff from areas under the jurisdiction of the Permittees. The term Urban Runoff as used in this Order includes storm water runoff, snowmelt runoff and surface runoff and drainage as defined in Appendix 4.
2. Pollutants in Urban Runoff can threaten and adversely affect human health and the environment. Human illnesses have been clearly linked to recreating near storm drains flowing into coastal waters<sup>8</sup>. Also, Pollutants in Urban Runoff can bioaccumulate in receiving waters in the tissues of invertebrates and fish and eventually consumed by humans and other animals.
3. Urban Runoff can carry Pollutants described in the Fact Sheet to rivers, streams, and lakes within the Permit Area (collectively the "Receiving Waters"). In addition, although infrequently, Urban Runoff from the Permit Area can carry these Pollutants to other receiving waters such as the Pacific Ocean.
4. Management of Dry Weather discharges resulting from urbanization provides an opportunity to promote water conservation as well as address water quality.
5. The Co-Permittees discharge Urban Runoff into lakes, drinking water reservoirs, rivers, streams, creeks, and tributaries thereto within the Upper Santa Ana River, Middle Santa Ana River, and San Jacinto hydrologic units within the Santa Ana Region, as shown in Tables 3a and 3b. Some of the Receiving Waters have been designated as Impaired by the Regional Board and the USEPA pursuant to CWA Section 303(d).

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<sup>8</sup> The Santa Monica Bay Restoration Project, Epidemiology Study, 1996.

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**Table 3a – Receiving Waterbodies and Municipal Dischargers:**

Municipality	Upper Santa Ana										San Jacinto									
	Mill Creek Prado Area	Chino Creek, Reach 1A	Chino Creek, Reach 1B	Temescal Creek	San Timoteo Wash	Little San Geronio	Santa Ana River, Reach 3	Santa Ana River, Reach 4	Cucamonga Creek	San Jacinto River reaches 1-4	Lake Elsinore	Canyon Lake	Strawberry Creek	Lake Hemet	Salt Creek	Poppet Creek	Indian Creek	Bautista Creek		
RCFC&WCD				◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆		
Beaumont					◆	◆	✕	✕		◆	✕		◆							
Calimesa					◆	✕	✕	✕		◆	✕	◆	◆							
Canyon Lake				✕			✕			✕	✕	◆								
Corona				◆			✕													
County of Riverside (County)	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆			
Hemet				✕			✕			✕	✕	✕		✕						
Lake Elsinore				◆			✕			✕	◆									
Menifee				✕			✕			✕	✕	✕		✕						
Moreno Valley				✕			✕			✕	✕	✕								
Murrieta				✕			✕				✕									
Norco				✕			◆													
Perris				✕			✕			◆	✕	✕		✕						
Riverside				✕			◆	◆			✕									
San Jacinto										◆	✕	✕								
Wildomar				✕			✕				✕									

◆ Direct Discharge of MS4 to Receiving Water  
 ✕ Tributary to Receiving Water

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**Table 3b. Beneficial Uses and 2006 CWA Section 303(d) Impaired Waters**

<b>Watershed Management Areas in Riverside County</b>	<b>Hydraulic Unit</b>	<b>Beneficial Uses</b>
<b>Upper Santa Ana River</b>		
Santa Ana River, Reach 3,	801.21, 801.25, 801.27,	AGR, GWR, REC1, REC2, WARM, WILD, RARE, SPWN
Santa Ana River, Reach 4	801.27, 801.44	GWR, REC1, REC2, WARM, WILD, SPWN
Temescal Creek – Reach 1	801.25	REC1, REC2, WARM, WILD
Temescal Creek – Reach 2	801.32, 801.25	INTERMITTENT - AGR, IND, GWR, REC1, REC2, LWARM
Temescal Creek – Reach 3 <b>See Lee Lake</b>		
Temescal Creek – Reach 4	801.34	RARE, INTERMITTENT - AGR, GWR, REC1, REC2, WARM, WILD
Temescal Creek – Reach 5	801.35	AGR, GWR, REC1, REC2, WARM, WILD, RARE
Temescal Creek – Reach 6	801.35	INTERMITTENT - GWR, REC1, REC2, WARM, WILD
Coldwater Canyon Creek	801.32	MUN, AGR, GWR, REC1, REC2, WARM, WILD
Bedford Canyon Creek	801.32	INTERMITTENT - GWR, REC1, REC2, WARM, WILD
Dawson Canyon Creek	801.32	MUN, GWR, REC1, REC2, WARM, WILD
Day Creek	801.21	MUN, PROC, GWR, REC1, REC2, COLD, WILD
San Sevaine Creek	801.21	INTERMITTENT - MUN, GWR, REC1, REC2, COLD, WILD
San Timoteo Wash Reach 3	801.62	IGWR, REC1, REC2, WARM, WILD, RARE
Little San Gorgonio Creek & Tributaries	801.62, 801.63, 801.69	MUN, GWR, REC1, REC2, COLD, WILD
Sunnyslope Channel	801.27,	MUN, REC1, REC2, WARM, WILD, SPWN
Tequesquite Arroyo (Sycamore Creek)	801.27,	GWR, REC1, REC2, WARM, WILD, SPWN
<b>Chino Basin/ Middle Santa Ana</b>		
Chino Creek, Reach 1A	801.21	REC1, REC2, WARM, WILD, RARE
Chino Creek, Reach 1B	801.21	REC1, REC2, WARM, WILD, RARE
Mill Creek (Prado Area)	801.25	REC1, REC2, WARM, WILD, RARE
Cucamonga Creek – Reach 1	801.21	GWR, REC1, REC2, LWARM, WILD

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<b>Watershed Management Areas in Riverside County</b>	<b>Hydraulic Unit</b>	<b>Beneficial Uses</b>
<b>San Jacinto</b> San Jacinto River reaches 1 and 6	802.31, 802.32 & 802.21	INTERMITTENT - MUN, AGR, GWR, REC1, REC2, WARM, WILD
<b>San Jacinto</b> San Jacinto River reaches 3-5	802.11, 802.14, 802.21,	INTERMITTENT - AGR, GWR, REC1, REC2, WARM, WILD
<b>San Jacinto</b> San Jacinto River reach 2 <b>See Canyon Lake</b>		
<b>San Jacinto</b> San Jacinto River reach 7	802.21	MUN, AGR, GWR, REC1, REC2, COLD, WILD
- Bautista Creek	802.21, 802.23	MUN, AGR, GWR, REC1, REC2, COLD, WILD
Strawberry Creek	802.21	MUN, AGR, GWR, REC1, REC2, COLD, WILD
Fuller Mill Creek	802.22	MUN, AGR, GWR, REC1, REC2, COLD, WILD
Stone Creek	802.21	MUN, AGR, GWR, REC1, REC2, COLD, WILD
Salt Creek	802.12	INTERMITTENT - REC1, REC2, WARM, WILD
Logan, Black Mtn, Juaro Canyon, Indian, Hurkey, Poppet and Protrero Creeks, and other Tributaries to these Creeks	802.21, 802.22	INTERMITTENT - MUN, AGR, GWR, REC1, REC2, WARM, WILD
<b>Lakes</b>		
Lake Elsinore	802.31	REC1, REC2, WARM, WILD
Canyon Lake	802.11	MUN, AGR, GWR, REC1, REC2, WARM, WILD
Lake Hemet	802.22	MUN, AGR, GWR, POW, REC1, REC2, WARM, COLD, WILD, SPWN
Lake Fulmor	802.21	MUN, AGR, REC1, REC2, WARM, COLD, WILD
Lake Perris	802.11	MUN, AGR, IND, PROC, GWR, REC1, REC2, COMM, WARM, COLD, WILD
Lake Evans	801.27	REC1, REC2, WARM, COLD, WILD
Lake Mathews	801.33	MUN, AGR, IND, PROC, GWR, REC1, REC2, WARM, WILD, RARE
Lee Lake	801.34	AGR, IND, GWR, REC1, REC2, WARM, WILD
Mockingbird Reservoir	801.26	AGR, REC1, REC2, WARM, WILD

AGR: Agricultural Supply; MUN: Municipal and Domestic Supply; GWR: Groundwater Recharge; IND – Industrial Service Supply, POW – Hydropower generation, REC1: Water Contact Recreation; REC2: Non-Contact Water Recreation; WARM: Warm Freshwater Habitat; LWARM: Limited Warm Freshwater Habitat, COLD - Cold freshwater habitat, WILD: Wildlife Habitat, RARE – Rare threatened or endangered species. SPWN – Spawning, reproduction and development waters.

6. Urban Runoff is defined in the Glossary (Appendix 4). It includes those discharges from residential, commercial, industrial, and construction areas within the Permit Area and excludes discharges from Open Space<sup>9</sup>, feedlots, dairies, farms and agricultural fields. Urban Runoff consists of storm water and "authorized non-storm water" (see Section VI) surface runoff from drainage sub-areas with various, often mixed, land uses within all of the hydrologic drainage areas that discharge into the Receiving Waters. In addition to Urban Runoff, the MS4 regulated by this Order receives flows from Open Space, agricultural activities, state and federal properties and other non-urban land uses not under the control of the Permittees. The quality of the discharges from the MS4 varies considerably and is affected by, among other things, past and present land use activities, basin hydrology, geography and geology, season, the frequency and duration of storm events, and the presence of past or present illegal and allowed disposal practices and Illicit Connections.
7. Pathogens (from sanitary sewer overflows, septic system leaks, and spills and leaks from portable toilets, pets, wildlife, and human activities) can impact water contact recreation and non-contact water recreation. Floatables (from trash) are an aesthetic nuisance and can be a substrate for algae and insect vectors. Oil and grease can coat birds and aquatic organisms, adversely affecting respiration and/or thermoregulation. Other petroleum hydrocarbon components may cause Toxicity to aquatic organisms and may impact human health. Suspended and settleable solids (from sediment, trash, and industrial activities) may be deleterious to benthic organisms and may cause anaerobic conditions to form. Sediments and other suspended particulates may cause turbidity, clog fish gills and interfere with respiration in aquatic fauna. They may also screen out light, hindering photosynthesis and normal aquatic plant growth and development. However, it is recognized that storm flows from non-urbanized areas such as national forest, state parks, wilderness, and agriculture, as shown on Appendix 1, naturally exhibit high levels of suspended solids due to climate, hydrology, geology and geography.<sup>10</sup> Toxic Substances from pesticides, petroleum products, metals, and industrial wastes can cause acute and/or chronic Toxicity, and can bioaccumulate in organisms to levels that may be harmful to human health. Nutrients (from fertilizer use, fire fighting chemicals, decaying plants, confined animal facilities, pets, and wildlife) may cause excessive algal blooms. These blooms may lead to problems with taste, odor, color and increased turbidity, and may depress the dissolved oxygen content, leading to fish kills.

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<sup>9</sup> Only includes Open Space in strictly unurbanized areas. See Glossary definition of Urban Runoff.

<sup>10</sup> Riverside County Flood Control and Water Conservation District's "Hydrology Manual," dated April 1978 and page II-4 of "Santa Ana River, Design Memorandum No. 1, Phase II GDM on the Santa Ana River Mainstem, including Santiago Creek, Volume 2, Prado Dam." dated August 1988 and D.I. Inman & S.A. Jenkins "Climate Change and the Episodicity of Sediment Flux in Small California Rivers," Journal of Geology, Volume 107, pp. 251-270, 1999.

8. Bacteria and nutrients are the Pollutants of Concern for a majority of the inland waters that are listed under the 303(d) list of Impaired Waterbodies or an adopted Total Maximum Daily Load (TMDL). This Order requires the Permittees to identify sources of bacteria and nutrients in Urban Runoff to their MS4 and to control those Pollutant sources.
9. Recent information<sup>11</sup> shows that plastic wastes and materials released to surface water bodies can harm aquatic species by entanglement or ingestion. This Order requires the Permittees to consider facilities that handle nurdles<sup>12</sup> as a high priority site for inspection, and outreach. Nurdles are a major contributor to marine debris. During a three month study of Orange County researchers found them to be the most common beach contaminant<sup>13</sup>. Nurdles comprised roughly 98% of the beach debris collected in a 2001 Orange County study.
10. The Permittees' water quality monitoring data submitted to date document a number of exceedances of Water Quality Objectives for various Urban Runoff-related Pollutants (fecal coliform bacteria, nutrients, total suspended solids, turbidity, metals, etc.) at various watershed monitoring stations.
11. This Order includes requirements for control of Dry Weather flows from Permittee activities that may cause an exceedance of Water Quality Objectives in Receiving Waters for Total Dissolved Solids (TDS) or total inorganic nitrogen (TIN). Storm water was considered to be an insignificant source for nitrogen/TDS in groundwater.
12. The Permittees' 2003-2004, 2004-2005, 2005-2006, 2006-2007 and 2007-2008 Annual Reports indicate exceedances of Water Quality Objectives for each core MS4 monitoring station discussed in a through g, below. The Permittees have identified nutrients and bacteria as priority constituents for initial corrective actions.
  - a. Corona Storm Drain (40) - Six samples were collected and analyzed for fecal coliforms. Three samples were collected in the Dry Season and three during Wet Weather events. All samples analyzed exceeded bacteria (as fecal coliform) Water Quality Objectives with a maximum value of 160,000 MPN fecal coliforms. Boron analyses exceeded Water Quality Objectives of 0.75 mg/L in

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<sup>11</sup> [http://www.bestlifeonline.com/cms/publish/health-fitness/Our\\_oceans\\_are\\_turning\\_into\\_plastic\\_are\\_we\\_2\\_printer.shtml](http://www.bestlifeonline.com/cms/publish/health-fitness/Our_oceans_are_turning_into_plastic_are_we_2_printer.shtml), (alternative reference: <http://rstb.royalsocietypublishing.org/search?fulltext=entanglement+and+ingestion&sortspec=date&submit=Submit&andorexactfulltext=phrase>)

<sup>12</sup> A nurdle is a plastic pellet, also known as pre-production plastic pellet or plastic resin pellet.

<sup>13</sup> Moore, Charles (2002). "[A comparison of neustonic plastic and zooplankton abundance in Southern California's coastal waters and elsewhere in the North Pacific](http://www.mindfully.org/Plastic/Ocean/Marine-Debris-Panel30oct02.htm)". *Algalita Marine Research Foundation*. <http://www.mindfully.org/Plastic/Ocean/Marine-Debris-Panel30oct02.htm>.

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- one out of eighteen samples collected (0.78 mg/L). Six samples were collected and analyzed for Total Dissolved Solids (TDS) in 2003-2004. All samples were below the Temescal Creek and Santa Ana River Reach 3 Water Quality Objectives of 800 mg/L/700 mg/L TDS (respectively) and only one (11 mg/L) of ten samples (2005-2008) exceeded the 10 mg/L total nitrogen objective.
- b. Sunnymead Channel (316) - Three samples were collected during Wet Weather events and analyzed for fecal coliforms in this time frame. All samples were greater than 5000 MPN and exceeded bacteria Water Quality Objectives of 200 or 400 MPN fecal coliforms. Two samples were collected during Wet Weather events and analyzed for TDS and were below the Water Quality Objective of 700 mg/L for Canyon Lake. Total nitrogen values in all ten samples collected during Wet Weather events were below the Water Quality Objective of 8 mg/L.
  - c. Hemet Channel (318) - All four Wet Weather samples were detected at greater than 7000 MPN and exceeded the bacteria Water Quality Objective of 200 or 400 MPN for fecal coliforms. As Salt Creek does not have numeric objectives for TDS, the Receiving Water for Salt Creek is Canyon Lake with an objective of 700 mg/L TDS. All eighteen samples collected during Wet Weather events and analyzed for TDS were below the Canyon Lake Water Quality Objective. Total nitrogen values in all nine samples collected during Wet Weather events were below the Water Quality Objective of 8 mg/L.
  - d. Magnolia Center (364) – Eleven out of thirteen samples (3-Wet Weather samples [ $>160000$  MPN maximum concentration] and 10 dry [5000 MPN maximum]) collected exceeded the Water Quality Objective for fecal coliform (200 or 400 MPN MPN). Two (both collected during Wet Weather events) out of thirty-four samples identified total nitrogen concentrations in excess of the 10 mg/L Water Quality Objective. The maximum concentration measured was 13 mg/L. Water Quality Objective of 700 mg/L TDS were exceeded in three out of eight samples analyzed. The maximum TDS concentration was 930 mg/L TDS.
  - e. University Wash Channel (702) – All three samples were detected at greater than 5000 MPN concentration and exceeded the fecal coliform Water Quality Objectives of 200 or 400 MPN. The maximum concentration was 13,000 MPN. One (11 mg/L) out of sixteen samples analyzed for total nitrogen was above the Santa Ana River Reach 4 Water Quality Objective of 10 mg/L. Ten samples analyzed for TDS were below Water Quality Objective of 550 mg/L.
  - f. North Norco Channel (707) – Three out of four samples ( $>16000$  MPN maximum) analyzed for fecal coliform exceeded bacteria Water Quality Objective of 200 or 400 MPN fecal coliform. Three (1300 mg/L maximum concentration dry, 900 mg/L wet) out of four samples analyzed for TDS were above the Santa Ana River-Reach 3 Water Quality Objective of 700 mg/L. Two

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samples were Dry Weather and two samples were Wet Weather. One out of ten samples analyzed for total nitrogen exceeded the Water Quality Objective of 10 mg/L for total nitrogen.

- g. Perris Line J Channel (752) – All four Wet Weather samples analyzed exceeded bacterial indicator Water Quality Objective the highest value was 13,000 MPN fecal coliform. Two of four samples analyzed for TDS exceeded the Water Quality Objective of 700 mg/L for Canyon Lake. One out of twelve samples analyzed exceeded the Water Quality Objective of 8 mg/L for total nitrogen.

13. The Permittees are participating in several studies in conjunction with the Storm Water Monitoring Coalition (SMC), Storm Water Quality Standards Task Force, the Lake Elsinore and Canyon Lake TMDL Task Force, the Middle Santa Ana River TMDL Task Force and Southern California Coastal Water Research Project (SCCWRP) to address the elevated fecal bacterial indicator levels. Also, the Permittees are anticipating that the use of fecal bacterial indicator will be changed to E. coli and the reclassification of REC uses for several MS4 facilities in the near future. However, E. coli data still indicates Water Quality Objective exceedances that will need to be addressed as part of the TMDL.
14. The above monitoring results, the 303(d) list of Impaired Waterbodies and the approved TMDLs indicate that bacterial contamination is one of the persistent problems in Urban Runoff. TMDL Implementation Plans including Urban Runoff Waste Load Allocations (WLAs) have been adopted by the Regional Board for the Middle Santa Ana River to address this problem. It should be noted, however, that the work of the Storm Water Quality Standards Task Force is likely to result in changes to Recreational Water Quality Objectives and implementation measures, including the suspension of recreational standards during high flow events. Further, some MS4 facilities may be recategorized as REC 2 or REC X (REC 1 nor REC 2) pursuant to Use Attainability Analyses (UAAs). These changes will likely allow the Permittees to focus their TMDL compliance resources on bacterial contamination that is affecting recreational swimming areas used during the Dry Season as the highest priority.
15. The Santa Ana River is the major Receiving Water in the Permit Area. During non-storm periods the flow in the River is dominated by effluent from POTW discharges. POTW discharges are regulated under NPDES permits issued by the Regional Board. In addition, the quality of the Santa Ana River within the Upper Santa Ana sub-watershed is greatly influenced by runoff from agricultural activities. Urban Runoff from the Permit Area constitutes a minor component of the Dry Weather flow in the Upper Santa Ana and San Jacinto sub-watersheds of the Santa Ana River. However, Urban Runoff may be more polluted than POTW discharges and therefore a more significant concern based on monitoring results identified in the Annual Reports.

**F. CWA SECTION 303(D) LISTED WATERBODIES AND TMDLS (ALSO SEE SECTION K)**

1. Water quality assessment conducted by Regional Board staff has identified a number of Beneficial Use Impairments due, in part, to Urban Runoff. Section 305(b) of the CWA requires the USEPA and each state that has been delegated NPDES permitting authority to routinely monitor and assess the quality of waters of their respective regions. If this assessment indicates that Beneficial Uses are not met, then that waterbody must be listed under Section 303(d) of the CWA as an Impaired Waterbody.
2. Based on the Regional Board's 2006<sup>14</sup> water quality assessment a number of water bodies within the Permit Area are listed (see Table 4, below) as Impaired pursuant to Section 303(d).

**Table 4 - Impaired Waterbodies**

Waterbody	Pollutant	Potential Sources	Proposed TMDL Completion
Santa Ana River, Reach 3,	Pathogens	Dairies	Approved 2007
Canyon Lake	Nutrients	Non-point Source	Approved 2005
	Pathogens	Non-point Source	Listing under evaluation
Lake Elsinore	Nutrients	Non-point Source	Approved 2005
	Unknown Toxicity PCBs	Unknown Unknown Non-point Source	2021 2019
Lake Fulmor	Pathogens	Unknown Non-point Source	2019
Santa Ana River, Reach 4	Pathogens	Non-point Source	2019

3. Federal regulations require that a total maximum daily load (TMDL) be established for each 303(d) listed waterbody for each of the Pollutants causing Impairment. The TMDL is the total amount of a Pollutant that can be discharged to a subject waterbody, while still enabling the waterbody to attain Water Quality Standards in

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<sup>14</sup> On April 24, 2009, the Regional Board adopted Resolution No. R8-2009-0032 approving the CWA Section 305(b) Integrated Report/CWA Section 303(d) List of Impaired Waterbodies. Minor additional modifications were approved by the Regional Board on October 23, 2009. When the revised list is approved by the State Board and the USEPA, the 2006 list will be updated.

the receiving water. Attaining Water Quality Standards means that the receiving waterbody's Water Quality Objectives are met and its Beneficial Uses are protected. The TMDL is the sum of the individual WLAs for point source inputs, Load Allocations (LAs) for Non-Point Source inputs and natural background, and a margin of safety. The TMDLs are one of the bases for limitations established in Waste Discharge Requirements.

4. The Basin Plan amendment incorporating the Middle Santa Ana River Watershed Bacterial Indicator TMDLs (MSAR TMDL) was approved by the Regional Board on August 26, 2005 (Resolution No. R8-2005-0001), by the State Board on May 15, 2006, by the state's Office of Administrative Law on September 1, 2006, and by the USEPA on May 16, 2007.
5. The MSAR TMDL established limits for Bacterial source Indicators for Santa Ana River (Reach 3), Chino Creek (Reaches 1 and 2), Prado Park Lake, Mill Creek (Prado Area), and Cucamonga Creek (Reach 1). The MSAR TMDLs Implementation Plan identifies three sub-watersheds in Riverside County that drain to the Santa Ana River, Reach 3: 1) Riverside Watershed - Contributes surface drainage generally westward from the City of Riverside to the Santa Ana River; 2) Temescal Canyon watershed - Contributes surface drainage generally northward to Temescal Creek and then to the Santa Ana River; and 3) Chino Basin - The southeastern portion of the Chino Basin drains generally south to the Santa Ana River in Riverside County.
6. The MSAR TMDLs specifies WLAs for Urban Runoff, and discharges from concentrated animal feeding operations. LAs are specified for runoff from other types of agriculture and from natural sources (open space/undeveloped forest land). WLAs and LAs are specified for both Dry Season discharges and Wet Season discharges, with separate compliance dates. To protect REC1 Beneficial uses, the TMDL has WLAs for fecal coliform and *E. coli*. The Basin Plan currently does not have an established Water Quality Objective for *E. coli*. Stakeholders in the Santa Ana Region have formed the Storm Water Quality Standards Task Force (SWQSTF) to evaluate USEPA's bacterial indicator recommendations and appropriate recreational beneficial use designations for waterbodies throughout the Region. The SWQSTF is expected to make recommendations for the adoption of alternative bacterial indicators such as *E. coli*, based on USEPA's "Ambient Water Quality Criteria for Bacteria - 1986". These and other recommendations of the SWQSTF are likely to result in changes to recreational Water Quality Objectives.
7. The MSAR TMDL Implementation Plan assigns responsibilities to specific MS4 dischargers to identify sources of impairment, to propose BMPs to address those sources, and to monitor, evaluate, and revise BMPs as needed, based on the effectiveness of the BMP implementation program. These are generally considered as the short-term solutions. The MSAR Permittees are required to develop and

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implement a long-term solution (a Comprehensive Bacteria Reduction Plan (CBRP)) designed to achieve compliance with the WLAs by the dates specified in the TMDLs. Specific Implementation Plan tasks are described in Chapter 5 of the Basin Plan and are assigned to one or more of the Permittees. Requirements of the TMDL Implementation Plan tasks are incorporated into this Order. A number of these Implementation Plan tasks are also jointly assigned to non-Permittee stakeholders. The stakeholders have established TMDL task forces to jointly implement and coordinate the TMDL Implementation Plan tasks.

8. The MSAR TMDL Task Force members are listed in Table 5.

**Table 5 - Middle Santa Ana River Bacterial Indicator TMDL Task Force**

<b>MS4 Permittees</b>	<b>Non-MS4 Permittees</b>
Corona, City of	Santa Ana Watershed Project Authority
Norco, City of	US Department of Agriculture, Forest Service
Riverside, City of	Ag Pool, Milk Producers Council
Riverside, County of	Region 4 MS4 Permittees - Claremont and Pomona (pending formal agreement)
RCFC&WCD	Regional Board
San Bernardino County Flood Control District (representing the County of San Bernardino and the municipalities named in the TMDL)[ (San Bernardino County, and the Cities of Chino, Chino Hills, Fontana, Montclair, Ontario, Rancho Cucamonga, Rialto and Upland)]	

9. Pursuant to Task 3 of the MSAR TMDL, on June 29, 2007, the Regional Board approved the monitoring program (Resolution No. R8-2007-0046) proposed by the TMDL Task Force. Pursuant to Task 4 of the MSAR TMDL, on April 18, 2008, the Regional Board approved the Urban Source Evaluation Plan (USEP) that included a BMP effectiveness study (Resolution No. R8-2008-0044) proposed by the TMDL Task Force. This Order requires the Permittees on the Task Force to continue to implement the approved monitoring program and the USEP.
10. A BMP effectiveness study was completed as part of the MSAR Watershed-Wide and BMP effectiveness components of the Middle Santa Ana River Water Quality Monitoring Plan (dated April 3, 2008). The results of this study will be incorporated into a BMP selection criteria that will be used as a guide to address bacterial indicator sources within the MSAR watershed. The Principal Permittee plans to conduct a phase 2 study at its Low Impact Development (LID) testing facility to evaluate the effectiveness of several LID-based BMPs, which will further guide BMP selection in the MSAR watershed.

11. As part of Task 4.1, the MSAR Permittees completed the first phase of the approved USEP (Resolution No. R8-2008-0044) and the report is currently under review by Regional Board staff. Several discrete sources of bacterial indicator were identified, controlled, or eliminated as a result of this effort. Based on the outfall monitoring data collected to date, additional sites are identified, monitored and prioritized yearly for further evaluation in the next phases of the USEP. The next phase of the USEP that will focus on an implementation plan to retrofit BMPs to address elevated bacterial indicators from urban drainage areas flowing into Mill Creek and Cucamonga Creek in San Bernardino County is currently being evaluated.
12. Consistent with Task 4.3, this Order requires the Permittees to revise the DAMP to incorporate the results of the USEP and/or other studies. The DAMP revisions shall include schedules for meeting the bacterial indicator WLAs based on the schedule established in the MSAR TMDLs and the results of the USEP and/or other studies. These revisions shall also provide a proposal and schedule for 1) evaluating the effectiveness of BMPs and other control actions implemented and 2) evaluating compliance with the bacterial indicator WLAs for Urban Runoff by initiating a WLA pre-compliance evaluation monitoring program<sup>15</sup>.
13. Pursuant to Task 4.5, the Permittees are required to revise the Water Quality Management Plan to incorporate BMPs as per the USEP, Task 4.1, for New Development and Significant Redevelopment Projects.
14. The Permittees are required to develop a CBRP to achieve compliance with the WLAs by the compliance dates. Periodic evaluation and update of the CBRP may be necessary based on a BMP effectiveness analysis to ensure compliance with the WLAs by the compliance dates.
15. Within the Permit Area, there are two watershed-wide MSAR TMDL monitoring stations (WW-S1 Santa Ana River Reach 3 at MWD Crossing and WW-S4 Santa Ana River Reach 3 at Pedley Avenue). The MSAR Permittees are required to comply with the numeric Bacterial Indicator targets at these monitoring locations by December 31, 2015 for the Dry Weather conditions (April 1 through October 31, as defined in the TMDL) and by December 31, 2025 for the Wet Weather conditions (November 1 through March 31, as defined by the TMDL).
16. In the absence of an approved CBRP, the WLAs become the final numeric WQBEL that must be achieved by the compliance dates.

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<sup>15</sup> Pre-compliance evaluation monitoring is monitoring conducted prior to the TMDL compliance date to assess the effectiveness of BMPs implemented in reducing pollutant(s) of concern by the compliance date.

17. On December 20, 2004, the Regional Board adopted Resolution R8-2004-0037 amending the Basin Plan to incorporate the Lake Elsinore and Canyon Lake Nutrient TMDLs. These TMDLs were subsequently approved by the State Board on May 19, 2005, by the Office of Administrative Law on July 26, 2005 and by the USEPA on September 30, 2005. These TMDLs include urban WLAs that are now incorporated into Chapter 5 of the Basin Plan. For both Canyon Lake and Lake Elsinore, the TMDLs specify causal numeric targets (nitrogen and phosphorus) and response numeric targets (chlorophyll *a*, dissolved oxygen and un-ionized ammonia). The TMDLs also specify nitrogen and phosphorus WLAs (point source discharges) and LAs (nonpoint source discharges) for each lake. Compliance with interim dissolved oxygen and chlorophyll *a* numeric targets is to be achieved by December 31, 2015. Compliance with the final numeric targets and WLAs and LAs is to be achieved by December 31, 2020. The LAs and WLAs are specified as 10-year running average.
18. The nitrogen and phosphorus WLAs and LAs for Canyon Lake are applicable to those discharges tributary to Canyon Lake. The nitrogen and phosphorus WLAs and LAs for Lake Elsinore apply to those areas downstream of Canyon Lake and to overflows from Canyon Lake.
19. TMDL Implementation Plans for each TMDL assign responsibilities to specific MS4 dischargers/stakeholders to identify sources of Impairment, to propose BMPs to address those sources, and to monitor, evaluate and revise BMPs based on monitoring results. Specific TMDL Implementation Plan tasks associated with Urban Runoff are described in Chapter 5 of the Basin Plan and are assigned to one or more of the Permittees. Requirements of the TMDL implementation plan tasks are incorporated into this Order and were proposed for inclusion in Chapter 13 of the DAMP (see 2007 ROWD). Several of these tasks are also jointly assigned to non-Permittee stakeholders. The Permittees have established TMDL Task Forces to jointly implement and coordinate those tasks.
20. To evaluate compliance with TMDL WLAs as per the Implementation Plans, the Permittees proposed to submit a Comprehensive Nutrient Reduction Plan to:
  - a. Evaluate the effectiveness of BMPs and other control actions implemented; and
  - b. Evaluate the progress towards compliance with the nutrient WLA for Urban Runoff.
21. The Canyon Lake and Lake Elsinore Nutrient TMDL Task Force (also referred to as the San Jacinto Watershed Urban Dischargers) members are tabulated below:

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**Table 6 - Canyon Lake and Lake Elsinore Nutrient TMDL Task Force**

<b>Riverside MS4 Permittees</b>	<b>Non-Permittees</b>
Beaumont, City of	California Department of Fish and Game
Canyon Lake, City of	California Department of Transportation (Caltrans),
Hemet, City of	Eastern Municipal Water District
Lake Elsinore, City of	Elsinore Valley Municipal Water District
Moreno Valley, City of	U.S. Air Force (March Air Reserve Base), March Joint Powers Authority,
Murrieta, City of	U.S. Forest Service
Perris, City of	Western Riverside County Agricultural Coalition
San Jacinto, City of	
Riverside, City of	
Riverside, County of	
RCFC&WCD	

22. The cities of Menifee and Wildomar were recently incorporated and are responsible for compliance with the Canyon Lake and Lake Elsinore Nutrient TMDL requirements. They have the option to participate in the TMDL Task Force or comply with the TMDL requirements on their own.
23. Interim compliance (compliance determination prior to the final WLA compliance dates) determination with the WLAs in the TMDLs will be based on the Lake Elsinore and Canyon Lake (LE/CL) Permittees progress towards implementing the various TMDL Implementation Plan tasks as per the resultant studies and plans approved by the Regional Board. The CL/LE Permittees are required to develop a Comprehensive Nutrient Reduction Plan (CNRP) designed to achieve compliance with the WLAs by the final compliance date for approval of the Regional Board. In the absence of an approved CNRP, the WLAs specified in the approved Canyon Lake/Lake Elsinore Nutrient TMDL will constitute the final numeric WQBELs.

**G. NEW DEVELOPMENT/SIGNIFICANT REDEVELOPMENT – WQMP /LID**

1. The California Constitution and Government Code provide the Co-Permittees planning policy powers that mandate that the Co-Permittees review and condition New Development consistent with the Subdivision Map Act, CEQA, and their respective general plans, ordinances, and resolutions to ensure the general public's health and safety. If these constitutional and statutory mandates are not properly implemented and local ordinances and resolutions are not properly enforced, there is a creditable potential that New Development could result in the discharge of Pollutants via Urban Runoff to the Waters of the U.S within the Permit Area.
2. Significant development has taken place in Riverside County in the last decade. These developments have resulted in the urbanization of many areas. Urbanization generally increases Urban Runoff volume and velocity of runoff and the amount of Pollutants in the runoff. As development occurs, natural vegetated

pervious ground cover is converted to impervious surfaces such as highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove Pollutants providing an effective natural purification process. In contrast, impervious surfaces can neither absorb water nor remove Pollutants, and the natural purification characteristics are lost. Additionally, urban development can significantly increase Pollutant loads as the increased population density causes proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage wastes, pesticide, household hazardous wastes, pet wastes, trash, and other Anthropogenic Pollutants.

3. Urbanization can especially threaten environmentally sensitive areas (ESAs) and stream geomorphology. ESAs typically have a much lower capacity to withstand Pollutant loads. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. Designated ESAs are defined in the Glossary (Appendix 4).
4. Unmitigated high volumes and velocities of discharges from MS4 facilities associated with new development (which may include non-Urban Runoff) into natural watercourses can alter the natural rate of change of a stream and adversely impact aquatic ecosystems and stream habitat and cause stream bank erosion and physical modifications. These changes are the result of Hydromodification. Typically, Hydromodification especially impacts those natural streams in the developing foothills and in other urbanizing fringe portions of the Permit Area.
5. On October 5, 2000, the State Board adopted Order No. WQ-2000-11, which is a precedential order. Order No. WQ-2000-11 required that Urban Runoff generated by 85th percentile storm events from specific types of development categories be infiltrated, filtered or treated. The essential elements of this precedential order were incorporated into the 2002 MS4 Permit and are incorporated herein. In accordance with the requirements specified in the 2002 MS4 Permit, the Permittees developed a model WQMP and Template.
6. The WQMP and Template provide a framework to incorporate some of the watershed protection principles into the Co-Permittees' planning, construction and post-construction phases of New Development and Significant Redevelopment projects. The WQMP includes site design (including, where feasible, LID principles), Source Control and Treatment Control elements to reduce the discharge of Pollutants in Urban Runoff. On September 17, 2004, the Regional Board approved the WQMP. The Co-Permittees are requiring proponents of New Developments and Significant Redevelopments to develop and implement site-specific WQMPs. This Order requires Co-Permittees to continue requiring preliminary project-specific WQMPs as early as possible during the environmental review or planning phase (land use entitlement) and to review and approve final project-specific WQMP that is in substantial conformance with the preliminary

project-specific WQMP prior to the issuance of any building or grading permit. This Order also requires Co-Permittees to verify functionality of post-construction BMPs prior to issuance of certificate of occupancy and to track and ensure long term operation and maintenance of those BMPs as per the approved project-specific WQMPs.

7. An audit of each of the Permittees' Urban Runoff management programs during the term of the 2002 MS4 Permit indicated no clear nexus between the watershed protection principles, including LID techniques specified in the WQMP and the Permittees' General Plan or related documents such as Development Standards, Zoning Codes, Conditions of Approval and Project Development Guidance. Existing procedures, ordinances, local codes, and development standards may be barriers to implementation of LID practices. This Order requires the Permittees to evaluate their General Plans, comprehensive or master plans, zoning codes, subdivision ordinances, project development standards, conditions of approval or related documents to determine whether the removal of any barriers, within their control, is feasible for implementation of LID techniques and other requirements of this Order. Where feasible, the Co-Permittees will make appropriate changes to remove barriers to implement LID techniques and other requirements of this Order.
8. This Order also requires the Permittees to review and enforce covenants, conditions and restrictions (CC&R) or develop other mechanisms to ensure proper long term operation and maintenance of post-construction BMPs.
9. In addition to addressing post-development water quality, the WQMP includes requirements to protect ESAs and address potential Hydromodification issues. Section 4.4 of the WQMP requires identification of Hydrologic Conditions of Concern (HCOC). An HCOC exists when a site's hydrologic regime is altered and there are significant impacts on downstream channels and aquatic habitats, alone or in conjunction with impacts of other projects. Currently, New Development and Significant Re-development projects are required to perform this assessment and incorporate appropriate BMPs to ensure existing hydrologic conditions are maintained. This Order requires the Permittees to implement LID techniques to minimize HCOC.
10. Management of the impacts of urbanization on water quality and stream stability in the Permit Area is more effective if the techniques are implemented at the project site, within the neighborhood and within each Co-Permittee's jurisdiction based on an overall watershed plan. The Permittees have identified Major Outfalls and have submitted maps of existing MS4 facilities. This Order requires the Permittees to expand upon the existing maps to include a map of its lined and unlined channels and streams within the Permit Area with the goal of identifying, prioritizing, and developing specific action plans for protecting those segments of streams that are vulnerable to development impacts.

11. This Order further requires the Permittees to develop a Watershed Action Plan that would address TMDL Implementation Plan BMP strategies and provide regional tools to address Hydromodification. The Permittees may choose to implement a single Watershed Action Plan for the entire Permit Area, or subdivide the Permit Area into sub-watersheds as appropriate to cost-effectively address TMDL requirements. The Watershed Action Plan integrates existing watershed based planning efforts and incorporates watershed tools to manage cumulative impacts of development on vulnerable streams, preserve structure and function of streams, and protect source, surface and groundwater quality and water supply in the permitted area. The Watershed Action Plan should integrate Hydromodification and water quality management strategies with land use planning policies, ordinances, and plans within each jurisdiction. Existing Permittee watershed planning efforts include the Western Riverside County Multiple Species Habitat Conservation Plan, Special Area Management Plan, Santa Ana and San Jacinto Integrated Regional Watershed Management Plans, Lake Elsinore and Canyon Lake and Middle Santa Ana River TMDL Task Forces, SCCWRP Hydromodification sensitivity mapping project, and various regional BMP evaluations being conducted by the Principal Permittee in conjunction with various water districts should be evaluated and incorporated into the Watershed Action Plan as necessary to address TMDL Implementation Plan requirements and Hydromodification. The regional efforts should be evaluated, and if necessary, enhanced to provide Permittees with the tools to integrate Hydromodification and TMDL management strategies with Permittee MS4 Permit compliance programs and land use planning policies, ordinances, and plans within appropriate Permittee jurisdictions within the Permit Area.
12. Pending completion of a Watershed Action Plan and implementing tools, management of the impacts of urbanization shall be accomplished on a per project and per jurisdiction basis through jurisdictional implementation of the watershed tools incorporated into the local general plans, ordinances and other requirements and the project-specific WQMPs.
13. The SMC in collaboration with SCCWRP and the California Storm Water Quality Association (CASQA) with funding from the State Water Resources Control Board and CASQA is developing a LID manual for Southern California. This manual will be incorporated into the CASQA BMP Handbooks. The Permittees are encouraged to utilize the LID manual as a resource to implement LID techniques once completed.
14. This Order requires the project proponents to first consider preventative and conservation techniques (e.g., preserve and protect natural features to the MEP) prior to considering mitigative techniques (Structural BMPs such as infiltration systems, or other Treatment Control BMPs). The mitigative measures should be

prioritized with the highest priority for BMPs that remove Pollutants in Urban Runoff and reduce the volume of Urban Runoff, such as infiltration, then other BMPs, such as harvesting and use, evapotranspiration and bio-treatment should be considered. Consistent with the MEP standard, these LID BMPs must be implemented at the project site. Consideration of "highest and best use" of the discharge should also be considered. For example, Lake Elsinore is evaporating faster than runoff from natural precipitation can recharge it. Requiring infiltration of 85% of runoff events for projects tributary to Lake Elsinore would only exacerbate current water quality problems associated with Pollutant concentration due to lake water evaporation. In cases where rainfall events have low potential to recharge Lake Elsinore (i.e. no hydraulic connection between groundwater to Lake Elsinore, or other factors), requiring infiltration of Urban Runoff from projects is counterproductive to the overall watershed goals. Project proponents, in these cases, would be allowed to discharge Urban Runoff, provided they used equally effective filtration-based BMPs. The Regional Board also recognizes that site conditions, including site soils, contaminant plumes, high groundwater levels, etc., could limit the applicability of infiltration and other LID BMPs at certain project sites. Where LID BMPs are not feasible or appropriate at the project site, more traditional, but equally effective BMPs (proprietary or non-proprietary) should be implemented. This Order provides for alternatives and in-lieu programs where preferred LID BMPs are infeasible or inappropriate. In addition, extra diligence should also be performed when proposing infiltration BMPs in areas where the proposed land use is often associated with soil and groundwater contamination. Pre-treatment of the water prior to infiltration is necessary in most cases. Proprietary treatment devices may be utilized when it is demonstrated that they meet or exceed the MEP standard.

15. The USEPA has determined that LID/green infrastructure can be a cost-effective and environmentally preferable approach for the control of storm water pollution and to minimize downstream impacts by mimicking pre-development hydrology. LID techniques promote the reduction of impervious areas which may achieve multiple environmental and economic benefits in addition to enhanced water quality and supply, stream and habitat protection, cleaner air, reduced urban temperature, increased energy efficiency and other community benefits such as aesthetics recreation, and wildlife areas. This Order incorporates a volume capture metric based on the design volume specified in the WQMP.
16. If not properly designed and maintained, Treatment Control BMPs could create a nuisance and/or habitat for vectors<sup>16</sup> (e.g., mosquitoes and rodents). The 2002 MS4 Permit required the Permittees to closely collaborate with the local vector

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<sup>16</sup> Managing Mosquitoes in Storm water Treatment Devices, Marco E. Metzger, University of California Davis, Division of Agriculture and Natural Resources, Publication 8125.

control agencies during the development and implementation of such Treatment Control BMPs. The Permittees should continue these collaborative efforts with the vector control agencies to ensure that Treatment Control BMPs do not become a Nuisance or a potential source of Pollutants. The requirements specified in this Order include identification of responsible agencies for maintaining the Treatment Control BMPs and for providing funding for operation and maintenance.

17. If not properly designed and maintained, groundwater infiltration systems may adversely impact groundwater quality. Restrictions placed on Urban Runoff infiltration in this Order (Section XI.D.8) are based on recommendations provided by the USEPA Risk Reduction Laboratory. The Permittees should work closely with the water districts and water conservation districts to insure groundwater protection.
18. This Order incorporates new project categories and revised thresholds for several categories of new development and redevelopment projects that trigger the requirement for a WQMP. The 2008 National Research Council (NRC) report<sup>17</sup> indicates that roads and parking lots constitute as much as 70% of total impervious cover in ultra-urban landscape, and as much as 80% of the directly connected impervious cover. Roads tend to capture and export more storm water Pollutants than other impervious covers. As such, roads are included as a priority development category for which WQMPs are required. Private New Development and Significant Redevelopment projects incorporating roads typically allow road runoff to be addressed as part of the overall water quality strategy for the larger common plans of development. Permittee streets, roads and highways capital projects have special limitations. For example, the footprint of street, road and highway capital projects is often limited and may have hydraulic constraints due to lack of underground storm drain systems that would otherwise be necessary to hydraulically facilitate treatment of runoff. There are also limitations specified in state and federal design and code specifications that may limit or prohibit certain BMPs. Permittees may also be subject to flow diversion liability and limited road maintenance budgets and equipment. Street, road and highway projects that function as part of the MS4 also receive runoff and associated Pollutants from both existing urban areas and other external sources, including-adjacent land use activities, aerial deposition, brake pad and tire wear and other sources that may be outside the Co-Permittee's authority to regulate and/or economic or technological ability to control. These offsite flows can overwhelm Treatment Control BMPs designed to address the footprint (consistent with the typical requirements for a WQMP) of street, road or highway capital projects incorporating curb and gutter as part of its storm water conveyance function. Despite these limitations, the Regional Board finds that Permittee construction of streets, roads and highway capital

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<sup>17</sup> National Research Council Report (2008), [http://www.nap.edu/catalog.php?record\\_id=12465](http://www.nap.edu/catalog.php?record_id=12465)

projects may provide an opportunity to address Pollutant loads from existing urban areas. However, due to the nature of the facilities and projects, it would be unduly burdensome for the Co-Permittees to maintain WQMP documents for transportation projects (in addition to Facility Pollution Prevention Plans and other overlapping requirements of this Order). The Permittees are therefore not required to prepare WQMP documents for street, road and highway capital projects, but instead are required to develop functionally equivalent documents that include site specific consideration utilizing BMP guidance to address street, roads and highway capital project runoff to the MEP.

19. The NRC report also indicates that there is a direct relationship between impervious cover and the biological condition of downstream receiving waters. The Permittees are required to address HCOC from New Development and Significant Redevelopment projects to minimize downstream impacts.

#### **H. CO-PERMITTEE INSPECTION PROGRAMS**

1. Each Co-Permittee conducts inspections of those Construction Sites for which it has issued either a grading or building permit to determine compliance with its ordinances, regulations, and codes, including its Storm Water Ordinance. Each Co-Permittee, consistent with its ordinances, rules and regulations, inspects each site for compliance with the conditions of approval governing the grading or building permit. These inspections have been expanded by the Co-Permittees to determine that sites requiring coverage under the General Construction Activity Storm Water Permit have obtained permit coverage by verifying that a Waste Discharge Identification (WDID) number has been issued by the State Board..
2. The DAMP addresses compliance strategies with regard to industrial and commercial facilities. As part of their Urban Runoff management activities, the Principal Permittee and the County entered into an agreement, dated August 10, 1999 by which they have developed and funded, in cooperation with the Riverside County Environmental Health Department, the "Compliance Assistance Program" (CAP) which includes a storm water survey component as part of existing inspections of hazardous material handlers and retail food service activities. The CAP consists of educational outreach to the inspected facilities and detailed storm water compliance surveys for each facility that must secure a hazardous materials permit for either storing, handling or generating such materials (there are approximately 5,500 facilities of which approximately 2,300 are inspected annually, and all facilities are inspected at least once during a two year cycle) and retail food facilities (there are approximately 6,750 facilities, all of which are inspected 1 to 3 times annually). Storm Water Compliance Surveys are conducted with each inspection of hazardous materials facilities, and at least once during the MS4 Permit term for restaurants. Restaurant inspectors are authorized to conduct

additional surveys if they observe an IC/ID or ordinance violation. The type of industrial/commercial establishment that is inspected includes, but is not limited to, automobile mechanical repair, maintenance, fueling, or cleaning operation, automobile or other vehicle body repair or painting operations, and painting or coating operations. Completed surveys that indicate non-compliance are forwarded to the appropriate Co-Permittee's enforcement division for follow up action. In addition, the cities of Corona and Riverside, which operate publicly owned treatment works (POTW), conduct annually on average, approximately 4,400 wastewater pre-treatment inspections, on a variety of industrial and commercial establishments within their respective jurisdictions, including, but not limited to, retail food establishments, car washes, and carpet, drape & furniture cleaning establishments. The Permittees have agreed to notify Regional Board staff when conditions are observed during such inspections that appear to be in violation of either the Storm Water General Permits or a permit issued by the Regional Board.

3. An evaluation of the Permittees' inspection programs during the 2002 MS4 Permit indicated a wide range of compliance and non-compliance with the Construction Site and Industrial and Commercial Facilities inspection requirements. In many instances, the Construction Site and Facilities' return to compliance was not properly documented. This Order includes requirements for a more effective inspection program and includes a performance measure, time to return to compliance, as a metric for program effectiveness.

## **I. ILLICIT CONNECTIONS/ ILLEGAL DISCHARGES (IC/ID)**

1. Illegal Discharges to the MS4 can contribute to contamination of Urban Runoff and other surface waters. During the term of the 1990 MS4 Permit, the underground MS4 facilities were inspected and only one Illicit Connection was identified. Open channels and other aboveground elements of the MS4 are inspected for evidence of Illegal Discharges as an element of routine maintenance by the Permittees. The Permittees also developed a program to prohibit IC/IDs to their MS4 facilities. Continued surveillance and enforcement of these programs are required to eliminate IC/IDs. The Permittees have a number of procedures in place to eliminate IC/IDs to the MS4, including Construction Site and Commercial, and Industrial Facility inspections, MS4 facility inspections, water quality monitoring and reporting programs, and public education.
2. The Permittees have the authority to control Pollutants in Urban Runoff, to prohibit IC/ID, to control spills, and to require compliance and carry out inspections of the MS4 facilities within their respective jurisdictions. The Co-Permittees have been extended necessary legal authority through California

statutes and local charters. Consistent with this statutory authority, each of the Co-Permittees have adopted their respective Storm Water Ordinances.

3. Even though the Permittees have established the authority and the procedures to detect and eliminate IC/IDs, audits conducted during the term of the 2002 MS4 Permit indicated that this program element is generally carried out passively through complaint response. IC/IDs are also detected through inspection programs and maintenance activities. Reports from maintenance inspectors are also typically logged as complaints. This Order requires each Permittee to revise this program element based on the Center for Watershed Protection's *Illegal Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments*, or equivalent program.

#### **J. TECHNOLOGY-BASED EFFLUENT LIMITATIONS (Not Applicable)**

#### **K. WATER QUALITY-BASED EFFLUENT LIMITATIONS (WQBELs) AND TMDL WLA**

1. 40 CFR 122.44(d) requires that NPDES permits include WQBELs to attain and maintain applicable numeric and narrative water quality criteria to protect the Beneficial Uses of the Receiving Water. Where numeric water quality criteria have not been established, 40 CFR 122.44(d) specifies that WQBELs may be established using USEPA criteria guidance under CWA section 304(a), proposed State criteria or a State policy interpreting narrative criteria supplemented with other relevant information, or an indicator parameter. In *Defenders of Wildlife, et al v. Browner*, No. 98-71080 (9th Cir, October 1999), the Court held that the CWA does not require strict compliance with State Water Quality Standards for MS4 permits under section 301(b)(1)(C), but that at the same time, the CWA does give the permitting authority the discretion to incorporate appropriate WQBEL under another provision, CWA Section 402(p)(3)(B)(iii). The use of BMPs to control or abate the discharge of Pollutants is allowed by 40 CFR 122.44(k)(3) when Numeric Effluent Limitations are infeasible or when practices are reasonably necessary to achieve Effluent Limitations and standards or to carry out the purposes and intent of the CWA. The legislative history and the preamble to the federal storm water regulations indicate that the Congress and the USEPA were aware of the difficulties in regulating Urban Runoff solely through traditional end-of-pipe treatment. It is the Regional Board's intent to require the Permittees to implement BMPs consistent with the MEP standard in order to support attainment of Water Quality Standards. This Order includes Receiving Water Limitations based on Water Quality Objectives; it prohibits the creation of Nuisance and requires the reduction of Water Quality Standards Impairment in Receiving Waters. The Permit includes a procedure for determining whether Urban Runoff is causing or contributing to exceedances of Receiving Water Limitations and for evaluating whether the DAMP must be revised to include additional or more effective BMPs designed to meet

Water Quality Standards. The Order establishes an iterative process to determine compliance with the Receiving Water Limitations.

2. To support attainment of Water Quality Standards, consistent with the MEP standards, this Order aims to reduce the discharge of Pollutants in Urban Runoff from the MS4 by requiring Permittees to:
  - a. Implement BMPs at Permittee facilities and activities,
  - b. Require BMPs, including where appropriate, LID techniques, to be implemented at New Development and Significant Redevelopment project sites prior to accepting discharges into their MS4 facilities, where feasible,
  - c. Implement and annually evaluate the DAMP and each Permittee's LIP for effectiveness in reducing Pollutants in Urban Runoff, and
  - d. Determine if Urban Runoff is contributing to exceedances of Water Quality Objectives or Beneficial Uses in Receiving Waters by comparing outfall and receiving water monitoring results to: (1) Water Quality Objectives (WQOs), (2) California Toxic Rule (CTR), (3) USEPA Multi-Sector Permit Parameter Benchmark Values and (4) other appropriate data identified by the Permittees. The Permittees should also evaluate the Regional Monitoring reports prepared by SCCWRP to assess trends in Urban Runoff and Receiving Water quality within the Permit Area.
3. Federal regulations (40 CFR 122.44(d)(1)(vii)(B) require inclusion of Effluent Limits that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the State and approved by USEPA." Consistent with this requirement, this Order includes interim effluent limits and a process for developing a BMP-based approach which, if adopted by the Regional Board prior to the compliance dates(s) specified in the associated comprehensive plan, shall become the final WQBEL(s). The Permittees are required to submit a comprehensive plan describing the proposed BMPs and the documentation demonstrating that the BMPs are expected to attain the WLAs by the compliance dates when implemented. If the Regional Board approves this comprehensive plan, this Order will be amended to include the comprehensive plan as the final WQBEL(s). If the Regional Board does not approve the comprehensive plan prior to the compliance date; the WLAs will become the final WQBEL(s) on the applicable compliance date and will remain in effect until a comprehensive plan is approved by the Regional Board. The comprehensive plan will be updated, as necessary, to reflect evaluations of the effectiveness of the BMPs, including evaluations presented in the annual reports.
4. These WQBELs are consistent with the assumptions and requirements identified in the TMDL Implementation Plans adopted with the TMDLs because the WQBELs are expected to be sufficient to meet the WLAs by the compliance dates. The

TMDLs within the Permit Area are described in Section F, above. These include the following:

**a. MSAR Bacterial Indicator TMDL**

- i. The TMDL relies on this Order to implement the WLAs for Urban Runoff from the MSAR Permittees.
- ii. This Order requires the MSAR Permittees to fully comply with the TMDL Implementation Plan. The TMDL Implementation Plan includes requirements for monitoring, and submittal of plans and schedules to implement short term solutions and develop long-term solutions to achieve TMDL compliance by the specified compliance dates.
- iii. There are two components in the MSAR TMDL (fecal coliform and *E. coli*). The Basin Plan currently does not have an established objective for *E. coli*. The work that is currently being done by SWQSTF is expected to make recommendations for the adoption of *E. coli* objectives and revised WLAs based on *E. coli*. This Order incorporates the current WLAs as WQBELs. If the WLAs are revised, this Order will be reopened to incorporate the new WLAs.
- iv. Upon adoption of this Order, the tasks identified in the MSAR TMDL Implementation Plan that have been developed by the MSAR Permittees and approved by the Regional Board become the interim Effluent Limits.
- v. The MSAR Permittees are required to develop a Comprehensive Bacteria Reduction Plan (CBRP) designed to achieve WLAs by the compliance date. Once approved by the Regional Board, the CBRP becomes the final Effluent Limit. In the absence of an approved CBRP, the WLAs become the final numeric WQBEL by the compliance date specified in the TMDL.

**b. Canyon Lake and Lake Elsinore Nutrient TMDLs**

- i. This Order is consistent with the Urban WLAs specified in the Canyon Lake and Lake Elsinore Nutrient TMDLs.
- ii. Consistent with the TMDL Implementation Plan, this Order requires the LE/CL Permittees to identify sources of Impairment, propose BMPs to address those sources, and to monitor, evaluate and revise BMPs based on the monitoring results. Specific TMDL Implementation Plan tasks are described in Chapter 5 of the Basin Plan and are assigned to one or more of

the Permittees. Requirements of the TMDL Implementation Plan tasks are incorporated into this Order and Chapter 13 of the 2007 DAMP.

- iii. In Chapter 13 of the 2007 DAMP submitted with the ROWD, the LE/CL Permittees have proposed BMP programs, consistent with the aforementioned TMDL Implementation Plan tasks.
- iv. This Order also requires the LE/CL Permittees to monitor at representative Urban Runoff monitoring locations defined in the Consolidated Program for Water Quality Monitoring (CMP), (Phase 2 TMDL Monitoring is specified in the Lake Elsinore and Canyon Lake Nutrient TMDL Monitoring Plan dated February 15, 2006) and TMDL Implementation Plan and to evaluate the effectiveness of BMPs implemented in the Permit Area in reducing Pollutants of Concern in Urban Runoff to determine progress towards attainment of WLAs by the specified compliance date.
- v. The Regional Board recognizes that additional research is needed to determine the most appropriate control mechanism to attain Water Quality Standards for nutrients in these two lakes. This Order provides the LE/CL Permittees the flexibility to meet the WLAs through a variety of techniques. Even though, the WLAs for the Canyon Lake and Lake Elsinore Nutrient TMDLs are expressed as WQBELs, if Water Quality Standards in the Lakes are met through biological or other in-Lake control mechanisms, the LE/CL Permittees' obligation to meet the WLAs is satisfied, as the impairment for which the TMDLs were developed would not exist anymore. The Permittees in the affected watersheds are required to develop a CNRP designed to achieve the WLAs by the compliance dates specified in the TMDL. In the absence of an approved CNRP, the WLAs become the final numeric WQBELs for nutrients.

#### **L. WATER QUALITY CONTROL PLAN (BASIN PLAN)**

1. The Regional Board adopted a revised Water Quality Control Plan for the Santa Ana River Basin (hereinafter Basin Plan) that became effective on January 24, 1995. The Basin Plan designates Beneficial Uses, establishes Water Quality Objectives, and contains implementation programs and policies to achieve those Water Quality Objectives for all waters in the Santa Ana Region addressed through the Basin Plan.
2. More recently, the Basin Plan was significantly amended to incorporate revised boundaries for groundwater subbasins, now termed "management zones", new nitrate-nitrogen and TDS objectives for the new management zones, and new nitrogen and TDS management strategies applicable to both surface and ground

waters. This Basin Plan Amendment was adopted by the Regional Board on January 22, 2004. The State Board and the Office of Administrative Law (OAL) approved the amendment on September 30, 2004 and December 23, 2004, respectively. The USEPA approved the surface water standard and related provisions of the amendment on June 20, 2007.

3. TDS and TIN limitations in Table 4-1 of the Basin Plan are specified in this Order for Permittees' discharges subject to the De Minimus Permit. Where Dry Season flows are identified as part of the IC/ID program element, this Order also requires Permittees to establish their baseline discharge concentration for Dry Season conditions.
4. As discussed in Section K, WQBELs, and TMDL WLA, the Basin Plan has been amended to incorporate several TMDLs and TMDL Implementation Plans adopted for waterbodies within the Permit Area. In addition, the Basin Plan implements State Board Resolution 88-63, which established a state policy that all waters, with certain exceptions, are suitable or potentially suitable for municipal or domestic water supply. Thus, as discussed in detail in the Fact Sheet, Beneficial Uses recognized in the Basin Plan for Receiving Waters in the Permit Area are as follows:
  - a. Municipal and Domestic Supply,
  - b. Agricultural Supply,
  - c. Industrial Service Supply,
  - d. Industrial Process Supply,
  - e. Groundwater Recharge,
  - f. Hydropower Generation,
  - g. Water Contact Recreation,
  - h. Non-contact Water Recreation,
  - i. Warm Freshwater Habitat,
  - j. Limited Warm Freshwater Habitat,
  - k. Cold Freshwater Habitat,
  - l. Preservation of Biological Habitats of Special Significance,
  - m. Wildlife Habitat,
  - n. Rare, Threatened or Endangered Species, and
  - o. Spawning, Reproduction, and Development
5. The existing and potential Beneficial Uses of groundwater that could be impaired by the discharge of Urban Runoff within the Permit Area include one or more of the following:
  - a. Municipal and Domestic Supply,
  - b. Agricultural Supply,
  - c. Industrial Service Supply, and

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d. Industrial Process Supply

6. The Basin Plan also incorporates by reference all State Board water quality control plans and policies including the 1990 Water Quality Control Plan for Ocean Waters of California (Ocean Plan) and the 1974 Water Quality Control Policy for Enclosed Bays and Estuaries of California (Enclosed Bays and Estuaries Policy). Water Quality Objectives specified in the Basin Plan are local numeric and narrative objectives that may be more stringent than the national or statewide water quality criteria.

**M. NATIONAL TOXICS RULE (NTR) AND CALIFORNIA TOXICS RULE (CTR)**

NTR and CTR are blanket water quality criteria that apply to all surface water discharges. However, the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* states that the Policy does not apply to regulation of storm water discharges. Regional Board believes that compliance with Water Quality Standards through implementation of BMPs is appropriate for regulating Urban Runoff. The USEPA articulated this position on the use of BMPs in storm water permits in the policy memorandum entitled, "Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits" (61 FR 43761, August 9, 1996).<sup>18</sup>

**N. STATE IMPLEMENTATION POLICY (SIP)**

See Section M, above.

**O. COMPLIANCE SCHEDULES AND INTERIM REQUIREMENTS**

The Basin Plan contains schedules for achieving compliance with WLAs for Bacterial Indicators in the MSAR watershed and nutrients in the San Jacinto watershed (Canyon Lake/Lake Elsinore). It is appropriate to require the CL/LE Permittees to comply with those time schedules for various deliverables as specified in the approved TMDL Implementation Plans. Consistent with the State Board's Compliance Schedule Policy (Resolution No. 2008-0025), this Order incorporates interim and final Effluent Limits, where applicable. Additionally, since the TMDL compliance dates are outside the term of this MS4 Permit, it is also appropriate to require the Permittees to monitor and report the effectiveness of BMPs implemented in the Permit Area to evaluate progress towards attainment of WLAs by the time schedules specified in the adopted TMDLs. This Order includes the schedules for deliverables as part of the TMDL Implementation Plans as well as a requirement to monitor the effectiveness of BMPs in the Permit

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<sup>18</sup> See discussions on Wet Weather Flows in the Federal Register/Vol. 65, No. 97/Thursday, May 18, 2000/Rules and Regulations

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Area in reducing Pollutant discharges and to report progress towards compliance with the TMDL WLAs by the compliance dates.

#### **P. ANTIDegradation Policy**

40 CFR 131.12 requires that State Water Quality Standards include an antidegradation policy consistent with the federal policy. The State Board established California's antidegradation policy in Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. As discussed in detail in the Fact Sheet (see sections IV and V), the permitted discharges are consistent with the antidegradation provisions of 40 CFR 131.12 and State Board Resolution No. 68-16.

#### **Q. ANTI-BACKSLIDING**

Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at 40 CFR 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require Effluent Limitations in a reissued NPDES permit to be as stringent as those in the previous permit, with some exceptions where Effluent Limitations may be relaxed. All Effluent Limitations in this Order are at least as stringent as the Effluent Limitations in the 2002 Order.

#### **R. PUBLIC EDUCATION/PARTICIPATION**

1. Public participation during the development of Urban Runoff management programs and implementation plans is necessary to ensure that all stakeholder interests and a variety of creative solutions are considered. In addition, the federal storm water regulations require public participation in the development and implementation of the Urban Runoff management program. As such, the Permittees are required to solicit and consider all comments received from the public and submit copies of the comments to the Executive Officer of the Regional Board with the Annual Reports. In response to public comments, the Permittees may modify reports, plans, or schedules prior to submittal to the Executive Officer.
2. There are Pollutants in Urban Runoff from privately owned and operated facilities such as residences, businesses and commercial establishments and public and private institutions. A successful NPDES MS4 permit program should include the participation and cooperation of public entities, private businesses, and public and private institutions. Therefore, public education is a critical element of the DAMP. As the population increases in the Permit Area, it will be even more important to

continue to educate the public regarding the impact of human activities on the quality of Urban Runoff.

3. In addition to the Regional Board, a number of other stakeholders are involved in the management of the water resources of the Region. These include, but are not limited to, the incorporated cities in the Region, POTWs, the three counties, and the Santa Ana Watershed Project Authority and its member agencies. The entities listed in Appendix 2 are considered as potential dischargers of Urban Runoff in the Permit Area. It is expected that these entities will also work cooperatively with the Permittees to manage Urban Runoff. The Regional Board, pursuant to 40 CFR 122.26(a), has the discretion and authority to require non-cooperating entities to participate in this Order or to issue individual MS4 permits. The Permittees may request the Regional Board to issue a separate NPDES Permit to any discharger into MS4 facilities they own or operate.
4. Cooperation and coordination among the stakeholders (regulators, Permittees, the public, and other entities) are critical to optimize the use of finite public resources and ensure economical management of water quality in the Region. Recognizing this fact, this Order focuses on integrated watershed management and seeks to integrate the programs of the stakeholders, especially the holders of the three MS4 permits within the Regional Board's jurisdiction.
5. Education is an important aspect of every effective Urban Runoff management program and the basis for changes in behavior at a societal level. Education of municipal planning, inspection, and maintenance department staff is especially critical to ensure that in-house staff understand how their activities impact water quality, how to accomplish their jobs while protecting water quality, and their specific roles and responsibilities for compliance with this Order. Public education, designed to target various urban land users and other audiences, is also essential to inform the public of how individual actions affect Receiving Water quality and how adverse effects can be minimized.
6. Some Urban Runoff issues, such as public education and training, can be effectively addressed on a regional or statewide basis. Regional approaches to Urban Runoff management can improve program consistency and promote sharing of resources, which can result in implementation of more efficient programs. In particular the counties of San Bernardino and Riverside and their collective municipalities are encouraged to cooperatively work together and generate a unified education and training program.

## **S. PERMITTEE FACILITIES AND ACTIVITIES**

1. The Permittees own/operate facilities where industrial or related activities take place that may have an impact on Urban Runoff quality. Some of the Permittees

enter into contracts with outside parties to carry out activities that may also have an impact on Urban Runoff quality. These facilities and related activities include, but are not limited to, street sweeping, catch basin cleaning, maintenance yards, vehicle and equipment maintenance areas, waste transfer stations, corporation and storage yards, parks and recreational facilities, landscape and swimming pool maintenance activities, MS4 maintenance activities and the application of herbicides, algaecides and pesticides.

2. This Order requires continued implementation of BMPs intended to reduce Pollutant discharges from those Permittee activities/facilities that are found to be significant sources of Pollutants in Urban Runoff. This Order prohibits non-storm water discharges from facilities owned or operated by the Permittees unless the discharges are exempt under Section VI of this Order or are permitted by the Regional Board under an individual NPDES permit.
3. Program evaluations conducted during the term of the 2002 MS4 Permit indicated varying degrees of compliance/noncompliance at Permittee facilities and activities. This Order requires each Permittee to review its inventory of fixed facilities, field operations and drainage facilities to ensure that Permittee facilities do not cause or contribute to a Pollution or Nuisance in Receiving Waters. Permittee fixed public facilities and field operations are to be inspected annually.

#### **T. MUNICIPAL CONSTRUCTION PROJECTS**

1. The 2002 MS4 Permit authorized the discharge of storm water from construction activities on an acre or more, that are under ownership or direct responsibility of the Permittees. Permittees were required to notify the Regional Board prior to commencement of construction activities, and to comply with the latest Statewide General Construction Permit. Permittees were also required to develop a SWPPP and monitoring program specific to the Construction Site. Program evaluations conducted during the term of the 2002 MS4 Permit indicated that some Permittees were not submitting or were not aware of the requirement to submit a NOI and subsequent Notice of Termination (NOT) for Permittee Construction Sites. This Order continues the notification requirement.
2. This Order builds upon the requirement of the 2002 MS4 Permit by requiring Permittees to include post-construction BMP information for Permittee Construction Sites meeting WQMP and General Construction Permit criteria along with the NOT submitted to the Executive Officer upon completion of the construction activity. The NOT must include photographs of the completed project, a site map including structural post-construction BMP locations, long term operation and maintenance responsibility information, field verification report and copies of the final field verification reports required under Section XII.I. Permittees are required to develop

a database of post-construction BMPs per Section XII.K.4. for which they are responsible and reference this database in the LIPs.

3. Emergency Permittee public works projects required to protect public health and safety are exempted from these requirements, until the emergency ends, at which time they need to comply with the requirements.

#### **U. MONITORING AND REPORTING**

1. 40 CFR 122.48 requires that all NPDES permits specify requirements for monitoring and reporting. Sections 13267 and 13383 of the CWC authorize the Regional Board to require technical and monitoring reports. The Monitoring and Reporting Program, Attachment 3, establishes monitoring and reporting requirements to implement federal and State requirements.
2. An effective monitoring program characterizes Urban Runoff, identifies problem areas, and determines the impact of Urban Runoff on receiving waters and the effectiveness of BMPs. The Principal Permittee administers the CMP for the Permittees. The CMP includes Wet and Dry Season monitoring of MS4 Outfalls and Receiving Waters throughout Riverside County.
3. The Regional Board recognizes the importance of watershed management efforts and regional planning and coordination in the development and implementation of programs and policies related to Receiving Water quality protection, including the Urban Runoff program and TMDL processes. In light of recent TMDLs that have been developed and the expectation of future TMDLs, this Order allows the Permittees to develop a Coordinated Watershed Monitoring Plan that shows the nexus among various Urban Runoff related monitoring programs that the Permittees are participating and the MS4 permit requirements including but not limited to WLA pre-compliance, BMP effectiveness, urban source and trend evaluation, Receiving Water quality and Hydromodification effects monitoring as part of the requirements of the Monitoring and Reporting Program.
4. Multiple entities, such as POTWs, MS4, CAFOs, and other permitted and non-permitted dischargers, discharge into the same water bodies. The discharges from these various sources could potentially affect the water quality of these water bodies even when these dischargers are complying with their discharge permits. Monitoring the Receiving Waters where these multiple types of discharges take place is necessary to determine these water bodies' compliance with Water Quality Objectives and their attainment of Beneficial Uses.
5. In the past, multiple entities have individually monitored the water bodies receiving their discharges to determine impacts to these waters from their discharges. The

monitoring has resulted in fragmented data that is inconsistent in quality, and that has potentially resulted in duplication of resources.

6. The SMC's "Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California", August 2004 Technical Report #419 indicated that "...the lack of mass emissions stations in the inland counties hampers their ability to estimate the proportional contribution of these inland areas to cumulative loads downstream." The SMC consists of representatives from the Counties of Ventura, Los Angeles, Orange, San Bernardino, Riverside, and San Diego and the City of Long Beach. Consistent with this coordinated effort, this Order includes requirements for mass emissions monitoring.
7. Every two years, the Regional Board will assess readily available data to determine if the water bodies within its jurisdiction comply with the Water Quality Objectives and attain the assigned Beneficial Uses. The data reviewed for the assessment comes from sources such as municipalities, POTWs, individual public submittals, TMDL monitoring, and special studies. The data necessary for the assessment is of known and documented quality and generated under the auspices of a Quality Assurance Project Plan (QAPP). The data also is required to be statistically sufficient to assess if the water body is meeting Water Quality Objectives and to determine if water quality is declining over time.
8. A coordinated monitoring effort is needed for each sub-watershed in the Santa Ana Region that will provide statistically sufficient data. These data should be collected with appropriate quality control and quality assurance programs and should be made available in an electronic format to meet assessment objectives.
9. The Regional Board has identified sub-watersheds in the Santa Ana Region where potential duplication of effort is taking place. These sub-watersheds include: the Upper Santa Ana River watershed, MSAR watershed, Lower Santa Ana River watershed, and the San Jacinto River watershed.
10. Regional Board staff proposes to require the various entities discharging into the waterbodies in these sub-watersheds to coordinate monitoring efforts, prepare, submit for approval, and implement a watershed monitoring plan; a QAPP, and a data management, validation, verification mechanism in order to meet the assessment objectives.
11. Under the direction of the MS4 permittees, SCCWRP is coordinating a watershed monitoring effort in Southern California. The Santa Ana Region is included in their monitoring effort. This effort will potentially produce data that will meet the needs of the Regional Board in assessing water quality. This Order requires the Permittees to continue their participation in this regional effort.

## **V. STANDARD AND SPECIAL PROVISIONS**

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The dischargers must comply with all standard provisions and with those additional conditions that are applicable under Federal NPDES Regulations 40 CFR122.41 and 40 CFR 122.42.

#### **W. NOTIFICATION OF INTERESTED PARTIES**

The Regional Board has notified the dischargers and interested agencies and persons of its intent to prescribe WDRs for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet for this Order.

#### **X. CONSIDERATION OF PUBLIC COMMENT**

The Regional Board has notified the Permittees, all known interested parties, and the public of its intent to issue WDRs for this discharge and has provided them with an opportunity to submit their written views and recommendations.

The Regional Board, in a public meeting, heard and considered all comments pertaining to the discharge and the requirements of this Order. Details of the Public Hearing are provided in the Fact Sheet for this Order.

#### **Y. ALASKA RULE**

On March 30, 2000, USEPA revised its regulation that specifies when new and revised State and Tribal Water Quality Standards become effective for CWA purposes (40 CFR 131.21, 65 FR 24641, April 27, 2000). Under the revised regulation (also known as the Alaska rule), USEPA must approve new and revised Water Quality Standards submitted to USEPA after May 30, 2000 before being used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000 may be used for CWA purposes, whether or not approved by USEPA.

#### **Z. COMPLIANCE WITH CZARA**

The Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Section 6217(g), requires coastal states with approved coastal zone management programs to address Non-Point Source Pollution impacting or threatening coastal water quality. The CZARA addresses five sources of non-point pollution: agriculture, silviculture, urban, marinas, and Hydromodification. This Order addresses the management measures required for the urban category. Compliance with requirements specified in this Order relieves the Permittees for developing a Non-Point Source Plan, for the urban category, under CZARA.

#### **AA. NON-POINT SOURCE DISCHARGES**

Consistent with the State Board's 2004 "Policy for the Implementation and

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Enforcement of the Nonpoint Source Pollution Control Program," the Regional Board may issue WDRs for Non-Point Source (NPS) Pollutant discharges, such as agricultural irrigation runoff or return flows that are not subject to NPDES requirements, if identified as a significant source of Pollutants. In addition, if the water quality significance of Non-Point Source discharges is not clearly understood, the Regional Board may issue conditional waivers of WDRs to Non-Point Source dischargers, and require monitoring to gather the information necessary to effectively manage these discharges.

**BB. STRINGENCY REQUIREMENTS FOR INDIVIDUAL POLLUTANTS. (N/A)**

**CC. FISCAL RESOURCES**

California is experiencing a fiscal crisis unprecedented since the Great Depression. The November 2009 unemployment rate is 12.2 percent in California and 14.7 percent in Riverside County.<sup>19</sup> The seasonally adjusted national unemployment rate in November 2009 is at a 26-year high of 10.2 percent. The Federal Reserve projected that the national unemployment rate, currently at a 26-year high of 9.4 percent, will pass 10 percent by the end of the year. Most federal policymakers said it could take "five or six years" for the economy and the labor market to get back on a path of long-term health.<sup>20</sup> State and local governments are experiencing significant budgetary shortfalls and are reducing staffing and programs across the board. Given this economic environment, priority will be given to preserving the most essential elements of existing Urban Runoff programs and identifying and implementing strategies to improve the efficiency of existing programs in protecting Receiving Waters.

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<sup>19</sup> Employment Development Department, State of California, December 18, 2009.  
[http://www.calmis.ca.gov/file/lfmonth/rive\\$pds.pdf](http://www.calmis.ca.gov/file/lfmonth/rive$pds.pdf)

<sup>20</sup> [http://www.msnbc.msn.com/id/31963779/ns/business-stocks\\_and\\_economy/](http://www.msnbc.msn.com/id/31963779/ns/business-stocks_and_economy/)

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### **PERMIT REQUIREMENTS:**

**IT IS HEREBY ORDERED** that the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, and Wildomar, in order to meet the provisions contained in Division 7 of the Water Code and regulations adopted thereunder, and the provisions of the CWA, as amended, and the regulations and guidelines adopted there under, must comply with the following:

### **III. PERMITTEE RESPONSIBILITIES:**

#### **A. RESPONSIBILITIES OF THE PRINCIPAL PERMITTEE:**

1. The Principal Permittee shall be responsible for managing the overall Urban Runoff program and shall:
  - a. Coordinate revisions to the DAMP.
  - b. Implement area-wide management programs, monitoring and reporting programs, and related plans as required by this Order.
  - c. Coordinate chemical and biological water quality monitoring and any other monitoring as required by the Executive Officer.
  - d. Prepare, coordinate the preparation of, and submit to the Executive Officer, those reports and programs necessary to comply with this Order.
  - e. Provide staff support to the Management Steering Committee (Appendix 4, Glossary) to address Urban Runoff management policies for the Permit Area and coordinate the review, and necessary revisions to the DAMP and Implementation Agreement. The Management Steering Committee will continue to meet consistent with the requirements of Section XVII.D of this Order.
  - f. Coordinate and conduct Technical Committee (Appendix 4) meetings consistent with the requirements of Section XVII.D of this Order. The Technical Committee will continue to direct the development of the DAMP and coordinate the implementation of the overall Urban Runoff program.
  - g. Take the lead role in initiating and developing area-wide programs and activities necessary to comply with this Order.

- h. Coordinate activities and participate in committees/subcommittees formed to comply with this Order.
- i. Coordinate the implementation of this Order with the Regional Board and Co-Permittees, including the submittal of joint reports, plans, and programs as required under this Order.
- j. Provide technical and administrative support to the Co-Permittees, including informing them of the status of known pertinent municipal programs, pilot projects, and research studies.
- k. Coordinate with the Co-Permittees the implementation and necessary updates to Urban Runoff quality management programs, monitoring and reporting programs, implementation plans, public education, other Pollution Prevention measures, household Hazardous Waste collection, and BMPs outlined in the DAMP and take other actions consistent with the MEP standard.
- l. Gather and disseminate information on the status of statewide Urban Runoff programs and evaluate the information for potential use in the execution of this Order. Hold workshops focused on Urban Runoff regulatory requirements, BMPs, and other related topics.
- m. Compile information provided by the Co-Permittees and determine the effectiveness of the overall Urban Runoff program in attaining Receiving Water Quality Standards. This determination must include a comparative analysis of monitoring data to the applicable Water Quality Objectives for Receiving Waters as specified in Chapter 4 of the Basin Plan.
- n. Solicit and coordinate public input for major changes to the Urban Runoff management programs and the implementation thereof.
- o. Coordinate the development and implementation of procedures and performance standards, to assist in the consistent implementation of BMPs consistent with the MEP standard, as well as Urban Runoff management programs, among the Co-Permittees.
- p. Participate in watershed management programs and regional and/or statewide monitoring and reporting programs.
- q. In collaboration with the Co-Permittees, other MS4 Programs and/or CASQA, develop guidelines for defining expertise and competencies of storm water program managers and inspectors and develop and submit for approval a training program for various positions in accordance with these guidelines and Section XV of this Order.

- r. Within 6 months of adoption of this Order, the Principal Permittee shall develop a library of BMP performance reports, and revise the library annually thereafter. At a minimum, obsolete performance reports should be removed and updated reports from the Permittees, CalTrans, CASQA, American Society of Civil Engineers or other appropriate sources that include more effective and proven BMPs should be added. The library may use national, statewide or regional reports. The purpose of this library is to facilitate the Permittees approval of BMPs, review and approval of WQMPs, etc.
  - s. Within 6 months of adoption of this Order, the Principal Permittee shall coordinate a review of the DAMP with the Co-Permittees to determine the need for update or revisions to ensure compliance with the requirements of this Order and establish a schedule for those revisions.
2. The activities of the Principal Permittee shall also include, but not be limited to, the following for MS4 owned or operated by the Principal Permittee:
- a. To cause appropriate enforcement actions as necessary against IC/IDs to its MS4 to ensure compliance with Urban Runoff management programs, ordinances and implementation plans, including physical removal of Illicit Connections and prohibition of Illegal Discharges.
  - b. Ensure that applicants for encroachment permits for permanent connection to its MS4 facilities are notified in writing of their obligations to comply with Storm Water Ordinances, WQMP, and General Stormwater Permit requirements. The Principal Permittee shall make sure that encroachment activities within the limits of its rights-of-way comply with the General Construction Permit post construction standards. An encroachment project with a WQMP reviewed and approved by the Co-Permittee with jurisdictional authority may constitute compliance with the General Construction Permit post construction standards<sup>21</sup>.
  - c. Conduct inspections and maintain the MS4 facilities over which it has jurisdiction.
  - d. Review and revise, if necessary, those agreements to which it is a party and those regulations and policies it deems necessary to provide adequate legal authority to maintain the MS4 facilities for which it has jurisdiction and to take those actions required of it by this Order and the federal Storm Water Regulations (see Section VIII);

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<sup>21</sup> The State General Construction Permit Order No. 2009-0009-DWQ, Section XII

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- e. Monitor, document, and report that appropriate enforcement actions against Illegal Discharges to the MS4 facilities for which it has jurisdiction are taken and pursued as necessary to ensure compliance with Urban Runoff management programs, implementation plans, and regulations and policies, including physical elimination of IC/IDs (see Section IX);
- f. Continue to respond or cause the appropriate entity or agency to respond to emergency situations such as accidental spills, leaks, and IC/IDs to prevent or reduce the discharge of Pollutants to its MS4 facilities and to the Receiving Waters (see Section XVI).
- g. Track, monitor, and keep training records of all personnel involved in the implementation of the Principal Permittee's Urban Runoff management program.

**B. RESPONSIBILITIES OF THE CO-PERMITTEES:**

- 1. Each Co-Permittee shall complete a LIP, in conformance with Section IV of this Order and the approved LIP template.
- 2. Each Co-Permittee shall be responsible for managing the Urban Runoff program within its jurisdiction and shall:
  - a. Maintain adequate legal authority to control the contribution of Pollutants to the MS4 and enforce those authorities.
  - b. Conduct inspections of and maintain its MS4 facilities in accordance with the criteria developed pursuant to Section XIV.
  - c. Continue to implement management programs, monitoring and reporting programs, appropriate BMPs listed in the DAMP and LIP, and related plans as required by this Order and take such other actions consistent with the MEP standard.
  - d. Continue to seek sufficient funding for the area-wide Urban Runoff management plan, local Urban Runoff program management, Urban Runoff enforcement, public outreach and education activities and other Urban Runoff related program implementation.
  - e. Continue to coordinate with other public agencies as appropriate, to facilitate the implementation of this Order and the DAMP/LIP.
  - f. Ensure that applicants for encroachment permits for permanent connection to Permittee MS4 facilities are notified of their obligations to comply with Storm



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- f. Respond to or arrange for the appropriate entity or agency to respond to Emergency Situations such as accidental spills, leaks, IC/IDs, etc., to prevent or reduce the discharge of Pollutants to their MS4 facilities and the Receiving Waters.
- g. Continue to pursue enforcement actions as necessary within its jurisdiction for violations of Storm Water Ordinances, and other elements of its Urban Runoff management program.

### **C. IMPLEMENTATION AGREEMENT**

The Permittees shall allow any cities that were not signatories to the original Implementation Agreement but have been subsequently added to this Order to participate in the Implementation Agreement. The Permittees must annually review their Implementation Agreement and determine the need, if any, for additional revision. Beginning with the first Annual Report after adoption of this Order the Permittees must include the findings of this review and a schedule for any necessary revision(s) to the Implementation Agreement, if any. A copy of the signature page and any revisions to the Agreement shall be included in the Annual Report.

### **IV. LOCAL IMPLEMENTATION PLAN:**

- A. Within 6 months of adoption of this Order, the Permittees shall develop and submit for approval of the Executive Officer a LIP template. The LIP template shall be amended as the provisions of the DAMP are amended to address the requirements of this Order. The LIP template shall facilitate a description of the Co-Permittee's individual programs to implement the DAMP, including the organizational units responsible for implementation and identify positions responsible for Urban Runoff program implementation. The description shall specifically address:
  - 1. Overall program management, including internal reporting requirements and procedures for communication and accountability;
    - a. Interagency or interdepartmental agreements necessary to implement the Permittee's Urban Runoff program
    - b. A summary of fiscal resources available to implement the Urban Runoff program;
    - c. The ordinances, agreements, plans, policies, procedures and tools (e.g. checklists, forms, educational materials, etc.) used to execute the DAMP, including legal authorities and enforcement tools.
    - d. Summarize procedures for maintaining databases required by the Permit;
    - e. Describe internal procedures to ensure and promote accountability;

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2. WQBELs to implement the TMDLs (Section VI.D);
3. Receiving Water Limitations (Section VII.D).
4. Legal authority/enforcement (Section VIII)
  - a. Identify enforcement procedures, and
  - b. Identify actions and procedures for tracking return to compliance;
5. Illicit Connections/Illegal Discharges (IC/ID); Litter, Debris and Trash Control (Section IX).

The procedures and the staff positions responsible for different components of their IC/ID and Illegal Discharge Detection and Elimination (IDDE) Programs.
6. Sewage Spills, Infiltration into the MS4 Systems from Leaking Sanitary Sewer Lines, Septic System Failures, and Portable Toilet Discharges (Section X)

A description of the interagency or interdepartmental sewer spill response coordination within each Permittee's jurisdiction.
7. Co-Permittee inspection programs(Section XI),
  - a. Maintenance of Construction, Industrial, Commercial, and Post-Construction BMP databases;
  - b. Procedures for incorporating erosion and sediment control BMPs into the permitting of Construction Sites (Section XI.B)
  - c. Implementation of the Residential Program (Section XI.E.)
  - d. Specify the verification procedure(s) and any tools utilized to verify that coverage under the General Construction Permit;
8. New Development (Including Significant Redevelopment) (Section XII)
  - a. A list of discretionary maps and permits over which the Permittee has the authority to require WQMPs;
  - b. Permittee procedures to implement the Hydromodification Management Plan.
  - c. Permittee procedures and tools to implement the WQMP.(Sections XII.H, XII.I & XII.K)
  - d. Permittee procedures for Municipal Road Projects (Section XII.F).
  - e. A description of the credits programs or other in-lieu programs implemented (Section XII.G).
9. Public education and outreach (Section XIII)
10. Permittee Facilities and Activities (Section XIV)
  - a. A description of the Permittee's MS4 facilities;
  - b. At a minimum a list of facilities that include the following:

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- i. Parking facilities;
  - ii. Fire fighting training facilities;
  - iii. Facilities and activities discharging directly to environmentally sensitive areas such as 303(d) listed waterbodies or those with a RARE beneficial use designation;
  - iv. POTWs (including water and wastewater treatment plants) and sanitary sewage collection systems;
  - v. Solid waste transfer facilities;
  - vi. Land application sites;
  - vii. Corporate yards including maintenance and storage yards for materials, waste, equipment and vehicles;
  - viii. Household hazardous waste collection facilities;
  - ix. Municipal airfields;
  - x. Maintenance Facilities serving parks and recreation facilities;
  - xi. Special event venues following special events (festivals, sporting events);
  - xii. Other municipal areas and activities that the Permittee determines to be a potential source of Pollutants.
11. Compliance of Permittee Facilities and Activities with the General Construction Permit and De-Minimus Permit (Section XIV.G).
12. Training Program for Storm Water Managers, Planners, Inspectors and Municipal Contractors (Section XV);
- a. Training log forms
  - b. Identify departments and positions requiring training
- B. Within 12 months of approval of the LIP template, and amendments thereof, by the Executive Officer, each Permittee shall complete a LIP<sup>23</sup>, in conformance with the LIP template. The LIP shall be signed by the principal executive officer or ranking elected official or their duly authorized representative pursuant to Section XX.M of this Order.

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<sup>23</sup> As the Principal Permittee is not a general purpose government, some portions of the NPDES MS4 Program may not be applicable to it. The Principal Permittee should identify the basis for its exclusion from the applicable program elements in the appropriate LIP section.

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- C. Each Permittee shall annually review and evaluate the effectiveness of its Urban Runoff programs to determine the need for revisions to its LIP as necessary in compliance with Section VIII.H of this Order, and document revisions in the Annual Report.

#### **V. DISCHARGE PROHIBITIONS:**

- A. In accordance with the requirements of 40 CFR 122.26(d)(2)(i)B and 40 CFR 122.26(d)(2)(i)(F), the Permittees shall prohibit IC/IDs (see Appendix 4) from entering the MS4.
- B. The discharge of Urban Runoff from the MS4 to Receiving Waters containing Pollutants, including trash and debris, that have not been reduced consistent with the MEP standard is prohibited.
- C. Non-storm Water discharges from public agency activities into Waters of the US are prohibited unless the Non-storm Water discharges are permitted by a NPDES permit, granted a waiver, or as otherwise specified in Section VI, below.
- D. Discharges from the MS4 shall be in compliance with the discharge prohibitions contained in Chapter 5 of the Basin Plan.
- E. Discharges of Urban Runoff from the Permittee's MS4 shall not cause or contribute to a condition of Pollution, Contamination, or Nuisance (as defined in CWC Section 13050).
- F. The discharge of any substances in concentrations toxic to animal or plant life is prohibited.

#### **VI. EFFLUENT LIMITATIONS, DISCHARGE SPECIFICATIONS AND OTHER TMDL RELATED REQUIREMENTS**

For purposes of this Order, a discharge may include storm water or other types of discharges identified below.

##### **A. ALLOWED DISCHARGES:**

The discharges identified need not be prohibited by the Permittees unless identified by the Permittees or the Executive Officer as a significant source of Pollutants. The DAMP shall include public education and outreach activities directed at reducing these discharges even if they are not substantial contributors of Pollutants to the MS4.

1. Discharges composed entirely of storm water;

2. Air conditioning condensate;
3. Irrigation water from agricultural sources ;
4. Discharges covered by a NPDES Permit, WDRs, or waivers issued by the Regional Board or State Board.
5. Discharges from landscape irrigation, lawn/garden watering and other irrigation waters. These shall be minimized through public education and water conservation efforts, as prescribed under this Order Section XI.E. Residential Program.
6. Passive foundation drains<sup>24</sup>;
7. Passive footing drains<sup>25</sup>;
8. Water from crawl space pumps<sup>26</sup>;
9. Non-commercial vehicle washing, (e.g. residential car washing (excluding engine degreasing) and car washing fundraisers by non-profit organization);
10. Dechlorinated swimming pool discharges (cleaning wastewater and filter backwash shall not be discharged into the MS4 or to Waters of the US)
11. Diverted stream flows<sup>27</sup>;
12. Rising ground waters<sup>28</sup> and natural springs;
13. Uncontaminated ground water infiltration as defined in 40 CFR 35.2005 (20) and uncontaminated pumped groundwater (as defined in Appendix 4, glossary),
14. Flows from riparian habitats and wetlands;
15. Emergency fire fighting flows (i.e., flows necessary for the protection of life and property do not require BMPs and need not be prohibited. However, appropriate BMPs to reduce the discharge of Pollutants to the MEP must be implemented when they do not interfere with health and safety issues [see also Appendix K of the DAMP]).
16. Waters not otherwise containing Wastes as defined in California Water Code Section 13050 (d), and
17. Other types of discharges identified and recommended by the Permittees and approved by the Regional Board.

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<sup>24</sup> Allowed discharges only if the source water drained from the foundation is storm water or uncontaminated groundwater. Discharges from contaminated groundwater may require coverage under the De Minimus Permit (Order No. R8-2009-0003, NPDES No. CAG998001) or General Groundwater Cleanup Permit (Order No. R8-2007-0008, NPDES Permit No CAG918001) or its latest version.

<sup>25</sup> See footnote 24, above.

<sup>26</sup> Allowed discharges only if the discharge is uncontaminated, otherwise permit coverage under the De Minimus Permit or Order No. 2006-0008-DWQ (NPDES No. CAG990002), General NPDES Permit for Discharges from Utility Vaults and Underground Structures to Surface Waters (General Permit-Utility Vaults).

<sup>27</sup> Diversion of stream flows that encroach into Waters of the US requires a 404 permit from the US Army Corps of Engineers and a 401 Water Quality Certification from the Regional Board. Stream diversion that requires active pumping also requires coverage under the De Minimus Permit, Order No. R8-2009-0003.

<sup>28</sup> Discharge of rising ground water and natural springs into surface water is only allowed if groundwater is uncontaminated. Otherwise, coverage under the General Groundwater Cleanup Permit, Order No. R8-2007-0008 may be required.

When types of discharges listed above are identified as a significant source of Pollutants to Waters of the US, a Permittee must either: prohibit the discharge category from entering the MS4 or ensure that Source Control BMPs and Treatment Control BMPs are implemented to reduce or eliminate Pollutants resulting from the discharge. The Permittees shall evaluate the permitted discharges, as listed above to determine if any are a significant source of Pollutants to the MS4 and notify the Executive Officer if any are a significant source of Pollutants to the MS4.

**B. DISCHARGE SPECIFICATIONS FOR DISCHARGES FROM PERMITTEE OWNED AND/OR OPERATED FACILITIES AND ACTIVITIES - DE-MINIMUS DISCHARGES<sup>29</sup> :**

The following types of discharges from Permittee owned and/or operated facilities and activities are authorized by this Order provided they are in compliance with the terms and conditions of the General De Minimus Permit except that separate coverage under that permit is not required.

1. *Discharges from potable water sources, including water line flushing, superchlorinated water line flushing, fire hydrant system flushing, and hydrostatic test water from pipelines, tanks and vessels:* These discharges shall be dechlorinated to a concentration of 0.1 ppm<sup>30</sup> or less, pH adjusted if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments.
2. *Discharges from lawn, greenbelt and median watering and other irrigation runoff<sup>31</sup> from non-agricultural operations:* These discharges shall be minimized through requirements consistent with Section 5.3 of the DAMP and Section XIV of this Order.
3. *Dechlorinated swimming pool discharges:* Dechlorinated to a concentration of 0.1 ppm<sup>32</sup> or less, pH adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.
4. *Discharges from facilities that extract, treat and discharge water diverted from Waters of the US:* These discharges shall meet the following conditions:

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<sup>29</sup> General De Minimus Permit for Discharges to Surface Waters, Order NO. R8-2009-0003, NPDES No. CAG 998001 (General De Minimus Permit).

<sup>30</sup> Total residual chlorine = 0.1 mg/l or parts per million (ppm) or less; compliance determination shall be at a point before the discharge mixes with any Receiving Water.

<sup>31</sup> Non-agricultural irrigation using recycled water must comply with the statewide permit for Landscape Irrigation Using Recycled Water and the State Department Health guidelines.

<sup>32</sup> See footnote 30.

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- a. The discharges to Waters of the US must not contain Pollutants added by the treatment process or Pollutants in greater concentration than the influent;
  - b. The discharge must not cause or contribute to a condition of erosion;
  - c. Be in compliance with Section 401 of the CWA; and
  - d. Conduct monitoring in accordance with Section XIX of this Order.
5. *Construction dewatering wastes*: The maximum daily concentration limit for Total Suspended Solids (TSS) shall not exceed 75 mg/L; sulfides shall not exceed 0.4 mg/L; total petroleum hydrocarbons shall not exceed 0.1 mg/L; and oil and grease shall not exceed 15 mg/L.
6. *For all de-minimus type of discharges*: The pH of the discharge shall be within 6.5 to 8.5 pH units and there shall be no visible oil and grease in the discharge.
7. Table 4-1 of the Basin Plan incorporates TDS/TIN objectives for groundwater and surface waters within the Santa Ana Region. Permittees discharging to those Receiving Waters shall ensure compliance with the following for Dry Season conditions:
- a. For discharges to surface waters where groundwater will not be affected by the discharge, the maximum daily concentration (mg/L) of TDS and/or TIN of the effluent shall not exceed the Water Quality Objectives for the Receiving Water where the effluent is discharged, as specified in Table 4-1 of the Basin Plan<sup>33</sup>.
  - b. For discharges to surface waters where the groundwater will be affected by the discharge, the TDS and/or TIN concentrations of the effluent shall not exceed the Water Quality Objectives for the surface water where the effluent is discharged and the affected groundwater management zone, as specified in Table 4-1 of the Basin Plan. The more restrictive Water Quality Objectives shall govern. However, treated effluent exceeding the groundwater management zone Water Quality Objectives may be returned to the same management zone from which it was extracted without reduction of the TDS or TIN concentrations so long as the concentrations of those constituents are no greater than when the groundwater was first extracted. Incidental increases in the TDS and TIN concentrations (such as may occur during air stripping) of treated effluent will not be considered increases for the purposes of determining compliance with this discharge specification.
8. The Regional Board may add categories of Non-storm Water discharges that are not significant sources of Pollutants or remove categories of Non-storm Water discharges

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<sup>33</sup> Resolution No. R8-2004-0001

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listed above based upon a finding that the discharges are a significant source of Pollutants.

**C. NON-POINT SOURCE (NPS) DISCHARGES:**

The NPS discharges are being addressed through the Non-Point Source Program.

**D. WATER QUALITY BASED EFFLUENT LIMITATIONS TO IMPLEMENT THE TOTAL MAXIMUM DAILY LOADS (TMDLs)**

**1. The MIDDLE SANTA ANA RIVER (MSAR) WATERSHED BACTERIA INDICATOR TMDL**

**Interim WQBELs (effective upon adoption of this Order)**

- a. The MSAR Permittees<sup>34</sup> as part of the MSAR Task Force (Table 5) shall:
  - i. Continue to implement the watershed-wide water quality monitoring program ( including any future amendments thereto) approved by the Regional Board (Resolution No. R8-2007-0046) as per Task 3 of the MSAR TMDL Implementation Plan.
  - ii. Submit reports summarizing all relevant data from the MSAR watershed-wide water quality monitoring program. Beginning in 2010, the cool (or wet) season report is due to the Executive Officer by May 31<sup>st</sup> of each year (for monitoring conducted from November 1<sup>st</sup> through March 31<sup>st</sup>) and the warm (dry) season report is due to the Executive Officer by December 31<sup>st</sup> of each year (for monitoring conducted from April 1<sup>st</sup> through October 31<sup>st</sup>).
  - iii. Submit comprehensive reports every three years summarizing the data collected for the preceding 3 year period and evaluating progress towards achieving the Urban WLA by the dates specified in the TMDL. The first report is due to the Executive Officer on February 15, 2010.
  - iv. Continue to implement the approved (Regional Board Resolution No. R8-2008-0044) USEP developed as per Task 4.1 of the MSAR TMDL Implementation Plan. The USEP must describe the specific methods that will be used to identify urban sources, strategies, and BMPs to address

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<sup>34</sup> Riverside County MS4 Permittees in the MSAR watershed (County of Riverside, and the Cities of Corona, Norco, Riverside are collectively referred to as the "MSAR Permittees")

those sources. Submit semi-annual reports on January 31<sup>st</sup> and July 31<sup>st</sup> of each year as required under the approved USEP, and any amendments thereto. In years where the comprehensive report referenced in VI.D.1.a.iii above is due on February 15, the comprehensive report, Dry Season report (Due December 31<sup>st</sup>) and the January 31<sup>st</sup> USEP reports may be combined into a single submittal due February 15<sup>th</sup>

- v. Revise the DAMP as specified in Task 4.3 of the MSAR-TMDL Implementation Plan. Summarize any such revisions in the annual report due to the Executive Officer by November 30 of each year.
- vi. Revise the WQMP as specified in Task 4.5 of the MSAR TMDL Implementation Plan. Summarize any such revisions in the Annual Report due to the Executive Officer by November 30 of each year.
- vii. Amend the LIP to be consistent with the revised DAMP and WQMPs within 90 days after said revisions are approved by the Regional Board. Summarize any such LIP amendments in the Annual Report due to the Executive Officer by November 30 of each year.

**Final WQBELs for MSAR Bacterial Indicator TMDL under Dry Season Conditions**

- b. The final WQBELs for Bacterial Indicators during the Dry Season shall be achieved by December 31, 2015. These final Effluent Limits shall be considered effective for enforcement purposes on January 1, 2016.
- c. The Final WQBELs for MSAR Bacterial Indicator TMDL during the Dry Season shall be developed and implemented in the following manner:
  - i. The MSAR Permittees shall prepare for approval by the Regional Board a Comprehensive Bacteria Reduction Plan (CBRP) describing, in detail, the specific actions that have been taken or will be taken to achieve compliance with the Urban WLA during the Dry Season (April 1<sup>st</sup> through October 31<sup>st</sup>) by December 31, 2015. The CBRP must include:
    - (1) The specific ordinance(s) adopted to reduce the concentration of Bacterial Indicator in urban sources.
    - (2) The specific BMPs implemented to reduce the concentration of Bacterial Indicator from urban sources and the water quality improvements expected to result from these BMPs.

- (3) The specific inspection criteria used to identify and manage the urban sources most likely causing exceedances of Water Quality Objectives for Bacterial Indicators.
  - (4) The specific regional treatment facilities and the locations where such facilities will be built to reduce the levels of Bacterial Indicator discharged from urban sources and the expected water quality improvements to result when the facilities are complete.
  - (5) The scientific and technical documentation used to conclude that the CBRP, once fully implemented, is expected to achieve compliance with the Urban WLA for Bacterial Indicator by December 31, 2015.
  - (6) A detailed schedule for implementing the CBRP. The schedule must identify discrete milestones to assess satisfactory progress toward meeting the Urban WLA during the Dry Season by December 31, 2015. The schedule must also indicate which agency or agencies are responsible for meeting each milestone.
  - (7) The specific metric(s) that will be established to demonstrate the effectiveness of the CBRP and acceptable progress toward meeting the Urban WLA for Bacterial Indicator by December 31, 2015.
  - (8) The DAMP, WQMP and LIPs shall be revised consistent with the CBRP no more than 180 days after the CBRP is approved by the Regional Board.
  - (9) Detailed descriptions of any additional BMPs planned, and the time required to implement those BMPs, in the event that data from the watershed-wide water quality monitoring program indicate that Water Quality Objectives for Bacterial Indicator are still being exceeded after the CBRP is fully implemented.
  - (10) A schedule for developing a CBRP needed to comply with the Urban WLA for Bacterial Indicator during the Wet Season (November 1<sup>st</sup> thru March 31<sup>st</sup>) to achieve compliance by December 31, 2025.
- ii. The draft CBRP must be submitted to the Regional Board by December 31, 2010. The Permittees may submit the plan individually, jointly or through a collaborative effort with other urban dischargers such as the existing MSAR-TMDL Task Force. Regional Board staff will review the draft CBRP and recommend necessary revisions no more than 90 days after receiving the draft CBRP. The MSAR Permittees must submit the final version of the CBRP no more than 90 days after receiving the comments from Regional

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Board staff. The Regional Board will schedule a public hearing to consider approving the CBRP, as a final WQBEL for the Dry Season Urban WLA, no more than 120 days after the final plan is submitted by the MSAR Permittees. In approving the CBRP as the final WQBELs, the Regional Board shall find that the CBRP, when fully implemented, shall achieve the Urban WLA for Bacterial Indicator by December 31, 2015.

- iii. Once approved by the Regional Board, the CBRP shall be incorporated into this Order as the final WQBELs for Bacterial Indicator for the Dry Season. Based on BMP effectiveness analysis, the CBRP shall be updated, if necessary. The updated CBRP shall be implemented upon approval by the Regional Board.
- d. Should the process set forth in Section VI.D.1.c, above not be completed by January 1, 2016, then the Urban WLA for the Dry Season specified in the MSAR-TMDL shall become the final numeric WQBELs for Bacterial Indicator in the Dry Season as follows:
  - i. WLA for Fecal Coliform from Urban Sources for the Dry Season (April 1<sup>st</sup> through October 31<sup>st</sup>)<sup>35</sup>  
5-sample/30-day logarithmic mean less than 180 organisms/100mL and not more than 10% of the samples exceed 360 organisms/100mL for any 30-day period.
  - ii. WLA for *E. Coli* from Urban Sources for the Dry Season (April 1<sup>st</sup> through October 31<sup>st</sup>)<sup>36</sup>  
5-sample/30-day logarithmic mean less than 113 organisms/100 mL and not more than 10% of the samples exceed 212 organisms/100mL for any 30-day period.

**Final WQBELs for Bacterial Indicator during the Wet Season (effective Jan. 1, 2026)**

In the event this Order is still in effect on December 31, 2025, and the Regional Board has not adopted alternative final WQBEL during the Wet Season by that date, then the Urban WLAs specified in the MSAR TMDL for the Wet Season

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<sup>35</sup> 5-sample/30-day logarithmic mean less than 180 organisms/100mL and not more than 10% of the samples exceed 360 organisms/100mL for any 30-day period.

<sup>36</sup> 5-sample/30-day logarithmic mean less than 113 organisms/100 mL and not more than 10% of the samples exceed 212 organisms/100mL for any 30-day period.

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(November 1<sup>st</sup> through March 31<sup>st</sup>) will automatically become the final numeric WQBEL for the MSAR Permittees on January 1, 2026.

**2. LAKE ELSINORE/CANYON LAKE (SAN JACINTO WATERSHED) NUTRIENT TMDLS**

**Interim WQBELS:**

- a. *Lake Elsinore In-Lake Sediment Nutrient Reduction Plan:* Pursuant to Resolution No. R8-2007-0083, or as amended by subsequent adopted Regional Board resolutions, each LE/CL Permittee shall continue to implement the approved strategy for reducing in-lake sediment nutrient loads as summarized in Table 7, below:

**Table 7 - Lake Elsinore In-lake Sediment Nutrient Reduction Strategy**

<b>Lake Elsinore In-lake Sediment Reduction Strategy Task</b>	<b>Due Date</b>
Submit Phase 2 Alternatives	December 31, 2010*
Submit O&M Agreement for Fishery Management Program	December 31, 2010*
Submit O&M Agreement for Aeration and Mixing Systems	December 31, 2010*
Submit Phase 2 Projects Plans	June 30, 2011*
Complete Phase 2 Project Implementation	December 31, 2014
Implement in-lake and watershed monitoring programs	Annual reports due August 31 every year.

\*Within 60 days of receipt of comments from Regional Board staff, Permittees shall submit a final revised plan that will be acceptable for adoption by the Regional Board, unless otherwise directed by the Executive Officer.

- b. *Lake Elsinore/Canyon Lake Model Update Plan:* Pursuant to Resolution No. R8-2007-0083, or as amended by subsequent adopted Regional Board resolutions, each LE/CL Permittee shall continue to implement the Model Update Plan as per the schedule summarized Table 8 below: The Model Update Plan shall specify how the Permittees will determine compliance with the WLAs.

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**Table 8 - Lake Elsinore/Canyon Lake Model Update Plan**

<b>Model Update Task</b>	<b>Due Date</b>
Linkage Analysis Study	August 31, 2010
Watershed Source Loading Study	August 31, 2010
Model Evaluation	December 31, 2010
Construct/Calibrate Model	June 30, 2011
Conduct Model Scenarios	August 31, 2011
Model Update Final Report	November 30, 2011

- c. Revise the DAMP, WQMP and LIPs as necessary to implement the interim WQBEL compliance plans submitted pursuant to paragraph a and b of this section and summarize all such revisions in the Annual Report.

**Final WQBELs (Effective December 31, 2020)**

- d. To achieve compliance with TMDL WLAs as per the TMDL Implementation Plans, the LE/CL Permittees shall submit a Comprehensive Nutrient Reduction Plan (CNRP) by December 31, 2011 describing, in detail, the specific actions that have been taken or will be taken to achieve compliance with the urban WLA by December 31, 2020. The CNRP must include the following:
  - i. Evaluation of the effectiveness of BMPs and other control actions implemented. This evaluation shall include the following:
    - (a) The specific ordinance(s) adopted or proposed for adoption to reduce the concentration of nutrient in urban sources.
    - (b) The specific BMPs implemented to reduce the concentration of urban nutrient sources and the water quality improvements expected to result from these BMPs.
    - (c) The specific inspection criteria used to identify and manage the urban sources most likely causing exceedances of water quality objectives for nutrients.
    - (d) The specific regional treatment facilities and the locations where such facilities will be built to reduce the concentration of nutrient discharged from urban sources and the expected water quality improvements to result when the facilities are complete.

and

- ii. Proposed method for evaluating progress towards compliance with the nutrient WLA for Urban Runoff. The progress evaluation shall include:
  - (a) The scientific and technical documentation used to conclude that the CNRP, once fully implemented, is expected to achieve compliance with the urban waste load allocation for nutrient by December 31, 2020.
  - (b) A detailed schedule for implementing the CNRP. The schedule must identify discrete milestones decision points and alternative analyses necessary to assess satisfactory progress toward meeting the urban waste load allocations for nutrient by December 31, 2020. The schedule must also indicate which agency or agencies are responsible for meeting each milestone.
  - (c) The specific metric(s) that will be established to demonstrate the effectiveness of the CNRP and acceptable progress toward meeting the urban waste load allocations for nutrient by December 31, 2020.
  - (d) The DAMP, WQMP and LIPs shall be revised consistent with the CNRP no more than 180 days after the CNRP is approved by the Regional Board.
  - (e) Detailed descriptions of any additional BMPs planned, and the time required to implement those BMPs, in the event that data from the watershed-wide water quality monitoring program indicate that water quality objectives for nutrient are still being exceeded after the CNRP is fully implemented.
- e. The draft CNRP must be submitted to the Regional Board by December 31, 2011. The LE/CL Permittees may submit the plan individually, jointly or through a collaborative effort with other urban dischargers such as the existing LE/CLTMDL Task Force. Regional Board staff will review the document and recommend necessary revisions no more than 90 days after receiving the draft plan. The LE/CL Permittees must submit the final version of the plan no more than 90 days after receiving the comments from Regional Board staff. The Regional Board will schedule a public hearing to consider approving the CNRP, as a final water quality-based effluent limitation for the Nutrient WLA, no more than 90 days after the final plan is submitted by the LE/CL Permittees. In approving the CNRP as the final WQBELs, the Regional Board shall make a finding that the CNRP, when fully implemented, shall achieve the urban WLA for nutrient by December 31, 2020; and,
- f. Once approved by the Regional Board, the CNRP shall be incorporated into this Order as the final WQBELs for LE/CL Nutrient TMDL. Based on BMP effectiveness analysis, the CNRP shall be updated, if necessary. The updated CNRP shall be implemented upon approval by the Regional Board.

- g. Compliance with the WLA is based on a 10-year running average. Hence, data collection consistent with the approved Phase 2 LE/CL TMDL monitoring program required in the Monitoring and Reporting Program must commence by December 31, 2010<sup>37</sup>.
- h. A summary of all relevant data from water quality monitoring programs shall be submitted in the Annual Report. This will include an evaluation of compliance with the LE/CL TMDL by reporting the effectiveness of the BMPs implemented in the watershed to control nutrient inputs into the lake from Urban Runoff pursuant to Regional Board Resolution No. R8-2006-0031 and R8-2007-0083, or as amended by subsequent Regional Board adopted resolutions.
- i. The DAMP, WQMP and LIPs shall be revised as necessary to implement the plans submitted pursuant to paragraph a through h of this section and summarize all such revisions in the Annual Report.
- j. In the event that the Regional Board has not adopted alternative final WQBELs, in accordance with Section VI.D.2.d., above, by December 31, 2020, the Urban WLAs specified in Tables 9 and 10, below, shall automatically become the final numeric WQBELs for the LE/CL Permittees to be achieved by December 31, 2020. These final Effluent Limits shall be considered effective for enforcement purposes on January 1, 2021.

**Table 9 - Canyon Lake Nitrogen and Phosphorus Waste Load and Load Allocations<sup>a</sup>**

Canyon Lake Nutrient TMDL	Final Total Phosphorus Waste Load Allocation (kg/yr) <sup>b, c</sup>	Final TN Waste Load Allocation (kg/yr) <sup>b, c</sup>
Urban	306 (675 lbs/yr)	3,974 (8763 lbs/yr)
Septic systems	139 (306 lbs/yr)	4,850 (10692 lbs/yr)

<sup>a</sup> The WLAs for Canyon Lake apply to those land uses located upstream of Canyon Lake.

<sup>b</sup> Final WLA compliance to be achieved by December 31, 2020.

<sup>c</sup> TMDL and WLA specified as 10-year running average.

**Table 10 - Lake Elsinore Nitrogen and Phosphorus Waste Load and Load Allocations<sup>a</sup>**

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<sup>37</sup> Resolution No. R8-2004-0037 requires initiation of the Phase 2 watershed-wide Wet Season monitoring upon completion of the Phase 1 in-lake monitoring program. Regional Board staff is currently in discussion with LE/CL TMDL Task Force regarding this transition and are expected to identify reductions in Phase 1 monitoring program that will offset the costs of the enhanced Phase 2 program.

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Lake Elsinore Nutrient TMDL	Final Total Phosphorus WLA (kg/yr) <sup>b, c</sup>	Final TN WLA (kg/yr) <sup>c, d</sup>
Urban	124 (273.3 lbs/yr)	349 (769.4 lbs/yr)
Septic systems	69 (152 lbs/yr)	608 (1340 lbs/yr)

<sup>a</sup> The Lake Elsinore TMDL WLAs for septic systems only apply to those land uses located downstream of Canyon Lake.

<sup>b</sup> Final compliance to be achieved by December 31, 2020.

<sup>c</sup> TMDL and WLA specified as 10-year running average.

<sup>d</sup> WLA for supplemental water should be met as a 5 year running average by December 31, 2020.

<sup>e</sup> WLA for Canyon Lake overflows

- k. The LE/CL Permittees may demonstrate compliance with the WLAs using either of the following two methods:
  - i. Directly, using relevant monitoring data and approved and approved modeling procedures to estimate actual nitrogen and phosphorus loads being discharged to the lakes, or,
  - ii. Indirectly, using water quality monitoring data and other biological metrics approved by the Regional Board, to show Water Quality Standards are being consistently attained (as measured by the response targets identified in the LE/CL TMDL).
- l. The TMDLs explicitly support the trading of pollutant allocations among sources to the extent that such allocation tradeoffs optimize point and non-point source control strategies to achieve the WQBELs in the most efficient manner.

## VII. RECEIVING WATER LIMITATIONS

- A. Urban Runoff discharges from the Permittees' MS4 shall not cause or contribute to exceedances of Receiving Water Quality Standards (as defined by Beneficial Uses and Water Quality Objectives in Chapter 4 of the Basin Plan) for surface waters or ground waters.
- B. The DAMP and its components, including the LIPs, must be designed to achieve compliance with Receiving Water Limitations associated with discharges of Urban Runoff to the MEP. It is expected that compliance with Receiving Water Limitations will be achieved through an iterative process and the application of increasingly more effective BMPs.

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- C. The Permittees shall comply with Section V.B and VII.A of this Order, through timely implementation of control measures and other actions to reduce Pollutants in Urban Runoff in accordance with the DAMP and other requirements of this Order, including modifications thereto.
- D. If exceedances of Water Quality Standards persist notwithstanding implementation of the DAMP and other requirements of this Order, the Permittees shall assure compliance with Sections V.B and VII.A of this Order, by complying with the following procedure:
  1. Upon a determination by either the Permittees or the Executive Officer that the discharges from the MS4 are causing or contributing to an exceedance of an applicable Water Quality Standard, the Permittees shall:
    - a. Promptly, within two (2) working days, provide oral or e-mail and thereafter submit a report to the Executive Officer that describes the BMPs that are currently being implemented and the additional BMPs that will be implemented to prevent or reduce those Pollutants that are causing or contributing to the exceedance of the applicable Receiving Water Quality Standards.
    - b. The report may be incorporated in the annual update to the DAMP, unless the Executive Officer directs an earlier submittal.
    - c. The report shall include an implementation schedule.
    - d. The Executive Officer may require modifications to the report.
    - e. Submit any modifications to the report required by the Executive Officer within 30 days of notification;
  2. Within 30 days following approval by the Executive Officer of the report described above, the Permittees shall revise the DAMP, applicable LIPs, and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required;
  3. Implement the revised DAMP, applicable LIPs and monitoring program in accordance with the approved schedule.
  4. If the exceedance is solely due to discharges to the MS4 from activities or areas outside the Permittees jurisdiction or control, the Permittees must, within two (2) working days of becoming aware of the situation, provide oral or e-mail notice to the Executive Officer of the determination of the exceedance and provide written documentation of these discharges to the Executive Officer within ten (10) calendar days of becoming aware of the situation.

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5. So long as the Permittees have complied with the procedures set forth above and are implementing the revised LIP, DAMP, and monitoring program, the Permittees do not have to repeat the same procedure for continuing or recurring exceedances of the same Receiving Water Limitation unless the Executive Officer determines it is necessary to develop additional BMPs
6. Nothing in Section VII.D prevents the Regional Board from enforcing any provision of this Order while the Permittee prepares and implements the above report.

### **VIII. LEGAL AUTHORITY/ENFORCEMENT**

- A. The Permittees shall maintain adequate legal authority to control the discharge of Pollutants to the MS4 from Urban Runoff and enforce those authorities. This may be accomplished through ordinance, statute, permit, contract or similar means. Such legal authority must address all IC/IDs into the MS4, including those from residential, commercial, industrial and construction sites. The Permittees shall use the enforcement guidelines developed in Section 3.4 and 4.5 of the DAMP or develop their own enforcement program and shall incorporate the enforcement program into their LIP. Such legal authority must also at a minimum include and authorize the Permittees to:
  1. Carry out all inspections, surveillance, and monitoring necessary to determine compliance and noncompliance with their ordinances and permits. The Permittee must have authority, to the extent permitted by California and federal Law and subject to the limitations on municipal action under the constitutions of California and the United States, to enter, monitor, inspect, and gather evidence (pictures, videos, samples, documents, etc.) from residential, industrial, commercial, and construction sites discharging into the MS4 within the limits of its statutory authority. The Permittees shall progressively and decisively take enforcement actions against any violators of the Storm Water Ordinance. These enforcement actions must, at minimum, meet the guidelines and procedures listed in Sections 3.4 and 4.5 of the DAMP.
  2. Control the contribution of Pollutants to the MS4;
  3. Stop Pollutant discharge or threat of discharge if a discharger is unable or unwilling to correct significant non-compliance where there is a serious threat to public health or the environment;
  4. Require the use of BMPs to prevent or reduce the discharge of Pollutants into MS4 consistent with the MEP standard.

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5. Require documentation on the effectiveness of BMPs implemented to reduce the discharge of Pollutants to the MS4; and
  6. The Co-Permittees' Storm Water Ordinances or other local regulatory mechanisms shall include sanctions to ensure compliance. Sanctions shall include but are not limited to: oral and/or written warnings, notice of violation or non-compliance, administrative compliance orders, stop work or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor). These sanctions shall be issued in a decisive manner within a predetermined timeframe, from the time of the violation's occurrence and/or follow-up inspection.
- B. The Co-Permittees shall take progressive and decisive enforcement actions against violators of their Storm Water Codes and Ordinances, in accordance with the federal storm water regulations (40CFR, Part 122.26(d)(2)(I)(A-F)), and adopted/established guidelines and procedures as described in Section 3.4 of the DAMP. The Co-Permittees shall consider the time to return to compliance as one measure of effectiveness of their Storm Water Ordinances or enforcement response procedure. The Co-Permittees shall document these actions in their records (including electronic databases as outlined in the DAMP) and Annual Reports. The Co-Permittees shall use their authority to bring dischargers into immediate compliance with enforcement actions.
  - C. Within three (3) years of adoption of this Order, the Co-Permittees shall promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary.
  - D. The Co-Permittees shall continue to provide notification to the Executive Officer of storm water related information obtained during site inspections of construction and industrial sites regulated by the General Storm Water Permits and of sites that should be regulated under the General Storm Water Permits. The notification should include perceived violations of the General Storm Water Permits or local requirements, prior history of violations of the Permittee's Storm Water Ordinance, enforcement actions related to the Storm Water Ordinance taken by the Permittee, and other relevant information. In addition, Sections XVI.B of this Order addresses additional notification requirements for construction, industrial and commercial sites not covered under the General Storm Water Permits. Notification shall not prevent or delay the Co-Permittees from independently taking appropriate actions to bring Construction Sites and Industrial Facilities into compliance with their local ordinances, rules, regulations and WQMP.
  - E. The Permittees are encouraged to enter into interagency agreements with owners of other MS4, such as CalTrans, school and college districts, universities, Department of Defense, Native American Tribes, etc., to control the contribution of Pollutants into their

MS4 from the non-Permittee MS4. The Regional Board will continue to notify the owner/operator of the MS4 systems and the Permittee if the Board issues a permit for discharges into the MS4.

- F. The Co-Permittees shall annually review their Storm Water Ordinances and provide findings within the Annual Report on the effectiveness of these ordinances and enforcement programs in prohibiting the following types of discharges to the MS4 (the Co-Permittees may propose appropriate BMPs in lieu of prohibiting these discharges, where the Co-Permittees are responsible for ensuring that dischargers adequately maintain those BMPs):
1. Sewage, where a Co-Permittee operates the sewage collection system (also prohibited under the Statewide SSO Order<sup>38</sup>);
  2. Wash water resulting from the hosing or cleaning of gas stations, auto repair garages, and other types of automobile service stations;
  3. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility, including motor vehicles, concrete mixing equipment, portable toilet servicing, etc.;
  4. Wash water from mobile auto detailing and washing, steam and pressure cleaning, carpet/upholstery cleaning, pool cleaning and other such mobile commercial and industrial activities;
  5. Water from cleaning of municipal, industrial, and commercial sites, including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc.;
  6. Runoff from material storage areas or uncovered receptacles that contain chemicals, fuels, grease, oil, or other Hazardous Materials<sup>39</sup>;
  7. Discharges of runoff from the washing of hazardous material from paved or unpaved areas;
  8. Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; pool filter backwash containing debris and chlorine;
  9. Pet waste, yard waste, litter, debris, sediment, etc.; and,
  10. Restaurant or food processing facility wastes such as grease, floor mat and trash bin wash water, food waste, etc.

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<sup>38</sup> State Board WQO No. 2006-0003.

<sup>39</sup> Hazardous material is defined as any substrate that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by EPA to be reported if a designed quantity of the material is spilled into the waters of the United States or emitted into the environment.

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- G. Within 24 months after Order adoption, each Co-Permittee shall submit a certification statement, signed by its legal counsel, that the Co-Permittee has obtained all necessary legal authority in accordance with 40 CFR 122.26(d)(2)(i) (A-F) and to comply with this Order through adoption of ordinances and/or municipal code modifications. A copy of the certification shall also be placed in the LIP.
- H. Annually thereafter, Permittees shall evaluate the effectiveness of implementation and enforcement response procedures with respect to the above items. The findings of these reviews, along with recommended corrective actions, where appropriate, and schedules shall be submitted as part of the Annual Report for the corresponding reporting period. The LIP shall be updated accordingly.

#### **IX. ILLICIT CONNECTIONS/ILLEGAL DISCHARGES (IC/ID); LITTER, DEBRIS AND TRASH CONTROL**

- A. Consistent with each Co-Permittees statutory authority, the Co-Permittees have adopted Storm Water Ordinances. The Co-Permittees must continue to prohibit IC/IDs to the MS4 through their Storm Water Ordinances and the Principal Permittee must do so through its statutory authority. In addition, the Permittees must continue to implement and improve routine inspection and monitoring and reporting programs for their MS4 facilities. If routine inspections or Dry Season monitoring indicate IC/IDs, they must be investigated and eliminated or permitted within sixty (60) calendar days of receipt of notice by its staff or from a third party.
- B. The Permittees upon being put on notice by staff or a third party must immediately (within 24 hours of receipt of notice by its staff or from a third Party) investigate all spills, leaks, and/or other illegal discharges to the MS4. Based upon their assessment and as specified below, the Permittees must provide notifications and reporting as described in Section 4 of the DAMP and Section XVI of this Order.
- C. The Permittees shall control Illegal Dumping that may result in a discharge of Pollutants to the MS4 to the MEP. The Permittees shall describe their procedures and authorities for managing Illegal Dumping in their LIP.
- D. Within 18 months of adoption of this Order, the Permittees shall review and revise their IC/ID program to include a pro-active IDDE using the Guidance Manual for Illicit Discharge, Detection, and Elimination by the Center for Watershed Protection<sup>40</sup> or any

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<sup>40</sup> USEPA (Illicit Discharge Detection and Elimination - A Guidance Manual for Program Development and Technical Assessments) by the Center for Watershed Protection and Robert Pitt, University of Alabama, October 2004, updated 2005).

other equivalent program consistent with Section IX.E below. The result of this review shall be reported in the Annual Report and include a description of the Permittees' revised pro-active program, procedures and schedules. The LIP shall be updated accordingly.

- E. The Permittees' revised IC/ID programs shall specify an IDDE program for each Co-Permittee to individually, or in combination:
  - a. Develop an inventory and map of Permittee MS4 facilities and Outfalls to Receiving Waters.
  - b. Develop a schedule to be submitted within 18 months to conduct and implement systematic investigations of MS4 open channels and Major Outfalls.
  - c. Use field indicators to identify potential Illegal Discharges, if applicable;
  - d. Track Illegal Discharges to their sources<sup>41</sup> where feasible; and
  - e. Educate the public about Illegal Discharges and Pollution Prevention where problems are found.
- F. The Permittees shall continue to integrate IC/ID detection and elimination into their inspection programs, training of Permittee staff, and monitoring data collection and other indicator data.
- G. The Permittees shall annually review and evaluate their IC/ID program, including litter/trash BMPs, to determine if the program needs to be adjusted. Findings of the review and evaluation shall be submitted with the Annual Report.
- H. The Permittees shall maintain a database summarizing IC/ID incident response (including IC/IDs detected as part of field monitoring activities). This information shall be updated on an ongoing basis and submitted with the Annual Report.
- I. The Permittees shall control, consistent with the MEP standard, Illegal Discharges (including the discharge of spills, leaks, or dumping of any materials other than storm water and authorized non-storm water) into the MS4. All reports of Illegal Discharge shall be promptly investigated and reported as specified in Section XVI (Notification Requirements).
- J. In the 2004-2005 Annual Report, the Permittees characterized trash, determined its main source(s) and developed and implemented appropriate BMPs to reduce and/or to eliminate the discharge of trash and debris to Waters of the US to the MEP. The BMPs should be continued and their effectiveness must be reported in the Annual Report.
- K. Where non-jurisdictional IC/IDs within a Permittees jurisdiction are identified, the Permittees will notify the responsible party and the Executive Officer of the discharge.

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<sup>41</sup> Table 2: Land uses, Generating Sites and Activities that Produce Indirect Discharges from IDDE, A Guidance Manual for Program Development and Technical Assessments, October 2004 CWP.

**X. SEWAGE SPILLS, INFILTRATION INTO THE MS4 SYSTEMS FROM LEAKING SANITARY SEWER LINES, SEPTIC SYSTEM FAILURES, AND PORTABLE TOILET DISCHARGES**

- A. The Permittees shall continue to provide local sanitation districts 24-hour access to the MS4 to address sewage spills. The Permittees shall continue to work cooperatively with the local sewer agencies to determine and control the impact of infiltration from leaking sanitary sewer systems on Urban Runoff quality. Each Permittee shall implement control measures necessary to minimize infiltration of seepage from sanitary sewers to the MS4 through routine preventative maintenance of the MS4.
- B. Each Permittee shall continue to cooperate and coordinate with the sewage collection/treatment agencies as described in Appendix I of the DAMP to swiftly respond to and contain sewage spills that may discharge into its MS4. Management and/or preventive measures shall continue to be implemented for sources including portable toilets, failing septic systems, and failing private laterals that may cause or contribute to Urban Runoff Pollution problems in Permittee jurisdictions.
- C. Permittees who are regulated under the SSO Order No. 2006-0003-DWQ, shall continue to comply with that Order to control sanitary system overflows.
- D. Permittees with septic systems in their jurisdiction shall maintain the inventory of septic systems within its jurisdiction completed in 2008. Updates to the inventory will be maintained by County Environmental Health via a database of new septic systems approved since 2008.

**XI. CO-PERMITTEE INSPECTION PROGRAMS**

The Permittee inspection programs are outlined in Sections 7 and 8 of the DAMP and describe some of the minimum inspection and enforcement procedures utilizing existing inspection programs, provides criteria for characterizing the significance of violations, criteria for prioritizing violations, appropriate response actions corresponding to the priority of violations and identifies the hierarchy of enforcement/compliance responses. Section 3.4 of the DAMP provides a framework to standardize the implementation and enforcement by the Co-Permittees of their respective Storm Water Ordinances. The Co-Permittees shall continue to enforce their respective Storm Water Ordinances consistent with the DAMP and this Order.

**A. GENERAL REQUIREMENTS**

- 1. The Co-Permittees shall continue to maintain and update a database inventory of all active Construction Sites, and Industrial and Commercial Facilities within their jurisdiction consistent with the database requirements of Section 7 and 8 of the DAMP. Construction Sites and Industrial and Commercial Facilities shall be

- included in the database inventories regardless of whether the Construction Sites or Commercial and Industrial Facilities are subject to the General Construction Permit or the General Industrial Permit or other individual NPDES permit or WDRs.
2. The Co-Permittee inspection database inventory described in Section XI.A.1 shall be maintained in an electronic database format that may be made available to the Regional Board upon request (e.g. request via phone call, e-mail, letter, etc.). The database inventory must be consistent with the requirements of Sections 7 and 8 of the DAMP. Supporting paper (or electronic) files shall also be maintained and made available upon Regional Board request. Supporting files should include a record of inspection dates, the results of each inspection, photographs (if any), video (if any) and a summary of any enforcement actions taken. The inventory databases shall be updated on an annual basis and an electronic copy shall be provided with each Annual Report.
  3. The Co-Permittee shall not issue an occupancy permit to an Industrial Facility or other license authorizing the facility to operate, unless the applicant is informed of the General Industrial Permit and that it may have to secure coverage under the General Industrial Permit. The Co-Permittees shall verify during Industrial Facility inspections whether a site has obtained necessary permit coverage under the General Industrial Permit.
  4. If the Industrial Facility's SIC code falls under the mandatory category the Co-Permittee shall notify the Regional Board and the applicant that they may be required to obtain coverage under the General Industrial Permit.
  5. Permits for Construction Sites shall not be granted until appropriate coverage under the General Construction Permit (s) is verified.
  6. Perceived Non-filers for the General Storm Water Permits shall be reported consistent with Section XVI.E.
  7. If a Co-Permittee receives notice by its staff or from a third party of a non-Emergency Situation representing a possible violation of the General Storm Water Permit or other permit issued by the State or Regional Board to an Industrial Facility or Construction Site, the Co-Permittee shall, within two (2) working days, provide oral or e-mail notice to Regional Board staff of the location within its jurisdiction where the incident occurred and describe the nature of the incident. After notifying the Regional Board, no further action is necessary regarding the General Storm Water Permits. However, each Co-Permittee shall take appropriate actions to bring an Industrial Facility or Construction Site into compliance with its Storm Water Ordinances.
  8. The Co-Permittees need not inspect facilities already inspected by Regional Board staff if the inspection was conducted within the specified time period. Regional

Board staff inspection information is available at [www.ciwqs.ca.gov](http://www.ciwqs.ca.gov)<sup>42</sup>.

9. Each Co-Permittee shall respond to complaints received from third parties regarding Construction Sites and Industrial and Commercial Facilities in a timely manner to ensure that the sites are not a source of Pollutants to the MS4 and the Receiving Waters.
10. The Co-Permittees shall enforce their Storm Water Ordinances and permits at all Construction Sites and Industrial, and Commercial Facilities in a fair, firm and consistent manner. Sanctions for non-compliance as required under Section VIII (Legal Authority/Enforcement) shall be deemed adequate to bring the site into compliance with their Storm Water Ordinances and permits.
11. Each Co-Permittee shall document, evaluate and annually report the effectiveness of its enforcement procedures in achieving prompt and timely compliance with inspection programs. Sanctions for non-compliance shall be adequate to bring the site into compliance and to stop the Pollutant discharge consistent with the requirements of Section VIII of this Order.
12. The Principal Permittee and the County have implemented the CAP. Through the Riverside County Department of Environmental Health, the CAP addresses storm water compliance issues at restaurant facilities and businesses that must have a hazardous material permit for either storing, handling or generating hazardous materials. As described in Section 8 of the DAMP, the Permittees must either participate in the CAP or implement an equivalent inspection program. The cities of Corona and Riverside maintain such programs through their respective POTW pre-treatment programs that may be supplemented by the activities of the Department of Environmental Health during routine inspections. The County is establishing a stand-alone NPDES Storm water Compliance Inspection and Enforcement Program (CIEP) for Industrial and Commercial Facilities in the unincorporated areas of the County.
13. Where inspections and/or enforcement required by this Order are carried out on behalf of the Co-Permittee by other agencies or departments such as the County Department of Environmental Health, county and local fire departments, hazardous materials programs, code enforcement, industrial pretreatment, and building and safety, the Co-Permittee shall monitor and annually evaluate and report adequacy of program coverage and enforcement response in complying with this Order.
14. All inspectors shall be trained in accordance with Section XV.

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<sup>42</sup> To obtain access to the State database, registration at the following link is necessary: [http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/chc\\_npdes.shtml](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/chc_npdes.shtml). Contact information is available at [http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/contactus.shtml](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/contactus.shtml).

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## B. CONSTRUCTION SITES

1. Each Co-Permittee shall include in the electronic database identified in Section XI.A.2 an inventory of all Construction Sites within its jurisdiction for which building or grading permits have been issued and activities at the site include: soil movement; uncovered storage of materials or wastes, such as dirt, sand or fertilizer; or exterior mixing of cementaceous products, such as concrete, mortar or stucco.
2. Each Permittee shall continue to prioritize Construction Sites within its jurisdiction as a high, medium or low threat to water quality. Evaluation of construction sites shall be based on factors, which shall include but not be limited to: soil erosion potential, project size, proximity and sensitivity of Receiving Waters and any other relevant factors. At a minimum, high priority Construction Sites shall include: sites disturbing 50 acres and greater; sites disturbing over 1 acre with Direct Discharge to Receiving Waters with CWA Section 303(d) listed waters for sediment or turbidity impairments; site specific characteristics<sup>43</sup>; and any other relevant factor. At a minimum, medium priority construction sites shall include: sites disturbing between 10 to less than 50 acres of disturbed soil.
3. Each Permittee shall conduct Construction Site inspections for compliance with its ordinances (grading, WQMPs, etc.) and local permits (building, grading, etc.). The Permittees shall develop a checklist for conducting Construction Site inspections. Inspections of Construction Sites shall include, but not be limited to:
  - a. Verification of coverage under the General Construction Permit (PRDs or Waste Discharge Identification Number [WDID]) during the initial inspection. As Permittees become aware of changes in ownership, they shall notify Regional Board staff.
  - b. Ensure that the BMPs implemented on-site are effective for the appropriate phase of construction (preliminary stage, mass grading stage, streets and utilities stage etc.).
  - c. Visual observations for Illegal Discharges, potential Illicit Connections, and potential Pollutant sources.
  - d. Implementation and maintenance of BMPs required under local requirements.
  - e. An assessment of the effectiveness of BMPs implemented at the site and the need for any additional BMPs.

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<sup>43</sup> The recently adopted General Construction Permit Order No. 2009-0009-DWQ includes risk-based characterization of construction sites based on site-specific conditions.

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4. At a minimum, the inspection frequency shall include the following:
  - a. During the Wet Season (October 1 through May 31 of each year), all high priority Construction Sites are to be inspected, in their entirety, once a month. All medium priority Construction Sites are to be inspected at least twice during the Wet Season. All low priority Construction Sites are to be inspected at least once during the Wet Season. Construction Sites that disturb less than one acre may be inspected on an as needed basis. When BMPs or BMP maintenance is deemed inadequate or out of compliance, an inspection frequency of at least once per week should be maintained until BMPs and BMP maintenance are brought into compliance.
  - b. During the Dry Season (June 1 through September 30 of each year), all Construction Sites shall be inspected at a frequency sufficient to ensure that sediment and other Pollutants are properly controlled and that unauthorized, Non-storm Water discharges are prevented.

### **C. INDUSTRIAL FACILITIES**

1. To establish priorities for inspection, the Permittees shall continue to prioritize Industrial Facilities within their jurisdiction as a high, medium, or low threat to water quality. Continual evaluation of these Industrial Facilities should be based on such factors as type of industrial activities (i.e., SIC codes), materials or wastes used or stored outside, Pollutant discharge potential, compliance history, facility size, proximity and sensitivity of Receiving Waters and any other relevant factors described in Section 8 of the DAMP. At a minimum, a high priority shall be assigned to: Industrial Facilities subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA); Industrial Facilities that handle or generate Pollutants for which the receiving water is impaired, facilities that have a significant potential to release pre-production plastics or nurdles into the environment, and Industrial Facilities with a high potential for or history of unauthorized, Non-storm Water discharges.
2. Each Co-Permittee shall conduct Industrial Facility inspections for compliance with its ordinances, permits and this Order. Industrial Facility inspections shall be consistent with Section 8 of the DAMP. If an inspection indicates the need for follow-up, Co-Permittee follow-up inspections shall include a review of the Industrial Facility's material and waste handling and storage practices, written documentation of Pollutant control BMP implementation and maintenance procedures, digital photographic documentation of water quality violations as well as evidence of past or present unauthorized, Non-storm Water discharges and enforcement actions issued at the time of the Co-Permittee inspection. Report of inspections shall be included in the Annual Report and shall provide the basis for downgrading or upgrading priority ranking of Industrial Facilities.

3. All high priority Industrial Facilities are to be inspected at least once a year; all medium priority Industrial Facilities are to be inspected at least once every two years; and all low priority Industrial Facilities are to be inspected at least once during the term of this Order. In the event that inappropriate material or waste handling or storage practices are observed, or unauthorized, non-storm water discharges are observed, an enforcement order shall be issued and a re-inspection frequency adequate to bring the Industrial Facility into compliance must be maintained (at a minimum, once a month or within the compliance schedule prescribed by the Co-Permittee in a written notice to the discharger). Once compliance is achieved, a minimum inspection frequency of once every six months should be maintained for the annual reporting period.
4. Each Co-Permittee shall continually identify undocumented Industrial Facilities within its jurisdiction and shall add them to the database, as identified in Section XI.A.2. Additionally, each Industrial Facility shall be listed as per the criteria in specified in Section XI.C.1 within 15 days from the initial date of discovery of the Industrial Facility.
5. Each Permittee shall require Industrial Facilities to implement source control and pollution prevention measures consistent with the requirements of Section 8. of the DAMP.

#### **D. COMMERCIAL FACILITIES**

1. Each Permittee shall continue to implement the CAP or equivalent, pursuant to Section 8. of the DAMP and Section XI.A.9 (complaints) of this Order; Section 8 shall be modified to clarify the types of facilities specifically addressed by the CAP. Within 18 months, the Co-Permittees shall also identify any facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities (e.g. private golf courses, athletic fields, cemeteries, and private parks) within their jurisdiction and determine if these facilities warrant additional inspection to protect water quality.
2. The Permittees shall continue to develop BMPs applicable for each of the Commercial Facilities described in Section 8 of the DAMP.
3. The Co-Permittees shall continue to prioritize Commercial Facilities within their jurisdiction as a high, medium, or low threat to water quality based on such factors as the type, magnitude, and location of the commercial activity, proximity and sensitivity of Receiving Waters, potential for discharge of Pollutants to the MS4, Commercial Facilities that handle or generate Pollutants for which the Receiving Water is Impaired, frequency of inspections and facilities with a high potential for or history of unauthorized, Non-storm Water discharges.
4. All high priority Commercial Facilities shall be inspected at least once per year; all medium priority Commercial Facilities shall be inspected at least every two years; and all low priority Commercial Facilities shall be inspected at least once during the

term of this Order. At a minimum, each Commercial Facility shall be required to implement source control and pollution prevention BMPs consistent with the requirements of Section 8 of the DAMP. Co-Permittee follow-up inspections should include a review of BMPs implemented, their effectiveness and maintenance; written and photographic documentation of materials and waste handling and storage practices; evidence of past or present unauthorized, Non-storm Water discharges; and an assessment of management/employees awareness of storm water pollution prevention measures.

5. In the event that inappropriate material or waste handling or storage practices are observed, or there is evidence of past or present unauthorized, Non-storm Water discharges, a written enforcement order shall be issued at the time of the initial inspection for CAP equivalent inspection programs or at the time of the CAP follow-up inspection, to bring the Commercial Facility into compliance.
6. Within 18 months of adoption of this Order, the Co-Permittee shall notify all mobile businesses based within their jurisdiction concerning the minimum Source Control and Pollution Prevention BMPs that they must develop and implement. For purposes of this Order, mobile businesses include: mobile auto washing/detailing; equipment washing/cleaning; carpet, drape, furniture cleaning; and mobile high pressure or steam cleaning activities that are based out of a Co-Permittee's jurisdiction. The mobile businesses shall be required to implement appropriate BMPs within 3 months of being notified by the Co-Permittees. The Co-Permittees shall also notify mobile businesses discovered operating within their jurisdiction.
7. Within 24 months of adoption of this Order, the Co-Permittees shall develop an enforcement strategy to address mobile businesses.
8. The Co-Permittees should continue to maintain the CAP restaurant inspection program, or equivalent. Inspections for Commercial Facilities with restaurants shall, at a minimum, address:
  - a. Oil and grease disposal to verify that these wastes are not poured onto a parking lots, streets or adjacent catch basins;
  - b. Trash bin areas, to verify that these areas are clean, the bin lids are closed, the bins are not used for liquid waste disposal and wash water from the bins is not disposed of into the MS4;
  - c. Parking lot, alley, sidewalk and street areas to verify that floor mats, filters and garbage containers are not washed in those areas and that no wash water is disposed of in those areas;
  - d. Parking lot areas to verify that they are cleaned by sweeping, not by hosing down, and that the facility operator uses dry methods for spill cleanup; and,
  - e. Violations of the Storm Water Ordinance shall be enforced by the jurisdictional Co-Permittee.

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## E. RESIDENTIAL PROGRAM

1. Within 18 months of adoption of this Order, each Co-Permittee shall develop and implement a residential program consistent with these requirements to reduce the discharge of Pollutants from residential activities to the MS4, consistent with the MEP standard.
2. The Co-Permittees shall identify residential activities that are potential sources of Pollutants and develop and/or enhance Fact Sheets/BMPs as appropriate. At a minimum, this should include: residential auto washing and maintenance activities; use and disposal of pesticides, herbicides, fertilizers and household cleaners; and collection and disposal of pet wastes. The Permittees shall distribute the Fact Sheets/BMPs and appropriate information from organizations such as the Riverside-Corona Resource Conservation District<sup>44</sup> and USDA's Backyard Conservation Program<sup>45</sup> to the residents to ensure that discharges from the residential areas are not causing or contributing to a violation of Water Quality Standards in the Receiving Waters.
3. The Co-Permittees, collectively or individually, shall facilitate the proper collection and management of used oil, toxic and hazardous materials, and other household wastes. The Permittees should continue distribution of information regarding the dates and locations of temporary and permanent household hazardous waste and antifreeze, oil, battery and paint collection events and facilities, and financial support of household hazardous waste and antifreeze, oil, battery and paint collection facilities and events or curbside or special collection sites managed by the Co-Permittees or private entities, such as solid waste haulers.
4. The Regional Board recommends continuation of Co-Permittee efforts to coordinate with local water purveyors and other stakeholders to encourage efficient irrigation and minimize runoff from residential areas.
5. The Co-Permittees shall enforce their Storm Water Ordinance as appropriate to control the discharge of Pollutants associated with residential activities.
6. Each Co-Permittee shall include an evaluation of its residential program in the Annual Report starting with the second Annual Report after adoption of this Order.

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<sup>44</sup> The Riverside-Corona Resource Conservation District (RCRCD) provides gardening and horticulture information appropriate for the area including native plant selection, backyard management, alternatives to pesticide, irrigation scheduling and composting. The RCRCD is sponsored by the cities and county of Riverside Only Rain Down the Storm Drain Pollution Prevention Program.

<sup>45</sup> Backyard Conservation, Bringing Conservation from the Countryside to Your Backyard, USDA Natural Resources Conservation Service, National Association of Conservation Districts, Wildlife Habitat Council and National Audubon Society.

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## XII. NEW DEVELOPMENT (INCLUDING SIGNIFICANT REDEVELOPMENT)

### A. GENERAL REQUIREMENTS:

1. Each Co-Permittee, consistent with the DAMP, and requirements of this Order, when considering any map or permit for a New Development or Significant Redevelopment project for which discretionary approval is sought, must continue to require such map or permit to obtain coverage under the General Construction Permit, where applicable, prior to the issuance of grading or construction permits. Each Co-Permittee shall specify its verification procedure and any tools utilized for this purpose in its LIP.
2. Each Co-Permittee must continue to implement those BMPs identified in Section 7.1 of the DAMP. Each Permittee shall ensure that the erosion and sediment control plans it approves include appropriate erosion and sediment control BMPs (i.e., erosion measures for slopes greater than a certain length or hill-side developments, ingress/egress controls, perimeter controls, run-on diversion, if significant) such that a distinct and effective combination of BMPs consistent with site risk is implemented through all phases of construction.
3. The land use approval process of each Co-Permittee must continue to require post-construction BMPs, Source Control BMPs and Treatment Control BMPs and identify their locations and long-term maintenance responsibilities consistent with the requirements of this Order.
4. Each Permittee shall ensure, consistent with the MEP standard and within the limits of its legal authority, that runoff from New Development and Significant Redevelopment projects not regulated under this Order but that require encroachment permits for connections to the MS4 regulated under this Order are consistent with the requirements of this Order including the model WQMP for the Permit Area.
5. Each Permittee shall ensure that appropriate BMPs to reduce erosion and mitigate Hydromodification are included in the design for replacement of existing culverts or construction of new culverts and/or bridge crossings to the MEP<sup>46</sup>.
6. Each Permittee shall ensure, consistent with the MEP standard, that runoff from development projects it approves, does not cause nuisance to adjoining downstream properties and stream channels.
7. Each Permittee shall ensure to the MEP that MS4s<sup>47</sup> are appropriately maintained consistent with Section XIV of this Order or are adequately maintained by a legally responsible party.

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<sup>46</sup> This type of project may require a CWA Section 404 Permit.

8. Each Permittee shall require applicants to minimize the short and long-term adverse impacts on Receiving Water quality from New Development and Significant Redevelopment maps or permits where discretionary approval is sought, as required in Section XII.D below, by: (1) continuing to review, approve, and verify implementation of project-specific WQMPs, implementation of LID principles, where feasible; (2) addressing HCOCs; and (3) ensuring that long term BMP operation and maintenance mechanisms are in place prior to project closure or issuance of certificates of occupancy.
9. The requirements of Section XII.D below shall apply to Permittee projects that meet the New Development and Significant Redevelopment criteria.
10. Each Permittee shall participate in the development of a Watershed Action Plan, described in Section XII.B, below, to integrate water quality, stream protection and storm water management and use within the Permit Area with land use planning policies, ordinances, and plans.

## **B. WATERSHED ACTION PLAN**

1. An integrated watershed management approach may facilitate integration of planning and project approval processes with water quality and quantity control measures. Management of the impacts of Permit Area urbanization on water quality and stream stability is more effectively done on a per-site, neighborhood and municipal basis based on an overall watershed plan. Pending completion of the Watershed Action Plan consistent with this section, management of the impacts of urbanization shall be accomplished using existing programs. The Permittees shall develop a Watershed Action Plan to address the entire Permit Area. The Permittees may choose to develop sub-watershed action plans based on the overall Watershed Action Plan in the future based on new 303(d) impairments, TMDL requirements, or other factors.
2. The Permittees shall develop and submit to the Executive Officer for approval a Watershed Action Plan that describes and implements the Permittees' approach to coordinated watershed management. The objective of the Watershed Action Plan is to address watershed scale water quality impacts of urbanization in the Permit Area associated with Urban TMDL WLAs, stream system vulnerability to Hydromodification from Urban Runoff, cumulative impacts of development on

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<sup>47</sup> Urban runoff conveyance systems created or resulting from development projects approved by Permittees.

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vulnerable streams, preservation of Beneficial Uses of streams in the Permit Area, and protection of water resources, including groundwater recharge areas.

3. Within three years of Permit adoption, the Co-Permittees shall develop the Watershed Action Plan and implementation tools to address impacts of urbanization in a holistic manner. At a minimum, the Watershed Action Plan shall include the following:
  - a. Describe proposed Regional BMP approaches that will be used to address Urban TMDL WLAs.
  - b. Develop recommendations for specific retrofit studies of MS4, parks and recreational areas that incorporate opportunities for addressing TMDL Implementation Plans, Hydromodification from Urban Runoff and LID implementation.
  - c. Description of regional efforts that benefit water quality (e.g. Western Riverside County Multiple Species Habitat Conservation Plan, TMDL Task Forces, Water Conservation Task Forces, Integrated Regional Watershed Management Plans) and their role in the Watershed Action Plan. The Permittees shall describe how these efforts link to their Urban Runoff Programs and identify any further coordination that should be promoted to address Urban WLA or Hydromodification from Urban Runoff to the MEP.
4. Within two years of adoption of this Order, the Permittees shall delineate existing unarmored or soft-armored stream channels in the Permit Area that are vulnerable to Hydromodification from New Development and Significant Redevelopment projects.
5. Within two years of completion of the delineation in Section XII, B.4 above, develop a Hydromodification management plan (HMP) describing how the delineation will be used on a per project, sub-watershed, and watershed basis to manage Hydromodification caused by urban runoff. The HMP shall prioritize actions based on drainage feature/susceptibility/risk assessments and opportunities for restoration.
  - a. The HMP shall identify potential causes of identified stream degradation including a consideration of sediment yield and balance on a watershed or sub-watershed basis.
  - b. Develop and implement a HMP to evaluate Hydromodification impacts for the drainage channels deemed most susceptible to degradation. The HMP will identify sites to be monitored, include an assessment methodology, and required follow-up actions based on monitoring results. Where applicable, monitoring sites may be used to evaluate the effectiveness of BMPs in preventing or reducing impacts from Hydromodification.

6. Identify Impaired Waters [CWA § 303(d) listed] with identified Urban Runoff Pollutant sources causing impairment, existing monitoring programs addressing those Pollutants, any BMPs that the Permittees are currently implementing, and any BMPs the Permittees are proposing to implement consistent with the other requirements of this Order. Upon completion of XII.B.4, develop a schedule to implement an integrated, world-wide-web available, regional geodatabase of the impaired waters [CWA § 303(d) listed], MS4 facilities, critical habitat preserves defined in the Multiple Species Habitat Conservation Plan and stream channels in the Permit Area that are vulnerable to Hydromodification from Urban Runoff.
7. Develop a schedule to maintain the geodatabase required in Section XII.B.4 and other available and relevant regulatory and technical documents associated with the Watershed Action Plan.
8. Within three years of adoption of this Order, the Watershed Action Plan shall be submitted to the Executive Officer for approval and incorporation into the DAMP. Within six months of approval, each Permittee shall implement applicable provisions of the approved revised DAMP and incorporate applicable provisions of the revised DAMP into the LIPs for watershed wide coordination of the Watershed Action Plan.
9. The Permittees shall also incorporate Watershed Action Plan training, as appropriate, including training for upper-level managers and directors into the training programs described in Section XV. The Co-Permittees shall also provide outreach and education to the development community regarding the availability and function of appropriate web-enabled components of the Watershed Action Plan.
10. Invite participation and comments from resource conservation districts, water and utility agencies, state and federal agencies, non-governmental agencies and other interested parties in the development and use of the Watershed Geodatabase;

#### **C. INCORPORATION OF WATERSHED PROTECTION PRINCIPLES INTO PLANNING PROCESSES**

1. Within 24 months of adoption of this Order, each Co-Permittee shall review its General Plan and related documents including, but not limited to its development standards, zoning codes, conditions of approval and development project guidance to eliminate any barriers to implementation of the LID principles and HCOC discussed in Section XII.E of this Order. The results of this review along with any proposed action plans and schedules shall be reported in the Annual Report for the corresponding reporting year. Any changes to the project approval process or procedures shall be reflected in the LIP.

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2. The Co-Permittees shall continue to ensure that their General Plan and related land use ordinances and land use approval processes (including, but not limited to, its approved development standards, zoning ordinances, standard conditions of approval, or project development guidelines) ensure the principles and policies enumerated below are properly considered and are incorporated, as appropriate, into the land use approval process to the MEP:
  - a. Limit disturbance of natural water bodies and drainage systems; conserve natural areas; protect slopes and channels; minimize significant adverse impacts from Urban Runoff on the biological integrity of natural drainage systems and water bodies;
  - b. Minimize changes in hydrology and Pollutant loading; require incorporation of controls including Source Control and Treatment Control BMPs to mitigate any projected increases in Pollutant loads and flows; ensure that post-development runoff rates and velocities from a site do not adversely impact downstream erosion and stream habitat; minimize the quantity of Urban Runoff directed to impermeable surfaces and the MS4; and maximize the percentage of permeable surfaces to allow more percolation of Urban Runoff into the ground;
  - c. Preserve wetlands, riparian corridors, and buffer zones that provide important water quality benefits; establish reasonable limits on the clearing of vegetation from the project site;
  - d. Encourage the use of BMPs to manage Urban Runoff quantity and quality, consistent with XII.C.1 above;
  - e. Provide for appropriate permanent measures to reduce Pollutant loads in Urban Runoff from the development site; and
  - f. Establish development guidelines for areas particularly susceptible to erosion and sediment loss.
3. The Co-Permittees, when acting as a CEQA Lead Agency for a project requiring a CEQA document, must identify at the earliest possible time in the CEQA process resources under the jurisdiction by law of the Regional Board which may be affected by the project. The preliminary WQMP should identify the need for any CWA Section 401 certification. The Co-Permittees should coordinate project review with Regional Board staff pursuant to the requirements of CEQA. Upon request by Regional Board staff, this coordination shall include the timely provision of the discharger's identity and their contact information and the facilitation of early-consultation meetings.
4. The following potential impacts shall be considered during CEQA review:
  - a. Potential impact of project construction on Urban Runoff.
  - b. Potential impact of project's post-construction activity on Urban Runoff.

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- c. Potential for discharge of Pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor areas.
  - d. Potential for discharge of Urban Runoff to affect Beneficial Uses of the Receiving Waters.
  - e. Potential for significant changes in the flow velocity and/or volume of Urban Runoff that could cause environmental harm.
  - f. Potential for significant increases in erosion of the project site or surrounding areas.
5. Each Permittee shall provide the Regional Board with the draft amendment or revision when a pertinent General Plan element or the General Plan is noticed for comment in accordance with Govt. Code § 65350 et seq.

**D. WATER QUALITY MANAGEMENT PLAN (WQMP) FOR URBAN RUNOFF (FOR NEW DEVELOPMENT/ SIGNIFICANT REDEVELOPMENT):**

1. Each Permittee shall continue to require project-specific WQMPs for those maps and permits described below for which discretionary approval is sought and as further described in Section 6 and Appendix O of the DAMP. Within 18 months of adoption of this Order, the Permittees shall submit a revised WQMP to incorporate new elements required in this Order. The primary objective of the WQMP, by addressing Site Design, Source Control and Treatment Control BMPs applied on a regional, sub-regional or site specific basis, is to ensure that the land use approval process of each Co-Permittee will minimize Pollutant loads in Urban Runoff from maps or permits for which discretionary approval is given.
2. Each Co-Permittee shall ensure that an appropriate WQMP is prepared for the following categories of New Development and Significant Redevelopment projects for which a map or permit for discretionary approval is sought:
  - a. *All significant re-development projects:* Significant re-development is defined as the addition or replacement of 5,000 or more square feet of impervious surface on an already developed site. Significant Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of the facility, or emergency redevelopment activity required to protect public health and safety. Where redevelopment results in an increase of less than fifty percent of the impervious surfaces of a previously existing developed site, and the existing development was not subject to WQMP requirements, the numeric sizing criteria discussed below applies only to the addition or replacement, and not to the entire developed site.

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Where redevelopment results in an increase of fifty percent or more of the impervious surfaces of a previously existing developed site, the numeric sizing criteria applies to the entire development.

- b. For purposes of this Order, the categories of development identified below, shall be collectively referred to as "New Development".
  - i. New developments that create 10,000 square feet or more of impervious surface (collectively over the entire project site) including commercial and industrial projects and residential housing subdivisions requiring a Final Map. (i.e., detached single family home subdivisions, multi-family attached subdivisions, condominiums, apartments, etc.); mixed use and public projects (excluding Permittee road projects). This category includes development projects on public and private land, which fall under the planning and building authority of the Co-Permittees.
  - ii. Automotive repair shops (with SIC codes 5013, 5014, 5541, 7532-7534, 7536-7539).
  - iii. Restaurants (with SIC code 5812) where the land area of development is 5,000 square feet or more.
  - iv. Hillside developments disturbing 5,000 square feet or more which are located on areas with known erosive soil conditions or where the natural slope is twenty-five percent or more.
  - v. Developments of 2,500 square feet of impervious surface or more adjacent to (within 200 feet) or discharging directly into ESAs.
  - vi. Parking lots of 5,000 square feet or more exposed to storm water. Parking lot is defined as land area or facility for the temporary parking or storage of motor vehicles.
  - vii. Retail Gasoline Outlets (RGOs) that are either 5,000 square feet or more with a projected average daily traffic of 100 or more vehicles per day.
  - viii. Emergency public safety projects in any of the above-listed categories may be excluded if the delay caused due the requirement for a WQMP compromises public safety, public health and/or environmental protection.
3. WQMPs shall include BMPs (on-site and/or watershed-based), for the discharge of any urban sourced 303(d) listed Pollutant to an Impaired Waterbody on the 303(d) list such that the discharge shall not cause or contribute to an exceedance of Receiving Water Quality Objectives.
4. Treatment Control BMPs shall be in accordance with the approved WQMP and must be sized to comply with one of the following numeric sizing criteria:

- a. VOLUME - Volume-based Treatment Control BMPs shall be designed to infiltrate, filter, or treat either:
  - i. The volume of runoff produced from a 24-hour, 85th percentile storm event, as determined from the County of Riverside's 85th Percentile Precipitation Isopluvial Map; or,
  - ii. The volume of annual runoff produced by the 85th percentile, 24-hour rainfall event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998); or,
  - iii. The volume of annual runoff based on unit basin storage volume, to achieve 80% or more volume treatment by the method recommended in California Storm Water Best Management Practices Handbook – Industrial/Commercial (1993); or,
  - iv. The volume of runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in Pollutant loads and flows as achieved by mitigation of the 85th percentile, 24-hour runoff event;

OR

- b. FLOW - Flow-based BMPs shall be designed to infiltrate, filter, or treat either:
  - i. The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour; or,
  - ii. The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity, as determined from the local historical rainfall record, multiplied by a factor of two; or,
  - iii. The maximum flow rate of runoff, as determined from the local historical rainfall record that achieves approximately the same reduction in Pollutant loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two.
5. Within 24 months of adoption of this Order, the Permittees shall develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs. The recommendations should include information needed to be submitted to Regional Board for consideration of regional Treatment Control BMPs. At a minimum, it should include: BMP location; type and effectiveness in removing Pollutants of Concern; projects tributary to the regional treatment system; engineering design details; funding sources for construction, operation and maintenance; and parties responsible for monitoring effectiveness, operation and maintenance.
6. The Permittees shall continue to require other development projects for which a map or permit for discretionary approval is sought (projects that are not New Developments or Significant Re-developments required to develop project-specific

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WQMPs) to incorporate conditions of approval, to require appropriate Site Design, Source Control and any other BMPs which may or may not include Treatment Control BMPs.

7. The Permittees shall ensure that the revised WQMP addresses:
  - a. A review and update of Source Control BMPs required for New Development and Significant Redevelopment.
  - b. Update of the list of Treatment Control BMPs, including an evaluation of their effectiveness based on national, statewide or regional studies.

8. Groundwater Protection:

Treatment Control BMPs utilizing infiltration [exclusive of incidental infiltration and BMPs not designed to primarily function as infiltration devices (such as grassy swales, detention basins, vegetated buffer strips, constructed wetlands, etc.)] must comply with the following minimum requirements to protect groundwater:

- a. Use of structural infiltration Treatment Control BMPs shall not cause or contribute to an exceedance of groundwater Water Quality Objectives.
- b. Use of structural infiltration Treatment Control BMPs shall not cause a Nuisance or pollution as defined in Water Code Section 13050.
- c. Use of structural infiltration Treatment Control BMPs shall not be used in areas of known soil or groundwater contamination<sup>48</sup>, without written authorization from the Regional Board Executive Officer.
- d. Located at least 100 feet horizontally from any water supply well.
- e. The vertical distance from the bottom of any infiltration structural Treatment Control BMP to the historic high groundwater mark shall be at least 10 feet. Where the groundwater basins do not support Beneficial Uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained.
- f. Source Control and Pollution Prevention BMPs shall be implemented to protect groundwater quality.
- g. Adequate pretreatment of runoff prior to infiltration shall be required in gas stations and large commercial parking lots.
- h. Unless adequate pre-treatment of runoff is provided prior to infiltration, structural infiltration Treatment Control BMPs must not be used for areas of industrial or light industrial activity, such as: areas subject to high vehicular traffic (25,000 or more daily traffic), car washes; nurseries; or any other high threat to water quality land uses or activities.

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<sup>48</sup> Extra diligence should also be performed when proposing infiltration BMPs in areas where the proposed land use is often associated with soil and groundwater contamination.

- i. Class V injection wells or dry wells must not be placed in areas subject to vehicular<sup>49</sup> repair or maintenance activities<sup>50</sup>, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work.

**E. LOW IMPACT DEVELOPMENT (LID) AND HYDROMODIFICATION MANAGEMENT TO MINIMIZE IMPACTS FROM NEW DEVELOPMENT/SIGNIFICANT REDEVELOPMENT PROJECTS:**

1. Within 18 months of adoption of this Order, the Permittees shall update the WQMP to address LID principles and HCOC consistent with the MEP standard. A copy of the updated WQMP shall be submitted to the Executive Officer for approval. Within six months of approval, each Permittee shall implement the updated WQMP. Onsite LID principles as close to Pollution sources as possible shall be given preference, however, project site, sub-regional or regional LID principles may also be applied.
2. The Permittees shall require those projects identified in Section XII.D.2. to infiltrate, harvest and use, evapotranspire and/or bio-treat<sup>51</sup> the 85<sup>th</sup> percentile storm event ("Design Capture Volume"). The Design Capture Volume should be calculated as specified in Section XII.D.4.a, above. It is recognized that LID principles are not universally applicable and they are dependent on factors such as: soil conditions including soil compaction and permeability, groundwater levels, soil contaminants (Brownfield development), space restrictions (in-fill projects, redevelopment projects, high density development, transit-oriented developments), highest and best use of Urban Runoff (to support downstream uses), etc. Any portion of this volume that is not infiltrated, harvested and used, evapotranspired, and/or bio-treated shall be treated and discharged in accordance with the requirements set forth in Section XII.G, below.
3. The Permittees shall incorporate LID site design principles into the revised WQMP to reduce runoff to a level consistent with the MEP standard. The Co-Permittees

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<sup>49</sup> Vehicles include automobiles; motor vehicles include trucks, trains, boats, motor cycles, farm machineries, airplanes, and recreation vehicles such as snow mobiles, all terrain vehicles, and jet skis.

<sup>50</sup> United States Environmental Protection Agency, Office of Water, EPA 816-R-00-008, September 2000 *State Implementation Guidance - Revisions to the UIC Regulations for Class V Injection Wells and "Class V Rule"* (Revisions to the Underground Injection Control Regulations for Class V Injection Wells, 64 FR 68546) indicate that these activities are prohibited from Class V injection wells.

<sup>51</sup> A properly engineered and maintained bio-treatment system may be considered only if infiltration, harvesting and use and evapotranspiration cannot be feasibly implemented at a project site (feasibility criteria will be established in the WQMP [Section XII.G.1]. Specific design, operation and maintenance criteria for bio-treatment systems shall be part of the WQMP that will be produced by the Permittees.

shall require that New Development and Significant Redevelopment projects include Site Design BMPs during the development of the project-specific WQMP. The design goal shall be to maintain or replicate the pre-development hydrologic regime through the use of design techniques that create a functionally equivalent post-development hydrologic regime through site preservation techniques and the use of integrated and distributed infiltration, retention, detention, evapotranspiration, filtration and treatment systems. The revised WQMP should continue to consider Site Design BMPs described in Appendix O of the DAMP and LID principles described in the pending Southern California Stormwater Monitoring Coalition/CASQA *LID Guidance Manual for Southern California*.

4. Within 18 months of adoption of this Order, each Permittee shall revise, where feasible its ordinances, codes, building and landscape design standards to promote green infrastructure/LID techniques including, but not limited to, the following:
  - a. Landscaping designs that promote longer water retention and evapotranspiration such as 1 foot depth of compost/top soil in commercial and residential areas on top of 1 foot of non-compacted subsoil, concave landscape grading to allow runoff from impervious surfaces, and water conservation by selection of water efficient native plants, weather-based irrigation controllers, etc.
  - b. Allow permeable surface designs in low traffic roads and parking lots. This may require land use/building code amendment.
  - c. Allow natural drainage systems for street construction and catchments (with no drainage pipes) and allow vegetated ditches and swales where feasible.
  - d. Require landscape in parking lots to provide treatment, retention or infiltration.
  - e. Reduce curb requirements where adequate drainage, conveyance, treatment and storage are available.
  - f. Amend land use/building codes to allow no curbs, curb cuts and/or stop blocks in parking areas and residential streets with low traffic.
  - g. Use of green roof, rain garden, and other green infrastructure in urban/suburban area.
  - h. Allow rainwater harvesting and use.
  - i. Narrow streets provide alternatives to minimum parking requirements, etc. to facilitate LID where acceptable to public safety departments.

- j. Consider vegetated landscape for storm water treatment as an integral element of streets, parking lots, playground and buildings.
  - k. Consider and facilitate application of landform grading techniques<sup>52</sup> and revegetation as an alternative to traditional approaches, particularly in areas susceptible to erosion and sediment loss such as hillside development projects,
  - l. Other site design BMPs identified in the WQMP not included above.
5. Consistent with the requirements of AB 1881, each Co-Permittee is mandated to update its landscape ordinance. The bill requires the local agencies to adopt the State Model Water Efficient Landscape Ordinance<sup>53</sup> or prepare one that is "at least as effective" as the State Model by January 2010. The proposed state model ordinance applies to landscape requiring a building or landscape permit, plan check or design review. Each Permittee shall provide the Regional Board a copy of its report to Department of Water Resources (DWR).
  6. Each Permittee shall implement effective education programs to educate property owners to use Pollution Prevention BMPs and to maintain on-site hydrologically functional landscape controls.
  7. To reduce Pollutants in Urban Runoff, address Hydromodification, and manage Urban Runoff as a resource to the MEP, the revised WQMP shall specify preferential use of Site Design BMPs that incorporate LID techniques, where feasible, in the following manner (from highest to the lowest priority):
    - a. Preventative measures (these are mostly non-structural measures, e.g., preservation of natural features to a level consistent with the MEP standard; minimization of Urban Runoff through clustering, reducing impervious areas, etc.) and
    - b. Mitigation measures (these are structural measures, such as, infiltration, harvesting and use, bio-treatment, etc.).
  8. The mitigation or structural Site Design BMPs shall also be prioritized (from highest to lowest priority):
    - a. Infiltration BMPs (examples include permeable pavement with infiltration beds, dry wells, infiltration trenches, surface and sub-surface infiltration basins. The Permittees should work with local groundwater management agencies to ensure that infiltration Treatment Control BMPs are designed appropriately;

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<sup>52</sup><http://www.epa.gov/Region3/mnttop/pdf/appendices/d/aquatic-ecosystem-enhanc-symp/symposiumfinal.pdf>

<sup>53</sup> [http://www.owue.water.ca.gov/docs/final\\_req\\_text.pdf](http://www.owue.water.ca.gov/docs/final_req_text.pdf)

- b. BMPs that harvest and use (e.g., cisterns and rain barrels); and
  - c. Vegetated BMPs that promote infiltration and evapotranspiration including bioretention, biofiltration and bio-treatment. Upon the Permittees' determination of LID infeasibility per Section XII.G, design capture volume specified in Section XII.D.4, that is not addressed by onsite or offsite LID *Site Design BMPs* as listed above shall be treated using *Treatment Control BMPs* as described in Section XII.G.
9. Hydrologic Condition of Concern (HCOC):
- a. The Permittees shall continue to ensure, consistent with the MEP standard, through their review and approval of project-specific WQMPs that New Development and Significant Redevelopment projects do not pose a HCOC due to increased runoff volumes and velocities.
  - b. A New Development and Significant Redevelopment project does not cause a HCOC if any one of the following conditions is met:
    - i) The project disturbs less than one acre and is not part of a common plan of development.
    - ii) The volume and the time of concentration<sup>54</sup> of storm water runoff for the post-development condition is not significantly different from pre-development condition for a 2-year return frequency storms (a difference of 5% or less is considered insignificant). This may be achieved through Site Design and Treatment Control BMPs.
    - iii) All downstream conveyance channels to an adequate sump (e.g. Prado Dam, Lake Elsinore, Canyon Lake, Santa Ana River or other lake, reservoir or natural resistant feature) that will receive runoff from the project are engineered and regularly maintained to ensure design flow capacity, and no sensitive stream habitat areas will be affected; or not identified in the Permittees Hydromodification sensitivity maps required in Section XII.B.3, and no sensitive stream habitat areas will be affected.
    - iv) The Permittees may request a variance from these criteria based on studies conducted by the Southern California SMC, SCCWRP, CASQA, or other regional studies. Requests for consideration of any variances should be submitted to the Executive Officer.
  - c. If a HCOC exists, the WQMP shall include an evaluation of whether the project will adversely impact downstream erosion, sedimentation or stream habitat. This evaluation should include consideration of pre- and post-development hydrograph volumes, time of concentration and peak discharge velocities for a

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<sup>54</sup> Time of concentration is defined as the time after the beginning of rainfall when all portions of the drainage basin are contributing simultaneously to flow at the outlet.

2-year storm event, construction of sediment budgets, and a sediment transport analysis. If the evaluation determines adverse impacts are likely to occur, the project proponent shall implement additional Site Design BMPs, on-site BMPs, Treatment Control BMPs and/or in-stream BMPs<sup>55</sup> to mitigate the impacts. The project proponent should first consider Site Design BMPs and on-site BMPs prior to proposing in-stream BMPs; in-stream BMPs must not adversely impact Beneficial Uses or result in sustained degradation of Receiving Water quality and shall require all necessary regulatory approvals<sup>56</sup>.

- d. HCOC are considered mitigated if they meet one of the following conditions:
- i. Require additional onsite or offsite mitigation to address potential erosion or habitat impact using LID BMPs.
  - ii. The project is developed consistent with an approved Watershed Action Plan that addresses HCOC for the downstream Receiving Waters.
  - iii. Mimicking the pre-development hydrograph with the post-development hydrograph, for a 2-year return frequency storm. Generally, the hydrologic conditions of concern are not significant, if the post-development hydrograph is no more than 10% greater than pre-development hydrograph. In cases where excess volume cannot be infiltrated or captured and reused, discharge from the site must be limited to a flow rate no greater than 110% of the pre-development 2-year peak flow.
- e. If site conditions do not permit items i, through iv, above, the alternatives and in-lieu programs discussed under Section XII.G, below, may be considered.

## F. ROAD PROJECTS

1. Within 24 months of adoption of this Order, the Co-Permittees shall develop standard design and post-development BMP guidance to be incorporated into projects for streets, roads, highways, and freeway improvements, under the jurisdiction of the Co-Permittees to reduce the discharge of Pollutants from the projects to the MEP. The draft guidance shall be submitted to the Executive Officer for review and approval and shall meet the performance standards for site design/LID BMPs, Source Control and Treatment Control BMPs as well as the

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<sup>55</sup> In-stream measures involve modifying the receiving stream channel slope and geometry so that the stream can convey the new flow regime without increasing the potential for erosion and aggradation. In-stream measures are intended to improve long-term channel stability and prevent erosion by reducing the erosive forces imposed on the channel boundary.

<sup>56</sup> In-stream control projects require a Stream Alteration Agreement from the California Department of Fish & Game, a CWA section 404 permit from the U.S. Army Corps of Engineers, and a section 401 certification from the Water Board. Early discussions with these agencies on the acceptability of an in-stream modification are necessary to avoid project delays or redesign.

HCOOC criteria. The guidance and BMPs shall address streets, roads or highways under the jurisdiction of the Co-Permittees used for transportation of automobiles, trucks, motorcycles, and other vehicles, and excludes routine road maintenance activities where the surface footprint is not increased. The guidance shall incorporate principles contained in the USEPA guidance, "Managing Wet Weather with Green Infrastructure: Green Streets" to the MEP and at a minimum shall include the following:

- a. Guidance specific to new road projects;
  - b. Guidance specific to projects for existing roads;
  - c. Size or impervious area criteria that trigger project coverage;
  - d. Preference for green infrastructure approaches wherever feasible;
  - e. Criteria for design and BMP feasibility analyses on a project-specific basis.
2. Within six months of approval by the Executive Officer, the Permittees shall implement the standard design and post-development BMP guidance for all road projects. Pending approval of the standard design and post-development BMP guidance, site specific WQMPs for streets road and highway projects shall be required pursuant to Section XII.D.2.

## **G. ALTERNATIVES AND IN-LIEU PROGRAMS**

1. Within 18 months of adoption of this Order, the Permittees shall develop technically-based feasibility criteria for project evaluation to determine the feasibility of implementing LID BMPs which may include factors such as a groundwater protection assessment to determine if infiltration BMPs are appropriate for the site<sup>57</sup>. These criteria shall be submitted to the Executive Officer for approval. Only those projects that have completed a feasibility analysis as per the approved criteria should be considered for alternatives and in-lieu programs. If a particular BMP is not technically feasible, other BMPs should be implemented to achieve the same level of compliance, or if the cost of BMP implementation greatly outweighs the Pollution control benefits, the Co-Permittees may grant a waiver of the BMPs. All waivers, along with waiver justification documentation, must be submitted to the Executive Officer for approval in writing within 30 days prior to Permittee approval.

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<sup>57</sup> Such feasibility determinations may be based on regional analyses conducted by the Permittees (see finding G-14) or on site specific conditions. Site specific determinations shall be certified by a Professional Civil Engineer registered in the State of California, and will be documented in the project WQMP, which shall be approved by the Permittee prior to submittal to the Executive Officer. Within 30 days of submittal to the Executive Officer, the Permittee will be notified if the Executive Officer intends to take any action.

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- If a waiver is granted, the Permittees shall ensure that project proponents participate in one of the in-lieu programs discussed in this section.
2. The Permittees may collectively or individually propose to establish an Urban Runoff fund to be used for urban water quality improvement projects within the same watershed that is funded by contributions from developers granted waivers. The contributions should be at least equivalent to the cost savings for waived projects and the urban runoff funds shall be expended for projects that provide at least an equivalent amount of water quality improvement (there shall be no net impact on water quality due to a waived project). If a waiver is granted and an Urban Runoff fund is established, the Annual Report for the year should include:
    - a. Total amount deposited into the funds; and
    - b. The party responsible for managing the Urban Runoff fund;
    - c. Projects funded or proposed to be funded with monies from the urban runoff fund with details on expected water quality improvement;
    - d. Party or parties responsible for designing, construction, operation and maintenance of urban runoff funded projects, and
    - e. Current status and a schedule for project completion.
  3. The obligation to install Treatment Control BMPs at a New Development or Significant Redevelopment project is met if, for a common plan of development, BMPs are constructed with the requisite capacity to serve the entire common project, even if certain phases of the common project may not have BMP capacity located on that phase in accordance with the requirements specified above. The goal of the WQMP is to develop and implement practicable programs and policies to minimize the effects of urbanization on site hydrology, Urban Runoff flow rates, velocities, duration and time of concentration and Pollutant loads. This goal may be achieved through watershed-based Treatment Control BMPs, in combination with site-specific BMPs. All Treatment Control BMPs should be located as close as possible to the Pollutant sources, should not be located within Waters of the US, and Pollutant removal should be accomplished prior to discharge to Waters of the US. Regional Treatment Control BMPs shall be operational prior to occupation of any of the New Development or Significant Redevelopment project sites tributary to the regional Treatment Control BMP.
  4. The Permittees may establish, where feasible and practicable, a water quality credit system for alternatives to infiltration, harvesting and use, evapotranspiration and other LID and Hydromodification requirements specified above. The following types of projects may be included in this credit system:
    - a. Redevelopment projects that reduces the overall impervious area
    - b. Brownfield redevelopment

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- c. High density developments (>7 units per acre)
  - d. Mixed use and transit-oriented development (within ½ mile of transit)
  - e. Dedication of undeveloped portions of the project site to parks, preservation areas and other pervious uses
  - f. Regional treatment systems with a capacity to treat flows from all upstream developments
  - g. Offsite mitigation or dedicated mitigation areas within the same watershed
  - h. Highly urbanized areas such as city center area
  - i. Historic Districts and Historic Preservation areas
  - j. Live-work developments
  - k. In-fill projects
  - l. Projects that enhance the transport of coarse sediment to the coast for beach replenishment.
5. The water quality credit system should not result in a net impact on water quality.
  6. A summary of waivers of LID (along with a short description of the Section XII.G.2 through XII.G.4 In-Lieu program selected), Hydromodification and Treatment Control BMPs along with any water quality credit granted, in-lieu projects, or urban runoff fund contribution required by each Co-Permittee shall be included in the Annual Report.

#### **H. APPROVAL OF WQMP**

Within 18 months of adoption of this Order, each Permittee shall develop and implement standard procedures and tools and include in its LIP the following:

1. The Permittees shall utilize a mechanism for review and approval of WQMPs, including a checklist that incorporates the minimum requirements of the model WQMP. The process for review and approval shall be described in the Permittees LIP.
2. The Co-Permittees shall maintain a database to track structural post-construction BMPs (consistent with XII.K.4 below).
3. Continue to ensure that the entity(ies) responsible for BMP maintenance and the mechanism for BMP funding is identified prior to WQMP approval.
4. The Permittees shall train those involved with WQMP reviews in accordance with Section XV, Training Requirements.

#### **I. FIELD VERIFICATION OF BMPS**

1. The Co-Permittees' permit close-out procedures shall include field verification that structural Site Design, Source Control and Treatment Control BMPs are designed, constructed and functional in accordance with the approved WQMP.
2. Prior to occupancy, the Co-Permittees shall verify through visual observation that the BMPs are working and functional.
3. The Co-Permittees may accept self-certification or third-party certification of BMPs from State-licensed professional engineers.

#### **J. CHANGE OF OWNERSHIP AND RECORDATION**

The Co-Permittees shall establish a mechanism to ensure that appropriate easements and ownerships are properly recorded in public records at the County and/or the city and the information is conveyed to all appropriate parties when there is a change in project or site ownership.

#### **K. OPERATION AND MAINTENANCE OF POST-CONSTRUCTION BMPS**

1. The Co-Permittees shall ensure that structural post construction BMPs are designed and implemented with control measures necessary to effectively minimize the creation of Nuisance or Pollution associated with vectors, such as mosquitoes, rodents, flies, etc. The Co-Permittee should work with the local vector agencies to ensure that structural post construction BMPs are designed to minimize the potential for vector breeding during operation and maintenance.
2. The Co-Permittees shall specify conditions of approval and as built inspections ensure that require proper maintenance and operation of any structural post construction BMPs including requirements for vector control.
3. The parties responsible for the maintenance and operation of the structural post construction BMPs, and a funding mechanism for operation and maintenance of structural post construction BMPs for the life of the project shall be identified prior to issuance of occupancy permits. Design of these structures shall allow adequate access for maintenance.
4. Each Co-Permittee shall maintain a database to track the operation and maintenance of the structural post construction BMPs installed after adoption of this Order. The database shall include: type of BMP; watershed where it is located; date of certification; party responsible for maintenance and any problems identified during inspection including any vector or nuisance problems.
5. Within 18 months of adoption of this order and annually thereafter, all Permittee-owned structural post construction BMPs installed after the date of this Order shall be inspected prior to the Rainy Season. The Co-Permittees shall also develop an

inspection frequency for New Development and Significant Redevelopment projects, based on the project type and the type of structural post construction BMPs deployed. Pursuant to XII.K.4, all New Development and Significant Redevelopment, structural post construction BMPs shall be inspected within the five-year Permit Term. The Co-Permittees shall ensure that the BMPs are operating and are maintained properly and all BMPs are working effectively to remove Pollutants in runoff from the site. If vector problems are identified, the Co-Permittees should work with the vector control agencies to remedy vector control problems. All inspections shall be documented and kept as Permittee record. The Co-Permittees may accept inspection reports conducted and certified by state licensed professional engineers in lieu of Co-Permittee inspections.

6. The Annual Report shall include a list of all structural post construction BMPs approved contained in the database required in XII.K.4 above.

#### **L. PRE-APPROVED PROJECTS**

The above provisions for LID and HCOC are not applicable to projects that have an approved WQMP as of the date of approval of the revised WQMP. The above provisions shall be implemented in a manner consistent with the MEP standard for all other projects 45 days from the date of approval of the revised WQMP. The Regional Board recognizes that full implementation may not be feasible for certain projects which have received tentative tract or parcel map or other discretionary approvals.

### **XIII. PUBLIC EDUCATION AND OUTREACH**

- A. The Permittees shall continue to implement the public education efforts already underway and shall continue to promote the most effective elements of the comprehensive public and business education strategy contained in the ROWD and Section 10 of the DAMP. As part of the Annual Report, the Permittees shall review their public education and outreach efforts and revise their activities to adapt to the needs identified in the annual reassessment of program priorities with particular emphasis on addressing the Pollutants of Concern. Results of this review shall direct the focus of its public education effort and cause recommendations for any changes to the public and business education program including: (1) how to make the multimedia efforts more effective; (2) a reevaluation of audiences and key messages for targeted behaviors; and (3) opportunities for participation in regional and statewide public education efforts. The goal of the public and business education program shall be to target 100% of the residents, including businesses, commercial and industrial establishments.
- B. A status report on the requirements of this section and any changes to the on-going public education program shall be described in the Annual Report.

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- C. The Permittees shall implement an assessment program to measurably increase public knowledge of its communities regarding MS4 and impacts of Urban Runoff on Receiving Waters. The Permittees shall implement programs that can measure the change in behavior of its target communities to reduce Pollutant releases to the MS4 and the environment. A description of the program tasks, schedule and measurable goals shall be included in the first Annual Report due after adoption of this Order.
- D. When feasible, the Permittees shall participate in joint outreach programs with other agencies including, but not limited to, the Santa Ana Watershed Project Authority, Caltrans, and other county and municipal storm water programs to ensure that a consistent message on storm water pollution prevention is disseminated to the public.
- E. The Permittees shall continue to ensure that appropriate outreach materials are available for construction, industrial and commercial inspection programs. Outreach materials should be provided to Permittee inspectors for distribution to inspected facilities.
- F. Within 18 months from the date of adoption of this Order, the Permittees shall ensure that they have developed, maintained and distributed BMP guidance for the control of those potentially polluting activities identified during the term of the 2002 MS4 Permit, which are not otherwise regulated by any agency, including guidelines for the household use of fertilizers, pesticides, herbicides and other chemicals, and guidance for mobile vehicle maintenance, carpet cleaners, commercial landscape maintenance, and pavement cutting. These guidance documents shall be distributed to the public, trade associations, etc., through participation in community events, trade association meetings and/or by mail.
- G. The Permittees shall ensure that appropriate educational materials, including the BMP brochures, are provided to all new industrial and commercial enterprises within their jurisdiction at the time appropriate permits (e.g. business licenses or occupancy permits) are issued.
- H. The Permittees shall continue to maintain, and if necessary enhance, public education materials to encourage the public to report: Illegal Dumping and unauthorized, non-storm water discharges from residential, industrial, construction and commercial sites into public streets, storm drains and to surface waterbodies and their tributaries; clogged storm drains; and faded stencils or missing catch basin markers. The Principal Permittee's hotline and web site shall provide guidance regarding where to locate information regarding general Urban Runoff pollution control measures. The hotline and website information shall be included in outreach materials and shall be listed in the governmental pages of prominent regional phone books and on the Co-Permittees' website.
- I. The Permittees shall maintain a Public Education Committee to provide oversight and guidance for the implementation of the public education program. The Permittees shall

continue to participate in the Public Education Committee to review and update existing guidance for the implementation of the public education program. One of the functions of the Public Education Committee shall be to review outreach materials for construction, industrial and commercial inspection programs and residential outreach to ensure they appropriately address common violations observed during inspections. Once deficiencies are identified, alternative text to address the deficiency shall be developed within 6 months and reported in the Annual Report. The Public Education Committee shall meet at least twice per year.

- J. The Permittees shall continue to sponsor or staff a table or booth at community, regional, and/or countywide events to distribute public education materials related to Urban Runoff pollution prevention to the public. Each Permittee shall participate in at least one event per year.
- K. Successful implementation of the provisions and limitations in this Order will require the cooperation of all the public agency organizations within Riverside County having programs/activities that have an impact on Urban Runoff quality. This may include, but not be limited to, those listed in Appendix 2. As such, the Permittees should coordinate their efforts with those organizations where feasible and appropriate to ensure participation in implementing the requirements of this Order. The Permittees should notify the Regional Board where assistance is needed improving local cooperation.
- L. Within 18 months of adoption of this Order, each Permittee shall develop BMP Fact Sheets for mobile businesses for distribution consistent with the requirements of Section XI.D.6. At a minimum, the mobile business Fact Sheets/training program should include: laws and regulations dealing with Urban Runoff and discharges to MS4; appropriate BMPs and proper procedures for disposing of Wastes generated from each mobile business category.
- M. The Principal Permittee shall continue to develop and distribute BMP guidance for Permittee and contract field operations and maintenance staff to provide guidance in appropriate Pollution Prevention measures, how to respond to spills and reports of Illegal Discharges, etc.

#### **XIV. PERMITTEE FACILITIES AND ACTIVITIES**

- A. Each Permittee shall continue to implement measures to ensure that their facilities and activities do not cause or contribute to a Pollution or Nuisance in Receiving Waters, as defined in Section 13050 of the Water Code. The Permittees must annually review their activities and facilities to determine the need for revisions to Section 5 of the DAMP and to their LIP. The Annual Report shall include the findings of this review and a schedule for any needed revisions. The Permittees should continue to use Facility Pollution Prevention Plans as noted in Chapter 5 of the DAMP to ensure that the Permittee facilities are not sources of Pollutants to the Waters of the US to the MEP.

- B. Within 12 months of adoption of this Order, each Permittee shall review its inventory of fixed facilities listed in the DAMP, its field operations and MS4 facilities to ensure that Permittee facilities and activities are addressed by Facility Pollution Prevention Plans consistent with Chapter 5 of the DAMP and do not cause or contribute to a Pollution or Nuisance in Receiving Waters. Existing Facility Pollution Prevention Plans shall be reviewed to insure proper BMPs for these facilities. For Permittee facilities and/or activities tributary to CWA Section 303(d) Impaired Water Bodies that generate Pollutants for which the water body is Impaired, additional Pollutant-specific Source Control BMPs to target that Pollutant shall be identified and implemented in the Facility Pollution Prevention Plan to the MEP.
- C. Each Permittee shall conduct inspections of its fixed facilities and field operations identified in Chapter 5 of the DAMP annually to ensure that they do not contribute Pollutants to Receiving Waters. The Permittees shall record the findings in the inspection forms developed by the Permittees. Each Permittee shall implement BMPs to manage the application, storage, and disposal of pesticides, herbicides, and fertilizers associated with their facilities and activities. At a minimum, the Facility Pollution Prevention Plans for these facilities and activities shall:
1. Ensure that Permittee applicators (including contractors) and distributors have appropriate training, permits, and certifications;
  2. Utilize integrated pest management measures that rely on non-chemical solutions, to the extent practicable;
  3. Promote the use of native vegetation into facility landscaping;
  4. Include schedules for irrigation and chemical application to the extent feasible; and
  5. Collect and properly dispose of unused pesticides, herbicides, and fertilizers.
  6. The following BMP fact sheets are identified as minimum BMPs::
    - i. SC-35/SC-61, Safer Alternative Products
    - ii. SC-41, Building & Grounds Maintenance
    - iii. SC-60, Housekeeping Practices
    - iv. SC-73, Landscape Maintenance
- D. Each Permittee shall review, update, and implement the individual clean out schedules and frequency for its MS4, including open channels, catch basins, retention/detention facilities and wetlands created for Urban Runoff treatment during the Wet and Dry Season to protect Receiving Water quality consistent with the MEP standard. The inspection and cleaning frequency for all portions of the specified MS4 shall be included in each Permittee's LIP and shall be evaluated annually to determine the need for adjusting the inspection and cleaning frequency. Each Permittee must clean those MS4 facilities where there is evidence of Illegal Discharge. In addition, each Permittee must clean those retention/detention basins and MS4 where the inspection reveals that the storage

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volume is about 25% full or if accumulated sediment or debris impairs the hydraulic capacity of the facility.

- E. Unless otherwise supported by field information, each Permittee shall at a minimum inspect, clean, and maintain at least 80% of its open channels, catch basins, retention/detention basins, and wetlands created for Urban Runoff treatment on an annual basis, with 100% of the facilities in a two year period. The MS4 clean out schedule shall continue to be included in the Annual Report.
- F. Each Permittee shall examine opportunities to retrofit existing MS4 facilities with water quality protection measures, where feasible.

## **G. PERMITTEE COMPLIANCE WITH GENERAL PERMITS**

### **1. GENERAL CONSTRUCTION PERMIT**

- a. All Permittee Construction Sites shall be in compliance with the latest adopted version of the General Construction Permit.
- b. This Order authorizes the discharge of storm water runoff from Permittee Construction Sites that may result in land disturbance consistent with the acreage criteria of the General Construction Permit.
- c. Prior to commencement of construction activities, the Permittees shall notify the Executive Officer of the proposed Construction Site by submitting a NOI, or Permit Registration Documents (PRDs) as provided in Attachment 5, and a location map depicting the Construction Site location. The filing fees for these NOIs/PRDs are waived for the Permittees.
- d. Upon completion of the construction project, the Executive Officer shall be notified of the completion of the project by submitting (1) A Notice of Termination (NOT), provided in Attachment 5. (2) Photographs of the completed project; (3) A site map (depicting the project location and the locations of structural post-construction BMPs, including the latitude and longitude if appropriate); and (4) copies of the final field verification reports required under Section XII.I.
- e. The Permittees shall develop, approve, and implement a WQMP for Permittee projects that meet the requirements of Section XII.D. of this Order.
- f. The Permittees shall develop and implement a SWPPP and the monitoring and reporting program for their construction projects that meet the requirements of the latest version of the General Construction Permit. The Permittee must review and approve SWPPPs prepared by their contractors.
- g. The Permittees shall give advance notice to the Executive Officer of planned changes in the construction activity, which may result in non-compliance with the latest version of the General Construction Permit.

- h. Emergency Permittee projects required to protect public health and safety are exempted from compliance with the requirements of this subsection until the emergency ends, at which time they need to comply with the requirements of this section.

## **2. GENERAL DE-MINIMUS PERMIT DISCHARGES**

- a. The Permittees are authorized to discharge de-minimus types of discharges listed under the latest adopted version of the Regional Board's General De Minimus Discharge Permit, currently Order No. R8-2009-0003. The de-minimus discharges from Permittee owned and/or operated facilities and/or activities shall be in compliance with Order No. R8-2009-0003 except that the Permittees need not pay the filing fee.
- b. The Permittees shall notify the Executive Officer of the proposed discharge at least 15 days prior to start of the discharge, by submitting a NOI and supporting documents, as provided in Attachment 7.
- c. For existing Permittee Dischargers (authorized to discharge under Order No. R8-2009-003 prior to the adoption date of this Order), discharges will continue to be regulated under the terms and conditions of Order No. R8-2003-0003 until a new discharge authorization is issued, provided that the Discharger submits, by June 10, 2010, an updated NOI, a copy of the current Monitoring & Reporting Program previously issued to the Discharger, and proposed treatment modifications (if any). If no application for continued discharges are submitted by that date, the Discharger shall do one of the following:
  - i. Cease discharge and submit a letter informing the Regional Board that coverage under Order R8-2009-003 is no longer needed; or
  - ii. Apply for new discharge authorization as a new de-minimus discharge, under this Order.

## **XV. TRAINING PROGRAM FOR STORM WATER MANAGERS, PLANNERS, INSPECTORS AND MUNICIPAL CONTRACTORS**

- A. Within 24 months of adoption of this Order, the DAMP and each Permittee's LIP shall be updated to include a program to provide formal and where necessary, informal training to Permittee staff that implement the provisions of this Order. Formal training must be implemented as described herein and may consist of regional training provided by the Permittees or individual Co-Permittee training provided in-lieu of Principal Permittee training. Informal training (i.e. tailgate training) shall be implemented by each Permittee on an as-needed basis to supplement the formal

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training. Each Permittee shall maintain a written and/or electronic record of stormwater training provided to its storm water and related program staff.

- B. The training programs should be coordinated with the local Vector Control District to ensure that vector control issues related to post-construction BMPs maintenance and operation are incorporated into the training curriculum.
- C. **Formal Training:** The formal training programs shall educate Permittee employees responsible for implementing requirements of this Order, by providing training on the following Permittee activities: construction site inspection, WQMP review, residential/industrial/commercial site inspection, and Permittee facility maintenance. Formal training may be conducted in classrooms or using videos, DVDs or other multimedia. The program shall consider all applicable Permittee staff such as storm water program managers, construction/industrial/commercial/residential inspectors, planners, engineers, public works crew, etc. and shall: define the required knowledge and competencies for each Permittee compliance activity, outline the curriculum, include testing or other procedures to determine that the trainees have acquired the requisite knowledge to carry out their duties, and provide proof of completion of training such as Certificate of Completion, and/or attendance sheets. The formal training curriculum shall:
1. Highlight the potential effects that Permittee or Public activities related to their job duties can have on water quality.
  2. Overview the principal applicable water quality laws and regulations that are the basis for the requirements in the DAMP.
  3. Discuss the provisions of the DAMP that relate to the duties of the target audience, including but not limited to:
    - a. The requirements of the DAMP regarding Storm Water Ordinances, resolutions, codes, and standards that relate to the duties of the target audience, including enforcement thereof;
    - b. Overview of CEQA requirements contained in Section XII.C of this Order.
    - c. Implementation and assessment of SWPPPs and Facility Pollution Prevention Plans relative to the duties of the target audience;
    - d. Selection, implementation and maintenance of appropriate BMPs relative to the duties of the target audience;
    - e. Tools, checklists and procedures included in the DAMP to assist in implementing the requirements of this Order relative to the duties of the target audience.
- D. **Informal Training:** The informal training shall ensure that staff have the requisite knowledge to implement the applicable provisions in the Permittee's LIP, such as (but not limited to):

1. The requirements of local Storm Water Ordinances, resolutions, codes, and standards that relate to the duties of the target audience;
  2. Local tools, checklists and/or procedures to implement the requirements of this Order relative to the duties of the target audience.
  3. The proper use and maintenance of erosion and sediment controls;
  4. Vector control issues related to storm water pollution control BMPs.
- E. **Reporting:** Formal training shall be summarized and documented in the Annual Reports.
- F. **Schedule:** At a minimum, the training schedule should include the following:
1. New Permittee employees responsible for implementing requirements of this Order must receive informal training within six months of hire and formal training within one year of hire.
  2. Permittee facility maintenance staff must receive formal training at least once every two years.
  3. Permittee inspection and code enforcement (if applicable) employees must receive formal or informal refresher training focused on appropriate BMP implementation at least once a year prior to the rainy season.
  4. Other existing Permittee employees responsible for implementing the requirements of this Order must receive formal training at least once during the term of this Order.
  5. The start date for training programs described in this Section shall be included in the schedule required in Section III.A.1.q, but shall be no later than six months after Executive Officer approval of DAMP updates applicable to the Permittee activities described in Section XIV.
- G. The Permittees shall require verification of BMP training from contract staff where applicable.
- H. The Permittee(s) shall include designated Regional Board staff on training notification e-mails announcing upcoming formal training sessions.

## XVI. NOTIFICATION REQUIREMENTS

- A. Within 24 hours of discovery, the Permittees shall provide oral or email notification to Regional Board staff of events within its jurisdiction that are determined to be an Emergency Situation. Following oral notification, a written report must be submitted within 10 days of receipt of notice of the Emergency Situation, detailing the nature of the non-compliance, any corrective action taken by the site/facility owner, other relevant information (e.g., past history of the Emergency Situation, environmental damage resulting from the Emergency Situation, site/facility owner responsiveness) and the type of enforcement, consistent with Section 4 of the DAMP, that will be carried out by the Co-Permittee. Further, incidences of noncompliance shall be

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recorded along with the information noted in the written report and the final outcome/enforcement for the incident in the databases for Construction Sites, and Industrial or Commercial Facility inspections, as appropriate.

- B. Notification requirements for non-Emergency Situations that are discovered during the course of Construction Site and Industrial Facility inspections that may be a violation of the General Stormwater Permits are addressed in Sections XI.A.7 of this Order.
- C. Sewage spill notification shall be consistent with the timelines specified in the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Water Quality Order No. 2006-0003-DWQ.
- D. All reportable quantities of Hazardous Waste spills as per 40CFR 117 and 302 shall be reported within 24 hours. All spill incidents shall be also included in the Annual Report. These requirements are consistent with the Notification requirements for IC/IDs that are addressed in Section IX.B of this Order.
- E. Enforcement requirements for Construction Sites and Industrial Facilities operating without an applicable General Stormwater Permit are specified in Section XI.A.7. These Sites and Facilities shall be reported within 14 calendar days to Regional Board staff by electronic mail or other written means. Permittees' notifications of facilities' failure to obtain required coverage under the General Construction Permit, or General Industrial Permit, including requirements to file PRDs. A PRD, NOI, No Exposure Certification, Notice of Non-applicability, and/or 401 Certification must include, at a minimum, the following documentation:
  - 1. Name of the Site or Facility
  - 2. Operator of the Site or Facility
  - 3. Owner of the Site or Facility
  - 4. Construction or Commercial/Industrial activity being conducted at the Site or Facility that is subject to the General Construction Permit, General Industrial Permit or 401 Certification
  - 5. Records of communication with the facility operator regarding the violation, which must include at least an inspection report.
- F. The Permittees shall report to the Executive Officer:
  - 1. Any enforcement actions and known discharges of Urban Runoff to MS4 facilities, known to the Permittees, which may have an impact on human health or the environment consistent with Sections XI.A and XI.B above; if the discharge is to Canyon Lake or any tributary to Canyon Lake, Elsinore Valley Municipal Water District shall also be notified immediately; and
  - 2. Any suspected or reported activities on federal, state, or other entity's land or facilities, where the Permittees do not have any jurisdiction, and where the suspected or reported activities may be contributing Pollutants to Waters of the US

## **XVII. PROGRAM MANAGEMENT ASSESSMENT/DAMP REVIEW**

- A. By November 30 of each year, the Permittees shall evaluate the effectiveness of the Urban Runoff management program described in the DAMP to determine the need for any revisions in order to reduce Pollutants in MS4 discharges consistent with the MEP standard consistent with the reporting requirements in Appendix 3, Section IV.B. In addition, the first Annual Report (November 2010) after adoption of this Order shall include the following:
1. Review of the formal training needs of Permittee employees.
  2. Review of coordination meeting/training for the designated NPDES inspectors.
  3. Proposal for assessment of Urban Runoff management program effectiveness on an area wide as well as jurisdiction-specific basis. Permittees shall utilize the CASQA Guidance<sup>58</sup> for developing these assessment measures at the six outcome levels. The assessment measures must target both water quality outcomes and the results of municipal enforcement activities consistent with the requirements of Appendix 3, Section IV.B.
- B. The Annual Report shall include the findings of this review and a schedule to address necessary revisions, or a copy of the amended DAMP with the proposed changes. Replacement pages are acceptable if modifications are not extensive. Annual Reports shall also be submitted in electronic format.
- C. Upon the effective date of this Order, the Permittees shall implement the 2007 DAMP and modify it to be consistent with the requirements of this Order and the schedules contained herein.
- D. Each Permittee shall designate at least one representative to the Management Steering Committee and Technical Committee. The Principal Permittee shall be notified immediately, in writing, of changes to the designated representative to either Committee. The designated representative for each Committee shall attend that Committee's meeting as follows: at least one (1) out of two (2) Management Steering Committee meetings and eight (8) out of ten (10) Technical Committee meetings per year to discuss issues related to permit implementation and regional and statewide issues.
- E. The Permittees shall continue to implement all elements of the approved DAMP. Program elements revised in compliance with the requirements of this Order must be implemented in conformance with the schedules specified in this Order following approval of the Executive Officer.

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<sup>58</sup> CASQA, May 2007. Municipal Storm Water Program Effectiveness Assessment Guidance.

## **XVIII. FISCAL RESOURCES**

- A. Each Permittee shall exercise its full authority to secure the resources necessary to meet the requirements of this Order. This Order may be revised to adjust time schedules to accommodate prioritization of available resources.
- B. The Permittees shall prepare and submit a financial summary to the Executive Officer. The financial summary shall be submitted with the Annual Report each year and shall, at a minimum, include the following:
  - 1. Each Permittee's MS4 Permit compliance expenditures for the previous fiscal year;
  - 2. Fiscal developments that may impact availability of funding for MS4 Permit compliance program implementation and to achieve the required implementation schedule;
  - 3. Each Permittee's MS4 Permit compliance program budget for the current fiscal year;
  - 4. A description of the source of funds to implement the MS4 Permit compliance program, and;
  - 5. Each Permittee's estimated budget to implement the MS4 Permit compliance program for the next fiscal year.

## **XIX. MONITORING AND REPORTING PROGRAM**

The Permittees must comply with Monitoring and Reporting Program No. R8-2010-0033, Appendix 3, and any revisions thereto, which are hereby made a part of this Order. The Executive Officer is hereby authorized to revise the Monitoring and Reporting Program in a manner consistent with this Order to allow the Permittees to participate in regional, statewide, national or other monitoring and reporting programs in lieu of or in addition to Monitoring and Reporting Program No. R8-2010-0033. In addition, dates for completion and implementation of certain program elements and reporting requirements are outlined in the Monitoring and Reporting Program.

## **XX. PROVISIONS**

- A. All reports submitted by the Permittees as per the requirements in this Order for the approval of the Executive Officer shall be publicly noticed and made available on the Regional Board's website, or through other means, for public review and comments. The Executive Officer shall consider all comments received prior to approval of the reports. Any unresolved significant issues shall be scheduled for a public hearing at a Regional Board meeting prior to approval by the Executive Officer.
- B. Permittees shall demonstrate compliance with all the requirements in this Order and shall implement the DAMP and any modifications, revisions, or amendments thereto, which are developed pursuant to this Order or determined by the Permittees to be necessary to

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meet the requirements of this Order. The DAMP, including any approved amendments thereto is hereby made an enforceable component of this Order.

- C. The Permittees shall implement all elements of the DAMP and its components. Where the dates in the DAMP are different from the corresponding dates in this Order, the dates in this Order shall prevail. Any proposed revisions to the DAMP shall be submitted with the Annual Report for review and approval by the Executive Officer. All approved revisions to the DAMP shall be implemented as per the time schedules approved by the Executive Officer. In addition to those specific controls and actions required by: (1) the terms of this Order and (2) the DAMP and its components, each Permittee shall implement additional controls, if any are necessary, to reduce the discharge of Pollutants in Urban Runoff consistent with the MEP standard.
- D. Certain BMPs implemented or required by the Permittees for Urban Runoff management may create habitat for vectors (e.g., mosquitoes and rodents) if not properly designed and maintained. Close collaboration and cooperative effort between the Permittees and local vector control agencies and the State Department of Health Services are necessary to minimize potential vector habitat and public health impacts resulting from vector breeding. Nothing in this Order is intended to prohibit inspection or abatement of vectors by the State or local vector control agencies in accordance with the respective Health and Safety Code.
- E. Upon approval by the Executive Officer all plans, reports and subsequent amendments required by this Order shall be implemented and shall become an enforceable part of this Order. Prior to approval by the Executive Officer, these plans, reports and amendments shall not be considered as an enforceable part of this Order.
- F. The MS4 permit application and special NPDES program requirements are contained in 40 CFR 122.21 (a), (b), (d)(2), (f), (p); 122.41 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l); and 122.42 (c), and are incorporated into this Order by reference.
- G. The Permittees must comply with all terms, requirements, and conditions of this Order. Any violation of this Order constitutes a violation of the CWA, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and re-issuance, denial of an application for re-issuance, Order revisions, or a combination thereof.
- H. Permittees must continue to take reasonable steps to minimize or prevent any discharge to the MS4 that has a reasonable likelihood of adversely affecting human health or the environment.
- I. Regional Board staff, USEPA, and other authorized representatives must be allowed to:
  - 1. Inspect Permittee records associated with compliance of this Order.
  - 2. Access and copy records that are kept under the conditions of this Order.

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3. Photograph and inspect any facilities or equipment (including monitoring and control equipment) that are related to or may impact storm water discharge or authorized Non-storm Water discharge.
  4. Conduct sampling, and monitoring activities for the purpose of assuring compliance with this Order, or as otherwise authorized by the CWA and/or the Water Code.
  5. Review the Permittee's programs and request the Regional Board to authorize modification to Permittee programs to comply with the requirements of this Order.
  6. Request copies of data, monitoring reports, and sampling data and copies of the Permittee's conclusions and evaluations of the data.
- J. This Order does not convey any property rights or any exclusive privileges.
- K. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.
- L. When Permittees become aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Water Board, State Board, or USEPA, the Permittees must promptly submit such facts or information.
- M. All applications, reports, or information submitted to the Regional Board, State Board, and/or USEPA are to be signed and certified by either:
1. A principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA)
  2. A duly authorized representative of the person in 1, above. A person is a duly authorized representative only if the authorization is made in writing by a person described above;
  3. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
  4. The written authorization is submitted to the Executive Officer.

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5. If an authorization described above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the Executive Officer prior to or together with any reports, information, or applications, to be signed by an authorized representative.
6. Any person signing a document described above must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations".

## **XXI. PERMIT MODIFICATION**

- A. Following appropriate public notice, and in accordance with 40 CFR 122.41(f), this Order may be modified, revoked or reissued prior to its expiration date for the following reasons:
  1. To address significant changes in conditions identified in the technical reports required by the Regional Board which were unknown at the time of the issuance of this Order;
  2. To incorporate applicable requirements of statewide water quality control plans adopted by the State Water Resources Control Board or any amendments to the Basin Plan (including TMDLS) approved by the Regional Board, the State Board and, if necessary, by the Office of Administrative Law and the USEPA;
  3. To comply with any applicable requirements, guidelines, or regulations issued or approved under the Clean Water Act, if the requirements, guidelines, or regulations contain different conditions or additional requirements than those included in this Order; or,
  4. To incorporate new or revised program elements and compliance schedule(s) necessary to comply with this Order;
- B. The filing of a request by the Permittees for modification, revocation and re-issuance, or termination or a notification of planned changes or anticipated noncompliance does not stay any conditions of this Order.
- C. Pursuant to Section 13228 of the Water Code, the Regional Board may exercise its option for allowing the portion of the City of Murrieta located within the Santa Ana Region to be regulated by the San Diego Regional Water Quality Control Board under its Riverside County MS4 Permit. Similarly, if the San Diego Regional Water Quality Control Board authorizes this Regional Board to exercise authority over the City of Menifee within the

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portions of the City regulated by the San Diego Regional Water Quality Control Board, this Regional Board will exercise its authority under this Order in those Regions.

## XXII. PERMIT EXPIRATION AND RENEWAL

- A. This Order expires on January 29, 2015, and the Permittees must file a ROWD no later than 180 days in advance of such expiration date as application for issuance of new waste discharge requirements. The ROWD shall, at a minimum, include the following:
  1. Names and mailing address(es) of the primary administrative and technical contacts for the Permittees that operate the MS4;
  2. Any revisions to the DAMP including, but not limited to, all the activities the Permittees propose to undertake during the next permit term, goals and objectives of such activities, an evaluation of the need for additional source control and/or structural BMPs, any proposed pilot studies, etc.;
  3. Changes in land use and/or population including map updates;
  4. Any significant changes to the MS4 including map updates of the MS4; and
  5. An assessment of the overall Urban Runoff management program and its effectiveness in meeting Water Quality Standards. If Water Quality Standards are not being met, the ROWD shall include new or revised program elements and compliance schedule(s) necessary to comply with Section VI of this Order.
- B. The ROWD, Annual Reports and other information submitted under this Order shall be signed by either a principal executive officer or a ranking elected official (40 CFR 122.22(a)(3)) or a duly authorized representative as per 40 CFR 122.22(b).
- C. This Order shall serve as an NPDES Permit pursuant to Section 402(p) of the Clean Water Act, or amendments thereto, and shall become effective ten days after the date of its adoption provided the Regional Administrator of the USEPA has no objections. If the Regional Administrator objects to its issuance, the Permit shall not become effective until such objection is withdrawn.
- D. The Regional Board is authorized to enforce the terms of this permit under several provisions of the CWC, including, but not limited to, sections 13385, 13386, and 13387.
- E. Order No. R8-2002-0011 is hereby rescinded.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on January 29, 2010.

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Gerard J. Thibeault  
Executive Officer

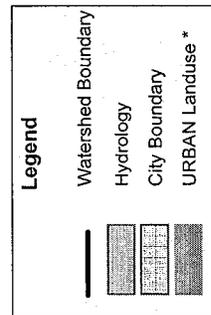
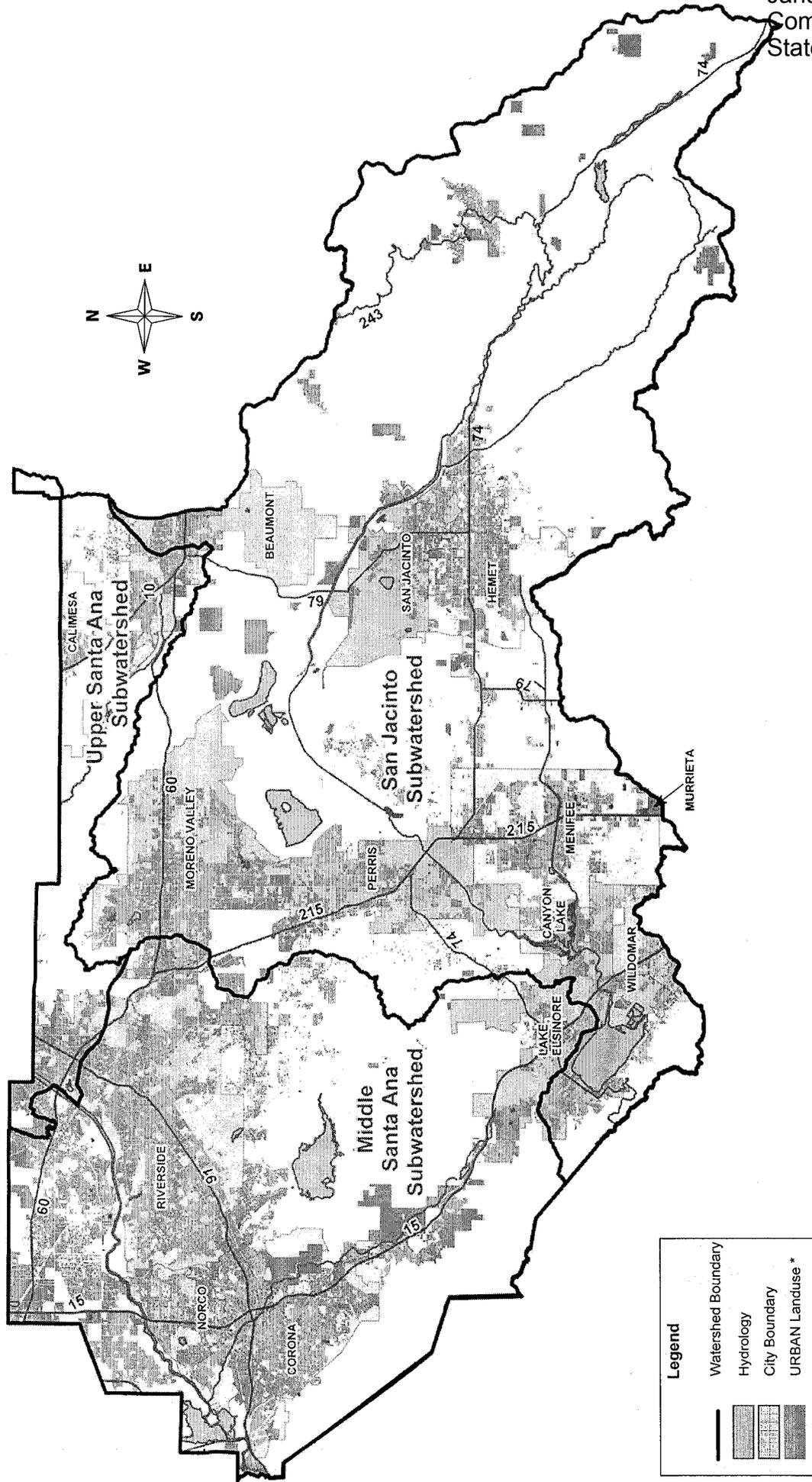
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**APPENDIX 1**

**PERMIT AREA**

**ORDER NO. R8-2010-0033**

ORDER NO. R8-2010-0033 (NPDES NO. CAS618003)  
RIVERSIDE COUNTY AREA-WIDE URBAN RUNOFF MANAGEMENT PLAN



\* Areas not in URBAN: Agricultural, State, Federal, Tribal, Preserves & Open Space, Rural-Residential, Highways/Freeways

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**APPENDIX 2**

**OTHER ENTITIES THAT MAY DISCHARGE POLLUTANTS  
TO THE MS4**

**ORDER NO. R8-2010-0033**

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## Appendix 2

### OTHER POTENTIAL DISCHARGERS TO THE MS4s

#### Government Agencies

Department of the Air Force,  
March Air Force Base – Special Districts  
(regulated under an individual NPDES permit)  
State Parks  
U.S. Army Corps of Engineers  
Caltrans (regulated under a state-wide NPDES  
permit)  
Department of Corrections  
U.S. Forest Service  
U.S. Department of the Interior – Bureau of  
Land Management

#### Hospitals

Corona Community Hospital  
Hemet Valley Medical Center  
Kaiser Foundation Hospital – Riverside  
Loma Linda Hospital (Sun City)  
Parkview Memorial Hospital  
Riverside Community Hospital  
Riverside County Regional Medical Center  
Riverside General Hospital

#### Railroads

AT&SF Railway Company  
Burlington Northern Railroad Company  
Southern Pacific Railroad Company  
Union Pacific Railroad

#### Special Districts/ Wastewater Agencies

Edgemont Community Services District  
Jurupa Community Services District  
Santa Ana Watershed Project Authority  
Rubidoux Community Services District  
Valley Wide Park and Recreation District

#### School Districts

Alvord Unified School District  
Corona – Norco Unified School District  
Hemet Unified School District  
Lake Elsinore Unified School District  
Menifee Union School District  
Moreno Valley Unified School District  
Nuview Union School District  
Perris Elementary School District  
Perris Union High School District  
Riverside Unified School District  
Romoland School District  
San Jacinto Unified School District  
Val Verde School District

#### Universities and Colleges

California Baptist University  
La Sierra University  
Mt. San Jacinto College  
Riverside Community College  
University of California, Riverside  
California School for the Deaf, Riverside

#### Water Districts

Eastern Municipal Water District  
Elsinore Valley Municipal Water District  
Lake Hemet Municipal Water District  
Lee Lake Water District  
Metropolitan Water District  
Western Municipal Water District

#### Tribal Lands

Soboba Band of Luiseno Indians  
Morongo Band of Mission Indians

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**APPENDIX 3**  
**MONITORING AND REPORTING PROGRAM**  
**ORDER NO. R8-2010-0033**

**State of California  
California Regional Water Quality Control Board  
Santa Ana Region**

**Monitoring and Reporting Program No. R8-2010-0033  
NPDES No. CAS618033**

**for**

**Riverside County Flood Control and Water Conservation District,  
The County of Riverside and the Cities of Riverside County  
Within the Santa Ana Region  
AREA-WIDE URBAN STORM WATER RUNOFF MANAGEMENT PROGRAM**

**I. OBJECTIVES**

The overall goal of the Urban Runoff monitoring program is to support the development of an effective Urban Runoff management program. The following are the major objectives:

- A. To identify those Receiving Waters, which, without additional action to control pollution from urban storm water runoff, cannot reasonably be expected to achieve or maintain applicable Water Quality Standards required to sustain the designated beneficial uses, the goals, and the objectives of the Basin Plan.
- B. To develop and support an effective Urban Runoff management program.
- C. To identify significant water quality problems, related to discharges of Urban Runoff within the Permit Area.
- D. To determine water quality status, trends, and Pollutants of concern associated with Urban Runoff and their impact on the Beneficial Uses of the Receiving Waters.
- E. To analyze and interpret the collected data to determine the impact of Urban Runoff and/or validate relevant water quality models.
- F. To characterize Pollutants associated with Urban Runoff, and to assess the influence of urban land uses on Receiving Water quality and associated Beneficial Uses.
- G. To identify other sources of Pollutants in Urban Run off to the maximum extent possible (e.g., including, but not limited to, atmospheric deposition, contaminated sediments, other non-point sources, etc.)
- H. To identify and permit or prohibit Illicit Connections.
- I. To identify, verify and prohibit Illegal Discharges.

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Monitoring and Reporting Program

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- J. To verify and to identify sources of Pollutants in Urban Runoff.
- K. To evaluate the effectiveness of the DAMP and WQMPs, including an estimate of Pollutant reductions achieved by the Site Design (Low Impact Development [LID], Treatment Control and Source Control BMPs implemented by the Permittees.
- L. To evaluate the effectiveness of proposed Urban Runoff management programs to protect Receiving Water quality.

## II. GENERAL MONITORING PROVISIONS

- A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity [40 CFR 122.41(j)].
  - 1. This includes any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality in the case of storm channels and flow quality in the case of streams and lakes
  - 2. All sample collection, handling, storage, and analysis shall be in accordance with test procedures under 40 CFR Part 136 (latest edition) "*Guidelines Establishing Test Procedures for the Analysis of Pollutants*," promulgated by the USEPA, the guidance being developed by the State Board pursuant to Water Code Section 13383.5, or other methods which are more sensitive than those specified in 40 CFR 136 and approved by the Executive Officer.
  - 3. For priority Toxic Pollutants that are identified in the California Toxics Rule (CTR) (65 Fed. Reg. 31682), the Minimum Levels (MLs) published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP) shall be used for all analyses, unless otherwise specified.
  - 4. For priority Toxic Pollutants, if the Permittee can demonstrate that a particular ML is not attainable, in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Principal Permittee must submit documentation from the laboratory to the Regional Board Executive Officer for approval prior to raising the ML for any constituent.
- B. All chemical, bacteriological, and Toxicity analyses shall be conducted at a laboratory certified for such analyses by an appropriate governmental regulatory agency.

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- C. Analytical methods, target reporting limits and data reporting formats shall be compatible with California's Surface Water Ambient Monitoring Program (SWAMP) Quality Assurance Management Plan and with SWAMP's Procedures for Conducting Routine Field Measurement unless otherwise specified in this Monitoring and Reporting Program (MRP).
- D. Revisions of this MRP are appropriate to ensure that the Permittees are in compliance with requirements and provisions contained in this Order. Revisions may be made under the direction of the Executive Officer at any time during the term of the Order, and may include redistribution of monitoring resources to address TMDL needs, a reduction or increase in the number of parameters to be monitored, the frequency of monitoring, or the number and size of samples collected.
- E. The Executive Officer is authorized to allow the Permittees to participate in regional, statewide, national, or other monitoring programs in addition to or as part of this Urban Runoff monitoring program. Also, the Permittees are authorized to complement their Urban Runoff monitoring data with data from other monitoring sources, provided the monitoring conditions and sources are similar to those in the Santa Ana River watershed.
- F. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both [40 CFR 122.41(j)(5)].

### III. MONITORING PROGRAM

- A. The Principal Permittee has been monitoring Urban Runoff and Receiving Waters since the first MS4 permit term. The Principal Permittee currently implements the Consolidated Monitoring Program (CMP) and participates in a number of other storm water or TMDL related monitoring programs such as: TMDL Bacterial and Nutrient Monitoring, WLA Compliance, BMP Effectiveness, Urban Source and Trend Evaluation, Receiving Water Quality, Hydromodification and Bioassessment. The Principal Permittee shall continue to implement the CMP and continue to participate in other related monitoring programs.
- B. The Principal Permittee, on behalf of the Co-Permittees, participates (through a memorandum of understanding and cooperative agreements) with the 16 member agencies of the Storm Water Monitoring Coalition (SMC). The Permittees shall continue to cooperate with other MS4 permittees (including

Orange County and San Bernardino County), Southern California Coastal Water Research Project (SCCWRP), POTW operators, the dairy industry, the Santa Ana Watershed Project Authority (SAWPA), and other public and private organizations in the watershed to develop coordinated surface water quality monitoring programs, databases, and special studies as appropriate. The Regional Board supports continued coordination with SCCWRP and the SMC to facilitate and implement coordinated watershed based monitoring programs. The Permittees may use coordinated monitoring efforts such as the Middle Santa Ana River (MSAR) and Lake Elsinore/Canyon Lake (LE/CL) TMDL Task Forces, SCCWRP and SMC regional monitoring programs to address partially, or in full, the requirements of this MRP. A proposed coordinated monitoring program shall result in the development and implementation of a monitoring plan that:

1. Fully addresses the requirements of this MRP;
  2. Describes how the external monitoring programs address the requirements of the MRP;
  3. Include a quality assurance plan, including data management, validation, verification mechanism for the portions of the monitoring directly conducted by the Permittees;
  4. Reference the locations of the quality assurance plans for regional components; and
  5. Result in a coordinated Annual Report summarizing the pertinent Urban Runoff data from the coordinated programs necessary to address this MRP.
- C. Within 12 months of adoption of this Order, the Permittees shall review the CMP, Regional and TMDL related monitoring programs that they conduct or participate to determine their effectiveness in achieving the Urban Runoff assessment requirements contained in Section IV.B, below. If this review indicates any data gaps, the Principal Permittee shall submit a revised CMP, or coordinate revisions to other regional programs for approval of the Executive Officer to ensure that the combined efforts adequately address the requirements of Section IV.B. The revised CMP, including a description of how other regional efforts combine with the CMP to address requirements of Section IV.B shall be submitted within 16 months of adoption of this Order and shall be implemented within six months of its approval by the Executive Officer. Pending approval of the revised CMP, current monitoring efforts will continue to be implemented.
- D. TMDL/303(d) Listed Waterbody Monitoring: The Permittees identified as dischargers in adopted TMDLs shall continue to participate in TMDL monitoring programs as required by TMDL Implementation Plans. The compliance schedules for the two approved TMDLs within the Permit Area are beyond the five year MS4 Permit term. This Order requires Permittees identified as

dischargers in their respective TDMLs to conduct monitoring required by the TMDL Implementation Plans to determine the effectiveness of the BMPs implemented in reducing Pollutant loads and eventually to attain WLA by the deadlines specified in the respective TMDL Implementation Plans.

1. MSAR Bacteria WLA TMDL USEP monitoring

- a. On June 14, 2007, the TMDL task force members submitted a source evaluation plan and a monitoring plan. The Regional Board approved these plans on June 29, 2007, Resolution No. R8-2007-0046. A revised monitoring plan and an urban Bacterial Indicator source evaluation plan were approved by the Regional Board on April 18, 2008, Resolution No. R8-2008-0044. The MSAR Permittees within the MSAR watershed shall continue to conduct monitoring and source evaluations in accordance with the approved plans and report the findings in accordance with the schedules specified in the approved plans or as updated by subsequent Regional Board approved revisions.
- b. In conformance with Task 3 of the TMDL Implementation Plan contained in Resolution R8-2005-0001, the Permittees shall individually, or in conjunction with the MSAR TMDL Task Force, prepare a triennial report summarizing the data collected for the preceding 3 year period and evaluating compliance with the WLAs. The first report shall be due February 15, 2010.
- c. The Permittees shall conduct monitoring and reporting consistent with Section VI.D. of this Order to evaluate the effectiveness of the BMPs implemented in the watershed and determine their progress towards attaining compliance with the interim WQBELS, and final BMP-based WQBELS, if approved, or the final numeric WQBELS/WLAs.

2. Lake Elsinore/Canyon Lake Nutrient TMDL

- a. Monitor and report the effectiveness of the BMPs implemented in the watershed to control nutrient inputs into the lakes from Urban Runoff. Submit an Annual Report summarizing all relevant data from water quality monitoring programs and evaluating compliance with the LE/CL TMDL by reporting the effectiveness of the BMPs implemented in the watershed to control nutrient inputs into the lake from Urban Runoff pursuant to Regional Board Resolution No. R8-2006-0031 and R8-2007-0083, or as amended by subsequent Regional Board adopted resolutions.
- b. The Permittees shall conduct monitoring and reporting consistent with Section VI.D. of this Order to evaluate the effectiveness of the BMPs implemented in the watershed and determine their progress towards attaining compliance with the interim WQBELS, and final BMP-based WQBELS, if approved, or the final numeric WQBELS/WLAs.

E. In addition, any requirements developed by the State Board in accordance with Water Code Section 13383.5 shall be considered during any revision of the CMP. The revised CMP shall, at a minimum, include the following:

1. Mass Emissions Monitoring – Core Stations:

- a. An estimate of flow in cubic feet per second (cfs) from the Outfall/stream at the time of sampling.
- b. Monitor mass emissions in Urban Runoff to:
  - i) Estimate the total mass emissions from the MS4s to Receiving Waters.
  - ii) Assess trends in mass emissions associated with specific urban storm water discharges from the MS4 over time.
  - iii) Determine if Urban Runoff may be contributing to exceedances of Water Quality Objectives or Beneficial Uses in Receiving Waters by comparing water quality data from Outfall and Receiving Water results to: (1) Water quality Objectives (WQOs); (2) California Toxic Rule (CTR) (3) USEPA Multi-Sector Permit Parameter Benchmark Values and (4) other MS4 discharger's monitoring data or other appropriate data identified by the Permittees. The Permittees should also evaluate the Regional Monitoring reports prepared by SCCWRP to assess trends in Urban Runoff and Receiving Water quality within the Permit Area.
  - iv) Representative samples from the first sampleable storm event (based on mobilization criteria to be established in the CMP) of the Wet Season (October 1 to May 31) and two more storm events shall be collected during the Wet Season. A minimum of two Dry Weather samples shall also be collected. Samples from the first sampleable storm event each year shall be analyzed for constituents according to the list provided in the 2007-2008 Santa Ana Region Monitoring Annual Report, Attachment A. This list includes 40 CFR 122 Appendix D Tables II and III, and Tables IV and V if expected to be present, and additional constituents. All samples shall be analyzed for *E. coli*, nutrients (Nitrates + Nitrites, potassium, and phosphorous), hardness<sup>1</sup>, metals, pH, TSS, TOC, pesticides/herbicides, and Pollutants/stressors for 303(d) listed Receiving Waters. Dry Weather samples should also include analyses for TPH (8015M – direct injection) and oil and grease. The analyte list will be reviewed annually. Constituents may be added to the list for a selected monitoring station if they are expected to be present, and removed from the list if three consecutive samples from the station have not had detectable concentrations of the constituent.

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<sup>1</sup> Hardness is necessary to evaluate some metal Water Quality Objectives in receiving waters.

- v) Monitoring locations shall be integrated into a GIS database system. All monitoring data shall continue to be placed in an electronic database.

2. Water Column Toxicity Monitoring: Analyses for Toxicity to aquatic species shall be performed on receiving water samples to determine if there may be impacts of Urban Runoff on Toxicity of Receiving Waters. The *Ceriodaphnia dubia* survival (acute), Fathead Minnow larval survival (acute), and *Selenastrum Capricornutum* growth (chronic) tests shall be used to evaluate Toxicity on the sample from the first sampleable storm event, plus one other Wet Season storm event sample. Where applicable, two Dry Weather samples shall also be collected or equivalent procedures shall be proposed in the CMP. In addition, criteria shall be identified which will trigger the initiation of Toxicity Identification Evaluations (TIEs) and Toxicity Reduction Evaluations (TRES).

To the extent that the Toxicity testing developed as part of the Regional Bioassessment Monitoring described in item 5 and Section D below, or other standardized Toxicity testing protocols developed by the State Board, Regional Board, SMC or SCCWRP, satisfies the objective of determining the impact of Urban Runoff on Toxicity of Receiving Waters, the Permittees may satisfy this requirement by participating in the regional bioassessment effort or conducting Toxicity testing consistent with the standardized protocols.

3. Illicit Connection/Illegal Discharge (IC/ID) Monitoring: The Permittees shall review and update their Dry Weather and Wet Weather reconnaissance strategies to identify and eliminate IC/IDs using the Guidance Manual for Illicit Discharge, Detection, and Elimination developed by the Center for Watershed Protection<sup>2</sup> or any other equivalent program. Where possible, the use of GIS to identify geographic areas with a high density of industries associated with gross Pollution (e.g. electroplating industries, auto dismantlers) and/or locations subject to maximum sediment loss (e.g. New Development) may be used to determine areas for intensive monitoring efforts. The Dry Weather monitoring for nitrogen and total dissolved solids shall be used to establish a baseline dry weather flow concentration for TDS and TIN at each Core monitoring location.
4. Sources of Data: Where possible and applicable, water quality data shall be obtained from monitoring efforts of other public or private agencies/entities (e.g., Caltrans).
5. Bioassessment: In lieu of developing an independent bioassessment program as required in the prior term permit, the Principal Permittee, on behalf of the Co-Permittees, participates (through a memorandum of understanding and cooperative agreements) with the 16 member agencies of the SMC. The SMC's Bioassessment Working Group conducts bioassessments on a regional basis. The Principal Permittee in coordination with SCCWRP shall ensure that

<sup>2</sup> USEPA (Illicit Discharge Detection and Elimination - A Guidance Manual for Program Development and Technical Assessments) by the Center for Watershed Protection and Robert Pitt, University of Alabama, October 2004, updated 2005).

- a sufficient number of monitoring stations are selected for this program from locations within the Permit Area.
- a. The Principal Permittee, in collaboration with the SMC, shall conduct sampling, analysis, and reporting of specified in-stream biological and habitat data within the 5-year permit cycle according to the protocols specified in the SCCWRP Tech Report No. 539.
  - b. Within Riverside County, the bioassessment project area consists of the lower half of the MSAR watershed, the San Jacinto watershed, and the northern Santa Margarita watershed (northern San Diego) for a total of 1.5 watershed units, a minimum of 9 samples shall be collected per year<sup>3</sup>. Within Riverside County's Santa Ana and San Jacinto Watersheds, which are in the Permit Area, the Permittees shall sample 5 sites per year. SWAMP samples 2 sites per year.
  - c. For long-term trend monitoring, the Principal Permittee shall collect a minimum of 1 sample per year during the dry weather index period, as noted in the SCCWRP Tech Report No. 539. Additional samples may be collected to improve data quality for trend analysis. At a minimum, chemistry and aquatic Toxicity should be used as indicators for trend analysis.
  - d. Any baseline and historic information on stream geomorphology and ecological health, including aquatic habitats, in the Receiving Waters and the findings from the trend analysis shall be used to evaluate the effectiveness of Urban Runoff management program, including the requirements specified in the Order.
6. A Quality Assurance Program Plan (QAPP) within the CMP that describes how data will be collected and analyzed to ensure that data is consistent with State and Regional Board monitoring programs and is of high quality. Dischargers shall develop a QAPP that is compatible with the State's Surface Water Ambient Monitoring Program (SWAMP) QAPP and approved by the Regional Board's Quality Assurance Officer. A QAPP template is available, upon request, through the State Board's SWAMP website ([http://www.waterboards.ca.gov/water\\_issues/programs/swamp/qapp.shtml](http://www.waterboards.ca.gov/water_issues/programs/swamp/qapp.shtml)). All analytical methods, target reporting limits, and data reporting formats should be SWAMP compatible unless otherwise specified in this MRP. The QAPP will include location of sample site(s), description of analytical techniques, data quality objectives, and other standard quality assurance information.

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<sup>3</sup> See Table 4 page 15 of Technical Report No.539.

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7. A procedure for the collection, analysis, and interpretation of existing data from local, regional or national monitoring programs. These data sources may be utilized to:
  - a. Characterize different sources of Pollutants discharged to the MS4;
  - b. Determine pollutant generation, transport and fate;
  - c. Develop a relationship between land use, development size, storm size and the event mean concentration of Pollutants;
  - d. Determine spatial and temporal variances in Urban Runoff quality and seasonal and other bias in the collected data; and
  - e. Identify any unique features of the permitted area.
  - f. The Permittees are encouraged to use water quality data from similar studies, if available.
  
8. The CMP update shall include descriptions of:
  - a. The number of monitoring stations;
  - b. Monitoring locations within MS4s, Major Outfalls, and Receiving Waters; environmental indicators (e.g., ecosystem, flow, biological, habitat, chemical, sediment, stream health, etc.) chosen for monitoring; The initial update shall at least contain the sampling stations listed in Table 1, below:

**Table 1 Current Core Monitoring Stations**

Station Number	Class	Station Description	Latitude	Longitude
40	Outfall	Corona Storm Drain – Line K Harrison & Sheridan St.	33.885	-117.568611
316	Outfall	Sunnymead Chanel – Line B Alessandro & Heacock	33.917778	-117.242222
318	Outfall	Hemet Channel @ Sanderson Ave.	33.734167	-117.005556
364	Outfall	Magnolia Center – SD @ Santa Ana River	33.964722	-117.414444
702	Outfall	University Wash – Market & Bowling Green	33.9975	-117.370833
707	Outfall	North Norco Channel @ Country Club Lane	33.907778	-117.583889
752	Outfall	Perris Line J - Sunset Ave below Murrieta Rd.	33.803333	-117.2075

- c. Total number of samples to be collected from each station, frequency of sampling during Wet Weather and Dry Weather, short duration or long duration storm events, type of samples (grab, 24-hour composite, etc.), justification for composite versus discrete sampling, type of sampling equipment, quality assurance/quality control procedures followed during sampling and analysis, analysis protocols to be followed (including sample preparation and maximum reporting limits), and qualifications of laboratories performing analyses;

- d. A procedure for analyzing the collected data and interpreting the results. This procedure shall include the evaluation of the effectiveness of the BMPs, a comparative analysis of the Permittees' monitoring data to the USEPA Multi-Sector Permit Parameter Benchmark Values and applicable Water Quality Objectives specified in Chapter 4 of the Basin Plan, and the need for any refinement of the WQMPs, the DAMP and or/the LIPs.
- e. Parameters selected for field screening and for laboratory work; and
- f. A description of the responsibilities of all the participants in this program, including cost sharing.
- g. Receiving Water Monitoring:  
Permittees shall select at least one representative receiving water location within each of the San Jacinto River and Santa Ana River watersheds. These locations should be close Major Outfalls, coordinated with other regional monitoring programs to the extent feasible, include locations where chronic and/or persistent water quality problems associated with Urban Runoff have been identified, and should be selected so as to be useful to determine if Urban Runoff is causing or contributing to violations of Water Quality Standards in the Receiving Waters.
- h. Monitoring within MS4s:  
Permittees shall evaluate their current CMP MS4 monitoring locations (identified in Table 1, above) to ensure that they are representative of urban runoff. The objective of this monitoring element is to determine the pollutant loads from the MS4s and to determine their trend. This monitoring requirement may be incorporated into the mass emissions monitoring described in III.E.1, above.

#### F. REGIONAL WATERSHED MONITORING

1. The objectives of the Regional Watershed Monitoring Program overseen by the SWAMP and the SMC and coordinated by SCCWRP are:
  - a. To assess the current status of streams in Southern California.
  - b. To identify major stressors to aquatic life.
  - c. To monitor the trend in water quality in Southern California streams.
2. The bioassessment discussed above, should provide information about the biological, chemical and toxicological integrity of Receiving Waters. Baseline and trend monitoring information on the biotic and geomorphological condition of the Receiving Waters should be used to evaluate the effectiveness of the Urban Runoff pollution control measures.

3. The Riverside County Regional Watershed monitoring area is within the lower half of the MSAR watershed, the San Jacinto watershed, and the northern Santa Margarita watershed (northern San Diego) for a total of 1.5 watershed units<sup>4</sup>. Within Riverside County's Santa Ana and San Jacinto watersheds, the Permittees sample 5 sites per year. SWAMP samples 2 sites per year.
4. The sampling sites in each watershed unit were determined according to distribution or abundance of the three land uses: urban, agriculture, or open. The sampling grid includes 15 watershed units located from Ventura to San Diego and as far east as San Bernardino and Riverside Counties. A total of 450 samples in the 15 watershed units will be collected within a five year period to assess the spatial extent of impacts to streams within the area. Samples will be collected at sites representing each of the three land use types. Each site will be sampled only once during an index period and not all sites need to be sampled during the same year. One-fifth of the samples (90 samples) will be collected each year for the 15 watersheds. Sampling events shall be conducted between 4 to 12 weeks following the last significant rainfall. No sampling shall occur within 72 hours of any measurable rainfall. The default index period will be from May 15 to July 15. The specifics and details of the Regional Watershed Program are discussed in "The Regional Monitoring of Southern California's Watershed SMC Bioassessment Working Group", SCCWRP, Technical Report No. 539, December 2007 (The Tech Report).
5. Any baseline and historic information on stream geomorphology and ecological health, including aquatic habitats, in the Receiving Waters and the findings from the trend analysis shall be used to evaluate the effectiveness of Urban Runoff management program, including the requirements specified in the Order.

#### G. HYDROMODIFICATION MONITORING PROGRAM

This Order requires development and implementation of a Hydromodification Monitoring Plan as part of the Watershed Action Plan (WAP) to evaluate the effectiveness of hydromodification controls implemented within the Permit Area (Some or all of the following requirements may be satisfied by the Permittees participation in the "Development of Tools for Hydromodification Assessment and Management' Project" undertaken by the SMC and coordinated by SCCWRP and follow on efforts to develop Hydromodification monitoring guidance).

1. The Order requires the Permittees to revise the DAMP to incorporate Watershed Action Plan principles within three years of adoption of the Order. The hydromodification requirements require the Permittees to identify

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<sup>4</sup> See Table 4 page 15 of Technical Report No.539.

vulnerable streams and possible BMPs to minimize HCOCs and tools to measure any impacts on geomorphology and aquatic resources.

2. The Hydromodification monitoring program shall:
  - a. Assess the effectiveness of Hydromodification management within the Permit Area.
  - b. Predict the effects of urbanization on stream stability within the Permit Area.

#### H. LOW IMPACT DEVELOPMENT BMP MONITORING

The Principal Permittee shall continue to participate in data collection and monitoring to assess the effectiveness of LID techniques in semi-arid climate as part of the SMC project titled, "Quantifying the Effectiveness of Site Design/ Low Impact Development Best Management Practices in Southern California". The Principal Permittee is also developing a regional LID BMP testing and demonstration facility at the main office that meets the intent of this requirement (currently the facility data is intended to be integrated into the SMC project).

#### IV. RECORD KEEPING REQUIREMENTS

- A. All monitoring activities shall meet the following requirements:
  1. The Permittees shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports prepared as per this MRP and records of all data used to complete the Report of Waste Discharge and Annual Reports for a period of at least five years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board or USEPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge [40 CFR 122.41(j)(2), CWC section 13383(a)].
  2. Records of monitoring information shall include [40 CFR 122.41(j)(3)]:
    - a. The date, exact place, and time of sampling or measurements;
    - b. The individual(s) who performed the sampling or measurements;
    - c. The date(s) analyses were performed;
    - d. The individual(s) who performed the analyses;
    - e. The analytical techniques or methods used; and
    - f. The results of such analyses.

3. Calculations for all Effluent Limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this MRP [40 CFR 122.41(l)(4)(iii)].

## B. PROGRAM EFFECTIVENESS ASSESSMENT AND REPORTING

1. All progress reports and proposed strategies and plans required by this Order shall be signed by the Principal Permittee, and copies shall be submitted to the Executive Officer under penalty of perjury.
2. The Permittees shall submit an Annual Report to the Executive Officer and to the Regional Administrator of the USEPA, Region 9, no later than November 30<sup>th</sup>, of each year. This progress report shall also be submitted in a mutually agreeable electronic format that is text searchable. Any monitoring data shall also be submitted electronically in the form outlined in Section IV.B.4 of this MRP. At a minimum, the Annual Report shall include the following:
  - a. A review of the status of program implementation and compliance (or non-compliance) with the schedules contained in this Order;
  - b. An assessment of the effectiveness of BMPs established under the IC/ID program and the DAMP. The effectiveness may be measured in terms of how successful the program has been in eliminating IC/IDs and/or reducing pollutant loads in urban storm water runoff, including summaries of Permittee actions to investigate and eliminate or permit IC/IDs and measures to reduce and/or eliminate the discharge of Pollutants, including trash and debris
  - c. An assessment of BMPs and their effectiveness in addressing Pollutants causing or contributing to an exceedance of water quality objectives in Receiving Waters that are on the 303(d) list of impaired waters. The effectiveness evaluation shall consider changes in land use and population on the quality of Receiving Waters and the impact of development on sediment loading within sediment impaired Receiving Waters and recommend necessary changes to program implementation and monitoring needs.
  - d. An assessment of the Permittees compliance status with the Receiving Waters Limitations, Section VII of this Order, including any proposed modifications to the DAMP if the Receiving Water Limitations are not fully achieved.
  - e. An overall program assessment. The Permittees are encouraged to use the program assessment methodology described in the 2007 ROWD. The Permittees should determine, to the extent practicable, water quality

improvements and Pollutant load reductions resulting from implementation of various program elements. The Permittees may also use the "Municipal Storm Water Program Effectiveness Assessment Guidance" developed by CASQA in May 2007 as guidance for assessing program effectiveness at various outcome levels. The assessment should include each program element required under this Order, the expected outcome and the measures used to assess the outcome. The Permittees may propose any other methodology for program assessment using measurable targeted outcomes.

- f. Description of program modifications and improvements identified during the program assessment above along with implementation schedule for incorporation of revisions into the Local Implementation Plans (LIPs).
- g. An assessment of any modifications to the WQMPs, or the DAMP made to comply with CWA requirements to reduce the discharge of Pollutants to the MEP;
- h. A summary, evaluation, and discussion of monitoring results from the previous year and any changes to the monitoring program to be made the following year;
- i. A fiscal resources analysis progress report as described in Section XVIII.B of Order No. R8-2010-0033 including:
  - i. Each Permittee's expenditures for the previous fiscal year;
  - ii. Each Permittee's budget for the current fiscal year; and
  - iii. A description of the source of funds.
- j. A draft work plan that describes the proposed implementation of the LIPs and DAMP for next fiscal year. The work plan shall include clearly defined tasks, responsibilities, and schedules for implementation of the storm water program and each Permittee's actions for the next fiscal year;
- k. Major changes in any previously submitted plans/policies;
- l. If the Implementation Agreement is revised, a copy of the signature page and revisions to the Implementation Agreement.
- m. A review of each Permittee's Storm Water Ordinances and their enforcement practices to assess their effectiveness in prohibiting non-exempt, Non-storm Water discharges to the MS4 (The Permittees may propose appropriate BMPs in lieu of prohibiting these discharges, where the Permittees are responsible for ensuring that dischargers adequately maintain those BMPs).

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3. The Co-Permittees shall be responsible for the submittal of all required information/materials needed to comply with this order in a timely manner to the Principal Permittee. A duly authorized representative of the Co-Permittee shall sign all such submittals under penalty of perjury.
4. The monitoring data transmittals to the Regional Board shall be in the form developed by the SMC and approved by the State Board in the document entitled "Standardized Data Exchange Formats". This document was developed in order to provide a standard format for all data transfers so that data can be universally shared and evaluated from various programs.

## V. REPORTING SCHEDULE

All reports required by this Order shall be submitted to the Executive Officer in accordance with the following schedule:

Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
<b>Permit</b>	<b>DAMP<sup>(a)</sup></b>			
III.A.1.e III.B.3.a,d,e & XVII.D.		Management Steering Committee meetings to discuss MS4 Permit implementation	Held at least twice per year.	Annual Report
III.A.1.f III.B.3.a,d,e & XVII.D.		Permittee Technical Committee meetings to discuss permit implementation	Held at least 10 times each year	Annual Report
III.B.3.a,d,e & XVII.D.		Co-Permittees participate in Management Steering and Technical Committee meetings to discuss MS4 Permit implementation	Attend at least 1 out of 2 Management and 8 out of 10 Technical meetings each year	Annual Report
III.A.1.r		The Principal Permittee shall develop a library of BMP performance reports, and revise the BMP performance report annually thereafter.	Within 6 months of permit adoption	
III.A.1.s		The Principal Permittee shall coordinate a review of the DAMP with the Co-Permittees to determine the need for update or revisions and establish a schedule for those revisions.	Within 6 months of permit adoption	
III.B.2.g		Submit up-to-date MS4 facility maps	Annually to Principal Permittee	Annual Report

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
III.B.2.h		Submit reports & information for Annual Report	Annually to Principal Permittee	Annual Report
III.C.		Evaluate Implementation Agreement annually to determine need for revision.	Annually	Report findings and schedule for revisions to the Implementation Agreement in 2009-2010 Annual Report.
III.C.		Allow new permittees to join MS4 permit	Per schedule required in Section III.A.1.s	Report findings and schedule for revisions to the Implementation Agreement in 2009-2010 Annual report.
IV.A.		Permittees shall develop and submit for approval a LIP Template	Within 6 months of adoption of Order	
IV.B.		Complete a Co-Permittee specific LIP	Within 12 months of approval of the Template	Within 12 months of approval of the Template
VI.D.1.a.ii		Submit reports summarizing all relevant data from the watershed-wide water quality monitoring program.	Beginning in 2010 Cool (or wet) weather Warm (or dry) weather	May 31 <sup>st</sup> December 31 <sup>st</sup> .
VI.D.1.a.iii		Submit comprehensive reports every three years summarizing the data collected for the preceding 3 year period and evaluating progress towards achieving the urban waste load allocation by the dates specified in the TMDL.	Beginning in 2010 every three years	February 15, 2010.
VI.D.1.a.iv		Submit semi-annual reports each year as required under the approved USEP, and any amendments thereto.	The Dec 31 <sup>st</sup> report (VI.D.1.a.ii) and the Jan 31 <sup>st</sup> report (VI.D.1.a.iv) may be incorporated into the (VI.D.1.a.ii) report for the years the tri-annual report is generated.	Semi-annually on January 31 <sup>st</sup> and July 31 <sup>st</sup>

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
VI.D.1.a.v		Revise the DAMP as specified in Task 4.2 of the MSAR-TMDL Implementation Plan.	Sumarize data in Annual Report.	Annual Report
VI.D.1.a.vi		Revise the Water Quality Management Plan (WQMP)	As specified in Task 4.4 of the MSAR-TMDL Implementation Plan.	Annual Report
VI.D.1.a.vii		Amend the Local Implementation Plans (LIP) to be consistent with the revised DAMP and WQMPs within 90 days after said revisions are approved by the Regional Board. Summarize any such LIP amendments in the annual report		Annual Report
VI.D.1.b. & VI.D.1.c.		The MSAR Permittees shall submit a Comprehensive Bacteria Reduction Plan (CBRP) to achieve the final WQBELs for bacterial indicators during the Dry Season by December 31, 2015. Enforcement starts no sooner than January 1, 2016		Draft by December 31, 2010 Final by Dec 31, 2015.
VI.D.1.c.i.(8)		Revise the DAMP, WQMP, & LIPs	Within 180 days of CBRP approval.	
VI.D.2.a.		Submit Phase 2 Alternatives	December 31, 2010	
		Submit O&M for Agreement for Fishery Management Program	December 31, 2010	
		Submit O&M for Agreement for Aeration and Mixing Systems	December 31, 2010	
		Submit Phase 2 Projects Plans	June 30, 2011	
		Complete Phase 2 Project Implementation	December 31, 2014	
		Implement in-lake and watershed monitoring programs	Annual Reports due August 31 every year.	
VI.D.2.b.		Linkage Analysis Study	August 31, 2010	
		Watershed Source Loading Study	August 31, 2010	

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
		Model Evaluation	December 31, 2010	
		Construct/Calibrate Model	June 30, 2011	
		Conduct Model Scenarios	August 31, 2011	
		Model Update Final Report	November 30, 2011	
VI.D.2.c.		Revise DAMP, WQMP, & LIPs to incorporate the compliance plans required above.		Annual Report
VI.D.2.h.		Summarize all relevant data from water quality monitoring programs and evaluate compliance with the LE/CL TMDL	Annually	Annual Report
VI.D.2. d. & VI.D.2. e.		Submit CNRP	December 31, 2011	December 31, 2020.
VI.D.2.a.		Initiate Phase 2 LE/CL TMDL data collection.	December 31, 2010	
VI.D.2.j.		Tables 9 & 10 become QBELs if CNRP is not adopted by Regional Board	December 31, 2020	
VII.D.1		Report upon determination that discharges from the MS4 are causing or contributing to an exceedance of an applicable WQS	Within two (2) working days	Within Annual update of DAMP
VII.D.2		Modify DAMP, LIP, and MRP to address Receiving Water Limit Violations and implementation schedule.	---	30 days after approval of Subsection VI.D. report by Executive Officer
VII.D.4		Report any exceedance solely due to discharges outside the Permittees jurisdiction.		Within two (2) working days of becoming aware of the situation, provide oral or e-mail notice and provide written documentation within ten (10) calendar days of becoming aware of the situation.
VIII.C.		Promulgate ordinances that would control for known pathogen or Bacterial Indicator sources	Within 3 years of adoption	Annual Report

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
VIII.F.		Review Storm Water Ordinances for effectiveness in prohibiting discharges to the MS4	Annual Report	
VIII. G.		Certification statement, signed by the Chief legal counsel, that the Permittee has obtained all necessary legal authority	Within 24 months of Order adoption.	Annual Report
VIII.H.		Permittees shall effectiveness of, implementation and enforcement response procedures.	Annually	Annual Report
IX. A.		Eliminate or permit IC/IDs		60 calendar days from receipt of notice from a third party.
IX.D.		Review and revise IC/ID program	18 months after Order adoption	Annual Report
IX.G.		Annually review and evaluate their IC/ID or IDDE program to determine if the program needs to be adjusted.	Annually	Annually
IX.H.		Maintain database summarizing IC/ID incident response	Annually	Annual Report
X.D.		Maintain inventory of septic systems within its jurisdiction completed in 2008.	Ongoing	Annual Report.
XI.A.11.		Each Permittee shall document, evaluate and annually report the effectiveness of its enforcement procedures in achieving prompt and timely compliance.	Annually	Annual Report
XI.A.13.		Permittees to evaluate and report adequacy of inspection programs conducted by other agencies on behalf of Permittee.	Annually	Annual Report

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
XI.B.4.		An inventory and inspection frequency of: Wet Season(Oct 1 – May 31): High = 1/mo., Med = 2/season, low = 1/season Dry Season: All construction sites shall be inspected at a frequency sufficient to ensure that sediment and other Pollutants are properly controlled and that unauthorized, Non-Storm Water discharges are prevented		Annual Report
XI.C.3		All high priority industrial facilities are to be inspected at least once a year; all medium priority sites are to be inspected at least once every two years; and all low priority sites are to be inspected at least once per permit cycle.		Annual Report
XI.D.4		All high priority sites shall be inspected at least once a year; all medium priority sites shall be inspected at least every two years; and all low priority sites shall be inspected at least once per MS4 Permit cycle.		Annual Report
XI.D.6		Notify all mobile businesses operating within the County concerning the minimum source control and pollution prevention measures that they must develop and implement.	Within 18 months of adoption of this Order	Annually
XI.D.7		The Principal Permittee shall develop an enforcement strategy to address mobile businesses.	Within 24 months of adoption of this Order	Annually

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
XI.E.1		Each Permittee shall develop and implement a residential program to reduce the discharge of Pollutants from residences to the MS4s to the MEP.	Within 18 months of adoption of this Order	Annually
XI.E.6.		Co-Permittees to provide an evaluation of its residential program	Annually starting with the second Annual Report following MS4 Permit adoption	Annually starting with the third Annual Report following MS4 Permit adoption
XII.B.3 & B8.		The Co-Permittees shall submit to the Regional Board a Watershed Action Plan	Within three years of adoption of MS4 Permit.	Annual Report
XII.B.5		Develop HMP	Submit within 4 years of adoption	
XII.C.1.		Each Permittee shall review the watershed protection principles and policies in its General Plan and related documents to eliminate barriers to LID.	Within 24 months of adoption of this Order	Annually
XII.D.1.		Each Permittee to submit a revised WQMP to incorporate new elements required in the Order	Within 18 months of adoption of this Order	Annual Report
XII.D.5.		Principal Permittee to develop recommendations for streamlining regulatory agency approval of regional Treatment Control BMPs.	Within 24 months of adoption of this Order	Annually
XII.E.1		Permittees shall update the WQMP to incorporate LID principles,	18 months of Order adoption	
XII.E.4.		Revise Ordinances to promote Green Infilstructure	18 months of Order adoption. Implement within 6 months of EO approval.	
XII.E.5.		Each Permittee to update its landscape ordinance consistent with requirements of AB 1881 and annually evaluate effectiveness with respect to water efficiency and water conservation goals	January 31, 2010	2011-2012 Annual Report

Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
XII. F.		Develop standard design and post-development BMP guidance for streets, roads etc. projects.	Within 24 months of adoption of this Order, Implement within 6 months of EO approval.	
XII.G1.		Permittees shall establish technically-based feasibility criteria for project evaluation to determine feasibility of implementing LID	Within 18 months of MS4 Permit adoption	No reporting specified
XII.H.		Each Permittee shall develop and implement standard procedures and tools, and include in its LIP.	Within 18 months of adoption of this Order	Annually
XII.K.4.		The Permittees shall maintain a database to track operation and maintenance of post-construction BMPs.		Annually
XII.K.5		Public Agency Treatment Control BMPs, shall be inspected prior to the Wet Season.	Within 18 months of Order adoption and within the 5 year permit term.	Annually
		New Development (Redevelopment) Treatment Control BMPs, shall be inspected prior to the Wet Season.	Based on schedule submitted but at least once within the 5 year permit term.	Annually
XII.K.6.		Provide list of all post-construction Treatment Control BMPs approved, constructed and/or operating	Annually	Annual Report
XII.L.		Provisions for LID and HCOC included in WQMP.	Within 45 days of approval of WQMP.	
XIII.A.		Review public education and outreach efforts and revise their activities to adapt to the needs identified in the annual reassessment.		Annual Report
XIII.B.		Status report on Public Education and Outreach requirements and changes to the ongoing program	Annually	Annual Report

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
XIII.C.		Implement assessment program to measure increases in public knowledge of impacts of Urban Runoff on Receiving Waters	First Annual Report following MS4 Permit adoption	
XIII.F.		The Permittees shall develop, maintain and distribute BMP guidance for the control of those potentially polluting activities identified during the previous permit cycle, which are not otherwise regulated by any agency, including guidelines for the household use of fertilizers, pesticides, herbicides and other chemicals, and guidance for mobile vehicle maintenance, carpet cleaners, commercial landscape maintenance, and pavement cutting.	Within 18 months of adoption of this Order	Annual Report
XIII.I.		The Public Education Committee shall meet at least twice per year.		Annual Report
XIII.J.		Sponsor or staff an Urban Runoff table or booth at community, regional, and/or countywide events to distribute public education materials to the public.	Each Permittee shall participate in at least one event per year.	Annually
XIII.K.		Involve public agency organizations, listed in Appendix 2, in Urban Runoff program. Notify the Regional Board where assistance is needed in improving local cooperation.		Annual Report
XIII.L		Develop and distribute BMP Fact Sheets for mobile businesses	Within 18 months of adoption of this Order	
XIV.A.		Review activities and facilities to determine the need for revisions to Section 5 of the DAMP and LIP.	Annually	Annual Report

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
XIV.B.		Each Permittee shall review its inventory of fixed facilities listed in the DAMP, its field operations and MS4 facilities to ensure that public agency facilities and activities do not cause or contribute to a Pollution or nuisance in Receiving Waters.	Within 12 months of adoption of this Order	Annual Report
XIV.C.		Conduct inspections of its fixed facilities and field operations.	Annually	Annual Report
XIV. D.		Evaluate cleaning schedule.	Annually	Annual Report
XIV.E.		Unless otherwise determined, each Permittee shall inspect, clean & maintain at least 80% of it's open channels, catch basins, retention/detention basins, and wetlands created for Urban Runoff treatment.	Annually	Annual Report
XIV.G1.c.		Notify the Executive Officer of the proposed construction project by electronically submitting Permit Registration Documents (PRDs).	Prior to commencement of each construction project.	
XIV.G1.d.		the Executive Officer shall be notified of the completion of the project by submitting a Notice of Termination (NOT).	Upon completion of each construction project.	
XIV.G2.b.		Notify the Executive Officer of each proposed deminimus discharge at least 15 days prior to start of the discharge	At least 15 days prior to discharge.	At least 15 days prior to discharge.
XV.A		DAMP and each Permittee's LIP shall be updated to include a program to provide formal and where necessary, informal training to Permittee staff that implement the provisions of this Order	Within 24 months of adoption of Order	DAMP will be updated within 24 months of adoption of Order. LIP will be updated within 12 months of approval of LIP template by EO

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 Area-wide Urban Runoff  
 Monitoring and Reporting Program

Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
XV.A., XV.E.		Each Permittee's LIP shall describe a program to provide formal and informal training to Permittee staff and contractors that implement the provisions of this Order. Provide the specified training.	Within 24 months of adoption of this Order and annually thereafter.	LIP will be updated within 24 months of order adoption.
XV.F.		Principal Permittee shall provide and document training to applicable Permittee staff on area wide procedures such as the DAMP, and any other applicable guidance and procedures developed by the Permittees to address activities in fixed facilities as well as field operations, including MS4 maintenance.	Within 12 months of adoption of this Order, within 12 months of hire and every two years, thereafter.	Bi-annually
XV.H*		Principal Permittee shall notify Regional Board staff		When notifying Permittees of training session.
XVI.A.		Notify of emergency events..		Within 24 hours of discovery
XVI.C		Sewage spill notification shall be consistent with the timelines specified in the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Water Quality Order No. 2006-0003-DWQ.		Consistent with 2006-003-DWQ.
XVI.D.		Hazardous Waste Spills	Notify within 24 hours.	
XVI.E.		Facilities operating without an applicable General permit.		Reported within 14 calendar days
XVII.A.		Evaluate the effectiveness of the Urban Runoff management program.	By November 30 of each year.	Annually by November 30.
XVII.B.		Amended DAMP pages.		Annual Report
XVIII.B.		Financial analysis report		Annual Report
XXII.A.		Report of Waste Discharge	180 days before permit expires	Jan 29, 2015

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Reference		Item	Completion Time after Permit Adoption or Frequency	Report Due Date
Permit	DAMP <sup>(a)</sup>			
Appendix 3, III.C.		Review CMP to determine their effectiveness in Urban Runoff program assessment	Within 12 months of adoption of this Order	N/A
		Submit Revised CMP	Within 16 months of adoption of this Order and implement within 6 months of approval.	
Appendix 3, III.D.1.b.		Prepare a triennial report summarizing the data collected for the preceding 3 year period and evaluating compliance with the WLAs.	Every three years	The first report shall be due February 15, 2010.
Appendix 3, III.D.2		Submit an annual report summarizing all relevant data from water quality monitoring programs and evaluating compliance with the LE/CL TMDL by reporting the effectiveness of the BMPs implemented in the watershed to control nutrient inputs into the lake from Urban Runoff pursuant to Regional Board Resolution No. R8-2006-0031 and R8-2007-0083, or as amended by subsequent Regional Board adopted resolutions.	Annually	Annual Report
Appendix 3, IV.B.2.		Annual Report	Annually	November 30 <sup>th</sup>

(a) This column to be completed by Permittees.

Date: 1-29-10

Ordered by   
**Gerard J. Thibeault**  
 Executive Officer

Order No. R8-2010-0033 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

**APPENDIX 4**

**GLOSSARY**

**ORDER NO. R8-2010-0033**

## Appendix 4, GLOSSARY

**40 CFR** – Code of Federal Regulations Title 40: Protection of the Environment.

**Annual Report** – Report summarizing compliance information required to be submitted annually to the Regional Board on or before each November 30th.

**Anthropogenic** – Generated from human activities

**APN** – Assessor's parcel number

**Basin Plan** – Water Quality Control Plan developed by the Regional Board for the Santa Ana River watershed.

**BAT [Best Available Technology]** – Technology-based standard established by Congress in CWA Section 402(p)(3)(A) for industrial dischargers of storm water. Technology-based standards establish the level of Pollutant reductions that dischargers must achieve, typically by treatment or by a combination of Source Controls and Structural BMPs. BAT generally emphasizes treatment methods first and Pollution Prevention and Source Control BMPs secondarily. The best economically achievable technology that will result in reasonable further progress toward the national goal of eliminating the discharge of all Pollutants is determined in accordance with regulations issued by the USEPA Administrator. Factors relating to the assessment of BAT shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the permitting authority deems appropriate.

**BCT [Best Conventional Technology]** – Treatment techniques, processes, and procedure innovations, and operating methods that eliminate or reduce chemical, physical, and biological Pollutant constituents.

**Beneficial Use** – Uses of water necessary for the survival or well being of man, plants, and wildlife. These uses of water serve to promote the tangible and intangible economic, social, and environmental goals. "Beneficial Uses" that may be protected include, but are not limited to: domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing Beneficial Uses are those that were attained in the surface or ground water on or after November 28, 1975; and potential Beneficial Uses are those that would probably develop in future years through the implementation of various control measures. "Beneficial Uses" are equivalent to "Designated Uses" under federal law. [California

Water Code Section 13050(f)] Beneficial Uses for the Receiving Waters are identified in the Basin Plan.

**Biological Integrity** – Defined in Karr J.R. and D.R. Dudley. 1981. Ecological perspective on water quality goals. Environmental Management 5:55-68 as: “A balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitat of the region.” Also referred to as ecosystem health.

**BMP [Best Management Practices]** – Defined in 40 CFR 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the Pollution of Waters of the U.S. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. In the case of MS4 permits, BMPs are typically used in place of Numeric Effluent Limits.

**CAFO** – Concentrated animal feeding operation.

**Caltrans** – California Department of Transportation.

**CAP** – The Commercial and Industrial Compliance Assistance Program is a Riverside County Environmental Health Department program that includes a storm water survey and educational outreach as part of existing inspections of Hazardous Material handlers and retail food service activities. Hazardous Waste handling facilities are inspected at least once during a two-year cycle. Restaurants are inspected at least once during the MS4 Permit cycle. Any completed surveys that indicate non-compliance are forwarded to the appropriate jurisdiction’s code enforcement division. The Permittees notify Regional Board staff when conditions are observed during such inspections that appear to violate the General Storm Water Permits or a permit issued by the Regional Board.

**CEQA** – California Environmental Quality Act (Section 21000 et seq. of the California Public Resources Code).

**CIEP** – Compliance Inspection and Enforcement Program

**Cleaning** – Removal of litter or debris that can impact Receiving Waters.

**CMP** – Consolidated Program for Water Quality Monitoring, Riverside County Flood Control and Water Conservation District, October 2008.

**Commercial Facilities** – Businesses that have the potential to discharge Pollutants to the MS4 not otherwise covered by the General Industrial Permit that are described in Section 8.1 of the DAMP. These businesses are inspected as part of the CAP or equivalent as described in Section 8.1 of the DAMP. Commercial Facilities include businesses based in a Permittee’s jurisdiction that perform mobile carpet, drape or

furniture cleaning; mobile automobile or other vehicle washing and mobile high pressure or steam cleaning.

**Comprehensive TMDL Plan** – A plan presenting a long-term solution designed to achieve compliance with the WLAs by the dates specified in the TMDLs. This plan includes a description of the proposed BMPs and the documentation demonstrating that the BMPs are expected to attain the WLAs by the compliance dates when implemented.

**Conditions of Concern** – Scour, erosion (sheet, rill and/or gully), aggradation (raising of a streambed from sediment deposition), and changes in fluvial geomorphology, hydrology or the aquatic ecosystem.

**Construction Site** – A site with activities for which building or grading permits have been issued and activities at the site include: soil movement; uncovered storage of materials or wastes, such as dirt, sand or fertilizer; or exterior mixing of cementaceous products, such as concrete, mortar or stucco.

**Contamination** – As defined in the Porter-Cologne Water Quality Control Act, contamination is “an Impairment of the quality of waters of the State by Waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.” Contamination includes any equivalent effect resulting from the disposal of Waste whether or not Waters of the U.S. are affected.

**Co-Permittees** – County of Riverside and the cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Murrieta, Moreno Valley, Norco, Perris, Riverside, San Jacinto and Wildomar.

**County** – County of Riverside, a legal subdivision of the State of California.

**CSA 152** – County Service Area 152

**CWA** – Federal Clean Water Act

**CZARA** – Coastal Zone Act Reauthorization Amendments of 1990

**DAMP [Drainage Area Management Plan]** – The DAMP is a programmatic document developed by the Permittees and approved by the Executive Officer that outlines the major programs and policies that the Permittees individually and/or collectively implement to manage Urban Runoff in the Permit Area.

**DDT** – Dichlorodiphenyltrichloroethane – An insecticide first used in 1939. Most uses of DDT were banned in 1972, with limited exception for public health purposes.

**De Minimus Permit** – General De Minimus Permit for Discharges to Surface Waters, Order NO. R8-2009-0003, NPDES No. CAG 998001

**Design Capture Volume** – (See Permit, XII.E.2)

**Discretionary Project** – Per Section 15357 of the Guidelines for CEQA "Discretionary Project" means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations. A timber harvesting plan submitted to the State Forester for approval under the requirements of the Z'berg-Nejedly Forest Practice Act of 1973 (Pub. Res. Code Sections 4511 et seq.) constitutes a discretionary project within the meaning of the California Environmental Quality Act. Section 21065(c).

**Direct Discharge (Table 3a)** – A discharge directly from an MS4 to a receiving water such that the MS4 discharge does not first co-mingle with waters from another receiving water or conveyance.

**Dry Season/Dry Weather** - The season excluding the Wet Season. Generally it will be June 1 through September 30 of each year, unless specifically defined otherwise in a applicable TMDL Implementation Plan.

**Effective Impervious Area (EIA)** – EIA is the portion of the total impervious area that is directly connected to the drainage collection system. EIA includes street surfaces, paved driveways connecting to the street, rooftops which are hydraulically connected to the curb or storm sewer system, and paved parking lots that drain to a storm sewer system.

Impervious area such as rooftops, streets, sidewalks, and parking areas do not allow water to drain into the soil. Impervious area that collects and drains the water directly to a stream or wetland system via pipes or sheet flow is considered "effective impervious area" because it effectively drains the landscape. Impervious area that drains to landscaped areas, swales, parks and other impervious areas is considered "ineffective" because the water is allowed to infiltrate through the soil and into ground water, without a direct connection to the stream or wetland.

Reducing effective impervious area is defined as disconnecting impervious surfaces such as sidewalks, rooftops, parking areas, and streets, from the drainage system so that runoff percolates into the soil and does not flow directly to streams. Disconnecting the stormwater system allows the watersheds' hydrologic cycle to respond in a manner that more closely reflects pre-disturbed conditions. EIA reduction can occur as part of new development, redevelopment, or be part of a retrofit design. The level of benefit is determined by how well the practices minimize runoff in small to mid size storm events.

**Effectiveness Assessment Outcome Level 1** - Compliance with Activity-based Permit Requirements – Level 1 outcomes are those directly related to the implementation of specific activities prescribed by this Order or established pursuant to it.

**Effectiveness Assessment Outcome Level 2** - Changes in Attitudes, Knowledge, and Awareness – Level 2 outcomes are measured as increases in knowledge and awareness among target audiences such as residents, businesses, and municipal employees.

**Effectiveness Assessment Outcome Level 3** - Behavioral Change and BMP Implementation – Level 3 outcomes measure the effectiveness of activities in affecting behavioral change and BMP implementation.

**Effectiveness Assessment Outcome Level 4** - Load Reductions – Level 4 outcomes measure load reductions which quantify changes in the amounts of pollutants associated with specific sources before and after a BMP or other control measure is employed.

**Effectiveness Assessment Outcome Level 5** - Changes in Urban Runoff and Discharge Quality – Level 5 outcomes are measured as changes in one or more specific constituents or stressors in discharges into or from MS4s.

**Effectiveness Assessment Outcome Level 6** - Changes in Receiving Water Quality – Level 6 outcomes measure changes to receiving water quality resulting from discharges into and from MS4s, and may be expressed through a variety of means such as compliance with water quality objectives or other regulatory benchmarks, protection of biological integrity, or beneficial use attainment.

**Effluent Limitations** – means any restriction on quantities, discharge rates, and concentrations of Pollutants which are discharged from Point Sources into Waters of the U.S., waters of the “contiguous zone,” or the ocean (40 CFR 122.2).

**Emergency Situation** – At a minimum, sewage spills that could impact water contact recreation, all sewage spills above 1,000 gallons, an oil spill that could impact wildlife, a Hazardous Material spill where residents are evacuated, all reportable quantities of Hazardous Waste spills as per 40CFR 117 and 302, and any incident reportable to the OES (1-800-852-7550).

**Erosion and Sediment Control Plan (ESCP)** – These are water quality protection plans that include control measures for erosion prevention and sediment controls that would minimize the mobilization of sediment from the project site.

**ESA – Environmentally Sensitive Area** - An area “in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in

an ecosystem and which would be easily disturbed or degraded by human activities and developments" (Reference: California Public Resources Code § 30107.5).

ESAs subject to storm water mitigation requirements are:

1. Areas adjacent to Receiving Waters designated as "Preservation of Biological Habitats of Special Significance (BIOL)", "Spawning, Reproduction, and Development (SPWN)" or "Rare, Threatened, or Endangered Species (RARE)" Beneficial Uses in the Basin Plan;
2. Areas within the MSHCP that contain rare or especially valuable plant or animal life or their habitat. These areas are considered mitigated as the MSHCP contains substantive alternatives analysis for any proposed development that has the potential to impact resources.
3. Areas adjacent to CWA 303(d) Listed Water Bodies or adopted TMDLs with implementation plans that have yet to achieve the Urban WLA or LA goals; and
4. Any other equivalent environmentally sensitive areas which the Permittees have defined.

**Executive Officer** - The Executive Officer of the Regional Board.

**General Construction Permit** – State Board Order No. 2009-0009 DWQ (NPDES No. CAS000002) or the most recent draft of the General Construction Permit issued by the State Board subsequent to issuance of this Order.

**General Dairy Permit** – Regional Board Order No. R8-2007-0001 (NPDES No. CAG018001) for CAFOs.

**General De Minimus Discharges Permit** – Regional Board Order No. R8-2009-0003.

**General Industrial Permit** – State Board Order No. 97-03 DWQ (NPDES No. CAS000001) or the most recent General Permit for Storm Water Discharges Associated with Industrial Activities issued by the State Board subsequent to issuance of this Order.

**General Storm Water Permits** – General Industrial Permit (State Board Order No. 97-03 DWQ, NPDES No. CAS000001) and General Construction Permit (State Board Order No. 2009-0009-DWQ NPDES No. CAS000002), or the most recent applicable General Permit issued by the State Board subsequent to the issuance of this Order.

**General Utility Vaults Permit**— State Board Order No. 2006-0008-DWQ, NPDES No. CAG990002.

**GIS** – Geographical Information System.

**Green Infrastructure** – Generally refers to technologically feasible and cost-effective systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater or runoff on the site where it is generated. This is a concept that highlights the importance of the natural environment in decisions about land use planning. In particular there is an emphasis on the "life support" functions provided by a network of natural ecosystems, with an emphasis on connectivity to support long term sustainability. (Also see Low Impact Development.)

**Hazardous Material** – Any substance that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by the USEPA to be reported if a designated quantity of the material is spilled into the Waters of the U.S. or emitted into the environment.

**Hazardous Waste** – defined as “any waste, which, under Section 600 of Title 22 of this code, is required to be managed according to Chapter 30 of Division 4.5 of Title 22 of this code.” [CCR Title 22, Division 4.5, Chapter 11, Article1]

**HCOC** – Hydrologic Condition of Concern - An HCOC exists when a site’s hydrologic regime is altered and there are significant impacts on downstream channels and aquatic habitats, alone or in conjunction with impacts of other projects.

**Hydromodification** - the “alteration of the hydrologic characteristics of coastal and non-coastal waters, which in turn could cause degradation of water resources.”<sup>1</sup> (USEPA 2007)

**IC/ID** – Illicit Connection/Illegal Discharge

**IDDE** - Illicit Discharge Detection and Elimination Program

**Illegal Discharge** –Defined at 40 CFR 122.26(b)(2) as any discharge to the MS4 that is not composed entirely of storm water, except discharges pursuant to an NPDES permit, discharges that are identified in Section VI.A. of this Order, and discharges authorized by the Executive Officer.

**Illicit Connection** – Any connection to the MS4 that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term Illicit Connection includes all non storm-water discharges and connections except discharges pursuant to an NPDES permit, discharges that are identified in Section V, Effluent Limitations and

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<sup>1</sup> USEPA. 2007. *National Management Measures to Control Nonpoint Source Pollution from Hydromodification*. EPA 841-B-07-002. U.S. Environmental Protection Agency, Office of Water, Washington DC

Discharge Specifications, of this Order, and discharges authorized by the Executive Officer.

**Impaired** – Relates to waterbodies where it is presumed Beneficial Uses are not attained.

**Impaired Waterbody / Impaired Waters** – Section 303(b) of the CWA requires each of California's Regional Water Quality Control Boards to routinely monitor and assess the quality of waters of their respective regions. If this assessment indicates that Beneficial Uses are not met, then that waterbody must be listed under Section 303(d) of the CWA as an Impaired Waterbody. The 2006 water quality assessment found a number of water bodies within the Permit Area as Impaired pursuant to Section 303(d). In the Permit Area, these include: Canyon Lake (for pathogens); Lake Elsinore (for PCBs and unknown toxicity); Lake Fulmor (for pathogens); Santa Ana River, Reach 3 (pathogens); and Santa Ana River, Reach 4 (for pathogens).

**Impairment** – A waterbody condition where Beneficial Uses are not attained.

**Implementation Agreement** – The Implementation Agreement establishes the responsibilities of each Permittee and a procedure for funding the shared costs.

**Impressions** – The most common measure is "gross impressions" that includes repetitions. This means if the same person sees an advertisement or hears a radio or sees a TV advertisement a thousand times, that will be counted as 1000 Impressions.

**Industrial Facility** – Facilities defined in Attachment 1 of the General Industrial Permit. These facilities are also addressed by the CAP or equivalent as described in Section 8.1 of the DAMP.

**LA** – [Load Allocations] – Distribution or assignment of TMDL Pollutant loads to entities or sources for existing and future Non-Point Sources, including background loads.

**Land Disturbance** – The clearing, grading, excavation, stockpiling, or other construction activity that result in the possible mobilization of soils or other Pollutants into the MS4. This specifically does not include routine maintenance activity to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. This also does not include emergency construction activities required to protect public health and safety. The Permittees should first confirm with Regional Board staff if they believe that a particular routine maintenance activity is exempt under this definition from the General Construction Permit or other Orders issued by the Regional Board.

**Local Implementation Plan (LIP)** – Document describing an individual Permittee's procedures, ordinances, databases, plans, and reporting materials for compliance with the MS4 Permit.

**Low Impact Development (LID)** – Comprises a set of technologically feasible and cost-effective approaches to storm water management and land development that combines a hydrologically functional site design with Pollution Prevention measures to compensate for land development impacts on hydrology and water quality. LID techniques mimic the site's predevelopment hydrology by using site design techniques that store, infiltrate, evapotranspire, bio-treat, bio-filter, bio-retain or detain runoff close to its source.

**Major Outfall** – Outfalls with a pipe diameter of 36 inches or greater or drainage areas draining 50 acres or more.

**Management Steering Committee** – Committee to address Urban Runoff management policies for the Permit Area and coordinate the review and necessary revisions of the DAMP and Implementation Agreement. The Management Steering Committee consists of one or more city manager or equivalent representatives from each Permittee.

**MEP [Maximum Extent Practicable]** MEP is an acronym for "Maximum Extent Practicable" and refers to the standard for implementation of storm water management programs.

Section 402(p)(3)(B)(iii) of the Clean Water Act requires that municipal storm water permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

In practice, compliance with the MEP standard is evaluated by how well the Permittees implement the "minimum measures" identified by EPA, including: (1) Public education and outreach on storm water impacts; (2) Public involvement/participation; (3) Illicit discharge detection and elimination; (4) Construction site storm water runoff control; (5) Post-construction storm water management in new development and redevelopment; and (6) Pollution prevention/good housekeeping for municipal operations. Collectively, these minimum measures are often referred to as "Best Management Practices" or BMPs. The MEP standard does not require Permittees to reduce pollutant concentrations below natural background levels, nor does it require further reductions where pollutant concentrations in the receiving water already meet water quality objectives. In implementing the MEP standard, it is appropriate for Permittees to prioritize their resource allocation to address the storm water pollution problems that pose the greatest and most immediate threat to human health or the environment.

MEP is a technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs. MEP

generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their urban runoff management programs. Their total collective and individual activities conducted pursuant to the urban runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the Regional Board, the Regional Board defines MEP.

In a memo dated February 11, 1993, entitled "Definition of Maximum Extent Practicable," Elizabeth Jennings, Senior Staff Counsel, SWRCB addressed the achievement of the MEP standard as follows:

"To achieve the MEP standard, municipalities must employ whatever Best management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPS only where other effective BMPS will serve the same purpose or the BMPS would not be technically feasible, or the cost would be prohibitive. In selecting BMPS to achieve the MEP standard, the following factors may be useful to consider:

- a. Effectiveness: Will the BMPS address a pollutant (or pollutant source) of concern?
- b. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?
- c. Public Acceptance: Does the BMP have public support?
- d. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?
- e. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?

The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or State Water Boards, and not by the municipal discharger. If a municipality reviews a lengthy menu of BMPS and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPS except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPS that should provide generally comparable

effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPS that would address a pollutant source, or to pick a BMP base solely on cost, which would be clearly less effective. In selecting BMPS the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPS, it is the responsibility of the discharger to ensure that all BMPS are implemented."

**Ministerial** – Per Section 15369 of the CEQA Guidelines, Ministerial describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Common examples of ministerial permits include automobile registrations, dog licenses, and marriage licenses. A building permit is ministerial if the ordinance requiring the permit limits the public official to determining whether the zoning allows the structure to be built in the requested location, the structure would meet the strength requirements in the Uniform Building Code, and the applicant has paid his fee.

**MSAR** – Middle Santa Ana River

**MSHCP** – Western Riverside County Multiple Species Habitat Conservation Plan

**MS4 – [Municipal Separate Storm Sewer System]** – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, man-made channels, or storm drains): (i) Owned or operated by a State, city town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to Waters of the U.S.; (ii) Designated or used for collecting or conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the POTW as defined at 40 CFR 122.2.

**New Development** – The categories of development identified in Section XI.D of this Order. New Development does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of a facility, nor does it include emergency New Development required to protect public health and safety. Dischargers should confirm with Regional Board staff whether or not a particular routine maintenance activity is subject to this Order.

**New Urbanism** – New Urbanism refers to the use of creative strategies to develop ways that preserve natural lands and critical environmental areas, protect water and air quality, and reuse already-developed land. This is based on principles of planning and architecture that work together to create human-scale, walkable communities that preserve natural resources.

**NOI [Notice of Intent]** – A NOI is an application for coverage under the General Storm Water Permits.

**Non-Point Source** – Refers to diffuse, widespread sources of Pollution. These sources may be large or small, but are generally numerous throughout a watershed. Non-Point Sources, include but are not limited to urban, agricultural or industrial area, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining, livestock grazing, as well as physical changes to stream channels, and habitat degradation. Non-Point Source Pollution can occur year round any time rainfall, snowmelt, irrigation, or any other source of water runs over land or through the ground, picks up Pollutants from these numerous, diffuse sources and deposits them into rivers, lakes and coastal waters or introduces them into groundwater.

**Non-storm Water** – All discharges to and from a MS4 that do not originate from precipitation events (i.e., all discharges to a MS4 other than storm water). Non-storm Water includes Illicit Discharges, non-prohibited discharges and NPDES permitted discharges.

**NOT** - Notice of Termination – Formal notice to the Regional Board of intent to terminate water discharge for projects covered under a General Stormwater Permit.

**NPDES [National Pollutant Discharge Elimination System]** – Permits issued under Section 402(p) of the CWA for regulating discharge of Pollutants to Waters of the U.S.

**Nuisance** – As defined in the Porter-Cologne Water Quality Control Act a Nuisance is “anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of Wastes.”

**Numeric Effluent Limitations** – A quantitative limitation on Pollutant concentrations or levels to protect Beneficial Uses and Water Quality Objectives of a water body. When Numeric Effluent Limits are met at the “end-of-pipe,” the effluent discharge generally will not cause Water Quality Standards to be exceeded in the receiving waters (i.e., Water Quality Standards will also be met).

**Nurdles** – A plastic pellet, also known as pre-production plastic pellet or plastic resin pellet.

**NURP** - National Urban Runoff Program

**OES** – The Governor’s Office of Emergency Services, an agency of the State of California.

**“Only Rain Down The Storm Drain” Pollution Prevention Program** – County Urban Runoff public education program.

**Open Space** – Any parcel or area of land or water that is essentially unimproved or devoted to an open-space use for the purposes of (1) the preservation of natural resources, (2) the managed production of resources, (3) outdoor recreation, or (4) public health and safety. [Riverside County General Plan, adopted October 7, 2003. Technical Appendix A , Glossary]

**Order** – Order No. R8-2010-0033 (NPDES No. CAS618033)

**Outfall** – Means a Point Source as defined by 40 CFR 122.2 a, the point where a municipal separate storm sewer discharges to Waters of the U.S. and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances which connect segments of the same stream or other Waters of the U.S. and are used to convey Waters of the U.S.. [40 CFR 122.26 (b)(9)]

**PAHs** – Polycyclic aromatic hydrocarbons. PAHs occur in oil, coal, and tar deposits, and are produced as byproducts of fuel burning (whether fossil fuel or biomass). As a Pollutant, they are of concern because some compounds have been identified as carcinogenic, mutagenic, and teratogenic. PAHs are also found in foods.

**Party** – Defined as an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof. [40 CFR 122.2]

**PCBs** – Polychlorinated biphenyls. Due to PCB's toxicity and classification as persistent organic Pollutants, PCB production was banned by the United States Congress in 1976 and by the Stockholm Convention on Persistent Organic Pollutants in 2001.

**Permit Area** – In the Santa Ana Region, the portion of the Santa Ana River watershed that is within the County and regulated under the MS4 Permit. The Permit Area is identified on Appendix 1 as "Permittee Urban Area" and those areas under the Permittee’s jurisdictions designated as "Agriculture" and "Open Space" on Appendix 1 that will convert to Permittee Urban Area when developed to industrial, commercial, or residential use during the term of the Order.

**Permittees** – Co-Permittees and the Principal Permittee

**Point Source** – Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged.

**Pollutant** – Broadly defined as any agent that may cause or contribute to the degradation of water quality such that a condition of Pollution or Contamination is created or aggravated.

**Pollutants of Concern** –Pollutants expected to be present on the project site. In developing this list, consideration should be given to the chemicals and potential Pollutants available for storm water to pick-up or transport to Receiving Waters and legacy Pollutants at the project site. Pollutants of Concern for New Development and Significant Redevelopment projects are those Pollutants identified above for which a downstream water body is also listed as Impaired under the CWA Section 303(d) list or by a TMDL.

**Pollution** – As defined in the Porter-Cologne Water Quality Control Act, Pollution is the alteration of the quality of the Waters of the U.S. by Waste, to a degree that unreasonably affects either of the following: A) the waters for Beneficial Uses (i.e., when the Water Quality Objectives have been violated); or B) facilities that serve these Beneficial Uses. Pollution may include Contamination.

**Pollution Prevention** –Defined as practices and processes that reduce or eliminate the generation of Pollutants, in contrast to Source Control, Pollution Control, Treatment Control BMPs, or disposal.

**Post-Construction BMPs** – A subset of BMPs including Site Design, Source Control, and Treatment Control BMPs which detain, retain, filter or educate to prevent the release of Pollutants to surface waters during the final functional life of development.

**POTW** – [Publicly Owned Treatment Works] – Wastewater treatment facilities owned by a public agency.

**Principal Permittee** – Riverside County Flood Control and Water Conservation District [RCFC&WCD].

**Public Education Committee** – Committee established by the Permittees to provide oversight and guidance for the implementation of the public education program.

**QAPP** - Quality Assurance Project Plan

**Rainy Season** – See Wet Season.

**RCFC&WCD** – Riverside County Flood Control and Water Conservation District

**REC** – Recreational Beneficial Use.

**Receiving Water(s)** – Waters of the U.S. within the Permit Area.

**Receiving Water Limitations** – Requirements included in the Orders issued by the Regional Boards to assure that the regulated discharges do not violate Water Quality Standards established in the Basin Plan at the point of discharge to Waters of the U.S. Receiving Water Limitations are used to implement the requirement of CWA section 301(b)(1)(C) that NPDES permits must include any more stringent limitations necessary to meet Water Quality Standards.

**Receiving Water Quality Objectives** – Water Quality Objectives specified in the Basin Plan for Receiving Waters.

**Region** – The portion of the Santa Ana River watershed within Riverside County.

**Regional Board** – California Regional Water Quality Control Board, Santa Ana Region.

**RGO** – Retail gasoline outlet

**Riverside County** – Territory within the geographical boundaries of the County.

**ROWD [Report of Waste Discharge]** – Application for issuance or re-issuance of WDRs.

**Sanitary Sewer Overflow (SSO)** – Any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system.

**Santa Ana Region** – Area under the jurisdiction of the Regional Board.

**SARA** – Superfund Amendments and Reauthorization Act. SARA amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) on October 17, 1986. SARA reflected USEPA's experience in administering the complex Superfund program during its first six years and made several important changes and additions to the program. SARA:

- stressed the importance of permanent remedies and innovative treatment technologies in cleaning up Hazardous Waste sites;
- required Superfund actions to consider the standards and requirements found in other State and Federal environmental laws and regulations;
- provided new enforcement authorities and settlement tools;

- increased State involvement in every phase of the Superfund program;
- increased the focus on human health problems posed by Hazardous Waste sites;
- encouraged greater citizen participation in making decisions on how sites should be cleaned up; and
- increased the size of the trust fund to \$8.5 billion.

SARA also required USEPA to revise the Hazard Ranking System (HRS) to ensure that it accurately assessed the relative degree of risk to human health and the environment posed by uncontrolled Hazardous Waste sites that may be placed on the National Priorities List (NPL).

**SAWBAA** – Santa Ana Watershed Benefit Assessment Area

**SCCWRP** – Southern California Coastal Water Research Project

**Sediment** – Soil, sand, and minerals washed from land into water. Sediment resulting from anthropogenic sources (i.e. human induced land disturbance activities) is considered a Pollutant. This Order regulates only the discharges of Sediment from anthropogenic sources and does not regulate naturally occurring sources of Sediment. Sediment may destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.

**SIC [Standard Industrial Classification]** – Four digit industry code, as defined by the US Department of Labor, Occupational Safety and Health Administration. The SIC Code is used to identify if a facility requires coverage under the General Industrial Activities Storm Water Permit.

**Significant Redevelopment** – As defined in Section XI.D.3.a.

**SIP** - Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California

**Site Design BMPs** – Any project design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's natural flow regime. Redevelopment projects that are undertaken to remove Pollutant sources (such as existing surface parking lots and other impervious surfaces) or to reduce the need for new roads and other impervious surfaces (as compared to conventional or low-density New Development) by incorporating higher densities and/or mixed land uses into the project design, are also considered site design BMPs

**Smart Growth Principles** – Smart Growth refers to the use of creative strategies to develop ways that preserve natural lands and critical environmental areas, protect water and air quality, and reuse already-developed land.

**SMC** - Storm Water Monitoring Coalition

**Source Control BMPs** – In general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed to limit the contact between Pollutant sources and storm water or authorized Non-Storm Water. Examples include: activity schedules, prohibitions of practices, street sweeping, facility maintenance, detection and elimination of IC/IDs, and other non-structural measures. Facility design (structural) examples include providing attached lids to trash containers, canopies for fueling islands, secondary containment, or roof or awning over material and trash storage areas to prevent direct contact between water and Pollutants.

**Southern California Monitoring Coalition (SMC)** - A regional group working to improve monitoring program design, parameter test methods, calibrate labs, evaluate the effectiveness of BMPs, and/or advance the science and understanding of Urban Runoff impacts on Receiving Waters.

**SSMP** – Sewer System Management Plan

**SSO Order** – Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Water Quality Order No. 2006-0003-DWQ.

**State Board** – California State Water Resources Control Board

**Storm Water** – Storm water runoff and snow melt runoff from urban, open space, and agricultural areas consisting only of those discharges that originate from precipitation events. Storm water is that portion of precipitation that flows across a surface to the MS4 or receiving waters. Examples of this phenomenon include: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows into streams when snow on the ground begins to melt (runoff from a semi-pervious surface); and the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the underlying soil (runoff from a pervious surface). When all other factors are equal, runoff increases as the perviousness of a surface decreases. During precipitation events in urban areas, rain water may pick up and transports Pollutants through storm water conveyance systems, and ultimately to Waters of the U.S.

**Storm Water Ordinance** – The Storm Water/Urban Runoff Management and Discharge Control Ordinances and ordinances addressing grading and erosion control adopted by each of the Co-Permittees.

**Structural BMPs** – Physical facilities or controls that may include secondary containment, treatment measures, (e.g. first flush diversion, detention/retention basins, and oil/grease separators), run-off controls (e.g., grass swales, infiltration trenches/basins, etc.), and engineering and design modification of existing structures.

**Subdivision Map Act** - Section 65000 et seq. of the California Government Code

**SWAMP** - Surface Water Ambient Monitoring Program

**SWPPP [Storm Water Pollution Prevention Plan]** – Plan required by the General Construction Permit to minimize and manage Pollutants to minimize Pollution from entering the MS4, identifying all potential sources of Pollution and describing planned practices to reduce Pollutants from discharging off the site.

**SWQSTF** – Storm Water Quality Standards Task Force

**TDS** – Total dissolved solids.

**Technical Committee** – A committee consisting of one or more representatives from each Permittee that provides technical direction on the development of the DAMP and the implementation of the overall Urban Runoff program.

**Technology-Based Effluent Limitations** – A permit limit for a Pollutant that is based on the capability of a treatment method to reduce the Pollutant to a certain concentration.

**TIN** – Total Inorganic Nitrogen

**TMDL [Total Maximum Daily Load]** – Maximum amount of a Pollutant that can be discharged into a water body from all sources (point and non-point) and still maintain Water Quality Standards. Under CWA Section 303(d), TMDLs must be developed for all water bodies that do not meet Water Quality Standards after application of technology-based controls.

**TMDL Implementation Plan** – Component of a TMDL that describes actions, including monitoring, needed to reduce Pollutant loadings and a timeline for implementation. TMDL Implementation Plans can include a monitoring or modeling plan and milestones for measuring progress, plans for revising the TMDL if progress toward cleaning up the waters is not made, and the date by which Water Quality Standards will be met (USEPA Final TMDL Rule: Fulfilling the Goals of the CWA, EPA 841-F-00-008, July 2000).

**Toxic Substance** – A substance that can cause Toxicity.

**Toxicity** – Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies.

**Treatment Control BMPs** – Any engineered system designed and constructed to remove Pollutants from Urban Runoff. Pollutant removal is achieved by simple gravity

settling of particulate Pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

**Tributary** – a stream, river, or MS4 which flows into downstream receiving water, MS4 or BMP.

**TSS** – Total suspended solids.

**Uncontaminated Pumped Groundwater** – Groundwater that meets the surface Water Quality Objectives specified in the Basin Plan to which it is proposed to be discharged.

**Urban Runoff** – Urban Runoff includes those discharges from residential, commercial, industrial, and construction areas within the Permit Area and excludes discharges from Open Space<sup>2</sup>, feedlots, dairies, farms and agricultural fields. Urban Runoff discharges consist of storm water and non-storm water surface runoff from drainage sub-areas with various, often mixed, land uses within all of the hydrologic drainage areas that discharge into the Waters of the U.S. In addition to Urban Runoff, the MS4s regulated by this Order receive flows from Open Space, agricultural activities, agricultural fields state and federal properties and other non-urban land uses not under the control of the Permittees. The quality of the discharges from the MS4s varies considerably and is affected by, among other things, past and present land use activities, basin hydrology, geography and geology, season, the frequency and duration of storm events, and the presence of past or present illegal and allowed disposal practices and Illicit Connections.

The Permittees lack legal jurisdiction over storm water discharges into their respective MS4 facilities from agricultural activities, California and federal facilities, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and non-point source discharges otherwise permitted by or under the jurisdiction of the Regional Board. The Regional Board recognizes that the Permittees should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate Pollutants present in Urban Runoff are beyond the ability of the Permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear, residues from lawful application of pesticides, nutrient runoff from agricultural activities, leaching of naturally occurring minerals from local geography. Urban Runoff does not include background Pollutant loads or naturally occurring flows.

**USEP** – Urban Source Evaluation Plan for the MSAR TMDL.

**USEPA** – United States Environmental Protection Agency.

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<sup>2</sup> This use of Open Space excludes Open Space integrated into urbanized areas such as pocket parks, landscaped medians, walking trails, etc. Open Space is intended to address essentially unimproved areas in strictly unurbanized settings.

**Waste** – As defined in Water Code Section 13050(d), “Waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.” Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system that applies to solid and semi-solid waste that cannot be discharged directly or indirectly to waters of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, non-hazardous solid waste, and inert waste.

**Waste Discharge Requirements (WDRs)** – As defined in Section 13374 of the California Water Code, the term “Waste Discharge Requirements” is the equivalent of the term “permits” as used in the Federal Water Pollution Control Act, as amended. The Regional Board usually reserves reference to the term “permit” to Waste Discharge Requirements for discharges to surface Waters of the U.S.

**Waste Load Allocations (WLAs)**– Maximum quantity of Pollutants a discharger of waste is allowed to release into a particular waterway, as set by a regulatory authority. Discharge limits usually are required for each specific water quality criterion being, or expected to be, violated. Distribution or assignment of TMDL Pollutant loads to entities or sources for existing and future Point Sources.

**WQBEL** – Water Quality Based Effluent Limitations

**Water Code** – California Water Code

**Waters of the U.S.** – Waters of the U.S. can be broadly defined as navigable surface waters and all tributary surface waters to navigable surface waters. Groundwater is not considered to be a Waters of the U.S. As defined in 40 CFR 122.2, the Waters of the U.S. are defined as: (a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate “wetlands;” (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as Waters of the U.S. under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)

through (f) of this definition. Waters of the U.S. do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with the USEPA.

**Water Quality Objectives** – Means the numeric or narrative limits or levels of water quality constituents or characteristics which are established for the reasonable protection of Beneficial Uses of water or the prevention of Nuisance within a specific area. [California Water Code Section 13050(h)]

**Water Quality Standards** – The water quality goals of a waterbody (or a portion of the waterbody) designating Beneficial Uses to be made of the water and the Water Quality Objectives or criteria necessary to protect those uses. These standards also include California's anti-degradation policy.

**Watershed** – That geographical area which drains to a specified point on a watercourse, usually a confluence of streams or rivers (also known as drainage area, catchments, or river basin).

**Watershed Action Plan (WAP)** – Integrated plans for managing a watershed that include consideration of water quality, Hydromodification, water supply and habitat protection. The Watershed Action Plan integrates existing watershed based planning efforts and incorporates watershed tools to manage cumulative impacts of development on vulnerable streams, preserve structure and function of streams, and protect source, surface and groundwater quality and water supply in the Permit Area. The Watershed Action Plan should integrate Hydromodification and water quality management strategies with land use planning policies, ordinances, and plans within each jurisdiction.

**WDID [Waste Discharge Identification]** – Identification number provided by the State when a Notice of Intent is filed.

**Wet Season/Wet Weather** – October 1 through May 31<sup>st</sup> of each year unless defined otherwise in the specific applicable TMDL implementation plan. The Middle Santa Ana River TMDL defines the wet season as November 1 through March 31<sup>st</sup> and the Canyon Lake/Lake Elsinore TMDL monitoring defines it as October 1<sup>st</sup> through May 31<sup>st</sup>.

**WQMP** – Water Quality Management Plan as discussed in Section 6 of the DAMP.

**WRCOG** - Western Riverside Council of Governments

Order No. R8-2010-0033 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

**APPENDIX 5**

**NOTICE OF INTENT AND  
NOTICE OF TERMINATION  
FOR MUNICIPAL CONSTRUCTION ACTIVITIES**

**ORDER NO. R8-2010-0033**



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD – SANTA ANA REGION**  
**NOTICE OF INTENT**

TO COMPLY WITH THE TERMS OF THE RIVERSIDE COUNTY MUNICIPAL STORMWATER PERMIT  
FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES



**ORDER No. R8-2010-0033 (NPDES No. CAS618033)**

MARK ONLY ONE ITEM    1.  New Construction/Reconstruction    2.  Change of Information for WDID# \_\_\_\_\_

**I. OWNER**

Name	Contact Person		
Mailing Address	Title		
City	State CA	Zip	Phone (    ) - Fax (    ) - Email :

**II. CONTRACTOR INFORMATION**

Name	Contact Person		
Local Mailing Address	Title		
City	State	Zip	Phone (    ) - Fax (    ) - Email:

**III. SITE INFORMATION**

A. Project Title	Site Address		
City/Unincorporated Area	State CA	Zip	Contact Person Phone (    ) -
B. Construction commencement date: (Month / Day / Year)	C. Projected construction completion date: (Month / Day / Year)		

D. Type of Work: <input type="checkbox"/> Utility <input type="checkbox"/> Flood Control <input type="checkbox"/> Transportation <input type="checkbox"/> Other (Specify)	E. Total size of project/construction site: ____ Acres Total size of area to be disturbed:____ ____ Acres.
Description of Work: _____	

**IV. RECEIVING WATER INFORMATION**

A. Does the storm water runoff from the construction site discharge to (check all that apply):

- Indirectly to Waters of the U.S.
- MS4 Facility - Enter owner's name: \_\_\_\_\_
- Directly to Waters of U.S. (e.g., river, lake, creek, stream, or to a pipe/channel that flows without inflow from other sources between site and water body etc.)

**V. IMPLEMENTATION OF NPDES PERMIT REQUIREMENTS**

A. STORM WATER POLLUTION PREVENTION PLAN (SWPPP) (mark one) <input type="checkbox"/> A SWPPP has been prepared for this project and is available for review <input type="checkbox"/> A SWPPP will be prepared and ready for review by (date): ___/___/___	C. MONITORING PROGRAM (MP) (mark one) <input type="checkbox"/> A MP has been prepared for this facility and is available for review <input type="checkbox"/> A MP will be prepared and ready for review by (date): ___/___/___
B. Date WQMP approved by MS4 Permittee: ___/___/___ <input type="checkbox"/> Not Applicable.	

**VI. CERTIFICATIONS**

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment. In addition, I certify that Order No. R8-2010-0033; (specifically Sections XII.F., XIV, XVI, and XX), including the development and implementation of a Storm Water Pollution Prevention Plan and a Monitoring Program Plan, will be complied with."

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD – SANTA ANA REGION**  
**NOTICE OF TERMINATION**  
 OF COVERAGE UNDER THE RIVERSIDE COUNTY MUNICIPAL STORMWATER PERMIT  
 FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY  
**ORDER No. R8-2010-0033 (NPDES No. CAS618033)**



I. WDID No. \_\_\_\_\_

**II. OWNER**

Name	Contact Person		
Mailing Address	Title		
City	State	Zip	Phone (    )    – Fax (    )    – Email:

**III. SITE INFORMATION**

A. Original Project Title	Site Address		
City/Unincorporated Area	State CA	Zip	Site Contact Person
B. Contractor Name	Phone (    )    – Fax (    )    – Email:	Title	
Local Mailing Address	City	State	Zip
Qualified SWPPP Practitioner	Phone (    )    – Fax (    )    – Email:		

**IV. BASIS OF TERMINATION**

- \_\_\_ 1. The construction project is completed and the following conditions have been met.
- All elements of the Storm Water Pollution Prevention Plan have been completed.
  - Construction materials and waste have been disposed of properly.
  - The site is in compliance with all local storm water management requirements.
  - A post-construction storm water operation and management plan is in place (Attach a description of the post construction BMPs, the location (Latitude /Longitude), and a map of the locations of the post construction BMPs).
  - Date field verification inspection performed and include a copy of the field verification report. \_\_\_/\_\_\_/\_\_\_
- \_\_\_ 2. Construction activities have been suspended; either temporarily \_\_\_ or indefinitely \_\_\_ and the following conditions have been met.
- All elements of the Storm Water Pollution Prevention Plan have been completed.
  - Construction materials and waste have been disposed of properly.
  - The site is permanently stabilized (greater than 3 years without maintenance).
  - The site is in compliance with all local storm water management requirements.
- Date of suspension \_\_\_/\_\_\_/\_\_\_      Expected start up date \_\_\_/\_\_\_/\_\_\_

**V. CERTIFICATION**

I certify under penalty of law that all storm water discharges associated with construction activity from the identified site that are authorized by NPDES General Permit No. CAS000002 have been eliminated or that I am no longer the owner of the site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with construction activity under the General Permit, and that discharging pollutants in storm water associated with construction activity to Waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an owner of liability for any violation of the General Permit or the Clean Water Act.

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Order No. R8-2010-0033 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

**APPENDIX 7**

**NOTICE OF INTENT AND  
NOTICE OF TERMINATION  
FOR DE-MINIMUS DISCHARGES**



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION  
NOTICE OF INTENT  
TO COMPLY WITH THE TERMS AND CONDITIONS OF THE**



- Riverside County MS4 Permit**       **San Bernardino County MS4 Permit**  
**ORDER NO. R8-2010-0033**                      **ORDER NO. R8-2010-0036**  
**NPDES NO. CAS 618033**                      **NPDES NO. CAS618036**

**GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISCHARGE TO  
SURFACE WATERS  
THAT POSE INSIGNIFICANT (DE MINIMUS) THREAT TO WATER QUALITY**

**I. PERMITTEE** (*Person/Agency Responsible for the Discharge*)

Agency/Company

Name: \_\_\_\_\_

Address/Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_ Contact Person: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_; Email: \_\_\_\_\_

**II. FACILITY**

Name: \_\_\_\_\_

Address/Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_ Contact Person: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_; Email: \_\_\_\_\_

a. Projected Flow Rate (gpd): \_\_\_\_\_,

b. Receiving Water (identify): \_\_\_\_\_

**III. INDICATE EXISTING PERMIT NUMBER:** (*if applicable*)

a. Individual Permit Order No. \_\_\_\_\_ NPDES No. \_\_\_\_\_

b. General Permit Order No. R8-2010-003-\_\_\_\_\_

c. Others (specify) \_\_\_\_\_

**IV. CERTIFICATION:**

*I certify under penalty of law that I am an authorized representative of the permittee and that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the permittee will comply with the terms and conditions stipulated in Orders No. R8-2009-0003 and (R8-2010-0033 or R8-2010-0036, as applicable) including the monitoring and reporting program issued by the Executive Officer of the Regional Board.*

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
(type or print)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Email: \_\_\_\_\_

*Remarks: If changes to facility ownership and/or treatment processes were made after the issuance of the existing permit, please provide a description of such changes on another sheet and submit it with this Notice of Intent.*

**V. OTHER REQUIRED INFORMATION - FOR NEW DISCHARGERS AND FOR NEW DISCHARGES AND LOCATIONS NOT PREVIOUSLY REPORTED BY EXISTING DISCHARGERS.**

Please provide a COMPLETE characterization of your discharge. A complete characterization includes, but is not limited to:

- a. A list of constituents and the discharge concentration of each constituent;
- b. The estimated average and maximum daily flow rates at unit of gallons per day(gpd); the frequency and duration of the discharge and the date(s) when discharge will start;
- c. The proposed discharge location(s) as latitude and longitude for each discharge point;
- d. A description of the proposed treatment system (if appropriate);
- e. The affected receiving water; the receiving water(s) shall be
  - 1) receiving storm drain/creek, and/or
  - 2) the ultimate receiving water, such as Santa Ana River, San Jacinto River, Lake Elsinore, Prado Park Lake, etc.;
- f. A map showing the path from the point of initial discharge to the ultimate receiving water. Please try to limit your maps to size of 8.5" X 11".
- g. A list of known or suspected leaking underground tanks and other facilities or operations that have, or may have impacted the quality of the underlying groundwater within 200 feet of the site property lines for projects with expected discharge flow rates of less than 100,000 gallons per day and within 500 feet of the site property lines for projects with expected discharge flow rates of greater than 100,000 gallons per day.
- h. Any other information deemed necessary by the Executive Officer.

**VI. OTHER**

Attach additional sheets to explain any responses which need clarification. List attachments with titles and dates below:

You will be notified by a representative of the RWQCB within 30 days of receipt of your application. The notice will state if your application is complete or if there is additional information you must submit to complete your application, pursuant to Division 7, Section 13260 of the California Water Code.

TAB 2

California Regional Water Quality Control Board, Santa Ana Region,  
Order No. R8-2010-0033, Fact Sheet (Appendix 6)

Order No. R8-2010-0033 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

**APPENDIX 6**

**FACT SHEET**

**ORDER NO. R8-2010-0033**

State of California  
California Regional Water Quality Control Board  
Santa Ana Region  
3737 Main Street, Suite 500  
Riverside, CA 92501- 3348

FACT SHEET  
January 29, 2010

ITEM: 09

**SUBJECT: Waste Discharge Requirements for the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside County within the Santa Ana Region, Urban Runoff Management Program, Order No. R8-2010-0033 (NPDES No. CAS 618033)**

**I. INTRODUCTION**

**A. PROJECT**

The attached pages contain information concerning an application for renewal of Waste Discharge Requirements and a National Pollutant Discharge Elimination System (NPDES) permit, Order No. R8-2010-0033 (Order), NPDES No. CAS 618033, which prescribes Waste Discharge Requirements for Urban Runoff (as defined in Appendix 4) from the cities and the unincorporated areas in Riverside County within the jurisdiction of the Santa Ana Regional Board Water Quality Control Board (Regional Board). This Order regulates discharges of Urban Runoff from the Permit Area, as defined in Order No. R8-2010-0033 and shown in Appendix 1.

If appropriate Pollution control measures are not implemented, Urban Runoff, (as defined in Appendix 4 – Glossary), may contain pathogens (bacteria, protozoa, viruses), sediment, trash, fertilizers (nutrients, mostly nitrogen and phosphorus compounds), oxygen-demanding substances (decaying matter), pesticides (DDT, chlordane, diazinon, chlorpyrifos), heavy metals (cadmium, chromium, copper, lead, zinc), and petroleum products (oil & grease, PAHs, petroleum hydrocarbons).

If not properly managed and controlled, urbanization may change the stream hydrology and increase Pollutant loading to Receiving Waters. As a watershed undergoes urbanization, pervious surface area decreases, runoff volume and velocity may increase, riparian habitats and wetland habitats decrease, the frequency and severity of flooding may increase, and Pollutant loading may increase. Most of these impacts occur due to human activities (Anthropogenic) that occur during and/or after urbanization. The Pollutants and hydrologic changes may

cause declines in aquatic resources, cause toxicity to aquatic organisms, and impact human health and the environment. Based on information provided in Section D of the Riverside County Flood Control and Water Conservation District's (RCFC&WCD or the Principal Permittee as context indicates) Hydrology Manual, it is feasible that, in semi-arid regions, development may result in the creation of a net increase in absorption.

Properly planned high-density development may reduce urban sprawl and problems associated with sprawl. Urban in-fill and high-density development are elements of smart growth, which creates the opportunity to maintain relatively natural open space elsewhere in the Permit Area (see Appendix 4). The goal of Low Impact Development (LID) is to mimic pre-development runoff quality and quantity.

On April 27, 2007, The RCFC&WCD in cooperation with the County of Riverside (the County) and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, and San Jacinto jointly submitted a NPDES Application No. CAS 618033, a Report of Waste Discharge (the ROWD) and a revised Drainage Area Management Plan (DAMP) to renew the Municipal Separate Storm Sewer System (MS4) NPDES permit for the Santa Ana River watershed (the Permit Area) within Riverside County. This Order renews the NPDES permit authorizing Urban Runoff in the Permit Area (see Appendix 1, "urban area" includes those portions of "agriculture" and "open space" that convert to industrial, commercial, or residential use during the term of this Order). To more effectively carry out the requirements of this Order, the Permittees have agreed that the RCFC&WCD will continue as the Principal Permittee and the County and the incorporated cities will continue as the Co-Permittees.

On February 5, 2008 Wildomar residents voted for cityhood and the City incorporated on July 1, 2008. Menifee residents voted for cityhood on June 3, 2008 and the City incorporated on October 1, 2008. On May 6, 2009, the City of Menifee and on May 5, 2009, the City of Wildomar submitted Letters of Intent to be a Co-Permittee in this Order and for the purposes of this Order shall be considered as such. The cities in the Permit Area, along with the County, are collectively referred to as the Co-Permittees, and collectively, with the Principal Permittee, the Permittees.

## B. PROJECT AREA

The Permit Area contains 1,396 square miles or 19.1% of the 7,300 square miles within Riverside County and includes 15 of the 26 municipalities within Riverside County. The California Department of Finance estimates that as of January 1,

2006, the population of Riverside County is 1,953,330 of which 1,237,388<sup>1</sup> reside within the Permit Area. The California Department of Finance estimates that as of January 1, 2009, the population of Riverside County was 2,107,653<sup>2</sup>. Beaumont, Calimesa, and Canyon Lake have populations of 25,000 or less. The County, Corona, Moreno Valley and Riverside have populations of 100,000 or more. The Southern California Association of Governments estimates that the County of Riverside will grow by 16% between 2006 and 2010 (2008 RTP Growth Forecast by City). The most significant percentage growth in population between 2006 and 2010 occurred in the Cities of Beaumont, Calimesa, and San Jacinto.

Land uses in Riverside County within the Santa Ana River Region include open space, residential, commercial, light industrial, heavy industrial, and agriculture. The agricultural land uses include row crops, nurseries, citrus groves and vineyards, dairies, ranches, poultry and hog farms, and other agricultural related uses with one single-family residence allowed per 10 acres (County of Riverside General Plan, Land Use Element 2003). The conversion of agricultural lands and open space to other "developed" land uses has been ongoing and will continue. Based on Riverside County Assessor's Parcel Data as of February 2006, the land use mix of the County area within the Santa Ana Region was: 29,441 acres used or zoned for commercial/industrial purposes (3.3%), 70,499 acres for residential purposes (7.9%), 11,798 acres utilized for improved streets and roads (1.3%), 9,872 acres are used for parks and recreational facilities (1.1%), 70,164 acres are used for rural residential (7.9%), 453,976 acres are utilized for open space (50.8%), and 48,627 acres are used for agricultural purposes (5.4%). The federal, state, tribal, and non-Permittee jurisdictional lands within the portion of Riverside County within the Santa Ana Region total 199,064 acres (22.3%).

Less than one fifth (1/5) of Riverside County is within the Permit Area. The Permit Area includes the "urban area" as shown in Appendix 1 and those portions of "agriculture" and "open space" as shown on Appendix 1 that do convert to industrial, commercial or residential use during the term of this Order. The Permit Area is delineated by the San Bernardino-Riverside County boundary line on the north and northwest, the Orange-Riverside County boundary line on the west, the Santa Ana-San Diego Regional Board boundary line on the south, and the Santa Ana-Colorado River Basin Regional Board boundary line on the east. Sixty-seven percent of Riverside County's population resides within the Regional Board's jurisdiction. The San Diego and the Colorado River Basin Regional Water Quality Control Boards regulate Urban Runoff from those portions of Riverside County outside of the Permit Area shown in Appendix 1.

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<sup>1</sup> As per Section 3.3.1 of the 2007 ROWD, (Western Riverside Council of Governments (WRCOG), excluding the cities of Menifee and Wildomar

<sup>2</sup> E-1 report dated April 30, 2009 ([http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/2008-09/documents/E-1\\_2009%20Press%20Release.pdf](http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/2008-09/documents/E-1_2009%20Press%20Release.pdf)).

### C. CLEAN WATER ACT REQUIREMENTS

The federal Clean Water Act (the “CWA”) established a national policy designed to help maintain and restore the physical, chemical and biological integrity of the nation’s waters. In 1972, the CWA established the NPDES permit program to regulate the discharge of Pollutants from Point Sources to “Waters of the U.S.”. From 1972 to 1987, the main focus of the NPDES program was to regulate conventional Pollutant sources such as sewage treatment plants and industrial facilities. As a result, on a nationwide basis, non-point sources, including agricultural runoff and Urban Runoff, now contribute a larger portion of many kinds of Pollutants than the more thoroughly regulated sewage treatment plants and industrial facilities.

The National Urban Runoff Program (NURP) final report to the Congress (USEPA, 1983) concluded that the goals of the CWA could not be achieved without addressing Urban Runoff discharges. The 1987 CWA amendments established a framework for regulating Urban Runoff. Pursuant to these amendments, the Santa Ana Regional Board began regulating discharges from MS4s in 1990.

## **II. REGULATORY BACKGROUND AND CLEAN WATER ACT REQUIREMENTS**

As water flows over streets, parking lots, construction sites, and industrial, commercial, residential, and municipal areas, it may intercept Pollutants from these areas and transport them to Waters of the U.S.. As indicated in I.A, above, Urban Runoff may contain pathogens, sediment, trash, fertilizers, oxygen-demanding substances, pesticides, heavy metals, and petroleum products. If not properly managed and controlled, urbanization may adversely impact water quality and quantity in the receiving waters.

However, urban development projects that incorporate LID concepts may reduce the impact of urban development on runoff water quality and quantity.

Studies<sup>3</sup> conducted in the Southern California area have established storm water runoff from urban areas as significant sources of Pollutants in surface waters. The Santa Ana River is impacted by agricultural, other discharges and Urban Runoff as it flows through the San Bernardino County and Riverside County areas prior to flowing through Orange County and into the Pacific Ocean.

If not properly controlled, Urban Runoff could be a significant source of Pollutants in the Waters of the U.S. Table 1 includes a list of Pollutants, potential sources, and some of the adverse environmental consequences mostly resulting from urbanization.

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<sup>3</sup> Bay, S., Jones, B. H. and Schiff, K, 1999, Study of the Impact of Stormwater Discharge on Santa Monica Bay. Sea Grant Program, University of Southern California; and Haile, R.W., et al., 1996, An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay. Southern California Coastal Water Research Project (1992), Surface Runoff to the Southern California Bight. January 29, 2010 Final

**Table 1<sup>4</sup>**  
**Pollutant Sources and Impacts of a Number of Pollutants**  
**On Waters of the U.S.**

<b>Pollutants</b>	<b>Sources</b>	<b>Effects and Trends</b>
Toxins (e.g., biocides, PCBs, trace metals, heavy metals)	Industrial and municipal wastewater; runoff from farms, forests, urban areas, and landfills; erosion of contaminated soils and sediments; vessels; atmospheric deposition	Poison and cause disease and reproductive failure; fat-soluble toxins may bioconcentrate, particularly in birds and mammals, and pose human health risks. Inputs into Waters of the U.S. have declined, but remaining inputs and contaminated sediments in urban and industrial areas pose threats to living resources.
Pesticides (DDT, diazinon, chlorpyrifos)	Urban Runoff, agricultural runoff, commercial, industrial, residential and farm use	The use of legacy pesticides (DDT, chlordane, dieldrin) has been banned or restricted; still persists in the environment; some of the other pesticide uses are curtailed or restricted.
Biostimulants (organic wastes, plant nutrients)	Sewage and industrial wastes; runoff from farms and urban areas; nitrogen from combustion of fossil fuels	Organic wastes overload bottom habitats and deplete oxygen; nutrient inputs stimulate algal blooms (some harmful), which reduce water clarity, and alter food chains supporting fisheries. While organic waste loading has decreased, nutrient loading has increased (NRC, 1993a, 2000a).
Petroleum products (oil, grease, petroleum hydrocarbons, PAHs)	Urban Runoff and atmospheric deposition from land activities; accidental spills; oil & gas production activities; natural seepage; and PAHs from internal combustion engines	Petroleum hydrocarbons can affect bottom organisms and larvae; spills affect birds, mammals and aquatic life. While oil Pollution from accidental spills and production activities has decreased, diffuse inputs from land-based activities have not (NRC, 1985).
Radioactive isotopes	Atmospheric fallout, industrial and military activities	Bioaccumulation may pose human health risks where contamination is heavy.
Sediments	Erosion from farming, construction activities, forestry, mining, development; river diversions; coastal dredging and mining	Reduce water clarity and change bottom habitats; carry toxins and nutrients; clog fish gills and interfere with respiration in aquatic fauna. Sediment delivery by many rivers has decreased, but sedimentation poses problems in some areas.
Plastics and other debris	Ships, boats, fishing nets, containers, trash, Urban Runoff	Entangles aquatic life or is ingested; degrades, beaches, lake shores, near shore habitats, and wetland habitats. Floatables (from trash) are an aesthetic Nuisance and can be a substrate for algae and insect vectors.
Thermal	Cooling water from power plants and industry, urban runoff from impervious surfaces	Kills some temperature-sensitive species; and displaces others. Generally, less a risk to marine life than thought 20 years ago.
Noise	Vessel propulsion, sonar, seismic prospecting, low-frequency sound used in defense and research	May disturb marine mammals and other organisms that use sound for communication.
Pathogens (bacteria, protozoa, viruses)	Sewage, Urban Runoff, livestock, wildlife, and discharges from boats and cruise ships.	Pose health risks to swimmers and consumers of aquatic life. Sanitation has improved, but standards have been raised (NRC 1999a).
Alien species	Ships and ballast water, fishery stocking, aquarists	Displace native species, introduce new diseases; growing worldwide problem (NRC 1996).

<sup>4</sup> Adapted from "Marine Pollution in the United States" prepared for the Pew Oceans Commission, 2001. January 29, 2010 Final

The CWA prohibits the discharge of any Pollutant to navigable waters from a Point Source unless an NPDES permit authorizes the discharge. Efforts to improve water quality under the NPDES program traditionally and primarily focused on reducing Pollutants in discharges of industrial process wastewater and municipal sewage. The 1987 amendments to the CWA required MS4s and industrial facilities, including construction sites, to obtain NPDES permits for storm water runoff from their facilities. On November 16, 1990, the USEPA promulgated the final NPDES Phase I storm water regulations. The storm water regulations are contained in 40 CFR Parts 122, 123 and 124. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. First, this Order implements federally mandated requirements under federal Clean Water Act section 402, subdivision (p)(3)(B). (33 U.S.C. § 1342(p)(3)(B).) This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (*Natural Resources Defense Council, Inc. v. U.S.E.P.A.* (9th Cir. 1992) 966 F.2d 1292, 1308, fn.17). The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (*cf. Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead, is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, *City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389; *Building Industry Ass'n of San Diego County v. State Water Resources Control Bd.* (2004) 124 Cal.App.4th 866, 882-883.)

Likewise, the provisions of this Order to implement total maximum daily loads (TMDLs) are federal mandates. The federal Clean Water Act requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 U.S.C. § 1313(d).) Once the U.S. Environmental Protection Agency or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation. (40 C.F.R. § 122.44(d)(1)(vii)(B).)

Second, the local agency permittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicable exceptions, the Clean Water Act regulates the discharge of pollutants from point sources (33 U.S.C. § 1342) and the Porter-Cologne regulates the

discharge of waste (Wat. Code, § 13263), both without regard to the source of the pollutant or waste. As a result, the “costs incurred by local agencies” to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and nongovernmental dischargers. (See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

The Clean Water Act and the Porter-Cologne Water Quality Control Act largely regulate storm water with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Except for municipal separate storm sewer systems, the Clean Water Act requires point source dischargers, including discharges of storm water associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. § 1311(b)(1)(C), *Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1164-1165 [noting that industrial storm water discharges must strictly comply with water quality standards].) As discussed in prior State Water Resources Control Board decisions, this Order does not require strict compliance with water quality standards. (SWRCB Order No. WQ 2001-15, p. 7.) The Order, therefore, regulates the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.

Third, the local agency permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. The fact sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments on these activities, independent of real property ownership. (See, e.g., *Apartment Ass’n of Los Angeles County, Inc. v. City of Los Angeles* (2001) 24 Cal.4th 830, 842 [upholding inspection fees associated with renting property].) The ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487-488.)

Fourth, the Permittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their discharges. To the extent, the local agencies have voluntarily availed themselves of the permit, the program is not a state mandate. (*Accord County of San Diego v. State of California* (1997) 15 Cal.4th 68, 107-108.) Likewise, the Permittees have voluntarily sought a program-based municipal storm water permit in lieu of a numeric limits approach. (See *City of Abilene v. U.S. E.P.A.* (5th Cir. 2003) 325 F.3d 657, 662-663 [noting that municipalities can choose between a management permit or a permit with numeric limits].) The local agencies’ voluntary decision to file a report of waste discharge proposing a program-based

permit is a voluntary decision not subject to subvention. (See *Environmental Defense Center v. USEPA* (9th Cir. 2003) 344 F.3d 832, 845-848.)

Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under state law predates the enactment of Article XIII B, Section (6) of the California Constitution.

On July 13, 1990, the Regional Board adopted the first term Riverside County Area-wide MS4 Permit, Order No. 90-104 (NPDES No. CA 8000192), for Urban Runoff from areas in Riverside County within the Permit Area. On March 8, 1996, the Regional Board renewed Order No. 90-104 by adopting the second term area-wide MS4 Permit, Order No. 96-30, (NPDES No. CAS618033). On October 25, 2002, the Regional Board renewed Order No. 96-30 by adopting the third term area-wide MS4 Permit, Order No. R8-2002-0011.

This Order renews the area-wide NPDES MS4 Permit for the Permit Area for the fourth-term, in accordance with Section 402 (p) of the CWA and all requirements applicable to an NPDES permit issued under the issuing authority's discretionary authority. The requirements included in this Order are consistent with the CWA, the federal regulations governing urban storm water discharges, the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan), the California Water Code, and the State Water Resources Control Board's (State Board) Plans and Policies.

The Basin Plan is the basis for the Regional Board's regulatory programs. The Basin Plan was developed and is periodically reviewed and updated in accordance with relevant federal and state law and regulation, including the CWA and the California Water Code. As required, the Basin Plan designates the Beneficial Uses of the waters of the Region and specifies Water Quality Objectives intended to protect those uses. (Beneficial Uses and Water Quality Objectives, together with an anti-degradation policy, comprise federal "Water Quality Standard"). The Basin Plan also specifies an implementation plan, which includes certain discharge prohibitions. In general, the Basin Plan makes no distinctions between wet and dry weather conditions in designating Beneficial Uses and setting Water Quality Objectives, i.e., the Beneficial Uses, and correspondingly, the Water Quality Objectives are assumed to apply year-round. (Note: In some cases, Beneficial Uses for certain surface waters are designated as "I", or intermittent, in recognition of the fact that surface flows (and Beneficial Uses) may be present only during wet weather.) Most Beneficial Uses and Water Quality Objectives were established in the 1971, 1975, 1983, and 1995 Basin Plans. The 1995 Basin Plan was updated in February 2008<sup>5</sup>. Amendments to the Basin Plan included new nitrate-nitrogen and TDS objectives for specified

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<sup>5</sup> [http://www.waterboards.ca.gov/santaana/water\\_issues/programs/basin\\_plan/index.shtml](http://www.waterboards.ca.gov/santaana/water_issues/programs/basin_plan/index.shtml)

management zones, new nitrogen and TDS management strategies applicable to both surface and ground waters and various Total Maximum Daily Loads (TMDLs) and TMDL Implementation Plans that had been adopted for Impaired Waterbodies within the region.

Water Code Section 13241 requires that certain factors must be considered when Water Quality Objectives are established. These factors include economics and the need for developing housing in the Region. During the 2002 MS4 Permit development process, the Permittees raised an issue regarding compliance with Section 13241 of the California Water Code with respect to Water Quality Objectives for wet weather conditions, specifically the cost of achieving compliance during wet weather conditions and the need for developing housing within the Region and its impact on Urban Runoff. During the 2006 review of the Basin Plan, this matter was incorporated on the triennial review list. To begin addressing this issue, Regional Board staff, in collaboration with the MS4 Permittees in the Santa Ana River watershed, has organized a Storm Water Quality Standards Task Force (SWQSTF).

The SWQSTF is analyzing, monitoring and documenting actual and potential Beneficial Uses of surface waters within the Santa Ana River watershed. Based on the findings, the SWQSTF plans to recommend changes to the current Beneficial Use designations and Water Quality Objectives specified in the Basin Plan. This Order may be reopened to incorporate any changes to the Water Quality Standards. The SWQSTF is currently focusing on Recreational Beneficial Uses. In the meantime, the provisions of this Order will result in reasonable further progress towards the attainment of the existing Water Quality Objectives, in accordance with the discretion in the permitting authority recognized by the United States Court of Appeals for the Ninth Circuit in *Defenders of Wildlife vs. Browner*, 191 F.3d 1159, 1164 (9<sup>th</sup> Cir. 1999).

### **III. EXCLUSIONS TO THE PERMIT AREA**

Areas of the County not addressed or which are excluded by the storm water regulations and areas not under the jurisdiction of the Permittees were excluded from the area requested for coverage under the ROWD. These include the following areas and activities:

- Federal lands and State properties, including, but not limited to, military bases, national forests, hospitals, colleges and universities, and highways;
- Native American tribal lands;
- Open space and rural (non-urbanized) areas;

- Agricultural lands (return flows from irrigated agriculture and nonpoint source agricultural activities are exempted under the CWA); and
- Utilities, railroads, and special districts (including school districts, park districts, publicly owned treatment works (POTWs) and water utilities, etc.).

These areas in the Permit Area for which coverage under a NPDES MS4 permit is excluded, are shown in Appendix 1. The Regional Board will coordinate with these entities to implement programs that are consistent with the requirements of this Order. The Regional Board, pursuant to 40 CFR 122.26(a), has the discretion and authority to require non-cooperating entities to participate in this Order. The Regional Board may also consider such facilities for coverage under its NPDES permitting scheme pursuant to USEPA Phase II stormwater regulations.

The Regional Board recognizes that the Permittees should not be held responsible for discharges from such facilities or Pollutants in those discharges. However, to the extent that the Permittees authorize the connection of the discharges from these facilities into their MS4, this Order requires the Permittees to notify these facilities, in writing, of the state and local post-construction standards and/or other applicable requirements of this Order.

#### **IV. BENEFICIAL USES**

Stormwater flows discharged to MS4s in the Permit Area are tributary to various waterbodies (inland surface streams, lakes and reservoirs) of the State. The Beneficial Uses of these waterbodies may include municipal and domestic supply, agricultural supply, industrial service and process supply, groundwater recharge, water contact recreation, non-contact water recreation, and sport fishing, warm freshwater habitat, cold freshwater habitat, preservation of biological habitats of special significance, wildlife habitat and preservation of rare, threatened or endangered species. The ultimate goal of this Order is to protect the Beneficial Uses and quality of the Receiving Waters.

To protect the Beneficial Uses of the Receiving Waters, the Pollutants from all sources, including Urban Runoff, need to be controlled. Recognizing this, and the fact that Urban Runoff contains Pollutants, an area-wide MS4 permit is the most effective way to develop and implement a comprehensive Urban Runoff management program in a timely manner. This area-wide MS4 permit contains requirements with time schedules that will allow the Permittees to continue to address water quality problems caused by Urban Runoff through their management programs to reduce Pollutants in Urban Runoff discharges consistent with the MEP standard [See Appendix 4, Glossary].

## **V. WATERSHED MANAGEMENT IN THE UPPER SANTA ANA RIVER BASIN**

### **A. Management Approach**

To regulate and control Urban Runoff from the Permit Area to the MS4, an area-wide approach is expected to be most effective. The entire MS4 is not controlled by a single entity; the RCFC&WCD, the County, several cities, the State Department of Transportation (Caltrans), and the U.S. Army Corps of Engineers, in addition to other smaller entities, manage portions of the MS4. In addition to the cities, the County and the RCFC&WCD, there are a number of other significant contributors of Urban Runoff to the MS4. These include: large institutions such as the State university system, prisons, schools, hospitals, etc.; federal facilities such as military sites, etc.; State agencies, such as Caltrans; water and wastewater management agencies such as Eastern and Western Municipal Water District; the National Forest Service and State parks. The State Board has issued a separate NPDES MS4 permit to Caltrans. In addition, Caltrans, and the other contributors identified, are not under the jurisdiction of the Permittees. The management and control of the entire MS4 cannot be effectively carried out without the cooperation and efforts of all these entities. Also, it would not be effective to issue a separate MS4 permit to each of the entities within the Permit Area whose land/facilities drain into the MS4 facilities operated by the Permittees and ultimately to Waters of the U.S.. The Regional Board has concluded that the best management option for the Permit Area is to issue an area-wide NPDES MS4 permit to the Permittees.

Although, the Urban Runoff from the Permit Area drains to the Prado Basin, and ultimately into Orange County, Urban Runoff from Orange County areas are regulated under NPDES No. CAS 618030. Some areas within Riverside County are within the Colorado River Basin and San Diego Regional Boards' jurisdictions. Permit requirements for Urban Runoff from the drainage areas of Riverside County within the jurisdiction of the San Diego and Colorado River Basin Regional Boards are addressed by those Regional Boards.

In developing Urban Runoff management and monitoring programs, consultation/coordination with other drainage management entities and other Regional Boards is essential. Common programs, reports, implementation schedules and efforts are desirable and will be utilized to the MEP.

Cooperation and coordination among all the stakeholders are essential for efficient and economical management of the Santa Ana River watershed. It is also critical to manage Non-point Sources at a level consistent with the management of Urban Runoff in a watershed in order to successfully prevent or remedy water quality Impairment. Regional Board staff will facilitate coordination of monitoring and management programs among the various stakeholders.

An integrated watershed management approach for Urban Runoff in the Santa Ana River watershed is consistent with the Strategic Plan (2008-2012<sup>6</sup>) and Initiatives for the State and Regional Boards and the draft California Water Plan Update<sup>7</sup>. A watershed wide approach is also necessary for implementation of the Load Allocations (LAs) and Waste Load Allocations (WLAs) developed under the TMDL process. The Permittees and all the affected entities are encouraged to participate in regional or watershed solutions, instead of project-specific and fragmented solutions.

The Pollutants in Urban Runoff originate from multiple sources and effective control of these Pollutants requires a cooperative effort of all the stakeholders and many regulatory agencies. Every stage of urbanization should be considered in developing appropriate Urban Runoff Pollution control methodologies. The program's success depends upon consideration of Pollution control techniques during planning, construction and post-construction operations. At each stage, appropriate Pollution Prevention, Site Design, Source Control, and, if necessary, Treatment Control BMPs should be considered.

## **B. SUB-WATERSHEDS AND MAJOR CHALLENGES**

The Santa Ana River watershed is the major watershed within the Santa Ana Region. This watershed is divided into three sub-watersheds: the Lower Santa Ana, Upper Santa Ana, and San Jacinto.

1. The lower Santa Ana River sub-watershed (downstream from Prado Basin) includes the north half of Orange County. The Upper Santa Ana River sub-watershed includes the southwestern corner of San Bernardino County and the northwestern corner of Riverside County. The San Jacinto sub-watershed includes the northwest corner of Riverside County south of the Upper Santa Ana River sub-watershed within the Santa Ana Region.

Generally, the San Bernardino County drainage areas drain to the Riverside County drainage areas, and Riverside County drainage areas discharge to Orange County through Prado Dam on the Santa Ana River. Most of the flow in the Santa Ana River is recharged into the groundwater in San Bernardino, Riverside, and Orange counties but infrequently some of the flow may be discharged to the Pacific Ocean as a result of heavy storm events.

Water from rainfall and snow melt runoff, and surfacing ground water from various areas either discharge directly to the Santa Ana River or to watercourses tributary to the Santa Ana River. Other major rivers in the Permit Area include the San Jacinto River and Temescal Creek. The San

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<sup>6</sup> State Water Resources Control Board, Strategic Plan Update, 2008-2012, September 2, 2008

<sup>7</sup> [http://www.waterplan.water.ca.gov/docs/cwpu2009/1208prd/vol2/UrbanRunoff\\_PRD\\_09.pdf](http://www.waterplan.water.ca.gov/docs/cwpu2009/1208prd/vol2/UrbanRunoff_PRD_09.pdf)

Jacinto Mountain areas drain into the San Jacinto River, which discharges into Canyon Lake and then to Lake Elsinore. The San Jacinto River is ephemeral. Smaller storms tend to be fully captured by Canyon Lake, which the San Jacinto River drains into, with discharges from Canyon Lake to Lake Elsinore only occurring in larger events or wetter years. Any overflow from Lake Elsinore is tributary to Temescal Creek, which flows into the Santa Ana River at the Prado Flood Control Basin. Overflow from Lake Elsinore occurs infrequently, only once every 12 to 15 years.

2. Upper Santa Ana River Sub-watershed:

- a. Reach 3 of the Santa Ana River (Prado Dam to Mission Boulevard in Riverside): Pathogens are the Pollutant of Concern for Reach 3 based on adopted TMDLs and the 2006 303(d) list. With the adoption of the TMDL for Bacterial Indicators, the Basin Plan now contains schedules for achieving compliance with WLAs for Bacterial Indicators in the Middle Santa Ana River (MSAR) subwatershed.
- b. Reach 4 of the Santa Ana River: Reach 4 of the Santa Ana River is the portion of the River from Mission Boulevard Bridge in Riverside to the San Jacinto fault (Bunker Hill Dike) in San Bernardino. Reach 4 is also listed in the CWA Section 303(d) as an Impaired Waterbody. Most of Reach 4 of the River is in San Bernardino County. Pathogens are the Pollutant of Concern for Reach 4 and a TMDL is scheduled for completion in 2019.
- c. Other water quality problems along this reach of the River include the buildup of total dissolved solids (TDS, dissolved salts or minerals) and nitrogen, largely in nitrate form. The buildup of TDS and nitrates can impact downstream Beneficial Uses, including groundwater recharge. The buildup of TDS and nitrate is mostly due to agricultural uses, including dairies and the application of fertilizers, municipal and industrial wastewater discharges, and reuse and recycling operations. A complex set of programs and policies are included in the Basin Plan to address this problem, including a water supply plan, a wastewater management plan, and a groundwater management plan. Other elements of the Basin Plan include the Non-point Source program and the storm water program. The Basin Plan identifies the Statewide General Permits and the MS4 permits as the regulatory tools for storm water management in the Basin. In light of the recently adopted Nitrogen-TDS objectives for certain management zones, this Order requires the Permittees to determine baseline concentration of these constituents in dry weather runoff, if any, from significant Outfall locations. The Order also includes Effluent Limitations for TDS and nitrates under dry weather conditions.

- d. San Jacinto Sub-watershed: Canyon Lake and Lake Elsinore are in this watershed and are listed on the 2006 303(d) list for pathogens (Canyon Lake) and PCBs and unknown Toxicity (Lake Elsinore). Nutrient TMDLs have been developed for both Canyon Lake and Lake Elsinore. The Basin Plan contains schedules for achieving compliance with WLAs for nutrients in the San Jacinto sub-watershed (Canyon Lake/Lake Elsinore).

**C. CWA SECTION 303(d) LIST AND TMDLS:**

Pursuant to Section 303(b) of the CWA, the 2006 water quality assessment conducted by the Regional Board listed a number of waterbodies within the Region under Section 303(d) of the CWA as Impaired Waterbodies. These are waterbodies where Water Quality Objectives are being violated and it is presumed that the designated Beneficial Uses are not met. The sources of the Impairments include POTW discharges, and runoff from agricultural, open space and urban land uses. The Impaired Waterbodies in Riverside County within the Santa Ana Regional Board's jurisdiction are listed in Table 2. In addition, CWA Section 303(d) requires states to develop and submit to USEPA for approval a list of waterbodies that are not meeting Water Quality Standards and are not expected to attain these standards even with technology based controls. CWA Section 305(b) requires States to biennially prepare and submit to the USEPA for approval a report assessing statewide surface water quality.

Regional Board staff have reviewed and reevaluated all water quality monitoring and information, combined the CWA Section 305(b) Report with the Section 303(d) List of Impaired Waters and introduced the Proposed 2008 303(d)-305(b) Integrated Report that was adopted by the Regional Board on April 24, 2009. The additional Impaired Waterbodies that are on this list are also identified in Table 2. The Proposed 2008 303(d)-305(b) Integrated Report will not be effective until it has been approved by the State Board or the USEPA.

Federal regulations require that a TMDL be established for each 303(d) listed waterbody for each of the Pollutants causing Impairment. The TMDL is the total amount of the Pollutant that can be discharged without Impairing Water Quality Standards in the Receiving Water, i.e., Water Quality Objectives are met and the Beneficial Uses are protected. It is the sum of the individual WLAs for point source inputs, and LAs for Non-point Source inputs and natural background, with a margin of safety. The TMDLs are the basis for limitations established in Waste Discharge Requirements. TMDLs are being developed for all Pollutants identified in Table 2. The Permittees are required to revise their DAMP, at the direction of the Executive Officer, to incorporate TMDL Program Implementation Plans developed and approved pursuant to the process for the designation and implementation of TMDLs for Impaired Waterbodies.

For 303(d) listed waterbodies identified as potentially Impaired by Urban Runoff and without a TMDL, the Permittees are required to provide special protections such as requiring effective post-construction BMPs, enhanced training programs and developing targeted public outreach that would address the Pollutants of Concern.

This Order incorporates TMDLs that have been adopted for Bacterial Indicator in the MSAR watershed and for nutrients in the Lake Elsinore and Canyon Lake watersheds. On August 26, 2005, the Regional Board adopted Resolution No. R8-2005-001 amending the Basin Plan to incorporate Bacterial Indicator TMDL for MSAR watershed. On December 20, 2004, the Regional Board adopted resolution R8-2004-0037 amending the Basin Plan to incorporate the Lake Elsinore and Canyon Lake nutrient TMDLs. The stakeholders in these watersheds, including applicable Permittees, are collaborating in the development and implementation of the TMDLs.

This Order includes conditions necessary to implement the TMDLs already approved by the Regional Board as required by federal regulations at 40 CFR 122.44(d)(vii)(B). This Order incorporates the WLAs as Water Quality-Based Effluent Limitations (WQBEL) and requires Permittees to achieve the WLA for Urban Runoff through an iterative process of implementing BMPs. Failure to submit a TMDL Implementation Plan to the Regional Board or failure to implement the approved plan in a timely manner will be deemed to violate the conditions of this Order. The CWA requires the Permittees to have appropriate controls to reduce the discharge of Pollutants to the MEP, including management practices, control techniques and systems, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such Pollutants (33 USC 1342(p)(3)(B)). MEP is a dynamic performance standard and it evolves as the knowledge of Urban Runoff control measures increases. Permittees are required to monitor and report effectiveness of their BMPs with respect to Pollutant reduction goal(s) as one measure of progress toward reducing Pollutant loads from urban sources in accordance with the compliance schedules specified in the TMDL Implementation Plans. If on-going monitoring indicates that implemented BMPs are insufficient to assure compliance with the relevant Water Quality Standard(s), then the Permittees are required to develop and implement more effective BMPs for the controllable urban sources within their jurisdiction to the MEP. In addition, the Permittees are required to submit a revised Comprehensive TMDL Plan documenting the completion schedule for any additional and/or more effective BMPs and must execute the plan upon approval by the Executive Officer. Taken together, these permit conditions are consistent with the facts and assumptions specified in the TMDLs, including the TMDL Implementation Plans, and are expected to achieve compliance with the related WLAs.

Discharge specifications are included for de-minimus types of discharges from Permittee-owned or Permittee-operated facilities and activities and for TDS and total inorganic nitrogen for dry weather discharges.

**Table 2**

**2006 CWA Section 303(d) Listed Waterbodies and  
 April 24, 2009 Proposed 2008 Integrated Report of 305(b) and  
 303(d) List of Water Quality Limited Segments**

<b>WATERBODY</b>	<b>HYDRO UNIT</b>	<b>POLLUTANT/ STRESSOR</b>	<b>SOURCE</b>	<b>SIZE AFFECTED</b>
Canyon Lake	802.120	Pathogens	Nonpoint Source	453 Acres
Lake Elsinore	802.310	Unknown Toxicity	Unknown Nonpoint Source	2431 Acres
		PCB's.	Unknown Nonpoint Source	2431 Acres
		Proposed for 2008 Sediment Toxicity	Unknown Point and/or Nonpoint Sources	2431 Acres
Lake Fulmor	802.210	Pathogens	Unknown Nonpoint Source	4.2 Acres
Santa Ana River, Reach 3	801.200	Pathogens	Unknown Nonpoint Source	3 miles
		Proposed for 2008 Copper – Wet Season	Unknown Nonpoint Source	3 Miles
Temescal Creek Reach 1		Proposed for 2008 pH	Unknown	Unknown

**VI. FIRST, SECOND, AND THIRD TERM PERMITS**

**1. STORM WATER POLLUTION CONTROL PROGRAMS AND POLICIES**

1. Prior to USEPA's promulgation of the final regulations implementing the storm water requirements of the 1987 CWA amendments, the counties of Orange, Riverside and San Bernardino requested an area-wide NPDES permit for storm

water runoff for each of the county areas within the Regional Board's jurisdiction. On July 13, 1990, the Regional Board issued Order No. 90-104 to the Permittees (first term MS4 Permit). In 1996, the Regional Board adopted Order No. 96-30 for the Riverside County Permit Area (second term permit). On October 24, 2002, the Regional Board adopted Order No. R8-2002-0011 for the Riverside County Permit Area (third term MS4 Permit). These MS4 Permits included the following requirements:

- a. Prohibited Non-storm Water discharges to the MS4s with certain exceptions.
  - b. Required the Permittees to develop and implement a DAMP to reduce Pollutants in Urban Runoff to the MEP.
  - c. Required the discharges from the MS4 to meet in Receiving Waters.
  - d. Required the Permittees to identify and eliminate IC/IDs to the MS4.
  - e. Required the Permittees to establish legal authority to enforce Storm Water Ordinances.
  - f. Required monitoring of dry weather flows, storm flows, and Receiving Water quality, and program assessment.
  - g. Required the Permittees to inventory, prioritize and inspect construction sites and industrial and commercial facilities based on threat to water quality.
  - h. Required the Permittees to develop a restaurant inspection program to address practices that may impact Urban Runoff quality such as oil and grease disposal, trash bin area management, parking lot cleaning, spill clean-up, and inspection of grease traps or interceptors to ensure adequate capacity and proper maintenance.
  - i. Required the Permittees to review and approve Water Quality Management Plans (WQMPs) for categories of New Development and Significant Redevelopment projects to address post-development Urban Runoff water quality and Hydromodification.
  - j. Required the Permittees to develop a unified response plan to respond to sewage spills that may impact Receiving Water quality.
2. During the first term MS4 Permit, the Permittees developed a DAMP that was approved by the Executive Officer on January 18, 1994. The DAMP included five BMP groups: environmental education activities, solid waste activities, road drainage system operations and maintenance, regulatory and enforcement activities, and structural controls. The DAMP was updated as part of the second and third-term MS4 Permits. The Permittees submitted a revised DAMP with the ROWD for the fourth term MS4 Permit renewal.
3. The RCFC&WCD performs water quality monitoring activities in support of three separate area-wide NPDES MS4 Permits (Santa Ana, San Diego and Colorado River Basin) under the Consolidated Monitoring Program (CMP). The CMP

contains a combined 132 historical, active, and special project sampling locations in the three MS4 Permit regions. Within the Permit Area, water column samples and/or sediment samples have been collected at a total of 93 locations over the last nineteen years. These 93 locations are comprised of 45 MS4 outfalls, 43 Receiving Water, 8 sediment, and 2 special interest sampling locations. In addition, the Permittees participate in a number of sub-regional and regional monitoring programs and special studies.

4. During the third term MS4 Permit, the Executive Officer approved the delay in implementing the bioassessment requirement to allow the development of indices of biological integrity applicable to inland waters. Subsequently, a regional bioassessment monitoring was initiated by the Surface Water Ambient Monitoring Program (SWAMP) to determine the conditions of the receiving waters in a more holistic way. The Southern California Watershed Research Project (SCCWRP), in conjunction with the southern California MS4 Permit programs, has developed a regional bioassessment monitoring program in which the Permittees participating. This Order requires the Permittees to continue to participate in the regional bioassessment monitoring program. It is expected that these regional monitoring stations combined with other Permittee and regional monitoring efforts will be used to identify water quality problem areas and to re-evaluate the monitoring program and the effectiveness of the DAMP. The future direction of some of the DAMP program elements will depend upon the results of the ongoing studies and a holistic approach to watershed management.
5. Other elements of the Urban Runoff management program included identification and elimination of IC/IDs and establishment of adequate legal authority to control Pollutants in Urban Runoff discharges. The Permittees have completed a survey of their MS4 to identify IC/IDs and have adopted appropriate ordinances to establish legal authority. Some of the more specific achievements during the second and third term MS4 Permits are as follows:

  - a. During the second term MS4 Permit, the Permittees operated under an Implementation Agreement that sets forth the responsibilities of the Permittees as defined in the 1996 MS4 Permit. The Permittees update this agreement during each MS4 Permit term. The Permittees have adopted Storm Water Ordinances regarding the management of Urban Runoff. The Storm Water Ordinances provide the Permittees with the legal authority to implement the requirements of the MS4 Permit and the key regulatory requirements contained in 40 CFR Section 122.26(d)(2)(I)(A-F).
  - b. Revised DAMP: Includes 28 Construction Site and 36 Municipal and Industrial Source Control BMPs that are to be implemented by the Permittees for purposes of controlling Pollutants associated with Urban Runoff to the MEP. The Permittees also strengthened enforcement and compliance elements of the DAMP. Enhanced the Construction Site

- inspections, the Industrial and Commercial Facility inspections, New Development review requirements, and the Permittee facilities and activities program.
- c. Cooperated in the establishment of TMDL Task Forces and workgroups for Lake Elsinore, Canyon Lake and the MSAR.
  - d. Assisted in development and implementation of the TMDLs for Canyon Lake, Lake Elsinore and the MSAR.
  - e. Developed and updated methods to track program effectiveness such as resident surveys, tracking hotline inquiries, and web counters.
  - f. In August 1999 the RCFC&WCD and the County's Environmental Health Department executed an agreement that provides the framework for an area-wide Commercial and Industrial Compliance Assistance Program (CAP).
  - g. The Permittees have participated in the CMP.
  - h. The Permittees administered area-wide programs including: Hazardous Materials emergency response, household hazardous waste collection, industrial/commercial CAP and public education and outreach. Some of these programs were coordinated with Caltrans and local agencies.
  - i. A Municipal Facilities Strategy was established then later incorporated into the DAMP, the Supplement "A" New Development Guidelines were amended to require compliance with the Riverside County WQMP for specific categories of New Development and Significant Redevelopment projects.
  - j. The Riverside County WQMP was developed in 2004. The Model WQMP is a post-construction planning tool to address Urban Runoff from New Development and Significant Redevelopment. The WQMP is implemented on a watershed-specific level, and provides guidance for project specific post-construction BMPs to address the quantity and quality of Urban Runoff from New Development and Significant Redevelopment projects. Any New Development or Significant Redevelopment project that requires discretionary approval must submit a project-specific WQMP to the appropriate Permittee. The project-specific WQMP ensures that management of Urban Runoff to protect Receiving Water quality is considered a priority during project design and operation.
  - k. Established the Management Steering Committee that brings together the city managers in the Permit Area promoting consensus and communication on a regional basis.
  - l. Formation of sub-committees to guide and develop specific program elements (Construction Activities, Industrial/Commercial Activities, New Development/ Significant Redevelopment, Public Education, Permittee Facilities & Activities, Monitoring, & Finance).

- m. Evaluated and revised ordinances, regulations, rules, and codes to ensure appropriate level of legal authority.
- n. A Technical Advisory Committee for overall program development and implementation was established.
- o. Program Review: A number of existing programs were reviewed to determine their effectiveness in combating Urban Runoff Pollution and to recommend alternatives and or improvements, including Permittee activities and facilities, IC/IDs to the MS4 systems, and existing monitoring programs.
- p. Enhanced Public Education program through development of new outreach materials and programs.
- q. Public Education: A number of steps were taken to educate the public, businesses, industries, and commercial establishments regarding their role in implementing Urban Runoff Pollution controls. The Industrial Facility dischargers were notified of the Urban Runoff regulatory requirements. For a number of unregulated activities, BMP guidance documents were developed and a toll free hotline was established for reporting any suspected water quality problems.
- r. The Permittee's website hosted by RCFC&WCD, including the "Only Rain Down the Storm Drain" public information page, was developed and is continually enhanced. It contains resources for residential facilities, businesses, developers and contractors. The website is accessible from the RCFC&WCD home page. The website offers free brochures that all web site visitors can print in quantities or can order including:
  - i. *After the Storm* – a citizen's guide to understanding MS4 Pollution in your neighborhood or when performing daily activities.
  - ii. *Automotive Maintenance & Car Care* – guidelines for keeping your auto shop or retail fuel facility in environmental shape.
  - iii. *Outdoor Cleaning Activities* – guideline for outdoor cleaning activities and wastewater disposal.
  - iv. *Pools, Spas and Fountains* –Environmental maintenance suggestions for pool, spa, and fountain owners.
  - v. *What's the Scoop* – tips for a healthy pet and a healthier environment.
  - vi. *Household Hazardous Waste (HHW)* – A schedule of collection locations for proper disposal of HHW.
  - vii. *Storm Water Pollution Found in Your Neighborhood* – door hanger.
- s. In addition to the information provided on the Only Rain Down the Storm Drain website, the Public Education and Outreach Program has:

- i. Tested and/or implemented several new Public Education and Outreach Program effectiveness tracking mechanisms including call tracking, web counters, testing, and surveys.
- ii. Conducted a review of the efficacy of Permittee employee training programs.
- iii. Enhanced the toll free storm water Pollution reporting hot line to include public education information and support for the public and other interested stakeholders.
- iv. Enhanced on-line registration access for NPDES training to help facilitate training of appropriate Permittee employees.
- v. Worked with the Riverside-Corona Resource Conservation District to develop home garden workshops and presentations to elementary and middle schools and staff to raise public awareness of Urban Runoff management issues and Source Control BMPs and to encourage volunteers, partners, and groups to gather annually for a trash and debris clean-up day along the Santa Ana River.
- vi. Developed special newspaper and billing inserts, fliers and advertisements to raise public awareness of Urban Runoff management issues and Source Control BMPs. A radio advertising campaign was also developed and implemented for a limited time.
- vii. Developed and presented workshops regarding household hazardous waste use and proper disposal at major home improvement stores throughout Riverside County.
- viii. Placed numerous advertisements in the Penny Saver and Bargain Bulletin to raise public awareness of Urban Runoff management.
- ix. In cooperation with certain County Service Areas and other programs, pet waste signs with bag dispensers have been installed at various parks to help encourage the proper disposal of animal waste.
- x. Coordinated with County-wide Animal Control Facilities, as well as city-owned animal control facilities and Humane Societies, to distribute specific materials to the County Agricultural inspectors as well as Regional Board inspectors for use during facility inspections.
- xi. Distributed educational and outreach materials to the County Agricultural inspectors as well as Santa Ana Regional Board staff inspectors for use during facility inspections.
- xii. Cooperated with the Western Riverside Council of Government (WRCOG) in the Used Oil Block Cycle Grant that decreases the amount of illegally dumped motor oil by promoting the addition of new Certified Oil Collection Centers.

- xiii. Participated in WRCOG's "Cleanest County in the West" program to address issues relating to litter and illegal dumping which targeted both students and adults.
- xiv. Supplemental Environmental Projects: As a result of an environmental enforcement case settlement brought by the County Department of Environmental Health, Conoco Phillips and Downs Energy developed two posters and a billboard, respectively. These items were designed to increase the awareness of appropriate BMPs for retail fuel businesses.
- t. Permittee Training: Training was provided to Permittee employees to implement New Development Guidelines and Public Works BMPs. The fourth-term MS4 Permit specifies additional training requirements to focus on necessary competencies for storm water program managers, Permittee planners and inspection staff. This was added following information collected during Regional Board staff audits of Permittees' storm water management programs, which found that a number of the Permittees' staff and/or contractors were not adequately trained to properly implement the required program elements contained within the third term MS4 Permit and/or training programs were not properly documented.
- u. Related Activities: Modified MS4s by channel stabilization and creation of sediment basins; eliminated or permitted and documented Illicit Connections to the MS4s.
- v. Pursued and received Proposition 50 Planning Grant to develop an Integrated Regional Watershed Management Plan for the San Jacinto watershed and to facilitate implementation of the Canyon Lake/Lake Elsinore Nutrient TMDL.
- w. Pursued and received two Proposition 40 Integrated Regional Watershed Management Plan implementation grants to facilitate the MSAR TMDL and LE/CL TMDLs.
- x. Co-Permittees developed and maintain an inventory database (or databases) of Construction Sites 1-acre or larger for which they have issued a building or grading permit. For each Construction Site/project included in a Co-Permittee's inventory, the Co-Permittees have assigned a priority of "high," "medium," or "low" to reflect the Construction Site's potential for Impairing Receiving Water quality.
- y. Created databases for the Commercial and Industrial Facilities within each jurisdiction.
- z. Developed a GIS Web Browser to assist developers and Permittees in identifying pertinent water quality information for proposed New Development projects.

- aa. Developed Planning Application forms for Permittee use to ensure that the need for a project-specific WQMP was properly identified for New Development and Significant Redevelopment projects early in the planning process.
- bb. Developed a FAQ and watershed Impairment maps to assist Permittees and developers with preparing and reviewing project-specific WQMPs.
- cc. Enhanced online watershed maps to assist developers and the public with identifying areas tributary to Impaired Waterbodies.
- dd. Developed a BMP design handbook to standardize BMP selection and design in Riverside County.
- ee. Initiated development of an enhanced BMP Design Handbook to provide additional guidance for LID and post-construction BMP design.
- ff. Participation in the Storm Water Monitoring Coalition (SMC) efforts to evaluate LID options and establish guidance for BMP implementation for Southern California areas.
- gg. Participation in SCCWRP's Hydromodification studies to develop scientifically based design guidance for Southern California.
- hh. Initiated cooperative program with County Environmental Health to promote environmental enhancement projects in lieu of fines for violations of environmental laws. This initiative resulted in the billboard advertising campaign to promote appropriate BMPs for gas stations and garages.
- ii. Prepared a one-year evaluation of litter management BMPs. This evaluation assessed the relative efficiency and cost effectiveness of Anthropogenic litter management BMPs including: street sweeping, catch basin cleaning, deployment of trash receptacles, public education, and MS4 maintenance. As a result, a Litter Removal Inspection Form was developed that assisted the Permittees in identifying and prioritizing areas with litter problems. The Permittees augmented the litter management programs including employee/contractor training, Industrial and Commercial Facility inspections, recycling programs including bulk-item collection, participation in watershed clean-up efforts, and illegal dumping retrieval.
- jj. The RCFC&WCD coordinated GIS-based maps for Permittee MS4 facilities. The MS4 maps are updated annually with new information provided by the Permittees as part of the Annual Reporting process. The GIS layers are also now available on the RCFC&WCD's website through an internet GIS browser.
- kk. Updated Model Facilities Pollution Prevention Plan for Permittee facilities not requiring coverage under the General Permit for Storm Water Discharges Associated with Industrial Activities (General Industrial Permit).

- ll. The Permittees completed a MS4 assessment in 2004 to identify opportunities for incorporation of regional BMP retrofits within the limits of existing infrastructure.
- mm. Pursued a Proposition 13 Grant, through the Santa Ana Watershed Project Authority, to develop a LID BMP Demonstration and Testing Facility. RCFC&WCD has continued to develop this project and plans to start construction this winter despite the current freeze on new grant projects.

## **B. PRIOR TERM PERMITS - WATER QUALITY IMPROVEMENTS**

An accurate and quantifiable measurement of the impact of the above stated Urban Runoff management programs is difficult, due to a variety of reasons, such as the variability in chemical water quality data, the incremental nature of BMP implementation, lack of baseline monitoring data, and the existence of some of the programs and policies prior to initiation of formal Urban Runoff management programs. There are generally two accepted methodologies for assessing water quality improvements: (1) conventional monitoring such as chemical-specific water quality monitoring; and (2) non-conventional monitoring, such as monitoring of the amount of HHW collected and disposed off at appropriate disposal sites, the amount of used oil collected, and the amount of Anthropogenic debris removed from the MS4, etc.

The Permittees' water quality monitoring data submitted to date document a number of exceedances of Basin Plan Water Quality Objectives for various Urban Runoff-related Pollutants; the most notable among these exceedances was fecal coliform bacteria. Where these exceedances have resulted in the development of TMDLs for the MSAR, this Order requires the Permittees named in the TMDL: to comply with the WLAs for Bacterial Indicators consistent with the Implementation Plan requirements defined in the MSAR Bacterial Indicator TMDL.

During the prior MS4 Permit terms, there was an increased focus on watershed management initiatives and coordination among the MS4 permittees in Orange, Riverside and San Bernardino Counties. These efforts resulted in a number of regional monitoring programs and other coordinated program and policy developments. The Principal Permittee continues to be an active participant in the SWQSTF, the Canyon Lake/Lake Elsinore nutrient TMDL, the MSAR Bacterial Indicator TMDL, and the SMC studies. In addition to the TMDL implementation and monitoring activities, the Permittees participate in the Regional Integrated Freshwater Bioassessment Monitoring Program, the BMP Effectiveness Project assessing the effectiveness of LID techniques. Riverside and San Bernardino MS4 Programs are also coordinating on the development of several outreach programs.

It is anticipated that with continued implementation of the revised DAMP, the programs proposed in the ROWD incorporated into this Order and other

requirements specified in this Order, the goals and objectives of the storm water regulations will be met, including protection of the Beneficial Uses of all Receiving Waters.

## **VII. FUTURE DIRECTION/2007 ROWD**

- A. Recognizing the significant resources utilized in developing the 2002 MS4 Permit and the significant commitment the Permittees are making to address water quality Impairments, including those identified in the 2006 303(d) List as high priority for establishment of TMDLs, the Permittees proposed in the 2007 ROWD to maintain the fundamental structure and content of the 2002 MS4 Permit and the 2005 DAMP with modifications to reflect:
1. Removed descriptions of studies that have been completed;
  2. Updated references to related orders by the Regional Board and State Board;
  3. Adoption of TMDL requirements;
  4. Evolution of compliance programs;
  5. Further standardization and definition of terms;
  6. Consolidation of similar compliance requirements [training requirements, reporting requirements, IC/ID requirements] to simplify the Order, increase readability and prevent the need for duplicative language;
  7. Deletion of requirements in the 2002 MS4 Permit that described the development of compliance program elements which were incorporated into the 2005 DAMP;
  8. Development of LIPs by the Permittees during the fourth term Order;
  9. Addition of Permittee coverage under the Small Linear Underground Projects (State Board Order No. 2003-0007-DWQ, NPDES No. CAS000005) and Utility Vaults (State Board Order No. 2006-0008-DWQ, NPDES No. CAG990002) General Permits;
  10. Recognition that the Municipal Facilities Strategy and Enforcement Compliance Strategies have been incorporated into the DAMP; and
  11. Regional Board staff comments received by the Permittees during the third term permit, including comments received during the January 22, 2007 ROWD kick-off meeting regarding topics such as LID, Hydromodification, LIPs, etc.
- B. In addition, the 2007 ROWD proposed continuing with the 2005 DAMP with some revisions. Based on an effectiveness assessment analysis, the following significant changes were incorporated into the Permittees 2007 draft DAMP compliance programs:

1. The Permittees proposed to complete preparation of LIPs within 12 months of Order adoption. The Permittees propose to develop LIPs that will:
    - a. Specify how each program element of the DAMP shall be implemented;
    - b. Describe the ordinances, plans, policies, procedures, and tools (e.g., checklists, forms, educational materials, etc.) used to execute the DAMP;
    - c. Identify the organizational units responsible for implementation of each program element;
    - d. Establish internal reporting requirements to ensure and promote accountability; and
    - e. Describe an adaptive method of evaluation and assessment of program effectiveness for the purpose of identifying program improvements.
  2. The final report “BMP Siting Study for the Santa Ana Permit Area” was released in May 2005. The sites identified in this study are likely to be further evaluated for opportunities to implement Regional BMPs necessary to comply with existing and future TMDLs.
  3. Proposed revisions to the 2002 MS4 Permit provisions to reflect the unified IC/ID reporting procedures currently contained within the DAMP for simplicity and clarity.
- C. Regional Board Approach to Consolidation of Overlapping NPDES Permit Requirements
1. During the third term MS4 Permit, the Permittees reviewed the applicability of the General Permit-Small Linear Underground Projects (State Board Order No. 2003-0007-DWQ, NPDES No. CAS000005), the General Permit-De Minimus Discharges (Order No. R8-2003-0061 as amended by Order Nos. R8-2005-0041 and R8-2006-0004), and the General Permit-Utility Vaults (Order No. 2006-0008-DWQ, NPDES No. CAG990002) to their activities such as hydrant flushing, maintenance on potable water supply system(s), construction dewatering, and the short-term and intermittent discharges from the de-watering of utility vaults and underground structures. Since the DAMP incorporates BMPs for the activities covered by these general permits, the Permittees recommended separate coverage under the Small Linear Underground Projects, De Minimus Discharges, or Utility Vaults General Permits was not necessary. This Order now includes coverage for De Minimus discharges from Permittee-owned facilities and activities specifically excluded from coverage under the General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality, NPDES NO. CAG998001, Order No. R8-2009-0003. Permittees shall continue to obtain separate coverage for activities covered

- by the Small Linear Underground Projects and Utility Vaults General Permits, unless these permits are incorporated into the General Construction Permit.
2. Specific identification of the types of discharges that must have coverage under the General De Minimus Permit and the General Construction Permit, is included in Section 5 of the 2007 DAMP. This Order requires the Permittees to include a description of those de minimus discharges into the Permittees' LIP, including a Regional Board notification process.
  3. Prioritized inspections and monitoring based on sampling and monitoring results and other metrics to help target activities that present the highest risk to water quality.
- D. During the fourth term Order, the following revisions to the Public Education and Outreach Program will be priorities:
1. Continue coordination of public education outreach with adjacent MS4s.
  2. Continue to evaluate and enhance outreach materials for IC/IDs, nutrients, fertilizers, and pesticides.
  3. Continue to focus the Public Education and Outreach Program on the Pollutants causing the greatest impacts to water quality, determined by the monitoring results and the list of Impaired Waterbodies [303(d) list].

The Permittees have already taken several steps in this direction. For example, the Permittees have provided spray bottles with environmentally friendly pesticide recipes printed on the side to residents at community fairs; the Permittees have developed or are in the process of developing brochures for septic system management, landscape management, and gardening; the Riverside and San Bernardino County Permittees are coordinating on a Curiosity Quest Episode (KVCR Family Show) to promote BMPs for nutrients, fertilizers and pesticides and the Permittees place information in hardware and gardening stores regarding pesticide and fertilizer management. The Permittees also incorporate other materials to address general Pollutants of Concern.

- E. As a result of continued program effectiveness assessment the Permittees propose to update Annual Reporting forms to incorporate specific reporting requirements for all effectiveness assessment metrics.
- F. Enhanced online watershed maps to assist developers and the public with identifying areas tributary to Impaired Waterbodies.
- G. WQMP
1. The Permittees committed to maintain the "Frequently Asked Questions" information sheet for New Development and Significant Redevelopment projects to assist with the development and implementation of the revised WQMP.

2. The Permittees committed to update the Riverside County Storm Water Quality Best Management Practice Design Handbook to (1) better incorporate LID design concepts, (2) incorporate guidance to describe how developments can offset Hydromodification impacts with LID and (3) incorporate additional design guidance to ensure maintainability and functionality of BMPs, throughout the life of the development. This Order further requires the Permittees to revise the WQMP consistent with the requirements of the Order.
  3. The Permittees committed to maintain the WQMP template to assist developers with developing a project-specific WQMP.
  4. An audit of each of the Permittees' Urban Runoff management programs during the third term MS4 Permit indicated no clear nexus between the watershed protection principles, including LID techniques, specified in the WQMP and the Permittees' General Plan or related documents such as Development Standards, Zoning Codes, Conditions of Approval, Project Development Guidance, etc.. It appears that many of the existing procedures, Development Standards, Ordinances and Municipal Codes may be barriers to implement LID BMPs. This Order requires the Permittees to facilitate LID techniques specified in this Order.
- H. The Regional Board has proposed a revised Notice of Intent and Notice of Termination for Permittee construction projects to assist Regional Board staff with identifying locations and owners of Permittee projects.
- I. The Permittees have committed to annual updates to Sanitary Sewer Overflow Procedures to ensure proper contact information for Permittee and outside agencies.
- J. WATERSHED APPROACH
1. TMDL for Bacterial Indicator in the MSAR subwatershed and nutrients in the Canyon Lake and Lake Elsinore subwatershed are incorporated into this Order (See Section V.C). The Permittees support TMDL implementation and agreed to participate in a comprehensive water quality monitoring program to ensure that Urban Runoff meets the Water Quality Objectives identified in the Basin Plan and are consistent with the WLAs specified in the TMDLs. This Order requires that, consistent with the requirements of the respective TMDL Implementation Plans, the Permittees use the water quality monitoring of Urban Runoff to evaluate the effectiveness of the BMP programs.

2. The USEPA has recommended a shift to watershed-based NPDES permitting<sup>8</sup> and watershed approach<sup>9</sup> to CWA programs, including NPDES programs. The Permittees and the Regional Board also recognize that a watershed-based approach is expected to be effective in controlling Pollutants in Urban Runoff. Consistent with this approach, this Order requires the Permittees to develop and implement programs that integrate Hydromodification and water quality management strategies with land use planning policies, ordinances, and plans within each jurisdiction. A *watershed approach* considers the diverse Pollutant sources and stressors and watershed goals within a defined geographic area (i.e., watershed boundaries). A watershed approach has three basic components:
  - a. *Geographic Focus:* Watersheds are nature's boundaries. They are the land areas that drain to surface waterbodies, and they generally include lakes, rivers, estuaries, wetlands, streams, and the surrounding landscape. Groundwater recharge areas are also considered.
  - b. *Sound Management Techniques Based on Strong Science and Data:* Sound scientific data, tools, and techniques are critical to evaluate the process. Actions taken include characterizing priority watershed water quality problems and solutions, developing and implementing action plans, and evaluating their effectiveness within the watershed.
  - c. *Partnerships/Stakeholder Involvement:* Watersheds transcend political, social, and economic boundaries. Therefore, it is important to involve all the affected interests in designing and implementing goals for the watershed. Watershed teams may include representatives from all levels of government, public interest groups, industry, academic institutions, private landowners, concerned citizens, and others.

There are two major sub-watersheds in Riverside County within the Permit Area – the MSAR subwatershed, consisting of the portions of the Permit Area that drain to Reaches 3 and 4 of the Santa Ana River, and the San Jacinto River sub-watershed, which consists of the portions of the Permit Area that drain to Lake Elsinore. The Permittees participate in the MSAR TMDL Task Force and the Lake Elsinore and Canyon Lake TMDL Task Forces, which are stakeholder driven, watershed-based efforts to address Pollutants of Concern in the respective sub-watersheds. The Permittees have also implemented several stakeholder driven, watershed-based conservation programs such as the Special Area Management

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<sup>8</sup> USEPA: Watershed-based NPDES permitting is a process that emphasizes addressing all stressors within a hydrologically-defined drainage basin, rather than addressing individual Pollutant sources on a discharge-by-discharge basis.

<sup>9</sup> USEPA (1996a): "The watershed approach is a coordinating framework for environmental management that focuses public and private sector efforts to address the highest priority problems within hydrologically defined geographic areas, taking into consideration both ground and surface water flow."

Plan, the Western Riverside County Multiple Species Conservation Plan, the San Jacinto River Integrated Watershed Management Plan and the Santa Ana Watershed Project Authority One Water One Watershed Plan.

These efforts are also addressed and discussed in the DAMP, which integrates these efforts into a coherent and uniform compliance program to protect Receiving Waters. Due to economies of scale and the fact that many of the Permittees have jurisdiction in both sub-watersheds, the Permittees have opted to continue to implement uniform MS4 Permit compliance programs across the entire Permit Area (for example Permittee training programs educate inspectors about the impacts and sources of pathogens and nutrients as opposed to offering separate sub-watershed specific training programs for the San Jacinto and MSAR sub-watersheds). The Permittees have indicated that as source assessments and monitoring data results from the aforementioned watershed efforts produce findings regarding potential urban sources of Pollutants of Concern that they may opt, in the future, to develop specific action plans for the MSAR and San Jacinto River sub-watersheds, or potentially even tributaries there-of. If so, the DAMP will be appropriately modified to clarify the sub-watershed specific components.

The Permittees also currently implement interim Hydromodification criteria and have committed to revising their Hydromodification management programs based on studies currently being conducted by the SCCWRP. This Order requires the Permittees to continue to pursue these watershed planning efforts and enhance them as appropriate to address Pollutants of Concern.

- J. To promote program transparency, each Permittee proposed to develop its own LIP that:
  - a. Specifies how each program element of the DAMP shall be implemented;
  - b. Describes the ordinances, plans, policies, procedures, and tools (e.g., checklists, forms, educational materials, etc.) used to execute the DAMP;
  - c. Identifies the organizational units responsible for implementation of each program element;
  - d. Establishes internal reporting requirements to ensure and promote accountability; and
  - e. Describes an adaptive method of evaluation and assessment of program effectiveness for the purpose of identifying program improvements.
  
- K. The audits conducted by Regional Board staff have also shown a significant deficiency in measuring program effectiveness. This Order requires quantifiable measures for evaluating program effectiveness.

- L. The above-mentioned strategies for the fourth-term Order build upon and continue the programs and policies developed by the Permittees during the prior MS4 Permit terms as described in Sections VI and VII above.
- M. A combination of these programs and policies and the requirements specified in this Order should ensure control of Pollutants in Urban Runoff from the MS4 owned and/or controlled by the Permittees.

## **VIII. ORDER REQUIREMENTS AND PROVISIONS**

The legislative history of storm water statutes (1987 CWA Amendments), USEPA regulations (40CFR Parts 122, 123, and 124), and clarifications issued by the State Board (State Board Orders No. WQ 91-03 and WQ 92-04) indicate that a non-traditional NPDES permitting strategy was anticipated for regulating Urban Runoff. Due to the economic and technical infeasibility of full-scale end-of-pipe treatments and the complexity of Urban Runoff quality and quantity, MS4 permits generally include narrative requirements for the implementation of BMPs in place of Numeric Effluent Limits.

The requirements included in this Order are meant to specify those management practices, control techniques and system design and engineering methods that will result in protection of the Beneficial Uses of the Receiving Waters consistent with the MEP standard. State Board (Orders No. WQ 98-01 and WQ 99-05) concluded that MS4s must meet the technology-based MEP standard and Water Quality Standards. The U.S. Court of Appeals for the Ninth Circuit subsequently held that strict compliance with Water Quality Standards in MS4 permits is at the discretion of the local permitting agency.

The ROWD included a discussion of the current status of Riverside County's Urban Runoff management program and the proposed programs and policies for the next five years (fourth-term Order). This Order incorporates these documents and specifies performance commitments for specific elements of the Permittees Urban Runoff management program.

This Order recognizes the significant progress made by the Permittees during the first three MS4 Permit terms in implementing the storm water regulations. This Order also recognizes regional and innovative solutions to such a complex problem, addresses deficiencies in the Permittees' Urban Runoff programs observed during the audits conducted by Regional Board staff, and considers comments by the USEPA on other draft MS4 Permits. This Order specifies quantifiable performance measures to determine compliance and assess the effectiveness of the Urban Runoff programs. This Order incorporates an integrated watershed approach in solving water quality and Hydromodification impacts resulting from urbanization and aims to promote LID techniques as a key element to mitigate impacts from New Development and Significant Redevelopment projects. The proposed Order also requires the Permittees

to implement TMDL WLA through iterative BMP programs as required in the respective approved TMDL Implementation Plans (See Section V.C). The goal of these programs and policies that are included in this Order is to achieve and maintain Water Quality Standards in the Receiving Waters.

The essential components of the Urban Runoff management program, as established by federal regulations [40 CFR 122.26(d)] are: (i) Adequate Legal Authority, (ii) Fiscal Resources, (iii) Storm Water Quality Management Program (SQMP) - (Public Information and Participation Program, Industrial/Commercial Facilities Program, Development Planning Program, Development Construction Program, Public Agency Activities Program, IC/IDs Elimination Program), and (iv) Monitoring and Reporting Program. The major sections of the requirements in this Order include: I. Facility Information, II. Findings, III. Permittee Responsibilities, IV. Local Implementation Plan, V. Discharge Prohibitions, VI. Effluent Limitations, Discharge Specifications and Other TMDL Related Requirements, VII. Receiving Water Limitations, VIII. Legal Authority/Enforcement, IX. Illicit Connections/Illegal Discharges; Litter, Debris and Trash Control, X. Sewage Spills, Infiltration into MS4 Systems from Leaking Sanitary Sewer Lines, Septic System Failures, and Portable Toilet Discharges, XI. Co-Permittee Inspection Programs, XII. New Development (including Significant Redevelopment), XIII. Public Education and Outreach, XIV. Permittee Facilities and Activities, XV. Training Program For Storm Water Managers, Planners, Inspectors And Municipal Contractors, XVI. Notification Requirements, XVII. Program Management/DAMP Review, XVIII. Fiscal Resources, XIX. Monitoring and Reporting Program, XX. Provisions, XXI Permit Modification, and XXII. Permit Expiration and Renewal.

These programs and policies are intended to improve Urban Runoff quality and protect the Beneficial Uses of Receiving Waters of the Permit Area.

#### **A. RESPONSIBILITIES**

The responsibilities of the Principal Permittee are to coordinate the overall Urban Runoff management program and the Co-Permittees are responsible for managing the Urban Runoff program within their jurisdictions as detailed in the ROWD and the proposed Order, Order No. R8-2010-0033.

The existing Implementation Agreement needs to be revised to include the cities that were not signatories to this Agreement. The Order requires that a copy of the signature page and any revisions to the Agreement be included in the specified Annual Report.

#### **B. DISCHARGE PROHIBITIONS**

In accordance with CWA Section 402(p)(3)(B)(ii), this Order prohibits the discharge of Non-storm Water to the MS4s, with a few exceptions. The specified exceptions are consistent with 40 CFR 122.26(d)(2)(iv)(B)(1). If the Permittees or the

Executive Officer determines that any of the exempted Non-storm Water discharges is a significant source of Pollutants, a separate NPDES permit or coverage under the Regional Board's De Minimus Permit will be required.

### **C. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS, INCLUDING WASTE LOAD ALLOCATIONS FOR DISCHARGES TO 303(d) LISTED WATERBODIES WITH ADOPTED TMDLS**

The Order clarifies allowed discharges and those discharges (only from Permittee owned or operated facilities and activities) allowed only if certain discharge specifications are met, such as those covered under the De Minimus Permit. These discharges should be consistent with the Regional Board's General De Minimus Permit for Discharges to Surface Waters, Order No. R8-2009-0003, NPDES No. CAG 998001. Permittees' de minimus discharges covered under this Order include: 1) dewatering wastes from subterranean seepage, except for discharges from utility vaults; 2) discharges resulting from hydrostatic testing of vessels, pipelines, tanks, etc.; 3) discharges resulting from the maintenance of potable water supply pipelines, tanks, reservoirs, etc.; 4) discharges resulting from the disinfection of potable water supply pipelines, tanks, reservoirs, etc.; 5) discharges from potable water supply systems resulting from initial system startup, routine startup, sampling of influent flow, system failures, pressure releases, etc.; 6) discharges from fire hydrant testing or flushing; 7) air conditioning condensate; 8) swimming pool discharges; 9) discharges resulting from diverted stream flows; and 10) construction dewatering wastes. The DAMP and the LIP are required to be revised to incorporate information regarding Permittees' de minimus discharges.

This Order requires Permittees to implement established TMDL WLAs specified for Urban Runoff through an iterative BMP approach (see Section V.C above).

### **D. RECEIVING WATER LIMITATIONS**

Receiving Water Limitations are included to ensure that discharges of Urban Runoff from MS4s do not cause or contribute to violations of applicable Water Quality Standards in Receiving Waters. The compliance strategy for Receiving Water Limitations is consistent with the USEPA and State Board guidance and recognizes the complexity of Urban Runoff management.

This Order requires the Permittees to meet Water Quality Standards in Receiving Waters in accordance with USEPA requirements, as specified in State Board Order No. WQ 99-05. If Water Quality Standards are not met through implementation of certain BMPs, the Permittees are required to re-evaluate the programs and policies and to propose additional BMPs. Compliance determination will be based on this iterative BMP implementation process.

## **E. LEGAL AUTHORITY/ENFORCEMENT**

Each Permittee has adopted ordinances, municipal codes, and other regulations to establish legal authority to control discharges to the MS4s and to enforce these regulations as specified in 40 CFR 122.26(d)(2)(I)(B, C, E, and F). The Permittees are required to enforce these ordinances and to take enforcement actions against violators (40 CFR 122.26(d)(2)(iv)(A-D)).

The enforcement activities undertaken by a majority of the Permittees have consisted primarily of Notices of Violation, which act to educate the public on the environmental consequences of Illegal Discharges. In the case of the County, additional action has sometimes included recovery of investigation and clean-up costs from the responsible parties. In the event of egregious or repeated violations, the option exists for a referral to the County District Attorney for possible prosecution or to the Regional Board for enforcement under the California Water Code or the CWA. In order to eliminate unauthorized, Non-storm Water discharges, reduce the amount of Pollutants commingling with Urban Runoff and thereby protect water quality, an additional level of enforcement is required between Notices of Violation and District Attorney referrals.

The third term MS4 Permit required the Permittees to establish the authority and resources to administer either civil or criminal fines and/or penalties for violations of their Storm Water Ordinances. The Permittees now have this authority for penalties. Within the fourth term Order, Permittees are required to exercise this authority by developing an enforcement program to be administered within the industrial, commercial and construction elements of their Urban Runoff management programs. The enforcement program has been required to be included as an update to each Permittee's LIP. The effectiveness of this program must be documented in the Annual Reports submitted by the Permittees. However, it is acknowledged that once cases have been referred to the District Attorney or Environmental Crimes Task Force, etc. for prosecution, case details are confidential.

The fourth term Order further requires the Permittees to document and implement progressive and decisive enforcement actions, evaluate the effectiveness of their enforcement program and sanctions by tracking compliance and evaluating the amount of time to return to compliance.

This Order requires the Permittees to include in the LIP their legal authority and mechanisms to implement the various program elements required by this Order to properly manage, reduce, and mitigate potential Pollutant sources within each Permittee's jurisdiction. The LIP shall include citations of appropriate local ordinances, identification of departmental jurisdictions and key personnel in the implementation and enforcement of those ordinances. The LIP shall include

procedures, tools and timeframes for progressive enforcement actions and procedures for tracking compliance.

**F. ILLICIT CONNECTIONS/ILLEGAL DISCHARGES; LITTER, DEBRIS AND TRASH CONTROL**

Federal regulation, 40 CFR 122.26(d)(2)(iv)(B), requires the Permittees to eliminate illicit discharges to the MS4s. The Permittees have completed a survey of the MS4 and eliminated or permitted all identified Illicit Connections. The Permittees have also established a program to address Illegal Discharges and a mechanism to respond to spills and leaks and other incidents of discharges to the MS4.

The Permittees currently have several programs to address IC/IDs:

1. The Permittees operate a toll free phone line, provide e-mail access for filing complaints and take direct calls regarding IC/ID reports from third parties. These reports are investigated by Permittee staff and reported in IC/ID investigation forms. All Permittee public education outreach materials promote the use of these reporting mechanisms.
2. Permittee staff receive training on identification and reporting of IC/IDs to appropriate Permittee staff. These reports are investigated and reported in IC/ID reporting forms.
3. The Permittees conduct Industrial and Commercial Facility and Construction Site inspections to identify potential IC/IDs. The outcomes of these inspections are reported in inspection reporting databases.
4. The Permittees contribute funds to the County Hazardous Materials Response Team to train and educate them to handle Illegal Discharges or accidental hazardous waste discharges so as to prevent IC/IDs. A summary of HAZMAT activities is provided in the Annual Reports.
5. The RCFC&WCD monitors Office of Emergency Service reports for potential IC/ID incidents and investigates them as appropriate. Results are reported in the RCFC&WCD complaint call database and reported to the Permittees as appropriate.
6. The RCFC&WCD has developed an online GIS tool that identifies the location of District and Permittee MS4 facilities to facilitate IC/ID investigations and response.
7. The Permittees have developed a Sanitary Sewer Overflow Procedure to limit the potential for sewage spills to the MS4.
8. RCFC&WCD, as Principal Permittee, has dedicated staff that conducts dry weather monitoring and also evaluates RCFC&WCD MS4 facilities for maintenance problems and/or IC/IDs. Detected IC/IDs from monitoring data or field inspections are reported to the District's NPDES section, logged into

RCFC&WCDs complaint database, and reported to the appropriate Permittee for follow up action.

However, with a few exceptions, program evaluations conducted during the third term MS4 Permit showed that this program element is primarily complaint driven or an incidental component of municipal inspections or MS4 inspections for a number of Permittees. This Order requires the Permittees to ensure their LIPs describe each Permittee's plan for focused, systematic IC/ID investigations, outfall reconnaissance surveys, indicator monitoring, and track their sources<sup>10</sup>. A proactive Illicit Discharge Detection and Elimination (IDDE) program should be integrated with other LIP program elements as appropriate including: mapping of the Permittees' MS4 to track sources, aerial photography, Permittee inspection programs for construction, industrial, commercial, MS4, Permittee facilities, etc., watershed monitoring, public education and outreach, Pollution Prevention, and rapid assessment of stream corridors to identify dry weather flows and illegal dumping.

#### **G. SEWAGE SPILLS, INFILTRATION INTO MS4 SYSTEMS FROM LEAKING SANITARY SEWER LINES, SEPTIC SYSTEM FAILURES, AND PORTABLE TOILET DISCHARGES**

Federal regulation, 40 CFR 122.26(d)(2)(iv)(B)(4), requires the Permittees to develop procedures to prevent, contain, and respond to spills that may discharge into the MS4s. The Permittees have already developed a program to address various types of spills to the MS4s. This Order requires the Permittees to continue to implement the unified sewer response plans in collaboration with the local sanitary sewer system operators. To facilitate swift response actions, the Permittees are required to provide 24-hour access to MS4s to the sanitary sewer system operators. The Permittees should also work cooperatively with the sanitary sewer system operators to determine if exfiltration from leaking sanitary sewer lines is causing or contributing to Urban Runoff Pollution problems. In addition, the Permittees are required to control infiltration or seepage from sanitary sewers to the MS4s through routine preventive maintenance of the MS4 (40 CFR 122.26(d)(2)(iv)(B)(7)). This Order also requires the Permittees to implement control measures and procedures to prevent, respond to, contain and clean up all sewage and other spills from sources such as portable toilets and septic systems.

On May 2, 2006, the State Board issued the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Water Quality Order No. 2006-0003-DWQ (SSO Order) to address proper management and operation of sewer collection systems and to control sanitary sewer overflows. It requires dischargers/enrollees to develop and implement a written Sewer System Management Plan (SSMP) approved by the discharger's governing board and

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<sup>10</sup> Table 2: Land uses, Generating Sites and Activities that Produce Indirect Discharges from IDDE, A Guidance Manual for Program Development and Technical Assessments, October 2004 CWP.

report sewer spills through an on-line reporting system. This Order requires the Permittees have reviewed the unified sewage spill response plan developed during the third term MS4 Permit with the local sewerage agencies and determined that it is consistent with the requirements of the SSO Order. This Order also requires each Permittee to include in its LIP the interagency or interdepartmental sewer spill response coordination and responsibilities.

The MS4 program audits indicated that a majority of the Permittees with septic systems have inadequate information with regard to the number and location of those systems within their jurisdiction. This Order requires the Permittees with septic systems to develop within 2 years of adoption of this Order, an inventory of septic systems within its jurisdiction and establish a program to ensure that failure rates are minimized.

#### **H. CO-PERMITTEE INSPECTION PROGRAM;**

Federal regulations, 40 CFR 122.26(d)(2)(iv)(A-D), require the Permittees to inventory, prioritize and inspect Industrial and Commercial Facilities and Construction Sites. This Order requires the Co-Permittees to continue inspections of Industrial and Commercial Facilities and Construction Sites within their jurisdiction in order to control the Pollutants entering the MS4. The Co-Permittees will continue to maintain the inventory of Industrial and Commercial Facilities and Construction Sites in the above categories, prioritize these facilities based on threat to water quality, and perform regular inspections to insure compliance with local ordinances. While initial observations of non-compliance may result in 'educational' type enforcement, repeated non-compliance will result in more disciplinary forms of enforcement, such as monetary penalties, stop work orders or permit revocation.

An evaluation of Permittee inspection programs during the third term MS4 permit indicated certain deficiencies in the Industrial and Commercial Facility and Construction Site inspection programs of some of the Permittees. In many instances, program documentation of progressive enforcement and facilities' return to compliance were not properly documented. This Order requires Permittees to document inspections and enforcement and evaluate the effectiveness of their inspection and enforcement program by tracking the time for facilities or sites to return to compliance. The Permittees who do not have an internet accessible database are required to initiate quarterly reporting and update of the inventory, inspection and enforcement database for facilities within their jurisdiction.

In order to address discharges to the MS4 from residential sources, the fourth term MS4 Permit requires the Permittees to develop and implement a residential program to prevent residential discharges from causing or contributing to a violation of Water Quality Standards in the Receiving Waters (40 CFR 122.26(d)(2)(iv)(A)).

#### **I. NEW DEVELOPMENT (INCLUDING SIGNIFICANT REDEVELOPMENT)**

Federal regulation, 40 CFR 122.26(d)(2)(iv)(A)(2), requires the Permittees to develop a comprehensive master plan to address discharges from New Development and Significant Redevelopment projects. During the third term MS4 Permit, the Permittees revised their New Development guidelines to address water quality and Hydromodification impacts resulting from urbanization. A WQMP for Urban Runoff was approved by the Regional Board in 2004 and became effective in 2005. This Order requires the Permittees to continue to work towards the goal of restoring and preserving the natural hydrologic cycles in proposed urban developments by reviewing and approving project-specific WQMPs to address post-construction impacts. The WQMP should be designed to address water quality impacts, including Hydrologic Conditions of Concern (HCOC), from New Development and Significant Redevelopment projects through: (1) Site Design BMPs, including LID techniques; (2) Source Control BMPs; and (3) Treatment Control BMPs. This Order recognizes the importance of LID techniques to minimize the impact of urbanization on water quality. This Order requires the project proponents to infiltrate, harvest and reuse, evapotranspire, or bio-treat the volume of runoff from a 24-hour, 85<sup>th</sup> percentile storm event where feasible. The Order also provides alternatives and in-lieu programs for project sites where infiltration, harvesting and re-use, evapotranspiration and bio-treatment are not feasible.

Program evaluations conducted during the third term MS4 Permit indicated a need for establishing a clear nexus between the watershed protection principles (including LID) and the planning and approval processes of the Permittees. This Order requires the Permittees to review and revise their Development Standards, Zoning Codes, Conditions of Approval, Development Project Guidance, ordinances, and other related documents to identify and eliminate barriers to incorporate watershed protection principles.

The SMC, including project lead agency, the San Bernardino County Flood Control District, in collaboration with SMC member, SCCWRP and the California Storm Water Quality Association (CASQA), is developing a LID Manual for Southern California with funding from the State Board, CASQA and other sources. This manual will be incorporated into the CASQA BMP Handbooks. The Permittees are encouraged to utilize the manual as a resource for proper LID design and implementation techniques.

Program evaluations have also suggested a need for improvement in the Permittees' inspection, and tracking of post-construction BMPs. This Order requires the Permittees to revise their close-out procedures to include field

verification that Site Design, Source Control and Treatment Control BMPs are operational and consistent with the approved WQMP.

This Order incorporates new project categories and revised thresholds for several categories of New Development and Significant Redevelopment projects that trigger the requirement for a WQMP. New project categories include streets, roads and highways of 5,000 square feet or more of paved surface and-retail gasoline outlets (RGOs) with 5,000 square feet or more with 100 or more average daily vehicle traffic. The threshold criteria that trigger the WQMP requirement for non-residential commercial/industrial construction projects have been reduced from 100,000 square feet to 10,000 square feet or more of impervious surface. The threshold for residential subdivision projects has also been revised from 10 units or more to a threshold of 10,000 square feet or more of impervious surface.

This Order incorporates new project categories and revised thresholds for several categories of New Development and Significant Redevelopment projects that trigger the requirement for a WQMP. The 2008 National Research Council (NRC) report<sup>11</sup> indicates that roads and parking lots constitute as much as 70% of total impervious cover in ultra-urban landscape, and as much as 80% of the directly connected impervious cover. Roads tend to capture and export more storm water Pollutants than other impervious covers. As such, roads are included as a priority development category for which WQMPs are required. The NRC report also indicates that there is a direct relationship between impervious cover and the biological condition of downstream receiving waters. The Permittees are required to address HCOC from New Development and Significant Redevelopment projects to minimize downstream impacts. Private New Development and Significant Redevelopment projects incorporating roads typically allow road runoff to be addressed as part of the overall water quality strategy for the larger common plans of development. Permittee streets, roads and highways capital projects have special limitations. For example, the footprint of street, road and highway capital projects is often limited and may have hydraulic constraints due to lack of underground storm drain systems that would otherwise be necessary to hydraulically facilitate treatment of runoff. There are also limitations specified in state and federal design and code specifications that may limit or prohibit BMPs. Permittees may also be subject to flow diversion liability and limited road maintenance budgets and equipment. Street, road and highway projects that function as part of the MS4 also receive runoff and associated Pollutants from both existing urban areas and other external sources, including adjacent land use activities, aerial deposition, brake pad and tire wear and other sources that may be outside the Co-Permittee's authority to regulate and/or economic or technological ability to control. These offsite flows can overwhelm Treatment Control BMPs designed to address the footprint (consistent with the typical requirements for a WQMP) of street, road or highway capital projects incorporating curb and gutter as part of its stormwater conveyance function. Despite these limitations, the Regional

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<sup>11</sup> National Research Council Report (2008), [http://www.nap.edu/catalog.php?record\\_id=12465](http://www.nap.edu/catalog.php?record_id=12465)

Board finds that Permittee construction of streets, roads and highway capital projects may provide an opportunity to address Pollutant loads from existing urban areas. However, due to the nature of the facilities and projects, it would be unduly burdensome for the Co-Permittees to maintain WQMP documents for transportation projects (in addition to Facility Pollution Prevention Plans and other overlapping requirements of this Order). The Permittees are therefore not required to prepare WQMP documents for street, road and highway capital projects, but instead are required to develop equivalent documents that include site specific consideration utilizing BMP guidance to address street, roads and highway capital project runoff to the MEP.

As public works, streets, roads and highway projects are the only facilities typically captured by the new WQMP category, and these projects typically have unique constraints that make them difficult to address through the WQMP process, a separate set of requirements has been established for addressing this category of development. Roads that are typically constructed as part of a development are typically incorporated into the broader WQMP for the development activity, providing more options for mitigation via the WQMP process.

Consistent with a long term holistic approach to address water quality and Hydromodification impacts resulting from urbanization, this Order requires Permittees to continue to develop tools that facilitate integration, to the extent practicable, of water quality, stream protection, storm water management and re-use strategies with land use planning policies, ordinances, and plans within each jurisdiction. These tools should address cumulative impacts of development on vulnerable streams, preserve or restore, consistent with the MEP standard, the structure and function of streams, and protect surface and groundwater quality. For 303(d) listed waterbodies with Urban Runoff Pollutant sources and without a TMDL, the Permittees are required to provide special protections such as requiring more effective post-construction BMPs focus training programs and develop targeted public outreach that would address the urban source of the Pollutant of Concern. The Permittees are also required to participate in the TMDL development and implementation.

#### **J. PUBLIC EDUCATION AND OUTREACH;**

Federal regulation, 40 CFR 122.26(d)(iv), requires the Permittees to develop a comprehensive storm water management plan with public participation and 40 CFR 122.26(d)(iv)(B)(6) requires the Permittees to engage in outreach activities to facilitate the proper management of Pollutants. Public outreach is an important element of the overall urban Pollution Prevention program. The Permittees have committed to implement a strategic and comprehensive public education program to maintain the integrity of the Receiving Waters and their ability to sustain Beneficial Uses. The Principal Permittee has taken the lead role in the outreach programs and has targeted various groups including businesses, industry, development, utilities, environmental groups, institutions, homeowners, school

children, and the general public. The Permittees have developed a number of educational materials, have established a storm water Pollution Prevention hotline, started an advertising and educational campaign, and distributed public education materials at a number of public events. The Permittees are required to continue these efforts and to expand public participation and education programs.

The Permittees have already developed BMP fact sheets to address sources from residential activities such as auto washing and maintenance activities; use and disposal of pesticides, herbicides, fertilizers and household cleaners; and collection and disposal of pet wastes.

This Order requires the Permittees to annually review their public education and outreach efforts and revise their activities, if necessary, to address public outreach needs fed back from other Urban Runoff program elements. Federal regulation, 40 CFR 122.26(d)(v), requires the Permittees to conduct a program assessment to determine the reduction in Pollutant loadings due to Urban Runoff management programs. Each Permittee is required to implement an assessment program, guided by the CASQA Guidance manual or equivalent alternative, to measure the change in behavior of its target communities to reduce discharge of Pollutants to the MS4 and the environment.

#### **K. PERMITTEE FACILITIES AND ACTIVITIES;**

Federal regulation, 40 CFR 122.26(d)(iv)(A), requires the Permittees to ensure that their activities and facilities do not cause or contribute to violations of Water Quality Standards in receiving waters. Education of Permittee planning, inspection, and maintenance staff is critical to ensure that Permittee facilities and activities do not cause or contribute to an exceedance of Receiving Water Quality Standards. The 2002 MS4 Permit also specified minimum requirements for street sweeping and inspection and maintenance of drainage facilities. The Permittees were also required to develop and distribute BMP fact sheets for various Permittee activities. Permittee as well as contract staff that perform Permittee activities were required to be properly trained. The second and third term MS4 Permits required the Permittees to prepare a Municipal Facilities Strategy (MFS) to ensure that Permittee facilities and activities do not contribute Pollutants to Receiving Waters. The MFS was incorporated into Section 5 of the DAMP during the third term MS4 Permit. Each year, by August 1st, the Permittees are required to review their activities and facilities to determine the need for revisions to Section 5 of the DAMP.

This Order continues and builds upon the requirement of the third term MS4 Permit by requiring Permittees to include structural post-construction BMP information for certain Permittee projects along with the Notice of Termination submitted to the Executive Officer upon completion of the construction activity. The Notice of Termination must include photographs of the completed project, a location map, and for public works projects subject to a WQMP, structural post-

construction BMP location, field verification report and identify long term operation and maintenance responsibility. Permittees are required to develop a database of post-construction BMPs for which the Permittees are responsible and shall reference this database in the LIP.

Program evaluations conducted during the third term MS4 Permit indicated varying degrees of compliance at Permittee facilities and activities. This Order requires each Permittee to inventory its fixed facilities, field operations and MS4 facilities to ensure that Permittee facilities do not cause or contribute to a Pollution or Nuisance in Receiving Waters. These facilities and field operations are to be prioritized for inspection according to threat to water quality.

Fixed Permittee facilities and field operations include, but are not limited to fire training facilities, corporate yards, maintenance and storage yards, animal shelters, water treatment facilities, swimming pools, warehouses, and hazardous materials storage facilities, and recreation facilities. The Permittees are required to include in their LIP procedures and schedules for inspections and maintenance of Permittee facilities and activities. Urban Runoff from other Permittee facilities, such as airports, wastewater treatment plants and landfills, is regulated under the General Industrial Permit.

#### **L. PERMITTEE CONSTRUCTION PROJECTS**

The third term MS4 Permit authorized the discharge of storm water from Construction Sites on one acre or more that are under ownership or direct responsibility of the Permittees. The Permittees were required to notify the Executive Officer prior to commencement of construction activities, and to comply with the substantive requirements of the latest Statewide General Construction Activities Storm Water Permit.

Program evaluations conducted during the third term MS4 Permit indicated that some of the Permittees were not submitting or were not aware of the requirement to submit a Notice of Intent and a Notice of Completion for Permittee construction projects.

#### **M. TRAINING PROGRAM FOR STORM WATER MANAGERS, PLANNERS, INSPECTORS AND MUNICIPAL CONTRACTORS**

Education of Permittee planning, inspection, and maintenance staff is important to ensure that land use decisions, local permit approvals and Permittee facilities and activities do not cause or contribute to an exceedance of Receiving Water Quality Standards. During the term of the 2002 MS4 Permit, the Permittees attended training classes specific to major Urban Runoff program elements including New Development/Significant Redevelopment, Construction Site and Industrial Facility inspections, and Permittee activities.

This Order requires the Permittees, in conjunction with a broader array of MS4 Programs or CASQA, to define the program implementation training needs for Urban Runoff program staff, including contractors, managers and inspectors. The training curriculum must be designed for Permittee facilities and field operations staff, Permittee inspection staff, Urban Runoff program managers and those involved in the review and approval of WQMPs and CEQA documents, including Permittee contractors. The audits of the Permittees indicated the need for better inter-departmental collaboration and communication in the local Urban Runoff program implementation. This Order requires LIPs to develop and document processes and procedures for coordination between planners, plan reviewers, engineers and inspectors to ensure that appropriate post-construction BMPs are approved, installed, and are operational.

#### **N. NOTIFICATION REQUIREMENTS**

Most of the notification requirements that were spread throughout the third term MS4 Permit were consolidated into one section.

#### **O. PROGRAM MANAGEMENT ASSESSMENT/DAMP REVIEW**

The DAMP is a management document that needs to be updated with the new requirements of this Order.

#### **P. FISCAL RESOURCES**

Each Permittee is expected to exercise its full authority to secure the resources necessary to meet all requirements of this Order. See Section IX for existing funding mechanisms and potential limitations to Permittee funding.

#### **Q. MONITORING AND REPORTING REQUIREMENTS**

During the first term MS4 Permit and part of the second term MS4 Permit, the Permittees conducted monitoring of the Urban Runoff flows, Receiving Water quality, and sediment quality. The Santa Ana Phase I NPDES Monitoring Program began in November 1991 with 27 monitoring sites. The program has been reduced in phases to more specifically address Urban Runoff program needs and to redirect monitoring resources to TMDL-related activities. There was a time where samples were collected on a rotational basis with no consistent monitoring from year to year. On April 14, 2003, with the submittal of an Interim Monitoring Program, monitoring at seven core sampling locations (Sampling Stations 040, 316, 318, 364, 702, 707, and 752) was established that provided representative and consistent monitoring results for the Permit Area.

The Riverside County monitoring programs, as well as other monitoring programs nationwide, have shown that there is a high degree of uncertainty in

the quality of Urban Runoff and that there are significant variations in the quality of Urban Runoff spatially and temporally. However, most of the monitoring programs to date have indicated that there are a number of Pollutants in Urban Runoff. A link between Pollutants in Urban Runoff and Beneficial Use Impairments has been established in a few studies.

This Order requires the Permittees identified as TMDL stakeholders in an approved TMDL to continue to comply with applicable TMDL Implementation Plan requirements, including monitoring requirements, and to implement Urban TMDL WLAs through an iterative BMP approach (see Section V.C above).

Wet and Dry Seasons are defined differently by the various monitoring programs included in this Order. The Middle Santa Ana TMDL defines the Wet Season as November 1 through March 31<sup>st</sup> and the Canyon Lake/Lake Elsinore TMDL monitoring defines it as October 1<sup>st</sup> through May 31<sup>st</sup>. The Monitoring and Reporting Program for this Order generally defines the Wet Season as October 1st through May 31st. Monitoring required under this Order is expected to be conducted consistent with the applicable seasonal definitions.

The MSAR Bacterial Indicator TMDL and Canyon Lake/Lake Elsinore Nutrient TMDL requires the Permittees to comply with TMDL Implementation Plan requirements to revise the DAMP to incorporate BMPs in the Permittees Urban Runoff programs. This Order requires the Permittees to evaluate the effectiveness of the BMPs implemented as part of the DAMP in conformance with the TMDL Implementation Plan requirements.

This MS4 monitoring program includes sampling Urban Runoff at a variety of sites located throughout the Permit Area for three storm events per year. Urban Runoff samples will be collected and analyzed for a variety of constituents. In addition to these efforts, the Permittees are reevaluating their overall Urban Runoff monitoring program to determine its effectiveness in meeting the following objectives:

1. Assess rates of mass loading
2. Assess influence of land use on water quality
3. Assess compliance with Water Quality Objectives
4. Assess effectiveness of water quality controls
5. Detect IC/IDs
6. Identify problem areas and/or trends
7. Identify Pollutants of Concern
8. Identify baseline conditions
9. Establish/maintain a water quality database

To accomplish these goals, the following activities are conducted:

1. Collect water quality data
2. Collect rainfall/runoff data
3. Establish quality assurance/control procedures
4. Conduct data analysis and archiving
5. Install and maintain appropriate equipment
6. Prepare an Annual Report

RCFC&WCD, in its role as Principal Permittee, participates in the SMC and other task forces. The goal of the SMC is to develop the technical information necessary to better understand storm water mechanisms and impacts, and then develop the tools that will effectively and efficiently improve storm water decision-making. Some of the cooperative monitoring efforts conducted through the SMC and other task forces include Comparative Evaluation of Microbial Source Tracking Techniques, Model Monitoring Program Guidance, Peak Flow Study, and Laboratory Inter-Calibration Studies. Under the auspices of the SMC, SCCWRP prepared "Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California", August 2004 Technical Report No. 419. This report noted, "...the lack of mass emissions stations in the inland counties hampers their ability to estimate the proportional contribution of these inland areas to cumulative loads downstream". The SMC consists of representatives from the Counties of Ventura, Los Angeles, Orange, San Bernardino, Riverside, and San Diego and the Cities of Long Beach, and Los Angeles, the Los Angeles, Santa Ana and San Diego Regional Boards, the State Board, SCCWRP, Caltrans, and the USEPA. This Order requires the Permittees to continue mass emissions monitoring to determine Pollutant loading.

During the second and third term MS4 Permits, there was an increased focus on watershed management initiatives and coordination among the MS4 permittees in Orange, Riverside and San Bernardino Counties. The MS4 permittees participated in a number of regional monitoring programs and other coordinated program and policy developments, such as the Regional Integrated Freshwater Bioassessment Monitoring Program, and the BMP Effectiveness Assessment. The Principal Permittee continues to be an active participant in the SWQSTF, MSAR Bacterial Indicator TMDL, Canyon Lake/Lake Elsinore (San Jacinto) Nutrient TMDL and the SMC. This Order recommends that the Permittees continue their participation in these types of watershed coordination efforts and provides them with opportunities to use these efforts to comply with applicable requirements of the Permit.

The third term MS4 Permit required the Permittees to initiate bioassessment monitoring. To allow for a holistic approach, this Order requires the Permittees to participate in the Regional Integrated Freshwater Bioassessment Monitoring

Program in lieu of a separate bioassessment monitoring program for the Permit Area.

This Order requires the Permittees to re-evaluate their CMP and submit a revised plan for approval. The revised CMP should integrate the goals and objectives of the Watershed Action Plan and rectify data gaps from previous monitoring efforts.

**R. PROVISIONS – Standard Language per NPDES regulations.**

**S. PERMIT MODIFICATION– Standard Language per NPDES regulations.**

**T. PERMIT EXPIRATION AND RENEWAL– Standard Language per NPDES regulations.**

**IX. WATER QUALITY BENEFITS, COST ANALYSIS, AND FISCAL ANALYSIS**

There are direct and indirect benefits from clean lakes and beaches, clean water, and a clean environment. It is difficult to assign a dollar value to the benefits the public derives from fishable and swimmable waters. In 1972, at the start of the NPDES program, only 1/3 of the U.S. waters were swimmable and fishable. In 2008, more than 2/3 of the U.S. waters met these criteria. In the 1999 “*Money*” magazine survey of the “Best Places to Live”, clean water and air ranked as two of the most important factors in choosing a place to live. Thus environmental quality has a definite link to property values.

The true magnitude of the Urban Runoff problem is still elusive and any cost estimate for cleaning up Urban Runoff would be premature short of end-of-pipe treatments. For Urban Runoff, end-of-pipe treatments are cost prohibitive and are not generally considered as a technologically feasible option. Over the last decade, the Permittees have attempted to define the problem and implemented BMPs to the MEP to combat the problem.

The costs incurred by the Permittees in implementing these programs and policies can be divided into three broad categories:

- A. Shared costs: These are costs that fund activities performed mostly by the Principal Permittee under the Implementation Agreement. These activities include overall storm water program coordination; intergovernmental agreements; representation at the SWQSTF, Regional Board/State Board meetings and other public forums; preparation and submittal of compliance reports and other reports required under the NPDES permits, responding to Water Code Section 13267 requests, budget and other program documentation; coordination of consultant studies, Co-Permittee meetings, and training seminars.

- B. Individual Costs for DAMP Implementation: These are costs incurred by each Permittee for implementing the BMPs (drainage facility inspections for Illicit Connections, drain inlet/catch basin stenciling, public education, etc.) included in the DAMP. A number of programs and policies for Non-Point and Urban Runoff Pollution controls existed prior to the MS4 permit program. However, the DAMP that was developed and implemented in response to the MS4 Permits required additional programs and policies for Urban Runoff Pollution control.
- C. Individual Costs of Pre-Existing Programs: These are costs incurred by each Permittee for water Pollution control measures which were already in existence prior to the MS4 permit program. These programs included recycling, litter control, street sweeping, drainage facility maintenance, and emergency spill response.

Historically, the Permittees have employed four distinct funding methods to finance their NPDES Activities. Many Permittees utilize a combination of these funding sources. The different methods include:

A. Santa Ana Watershed Benefit Assessment Area

In 1991, the RCFC&WCD established the Santa Ana Watershed Benefit Assessment Area (SAWBAA) to fund its NPDES activities. Currently, SAWBAA revenues fund both area-wide NPDES program activities and the RCFC&WCD's individual MS4 permit compliance activities.

B. County Service Area 152

In December 1991, the County of Riverside formed County Service Area 152 (CSA 152) to provide funding for compliance activities associated with its NPDES permit activities. Under the laws that govern CSAs, sub-areas may be established within the overall CSA area with different assessment rates set within each sub-area. The cities of Corona, Moreno Valley, Norco, Riverside, Lake Elsinore and San Jacinto elected to participate in CSA 152.

C. Utility Charge

The City of Hemet funds a portion of its NPDES program activities through a utility charge.

D. General Fund /Other Revenues

Permittees also utilize general fund revenue to finance their NPDES activities. Several Permittees also report using general fund and other revenue sources (e.g., gas taxes, developer fees, etc.) to fund a portion of their Urban Runoff management activities.

The Annual Report provides the most recent budgets and expenditure projections available for the costs incurred by the Permittees in implementing these programs and policies. The following information, in parenthesis, on the current economic conditions was provided by the Permittees.

**{Current Economic Conditions**

**The following information was provided by the Permittees and does not constitute a finding by the Regional Board:**

Historically, the Permittees have employed several funding methods to finance their MS4 Permit compliance activities. Unfortunately, the mortgage crisis, collapse of the housing market and the economic recession has resulted in the cessation of virtually all development activity and has significantly reduced sales tax revenue in the Santa Ana Region. Property tax revenues have been reduced by the high level of foreclosure activity and reduced property values. Property tax revenues have been further reduced by homeowner requests for reassessments to reflect the reduced property values. The impact of these economic conditions on the Permittees in the Santa Ana Region has been particularly severe. As a result, funds typically provided by these funding methods has been severely reduced, and it is anticipated that this condition will continue for an indefinite period. The funding methods historically used and the effects of the economic situation on the availability of funds through these sources are summarized as follows:

- Santa Ana Watershed Benefit Assessment Area. In 1991, the District established the Santa Ana Watershed Benefit Assessment Area to fund its MS4 Permit compliance activities. Currently, the Benefit Assessment revenues fund the District's share of the area-wide MS4 Permit program activities and the District's individual compliance activities as a Permittee. Under the Benefit Assessment each parcel is taxed based on the impervious area of each parcel at a set rate established through Proposition 218. This rate has not been increased since 1991 and increases in revenues have resulted from increases in the number of contributing parcels resulting from New Development. In 2007/08 the Santa Ana Watershed Benefit Assessment generated approximately \$2,030,000 in revenue. These revenues are used to fund the District's compliance activities and the bulk of the administrative costs associated with the District's duties as Principal Permittee.

Outlook: The District expects at best to maintain, if not see temporary reductions in Benefit Assessment revenues due to the significant number of homes that are not paying property tax due to foreclosure. An increase in the established Benefit Assessment rate to compensate for these reductions would require approval of 2/3 of the voters or 50% of the property owners and is unlikely, especially in the current economic climate. An increase in the number of contributing parcels will not occur until the development industry recovers.

- **General Fund/Other Revenues.** The County and the Cities utilize general fund revenue to finance most of their MS4 Permit compliance activities. General fund revenue is generated by property tax, sales tax, and auto license taxes.

Outlook: The Permittees expect a continued reduction in the funds available through General Fund/Other Revenues through at least FY 2010/2011. Historically, the Permittees have investigated other funding sources, including a phone survey conducted by LESJWA with support from the District and the County of Riverside to evaluate the possibility of passing a new assessment to fund water quality improvements benefiting Lake Elsinore. The results of the survey found insufficient voter support for water quality-related issues to move forward with a special election. The Permittees have also formed a finance committee which has met several times to obtain information about actions that they can take to maximize revenues and potential alternative funding sources. These efforts met with some success, particularly in relation to maximizing fees for service; however significant new funding sources were not identified or available to the Permittees even during the more favorable economic conditions experienced during the term of the 2002 Riverside County MS4 Permit.

- **Fees.** Several Permittees charge fees for services such as inspections, plan check and other recoverable costs related to compliance with the 2002 Riverside County MS4 Permit. These fees cover both the direct and indirect costs associated with conducting these inspections/reviews including associated compliance tracking and reporting.

Outlook: It is notable that, with the virtual collapse of the development industry in the Santa Ana Region, the fees received by the Permittees for review of New Developments and Construction Site inspections have been significantly reduced. With this reduced level of fee-based income, maintenance of the existing inspection and plan review programs will place a burden on overall funding of the compliance programs. The Permittees do not expect revenues from fees to recover until the development industry recovers. Even with recovery of the development industry, it is anticipated that revenues from fees will be reduced for the majority of the Cities within the Santa Ana Region and the County due to the reduced area remaining for development in their jurisdictions.

- **Grants.** The Permittees have actively pursued and, as available, used grants to fund compliance programs.

Outlook: In December the State's budget crisis resulted in a directive to State agencies from the Department of Finance to halt projects that rely on bond funds, including those funded by Proposition 40, Proposition 50 or Proposition 84. The State of California is the primary source of grant funding for water

quality projects. Future availability of funds to resume compliance projects funded by grants is uncertain.

It is clear that the current economic climate and that of the foreseeable future is creating a significant burden upon the Permittees that will make the continuance of all existing MS4 Permit compliance programs difficult. If new funding sources or alternative combinations of funding sources cannot be identified, it is likely that compliance program funding will be further impacted.

#### Economic Projections

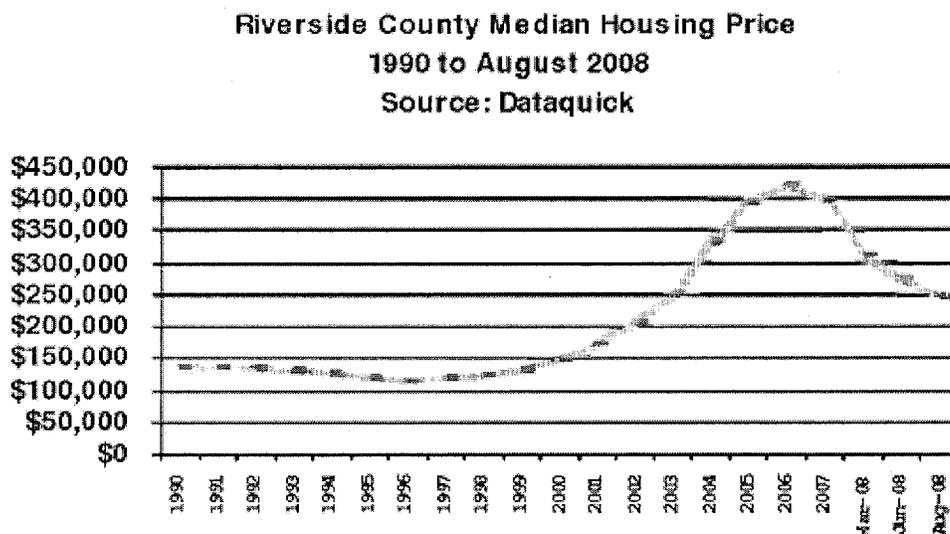
According to Chicago Title, Southwest Riverside County has experienced a very significant increase in supply of single-family residential units on the market. As a result, housing price indicators are very negative. In the majority of the Southwest Riverside submarket, the pending price is less than closing price that suggests the weakness of the market. The October 2008 count of bank owned (REO) properties for Riverside County as a whole was 12,078. The number of foreclosures was 23,480. The presence of high levels of REO properties will continue to negatively affect the price line. In addition, the level of foreclosures is increasing. At the end of January 2009, 68% of the homes listed for sale are foreclosures or short sales<sup>12</sup>.

With regard to other sectors of the economy, Riverside County has taken a serious turn for the worse in 2008, with projections indicating that the severe downturn will continue through 2009 at the very least. The economic difficulties being faced in the Southwest Riverside submarket is the result of the dramatic downturn in the housing market in this area, the national financial turmoil, the worldwide credit crisis, and the increasing consumer debt crisis. According to Beacon Economics, a respected economics consulting firm in Los Angeles, Inland Southern California is clearly at the epicenter of this economic turmoil, with extremely high rates of unemployment at present. Unemployment rates in Inland Southern California are expected to reach 12.4% (Riverside County beat that – unemployment was 14.6% in November 2009 – California Employment Development Department) before this deep recession is over. Housing prices are expected to continue their precipitous decline from their peak levels in the two Inland Southern California counties through at least 2011. According to Dataquick, median home prices in Riverside County peaked at \$415,000 in January 2007. At the end of this cycle, the median home price in Riverside County is expected to be \$198,000. Figure 1 depicts the median housing price in Riverside County over the period 1990 to August 2008.

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<sup>12</sup> Orange County Register, January 27, 2009, p. 11.

Figure 1. Riverside County Median Housing Price (1990 – August 2008)

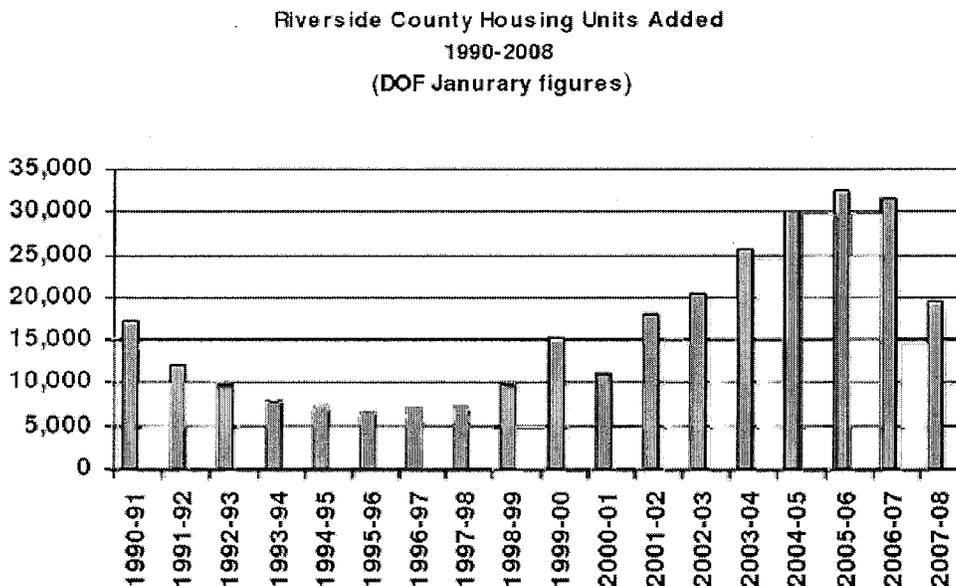


Source: Riverside County Center for Demographic Research. 2008. Riverside County Progress Report, pg 14.

Local Government sales tax revenues remained fairly stagnant through 2006 and began to decline in early 2007, according to Beacon. By the second quarter of 2008, the taxable sales in Riverside County declined by 7.7%. This will continue with taxable sales possibly bottoming out by 2010. These shocks are expected to continue and accelerate within the southwest Riverside County economy.

As a direct outcome of the current economy and the economic outlook into the term of the 2009 Riverside County MS4 Permit, the number of New Development proposals has plummeted and any significant rebound is not forecast. New and redevelopment projects will likely remain minimal. As shown in Figure 2, the number of housing units being added each year has dropped below the levels seen at any point in time during the 2002 Riverside County MS4 Permit. These numbers will likely continue to decrease for a significant portion of the new 2010 Riverside County MS4 Permit term.

Figure 2. Riverside County Housing Units Added (1990 – 2008)



Source: Riverside County Center for Demographic Research. 2008. Riverside County Progress Report, pg 12.

These economic issues and projections directly affect and limit both:

- The need for including enhanced New Development and Significant Redevelopment requirements in the 2010 Riverside County MS4 Permit, and
- The Permittees ability to fund, and even seek new funding sources for additional MS4 Permit requirements for New Development and Significant Redevelopment projects.

Permittee specific projections are as follows:

**County of Riverside**

The County is operating with a structural deficit of \$12 million and plans a 25% budget reduction from FY 2008/2009 through FY 2011/2012. The County's current budget of \$4.7 billion represents a 5% reduction from the previous year and next year's budget is expected to be cut by 10%. These cuts are directly associated with the decline in property values caused by the high number of foreclosures. There are concerns about having to use discretionary funds to meet State mental health and social service mandates. In addition, the County is dependent on funds from Federal and State sources. If during this time of economic crisis Federal and State funding sources are reduced or eliminated, any unfunded programs will be terminated. Only core County programs will continue.

The primary source of general fund revenue is from property taxes and sales tax. With the unprecedented number of foreclosures, reduced property values, and declining sales, general fund revenue is in a downward spiral. Another source of funding is through the Solid Waste Tipping Fees paid at the County landfills. Volume is down 15% since 2006 with anticipated downward trend to 40% reduction in solid waste through 2014. Programs that are partially funded through tipping fee allotments will be impacted. Due to the declining economy the recycling market has collapsed. Virtually no recyclable materials are being shipped for reprocessing. This loss of revenue and increased disposal costs is further impacting the general fund.

Cuts of 25% for all Net County Cost general fund programs will translate into reduction of County services and elimination of unfunded State and Federal programs. Only core value programs will be provided (including public safety and fee programs).

The County has instituted a hiring freeze and required each department to create a report outlining the projected effects of the budget cuts. The County currently employs over 20,000 people, and layoffs are expected to result from the findings of these departmental reports. It is anticipated that this will impact program delivery for stormwater related activities. No County department will be able to sustain current staffing levels as they try to meet the 25% budget reduction strategy.<sup>13 14</sup>

#### City of Menifee

The newly incorporated City of Menifee FY 2008/2009 initial budget was estimated from their comprehensive fiscal analysis that was submitted to the Local Agency Formation Commission during the incorporation process. Because of the economic uncertainty, and the fact that the City is only now beginning to staff positions, it is unknown what the immediate impact of the fiscal crisis will be. The County is responsible for assisting the City in meeting its MS4 Permit compliance requirements during the first year of incorporation which expires October 1, 2009. Currently, the level of property tax revenue that will be available to the City is uncertain. Funding for MS4 Permit compliance requirements was not explicitly budgeted. A financial hardship currently exists because of the costs associated with incorporation.

#### City of Murrieta

The City of Murrieta's FY 2008/2009 budget did not increase compared to FY 2007/2008. The City has identified a \$3.3 million budget shortfall for the current fiscal year ending on June 30, 2009. This represents approximately 8.2% of the City's projected revenue which must be absorbed in five months.

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<sup>13</sup> "The Realities of Recession in California: A Statewide Report by U.S. Senator Barbara Boxer, December, 2008, p. 18.

<sup>14</sup> Riverside County Executive Office, January, 2008.  
January 29, 2010 Final

The shortfalls are primarily due to reduced sales tax and property tax revenues. Department heads are currently working on revised budgets to adjust for the loss in revenue.

Additional, budget cuts are anticipated for FY 2009/2010 because the immediate economic outlook is not good. There have been approximately 2,000 home foreclosures within the City. Sales tax revenue is estimated to drop 12.5%, property tax revenue will drop, and the State took approximately \$525,000 out of redevelopment funds. Murrieta did not receive any vehicle licensing fees from the State and it appears likely that the State will take more revenue from the cities to solve its budget problems. New NPDES requirements that increase compliance costs will create a financial hardship for the City.

#### City of Riverside

The City of Riverside has seen declining general fund revenue over the last two fiscal years in virtually all categories. The City's most recent projection indicates that total general fund revenues for the current fiscal year will be under \$200 million, down from a budget of \$215 million as adopted, and \$226.5 million in the prior fiscal year. This represents a decline over two fiscal years of approximately 12%. Specifically, property tax and sales tax revenue continue their decline, which is primarily attributable to decreased residential construction activity and in the case of sales tax declining automobile sales.

The decline in revenue has resulted in a corresponding reduction to general fund expenditures. Specifically, approximately 12% of the positions authorized for the general fund have been vacated and unfunded, either through transferring staff to other funds, attrition or limited layoffs of temporary and contract staff. Additionally, the level of service provided to the community in virtually all City departments has been reduced through funding reductions to items such as street maintenance, recreation programs and libraries, though great care has been taken to minimize the impact of cuts to the public. It is anticipated that in the near term the economic situation will not improve, and staff is preparing a budget for the upcoming fiscal year that anticipates further decreases in revenue.

#### City of Wildomar

The newly incorporated City of Wildomar FY 2008/2009 initial budget was estimated from their comprehensive fiscal analysis that was submitted to the Local Agency Formation Commission during the incorporation process. Because of the economic uncertainty, and the fact that the City is only now beginning to staff positions, it is unknown what the immediate impact of the fiscal crisis will be. The County is responsible for assisting the City in meeting its MS4 Permit compliance requirements the first year of incorporation that expires July 1, 2009. Currently, the level of property tax revenue that will be

available to the City is uncertain. Funding for MS4 Permit compliance requirements was not explicitly budgeted. A financial hardship currently exists because of the costs associated with incorporation.}

#### **X. ANTIDegradation ANALYSIS**

The Regional Board has considered whether a complete antidegradation analysis, pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, is required for these Urban Runoff discharges. The Regional Board finds that the Pollutant loading rates to the Receiving Waters will be reduced with the implementation of the requirements in this Order. As a result, the quality of Urban Runoff discharges and Receiving Waters will be improved, thereby improving protection for the Beneficial Uses of Waters of the U.S.. Since this Order will not result in a lowering of water quality, a complete antidegradation analysis is not necessary, consistent with the federal and state antidegradation requirements.

#### **XI. ANTI-BACKSLIDING**

Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at 40 CFR 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require Effluent Limitations in a reissued NPDES permit to be as stringent as those in the previous permit, with some exceptions where Effluent Limitations may be relaxed. All Effluent Limitations in this Order are at least as stringent as the Effluent Limitations in the 2002 Order.

#### **XII. PUBLIC WORKSHOP AND PUBLIC HEARING**

Regional Board conducted a public workshop regarding the proposed Order on August 3, 2009 at the City of Loma Linda, Council Chambers, 25541 Barton Road, Loma Linda, CA. Based on the comments received, a second draft was released for public review and comments on October 22, 2009. The third draft, issued on December 15, 2009, will be considered for adoption at a public hearing as follows:

Date and time: January 29, 2010; meeting starts at 9:00 a.m.  
Location: City of Loma Linda, Council Chambers  
25541 Barton Road  
Loma Linda, CA

A Notice of Public Hearing and Hearing Procedure is posted on the Regional Board's website indicated below. An agenda for the public hearing to consider adoption of the proposed Order will be posted on the Regional Board's website approximately 10 days prior to the meeting date at:

[http://www.waterboards.ca.gov/santaana/water\\_issues/programs/stormwater/riverside\\_permit.shtml](http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/riverside_permit.shtml)

This information may be also obtained by calling the Regional Board office at 951-782-4130.

The Regional Board recognizes the significance of Riverside County's Storm Water/Clean Water Protection Program and will conduct, participate, and/or assist with any workshop during the term of this Order to promote and discuss the requirements of this Order and the progress of the Urban Runoff management program. The details of the public workshops will be posted on the Regional Board's website indicated above. Persons wishing to be included in the mailing list for any of the items related to this permit may register their name, mailing address and phone number with the Regional Board office at the address given below.

### **XIII. PUBLIC HEARING**

The Regional Board will hold a public hearing regarding the proposed waste discharge requirements. A Notice of Public Hearing was published in the Legal Notices section of the Press Enterprise, a local newspaper, on November 13, 2009. The public hearing on this item is scheduled as indicated above in Section XI. Additional information regarding the public hearing will also be posted on the website indicated above. Further information regarding the conduct and nature of the public hearing concerning these waste discharge requirements may be obtained by writing or visiting the Santa Ana Regional Board office, 3737 Main Street, Suite 500, Riverside, CA 92501. This and other information are also available at the website at: [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana).

### **XIV. INFORMATION AND COPYING**

Persons wishing further information may write to the above address or call Keith Elliott at (951) 782-4925. Copies of the application, proposed waste discharge requirements, and other documents (other than those which the Executive Officer maintains as confidential) are available at the Regional Board office for inspection and copying by appointment scheduled between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday (excluding holidays, and furlough days).

### **XV. REGISTER OF INTERESTED PERSONS**

Any person interested in a particular application or group for applications may leave his name, address and phone number as part of the file for an application. Copies of tentative waste discharge requirements will be available on the web for all interested parties to download.

E-mail registration:

[http://www.waterboards.ca.gov/resources/email\\_subscriptions/reg8\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/reg8_subscribe.shtml)

Fact Sheet – Continued  
Order No. R8-2010-0033 (NPDES No. CAS 618033)  
Riverside County Urban Runoff Management Program (MS4 Permit)

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**XVI. RECOMMENDATION**

Staff recommendation is to adopt the tentative Order, Order No. R8-2010-0033, as presented.

TAB 3

California Regional Water Quality Control Board, Santa Ana Region,  
Order No. R8-2002-0011 (including Fact Sheet)

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

**ORDER NO. R8-2002-0011**

**NPDES NO. CAS 618033**

**WASTE DISCHARGE REQUIREMENTS**

**FOR  
THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, THE  
COUNTY OF RIVERSIDE, AND THE INCORPORATED CITIES OF RIVERSIDE COUNTY  
WITHIN THE SANTA ANA REGION  
AREAWIDE URBAN RUNOFF**

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter the "Regional Board") finds that:

1. On August 30, 2000, the Riverside County Flood Control and Water Conservation District (hereinafter referred to as "RCFC&WCD" or "Principal Permittee", as context indicates), in cooperation with the County of Riverside, (the "County") and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, and San Jacinto (hereinafter with the County, collectively referred to as the "Co-Permittees", and collectively with the Principal Permittee, the "Permittees"), jointly submitted a National Pollutant Discharge Elimination System (NPDES) Application No. CAS 618033, a Report of Waste Discharge (the "ROWD"), to renew the municipal separate storm sewer system ("MS4") NPDES permit for the Santa Ana River Watershed (the "Region") within Riverside County (the "Order") dealing with urban storm water runoff (hereinafter as defined and qualified in Findings 13 and 14, below, "Urban Runoff") in the "Permit Area" that includes the "Urban Area" as shown in Appendix 1 and those portions of "Agriculture" and "Open Space" as shown on Appendix 1 that convert to industrial, commercial or residential use during the term of this Order. To more effectively carry out the requirements of this Order, the Permittees have agreed that the RCFC&WCD will continue as the Principal Permittee and the County and the incorporated cities will continue as the Co-Permittees.
2. On February 16, 1999, the City of Murrieta annexed 1,124 acres, increasing the land area of the City to 18,273 acres. Of the acreage annexed, approximately 375 acres (or 2% of the City's land area) was in the unincorporated area of Riverside County within the Region. The Regional Board's construction database shows that approximately 247 acres out of 375 acres are proposed for development based on Notice of Intent ("NOI") submittals. The City of Murrieta has expressed its intent to be a Co-Permittee in this Order and for the purposes of this Order shall be considered as such.
3. On July 13, 1990, the Regional Board adopted the original Riverside County regional MS4 permit, Order No. 90-104 (NPDES No. CA 8000192), for Urban Runoff from areas in Riverside County within the Permit Area. On March 8, 1996, the Regional Board renewed Order No. 90-104 by adopting the second regional MS4 permit, Order No. 96-30, (NPDES No. CAS618033). Order No. 96-30 expired on March 1, 2001, and on March 2, 2001; Order No. 96-30 was administratively extended in accordance with 40CFR Part 122.6 and Title 23, Division 3, Chapter 9, Section 2235.4 of the California Code of Regulations.

October 25, 2002

4. This Order renews Order No. 96-30 (NPDES No. CAS618033), and regulates discharges of Urban Runoff from MS4s within Riverside County under the jurisdiction of and/or maintenance responsibility of the Permittees. This Order is intended to regulate the discharge of "pollutants" (as defined in Appendix 4, Glossary) in Urban Runoff from anthropogenic (generated from non-agricultural human activities) sources under the control of the Permittees and is not intended to address background or naturally occurring pollutants or flows.
5. The federal Clean Water Act (the "CWA") established a national policy designed to help maintain and restore the physical, chemical and "biological integrity" (as defined in Appendix 4, Glossary) of the nation's waters. In 1972, the CWA established the NPDES permit program to regulate the discharge of pollutants from "point sources" (as defined in Appendix 4, Glossary) to waters of the nation (the "Waters of the U. S."). From 1972 to 1987, the main focus of the NPDES program was to regulate conventional pollutant sources such as sewage treatment plants and industrial facilities. As a result, on a nationwide basis, "non-point sources" (as defined in Appendix 4, Glossary), including agricultural runoff and Urban Runoff, now contribute a larger portion of many kinds of pollutants than the more thoroughly regulated sewage treatment plants and industrial facilities.
6. Studies conducted by the United States Environmental Protection Agency (the "USEPA"), the states, counties, cities, flood control districts and other political entities dealing with urban "storm water" (as defined in Appendix 4, Glossary) runoff indicate the following major sources of Urban Runoff "pollution" (as defined in Appendix 4, Glossary) nationwide:
  - a. Industrial sites where appropriate pollution control and best management practices ("BMPs")<sup>1</sup> are not implemented;
  - b. Construction sites where erosion and siltation controls and BMPs are not implemented; and,
  - c. Runoff from urbanized areas.
7. The 1987 amendments to the CWA added Section 402(p) that required the USEPA to develop permitting regulations for storm water discharges from MS4s and from industrial facilities, including construction sites. The USEPA promulgated the final Phase I storm water regulations on November 16, 1990. Neither the 1987 amendments to the CWA nor the Phase I storm water regulations (40 CFR Part 122) have been amended since their effective dates.
8. Section 402 (p) of the CWA establishes two different performance standards for storm water discharges. NPDES MS4 permits require controls to reduce the discharge of pollutants to the Maximum Extent Practicable (the "MEP") [See discussion of this term in the Glossary, Appendix 4]. NPDES permits issued for industrial storm water discharges (including construction activities) must meet Best Available Technology ("BAT") and Best Conventional Pollutant Control Technology ("BCT") standards. The CWA and the USEPA regulations promulgated pursuant thereto allow each state the flexibility to decide what constitutes the MEP.

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<sup>1</sup> Best Management Practices (BMPs) are water quality management practices that are maximized in efficiency for the control of storm water runoff pollution.

Order No. R8-2002-0011 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

Page 3 of 61

9. Prior to the USEPA's promulgation of the final storm water regulations, three counties (Orange, Riverside, and San Bernardino) and their incorporated cities located within the Regional Board's jurisdiction requested area-wide NPDES MS4 permits. These area-wide MS4 NPDES permits are:
  - a. Orange County, NPDES No. CAS 618030
  - b. Riverside County, NPDES No. CAS 618033
  - c. San Bernardino County, NPDES No. CAS 618036
10. Consistent with the CWA and the USEPA regulations promulgated pursuant thereto, the State Water Resources Control Board (the "State Board") and the Regional Board have adopted a number of permits to address pollution from the sources identified in Finding 6, above. Industrial activities (as defined in 40 CFR 122.26(b)(14)) and construction sites of five acres or more are to be covered under one of the following permits and those individuals or entities that engage in such activities are required to secure permission to engage in such identified activities pursuant to the provisions of one of the following permits:
  - a. State Board Order No. 97-03-DWQ, for storm water runoff from industrial activities (NPDES No. CAS000001), (the "General Industrial Activities Storm Water Permit")
  - b. State Board Order No. 99-08-DWQ, for storm water runoff from construction activities (NPDES No. CAS000002), (the "General Construction Activity Storm Water Permit"). Order No. 99-08- DWQ was amended by State Board Resolution No. 2001-046 on April 26, 2001, to incorporate monitoring provisions as directed by the Superior Court, County of Sacramento.
  - c. State Board Order No. 99-06-DWQ (NPDES No. CAS000003) for storm water runoff from facilities (including freeways and highways) owned and/or operated by the California Department of Transportation ("Caltrans").
  - d. Regional Board Order No. 01-34, adopted on January 19, 2001, for storm water discharges associated with new development (construction) to surface waters in the San Jacinto sub-watershed ("San Jacinto Watershed Construction Activities Permit").
  - e. The Regional Board also issues individual storm water permits for certain industrial facilities within the Santa Ana River Watershed. Currently there is one industrial storm water NPDES permit that has been issued by the Regional Board for a facility (March Air Reserve Base) located within the Permit Area. Additionally, the Regional Board has issued NPDES permits for a number of facilities that discharge process wastewater and storm water; storm water discharge requirements are included in such a facility's NPDES permit.
11. The San Bernardino County Flood Control District and RCFC&WCD, in cooperation with local affected municipalities, are coordinating an effort to construct flood control facilities in the Chino-Corona Agricultural Preserve area (the "Preserve Area") located on the border of San Bernardino and Riverside Counties. The Preserve Area has the highest concentration of dairy

animals in the nation. The ground and surface water quality in the Preserve Area have been adversely impacted by these dairy operations. The dairies within the Permit Area are regulated under the Regional Board's "General Dairy Permit" (Order No. 99-11, NPDES No. CAG018001). The General Dairy Permit allows discharge of storm water from dairies only for storms exceeding a 24-hour, 25-year frequency. The portion of the Preserve Area within San Bernardino County lacks appropriate flood control facilities, and runoff from upstream urbanized areas within San Bernardino County often inundates some of the dairies in the Preserve Area, even during light or moderate storm and runoff events. This causes dairy waste containment facilities to fail and overflow into surface drainage facilities. This overflow causes nutrient, total dissolved solids (TDS), total suspended solids (TSS), and microbial problems in the "receiving waters" (as defined in Appendix 4, Glossary). However, there are only small areas of urbanized development in Riverside County upstream of the dairies subject to flooding. The RCFC&WCD is the lead agency responsible for engineering, design, contract administration, environmental review, and overall project management of the County Line Channel whose construction is intended to address this problem.

12. Section 13225 of the California Water Code (the "Water Code") identifies the Regional Board as being the enforcement authority for NPDES permits, including the General Industrial Activities Storm Water Permit (referenced in Finding 10.a., above) and the Construction Activity Storm Water Permits (referenced in Finding 10.b. and 10.d, above) (collectively, the "General Storm Water Permits"). However, in many areas, the industrial and construction sites discharge directly into MS4s owned and operated by the Permittees. These industrial and construction sites are also regulated under local ordinances and regulations. The Co-Permittees review plans for developments in accordance with the "Subdivision Map Act" (Section 66400 et seq. of the California Government Code), the California Environmental Quality Act ("CEQA") (Section 21000 et seq. of the California Public Resources Code), and local general plans and implementing ordinances and regulations to assure that new developments proceed in an orderly, and safe manner, consistent with each Co-Permittee's general plan. This Order establishes a responsibility of the Permittees to manage Urban Runoff. A coordinated effort between the Permittees and the Regional Board staff is critical to avoid duplicative and overlapping efforts when overseeing the compliance of dischargers covered under the General Storm Water Permits. As part of this coordination, the Permittees have been notifying Regional Board staff when they observe, during their routine activities, conditions that result in a threat or potential threat to water quality, or when a required industrial facility or construction activity fails to obtain coverage under the appropriate General Storm Water Permit. To more effectively coordinate these activities, the Regional Board staff intends to post their inspection activities related to administration of the General Storm Water Permits on the Regional Board website.
13. Urban Runoff includes those discharges from residential, commercial, industrial, and construction areas within the Permit Area and excludes discharges from feedlots, dairies, farms, and open space (also see Finding 14, below). Urban Runoff discharges consist of storm water and "non-storm water" (as defined in Appendix 4, Glossary) surface runoff from drainage sub-areas with various, often mixed, land uses within all of the hydrologic drainage areas that discharge into the Waters of the U. S. In addition to Urban Runoff, the MS4s regulated by this Order receive flows from agricultural activities, open space, state and federal properties and other non-urban land uses not under the control of the Permittees. The quality of the discharges from the MS4s varies considerably and is affected by, among other things,

past and present land use activities, basin hydrology, geography and geology, season, the frequency and duration of storm events, and the presence of past or present illegal and allowed discharges<sup>2</sup> and illicit connections<sup>3</sup>.

14. The Permittees lack legal jurisdiction over storm water discharges into their respective MS4s from agricultural activities, California and federal facilities, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and non-point source discharges otherwise permitted by or under the jurisdiction of the Regional Board. The Regional Board recognizes that the Permittees should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate pollutants present in Urban Runoff are beyond the ability of the Permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear, residues from lawful application of pesticides, nutrient runoff from agricultural activities, and leaching of naturally occurring minerals from local geography.
15. Urban Runoff may contain elevated levels of pathogens (bacteria, protozoa, viruses), "sediment" (as defined in Appendix 4, Glossary), trash, fertilizers (nutrients, compounds of nitrogen and phosphorus), pesticides (DDT, Chlordane, Diazinon, Chlorpyrifos), heavy metals (cadmium, chromium, copper, lead, zinc), and petroleum products (oil, grease, petroleum hydrocarbons, polycyclic aromatic hydrocarbons). Urban Runoff can carry these pollutants to rivers, streams, and lakes within the Permit Area (collectively the "Receiving Waters"). In addition, although infrequently, Urban Runoff from the Permit Area can carry these pollutants to other receiving waters such as the Pacific Ocean. These pollutants can then impact the beneficial uses of the receiving waters and can cause or threaten to cause a condition of pollution or "nuisance" (as defined in Appendix 4).
16. Pathogens (from sanitary sewer overflows, septic system leaks, and spills and leaks from portable toilets, pets, wildlife and human activities) can impact water contact recreation and non-contact water recreation. "Floatables" (from trash) are an aesthetic nuisance and can be a substrate for algae and insect vectors. Oil and grease can coat birds and aquatic organisms, adversely affecting respiration and/or thermoregulation. Other petroleum hydrocarbon components can cause "toxicity" (as defined in Appendix 4, Glossary) to aquatic organisms and can impact human health. Suspended and settleable solids (from sediment, trash, and industrial activities) can be deleterious to benthic organisms and may cause anaerobic conditions to form. Sediments and other suspended particulates can cause turbidity, clog fish gills and interfere with respiration in aquatic fauna. They can also screen out light, hindering photosynthesis and normal aquatic plant growth and development. However, it is recognized that storm flows from non-urbanized areas such as "National Forest," "State Park," "Wilderness," and "Agriculture", as shown on Appendix 1, naturally exhibit high levels of

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<sup>2</sup> Illegal discharge means any disposal, either intentionally or unintentionally, of material or waste to land or MS4s that can pollute storm water or create a nuisance. The term illegal discharge includes any discharge to the MS4 that is not composed entirely of storm water, except discharges pursuant to an NPDES permit, discharges that are identified in Section II. C. of this Order, and discharges authorized by the Executive Officer.

<sup>3</sup> Illicit Connection means any connection to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit connection includes all non storm-water discharges and connections except discharges pursuant to an NPDES permit, discharges that are identified in Section II, Discharge Limitations/Prohibitions, of this Order, and discharges authorized by the Executive Officer.

suspended solids due to climate, hydrology, geology and geography.<sup>4</sup> Toxic substances (from pesticides, petroleum products, metals, and industrial "wastes" (as defined in Appendix 4, Glossary)) can cause acute and/or chronic toxicity, and can bioaccumulate in organisms to levels that may be harmful to human health. Nutrients (from fertilizer use, fire fighting chemicals, decaying plants, confined animal facilities, pets, and wildlife) can cause excessive algal blooms. These blooms can lead to problems with taste, odor, color and increased turbidity, and can depress the dissolved oxygen content, leading to fish kills.

17. The water quality assessment conducted by Regional Board staff has identified a number of beneficial use impairments due, in part, to agricultural and Urban Runoff. Section 303(b) of the CWA requires each of California's Regional Water Quality Control Boards to routinely monitor and assess the quality of waters of their respective regions. If this assessment indicates that beneficial uses are not met, then that waterbody must be listed under Section 303(d) of the CWA as an impaired waterbody ("Impaired Waterbody"). The 1998 water quality assessment listed a number of water bodies within the Permit Area as impaired pursuant to Section 303(d). In the Permit Area, these include: Canyon Lake (for nutrients and pathogens); Lake Elsinore (for nutrients, organic enrichment/low D.O., unknown toxicity and sedimentation); Lake Fulmor (for pathogens); Santa Ana River, Reach 3 (for nutrients, pathogens, salinity, TDS, and chlorides); and Santa Ana River, Reach 4 (for pathogens). However, the Regional Board now recognizes that Reach 3 of the Santa Ana River is meeting the standards for nutrients, salinity, TDS and chlorides and has requested that this Reach be de-listed for these constituents in the 2002 CWA 303(d) list.
18. Federal regulations require that a total maximum daily load ("TMDL") be established for each 303(d) listed waterbody for each of the pollutants causing impairment. The TMDL is the total amount of the problem pollutant that can be discharged and still attain "water quality standards" (as defined in Appendix 4, Glossary) in the receiving water, i.e., Receiving Water quality objectives are met and the beneficial uses are protected. The TMDL is the sum of the individual Waste Load Allocations ("WLA") for point source inputs, Load Allocations ("LA") for non-point source inputs and natural background, with a margin of safety. The TMDLs are one of the bases for limitations established in waste discharge requirements ("Waste Discharge Requirements" and defined in Appendix 4, Glossary). TMDLs are being developed for sediment, pathogens, and nutrients for Lake Elsinore and Canyon Lake. The Permittees are providing assistance and cooperating with Regional Board staff in the TMDL efforts. The Permittees shall revise their Drainage Area Management Plan ("DAMP," and defined in Appendix 4, Glossary), at the direction of the Regional Board Executive Officer (the "Executive Officer"), to incorporate program implementation amendments so as to comply with Regional, "watershed" (as defined in Appendix 4, Glossary) specific requirements, and/or WLAs developed and approved pursuant to the process for the designation and implementation of TMDLs for Impaired Waterbodies.
19. The area shown on Appendix 1 contains 1,293 square miles (or 17.7% of the 7,300 square miles within Riverside County) and includes 11 of the 24 municipalities within Riverside

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<sup>4</sup> Riverside County Flood Control and Water Conservation District's "Hydrology Manual," dated April 1978 and page II-4 of "Santa Ana River, Design Memorandum No. 1, Phase II GDM on the Santa Ana River Mainstem, including Santiago Creek, Volume 2, Prado Dam." dated August 1988 and D.I. Inman & S.A. Jenkins "Climate Change and the Episodicity of Sediment Flux in Small California Rivers," Journal of Geology, Volume 107, pp. 251-270, 1999.

County. The California Department of Finance estimates that as of January 1, 2002, the population of Riverside County is 1,644,341 of which 759,877 persons reside within the 11 municipalities and an additional 338,630 persons reside in the unincorporated area that is within the area shown on Appendix 1 (or a total of 1,098,507 persons or 66.8% of Riverside County's population). Five of the municipalities (Beaumont, Calimesa, Canyon Lake, Norco, and San Jacinto) have populations of 25,000 or less; three municipalities (Hemet, Lake Elsinore, and Perris) have populations between 25,001 and 62,000, Corona has a population of 133,966, Moreno Valley's population is 146,435 and Riverside has 269,402 residents. [Population figures for the city of Murrieta have been omitted because only 375 acres (2%) of the City's Land Area is within the area shown on Appendix 1. (See Finding No. 2.)] Of the total territory within the area shown on Appendix 1, 346.7 square miles are within the 11 incorporated areas and 944.6 square miles are unincorporated. General land uses within the 1,293.3 square miles comprising the area shown on Appendix 1 are identified, based on Riverside County Assessor's Roll for Fiscal Year 2001-2002, as follows: 109.3 square miles are used or zoned for commercial/industrial purposes (8.5%), 198.7 square miles for residential purposes (15.4%), 70.1 square miles are utilized for improved roadways (including roadways owned by Caltrans) (5.4%), 753.9 square miles are vacant or utilized for open space (58.3%), and 161.3 square miles are used for agricultural purposes (12.5%). The federal government owns 310.7 square miles (24%) of the territory within the area shown on Appendix 1.

20. Some portions of Riverside County within the Permit Area have been developed or zoned for residential, commercial and industrial uses. Urban development generally increases the area of impervious surfaces and storm water runoff volume and velocity; and decreases the area of previously vegetated surfaces available for infiltration of storm water, depending on soils, topography, climate, precipitation volume and patterns, and other factors. Based on the procedures in Section D of the Hydrology Manual of RCFC&WCD, dated April 1978, it is feasible that, in semi-arid regions, development may result in the creation of a net increase in absorption. Increases in runoff volume and velocity may cause scour, erosion (sheet, rill and/or gully), aggradation (raising of a streambed from sediment deposition), changes in fluvial geomorphology, hydrology, and changes in aquatic ecosystem (collectively, "Conditions of Concern"). The Permittees are the owners and operators of MS4s and have authority (except as qualified in Finding 14, above) to control most of the discharges of Urban Runoff to these systems. The Permittees have established appropriate legal authority to address their respective MS4s exposure to pollutant loads from discharges of Urban Runoff and have enhanced the design requirements for MS4s to address these potential discharges from new development. Co-Permittees have adopted grading and/or erosion control ordinances, guidelines and BMPs for municipal, commercial, and industrial activities, and along with RCFC&WCD, have approved and begun implementation of the DAMP. The Permittees have implemented most of the programs and policies that they developed. They must continue to implement an effective combination of these programs, policies, and legal authority, modify and enhance such programs and policies, and other additional requirements as identified herein, to ensure that pollutant loads resulting from Urban Runoff are properly controlled and managed to the MEP."
21. The Permittees own and/or operate MS4s through which Urban Runoff is discharged into the Waters of the U. S. The Permittees have identified major outfalls (with a pipe diameter of 36 inches or greater or drainage areas draining 50 acres or more) and have submitted maps of

existing MS4s. The Co-Permittees reported having approximately 153.3 miles of underground storm drains, and 21.3 miles of channels. The RCFC&WCD reported having 135 miles in underground storm drains and 133 miles of channels.

22. The MS4s generally contain non-storm water flows that may include runoff from agriculture and landscape irrigation, residential car washing, miscellaneous washing and cleaning operations, and other nuisance flows. In addition, these facilities are used to convey water produced from the Arlington Desalter and deliveries of other water for water conservation. During normal dry weather conditions, very little Urban Runoff reaches Receiving Waters<sup>5</sup>. Non-storm water discharges into the MS4s and to the Waters of the U. S. containing pollutants are prohibited, unless they are regulated under a separate NPDES permit; certain types of non-storm water containing insignificant amount of pollutants are exempt as indicated in Discharge Limitations/Prohibitions, Section II. C. of this Order.
23. Order No. 90-104 and Order No. 96-30 required the Permittees to: (1) develop and implement the DAMP and Urban Runoff and Receiving Water monitoring and reporting programs; (2) eliminate illegal discharges and illicit connections to the MS4s; and (3) enact the necessary legal authority to effectively prohibit such illegal discharges and illicit connections. The overall goal of these requirements was to reduce pollutant loading to surface waters from Urban Runoff to the MEP. The DAMP outlines the major programs and policies for controlling pollutants in Urban Runoff and the DAMP was approved by the Executive Officer on January 18, 1994. Since then, the Urban Runoff monitoring program has been expanded and the DAMP continues to be a dynamic document. This Order requires the Permittees to continue to implement the BMPs listed in the DAMP, and update or modify the DAMP, when appropriate, consistent with the MEP and other applicable standards; and to continue to effectively prohibit illegal discharges and illicit connections to their respective MS4s.
24. A revised Water Quality Control Plan (the "Basin Plan") was adopted by the Regional Board and became effective on January 24, 1995. The Basin Plan defines the numeric and narrative water quality objectives and beneficial uses of the receiving waters in the Region. These beneficial uses include municipal and domestic supply, agricultural supply, industrial service supply, groundwater recharge, hydropower generation, water contact recreation, non-contact water recreation and sportfishing, warm freshwater habitat, cold freshwater habitat, preservation of biological habitats of special significance, wildlife habitat and preservation of rare, threatened, or endangered species. The Basin Plan also incorporates by reference all State Board water quality control plans and policies.
25. The ultimate goal of the MS4 permit is to protect these beneficial uses of the Receiving Waters by ensuring that the flows from MS4s do not cause or contribute to an exceedance of "water quality objectives" (as defined in Appendix 4, Glossary) for the Receiving Waters. The DAMP identifies programs and policies, including BMPs, to achieve this goal. These BMPs are organized into two components: BMPs for existing facilities and BMPs for new development. Both components include regulatory activities, public education programs, solid waste management, and operations and maintenance activities.

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<sup>5</sup> Based upon a field investigation report of the Storm Drain Outlets into the Santa Ana River conducted by the RCFC&WCD and dated May 28, 2002.

26. There are pollutants in Urban Runoff from privately owned and operated facilities such as residences, businesses and commercial establishments and public and private institutions. A successful NPDES MS4 permit program should include the participation and cooperation of public entities, private businesses, and public and private institutions. Therefore, public education is a critical element of the DAMP. As the population increases in the Permit Area, it will be even more important to continue to educate the public regarding the impact of human activities on the quality of Urban Runoff.
27. The Co-Permittees have developed conditions of approval for projects requiring coverage under the Construction Activity Permits for maps or permits requiring discretionary approval that are to be satisfied prior to issuing a grading or building permit for construction sites of five acres or more. After March 10, 2003, these conditions of approval will be extended to construction sites on one (1) acre or more, consistent with the acreage criteria of the current Construction Activity Permits.
28. This Order requires the Permittees to continue to implement the BMPs listed in the approved DAMP and to continue to effectively prohibit illegal discharges and illicit connections to their respective MS4s. One of the major elements of the DAMP is a Storm Water/Urban Runoff Management and Discharge Control Ordinance and each of the Co-Permittees has adopted such an ordinance and ordinances addressing grading and erosion control (collectively, the "Storm Water Ordinance"). The purpose of each Storm Water Ordinance is to prohibit pollutant discharges in the Permittees respective MS4s and to regulate illicit connections and non-storm water discharges to said MS4s.
29. The California Constitution and Government Code create in the Co-Permittees planning police powers that mandate that the Co-Permittees review and condition new development consistent with the Subdivision Map Act, CEQA, and their respective general plans, ordinances, and resolutions to ensure the general public's health and safety. If these constitutional and statutory mandates are not properly implemented and local ordinances and resolutions are not properly enforced, there is a creditable potential that new development could result in the discharge of pollutants to the Receiving Waters within the Permit Area from Urban Runoff.
30. This Order requires the Permittees to examine the source of pollutants in Urban Runoff from those activities that the Permittees conduct, approve, regulate and/or for which they issue a license or permit. This Order also requires the implementation of control measures to protect beneficial uses and attain "Receiving Water Quality Objectives", as defined in the Basin Plan.
31. Each Co-Permittee conducts inspections of those construction sites for which it has issued either a grading or building permit to determine compliance with its ordinances, regulations, and codes, including its Storm Water Ordinance. Each Co-Permittee, consistent with its ordinances, rules and regulations, inspect each site for which a grading or building permit has been issued for compliance with the conditions of approval governing the permit. These inspections have been expanded by several of the Co-Permittees to survey and address issues related to prevention of Urban Runoff and to determine that a site has secured coverage under the General Construction Activity Storm Water Permit. Once a certificate of occupancy has been issued, the Co-Permittees have limited jurisdiction to inspect the site on an ongoing basis. The Permittees have established the "Enforcement/Compliance Strategy," dated December 20, 2001 (the "E/CS") that addresses compliance strategies with regard to

industrial, and commercial facilities and construction sites. In addition, as part of their Urban Runoff management activities, the Principal Permittee and the County entered into an agreement, dated August 10, 1999 by which they have developed and funded, in cooperation with the Riverside County Environmental Health Department, the "Compliance Assistance Program" (the "CAP") which includes a storm water survey component as part of existing inspections of hazardous material handlers and retail food service activities. The initial phase of the CAP consisted primarily of educational outreach to the inspected facilities. The CAP has entered a second phase, which involves a detailed storm water compliance survey for each facility that must secure a "hazardous materials" (as defined in Appendix 4, Glossary) permit for either storing, handling or generating such materials (there are approximately 5,500 facilities of which approximately 2,300 are inspected annually, and all facilities are inspected at least once during a two year cycle) and retail food facilities (there are approximately 6,750 facilities, all of which are inspected 1 to 3 times annually). The type of industrial/commercial establishment that is inspected includes, but is not limited to, automobile mechanical repair, maintenance, fueling, or cleaning operation, automobile or other vehicle body repair or painting operations, and painting or coating operations. Any completed surveys that indicate non-compliance are forwarded to the appropriate jurisdiction's code enforcement division. In addition, the cities of Corona and Riverside, which operate publicly owned treatment works ("POTW"), in combination conduct annually on average, approximately 4,400 wastewater pre-treatment inspections, on a variety of industrial and commercial establishments, including, but not limited to, retail food establishments, car washes, and carpet, drape & furniture cleaning establishments. The Permittees have agreed to notify Regional Board staff when conditions are observed during such inspections that appear to be in violation of either the General Storm Water Permits or a permit issued by the Regional Board.

32. The Permittees own/operate facilities where industrial or related activities take place that may have an impact on Urban Runoff quality. Some of the Permittees also enter into contracts with outside parties to carry out activities that may also have an impact on Urban Runoff quality. These facilities and related activities include, but are not limited to, street sweeping, catch basin cleaning, maintenance yards, vehicle and equipment maintenance areas, waste transfer stations, corporation and storage yards, parks and recreational facilities, landscape and swimming pool maintenance activities, MS4 maintenance activities and the application of herbicides, algaecides and pesticides. As part of Order 96-30, the Permittees were required to assess public agency activities and facilities for potential impact to Urban Runoff quality and develop their agency-specific "Municipal Facility Strategy". This Order requires the Permittees to continue to implement BMPs that are reducing pollutant discharges from those activities/facilities found to be significant sources of pollutants in Urban Runoff. This Order prohibits non-storm water discharges from facilities owned or operated on behalf of the Permittees unless the discharges are exempt under the Discharge Limitations/Prohibitions Section II. C. of this Order or are permitted by the Regional Board under an individual NPDES permit.
33. An effective monitoring program characterizes Urban Runoff discharges, identifies problem areas, and determines the impact of Urban Runoff on Receiving Waters and the effectiveness of BMPs. The Principal Permittee administers the Consolidated Program for Water Quality Monitoring<sup>6</sup> (the "CMP") for the Permittees. The CMP includes wet and dry weather monitoring

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<sup>6</sup> Consolidated Program for Water Quality Monitoring, Riverside County Flood Control and Water Conservation District, March 1994.

of MS4 outfalls and Receiving Waters. The DAMP (at page 2-4, 1993) indicates that lead, copper, manganese, zinc, BOD, hardness, and nitrates for some of the dry weather samples analyzed exceeded the water quality objectives in samples collected prior to the DAMP. These and other water quality indicators are tabulated on page 2-6 of the DAMP.

34. The Permittee's 2000 Annual Report (Pursuant to each NPDES MS4 permit issued by the Regional Board to the Permittees, there is a requirement that an annual report (the "Annual Report") be filed with the Regional Board on or before each November 30th) summarized wet weather monitoring data collected between July 1990 and July 2000. This summary shows that the average concentration values for a wide array of pollutants do not exceed the Receiving Water Quality Objectives. However, for numerous constituents, the summary contains several maximum-recorded concentrations that exceed these Receiving Water Quality Objectives. The summary also includes data from the period prior to implementation of the DAMP approved by the Executive Officer in January 1994.
35. In general, the data as presented in the 2000 Annual Report are inconclusive in regard to identification of the pollutant trends and compliance or non-compliance with "Receiving Water Limitations"<sup>7</sup> in various drainage areas represented by the monitoring stations. Consequently, this Order requires the Permittees, in consultation with Regional Board staff, to re-evaluate prior monitoring data to identify the areas with elevated pollutant concentrations to focus their source reduction efforts. Also, this Order requires the Permittees to revise the CMP to provide more effective data to support Urban Runoff management. The Permittees will continue their current monitoring efforts on those priority areas pending development and approval of the revised CMP.
36. This Order requires the Permittees to make all necessary revisions to an agreement entitled "NPDES Stormwater Discharge Permit – Implementation Agreement" dated November 12, 1996 (the "Implementation Agreement"). The Implementation Agreement establishes the responsibilities of each party and a funding procedure for the shared costs.
37. By January 1, 2003, the State Board is required by Water Code Section 13383.5 (Stats. 2001, c. 492 (S.B. 72)) to develop a statewide municipal storm water (Urban Runoff) monitoring and reporting program. Once this statewide program has been developed, the Permittees will be required to develop a revised monitoring and reporting program as specified in this Order and consistent with new requirements developed by the State Board.
38. In addition to the Regional Board, a number of other stakeholders are involved in the management of the water resources of the Region. These include, but are not limited to, the incorporated cities in the Region, POTWs, the three counties, and the Santa Ana Watershed Project Authority and its member agencies. The entities listed in Appendix 2 are considered as potential dischargers of Urban Runoff in the Permit Area. It is expected that these entities will also work cooperatively with the Permittees to manage Urban Runoff. The Regional Board, pursuant to 40 CFR 122.26(a), has the discretion and authority to require non-cooperating entities to participate in this Order or to issue individual storm water permits.

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<sup>7</sup> Receiving Water Limitations are requirements included in this Order issued by the Board to assure that the regulated discharge does not violate water quality standards established in the Basin Plan at the point of discharge to waters of the State.

39. Cooperation and coordination among the stakeholders (regulators, Permittees, the public, and other entities) are critical to optimize the use of limited resources and ensure economical management of the watershed. Recognizing this fact, this Order focuses on watershed management and seeks to integrate the programs of the stakeholders, especially the holders of the three MS4 permits within the Region.
40. The Regional Board recognizes that a watershed management program should integrate related programs, including the Urban Runoff program and TMDL processes.
41. Illegal discharges to the MS4s can contribute to "contamination" (as defined in Appendix 4, Glossary) of Urban Runoff and other surface waters. The RCFC&WCD was required by Order No. 90-104 to conduct an inspection of underground storm drains and only one illicit connection could be identified. Open channels and other aboveground elements of the MS4s are inspected for evidence of illegal discharges as an element of routine maintenance by the Permittees. The Permittees also developed a program to prohibit illegal discharges and illicit connections to their MS4s. Continued surveillance and enforcement of these programs are required to eliminate illicit connections and illegal discharges. The Permittees have a number of procedures in place to eliminate illicit connections and illegal discharges to the MS4s, including construction, commercial, and industrial facility inspections, drainage facility inspections, water quality monitoring and reporting programs, and public education.
42. The Permittees have the authority to control pollutants in Urban Runoff discharges, to prohibit illicit connections and illegal discharges, to control spills, and to require compliance and carry out inspections of the MS4s within their respective jurisdictions. The Co-Permittees have been extended necessary legal authority through California statutes and local charters. Consistent with this statutory authority, each of the Co-Permittees have adopted their respective Storm Water Ordinances. The Co-Permittees are required by this Order to review their respective Storm Water Ordinances and other ordinances, regulations, and codes adopted by them to determine whether the language of said ordinances, regulations, and codes needs to be modified or expanded to allow for enforcement actions, including civil and/or criminal penalties, to be brought by each Co-Permittee consistent with the provisions of this Order.
43. "Pollution prevention" (as defined in Appendix 4, Glossary) techniques implemented to the MEP, appropriate planning review procedures, early identification of potential Urban Runoff impacts and mitigation measures may reduce pollution associated with Urban Runoff. The Co-Permittees consider these impacts and appropriate mitigation measures in their respective, land use approval processes and CEQA review processes for development projects to insure consistency with their respective general plans. This Order requires the Co-Permittees to review their respective CEQA review processes, general plans, zoning ordinances, and related regulations and codes to determine the need for any revisions.
44. The legislative history and the preamble to the federal storm water regulations indicate that Congress and the USEPA were aware of the difficulties in regulating Urban Runoff solely through traditional end-of-pipe treatment. However, it is the Regional Board's intent that this Order requires the implementation of BMPs to reduce, to the MEP, the discharge of pollutants in Urban Runoff from the MS4s in order to support attainment of water quality standards. This Order, therefore, includes Receiving Water Limitations based upon water quality objectives, prohibiting the creation of nuisances and requiring the reduction of water

quality impairment in the Receiving Waters. In accordance with Section 402 (p) of the CWA, this Order requires the Permittees to implement control measures that will reduce pollutants in Urban Runoff discharges to the MEP. The Receiving Water Limitations similarly require the implementation of control measures to protect beneficial uses and attain water quality objectives of the Receiving Waters.

45. The Regional Board finds that the unique aspects of the regulation of Urban Runoff discharges through MS4s, including, but not limited to, the intermittent nature of discharges, difficulties in monitoring and limited physical control over the discharge, will require adequate time to implement and evaluate the effectiveness of BMPs. Therefore, this Order includes a procedure for determining whether Urban Runoff discharges are causing or contributing to exceedances of Receiving Water Limitations and for evaluating whether the DAMP must be revised in order to comply with this aspect of this Order. This Order establishes an iterative process to achieve compliance with the Receiving Water Limitations.
46. Less than one fifth (1/5) of the entire acreage within Riverside County drains into water bodies within the Permit Area. Sixty-seven percent of Riverside County's population resides within the Permit Area. The San Diego and the Colorado River Basin Regional Water Quality Control Boards regulate Urban Runoff from those portions of Riverside County outside of the Permit Area.
47. The Santa Ana Watershed is one of the major watersheds within Southern California. This watershed is divided into three sub-watersheds: the "Lower Santa Ana," the "Upper Santa Ana", and the "San Jacinto". The Lower Santa Ana sub-watershed (downstream from Prado Basin) includes the north half of Orange County and the Upper Santa Ana sub-watershed includes the southwestern corner of San Bernardino County and the northwestern corner of Riverside County. The San Jacinto sub-watershed includes the northwest corner of Riverside County south of the Upper Santa Ana sub-watershed.
48. The Santa Ana River is the major receiving water in the Permit Area. During non-storm periods the flow in the River is dominated by effluent from POTWs. POTW discharges are regulated under permits issued by the Regional Board. In addition, the quality of the Santa Ana River within the Upper Santa Ana sub-watershed is greatly influenced by agricultural activities. Urban Runoff from the Permit Area constitutes a minor component of the dry weather flow in the Upper Santa Ana and San Jacinto sub-watersheds of the Santa Ana River.
49. Generally, the portion of the Upper Santa Ana sub-watershed located within San Bernardino County drains to the portion of the Upper Santa Ana sub-watershed within Riverside County and the portion of the Upper Santa Ana sub-watershed located within Riverside County and the San Jacinto sub-watershed drain to Orange County through the Prado Basin and Dam. Prado Dam detains the flows of the Upper Santa Ana and San Jacinto sub-watersheds, specifically Reaches 3 and 4 of the Santa Ana River, and supports an extensive man-made wetlands system, that provides treatment of the detained water. Most of the flow in the Santa Ana River is released from Prado Dam and recharged into the ground water in Orange County. However, as a result of infrequent heavy storm events, flows leaving Prado Dam may continue to coastal waters of the Pacific Ocean.

50. Water from rainfall, snow melt runoff, and surfacing ground water from various areas within the Permit Area either discharge directly to the Santa Ana River or to watercourses tributary to the Santa Ana River. Other major rivers within the Permit Area include the San Jacinto River and Temescal Creek. The San Jacinto Mountain areas drain into the San Jacinto River, which discharges into Canyon Lake and thence into Lake Elsinore. Any overflow from Lake Elsinore is tributary to Temescal Creek, which flows into the Santa Ana River at the Prado Basin. Overflow from Lake Elsinore occurs infrequently, only once every 12 to 15 years.
51. The requirements contained in this Order are necessary to implement the Basin Plan. This Order does not contain "numeric effluent limitations" (as defined in Appendix 4, Glossary) for any constituent because the impact of the Urban Runoff discharges on the water quality of the Receiving Waters has not yet been fully determined and because the State Board and the USEPA have determined that numeric effluent limits are not required in the MS4 permits. Continuation of water quality/biota monitoring and analysis of the data are essential to make that determination. The Basin Plan or amendments thereto, may be grounds for the Permittees to revise the DAMP.
52. The Permittees will be required to comply with future water quality standards or discharge requirements, which may be imposed by the USEPA or State of California prior to the expiration of this Order. This Order may be reopened to include WLAs or LAs to address pollutants in Urban Runoff causing or contributing to the impairments in Receiving Waters and/or other requirements developed and adopted by the Regional Board.
53. The Permittees may petition the Regional Board to issue a separate NPDES permit to any discharger of non-storm water into MS4s that they own or operate.
54. The Permittees have implemented programs to control litter, trash, and other anthropogenic materials in Urban Runoff. In addition to the municipal ordinances prohibiting litter, the Permittees should continue to participate or organize a number of other programs such as solid waste collection programs, household hazardous waste collections, hazardous material spill response, catch basin cleaning, additional street sweeping, and recycling programs to reduce litter and illegal discharges. These programs should effectively address urban sources of these materials. This Order includes requirements for continued implementation of these programs for litter, trash, and debris control.
55. The Regional Board recognizes the importance of watershed management initiatives and regional planning and coordination in the development and implementation of programs and policies related to Receiving Water quality protection. A number of such efforts are underway in which the Permittees are active participants. This Order encourages continued participation in such programs and policies. The Regional Board also recognizes that in certain cases, diversion of funds targeted for certain monitoring and reporting programs to regional monitoring programs may be necessary. The Executive Officer is authorized to approve, after proper public notification and consideration of comments received, the watershed management initiatives and regional planning and coordination programs and regional monitoring programs. The Permittees are required to submit all documents, where appropriate, in an electronic format acceptable to the Executive Officer. These documents will be posted at the Regional Board's website and interested parties will be notified. In

addition, the website will include the administrative and civil procedures to appeal any decision made by the Executive Officer.

56. The storm water regulations require public participation in the development and implementation of the Urban Runoff management program. As such, the Permittees are required to solicit and consider all comments received from the public and submit copies of the comments to the Executive Officer with the Annual Reports due each November 30th. In response to public comments, the Permittees may modify reports, plans, or schedules prior to submittal to the Executive Officer.
57. In accordance with Water Code Section 13389, the issuance of Waste Discharge Requirements for this discharge is exempt from those provisions of CEQA contained in Chapter 3 (commencing with Section 21100), Division 13 of the California Public Resources Code.
58. The Regional Board has considered anti-degradation requirements, pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, for this discharge. The Regional Board finds that the Urban Runoff discharges regulated under this Order are consistent with the federal and state anti-degradation requirements and a complete anti-degradation analysis is not necessary. This Order requires the continued implementation of programs and policies to reduce the discharge of pollutants in Urban Runoff. This Order includes additional requirements to control the discharge of pollutants in Urban Runoff from "Significant Redevelopment", as defined in Section VIII.B.1.a., and "New Development", as defined in Section VIII.B.1.b.
59. The Regional Board has notified the Permittees and interested parties of its intent to issue Waste Discharge Requirements for Urban Runoff and has provided them with an opportunity to submit their written views and recommendations.
60. The Regional Board, in a public hearing, heard and considered all comments pertaining to the discharge of Urban Runoff and to the tentative requirements.

**IT IS HEREBY ORDERED** that the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, and San Jacinto, in order to meet the provisions contained in Division 7 of the Water Code and regulations adopted thereunder, and the provisions of the CWA, as amended, and the regulations and guidelines adopted there under, shall comply with the following:

**I. RESPONSIBILITIES:**

A. Responsibilities of the Principal Permittee:

1. The Principal Permittee shall be responsible for managing the overall Urban Runoff program and shall:
  - a. Coordinate revisions to the DAMP.

- b. Implement management programs, monitoring and reporting programs, and related plans as required by this Order.
  - c. Conduct chemical and biological water quality monitoring and hydrographic monitoring as required by the Executive Officer.
  - d. Conduct inspections and maintain the MS4s over which it has jurisdiction.
  - e. Review and revise, if necessary, those agreements to which it is a party and those regulations and policies it deems necessary to provide adequate legal authority to maintain the MS4s for which it has jurisdiction and to take those actions required of it by this Order and the Federal Storm Water Regulations (see Section V "Legal Authority/Enforcement", below);
  - f. To cause appropriate enforcement actions against illegal discharges to the MS4 for which it has jurisdiction be taken and pursued as necessary to ensure compliance with storm water management programs, implementation plans, and regulations and policies, including physical elimination of undocumented connections and illegal discharges (see Section V - "Legal Authority/Enforcement", below);
  - g. Respond or cause the appropriate entity or agency to respond to emergency situations such as accidental spills, leaks, and illegal discharges/illicit connections to prevent or reduce the discharge of pollutants to its MS4s and to the Waters of the U. S.
  - h. Prepare, coordinate the preparation of, and submit to the Executive Officer, those reports and programs necessary to comply with this Order.
2. The activities of the Principal Permittee should also include, but not be limited to, the following:
- a. Establish a Management Steering Committee (the "Management Steering Committee") as described in the ROWD to address Urban Runoff management policies for the Permit Area and coordinate the review, and necessary revisions to the DAMP and Implementation Agreement. The Management Steering Committee will meet at least quarterly or more frequently as determined by the chairperson.
  - b. Coordinate and conduct Technical Committee (the "Technical Committee") meetings, at least ten times per year. The Technical Committee shall direct the development of the DAMP, and coordinate the implementation of the overall Urban Runoff program, as described in the ROWD. The Technical Committee will consist of one or more representatives from each Permittee.
  - c. Will take the lead role in initiating and developing area-wide programs and activities necessary to comply with this Order.

- d. Coordinate activities and participate in committees/subcommittees formed to comply with this Order.
- e. Coordinate with the Regional Board and Co-Permittees the implementation of this Order, including the submittal of all reports, plans, and programs as required under this Order.
- f. Provide technical and administrative support to the Co-Permittees, including informing them of the status of known pertinent municipal programs, pilot projects, and research studies.
- g. Coordinate with the Co-Permittees the implementation of Urban Runoff quality management programs, monitoring and reporting programs, implementation plans, public education, other pollution prevention measures, household hazardous waste collection, and all BMPs outlined in the DAMP and take other actions as may be necessary to meet the MEP.
- h. Gather and disseminate information on the status of statewide Urban Runoff programs and evaluate the information for potential use in the execution of this Order. Hold workshops focused on Urban Runoff regulatory requirements, BMPs, and other related topics.
- i. Compile information provided by the Co-Permittees and determine their effectiveness in attaining Receiving Water quality standards. This determination shall include a comparative analysis of monitoring data to the applicable water quality objectives for Receiving Waters as specified in Chapter 4 of the Basin Plan. A pollutant source investigation and control plan shall be performed when elevated pollutant levels are identified.
- j. Solicit and coordinate public input for major changes to the Urban Runoff management programs and the implementation thereof.
- k. Coordinate the development and implementation of procedures, and performance standards, to assist in the consistent implementation of BMPs, as well as Urban Runoff management programs, among the Co-Permittees.
- l. Participate in watershed management programs and regional and/or statewide monitoring and reporting programs.

B. Responsibilities of the Co-Permittees:

1. Each Co-Permittee shall be responsible for managing the Urban Runoff program within its jurisdiction and shall:
  - a. Continue to maintain adequate legal authority to control the contribution of pollutants to their MS4s and enforce those authorities.

- b. Conduct inspections of and maintain its MS4s in accordance with the criteria developed pursuant to Section XI.D, below.
  - c. Continue to implement management programs, monitoring and reporting programs, all BMPs listed in the DAMP, and related plans as required by this Order and take such other actions as may be necessary to meet the MEP standard.
  - d. Continue to seek sufficient funding for the area-wide Urban Runoff management plan, local Urban Runoff program management, Urban Runoff enforcement, public outreach and education activities and other Urban Runoff related program implementation.
  - e. Continue to coordinate among their internal departments and agencies, as appropriate, to facilitate the implementation of this Order and the DAMP.
  - f. Continue to pursue enforcement actions as necessary within its jurisdiction for violations of Storm Water Ordinances, and other elements of its Urban Runoff management program.
  - g. Respond to or arrange for the appropriate entity or agency to respond to emergency situations such as accidental spills, leaks, illegal discharges/illicit connections, etc. to prevent or reduce the discharge of pollutants to their MS4s and the Waters of the U.S.
2. The Co-Permittees' activities should include, but not be limited to, the following:
- a. Participate in the Management Steering Committee and the Technical Committee in accordance with Section XIII.D. of this Order.
  - b. Conduct and coordinate with the Principal Permittee surveys and monitoring needed to identify pollutant sources and drainage area characteristics.
  - c. Prepare and submit reports to the Principal Permittee and/or the Regional Board in a timely manner.
  - d. Review, comment, approve, and implement plans, strategies, management programs, monitoring and reporting programs, as developed by the Principal Permittee, Technical Committee, or the Management Steering Committee to comply with this Order.
  - e. Participate in subcommittees formed by the Principal Permittee, Technical Committee, or the Management Steering Committee to comply with this Order.
  - f. Submit up-to-date MS4 maps to the Principal Permittee. If necessary, these maps should be revised on an annual basis and the revised maps should be submitted to the Principal Permittee with the information required for preparation of the Annual Report.

- g. Prepare and submit to the Principal Permittee in a timely manner specific reports/information, related to the Co-Permittees' Urban Runoff program, necessary to develop an Annual Report for submittal to the Executive Officer.

## II. DISCHARGE LIMITATIONS/PROHIBITIONS:

- A. In accordance with the requirements of 40 CFR 122.26(d)(2)(i)(B) and 40 CFR 122.26(d)(2)(i)(F), the Permittees shall continue to prohibit illicit connections and illegal discharges (non-storm water) from entering their respective MS4s.
- B. The discharge of Urban Runoff from each Permittee's MS4s to the Waters of the U. S. containing pollutants that have not been reduced to the MEP is prohibited.
- C. The Permittees shall continue to effectively prohibit the discharge of non-storm water, including those from public agency activities, into their respective MS4s and to the Waters of the U. S. unless such discharge is authorized by a separate NPDES permit or specifically allowed by the following provisions. The Permittees need not prohibit the discharges identified below. If, however, any of the following discharges are identified by either a Permittee or the Executive Officer as a significant source of pollutants, coverage under an NPDES permit or waste discharge requirements may be required.
  1. Discharges covered by a NPDES permit, Waste Discharge Requirements, or waivers issued by the Regional or State Board. Unless a Permittee is the discharger, the Permittees shall not be responsible for any exceedances of Receiving Water Limitations associated with such discharges;
  2. Discharges from potable water line flushing and other potable water sources;
  3. Emergency water flows (i.e., flows necessary for the protection of life and property) do not require BMPs and need not be prohibited. However, appropriate BMPs shall be considered where practicable when not interfering with emergency public health and safety issues;
  4. Discharges from landscape irrigation, lawn/garden watering and other irrigation waters;
  5. Air conditioning condensate;
  6. Diverted stream flows;
  7. Rising ground waters and natural springs;
  8. Groundwater infiltration (as defined in 40 CFR 35.2005(20)) and "uncontaminated pumped groundwater" (as defined in Appendix 4, Glossary);
  9. Passive foundation drains;
  10. Passive footing drains;

11. Water from crawl space pumps;
  12. Non-commercial vehicle washing, (e.g. residential car washing (excluding engine degreasing) and car washing fundraisers by non-profit organization);
  13. Flows from riparian habitats and wetlands;
  14. Dechlorinated swimming pool discharges;
  15. Waters not otherwise containing wastes as defined in Water Code Section 13050 (d); and
  16. Other types of discharges identified and recommended by the Permittees and approved by the Regional Board.
- D. The Regional Board may issue Waste Discharge Requirements for discharges exempted from NPDES requirements, such as agricultural irrigation waters, if identified to be a significant source of pollutants.
- E. The Regional Board may add categories of non-Urban Runoff discharges that are not significant sources of pollutants or remove categories of non-Urban Runoff discharges listed in Section II.C. above, based upon a finding that the discharges are a significant source of pollutants.
- F. When types of discharges listed in Subsections II.C.2-16, above, are identified as a significant source of pollutants to the Waters of the U.S., a Permittee shall either: prohibit the discharge category from entering its MS4 or ensure that "structural" and "source control BMPs" (as defined in Appendix 4, Glossary) are implemented to reduce or eliminate pollutants resulting from the discharge. The Permittees shall evaluate the permitted discharges, as listed in Subsection II.C.1., above, to their MS4s to determine if any are a significant source of pollutants to their MS4s and notify the Executive Officer if any are a significant source of pollutants to their MS4s.
- G. The Permittees shall continue to reduce the discharge of pollutants, including trash and debris, from their respective MS4s to Receiving Waters to the MEP.
- H. Discharges from the MS4s shall be in compliance with the discharge prohibitions contained in Chapter 5 of the Basin Plan.
- I. Discharge of Urban Runoff from a Permittee's MS4 shall not cause or contribute to a condition of nuisance as the term is defined in Section 13050 of the Water Code.

### **III. RECEIVING WATER LIMITATIONS**

- A. Urban Runoff discharges from the Permittees' MS4s shall not cause or contribute to exceedances of Receiving Water quality standards (as defined by "beneficial uses" and

“water quality objectives” in the Basin Plan and amendments thereto) for surface waters or ground waters.

- B. The DAMP and its components shall be designed to achieve compliance with Receiving Water Limitations associated with discharges of Urban Runoff. It is expected that compliance with Receiving Water Limitations will be achieved through an iterative process and the application of increasingly more effective BMPs.
- C. The Permittees shall comply with Sections II and III of this Order through timely implementation of control measures and other actions to reduce pollutants in Urban Runoff in accordance with the DAMP and other requirements of this Order, including modifications thereto.
- D. If exceedance(s) of water quality standards due to Urban Runoff discharges persist, notwithstanding implementation of the DAMP and other requirements of this Order, the Permittees shall assure compliance with Sections II.B and III of this Order by complying with the following procedure:
  1. Upon a determination by either the Permittees or the Executive Officer that the discharges from the MS4 systems are causing or contributing to an exceedance of an applicable Water Quality Standard, the Permittees shall within two (2) working days, provide oral or e-mail notice to Regional Board staff of the location within its jurisdiction where the exceedance occurred and describe the nature of the exceedance. Following oral or e-mail notification, a written report must be submitted to the Executive Officer within thirty (30) calendar days of becoming aware of the situation. The report submitted for review and approval shall, at a minimum, describe the BMPs that are currently being implemented and the additional BMPs that will be implemented to prevent or reduce those pollutants that are causing or contributing to the exceedance of the applicable water quality standards. Alternatively, if the exceedances are due to discharges to the MS4 from activities or areas not under the jurisdiction of the Permittees, the Permittees shall provide documentation of these discharges in the subject report, consistent with Subsection D.6., below.
  2. Determination of the effect of Urban Runoff discharges from the MS4s on Receiving Water quality standards shall include a comparative analysis of the Permittees' monitoring data to the applicable water quality objectives for the Receiving Waters specified in Chapter 4 of the Basin Plan.
  3. The Executive Officer may by written notice require modifications to the report, required by Subsection D.1., above. If required, such modifications shall be submitted within thirty (30) calendar days of receipt of said written notice.
  4. Within ninety (90) calendar days following approval by the Executive Officer of the report required by Subsection D.1., above, the Permittees shall revise the DAMP and their monitoring and reporting programs to incorporate the approved modified or additional BMPs that have been or are to be implemented, and the implementation schedule.

5. The revised DAMP and monitoring program are to be implemented in accordance with the approved schedule.
6. If the exceedances are solely due to discharges to the MS4 that are outside the Permittees jurisdiction or control, the Permittees shall, within two (2) working days of becoming aware of the situation, provide oral or e-mail notice to Regional Board staff of the determination of the exceedance and provide written documentation of these discharges to the Executive Officer within ten (10) calendar days of becoming aware of the situation.
7. So long as the Permittees have complied with the procedures set forth above and are implementing the revised DAMP, the Permittees do not have to repeat the same procedure for continuing or recurring exceedances of the same Receiving Water Limitations unless the Executive Officer determines it is necessary to develop additional BMP's and provides written notice to the Permittees of this determination.

#### **IV. IMPLEMENTATION AGREEMENT**

- A. Within six (6) months of this Order's adoption, the existing Implementation Agreement shall be revised to include the city of Murrieta. A copy of the signature page and revisions to the Agreement shall be included in the Annual Report.
- B. No later than November 30th of each year, the Permittees shall evaluate their Urban Runoff management programs and the Implementation Agreement and determine the need, if any, for revision. The Annual Report shall include the findings of this review and a schedule for any necessary revision(s).

#### **V. LEGAL AUTHORITY/ENFORCEMENT:**

- A. The Permittees shall continue to maintain and enforce adequate legal authority to control the contribution of pollutants to the MS4s and enforce those authorities.
- B. The Permittees shall continue to take appropriate enforcement actions against violators of their Storm Water Ordinances, in accordance with the Federal Storm Water Regulations (40CFR, Part 122.26(d)(2)(1)(A-F)), and adopted/established guidelines and procedures in the E/CS.
- C. Within six (6) months of this Order's adoption, the Permittees shall evaluate their ordinances, regulations, rules and codes to determine if it has provided its staff authority to impose administrative fines for violations of its Storm Water Ordinance.
- D. Co-Permittees' ordinances or other local regulatory procedures shall include sanctions to ensure compliance. Sanctions shall include but shall not be limited to: verbal and/or written warnings, notice of violation or non-compliance, obtaining an administrative compliance, stop work or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor). If

the Co-Permittee's current ordinances or codes do not provide for the imposition of these civil or criminal penalties for violations of its Storm Water Ordinances, the Co-Permittee shall enact such ordinances within eighteen (18) months of this Order's adoption.

- E. The Permittees shall continue to provide notification to Regional Board staff regarding Urban Runoff related information gathered during site inspections of construction, and industrial sites regulated by the General Storm Water Permits or San Jacinto Watershed Construction Activities Permit and at sites that should be regulated under these Permits. The notification should include observed violations of these permits, prior history of violations, enforcement actions taken by the Permittee, and other relevant information. In addition, Sections IX, X, and XII of this Order address additional notification requirements for construction, industrial and commercial sites not covered under the General Storm Water Permits.
- F. Within twelve (12) months of this Order's adoption, and annually thereafter in November, the Permittees shall provide a report containing a review of their Storm Water Ordinances and their ordinance enforcement practices to assess their effectiveness in prohibiting non-exempt, non-storm water discharges to the MS4s (the Permittees may propose appropriate control measures in lieu of prohibiting these discharges, where the Permittees are responsible for ensuring that dischargers adequately maintain those control measures). At a minimum, the following types of non-exempt, non-storm water discharges and wastes shall be considered:
1. Sewage, where a Co-Permittee operates a POTW and associated sewage collection system;
  2. Wash water resulting from the hosing or cleaning of gas stations, and other types of automobile service stations;
  3. Discharges resulting from the cleaning, repair, or maintenance of equipment, machinery, or facilities, including motor vehicles, concrete mixing equipment, portable toilet servicing, etc.;
  4. Wash water from mobile auto detailing and washing, steam and pressure cleaning, carpet cleaning, etc.;
  5. Water from cleaning of municipal, industrial, and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, containing chemicals or detergents, and without prior sweeping, etc.;
  6. Runoff from material storage areas or uncovered receptacles that contain chemicals, fuels, grease, oil, or other hazardous materials;
  7. Discharges of runoff from the washing of toxic materials from paved or unpaved areas;

8. Discharges from pool or fountain water containing chlorine, biocides, or other chemicals; pool filter backwash containing debris and chlorine;
  9. Pet waste, yard waste, debris, sediment, etc;
  10. Restaurant or food processing facility wastes such as grease, floor mat and trash bin wash water, food waste;
- G. Within eighteen (18) months of this Order's adoption, each Permittee shall submit a statement (signed by its legal counsel) that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications.

**VI. ILLICIT CONNECTIONS/ILLEGAL DISCHARGES; LITTER, DEBRIS AND TRASH CONTROL**

- A. The Co-Permittees shall continue to prohibit illicit connections and illegal discharges to the MS4s through their Storm Water Ordinances and the Principal Permittee shall do so through its statutory authority. In addition, the Permittees shall continue to implement and improve routine inspection and monitoring and reporting programs for their MS4s. If routine inspections or dry weather monitoring indicate illicit connections or illegal discharges, they shall be investigated and eliminated or permitted within sixty (60) calendar days of receipt of notice by its staff or from a third party. A summary of these actions shall be submitted annually beginning with the 2003-2004 Annual Report.
- B. The Permittees upon being put on notice by staff or a third party shall immediately upon becoming aware of the circumstances (within 24 hours of receipt of notice by its staff or from a third party) investigate all spills, leaks, and/or illegal discharges to the MS4s. Based upon their assessment and as specified below, the Permittees shall report as follows:
1. All discharges that endanger human health or the environment:
    - a. By phone to the Office of Emergency Services (the "OES") at (800-852-7550) and to the Executive Officer at (909-782-3238). Alternatively, the report to the Executive Officer may be done by e-mail at ([sw@rb8.swrcb.ca.gov](mailto:sw@rb8.swrcb.ca.gov)).
    - b. At a minimum, any sewage spill above 1,000 gallons or that could impact water contact recreation, any oil spill that could impact wildlife, any hazardous material spill where residents are evacuated, any spill of reportable quantities of hazardous waste (as defined in 40CFR 117 and 40 CFR 302), or any other spill or discharge that is reportable to the OES (collectively, an "Emergency Situation") shall be reported within twenty-four (24) hours of becoming aware of the circumstances.

2. Other spill incidents, including any unauthorized discharge, that are not incidents reportable to the OES shall be reported to the Executive Officer within two (2) business days of becoming aware of the circumstances.
  3. A written report of the discharge or incident described in this subsection shall be submitted to the Executive Officer within ten (10) calendar days of becoming aware of the circumstances.
  4. The Permittees may propose a reporting program, including reportable incidents and quantities, jointly with other agencies such as the County Health Department for approval by the Executive Officer.
- C. The Permittees shall continue to implement control measures to reduce and/or to eliminate the discharge of pollutants, including trash and debris, from MS4s to the Receiving Water. These control measures shall be reported in the Annual Report.
- D. Within eighteen (18) months of this Order's adoption, the Technical Committee shall provide a written assessment of the relative efficiency and cost effectiveness of the available BMPs and the BMPs currently implemented for the control of anthropogenic litter (e.g. street sweeping, catch basin cleaning, deployment of trash receptacles, public education, etc.) and develop recommendations for improving the effectiveness of the currently implemented measures, and implement appropriate BMPs to control trash in Urban Runoff. The Permittees are required to establish a system to record visual observation information regarding the materials collected from the MS4 (e.g. paper, plastic, wood, glass, vegetative litter, and other similar debris), descriptions of its main source(s) (e.g. office, residential, commercial, and industrial waste), and problem areas. The findings of this review, along with supporting field data, shall be included in the Annual Report for 2004-2005.
- E. Within eighteen (18) months of this Order's adoption, the Permittees shall review their litter/trash control ordinances to determine the need for revision to improve the effectiveness of these ordinances. The findings of this review shall be included in the Annual Report for 2003-2004.

**VII. SEWAGE SPILLS, INFILTRATION INTO MS4 SYSTEMS FROM LEAKING SANITARY SEWER LINES, SEPTIC SYSTEM FAILURES, AND PORTABLE TOILET DISCHARGES**

- A. The Executive Officer will request the local sewerage agencies to take the lead and develop unified response guidance, in cooperation with the Principal Permittee. The Principal Permittee shall collaborate with the local sewerage agencies to develop a unified response procedure to respond to sewage spills that may have an impact on Receiving Water quality. The Permittees shall provide local sanitation districts 24-hour access to the MS4s to address sewage spills. The Permittees shall continue to work cooperatively with the local sewerage agencies to determine and control the impact of infiltration from leaking sanitary sewer systems on Urban Runoff quality.

- B. Within twelve (12) months of this Order's adoption, the Permittees, whose jurisdictions have 50 or more septic tank sub-surface disposal systems in use, shall identify with the appropriate governing agency a procedure to control septic system failures to prevent impacts on Urban Runoff quality and continue to follow procedures established by the State Health Department to address such failures.
- C. Within twelve (12) months of this Order's adoption, the Principal Permittee shall review the Permittees' current oversight programs for portable toilets to determine the need for revisions.

### **VIII. NEW DEVELOPMENT (INCLUDING SIGNIFICANT REDEVELOPMENT)**

#### **A. GENERAL REQUIREMENTS:**

1. Each Co-Permittee shall, consistent with the DAMP and its Storm Water Ordinance, and any revisions thereto as required by this Order, when considering any map or permit for which discretionary approval is sought require that said map or permit contain a condition requiring the applicant to obtain coverage under the General Construction Activity Storm Water Permit or the San Jacinto Watershed Construction Activities Permit, if applicable (collectively the "Construction Activity Permits"), by filing a Notice of Intent ("NOI") with either the State or Regional Board, as applicable. Verification that said condition has been satisfied may be established, as to the General Construction Activity Storm Water Permit, by presentation of a letter from the State Board indicating that the required fees have been paid and a waste discharge identification number ("WDID No.") has been issued or determining from the State Board's web-site that the WDID No. has been issued, and, as to the San Jacinto Watershed Construction Activities Permit, that the required Storm Water Pollution Prevention Plan ("SWPPP") has been approved, fees have been paid and the Regional Board has issued a WDID No. Within six (6) months of this Order's adoption, each Co-Permittee shall review and revise as needed its land use approval process to include a procedure to ensure that coverage has been secured under the appropriate Construction Activity Permit for each map or permit that it has approved.
2. Each Co-Permittee shall continue to implement those BMPs identified in the "New Development Guidelines", and the attachment thereto entitled "Selection and Design of Storm Water Quality Controls," that constitute Supplement A ("Supplement A") to the DAMP in its review of any map or permit for which discretionary approval is sought. The land use approval process of each Co-Permittee shall continue to require source control and address the need for structural treatment BMP's, identify their location, and identify how long-term maintenance responsibilities are to be met.
3. The Permittees shall review and revise, as necessary, the DAMP, including Supplement A, in order to effect the implementation of new or enhanced BMPs that more effectively reduce pollutants in runoff from construction sites during all phases of construction, including post-construction. At a minimum, the DAMP shall continue to:

- a. Discuss possible amendments to the Co-Permittees' ordinances, regulations, and codes that would enhance grading and erosion control and public education,
  - b. Propose review criteria to be applied in land use review processes to better address issues regarding Urban Runoff; and
  - c. Identify BMPs or regional or sub-regional Urban Runoff treatment/infiltration BMPs that would enhance pollution prevention measures and address post construction Urban Runoff issues.
4. The Permittees shall review and revise, as necessary, the DAMP, including Supplement A, in order to develop and effect the implementation of new or enhanced BMPs that reduce pollutants in Urban Runoff from commercial and industrial sites both during and after site construction. Appropriate BMPs will be required for industrial/commercial land uses that are identified during the land use approval process. For industrial/commercial land uses that are identified subsequent to the issuance of a discretionary map or permit, appropriate BMPs will be addressed through the E/CS. At a minimum the DAMP shall continue to address:
  - a. The identification of those characteristics of the development of a commercial or industrial site that are likely to be a source of pollutants in Urban Runoff that should be addressed and considered during the land use approval process, and
  - b. The identification of regional or sub-regional Urban Runoff treatment/infiltration BMPs that would address post construction Urban Runoff issues.
5. Each Co-Permittee shall continue to reduce the short and long-term impacts on Receiving Water quality from New Developments, as defined in Subsection B.1, below, and Significant Redevelopment, as defined in Subsection B.1., below, as required in Subsection B., below. In order to reduce pollutants and runoff flows from New Development and Significant Redevelopment to the MEP, the Co-Permittees shall at a minimum:
  - a. Review their respective land use approval and CEQA review processes to insure that each addresses Urban Runoff issues consistent with provisions of this Order and make appropriate revisions to each, and
  - b. Develop and implement a public/business education program as specified in Section IX.C.4., below.
6. Each Co-Permittee shall provide the Regional Board with any draft general plan or any draft general plan amendments for comment in accordance with Government Code Section 65350 et. seq.

7. Each Co-Permittee shall, through its conditions of approval, continue to address the maintenance and operation of structural BMPs required to be constructed to ensure Urban Runoff quality from New Development. The parties responsible for the maintenance and operation of such structural BMPs and an appropriate funding mechanism shall be identified in said conditions of approval.
8. Within twelve (12) months of this Order's adoption, the Co-Permittees shall review their respective land use approval and CEQA processes to ensure that Urban Runoff issues are properly considered and addressed. If necessary, these processes should be revised to consider and mitigate impacts to Urban Runoff quality. These changes may include amending the general plan, modifying the land use approval process or the environmental assessment form, which may include adding a section on Urban Runoff quality issues. The findings of this review and the actions taken by the Co-Permittees shall be reported to the Regional Board in the Annual Report for the corresponding year in which the review is completed. The following shall be considered in a Co-Permittee's environmental assessment form:
  - a. Potential impact that construction of the project may have on Urban Runoff.
  - b. Potential impact that operation of the project may have on Urban Runoff.
  - c. Potential for discharge of pollutants in Urban Runoff from areas identified within the project site to be used for material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.
  - d. Potential for pollutants in Urban Runoff discharged from a project site that may affect the beneficial uses of the Receiving Waters.
  - e. Potential for significant changes in the flow velocity or volume of Urban Runoff from a project site that would result in environmental harm.
  - f. Potential for significant increases in erosion of a project site or surrounding areas.
9. Within twenty-six (26) months of this Order's adoption, each Co-Permittee shall review its general plan and related land use ordinances and land use approval process (including, but not limited to, its approved development standards, zoning ordinances, standard conditions of approval, or project development guidelines) to ensure that the principles and policies enumerated below are properly considered and are incorporated into the land use approval process. The findings of this review and the actions taken by each Co-Permittee shall be reported to the Regional Board in the Annual Report for the year in which the review is completed. Said principles and policies should include, but not be limited to, the following:

- a. Limit disturbance of natural water bodies and drainage systems; conserve natural areas; protect slopes and channels; minimize impacts from Urban Runoff on the biological integrity of natural drainage systems and water bodies;
  - b. Minimize changes in hydrology and pollutant loading; require incorporation of source control and structural BMPs<sup>8</sup> to mitigate the projected increases in pollutant loads and flows; ensure that post-construction runoff rates and velocities from a site do not result in significant adverse impact on downstream erosion and stream habitat; limit the quantity of Urban Runoff directed to impermeable surfaces and the MS4s; and maximize the percentage of permeable surfaces to allow more percolation of Urban Runoff into the ground;
  - c. Preserve wetlands, riparian corridors, and buffer zones; establish reasonable limits on the clearing of vegetation from the project site;
  - d. Encourage the use of BMPs to manage Urban Runoff quality and quantity;
  - e. Provide for appropriate permanent measures to reduce pollutant loads in Urban Runoff from the development site; and,
  - f. Establish development guidelines for areas particularly susceptible to erosion and sediment loss.
10. Within sixteen (16) months of this Order's adoption, each Co-Permittee shall review and, as necessary, revise its grading/erosion control ordinances in order to reduce erosion caused by New Development or Significant Redevelopment.
  11. Within eighteen (18) months of this Order's adoption, the Permittees shall identify a listing of erosion control BMPs appropriate for use during site construction in the Permit Area. The proposed and final BMP listing shall be approved, in writing, by the Executive Officer.
  12. The Co-Permittees shall continue to implement the BMPs described in Supplement A and the "Municipal Facilities Strategy" dated 1997, prepared for and approved by the Permittees.

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<sup>8</sup> In lieu of site specific structural BMPs, a regional treatment system that provides equivalent or superior treatment of Urban Runoff is acceptable.

B. WATER QUALITY MANAGEMENT PLAN FOR URBAN RUNOFF (FOR NEW DEVELOPMENT/SIGNIFICANT REDEVELOPMENT)

Within twenty (20) months of this Order's adoption, the Permittees shall develop a Water Quality Management Plan (the "WQMP") identifying BMPs, including design standards for source control and structural BMPs<sup>9</sup>, that are to be applied when considering any map or permit for which discretionary approval is sought. The WQMP is intended to address regional and sub-regional source control and structural BMPs and to provide guidelines for site specific, "post-construction BMPs" (as defined in Appendix 4, Glossary) to address management of Urban Runoff quantity and quality. The WQMP is to be submitted to the Executive Officer for his review and approval, consistent with the criteria identified in Subsections B.1., 2., and 3., below:

1. The WQMP shall address management of Urban Runoff quality from a project site, represented by a map or permit for which discretionary approval is sought from a Co-Permittee, in one of the categories of development identified below:
  - a. "Significant Redevelopment" is defined as the addition or creation of 5,000, or more, square feet of impervious surface on an existing developed site. This includes, but is not limited to, construction of additional buildings and/or structures, extension of the existing footprint of a building, construction of impervious or compacted soil parking lots. Where Significant Redevelopment results in an increase of less than fifty percent of the existing impervious surfaces of an existing developed site, and the existing developed site received its discretionary land use approvals prior to the adoption of the WQMP, the WQMP would apply only to the addition, and not the existing development. Significant Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, the original purpose of the constructed facility or emergency actions required to protect public health and safety;
  - b. For purposes of this Order, the categories of development identified below, shall be collectively referred to as "New Development":
    - (1.) Residential development of 10 dwelling units, or more, including single family and multi-family dwelling units, condominiums, or apartments.
    - (2.) Industrial and commercial development where the land area represented by the proposed map or permit is 100,000 square feet, or more, including, but not limited to, non-residential developments such as hospitals, educational institutions, recreational facilities, mini-malls, hotels, office buildings, warehouses, light industrial, and heavy industrial facilities;
    - (3.) Automotive repair shops (with standard industrial classification ("SIC") codes 5013, 7532, 7533, 7534, 7537, 7538, and 7539).
    - (4.) Restaurants (SIC Code 5812) where the project site is 5,000 square feet, or more.

- (5.) Hillside development that creates 10,000 square feet, or more, of impervious surface(s), including developments located on areas with known erosive soil conditions or where the natural slope is twenty-five percent or more.
  - (6.) Developments creating 2,500 square feet, or more, of impervious surface that is adjacent to (within 200 feet) or discharging directly into areas designated in the Basin Plan as waters supporting habitats necessary for the survival and successful maintenance of plant or animal species designated under state or federal law as rare, threatened, or endangered species (defined in the Basin Plan as "RARE") or waterbodies listed on the CWA Section 303(d) list of Impaired Waterbodies within the Permit Area.
  - (7.) Parking lots of 5,000 square feet or more of impervious surface exposed to storm water. Parking lot is defined as a site or facility for the temporary storage of motor vehicles.
2. The primary objective of the WQMP, by addressing source control and structural BMPs<sup>9</sup>, applied on a regional, sub-regional or site specific basis, is to ensure that the land use approval process of each Co-Permittee will minimize pollutant loads in Urban Runoff from project sites for a map or permit for which discretionary approval is given. This objective may be achieved through source control and structural BMPs. In developing the WQMP, the Permittees are to consider and address the following:
  - a. Pollutants of Concern/Conditions of Concern. The WQMP is to include a protocol by which Pollutants of Concern and/or Conditions of Concern are identified and their potential impact on Urban Runoff from a project site that is to be developed by one or more of the categories specified in Section VIII.B.1., above. The protocol shall include, at a minimum, consideration of the following:
    - (1) The quality of the Receiving Waters in proximity to the project site (including pollutants for which a waterbody within the Permit Area that has been listed as impaired under CWA Section 303(d));
    - (2) The category of development and the type of pollutants associated with that development category;
    - (3) Pollutants expected to be present on the project site; and
    - (4) Sensitivity of the Receiving Waters in proximity to the project site to changes in storm water discharge flow rates, velocities, durations, and volumes.
  - b. Implementation Process. The WQMP shall specify at which point in the land use approval process the provisions of the WQMP should be considered. The WQMP shall generally describe the type of municipal departments or related agencies that are best equipped to evaluate the project site and draft the conditions of approval that will identify the types of BMPs required to address the specified concerns indicated by the protocol developed consistent with Subsection B.2.a, above, and incorporated into the WQMP.

- c. If the draft condition of approval identifies the need for source control or structural BMPs<sup>9</sup>, the WQMP will require the proposed condition of approval to identify the operation and maintenance requirements for the identified structural source and/or treatment control and identify the funding source(s) and the parties responsible for the ongoing operation, maintenance, repair, rehabilitation and/or replacement of the source control and/or structural BMPs<sup>9</sup>.
3. The WQMP shall include a list of recommended source control and structural BMPs<sup>9</sup> and a protocol, developed pursuant to Subsection B.2., above, that will identify those applications that would be most effective for a project site that is to be developed by one or more of the categories specified in Section VIII.B.1., above. The source control and structural BMPs included in said list shall, at a minimum:
  - a. Control the post--construction peak storm water runoff discharge rates and velocities to avoid increasing downstream erosion beyond pre-construction conditions;
  - b. Conserve natural areas and protect stream habitat, where feasible;
  - c. Minimize the introduction of Pollutants of Concern into Urban Runoff;
  - d. Remove Pollutants of Concern from Urban Runoff to the MEP;
  - e. Protect slopes and channels from eroding;
  - f. Require storm drain inlet stenciling and signage;
  - g. Require properly designed outdoor material storage areas;
  - h. Require properly designed trash storage areas; and
  - i. Be located as close to pollutant sources, as appropriate and economically/technologically feasible, and before the Urban Runoff is discharged into Receiving Waters.
4. If by January 1, 2005, the Permittees have not developed the WQMP and/or the WQMP has not been approved by the Executive Officer, then each Co-Permittee shall cause to be placed on any proposed project submitted to it after said January 1st that requires discretionary approval of a map or permit that proposes to develop a site consistent with one or more of the categories specified in Subsection B.1., above, conditions of approval that will require source control and/or structural BMPs that are to meet design standards consistent with those specified in Subsection B. 5, below.
5. Source control and structural BMPs for any proposed project submitted to a Co-Permittee that requires discretionary approval of a map or permit that proposes to develop a site consistent with one or more of the categories specified in Subsection B.1., above, are to be sized to comply with one of the following numeric sizing

criteria or be determined by the Co-Permittee to provide equivalent or superior treatment of Urban Runoff, on a site basis:

**a. Volume.** Volume-based BMPs shall be designed to treat urban pollutants (including, but not limited to, sediments, copper, lead, arsenic, zinc, and pesticides), or infiltrate either:

- 1) The volume of Urban Runoff produced from a 24-hour, 85th percentile storm event, as determined from the local historical rainfall record; or
- 2) The volume of annual Urban Runoff produced from a 24-hour, 85th percentile rainfall event, determined as the maximized capture Urban Runoff volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998); or
- 3) The volume of annual Urban Runoff based on unit basin storage volume, to achieve 80% or more volume treatment by the method recommended in California Storm Water Best Management Practices Handbook – Industrial/Commercial (1993); or
- 4) The volume of Urban Runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the Urban Runoff produced from a 24-hour, 85th percentile storm event;

**Or,**

**b. Flow.** Flow-based BMPs shall be designed to treat urban pollutants (including, but not limited to, sediments, copper, lead, arsenic, zinc, and pesticides), or infiltrate either:

- 1) The maximum flow rate of Urban Runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour; or
- 2) The maximum flow rate of Urban Runoff produced by the 85th percentile hourly rainfall intensity, as determined from the local historical rainfall record, multiplied by a factor of two; or
- 3) The maximum flow rate of Urban Runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two.

6. Implementation of Subsections B.1. through B.5., above shall include consideration of the following:

a. Each Co-Permittee may propose equivalent sizing criteria for structural BMPs that will achieve greater or substantially similar pollution control benefits. In the absence of approved equivalent sizing criteria, the Co-Permittee shall implement the above stated sizing criteria.

- b. Waiver Provisions. A Co-Permittee may provide for a project to be waived from the requirement of implementing structural BMPs (Section VIII. B. 5). All waivers, along with documentation justifying the issuance of the waiver, must be submitted to Regional Board staff in writing within thirty (30) calendar days. If the Executive Officer determines that waivers are being inappropriately granted, this Order may be reopened to modify these waiver conditions:
    - (1). If infeasibility can be established. A waiver of infeasibility shall only be granted by a Co-Permittee when all available structural BMPs have been considered and rejected as technically infeasible and/or the cost of implementing the structural treatment BMP greatly outweighs the pollution control benefit.
    - (2.) For those portions of the Permit Area that will not result in a discharge to the Receiving Waters under the rainfall conditions specified in Subsections B.5., above.
  - c. If a particular BMP is not technically feasible, other BMPs should be implemented to achieve the same level of pollution control or if the cost of implementing a technically feasible BMP greatly outweighs the pollution control benefits, the Co-Permittees may grant a waiver of the numeric sizing criteria for said BMP as set forth in the WQMP.
  - d. The Principal Permittee and the Co-Permittees, individually or jointly, as appropriate, may develop and implement regional and sub-regional watershed management BMPs that address Urban Runoff from New Development and Significant Redevelopment.
  - e. The obligation to install structural BMPs for New Development will be satisfied if, for a specific plan, multiple subdivisions, or a regional area, structural BMPs are constructed with the requisite capacity to serve the specific plan, multiple subdivisions, or regional area, even if certain phases of the specific plan or the subdivision do not have structural treatment BMP located within the boundaries of the particular phase, provided, however, the structural BMPs are designed and implemented to intercept Urban Runoff prior to it reaching the Receiving Waters and said BMPs meet the sizing criteria set forth in the WQMP or as specified in Subsection B.5, above.
7. Structural BMPs utilizing infiltration shall comply with the following:
- a. Infiltration shall not cause or contribute to an exceedance of groundwater quality objectives.
  - b. Protect groundwater quality.

- c. Should not be used in high vehicular traffic areas (25,000 or greater average vehicles daily) unless necessary to mitigate peak storm flows for the protection of real and personal property, or for the protection of public health and safety. A sampling and analysis plan shall be implemented for such sites.
- d. Shall be located at least 500 feet horizontally from water supply wells.
- e. Shall not cause a nuisance, including odor, vectors or pollution as defined by Water Code Section 13050.

#### **IX. MUNICIPAL INSPECTION PROGRAM**

The municipal inspection program is outlined in the E/CS, prepared by the Permittees. The E/CS describes minimum inspection and enforcement procedures utilizing existing inspection programs, provides criteria for characterizing the significance of violations, criteria for prioritizing violations, appropriate response actions corresponding to the priority of violations and identifies the hierarchy of enforcement/compliance responses. The E/CS comprises a framework to standardize the implementation and enforcement by the Co-Permittees of their respective Storm Water Ordinances. As part of the E/CS, the Principal Permittee and the County have implemented the CAP that, through the Riverside County Environmental Health Department, specifically addresses storm water compliance survey/inspections of each facility that must secure a hazardous materials permit for either storing, handling or generating hazardous materials and restaurants. The Co-Permittees shall continue to enforce their respective Storm Water Ordinances consistent with the E/CS and shall revise the E/CS, within twelve (12) months of the adoption of this Order, and their respective Storm Water Ordinances consistent with the program elements described below. The revision of the E/CS is to be submitted for approval, in writing, by the Executive Officer.

##### **A. Construction Sites**

- 1. Each Co-Permittee shall develop within twelve (12) months of this Order's adoption, an inventory of active construction sites within its jurisdiction for projects for which a building or grading permit has been issued for a site that is 1-acre or larger. As written in the "Storm Water Phase II Final Rule – Small Construction Program Overview" (EPA 833-f-00-013, January 2000, Fact Sheet 3.0), smaller parcels that are part of a larger development will also be required to comply with the Phase II rules. A construction site will be included in the inventory regardless of whether the construction site is subject to the Construction Activity Permits, or other individual construction storm water NPDES permits. In addition, beginning thirteen months (13) from the adoption date of this Order, New Development/Redevelopment Sites meeting the criteria defined in Section VIII. B.1, shall also be included in this database. This inventory shall be routinely maintained to reflect additional construction sites as permits are issued and may reflect deletions as occupancy permits are issued or a construction site is abandoned. This inventory shall be maintained in a computer database system. An electronic copy or update of the database, in a format acceptable to the Executive Officer, shall be provided with each Annual

Report or upon request. The database specifics shall at a minimum include the relevant site information as outlined in the E/CS. The revised E/CS should provide for the inclusion of the following information: facility name (dba), address, city, zip code, mailing address (if different), location reference (such as GIS coordinates, cross streets, etc.) facility contact and phone number, site size, Map/Plot Plan No., Grading Permit No., Assessor's Parcel Number ("APN"), and State WDID No. Linking the database to a Geographical Information System ("GIS") is recommended but is not required.

2. Within twelve (12) months of this Order's adoption, the Co-Permittees shall inspect all inventoried construction sites, document relevant site information as outlined in the E/CS, and shall cause said information to be entered into the inventory database. In establishing priorities for inspection of construction sites consistent with this Order, the Co-Permittees shall prioritize construction sites within their jurisdiction as a high, medium, or low threat to Receiving Water quality (consistent with the criteria contained in Section IX.A.3., below). Evaluation of construction sites should be based on such factors as soil erosion potential, project size, proximity and sensitivity of Receiving Waters, history of compliance, and other relevant factors. The priority level assigned to a construction site may change during the construction period, however, at a minimum, the following construction sites shall be given a high priority in the initial inventory:
  - a. Sites that disturb an area greater than 50 acres;
  - b. Sites that disturb an area greater than one (1) acre and are located adjacent to, within 200 feet, of an identified impaired water body within the Permit Area; and,
  - c. Sites that disturb an area greater than one (1) acre and directly discharge to an identified Impaired Waterbody within the Permit Area.
3. Each Co-Permittee shall conduct construction site inspections for compliance with its ordinances, including its Storm Water Ordinance, regulations, codes, and the WQMP, when approved. Construction site inspections shall at a minimum address the following areas as outlined in the E/CS:
  - a. Check for submittal of a NOIs in compliance with the Construction Activity Permits, if required;
  - b. Confirm a SWPPP, if required, is on-site;
  - c. Confirm compliance with the Co-Permittee's Storm Water Ordinance;
  - d. Check for active non-stormwater discharges or potential illicit connections or illegal discharges to a MS4; and,

e. The frequency of inspections shall be as follows:

Site Priority Level	Inspection Frequency
High	Once every two weeks
Medium	Once each month
Low	Once during the wet season
Follow-up inspections when Storm Water Ordinance violations are observed	As specified in the E/CS, at least within two weeks, or consistent with a compliance schedule.

4. Each Co-Permittee shall enforce its Storm Water Ordinance at construction sites as necessary to maintain compliance with the E/CS and this Order. Sanctions for non-compliance may include: verbal and/or written warnings, notice of violation or non-compliance, obtaining an administrative compliance, stop work or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor).
5. As described in the E/CS, the Co-Permittees will provide training to staff involved in inspecting construction sites. Staff training will address the requirements of the following:
  - a. The Storm Water Ordinances, resolutions, and codes;
  - b. This Order, the approved WQMP, and the DAMP;
  - c. The Construction Activity Permits;
  - d. The E/CS.
6. Construction site inspectors will also receive training regarding SWPPPs, selection and maintenance of appropriate BMPs for construction sites, including erosion and sediment control. Each Co-Permittee shall have arranged for adequate training of its current inspection staff within twelve (12) months of this Order's adoption and on an annual basis thereafter, prior to the start of the "Rainy Season" (October 1 through May 31<sup>st</sup>). Training programs should be coordinated with Regional Board staff and prior notification of formal classroom training activities shall be provided to Regional Board staff. New hires or transfers that will be performing construction site inspections for a Co-Permittee shall be trained within six (6) months of starting inspection duties.
7. Within twenty-four (24) hours of receipt of notice by its staff or from a third party, each Co-Permittee shall continue to provide oral or e-mail notification to Regional Board staff of sites within its jurisdiction that are determined to be an Emergency Situation. Following oral or e-mail notification, a written report must be submitted to Regional Board Staff within ten (10) calendar days of receipt of notice of the Emergency Situation, detailing the nature thereof, corrective actions taken by the site owner, other relevant information (e.g., past history of

non-compliance, environmental damage resulting from the Emergency Situation, site owner responsiveness) and the type of enforcement, consistent with Table 4 of the E/CS, that has been or will be carried out by the Co-Permittee. Further, incidences of non-compliance shall be recorded along with the information noted in the written report and the final outcome/enforcement for the incident will be included in the database identified in Subsection A.1, above.

8. If a Co-Permittee receives notice by its staff or from a third party of a non-Emergency Situation representing a possible violation of the Construction Activity Permits or other order or permit issued by the State or Regional Board, the Co-Permittee shall, within two (2) working days, provide oral or e-mail notice to Regional Board staff of the location within its jurisdiction where the incident occurred and describing the nature of the incident. Following oral or e-mail notification, a written report must be submitted to Regional Board staff within ten (10) calendar days of becoming aware of the situation.
9. Upon referral of a construction site to Regional Board staff for failure to obtain coverage under the applicable Construction Activity Permit, failure to keep a SWPPP at the construction site, if applicable, or an observed act or omission that suggests failure to comply with either, the Co-Permittee will take no further action at the construction site with regard to securing compliance with the Construction Activity Permits. It is understood by the Co-Permittees and Regional Board staff that this will preclude duplication of effort and insure that consistent direction is provided to the owner/developer and the construction site manager as to what is required to bring the site into compliance with the General Construction Activity Storm Water Permit or San Jacinto Watershed Construction Activities Permit. Each Co-Permittee shall take appropriate actions to bring a construction site into compliance with its local ordinances, rules, regulations, and WQMP, when approved.
10. The number of inspections and the actions taken will be documented by the Co-Permittees and an appropriate summary of said actions will be provided to the Principal Permittee for inclusion in the Annual Report submitted to the Regional Board.
11. The Permittees need not inspect construction sites already inspected by Regional Board staff if the inspection of said site, given its prioritization consistent with the E/CS, was concluded within the time frame specified for said site's prioritization. To facilitate this, Regional Board staff will post a list of facilities inspected on the website or make this information available to the Co-Permittees by other pre-arranged means.

#### B. Industrial Facilities

1. Each Co-Permittee shall develop within eighteen (18) months of this Order's adoption, an inventory of industrial facilities in the Permit Area within its jurisdiction that has the potential to discharge pollutants to the MS4.

- a. Each Co-Permittee that presently has an existing local industrial inspection program (the cities of Corona and Riverside as to their respective POTW pre-treatment inspections and the County through the CAP) shall include in their respective inventory of industrial facilities information derived from existing compliance survey and inspection programs.
  - b. Each Co-Permittee without an industrial inspection program shall include in their inventory of industrial facilities information from the CAP that is relevant to its jurisdiction and may include information derived from other agencies providing services within its jurisdiction, including, but not limited to, the appropriate Fire Department, health departments, and POTW servicing the Permit Area.
  - c. An industrial facility will be included in said inventory, regardless of whether the facility is subject to the General Industrial Activities Storm Water Permit, or other individual NPDES permits issued by the State or Regional Boards.
  - d. The inventory shall be routinely updated, information can be derived from any of the following sources: conditional use permits, plot plans, building permits, business licenses, occupancy permits, hazardous materials permits, and hazardous waste generator permits are approved for the development of a new industrial facility, additional facilities are identified through the CAP, and as compliance surveys and inspections are completed and industrial facilities are identified. This inventory shall be maintained in a computer database system.
  - e. The Co-Permittees shall not issue an occupancy permit to an industrial facility or other license authorizing the facility to operate, unless the applicant is informed of the General Industrial Activities Storm Water Permit and that it may have to secure coverage thereunder.
  - f. The database information content may be Co-Permittee specific and shall be developed and maintained in accordance with the E/CS. The database contents shall at a minimum include the relevant site information, outlined in the E/CS. The revised E/CS should provide for the inclusion of the following information: facility name (dba), address, city, zip code, mailing address (if different), location reference (such as, GIS coordinates, cross streets, etc.) facility contact and phone number, SIC Code(s), State WDID No.(if any), APN, and site size. An electronic copy or update of the database, in a format acceptable to the Executive Officer, shall be provided with each Annual Report or upon request. Linking the database to a GIS is recommended but is not required.
2. The frequency and priority of an industrial facility compliance survey or inspection will be based on the most recent facility visit as outlined in the E/CS, as revised, consistent with this Order. The revised E/CS shall prioritize industrial facilities within their jurisdiction as a high, medium, or low threat to water quality. Evaluation of these facilities should be based on such factors as

type of industrial activities (SIC codes), materials or wastes used or stored outside, pollutant discharge potential, facility size, proximity and sensitivity of Receiving Waters, frequency of existing inspections, based upon other California statutes or regulations, or local regulations, ordinances, or codes, and any other relevant factors. At a minimum, a high priority classification shall be assigned to: facilities subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 and facilities with a high potential for or history of unauthorized, non-storm water discharges.

3. Once the inventory required by Subsection B.1, above, has been completed and the industrial facilities have been prioritized, consistent with Subsection B.2, above, the Co-Permittees are to determine the frequency with which the inventoried facilities are surveyed or inspected. Unless inspected more frequently pursuant to the existing programs, those industrial facilities given a high priority are to be inspected at least once a year, those industrial facilities given a medium priority are to be inspected at least once biannually, and those industrial facilities given a low priority are to be inspected at least once during the term of this Order. In the event that the industrial facility is found to be in violation of the Co-Permittee's Storm Water Ordinances the frequency of inspection shall be increased consistent with a compliance schedule determined appropriate by the Co-Permittee and as outlined in the revised E/CS to cause said facility to be brought into compliance.
4. Industrial facility compliance surveys and inspections shall at a minimum address the following, as outlined in the E/CS:
  - a. Check for submittal of a NOI to comply with the General Industrial Activities Storm Water Permit or other permit issued by the State or Regional Board to an industrial facility within the Permit Area;
  - b. Confirm compliance with the Co-Permittee's Storm Water Ordinance;
  - c. Check for active non-storm water discharges, potential illicit connections, and illegal discharges to the MS4;
  - d. Potential for discharge of pollutants in Urban Runoff from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas;
  - e. Implementation and maintenance of appropriate BMPs for industrial facilities.
5. Each Co-Permittee shall continue to enforce its ordinances, including its Storm Water Ordinance, resolutions and codes at industrial facilities as necessary to maintain compliance with this Order. Sanctions for non-compliance may include: verbal or written warnings, notice of violation or non-compliance,

obtaining an administrative compliance, stop work, or cease and desist order, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor).

6. Within twenty-four (24) hours, each Co-Permittee shall continue to provide oral or e-mail notification to the Regional Board of facilities within its jurisdiction it perceives to be an illicit connection, illegal discharge, or that is determined to be an Emergency Situation. Following oral or e-mail notification, a written report must be submitted to Regional Board Staff within ten (10) calendar days of the Co-Permittee's receipt of notice of the Emergency Situation, detailing the nature of the Emergency Situation, corrective actions taken by the facility owner, other relevant information (e.g., past history of non-compliance with the Co-Permittee's Storm Water Ordinance, environmental damage resulting from the Emergency Situation, facility owner responsiveness) and the type of enforcement, consistent with Table 4 of the E/CS, that has been or will be carried out by the Co-Permittee. Further, incidences of non-compliance shall be recorded, along with the information noted in the written report and the final outcome/enforcement for the incident shall be included in the database identified in Subsection B.1, above.
7. If a Co-Permittee receives notice by its staff or from a third party of a non-Emergency Situation representing a possible violation of the General Industrial Activity Storm Water Permit or other permit issued by the State or Regional Board to an industrial facility, the Co-Permittee shall, within two (2) working days, provide written notice to Regional Board staff of the location within its jurisdiction where the incident occurred and describing the nature of the incident.
8. Upon referral of an industrial facility to Regional Board staff for failure to obtain coverage under the General Industrial Activities Storm Water Permit, failure to keep a SWPPP at the industrial facility, or an observed act or omission that suggests failure to comply with either, the Co-Permittee will take no further action at the industrial facility with regard to securing compliance with the General Industrial Activities Storm Water Permit. It is understood by the Co-Permittees and Regional Board staff that this will preclude duplication of effort and insure that consistent direction is provided to the facility owner/manager as to what is required to bring the facility into compliance with the General Industrial Activities Storm Water Permit. Each Co-Permittee shall take appropriate actions to bring an industrial facility into compliance with its local ordinances, rules, regulations, and WQMP, when approved.
9. The number of compliance surveys/inspections and the actions taken shall be documented by the Co-Permittees and an appropriate summary of said actions shall be provided to the Principal Permittee for inclusion in the Annual Report submitted to the Regional Board.

10. As described in the E/CS, the Co-Permittees shall provide training to staff that are involved in conducting compliance surveys/inspections of industrial facilities. Staff training will address the requirements of the following:
  - a. The Storm Water Ordinance
  - b. This Order and the DAMP
  - c. The General Industrial Activities Storm Water Permit and any other permit issued to industrial facilities within the Permit Area by the State or Regional Board; and
  - d. The E/CS.
11. Each Co-Permittee's staff assigned to conduct the industrial facilities compliance surveys/inspections will also receive training regarding pollution prevention plans and implementation of appropriate BMPs for industrial facilities. Training programs should be coordinated with Regional Board staff and prior notification of formal classroom training activities shall be provided to the Regional Board staff.
12. Each Co-Permittee shall have arranged for adequate training of its staff assigned to conduct the industrial facilities compliance surveys/inspections within eighteen (18) months of this Order's adoption, and on an annual basis thereafter. New hires or transfers that will be performing the industrial facilities compliance surveys/inspections for a Co-Permittee will be trained within six (6) months of starting field duties.
13. The Permittees need not inspect Industrial facilities already inspected by Regional Board staff if the inspection of said site, given its prioritization consistent with the E/CS, was concluded within the time frame specified for said site's prioritization. To facilitate this, Regional Board staff will post a list of facilities inspected on the website or make this information available to the Co-Permittees by other pre-arranged means.

### C. Commercial Facilities

Within eighteen (18) months of this Order's adoption, the Permittees shall review the E/CS to reflect the following:

1. Those Co-Permittees that presently have an existing compliance survey/inspection program for commercial facilities (the cities of Corona and Riverside as to their respective POTW pre-treatment inspections and the County through the CAP) shall develop within eighteen (18) months of this Order's adoption, an inventory of the commercial facilities that are surveyed or inspected pursuant to the existing program. The inventory will be updated on a routine basis from such information as conditional use permits, plot plans, building permits, business licenses, occupancy permits, hazardous materials permits, and hazardous waste generator permits are approved for development of a new commercial facility, additional commercial facilities are identified through the CAP and compliance surveys and inspections are completed and new commercial facilities are identified. Each Co-Permittee without a commercial facility inspection program shall include in its inventory of commercial facilities information from the CAP (including automobile mechanical repair, maintenance, fueling, or cleaning; automobile and other vehicle body repair or painting; painting and coating; pool, lake and fountain cleaning (base of operations)) that is relevant to its jurisdiction and may include information derived from other agencies providing services within its jurisdiction, including, but not limited to, the POTW. This inventory shall be maintained in a computer database system. The revised E/CS should provide for the inclusion of the following information: facility name (dba), address, city, zip code, mailing address (if different), location reference (GIS coordinates, cross streets, APN, etc.) facility contact and phone number, SIC code(s), and site size. An electronic copy or update of the database, in a format acceptable to the Executive Officer, shall be provided with each Annual Report or upon request. Linking the database to a GIS is recommended but is not required.
2. In addition, each Permittee shall develop within twenty-four (24) months of this Order's adoption, an inventory of the commercial facilities/companies listed below within its jurisdiction:
  - a. Mobile automobile or other vehicle washing (base of operations);
  - b. Mobile carpet, drape or furniture cleaning (base of operations);
  - c. Mobile high pressure or steam cleaning (base of operations);
  - d. Nurseries and greenhouses;
  - e. Landscape and hardscape installation (base of operations); and,
  - f. Other commercial sites/sources that the Permittee determines may contribute a significant pollutant load to the MS4.

3. Within twelve (12) months of this Order's adoption, the CAP will be revised to cause compliance surveys/inspections of restaurants within Riverside County that, at a minimum, include the following:
  - a. Oil and grease disposal to verify that these wastes are not discharged onto a parking lot, street or adjacent catch basin;
  - b. Trash bin areas to verify that these areas are clean, the bin lids are closed, the bins are not filled with liquid, and the bins have not been washed out into the MS4;
  - c. Parking lot, alley, sidewalk and street areas to verify that floor mats, filters and garbage containers are not washed in those areas and that no wash water is discharged to MS4s from those areas; and,
  - d. Parking lot areas to verify that they are cleaned by sweeping, not by hosing down, and that the facility operator uses dry methods for spill cleanup.
4. The revised E/CS shall prioritize commercial facilities within their jurisdiction as a high, medium, or low threat to water quality. Evaluation of these facilities should be based on such factors as type of commercial activities (SIC codes), materials or wastes used or stored outside, pollutant discharge potential, facility size, proximity and sensitivity of Receiving Waters, frequency of existing inspections, based upon other California statutes or regulations, or local regulations, ordinances, or codes, and any other relevant factors. At a minimum, a high priority classification shall be assigned to facilities with a high potential for or history of unauthorized, non-storm water discharges.
5. Once the inventory required by Subsection C.1, above, has been completed and the commercial facilities have been prioritized, consistent with Subsection C.4, above, the Co-Permittees are to determine the frequency with which the inventoried facilities are surveyed or inspected, pursuant to existing programs. Unless inspected more frequently pursuant to the existing programs, those commercial facilities given a high priority are to be inspected at least once a year, those commercial facilities given a medium priority are to be inspected at least once biannually, and those commercial facilities given a low priority are to be inspected at least once during the term of this Order. In the event that the commercial facility is found to be in violation of the Co-Permittee's Storm Water Ordinances the frequency of inspection shall be increased consistent with a compliance schedule determined appropriate by the Co-Permittee and as outlined in the revised E/CS to cause said facility to be brought into compliance.
6. The commercial facility compliance survey/inspection shall, at a minimum, address the following, consistent with the E/CS:
  - a. Commercial activity type(s) and SIC code(s);

- b. Compliance with each Co-Permittee's Storm Water Ordinances; If applicable, check for submittal of a NOI to comply with the General Industrial Activities Storm Water Permit or other permit issued by the State or Regional Board; and,
  - c. The E/CS.
7. The Permittees will expand its existing public educational program to include a concentrated, business-specific element. This expanded education element will be described in detail in the WQMP and the DAMP. This education program will include criteria to provide the commercial facility owner and/or operator with information to encourage compliance with the Co-Permittees' Storm Water Ordinances and the General Industrial Activities Storm Water Permit or other permit issued by the State or Regional Board, if applicable. If the commercial facility is found to need coverage under the General Industrial Activities Storm Water Permit or other permit issued by the State or Regional Board, information will be provided and the Regional Board will be notified.
  8. Each Co-Permittee shall enforce its Storm Water Ordinance prohibiting non-exempt non-storm water discharges at commercial facilities. Sanctions for non-compliance may include: verbal and/or written warnings, notice of violation or non-compliance, obtaining an administrative compliance, stop work, or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor).
  9. The number of compliance surveys/inspections and the actions taken shall be documented by the Co-Permittees and an appropriate summary of said actions will be provided to the Principal Permittee for inclusion in the Annual Report submitted to the Regional Board.
  10. Within twenty-four (24) hours of receipt of notice by its staff or from a third party, each Co-Permittee shall continue to provide oral or e-mail notification to the Regional Board of facilities within its jurisdiction that it perceives to have an illicit connection, illegal discharge, or that is determined to be an Emergency Situation. Following oral or e-mail notification, a written report must be submitted to Regional Board Staff within ten (10) calendar days of the Co-Permittee's receipt of notice of the Emergency Situation. All written reports shall detail the nature of the Emergency Situation, identify corrective actions taken by the facility owner, and note other relevant information (e.g., past history of non-compliance, environmental damage resulting from the Emergency Situation, facility owner or manager's responsiveness) and the type of enforcement, consistent with Table 4 of the E/CS, that has been or will be carried out by the Co-Permittee. Further, incidences of non-compliance shall be recorded along with the information noted in the written report and the final outcome/enforcement for the incident will be included in the database identified in Subsection C.1, above.

11. If a Co-Permittee discovers, or receives notice by its staff or from a third party of a non-Emergency Situation representing a possible violation of the General Industrial Activity Storm Water Permit, if applicable to the commercial facility, or other permit issued by the State or Regional Board to a commercial facility, the Co-Permittee shall, within two (2) working days, provide written notice to Regional Board staff of the location within its jurisdiction where the incident occurred and describing the nature of the incident.
12. Not all commercial facilities are required to obtain coverage under the General Industrial Activities Storm Water Permit. However, if required to obtain coverage and upon referral of a commercial facility to Regional Board staff for failure to obtain coverage under the General Industrial Activities Storm Water Permit, failure to keep a SWPPP at the commercial facility, or an observed act or omission that suggests failure to comply with the General Industrial Activities Storm Water Permit, the Co-Permittee will take no further action at the commercial facility with regard to securing compliance with the General Industrial Activities Storm Water Permit. It is understood by the Co-Permittees and Regional Board staff that this will preclude duplication of effort and insure that consistent direction is provided to the facility owner/manager as to what is required to bring the facility into compliance with the General Industrial Activities Storm Water Permit. Each Co-Permittee shall take appropriate actions to bring a commercial facility into compliance with its local ordinances, rules, regulations, and WQMP, when approved.
13. As described in the E/CS, Co-Permittees will provide training to staff that is involved in the compliance surveys/inspections of commercial facilities. Staff training will address the requirements of the following:
  - a. The Storm Water Ordinance;
  - b. This Order and the DAMP;
  - c. The General Industrial Activities Storm Water Permits and any other permit issued to a commercial facility within the Permit Area by the State or Regional Board;
  - d. The E/CS;
  - e. Pollution prevention plans; and,
  - f. Implementation and maintenance of appropriate BMPs for commercial sites.
14. Training programs should be coordinated with Regional Board staff and prior notification of formal classroom training activities shall be provided to Regional Board staff.
15. Each Co-Permittee shall have arranged for adequate training of its current municipal staff assigned to conduct the commercial facility compliance

survey/inspection within eighteen (18) months of this Order's adoption, and on an annual basis thereafter. New hires or transfers that will be performing the commercial facilities compliance surveys/inspections for a Co-Permittees will be trained within six (6) months of starting field duties.

#### **X. EDUCATION AND OUTREACH**

- A. The Urban Runoff regulations require public participation in the Urban Runoff management program development and implementation. As such the Permittees shall solicit and consider comments received from the public and submit copies of the comments to the Executive Officer with the Annual Reports due on November 30<sup>th</sup>, beginning with the report due on November 30, 2003. In response to the public comments, the Permittees may modify reports, plans, or schedules prior to submittal to the Executive Officer.
- B. The Permittees shall continue to participate in a joint outreach with other programs including, but not limited to, the California Urban Runoff Quality Task Force, Caltrans, and other Urban Runoff programs to disseminate a consistent message on Urban Runoff pollution prevention to the public. The Permittees shall continue to sponsor or staff an Urban Runoff table or booth at community, regional, and/or countywide events to distribute public education materials to the public. Each Permittee shall sponsor at least one event per year that provides a venue for Urban Runoff education outreach.
- C. Within six (6) months of this Order's adoption, the Permittees shall establish a Public Education Committee to provide oversight and guidance for the implementation of the public education program. The Public Education Committee shall meet at least twice per year. The Public Education Committee shall make recommendations for changes to the public and business education program. The goal of the public and business education program shall be to target 100% within the Permit Area of the residents, including businesses, commercial and industrial establishments and to measurably increase the awareness of Urban Runoff quality of the targeted groups. Through use of local print, radio and television, the Permittees must ensure that the public and business education program makes a minimum of 5 million "impressions" per year (as defined in Appendix 4, Glossary).
- D. Within twelve (12) months of formation, the Public Education Committee shall conduct an evaluation to determine the best method of establishing a procedure(s) for providing educational and General Industrial Activities Storm Water Permit compliance guidance materials to businesses within their jurisdiction. This procedure(s) for distributing educational materials to businesses shall be implemented within six (6) months after conducting said evaluation.
- E. The Permittees shall continue to implement the public education efforts already underway and shall implement the most effective elements of the public and business education strategy contained in the Storm Water/Clean Water Protection Program. Within eighteen (18) months of formation, the Public Education Committee shall propose a survey for measuring changes in awareness of Urban Runoff quality as a result of the education program. The findings of this survey will provide information for

the development of a future Public Education action plan. Upon approval by the Executive Officer, the study shall be completed by the end of the permit cycle.

- F. Within twelve (12) months of this Order's adoption, the Public Education Committee shall develop BMP guidance for restaurants, automotive service centers, and gasoline service stations, and the discharges listed in Section II.C. of this Order, where appropriate, for the Co-Permittees to distribute to these facilities.
- G. Within twelve (12) months of this Order's adoption, the Permittees shall develop public education materials to encourage the public to report (including a hotline line number to report) illegal dumping from residential, industrial, construction and commercial sites into public streets, storm drains and other waterbodies, clogged storm drains, faded or missing catch basin stencils and general Urban Runoff and BMP information. This hotline and website shall continue to be included in the public and business education program and shall be submitted for listing in the governmental pages of all major regional phone books.
- H. Within eighteen (18) months of this Order's adoption, the Permittees shall develop BMP guidance for the household use of fertilizers, pesticides, and other chemicals, mobile vehicle maintenance, carpet cleaners, commercial landscape maintenance, and pavement cutting. Additionally, BMP guidance shall be developed for categories of discharges listed in Section II.C, identified to be significant sources of pollutants unless appropriate BMPs are implemented. These guidance documents shall be distributed to the public, trade associations, etc., through participation in community events, trade association meetings, and/or mail.

#### **XI. MUNICIPAL FACILITIES PROGRAMS AND ACTIVITIES**

- A. Successful implementation of the provisions and limitations in this Order will require the cooperation of all the public agency organizations within Riverside County having programs/activities that have an impact on Urban Runoff quality. This may include, but not limited to, those listed in Appendix 2. As such, these organizations are expected to actively participate in implementing this area-wide Urban Runoff program. The Permittees shall be responsible for involving the public agency organizations in their Urban Runoff program.
- B. Within eighteen (18) months of this Order's adoption, the Permittees, in coordination with the Riverside County Fire Chiefs Association, or equivalent organization, shall develop a list of appropriate BMPs to be implemented to reduce pollutants from fire training activities, fire hydrant/sprinkler testing or flushing, and BMPs feasible for emergency fire fighting flows.
- C. Each Permittee shall continue to implement the recommendations in the Municipal Facilities Strategy to ensure that public agency facilities and activities do not cause or contribute to a pollution or nuisance in Receiving Waters, as defined in Section 13050 of the Water Code. By August 1 of each year, the Permittees shall review their activities and facilities to determine the need for revisions to the Municipal Facilities Strategy. The Annual Report shall include the findings of this review and a schedule

for needed revisions. Revisions should consider a pollution prevention strategy to ensure that the public agency facilities and/or activities including those that are currently not required to obtain coverage under the State's General Urban Runoff Permits or the San Jacinto Watershed Construction Activities Permit are not sources of pollutants into the Waters of the U. S. In addition, the Permittees shall evaluate the applicability of the Municipal Facilities Strategy to municipal maintenance contracts, contracts for field maintenance operations, and leases.

- D. Within six (6) months of adoption of this Order, the Permittees shall evaluate their established criteria for inspections of the MS4s and establish criteria for regular maintenance thereof.
- E. Within twenty (20) months of this Order's adoption, the Permittees shall complete an assessment of their MS4s to evaluate opportunities to configure and/or to reconfigure channel segments to function as pollution control devices and to optimize beneficial uses. These modifications may include in-channel sediment basins, bank stabilization, water treatment wetlands, etc. This shall be reported in the 2004-2005 Annual Report.
- F. Within twelve (12) months of this Order's adoption, the Permittees shall develop and distribute model maintenance procedures for public agency activities and MS4s such as street sweeping, catch basin stenciling, MS4 inspection, "cleaning" (see definition in Appendix 4), and maintenance. This shall be included in the 2004-2005 Annual Report.
- G. Within twelve (12) months of this Order's adoption, the Permittees shall review, document, and submit for approval by the Executive Officer, their program for cleaning out open channel MS4s, catch basins, retention/detention basins, and wetlands created for Urban Runoff treatment, prioritized on such factors as distance to Receiving Water, Receiving Water beneficial uses and impairments of beneficial uses, historical pollutant types and loads from past inspections/cleanings, regulatory restrictions, cost/benefit, and the presence of downstream regional facilities that would remove the types of pollutants found in the drainage facilities. Using these factors, the Permittees shall propose revised clean out schedules and frequency for the specified MS4s during the wet and dry season to protect Receiving Water quality to the MEP. The Permittees should be prepared to implement the approved clean out program within twenty-four (24) months of this Order's adoption. The inspection and maintenance frequency for all portions of the MS4s shall be evaluated annually to determine the need for increasing the inspection and maintenance frequency. This information shall initially be included in the 2003-2004 Annual Report.
- H. If by November 1, 2004, the Permittees have not developed revised clean out schedules and frequencies, required in Subsection G, above, and/or the revised schedules and frequencies have not been approved by the Executive Officer, then each Permittee shall expand existing programs to inspect, clean, and maintain at least 80% of its open channel MS4s, catch basins, retention/detention basins, and wetlands created for Urban Runoff treatment on an annual basis, with 100% of the facilities included in a two-year period, using the model maintenance procedures developed by the Permittees in Subsection F, above. Each Permittee shall clean those open channel

MS4s and retention/detention basins where there is evidence of illegal discharge. In addition, each Permittee shall clean those retention/detention basins where the inspection reveals that the sediment/storage volume is about 25% full or if accumulated sediment or debris impairs the hydraulic capacity of the facility.

- I. Contractor training requirements for Urban Runoff management shall be included in new contracts and contracts that come up for renewal. This shall be reported in the 2002-2003 Annual Report.
- J. Within eighteen (18) months of this Order's adoption, the Principal Permittee shall develop and distribute BMP guidance for public agency and contract field operations and maintenance staff to provide guidance in appropriate pollution control measures, how to respond to spills and reports of illegal discharges, etc. This shall be reported in the 2004-2005 Annual Report.
- K. At least on an annual basis, each Permittee shall provide training to the public agency staff and to contract field operations staff on fertilizer and pesticide management, model maintenance procedures, and other pollution control measures. Permittee staff responsible for application of fertilizer or pesticides shall attend at least three of these training sessions during the five-year term of this Order (from 2002 to 2007).
- L. Each Permittee shall identify areas that are not subject to street sweeping due to lack of continuous curb and gutter, and evaluate their potential for impacting Urban Runoff quality. Appropriate BMPs shall be implemented where significant water quality impact is identified associated with lack of street sweeping. This shall be reported in the 2003-2004 Annual Report.
- M. Each Permittee shall annually evaluate their street/road sweeping frequency based on land use and historical information to determine the need to revise their sweeping frequency. This information shall be provided in the Annual Report beginning with the 2003-2004 Annual Report.
- N. The Permittees shall maintain an updated site-specific Urban Runoff pollution prevention plan for their facilities and activities.

The San Bernardino County Flood Control District and RCFC&WCD, in cooperation with local municipalities, are coordinating an effort to construct flood control facilities in the Chino-Corona Agricultural Preserve area. A status report of this project shall be provided in the Annual Report.

## **XII. MUNICIPAL CONSTRUCTION PROJECTS/ACTIVITIES**

- A. All municipal construction activity shall be in compliance with the latest version of the applicable Construction Activity Permit.
- B. This Order authorizes the discharge of storm water runoff from construction projects that may result in land disturbance consistent with the acreage criteria of the current General Construction Activity Storm Water Permit.

- C. By March 10, 2003, or as specified in the latest version of the General Construction Activity Storm Water Permit, the Permittees shall comply with the requirements for municipal construction projects that may result in land disturbance consistent with the acreage criteria of the current Construction Activity Permits.
- D. Prior to commencement of construction activities, the Permittees shall notify the Executive Officer of the proposed construction project by submitting a Notice of Intent (NOI) provided in Attachment 5. The submittal fees for these NOIs are waived for the Permittees. Upon completion of the construction project, the Executive Officer shall be notified of the completion of the project by submitting a Notice of Termination (NOT), provided in Attachment 5.
- E. The Permittees shall develop and implement a SWPPP and a monitoring and reporting program that is specific for the construction project prior to the commencement of construction activities. The SWPPP shall be kept at the construction site and released to the public and/or Regional Board staff upon request.
- F. The SWPPP and the monitoring and reporting program for the construction projects shall be consistent with the requirements of the latest version of the Construction Activity Permits, as applicable for the size and location of the site. If the site is within the San Jacinto Watershed then the terms and conditions of the San Jacinto Watershed Construction Activities Permit apply, except with respect to submittal of a fee with the NOI and the requirement for this Regional Board to review and approve the site specific SWPPP. The applicable Permittee shall review and approve the SWPPP prepared by their contractor to insure the SWPPP substantially complies with the San Jacinto Watershed Construction Activities Permit. Upon request, the applicable Permittee shall submit a copy of the approved SWPPP.
- G. The Permittees shall give advance notice to the Executive Officer of planned changes in the construction activity, which may result in non-compliance with the latest version of the Construction Activity Permits, as applicable.
- H. Emergency public works projects required to protect public health and safety are exempted from compliance with the SWPPP requirements of subsection E, and the requirements of subsections F and G, above.

### **XIII. PROGRAM MANAGEMENT/DAMP REVIEW**

- A. The Permittees shall continue to implement all elements of the approved DAMP. Program elements revised in compliance with the requirements of this Order shall be implemented in conformance with the schedules specified in this Order following approval of the Executive Officer. Within six (6) months of approval of the WQMP by the Executive Officer, or no later than January 1, 2005, whichever comes first, the Permittees shall submit a revised DAMP incorporating the revised program elements and other information as specified by this Order for approval by the Executive Officer. The Permittees shall implement all elements of the approved DAMP.

- B. By August 1 of each year, beginning in 2004, the Permittees shall evaluate the DAMP to determine the need for revisions. The Permittees shall modify the DAMP, as necessary, or at the direction of the Executive Officer to incorporate additional provisions. Such provisions may include regional and watershed-specific requirements and/or WLAs developed and approved pursuant to the TMDL process for Impaired Waterbodies. Proposed revisions to the DAMP shall be submitted to the Executive Officer for review and approval. Revisions to the DAMP approved by the Executive Officer shall be implemented in a timely manner. The Annual Report shall include the findings of this review and a schedule for needed revisions.
- C. At a minimum, each Annual Report shall include a progress report of:
1. The formal training and coordination meeting needs for the Co-Permittees' staff responsible for performing compliance survey/inspections or educational programs;
  2. Source identification and prioritization;
  3. Grading and erosion control for construction sites;
  4. Verification of coverage under the appropriate General Construction and Industrial Activities Permits;
  5. Facility inspection and enforcement consistent with local ordinances, rules, and regulations;
  6. Procedures for reporting to the Permittees and this Regional Board non-compliance with each Co-Permittee's Storm Water Ordinance and enhancing current planning review processes to better address issues regarding Urban Runoff;
  7. Implementation of new development BMPs, or identification of regional or sub-regional Urban Runoff treatment/infiltration BMPs in which New Development projects could participate.
- D. Each Permittee shall designate at least one representative to the Management Steering Committee and Technical Committee as described in Section I.A.2. of this Order. The Principal Permittee shall be notified immediately, in writing of changes to the designated representative to either Committee. The designated representative for each Committee shall attend that Committee's meeting as follows: at least three (3) out of four (4) Management Steering Committee meetings and eight (8) out of ten (10) Technical Committee meetings per year.

#### **XIV. MONITORING AND REPORTING PROGRAM**

The Permittees shall comply with Monitoring and Reporting Program No. R8-2002-0011, located in Appendix 3, and any revisions thereto, which are hereby made a part of this Order. The Executive Officer is hereby authorized to revise the Monitoring and Reporting Program in a manner consistent with this Order to allow the Permittees to participate in regional, statewide, national or other monitoring and reporting programs in lieu of or in

addition to Monitoring and Reporting Program No. R8-2002-0011 located in Appendix 3. In addition, significant completion and implementation dates required by this Order are outlined in Section V of the Monitoring and Reporting Program (Appendix 3).

## **XV. PROVISIONS**

### **A. GENERAL**

1. Reports submitted by the Permittees as per the requirements in this Order for the approval of the Executive Officer shall be publicly noticed and made available on the Regional Board's website, or through other means, for public review and comments. The Executive Officer shall consider all comments received prior to approval of the reports. Unresolved issues shall be scheduled for a public hearing at a Regional Board meeting prior to approval by the Executive Officer.
2. The purpose of this Order is to require the implementation of BMPs to reduce, to the MEP, the discharge of pollutants from MS4s in order to support further progress towards attainment of water quality objectives.
3. Permittees shall demonstrate compliance with all the requirements in this Order and shall implement their DAMP and modifications, revisions, or amendments thereto, which are developed pursuant to this Order or determined by the Permittees to be necessary to meet the requirements of this Order and approved by the Executive Officer. The DAMP and amendments thereto are hereby made an enforceable part of this Order.
4. Each Permittee shall continue to implement necessary controls, in addition to those specific controls and actions required by (1) the terms of this Order and (2) the DAMP, to reduce the discharge of pollutants in Urban Runoff to the MEP.
5. The Permittees shall complete changes to plans or programs described in this Order no later than twelve (12) months after this Order goes into effect, unless otherwise specified.
6. Certain BMPs implemented or required by the Permittees for Urban Runoff management may create habitat for vectors (e.g., mosquitoes and rodents) if not properly designed and maintained. Close collaboration and cooperative effort between the Permittees and local vector control agencies and the State Department of Health Services during the development and implementation of Urban Runoff management programs are necessary to minimize potential vector habitat and public health impacts resulting from vector breeding. Nothing in this Order is intended to prohibit inspection or abatement of vectors by the State or local vector control agencies in accordance with the Health and Safety Code of the State of California.
7. The Permittees shall report to the Executive Officer:

- a. Any enforcement actions and known discharges of Urban Runoff or wastewater to facilities owned or operated by the Permittees which may impair domestic water supply sources (e.g., discharges due to a levee break, illegal discharges to the street, etc.) or which may have an impact on human health or the environment; if the discharge is to Canyon Lake or any tributary to Canyon Lake, Elsinore Valley Municipal Water District shall also be notified immediately;
  - b. Industrial and/or construction facilities found not to be in compliance with the Construction Activity Permits, or where the activities may be contributing pollutants to the Waters of the U. S.; and,
  - c. Suspected or reported activities on federal, state, or other entity's land or facilities, where the Permittees do not have any jurisdiction, and where the suspected or reported activities may be contributing pollutants to the Waters of the U. S.
8. The Permittees shall coordinate their activities to promote consistent implementation of Urban Runoff regulations.
  9. The permit application and special NPDES program requirements contained in 40 CFR 122.21 (a), (b), (d) (2), (f), and (p), 122.41 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l); and 122.42 (c) are incorporated into this Order by reference.
  10. The Permittees must comply with all terms, requirements, and conditions of this Order. Any violation of this Order constitutes a violation of the CWA, its regulations and the Water Code, and is grounds for enforcement action, Order termination, Order revocation and re-issuance, denial of an application for re-issuance, Order revisions, or a combination thereof.
  11. Permittees shall continue to take reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.
  12. Regional Board staff, USEPA, and other authorized representatives shall be allowed to:
    - a. Inspect Permittee records associated with compliance of this Order.
    - b. Access to and copying of records that are kept under the conditions of this Order.
    - c. Photograph and inspect any facilities or equipment (including monitoring and control equipment) that are related to or may impact storm water discharge or authorized non-storm water discharge.

- d. Conduct sampling, and monitoring activities for the purpose of assuring compliance with this Order, or as otherwise authorized by the CWA and/or the Water Code.
- e. Review the Permittee's programs and require modification to their programs to comply with the requirements of this Order.
- f. Request copies of data, monitoring reports, and sampling data and copies of the Permittee's conclusions and evaluations of the data.

#### B. FISCAL RESOURCES

The Permittees shall prepare and submit a unified fiscal analysis report appropriate for implementation of the requirements of this Order to the Executive Officer. The fiscal analysis report shall be submitted no later than November 30, of each year and shall at a minimum include the following:

1. Each Permittee's expenditures for the previous fiscal year;
2. Each Permittee's budget for the current fiscal year;
3. A description of the source of funds;

#### XVI. PERMIT EXPIRATION AND RENEWAL

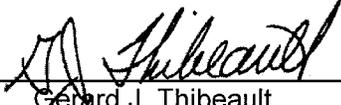
- A. This Order expires on October 26, 2007, and the Permittees must file a ROWD no later than one hundred eighty (180) calendar days in advance of such expiration date as application for issuance of new Waste Discharge Requirements. The ROWD shall, at a minimum, include the following:
  1. Any revisions to the DAMP including, but not limited to, activities the Permittees propose to undertake during the next permit term, goals and objectives of such activities, an evaluation of the need for additional source control and/or structural BMPs, proposed pilot studies, etc.;
  2. Any new or revised program elements and compliance schedule(s) necessary to comply with Section III of this Order.
  3. Changes in land use and/or population including map updates; and
  4. Significant changes to the MS4s, outfalls, detention or retention basins or dams, and other controls, including map updates of the MS4s.
- B. This Order may be modified, revoked or reissued prior to its expiration date for the following reasons:

Order No. R8-2002-0011 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

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1. To address significant changes in conditions identified in the technical reports required by the Regional Board which were unknown at the time of the issuance of this Order;
  2. To incorporate applicable requirements of statewide water quality control plans and policies adopted by the State Board or amendments to the Basin Plan approved by the Regional Board, the State Board, and, if necessary, by the Office of Administrative Law; or
  3. To comply with applicable requirements, guidelines, or regulations issued or approved under the CWA, if the requirements, guidelines, or regulations contain different conditions or additional requirements than those included in this Order.
  4. To incorporate new or revised program elements and compliance schedule(s) necessary to comply with this Order.
  5. To incorporate any requirements imposed upon the Permittees through the TMDL process.
  6. Pursuant to Section 13228 of the Water Code, this Regional Board may exercise its option allowing the recently annexed 375 acres to the City of Murrieta that are located within the Region to be regulated by the San Diego Regional Water Quality Control Board's Riverside MS4 Permit once it has been renewed.
- C. This Order shall serve as a NPDES permit pursuant to Section 402 (p) of the CWA, or amendments thereto, and shall become effective ten (10) calendar days after the date of its adoption provided the Regional Administrator of the USEPA has no objections. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.
- D. Order No. 96-30 is hereby rescinded.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on **October 25, 2002**.

  
\_\_\_\_\_  
Gerard J. Thibeault  
Executive Officer

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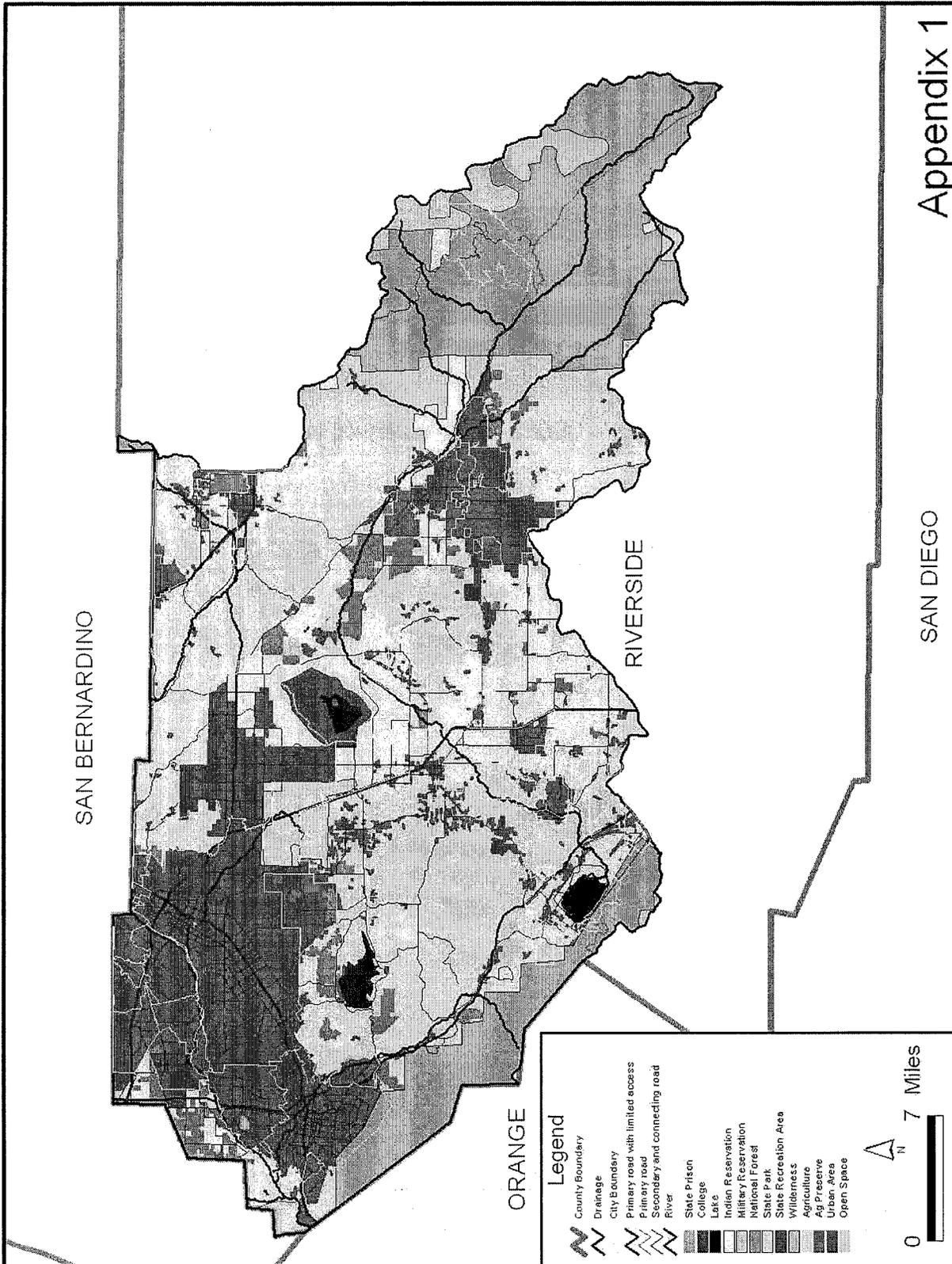
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# **APPENDIX 1**

## **Permit Area**

# **ORDER NO. R8-2002-0011**

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RCFC&WCD, the County of Riverside, and the Incorporated Cities



Appendix 1

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## **APPENDIX 2**

# **OTHER ENTITIES THAT MAY DISCHARGE POLLUTANTS TO MS4s**

**ORDER NO. R8-2002-0011**

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Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

## Appendix 2

### OTHER ENTITIES THAT MAY DISCHARGE POLLUTANTS TO MS4s

#### Government Agencies

Department of the Air Force,  
March Air Force Base – Special Districts  
State Parks  
U.S. Army Corps of Engineers  
Caltrans  
Department of Corrections  
U.S. Forest Service

#### Hospitals

Corona Community Hospital  
Hemet Valley Medical Center  
Kaiser Foundation Hospital – Riverside  
Loma Linda Hospital (Sun City)  
Parkview Memorial Hospital  
Riverside Community Hospital  
Riverside County Regional Medical Center  
Riverside General Hospital

#### Railroads

AT&SF Railway Company  
Burlington Northern Railroad Company  
Southern Pacific Railroad Company  
Union Pacific Railroad

#### Special Districts/ Wastewater Agencies

Edgemont Community Services District  
Jurupa Community Services District  
Santa Ana Watershed Project Authority  
Rubidoux Community Services District  
Valley Wide Park and Recreation District

#### School Districts

Alvord Unified School District  
Corona – Norco Unified School District  
Hemet Unified School District  
Lake Elsinore Unified School District  
Menifee Union School District  
Moreno Valley Unified School District  
Nuview Union School District  
Perris Elementary School District  
Perris Union High School District  
Riverside Unified School District  
Romoland School District  
San Jacinto Unified School District  
Val Verde School District

#### Universities and Colleges

California Baptist University  
La Sierra University  
Mt. San Jacinto College  
Riverside Community College  
University of California, Riverside

#### Water Districts

Eastern Municipal Water District  
Elsinore Valley Municipal Water District  
Lake Hemet Municipal Water District  
Lee Lake Water District  
Metropolitan Water District  
Western Municipal Water District

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**APPENDIX 3**

**MONITORING AND REPORTING PROGRAM**

**ORDER NO. R8-2002-0011**

**California Regional Water Quality Control Board  
Santa Ana Region**

**Urban Runoff Monitoring and Reporting Program No. R8-2002-0011  
NPDES No. CAS618033**

**for  
Riverside County Flood Control and Water Conservation District,  
The County of Riverside, and the Cities of Riverside County  
within the Santa Ana Region  
Area Wide Urban Runoff**

**I. GENERAL**

- A. Revisions of the Urban Runoff monitoring and reporting program are appropriate to ensure that the Permittees are in compliance with requirements and provisions contained in this Order. Revisions may be made under the direction of the Executive Officer at any time during the term of the Order, and may include a reduction or increase in the number of parameters to be monitored, the frequency of monitoring, or the number and size of samples collected.
- B. The Executive Officer is authorized to allow the Permittees to participate in statewide, national, or other monitoring programs in lieu of this Urban Runoff monitoring program.
- C. All sample collection, handling, storage, and analysis shall be in accordance with test procedures under 40 CFR Part 136 (latest edition) "*Guidelines Establishing Test Procedures for the Analysis of Pollutants*," promulgated by the USEPA, the guidance being developed by the State Board pursuant to Water Code Section 133383.5, or other methods which are more sensitive than those specified in 40 CFR 136 and approved by the Executive Officer.
- D. The Permittees are authorized to complement their Urban Runoff monitoring data with data from other monitoring sources, provided the monitoring conditions and sources are similar to those in the Santa Ana Watershed.
- E. The Principal Permittee has been monitoring Urban Runoff and Receiving Waters since the first permit term. It is recognized that some of the objectives noted in Section II, below, may not have been attained during the previous permit terms. Ongoing long-term Urban Runoff monitoring will help to accomplish these objectives. The Regional Board authorizes the Executive Officer to evaluate and determine adequate progress toward meeting each objective.
- F. This Order references three components of the Consolidated Monitoring Program (the "CMP"): (1) The existing CMP shall continue to be implemented until the revised CMP is approved; (2) The CMP will be reviewed and revised under this Order to identify data gaps and to attain the objectives specified in Section II, below and (3) Other regional monitoring efforts where the Permittees participate or contribute resources.

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- G. Pending approval of the revised CMP, current monitoring efforts will focus on areas with elevated pollutant concentrations. The Principal Permittee, in coordination with Regional Board staff, will identify these monitoring locations within six (6) months of adoption of this Order.
- H. The Permittees shall develop and submit, within twelve (12) months of adoption of this Order a revised CMP for approval by the Executive Officer. The revised CMP should reflect an integrated watershed monitoring approach and be capable of attaining the objectives mentioned below. The development and implementation of the monitoring program shall be in accordance with any requirements developed by the State Board and the time schedules prescribed by the Executive Officer.
- I. It is highly recommended that the Permittees cooperate, as appropriate, with other MS4 Permittees (including Orange County and San Bernardino County), the Southern California Coastal Water Research Project (SCCWRP), POTW operators, the dairy industry, the Santa Ana Watershed Project Authority (SAWPA), and other public and private organizations in the watershed to develop coordinated surface water quality monitoring programs, databases, and special studies.

## II. OBJECTIVES

The overall goal of the Urban Runoff monitoring program is to support the development of an effective Urban Runoff management program. The following are the major objectives:

- A. To identify those Receiving Waters, which, without additional action to control pollution from Urban Runoff that cannot reasonably be expected to achieve or maintain applicable water quality standards required to sustain the beneficial uses, the goals, and the objectives of the Basin Plan.
- B. To develop and support an effective MS4 management program.
- C. To identify significant water quality problems, related to discharges of Urban Runoff within the Permit Area.
- D. To define water quality status, trends, and pollutants of concern associated with urban discharges and their impact on the beneficial uses of the Receiving Waters.
- E. To analyze and interpret the collected data to determine the impact of Urban Runoff and/or validate any water quality models.
- F. To characterize pollutants associated with Urban Runoff, and to assess the influence of urban land uses on Receiving Water quality and the beneficial uses of Receiving Waters.

- G. Identify significant water quality problems related to urban storm water discharges.
- H. To identify other sources of pollutants in storm water runoff to the maximum extent possible (e.g., including, but not limited to, atmospheric deposition, and contaminated sediments, other non-point sources, etc.)
- I. To identify and prohibit illicit connections.
- J. To identify and prohibit illicit discharges.
- K. To verify and to identify sources of Urban Runoff pollutants.
- L. To identify and prohibit illicit connections.
- M. To verify and to control illegal discharges.
- N. To evaluate the effectiveness of the DAMP and WQMPs, including an estimate of pollutant reductions achieved by the structural and nonstructural BMPs implemented by the Permittees.
- O. To conduct monitoring in cooperation with San Bernardino County for investigation of bacteriological impairments in the upper Santa Ana River due to Urban Runoff.
- P. To evaluate the costs and benefits of proposed Urban Runoff management programs to protect Receiving Water quality.

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### III. MONITORING PROGRAM REQUIREMENTS

- A. TMDL/303(d) Listed Waterbody Monitoring: The Permittees should continue to participate in the TMDL and Southern California Cooperative Storm Water Research/Monitoring programs as they relate to Urban Runoff. In addition, strategies shall be revised/developed to evaluate the impacts of Urban Runoff on identified impairments within the Santa Ana River watershed and other tributary 303(d) listed waterbodies.
- B. The Permittees shall revise their CMP, within twelve (12) months of adoption of this Order. The revised CMP shall consider, at a minimum and include, the following monitoring components or their equivalent:
  1. Mass Emissions Monitoring:
    - a. An estimate of flow in cubic feet per second (cfs) from the outfall/stream at the time of sampling.
    - b. Monitor mass emissions in Urban Runoff to: (a) estimate the total mass emissions from the MS4 to Receiving Waters; (b) assess trends in mass emissions associated with Urban Runoff over time; and (c) to determine if Urban Runoff is contributing to exceedances of water quality objectives or beneficial uses in Receiving Waters by comparing results to the Basin Plan.
    - c. Representative samples from the first storm event and two more storm events shall be collected during the rainy season. A minimum of three dry-weather samples shall also be collected. Samples from the first rain event each year shall be analyzed for the entire suite of priority pollutants. All samples must be analyzed for metals, pH, TSS, TOC, pesticides/herbicides, and constituents that are known to have contributed to impairment of local receiving waters. Dry weather samples should also include an analysis for oil and grease. Sediments associated with mass emissions should be analyzed for constituents of concern identified in the water analyses.
  2. Microbial Monitoring: A monitoring program to determine the sources of bacteriological contamination in the Upper Santa Ana River, is being developed in collaboration with the MS4 Permittees in San Bernardino County. This program associated with Urban Runoff shall include wet and dry weather monitoring, as appropriate, for bacteriological constituents in the Santa Ana River and its tributaries.
  3. Water Column Toxicity Monitoring: Analyses for toxicity to aquatic species shall be performed on Receiving Water samples to determine the impacts of Urban Runoff on toxicity of Receiving Waters. *Ceriodaphnia dubia* fertilization, Fathead Minnow larval survival test, and Selenastrum Capricornutum growth test shall be used to evaluate toxicity on the sample from the first rain event, plus one other wet weather sample. In addition, where applicable collect two dry weather samples or propose equivalent procedures in the CMP. In addition,

criteria shall be identified which will trigger the initiation of Toxicity Identification Evaluations (TIEs) and Toxicity Reduction Evaluations (TREs).

4. Reconnaissance: The Permittees shall review and update their reconnaissance strategies to identify and prohibit illicit discharges. Where possible, the use of GIS to identify geographic areas with a high density of industries associated with gross pollution (e.g. electroplating industries, auto dismantlers) and/or locations subject to maximum sediment loss (e.g. new development) may be used to determine areas for intensive monitoring efforts. Additionally, the Permittees shall coordinate with the Regional Board to develop a comprehensive database to include enforcement actions for storm water violations and unauthorized, non-storm water discharges that can then be used to more effectively target reconnaissance efforts.
  5. Land Use Correlations: The Permittees shall develop and implement strategies for determining the effects of urban land use on the quality of Receiving Waters. While it is recognized that a wide range of land uses exist across the region and within each sub-watershed, one relationship that may be determined is the impact of urban development on sediment loading within Receiving Waters, since developed areas contribute relatively little sediment loading compared to areas under construction. Consequently, the Permittees shall, at a minimum, analyze the impacts of increasing development and the conversion of agricultural land to urban land uses to the sediment loading of Canyon Lake, Lake Elsinore, and the Santa Ana River (Reaches 3 and 4).
  6. Sources of Data: Where possible and applicable, data shall be obtained from monitoring efforts of other public or private agencies/entities (e.g., Caltrans).
  7. Bioassessments: The development of an Index of Biological Integrity for Southern California. This shall include the selection and identification of appropriate bioassessment station locations, sampling scheme(s), and shall also be capable of attaining the objectives mentioned in Section II, above. The Permittees may develop bioassessments in coordination or cooperation with other parties as addressed in Section I.I., above.
- C. Within twelve (12) months of adoption of this Order, the Permittees shall develop and submit for approval of the Executive Officer, their revised CMP, which should support the achievement of the above-stated goals. The implementation of the CMP shall be in accordance with the time schedules prescribed by the Executive Officer. At a minimum, the CMP shall address the following and any requirements developed by the State Board in accordance with Water Code Section 13383.5:
1. Uniform guidelines for quality control, quality assurance, data collection and data analysis.
  2. A procedure for the collection, analysis, and interpretation of existing data from local, regional or national monitoring programs. These data sources may be utilized to characterize different sources of pollutants discharged to the MS4; to determine pollutant generation, transport and fate; to develop a relationship between land use, development size, storm size and the event mean

concentration of pollutants; to determine spatial and temporal variances in Urban Runoff quality and seasonal and other bias in the collected data; and to identify any unique features of the Permit Area. The Permittees are encouraged to use data from similar studies, if available.

3. A description of the CMP including:
  - a. The number of monitoring stations;
  - b. Monitoring locations within MS4s, major outfalls, and Receiving Waters; Environmental indicators (e.g., ecosystem, flow, biological, habitat, chemical, sediment, stream health, etc.) chosen for monitoring;
  - c. Total number of samples to be collected from each station, frequency of sampling during wet and dry weather, short duration or long duration storm events, type of samples (grab, 24-hour composite, etc.), justification for composite versus discrete sampling, type of sampling equipment, quality assurance/quality control procedures followed during sampling and analysis, analysis protocols to be followed (including sample preparation and maximum reporting limits), and qualifications of laboratories performing analyses;
  - d. A procedure for analyzing the collected data and interpreting the results including an evaluation of the effectiveness of the management practices, and need for any refinement of the WQMPs or the DAMP.
  - e. Parameters selected for field screening and for laboratory work; and
  - f. A description of the responsibilities of all the participants in this program, including cost sharing.

#### **IV. REPORTING**

- A. All progress reports and proposed strategies and plans required by this Order shall be signed by the Principal Permittee, and copies shall be submitted to the Executive Officer under penalty of perjury.
- B. The Permittees shall submit an Annual Report to the Executive Officer and to the Regional Administrator of the USEPA, Region 9, no later than November 30th, of each year. This progress report may be submitted in a mutually agreeable electronic format. At a minimum, the Annual Report shall include the following:
  1. A review of the status of program implementation and compliance (or non-compliance) with the schedules contained in this Order;
  2. An assessment of the effectiveness of control measures established under the illicit discharge elimination program and the DAMP. The effectiveness may be measured in terms of how successful the program has been in eliminating illicit connections/illegal discharges and reducing pollutant loads in Urban Runoff;

3. An assessment of any modifications to the WQMPs, or the DAMP made to comply with CWA requirements to reduce the discharge of pollutants to the MEP;
  4. A summary, evaluation, and discussion of monitoring results from the previous year and any changes to the monitoring program for the following year;
  5. A fiscal analysis progress report as described in Section XV, Provision B., of Order No. R8-2002-0011;
  6. A draft work plan that describes the proposed implementation of the WQMPs and the DAMP for next fiscal year. The work plan shall include clearly defined tasks, responsibilities, and schedules for implementation of the storm water program and each Permittee's actions for the next fiscal year;
  7. Major changes in any previously submitted plans/policies; and
  8. An assessment of the Permittees compliance status with the Receiving Water Limitations, Section III of the Order, including any proposed modifications to the WQMPs or the DAMP if the Receiving Water Limitations are not fully achieved.
- C. The Co-Permittees shall be responsible for the submittal of all required information/materials needed to comply with this order in a timely manner to the Principal Permittee. A duly authorized representative of the Co-Permittee under penalty of perjury shall sign all such submittals.

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**REPORTING SCHEDULE**

All reports required by this Order shall be submitted to the Executive Officer in accordance with the following schedule:

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
I.A.2.a. & I.B.2.a.	Management Steering Committee meetings to discuss permit implementation	Held at least quarterly	Annually on Nov. 30 <sup>th</sup>
I.A.2.b. & I.B. .2.b.	Permittee Technical Committee meetings to discuss permit implementation	Held at least 10 times each year	Annually on Nov. 30 <sup>th</sup>
I.B.2.a. & XIII.D.	Co-Permittees Participate in Management and Technical Committee meetings to discuss permit implementation	Attend at least 3 out of 4 Management and 8 out of 10 Technical meetings each year	Annually on Nov. 30 <sup>th</sup>
III.D.1.	Notify Regional Board if Section III.E. discharges from MS4s cause exceedance of Receiving Water Quality Objectives.	---	2 working days Oral or e-mail notice and 30 days written from time of becoming aware of the situation.
III.D.4.	Modify DAMP	---	90 days after approval by Exec. Officer
III.D.6.	Report discovery of exceedances from outside sources.	---	2 working days Oral or e-mail notice and 10 days written from time of becoming aware of the situation.
IV.A.	Revise existing Implementation Agreement.	6 Months	Nov. of the year following adoption.
IV.B.	Evaluate Urban Runoff Management structure and Implementation Agreement annually.	Annually on Nov. 30 <sup>th</sup>	Annually on Nov. 30 <sup>th</sup>
V.C.	Determine if Permittees have provided their staff authority to impose fines.	6 Months	Nov. of the year following adoption.
V.D.	Enact ordinances or other local regulatory mechanisms that include sanctions to ensure compliance	18 Months.	Nov. of the second year following adoption.
V.F.	Provide a report on the effectiveness of their Storm Water Ordinances and their enforcement, in prohibiting illegal discharges to the MS4s	12 Months	Nov. of the year following adoption.
V.G.	Legal Authority & Enforcement Strategy, Certification	18 months.	Nov. of the second year following adoption.
VI.A.	Eliminate or Permit illicit connections	60 days from receipt of notice.	Nov. of the year received notice.
VI.B.	Investigate Spills, Leaks, and/or illegal discharges.	Within 24 hours of receipt of notice.	Nov. of the year received notice.

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
VI.D.	Evaluate available BMPs & recommend any improvements needed.	18 Months.	Nov. of the second year following adoption.
VI.E.	Litter/Trash Control Ordinance review	18 Months.	Nov. of the second year following adoption.
VII.B.	Develop mechanism to address septic system failures	12 Months.	Nov. of the year following adoption.
VII. C.	Review current oversight programs for portable toilets to determine the need for any revision	12 Months.	Nov. of the year following adoption.
VIII. A. 1	Establish a procedure to ensure local permits for proposed construction sites and industrial facilities are conditioned upon proof of obtaining coverage under the applicable General Storm Water Permit(s)/ San Jacinto Watershed Construction Activities Permit	6 months	Nov. of the year following adoption.
VIII. A.8	Review planning procedures and CEQA processes	12 Months	Nov. of the year following adoption.
VIII. A.9	Incorporate watershed protection principles and policies into the General Plan	26 Months	Nov. of the third year following adoption
VIII.A.10	Review and revise, as necessary, grading/erosion control ordinances to reduce erosion.	16 Months	Nov. of the second year following adoption.
VIII.A.11	Listing of BMPs for Construction	18 Months.	Nov. of the second year following adoption.
VIII.B.	Develop WQMP	20 Months.	Nov. of the third year following adoption.
VIII.B.4.	In the absence of an approved WQMP, the structural BMPs for all new development and significant redevelopment shall be sized to comply with one of the numeric sizing criteria given in Section VIII.B.5.	January 1, 2005	Nov. 30, 2005
VIII.B.6.b.(1).	Waiver and justification document submittal.	Within 30 days of issuance of waiver.	Nov. of year granted waiver.
IX.	Revise the E/CS	12 Months.	Nov. of the year following adoption.
IX.	Develop and update criteria in E/CS for inspection of Construction, Industrial and Commercial facilities, including site information, priority, and inspection information	12 Months.	Nov. of the year following adoption.
IX.A.1.	Develop and update a construction site database, including site information, priority, and inspection information	12 Months.	Nov. of the year following adoption.
IX.A.1.	Include Section VIII.B.1. criteria sites in database.	13 Months.	Nov. of the year following adoption.

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
IX.A.2.	Inspect all inventoried construction sites	12 Months.	Nov. of the year following adoption.
IX.A.6.	Public agency staff and contract field operations staff adequately trained for Construction Sites inspections.	12 Months existing employees, 6 months new employees, and annually thereafter.	Annually on Nov. 30th
IX.A.7., IX.B.6., & IX.C.10.	Report Emergency Situations	---	24 hours Oral or e-mail notice and 10 days written from time of notice
IX.A.8., IX.B.7., & IX.C.11.	Report Non-Emergency Situations	---	2 working days Oral or e-mail notice and 10 days written from time of notice
IX.B.1.	Develop and update an industrial facilities database, including facility information, priority, and inspection information	18 Months and annually thereafter.	Nov. of the second year following adoption.
IX.B.12, & IX.C.15.	Public agency staff and contract field operations staff adequately trained for inspection of Industrial and Commercial Facilities.	18 Months existing employees, 6 months new employees, and annually thereafter.	Annually on Nov. 30th
IX.C.1.	Develop and update a commercial site database, including facility information, priority, and inspection information	18 Months.	Nov. of the third year following adoption.
IX.C.2.	Update the commercial site database to include additional categories of commercial facilities	24 Months.	Nov. of the third year following adoption.
IX.C.3.	Revise CAP and Develop restaurant inspections program, which includes runoff, grease blockage, and spill reduction aspects.	12 Months.	Nov. of the year following adoption.
X.A.	Submit Public Comments received in response to modifications to reports, plans, or schedules.	Annually	Annually on Nov. 30th
X.B.	Sponsor at least one Urban Runoff public outreach.	Annually	Annually on Nov. 30th
X.C.	Establish Public Education Committee	6 Months.	Nov. of the year following adoption.
X.D.	Determine the best method to provide educational and General Industrial Activities Storm Water Permit materials to businesses within their jurisdiction	18 months and begin implementation procedures within 24 months.	Nov. of the third year following adoption.
X.E.	Propose and implement a public awareness survey	24 months	Nov. 2007.

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
X. F.	BMP guidance for restaurants, automotive service centers, and gasoline service stations, developed by Public Education Committee	12 Months	Nov. of the second year of adoption.
X.G.	Develop public education materials including reporting hot line and web site.	12 Months	Nov. 30, 2003
X. H	BMP guidance for control of potential polluting activities not otherwise regulated	18 Months.	Nov. of the year following adoption.
XI.B.	Develop BMPs for fire fighting training & equipment testing.	18 Months	Nov. of the year following adoption.
XI.C.	Review Municipal Facilities Strategy and evaluate its applicability to municipal maintenance contracts, contract for field maintenance operations, and leases	Annually on August 1 <sup>st</sup>	Nov. 30 <sup>th</sup>
XI. D	Evaluate criteria for inspection and maintenance of MS4s.	6 months and Annually thereafter	Annually on Nov. 30 <sup>th</sup>
XI.E.	Review opportunities to configure/reconfigure MS4s	20 months.	Nov. of the third year following adoption.
XI.F.	Develop Model Public Facility Maintenance Program for activities and drainage facilities.	12 months.	Nov. of the third year following adoption.
XI.G.	Implement program to clean out MS4s	12 Months	Nov. of the second year following adoption.
XI.H.	Failsafe Clean out Open Channel MS4s and Retention/Detention Basins schedule	November 1, 2004	Nov. 2005
XI.J.	Develop and distribute BMP guidance for public agency and contract field operations and maintenance staff	18 months	Nov. of the year following adoption.
XI.K.	Training provided on fertilizer and pesticide management and other pollution control measures	Annually (Staff attend @ least 3 out of 5).	Annually on Nov. 30 <sup>th</sup>
XI.L.	Identify areas that are not subject to street sweeping due to lack of continuous curb and gutter, and evaluate their potential for impacting Urban Runoff quality.	Nov. 2004	Nov. 2004
XI.M.	Evaluate street/road sweeping frequency	Annually	Annually on Nov. 30 <sup>th</sup>
XI.O.	Status report on flood control facilities in the Chino-Corona agricultural preserve area.	Annually	Annually on Nov. 30 <sup>th</sup>
XII.B.	Comply with the requirements for municipal construction projects that may result in land disturbance greater than one acre.	March 10, 2003	Nov. of the year following adoption.
XIII.A.	Revise the DAMP	6 months after WQMP approval or Jan. 1, 2005	Nov. 2005.
XIII.B.	Evaluate the DAMP for additional revision.	Annually on August 1 <sup>st</sup>	Nov. 30 <sup>th</sup>
XV.A.5	Unless otherwise specified complete changes to plans or programs in this Order.	12 Months	Nov. of the year following adoption.

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
XV.B.	Annual Report/Fiscal Analysis	Annually	Nov. 30 <sup>th</sup>
XVI.A.	Report of Waste Discharge	180 days before permit expires	April 27, 2007
Appendix 3 I.G.	Identify monitoring locations for interim monitoring.	6 Months	Nov. of the year following adoption.
Appendix 3 I.H, III.B. & III.C.	Revise CMP	12 Months	Nov. of the year following adoption.
Appendix 3. IV.B.	Summary, evaluation, and discussion of monitoring results and re-evaluate monitoring program priorities based on previous year's data	Annually, Nov.30 <sup>th</sup>	Nov. 30 <sup>th</sup>

Ordered by \_\_\_\_\_  
**Gerard J. Thibeault**  
Executive Officer  
October 25, 2002

Order No. R8-2002-0011 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

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# **APPENDIX 4**

## **GLOSSARY**

**ORDER NO. R8-2002-0011**

## APPENDIX 4

### GLOSSARY

**Annual Report** - Pursuant to each NPDES MS4 permit issued by the Regional Board to the Permittees, there is a requirement that an Annual Report be filed with the Regional Board on or before each November 30th.

**APN** - Assessor's parcel number

**Basin Plan** - Water Quality Control Plan developed by the Regional Board for the Santa Ana River Watershed.

**BAT [Best Available Technology]** – BAT is the technology-based standard established by Congress in CWA section 402(p)(3)(A) for industrial dischargers of storm water. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source controls and structural treatment BMPs. For example, secondary treatment (or the removal of 85% suspended solids and BOD) is the BAT for suspended solid and BOD removal from a sewage treatment plant. BAT generally emphasizes treatment methods first and pollution prevention and source control BMPs secondarily.

The best economically achievable technology that will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants is determined in accordance with regulations issued by the USEPA Administrator. Factors relating to the assessment of BAT shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the permitting authority deems appropriate.

**BCT [Best Conventional Technology]** – BCT is the treatment techniques, processes and procedure innovations, and operating methods that eliminate or reduce chemical, physical, and biological pollutant constituents.

**Beneficial Uses** – The uses of water necessary for the survival or well being of man, plants, and wildlife. These uses of water serve to promote the tangible and intangible economic, social, and environmental goals. “Beneficial Uses” that may be protected against include, but are not limited to: domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. “Beneficial Uses” are equivalent to “Designated Uses” under federal law. [California Water Code Section 13050(f)].

**Biological Integrity** – Defined in Karr J.R. and D.R. Dudley. 1981. Ecological perspective on water quality goals. Environmental Management 5:55-68 as: “A

balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitat of the region.” Also referred to as ecosystem health.

**BMP [Best Management Practices]** – Defined in 40 CFR 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the U.S. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. In the case of MS4 permits, BMPs are typically used in place of numeric effluent limits.

**Caltrans** - California Department of Transportation

**CAP** - Compliance Assistance Program developed and funded by the Permittees.

**CEQA** - California Environmental Quality Act (Section 21000 et seq. of the California Public Resources Code.

**"cleaning"** - The removal of litter or debris that can impact Receiving Waters.

**CMP** - Consolidated Program for Water Quality Monitoring

**Conditions of Concern** - Scour, erosion (sheet, rill and/or gully), aggradation (raising of a streambed from sediment deposition), changes in fluvial geomorphology, hydrology and changes in aquatic ecosystem.

**Construction Activity Permits** – Collectively, the General Construction Activity Storm Water Permit and the San Jacinto Watershed Construction Activities Permit.

**"contamination"** – As defined in the Porter-Cologne Water Quality Control Act, contamination is “an impairment of the quality of waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.” ‘Contamination’ includes any equivalent effect resulting from the disposal of waste whether or not Waters of the U.S. are affected.

**Co-Permittees** - County of Riverside and the cities of Beaumont, Calimesa, Canyon Lake Corona Hemet, Lake Elsinore, Murrieta, Moreno Valley Norco, Perris, Riverside, and San Jacinto.

**County** - County of Riverside, legal entity

**CWA** - Federal Clean Water Act

**DAMP [Drainage Area Management Plan]** - The DAMP is a programmatic document developed by the Permittees and approved by the Executive Officer that outlines the major programs and policies that the Permittees individually and/or collectively implement to manage Urban Runoff in the Permit Area.

**E/CS** - Enforcement Compliance Strategy developed by the Permittees dated December 20, 2001.

**"effluent limitations"** – Limitations on the volume of each waste discharge and the quantity and concentrations of pollutants in the discharge. The limitations are designed to ensure that the discharge does not cause water quality objectives to be exceeded in the receiving water and does not adversely affect beneficial uses.

Effluent limitations are limitations of the quantity and concentrations of pollutants in a discharge. The limitations are designed to ensure that the discharge does not cause water quality objectives to be exceeded in the receiving water and does not adversely affect beneficial uses. In other words, an effluent limit is the maximum concentration of a pollutant that a discharge can contain. To meet effluent limitations, the effluent typically must undergo one or more forms of treatment to remove pollutants in order to lower the pollutant concentration below the limit. Effluent limits are typically numeric (e.g., 10 mg/l).

**Emergency Situation** – At a minimum, sewage spills that could impact water contact recreation, all sewage spills above 1,000 gallons, an oil spill that could impact wildlife, a hazardous material spill where residents are evacuated, all reportable quantities of hazardous waste spills as per 40CFR 117 and 302, and any incident reportable to the OES (1-800-852-7550).

**Executive Officer** - The Executive Officer of the Regional Board

**General Construction Activity Storm Water Permit** - State Board Order No. 99-08 DWQ (NPDES No. CAS000002)

**General Dairy Permit** - Regional Board Order No. 99-11 (NPDES No. CAG018001) for concentrated animal feeding operations

**General Industrial Activities Storm Water Permit** - State Board Order No. 97-03 DWQ (NPDES No. CAS000001)

**General Storm Water Permits** - General Industrial Activities Storm Water Permit and General Construction Activity Storm Water Permit.

**GIS** – Geographical Information Systems.

**"hazardous material"** – Any substance that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by the USEPA to be reported if a designated quantity of the material is spilled into the Waters of the U.S. or emitted into the environment.

**" illegal discharge"** – Illegal discharge means any disposal, either intentionally or unintentionally, of material or waste to land or MS4s that can pollute storm water or create a nuisance. The term illegal discharge includes any discharge to the MS4 that is

not composed entirely of storm water, except discharges pursuant to an NPDES permit, discharges that are identified in Section II. C. of this Order, and discharges authorized by the Executive Officer.

**"illicit connection"** - Illicit Connection means any connection to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit connection includes all non storm-water discharges and connections except discharges pursuant to an NPDES permit, discharges that are identified in Section II, Discharge Limitations/Prohibitions, of this Order, and discharges authorized by the Executive Officer.

**Impaired Waterbody** – Section 303(b) of the CWA requires each of California's Regional Water Quality Control Boards to routinely monitor and assess the quality of waters of their respective regions. If this assessment indicates that beneficial uses are not met, then that waterbody must be listed under Section 303(d) of the CWA as an impaired waterbody. The 1998 water quality assessment listed a number of water bodies within the Permit Area as impaired pursuant to Section 303(d). In the Permit Area, these include: Canyon Lake (for nutrients and pathogens); Lake Elsinore (for nutrients, organic enrichment/low D.O., unknown toxicity and sedimentation); Lake Fulmor (for pathogens); Santa Ana River, Reach 3 (for nutrients, pathogens, salinity, TDS, and chlorides); and Santa Ana River, Reach 4 (for pathogens).

**Implementation Agreement** - NPDES Storm Water Discharge Permit - Implementation Agreement dated November 12, 1996 by and among the Permittees.

**"impressions"** - The most common measure is "gross impressions" that includes repetitions. This means if the same person sees an advertisement or hears a radio or sees a TV advertisement a thousand times, that will be counted as 1000 impressions. There are independent auditing agencies (e.g., Nielsen Rating) that perform this task and provide you with the numbers. In most cases, when you buy an advertisement in any media, they will provide you this number.

**LA** - Load allocations

**"land disturbance"** – The clearing, grading, excavation, stockpiling, or other construction activity that results in the possible mobilization of soils or other pollutants into MS4s. This specifically does not include routine maintenance activity to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. This also does not include emergency construction activities required to protect public health and safety. The Permittees should first confirm with Regional Board staff if they believe that a particular routine maintenance activity is exempt under this definition from any General Storm Water Permit or other Orders issued by this Regional Board.

**Management Steering Committee** - A committee to address Urban Runoff management policies for the Permit Area and coordinate the review and necessary revisions of the DAMP and Implementation Agreement.

**MEP [Maximum Extent Practicable]** – There is no statutory or regulatory definition for MEP. The CWA section 402(p)(3)(B)(iii) requires that MS4 permits "shall require controls to reduce the discharge of pollutants to the MEP, including management

practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants..." However, there has been several interpretations that have been provided including:

1. MEP means that when considering and choosing BMPs to address an identified pollution problem, the municipality is to consider the following: technical feasibility, effectiveness, compliance with regulatory standards, cost, and public acceptance. The BMP chosen must achieve greater or substantially the same pollution control benefit as identified in the manuals developed by the California Storm Water Quality Task Force (Proposed by Permittees).
2. MEP means to the maximum extent feasible, taking into account considerations of synergistic, additive, and competing factors, including but not limited to, gravity of the problem, technical feasibility fiscal feasibility, public health risks, societal concerns, and social benefits. (Order R8-2001-10 Orange County MS4 Permit)
3. MEP is the technology-based standard established by Congress in CWA Section 402(p)(3)(B)(iii) that municipal dischargers of storm water (MS4s) must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of treatment and BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their Water Quality Management Plan. Their total collective and individual activities conducted pursuant to the Water Quality Management Plan becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for municipal separate storm sewer system maintenance). In the absence of a proposal acceptable to the SARWQCB, the SARWQCB defines MEP.
4. In a memo dated February 11, 1993, entitled "Definition of Maximum Extent Practicable," Elizabeth Jennings, Senior Staff Counsel, SWRCB addressed the achievement of the MEP standard as follows:

*"To achieve the MEP standard, municipalities must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:*

- a. *Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?*

- b. *Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?*
- c. *Public Acceptance: Does the BMP have public support?*
- d. *Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?*
- e. *Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?*

*The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or State Water Boards, and not by the municipal discharger. If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP base solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented."*

**MS4 - [Municipal Separate Storm Sewer System]** – An MS4 is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, man-made channels, or storm drains): (i) Owned or operated by a State, city town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to Waters of the U.S.; (ii) Designated or used for collecting or conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the POTW as defined at 40 CFR 122.2.

Historic and current developments make use of natural drainage patterns and features as conveyances for urban runoff. Urban streams used in this manner are part of the municipalities MS4 regardless of whether they are natural, man-made, or partially modified features. In these cases, the urban stream is both an MS4 and a receiving water.

**Municipal Facilities Strategy** - Each Permittee's plan to address potential impacts to Urban Runoff quality from its facilities and activities as required by Order No. 96-730.

**New Development** – The categories of development identified in subsections VIII.B.1.b. New developments do not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of a facility, nor do they include emergency

new developments required to protect public health and safety. Dischargers should confirm with Regional Board staff whether or not a particular routine maintenance activity is subject to this Order.

**NOI [Notice of Intent]** - A NOI is an application for coverage under either General Stormwater Permits or the San Jacinto Watershed Construction Activities Permit.

**"non-point source"** - Non-point source refers to diffuse, widespread sources of pollution. These sources may be large or small, but are generally numerous throughout a watershed. Non-point sources, include but are not limited to urban, agricultural or industrial area, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining, livestock grazing, as well as physical changes to stream channels, and habitat degradation. Non-point source pollution can occur year round any time rainfall, snowmelt, irrigation, or any other source of water runs over land or through the ground, picks up pollutants from these numerous, diffuse sources and deposits them into rivers, lakes and coastal waters or introduces them into ground water.

**"non-storm water"** - Non-storm water consists of all discharges to and from a storm water conveyance system that do not originate from precipitation events (i.e., all discharges from a conveyance system other than storm water). Non-storm water includes illicit discharges, non-prohibited discharges and NPDES permitted discharges. An illicit discharge is defined at 40 CFR 122.26(b)(2) as any discharge to a MS4 that is not composed entirely of storm water except discharges pursuant to a separate NPDES permit and discharges resulting from emergency fire fighting activities.

**NPDES [National Pollutant Discharge Elimination System]** - Permits issued under Section 402(p) of the CWA for regulating discharge of pollutants to Waters of the U.S.

**"nuisance"** - As defined in the Porter-Cologne Water Quality Control Act a nuisance is "anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of wastes."

**"numeric effluent limitations"** - A method by which "effluent limitations," see above, are prescribed for pollutants in waste discharge requirements using concentration based criteria to implement the federal NPDES regulations. When numeric effluent limits are met at the "end-of-pipe," the effluent discharge generally will not cause water quality standards to be exceeded in the receiving waters (i.e., water quality standards will also be met).

**OES** - Office of Emergency Services

**Order** - Order No. R8-2002-0011 (NPDES No. CAS618033)

**Permit Area** - The portion of the Santa Ana River Watershed that is within the County of Riverside and identified on Appendix 1 as "Urban Area" and those portions of

"Agriculture" and "Open Space", as identified on Appendix 1, that do convert to industrial, commercial, or residential use during the term of the Order

**Permittees** - Co-Permittees and the Principal Permittee

**"person" or "party"** – A person is defined as an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof. [40 CFR 122.2].

**"point source"** – Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged.

**"pollutant"** – A pollutant is broadly defined as any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

**Pollutants of Concern** – A list of potential pollutants to be analyzed for in the Monitoring and Reporting Program. This list shall include: TSS, total inorganic nitrogen, total phosphorus, soluble reactive phosphorus, acute toxicity, fecal coliform, total coliform, pH, and chemicals/potential pollutants expected to be present on the project site. In developing this list, consideration should be given to the chemicals and potential pollutants available for storm water to pick-up or transport to Receiving Waters, all pollutants for which a waterbody within the Permit Area that has been listed as impaired under CWA Section 303(d)), the category of development and the type of pollutants associated with that development category.

**"pollution"** – As defined in the Porter-Cologne Water Quality Control Act, pollution is the alteration of the quality of the Waters of the U.S. by waste, to a degree that unreasonably affects either of the following: A) the waters for beneficial uses; or 2) facilities that serve these beneficial uses. Pollution may include contamination.

**"pollution prevention"** – Pollution prevention is defined as practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control, treatment, or disposal.

**"post-construction BMPs"** – A subset of BMPs including source control and structural treatment BMPs which detain, retain, filter or educate to prevent the release of pollutants to surface waters during the final functional life of development.

**POTW** - Publicly owned treatment works

**Preserve Area** - Chino-Corona Agricultural Preserve Area

**Principal Permittee** - Riverside County Flood Control and Water Conservation District.

**Public Education Committee** - A committee to be established by the Permittees pursuant to Section X.C. of this Order to provide oversight and guidance for the implementation of the public education program.

**Rainy Season** – October 1 through May 31<sup>st</sup> of each year.

**RCFC&WCD** - Riverside County Flood Control and Water Conservation District

**"receiving water(s)"** – The Waters of the U.S. that includes surface and ground waters.

**Receiving Water(s)** - The receiving waters within the Permit Area

**Receiving Water Limitations** – Receiving Water Limitations are requirements included in this Order issued by the Regional Board to assure that the regulated discharges do not violate water quality standards established in the Basin Plan at the point of discharge to Waters of the U.S. Receiving Water Limitations are used to implement the requirement of CWA section 301(b)(1)(C) that NPDES permits must include any more stringent limitations necessary to meet water quality standards.

**Receiving Water Quality Objectives** - Water quality objectives specified in the Basin Plan for Receiving Waters.

**Region** - Santa Ana River Watershed

**Regional Board** - California Regional Water Quality Control Board, Santa Ana Region

**Riverside County** - Territory within the geographical boundaries of the County.

**ROWD** - Report of Waste Discharge, Application No. CAS 618033

**San Jacinto Watershed Construction Activities Permit** - Regional Board Order No. 01-34, adopted January 19, 2001

**"sediment"** – Soil, sand, and minerals washed from land into water. Sediment resulting from anthropogenic sources (i.e. human induced land disturbance activities) is considered a pollutant. This Order regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.

**SIC** - Standard Industrial Code

**Significant Redevelopment** - defined in Section VIII.B.1.a.

**"source control BMPs"** – In general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed to limit the contact between pollutant sources and stormwater or authorized non-storm water. Examples include: activity schedules, prohibitions of practices, street sweeping, facility maintenance, detection and elimination of illicit connections and illegal dumping, and other non-structural measures. Facility design examples include providing attached lids to trash containers, or roof or awning over material and trash storage areas to

prevent direct contact between water and pollutants. Additional examples are provided in Section 4 of Supplement A to the DAMP dated April 1996.

**State Board** - California Water Resources Control Board

**"storm water"** – Runoff from urban, open space, and agricultural areas consisting only of those discharges that originates from precipitation events. Storm water is that portion of precipitation that flows across a surface to the MS4 or receiving waters. Examples of this phenomenon include: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows into streams when snow on the ground begins to melt (runoff from a semi-pervious surface); and the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the underlying soil (runoff from a pervious surface). During precipitation events in urban areas, rain water picks up and transports pollutants through storm water conveyance systems, and ultimately to Waters of the U.S.

**Storm Water Ordinance** - The Storm Water/Urban Runoff Management and Discharge Control Ordinances and ordinances addressing grading and erosion control adopted by each of the Co-Permittees

**"structural BMPs"** – Physical facilities or controls which may include secondary containment, treatment measures, (e.g. first flush diversion, detention/retention basins, and oil/grease separators), run-off controls (e.g., grass swales, infiltration trenches/basins, etc.), and engineering and design modification of existing structures. Additional examples are provided in Section 4 of Supplement A to the Riverside County DAMP dated April 1996.

**Subdivision Map Act** - Section 65000 et seq. of the California Government Code

**Supplement A** - Supplement A to the DAMP that is entitled "New Development Guidelines" and the attachment thereto entitled "Selection and Design of Storm Water Quality Controls."

**SWPPP** - Storm Water Pollution Prevention Plan

**TDS** - Total dissolved solids.

**Technical Committee** - A Permittee staff committee to direct the development of the DAMP and direct the implementation of the overall Urban Runoff program as described in the ROWD.

**TMDL [Total Maximum Daily Load]** – TMDL is the maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) and still maintain water quality standards. Under CWA Section 303(d), TMDLs must be developed for all water bodies that do not meet water quality standards after application of technology-based controls.

**"toxicity"** – Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies.

**TSS** - Total suspended solids.

**Uncontaminated Pumped Groundwater** - Groundwater that meets the surface water quality objectives specified in the Basin Plan to which it is proposed to be discharged.

**Urban Runoff** – Urban Runoff includes those discharges from residential, commercial, industrial, and construction areas within the Permit Area and excludes discharges from feedlots, dairies, farms, and open space. Urban Runoff discharges consist of storm water and non-storm water surface runoff from drainage sub-areas with various, often mixed, land uses within all of the hydrologic drainage areas that discharge into the Waters of the U. S. In addition to Urban Runoff, the MS4s regulated by this Order receive flows from agricultural activities, open space, state and federal properties and other non-urban land uses not under the control of the Permittees. The quality of the discharges from the MS4s varies considerably and is affected by, among other things, past and present land use activities, basin hydrology, geography and geology, season, the frequency and duration of storm events, and the presence of past or present illegal and allowed disposal practices and illicit connections.

The Permittees lack legal jurisdiction over storm water discharges into their respective MS4s from agricultural activities, California and federal facilities, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and non-point source discharges otherwise permitted by or under the jurisdiction of the Regional Board. The Regional Board recognizes that the Permittees should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate pollutants present in Urban Runoff are beyond the ability of the Permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear, residues from lawful application of pesticides, nutrient runoff from agricultural activities, and leaching of naturally occurring minerals from local geography.

**USEPA** - United States Environmental Protection Agency

**"waste"** – As defined in Water Code Section 13050(d), "waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal."

Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system that applies to solid and semi-solid waste that cannot be discharged directly or indirectly to waters of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, non-hazardous solid waste, and inert waste.

**Waste Discharge Requirements** – As defined in Section 13374 of the California Water Code, the term "waste discharge requirements" is the equivalent of the term "permits" as used in the Federal Water Pollution Control Act, as amended. The Regional Board

usually reserves reference to the term "permit" to Waste Discharge Requirements for discharges to surface Waters of the U.S.

#### **Water Code** - California Water Code

**Waters of the U.S.** – Waters of the U.S. can be broadly defined as navigable surface waters and all tributary surface waters to navigable surface waters. Groundwater is not considered to be a Waters of the U.S. As defined in 40 CFR 122.2, the Waters of the U.S. are defined as: (a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as Waters of the U.S. under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the U.S. do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with the USEPA.

**"water quality objectives"** – Numerical or narrative limits on constituents or characteristics of water designated to protect designated beneficial uses of the water [California Water Code Section 13050 (h)]. California's water quality objectives are established by the State/Regional Water Boards in the Water Quality Control Plans. As stated in the Porter-Cologne requirements for discharge (CWC 13263): "(Waste discharge) requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241."

Numeric or narrative limits for pollutants or characteristics of water designed to protect the beneficial uses of the water. In other words, a water quality objective is the maximum concentration of a pollutant that can exist in a Receiving Water and still generally ensure that the beneficial uses of the Receiving Water remain protected (i.e., not impaired). Since water quality objectives are designed specifically to protect the beneficial uses, when the objectives are violated the beneficial uses are, by definition, no longer protected and become impaired. This is a fundamental concept under the Porter Cologne Act. Equally fundamental is Porter Cologne's definition of pollution. A condition of pollution exists when the water quality needed to support designated beneficial uses has become unreasonably affected or impaired; in other words, when the water quality objectives have been violated. These underlying definitions (regarding beneficial use protection) are the reason why all waste discharge requirements implementing the

federal NPDES regulations require compliance with water quality objectives. (Water quality objectives are also called water quality criteria in the CWA.)

**"water quality standards"** – are defined as the water quality goals of a waterbody (or a portion of the waterbody) designating beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.) to be made of the water and the water quality objectives or criteria necessary to protect those uses.

**"watershed"** – That geographical area which drains to a specified point on a watercourse, usually a confluence of streams or rivers (also known as drainage area, catchments, or river basin).

**WLA** - Waste load allocations

**WQMP** – Water Quality Management Plan as discussed in Section VIII.B. of the Order.

Order No. R8-2002-0011 (NPDES No. CAS 618033)  
Area-wide Urban Runoff  
RCFC&WCD, the County of Riverside, and the Incorporated Cities

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## **APPENDIX 5**

### **NOTICE OF INTENT AND NOTICE OF TERMINATION**

**ORDER NO. R8-2002-0011**





CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SANTA ANA REGION

NOTICE OF TERMINATION

OF COVERAGE UNDER THE RIVERSIDE COUNTY MUNICIPAL STORMWATER PERMIT  
FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY

ORDER No. R8-2002-0011 (NPDES No. CAS618033)



I. OWNER

Name	Contact Person
Mailing Address	Title
City	State Zip Phone
	( ) -

II. SITE INFORMATION

A. Project Title	Site Address
City	State Zip Phone
	( ) -
B. Contractor Name	Contact Person
Local Mailing Address	Title
City	State Zip Phone
	( ) -

III. BASIS OF TERMINATION

1. The construction project is completed and the following conditions have been met.
- All elements of the Storm Water Pollution Prevention Plan have been completed.
  - Construction materials and waste have been disposed of properly.
  - The site is in compliance with all local storm water management requirements.
  - A post-construction storm water operation and management plan is in place.
2. Construction activities have been suspended, either temporarily \_\_\_ or indefinitely \_\_\_ and the following conditions have been met.
- All elements of the Storm Water Pollution Prevention Plan have been completed.
  - Construction materials and waste have been disposed of properly.
  - An effective combination of erosion and sediment control is in place for all denuded areas and other areas of potential erosion.
  - The site is in compliance with all local storm water management requirements.

Date of suspension \_\_\_ / \_\_\_ / \_\_\_ Expected start up date \_\_\_ / \_\_\_ / \_\_\_

IV. CERTIFICATION

I certify under penalty of law that all storm water discharges associated with construction activity from the identified site that are authorized by NPDES General Permit No. CAS000002 have been eliminated or that I am no longer the owner of the site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with construction activity under the General Permit, and that discharging pollutants in storm water associated with construction activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an owner of liability for any violation of the General Permit or the Clean Water Act.

Printed Name:

Title:

Signature:

Date:

**California Regional Water Quality Control Board**

**Santa Ana Region**

**3737 Main Street, Suite 500**

**Riverside, CA 92501- 3348**

**FACT SHEET**

October 25, 2002

**Waste Discharge Requirements for the Riverside County Flood Control  
and Water Conservation District, the County of Riverside, and the Incorporated Cities  
of Riverside County within the Santa Ana Region, Urban Runoff Management Program,  
Order No. R8-2002-0011 (NPDES No. CAS 618033)**

**I. INTRODUCTION**

**A. PROJECT**

The attached pages contain information concerning an application for renewal of waste discharge requirements and a National Pollutant Discharge Elimination System (NPDES) permit, Order No. R8-2002-0011, NPDES No. CAS 618033, which prescribes waste discharge requirements for Urban Runoff from the cities and the unincorporated areas in Riverside County within the jurisdiction of the Regional Board. Specifically, Order No. R8-2002-0011 regulates discharges of Urban Runoff from the "Permit Area" as defined in the Order and shown in Appendix 1.

Urban Runoff includes those discharges from residential, commercial, industrial, and construction areas within the Permit Area and excludes discharges from feedlots, dairies, farms, and open space. Urban Runoff discharges consist of storm water and non-storm water surface runoff from drainage sub-areas with various, often mixed, land uses within all the hydrologic drainage areas that discharge into the Waters of the U. S. If appropriate pollution control measures are not implemented, Urban Runoff may contain pathogens (bacteria, protozoa, viruses), sediment, trash, fertilizers (nutrients, mostly nitrogen and phosphorus compounds), oxygen-demanding substances (decaying matter), pesticides (DDT, Chlordane, Diazinon, Chlorpyrifos), heavy metals (cadmium, chromium, copper, lead, zinc), and petroleum products (oil & grease, PAHs, petroleum hydrocarbons). If not properly managed and controlled, urbanization can change the stream hydrology and increase pollutant loading to receiving waters. As a watershed undergoes urbanization, pervious surface area decreases, runoff volume and velocity increases, riparian habitats and wetland habitats decrease, the frequency and severity of flooding increase, and pollutant loading increases. Most of these impacts occur due to human activities that occur during and/or after urbanization. The pollutants and hydrologic changes can cause declines in aquatic resources, cause toxicity to marine organisms, and impact human health and the environment. Based on the procedures in Section D of the RCFC&WCD Hydrology Manual, it is feasible that, in semi-arid regions, development may result in the creation of a net increase in absorption.

On August 30, 2000, the Riverside County Flood Control and Water Conservation District (hereinafter referred to as "RCFC&WCD" or "Principal Permittee" as context

indicates), in cooperation with the County of Riverside, (the "County") and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, and San Jacinto (hereinafter with the County, collectively referred to as the "Co-Permittees" and collectively with the Principal Permittee, the "Permittees"), jointly submitted a National Pollutant Discharge Elimination System (NPDES) Application No. CAS 618033, a Report of Waste Discharge (the "ROWD"), to renew the MS4 NPDES permit for the Santa Ana River Watershed (the "Region") within Riverside County (the "Order") NPDES permit dealing with urban runoff (hereinafter "Urban Runoff" as defined and qualified in Findings 13 and 14) in the "Permit Area" as shown in Appendix 1.

#### B. PROJECT AREA

The area shown on Appendix 1 contains 1,293 square miles (or 17.7% of the 7,300 square miles within Riverside County) and includes 11 of the 24 municipalities within Riverside County. The California Department of Finance estimates that as of January 1, 2002, the population of Riverside County is 1,644,341 of which 759,877 persons reside within the 11 municipalities and an additional 338,630 persons reside in the unincorporated area that is within the area shown on Appendix 1 (or a total of 1,098,507 persons or 66.8% of Riverside County's population). Five of the municipalities (Beaumont, Calimesa, Canyon Lake, Norco, and San Jacinto) have populations of 25,000 or less; three municipalities (Hemet, Lake Elsinore, and Perris) have populations between 25,001 and 62,000, Corona has a population of 133,966, Moreno Valley's population is 146,435 and Riverside has 269,402 residents. [Population figures for the city of Murrieta have been omitted because only 375 acres (2%) of the City's Land Area is within the area shown on Appendix 1. (See Finding No. 2.)] Of the total territory within the area shown on Appendix 1, 346.7 square miles are within the 11 incorporated areas and 944.6 square miles are unincorporated. General land uses within the 1,293.3 square miles comprising the area shown on Appendix 1 are identified, based on Riverside County Assessor's Roll for Fiscal Year 2001-2002, as follows: 109.3 square miles are used or zoned for commercial/industrial purposes (8.5%), 198.7 square miles for residential purposes (15.4%), 70.1 square miles are utilized for improved roadways (including roadways owned by Caltrans) (5.4%), 753.9 square miles are vacant or utilized for open space (58.3%), and 161.3 square miles are used for agricultural purposes (12.5%). The federal government owns 310.7 square miles (24%) of the territory within the area shown on Appendix 1.

Less than one fifth (1/5) of the entire acreage within Riverside County drains into water bodies within the Permit Area. The Permit Area includes the "Urban Area" as shown in Appendix 1 and those portions of "Agriculture" and "Open Space" as shown on Appendix 1 that do convert to industrial, commercial or residential use during the term of this Order. The Permit Area is delineated by the San Bernardino-Riverside County boundary line on the north and northwest, the Orange Riverside County boundary line on the west, the Santa Ana-San Diego Regional Board boundary line on the south, and the Santa Ana Colorado River Basin Regional Board boundary line on the east. Sixty-seven percent of Riverside County's population resides within the Regional Board's jurisdiction. The San Diego and the Colorado River Basin Regional Water Quality Control Boards regulate Urban Runoff from those portions of Riverside County outside of the Permit Area shown in Appendix 1.

### C. CLEAN WATER ACT REQUIREMENTS

The federal Clean Water Act (the "CWA") established a national policy designed to help maintain and restore the physical, chemical and biological integrity of the nation's waters. In 1972, the CWA established the NPDES permit program to regulate the discharge of pollutants from point sources to waters of the nation (the "Waters of the U. S."). From 1972 to 1987, the main focus of the NPDES program was to regulate conventional pollutant sources such as sewage treatment plants and industrial facilities. As a result, on a nationwide basis, non-point sources, including agricultural runoff and urban runoff, now contribute a larger portion of many kinds of pollutants than the more thoroughly regulated sewage treatment plants and industrial facilities.

The National Urban Runoff Program (NURP) final report to the Congress (USEPA, 1983) concluded that the goals of the CWA could not be achieved without addressing urban runoff discharges. The 1987 CWA amendments established a framework for regulating urban runoff. Pursuant to these amendments, the Santa Ana Regional Board began regulating municipal storm water runoff in 1990.

## II. REGULATORY BACKGROUND AND CLEAN WATER REQUIREMENTS

Recent studies <sup>1</sup> conducted in the Southern California area have established storm water runoff from urban areas as significant sources of pollutants in surface waters in Southern California. The Santa Ana River is impacted by agricultural and urban runoff as it flows through the San Bernardino County and Riverside County areas prior to flowing through Orange County and into the Pacific Ocean. If not properly controlled, urban runoff could be a significant source of pollutants in the Waters of the U. S. Table 1 includes a list of pollutants, their sources, and some of the adverse environmental consequences mostly resulting from urbanization.

The CWA prohibits the discharge of any pollutant to navigable waters from a point source unless an NPDES permit authorizes the discharge. Efforts to improve water quality under the NPDES program traditionally and primarily focused on reducing pollutants in discharges of industrial process wastewater and municipal sewage. The 1987 amendments to the CWA required MS4s and industrial facilities, including construction sites, to obtain NPDES permits for storm water runoff from their facilities. On November 16, 1990, the USEPA promulgated the final Phase I storm water regulations. The storm water regulations are contained in 40 CFR Parts 122, 123 and 124.

On July 13, 1990, the Regional Board issued Order No. 90-104 to the Permittees (first term permit). In 1996, the Regional Board adopted Order No. 96-30 (second term permit).

In 2001, to more effectively carry out the requirements of this Order, the Permittees have agreed that the RCFC&WCD will continue as the Principal Permittee and the County and

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<sup>1</sup> Bay, S., Jones, B. H. and Schiff, K, 1999, Study of the Impact of Stormwater Discharge on Santa Monica Bay. Sea Grant Program, University of Southern California; and Haile, R.W., et al., 1996, An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay. Southern California Coastal Water Research Project (1992), Surface Runoff to the Southern California Bight.

the incorporated cities will continue as the Co-Permittees. On January 19, 2001, the Regional Board adopted Order No. 01-34, NPDES No. CAG 618005 Watershed-wide Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with New Developments in the San Jacinto Watershed. On March 2, 2001, Order No. 96-30, NPDES No. CAS618033, was administratively extended in accordance with Title 23, Division 3, Chapter 9, §2235.4 of the California Code of Regulations.

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**Table 1<sup>2</sup>.**  
**Pollutant Sources and Impacts of a Number of Pollutants**  
**On Waters of the U.S.**

<b>Pollutants</b>	<b>Sources</b>	<b>Effects and Trends</b>
Toxins (e.g., biocides, PCBs, trace metals, heavy metals)	Industrial and municipal wastewater; runoff from farms, forests, urban areas, and landfills; erosion of contaminated soils and sediments; vessels; atmospheric deposition	Poison and cause disease and reproductive failure; fat-soluble toxins may bioconcentrate, particularly in birds and mammals, and pose human health risks. Inputs into U.S. waters have declined, but remaining inputs and contaminated sediments in urban and industrial areas pose threats to living resources.
Pesticides (e.g., DDT, diazinon, chlorpyrifos)	Urban runoff, agricultural runoff, commercial, industrial, residential and farm use	The use of legacy pesticides (DDT, chlordane, dieldrin, ...) has been banned or restricted; still persists in the environment; some of the other pesticide uses are curtailed or restricted.
Biostimulants (organic wastes, plant nutrients)	Sewage and industrial wastes; runoff from farms and urban areas; nitrogen from combustion of fossil fuels	Organic wastes overload bottom habitats and deplete oxygen; nutrient inputs stimulate algal blooms (some harmful), which reduce water clarity, and alter food chains supporting fisheries. While organic waste loading has decreased, nutrient loading has increased (NRC, 1993a, 2000a).
Petroleum products (oil, grease, petroleum hydrocarbons, PAHs)	Urban runoff and atmospheric deposition from land activities; accidental spills; oil & gas production activities; natural seepage; and PAHs from internal combustion engines	Petroleum hydrocarbons can affect bottom organisms and larvae; spills affect birds, mammals and aquatic life. While oil pollution from accidental spills, and production activities has decreased, diffuse inputs from land-based activities have not (NRC, 1985).
Radioactive isotopes	Atmospheric fallout, industrial and military activities	Bioaccumulation may pose human health risks where contamination is heavy.
Sediments	Erosion from farming, construction activities, forestry, mining, development; river diversions; coastal dredging and mining	Reduce water clarity and change bottom habitats; carry toxins and nutrients; clog fish gills and interfere with respiration in aquatic fauna. Sediment delivery by many rivers has decreased, but sedimentation poses problems in some areas.
Plastics and other debris	Boats, fishing nets, containers, trash, urban runoff	Entangles aquatic life or is ingested; degrades, lake shores and wetland habitats. Floatables (from trash) are an aesthetic nuisance and can be a substrate for algae and insect vectors.
Thermal	Cooling water from power plants and industry, urban run off from impervious surfaces	Kills some temperature-sensitive species; and displaces others.
Pathogens (bacteria, protozoa, viruses)	Sewage, urban runoff, livestock, wildlife, and discharges from boats.	Pose health risks to swimmers and consumers of aquatic life. Sanitation has improved, but standards have been raised (NRC 1999a).
Alien species	Fishery stocking, aquarists	Displace native species, introduce new diseases; growing worldwide problem (NRC 1996).

<sup>2</sup> Adapted from "Marine Pollution in the United States" prepared for the Pew Oceans Commission, 2001.

The area-wide NPDES permit for the Permit Area is being considered for renewal in accordance with Section 402 (p) of the CWA and all requirements applicable to an NPDES permit issued under the issuing authority's discretionary authority. The requirements included in this Order are consistent with the CWA, the federal regulations governing urban storm water discharges, the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan), the California Water Code, and the State Board's Plans and Policies.

The Basin Plan is the basis for the Regional Board's regulatory programs. The Plan was developed and is periodically reviewed and updated in accordance with relevant federal and state law and regulation, including the CWA and the California Water Code. As required, the Basin Plan designates the beneficial uses of the waters of the Region and specifies water quality objectives intended to protect those uses. (Beneficial uses and water quality objectives, together with an antidegradation policy, comprise federal "water quality standards"). The Basin Plan also specifies an implementation plan, which includes certain discharge prohibitions. In general, the Basin Plan makes no distinctions between wet and dry weather conditions in designating beneficial uses and setting water quality objectives, i.e., the beneficial uses, and correspondingly, the water quality objectives are assumed to apply year-round. (Note: In some cases, beneficial uses for certain surface waters are designated as "I", or intermittent, in recognition of the fact that surface flows (and beneficial uses) may be present only during wet weather.) Most beneficial uses and water quality objectives were established in the 1971, 1975 and 1983 Basin Plans.

Water Code Section 13241 requires that certain factors be considered, at a minimum, when water quality objectives are established. These include economics and the need for developing housing in the Region. (The latter factor was added to the Water Code in 1987). During this permit development process, the Permittees raised an issue regarding compliance with Section 13241 of the California Water Code with respect to water quality objectives for wet weather conditions, specifically the cost of achieving compliance during wet weather conditions and the need for developing housing within the Region and its impact on Urban Runoff. During the next review of the Basin Plan, staff will recommend that this matter be incorporated on the triennial review list. In the meantime, the provisions of this Order will result in reasonable further progress towards the attainment of the existing water quality objectives, in accordance with the discretion in the permitting authority recognized by the United States Court of Appeals for the Ninth Circuit in *Defenders of Wildlife vs. Browner*, 191 F.3d 1159, 1164 (9<sup>th</sup> Cir. 1999).

### III. EXCLUSIONS TO THE PERMITTED AREA

Areas of the County not addressed or which are excluded by the storm water regulations and areas not under the jurisdiction of the Permittees are excluded from the area requested for coverage under this permit application. These include the following areas and activities:

- Federal lands and state properties, including, but not limited to, military bases, national forests, hospitals, colleges and universities, and highways;
- Native American tribal lands;

- Open space and rural (non-urbanized) areas;
- Agricultural lands; and
- Utilities and special districts.

These areas in the Permit Area for which coverage under a municipal stormwater NPDES permit is excluded, are shown in Appendix I (Western Riverside County NPDES Permit Area).

#### IV. **BENEFICIAL USES**

Stormwater flows which are discharged to MS4s in the Permit Area are tributary to various water bodies (inland surface streams, lakes and reservoirs) of the state. The beneficial uses of these water bodies include municipal and domestic supply, agricultural supply, industrial service and process supply, groundwater recharge, water contact recreation, non-contact water recreation, and sportfishing, warm freshwater habitat, cold freshwater habitat, preservation of biological habitats of special significance, wildlife habitat and preservation of rare, threatened or endangered species. The ultimate goal of this Order is to protect the beneficial uses and quality of the Receiving Waters.

To protect the beneficial uses of the Receiving Waters, the pollutants from all sources, including Urban Runoff, need to be controlled. Recognizing this, and the fact that Urban Runoff contains pollutants, an area-wide MS4 permit is the most effective way to develop and implement a comprehensive Urban Runoff management program in a timely manner. This area-wide MS4 permit contains requirements with time schedules that will allow the Permittees to continue to address water quality problems caused by Urban Runoff through their management programs to reduce pollutants in storm water discharges to the MEP[See Appendix 4, Glossary].

#### V. **WATERSHED MANAGEMENT IN THE UPPER SANTA ANA RIVER BASIN**

##### A. Management Approach

To regulate and control Urban Runoff from the Permit Area to the MS4s, an area-wide approach is essential and a holistic approach is needed to efficiently manage the water resources of the Region. The entire MS4 is not controlled by a single entity; the RCFC&WCD, the County of Riverside, several cities, the State Department of Transportation (Caltrans), and the U.S. Army Corps of Engineers, in addition to other smaller entities, manage the MS4s. In addition to the cities, the County of Riverside and the RCFC&WCD, there are a number of other significant contributors of Urban Runoff to these MS4s. These include: large institutions such as the State university system, prisons, schools, hospitals, etc.; federal facilities such as military sites, etc.; State agencies, such as Caltrans; water and wastewater management agencies such as Eastern and Western Municipal Water District; the National Forest Service and State parks. The State Board has issued a separate NPDES permit to Caltrans. In addition, Caltrans, and the other contributors identified, are not under the jurisdiction of the Permittees. The management and control of the entire MS4 cannot be effectively carried out without the cooperation and efforts of all these entities. Also, it would not be

meaningful to issue a separate MS4 permit to each of the entities within the Permit Area whose land/facilities drain into the MS4s operated by the Permittees. The Regional Board has concluded that the best management option for the Riverside County area is to issue an area-wide Urban Runoff permit to the Permittees.

Although, the Urban Runoff from the Permit Area drains into Orange County, urban runoff from Orange County areas are regulated under NPDES No. CAS 618030. Some areas within Riverside County are within the Colorado River Basin and San Diego Regional Boards' jurisdictions. Permit requirements for storm water runoff from the drainage areas of Riverside County within the jurisdiction of the San Diego and Colorado River Basin Regional Boards are addressed by those Regional Boards.

In developing Urban Runoff management and monitoring programs, consultation/coordination with other drainage management entities and other Regional Boards is essential. Common programs, reports, implementation schedules and efforts are desirable and will be utilized to the MEP.

Cooperation and coordination among all the stakeholders are essential for efficient and economical management of the watershed. It is also critical to manage non-point sources at a level consistent with the management of Urban Runoff in a watershed in Order to successfully prevent or remedy water quality impairment. Regional Board staff will facilitate coordination of monitoring and management programs among the various stakeholders.

An integrated watershed management approach is consistent with the Strategic Plan and Initiatives for the State and Regional Boards. A watershed wide approach is also necessary for implementation of the load and waste load allocations to be developed under the TMDL process. The Permittees and all the affected entities are encouraged to participate in regional or watershed solutions, instead of project-specific and fragmented solutions.

The pollutants in Urban Runoff originate from a multitude of sources and effective control of these pollutants requires a cooperative effort of all the stakeholders and many regulatory agencies. Every stage of urbanization should be considered in developing appropriate Urban Runoff pollution control methodologies. The program's success depends upon consideration of pollution control techniques during planning, construction and post-construction operations. At each stage, appropriate pollution prevention measures, source control measures, and, if necessary, treatment techniques should be considered.

## B. SUB-WATERSHEDS AND MAJOR CHALLENGES

The Santa Ana River watershed is the major watershed within this Region. This watershed is divided into three sub-watersheds: the Lower Santa Ana, Upper Santa Ana, and San Jacinto.

1. The lower Santa Ana River sub-watershed (downstream from Prado Basin) includes the north half of Orange County. The Upper Santa Ana River sub-watershed includes the southwestern corner of San Bernardino County and the northwestern corner of Riverside County. The San Jacinto sub-watershed includes the northwest corner of Riverside County south of the Upper Santa Ana River sub-watershed within this Region.

Generally, the San Bernardino County drainage areas drain to the Riverside County drainage areas, and Riverside County drainage areas discharge to Orange County through Prado Dam on the Santa Ana River. Most of the flow in the Santa Ana River is recharged into the ground water in Orange County but infrequently some of the flow may be discharged to the Pacific Ocean as a result of heavy storm events.

Water from rainfall and snow melt runoff, and surfacing ground water from various areas either discharge directly to the Santa Ana River or to watercourses tributary to the Santa Ana River. Other major rivers in the Permit Area include the San Jacinto River and Temescal Creek. The San Jacinto Mountain areas drain into the San Jacinto River, which discharges into Canyon Lake and then to Lake Elsinore. Any overflow from Lake Elsinore is tributary to Temescal Creek, which flows into the Santa Ana River at the Prado Flood Control Basin. Overflow from Lake Elsinore occurs infrequently, only once every 12 to 15 years.

2. Upper Santa Ana River Sub-watershed:

- a. Reach 3 of the Santa Ana River (Prado Dam to Mission Boulevard in Riverside):  
The pollutants of concern for Reach 3 are nutrients, pathogens, salinity, total dissolved solids and chlorides. However, the Board now recognizes that Reach 3 of the Santa Ana River is meeting the standards for nutrients, salinity, TDS and chlorides and has requested the USEPA that this Reach be de-listed for these constituents. Reach 3 of the Santa Ana River has been posted by Riverside County, as it consists largely of POTW effluent, indicating that it is not suitable for body contact recreation due to microbial contamination. On March 23, 2000, the Executive Officer issued a request under Section 13267 of the CWC to the County and the cities that discharge urban runoff into this segment of the River to start an investigation of the microbial contamination of the River. The other problems associated with this segment of the River are addressed through the Regional Board's dairy program and TDS/nitrogen control programs.
- b. Reach 4 of the Santa Ana River: Reach 4 of the Santa Ana River is the portion of the River from Mission Boulevard bridge in Riverside to the San Jacinto fault (Bunker Hill Dike) in San Bernardino. Reach 4 is also listed in the CWA Section 303 (d) as an impaired water body. Most of Reach 4 of the River is under the

San Bernardino County area. The pollutants of concern for Reach 4 are pathogens.

- c. San Jacinto Sub-watershed: Canyon Lake and Lake Elsinore are in this watershed and are listed on the 303(d) list for nutrients/pathogens (Canyon Lake) and nutrients, sediment, and unknown toxicity (Lake Elsinore). TMDLs are being developed for these impaired waterbodies. In the interim, the Regional Board adopted a separate watershed-wide construction activity storm water permit to regulate construction activities in this area. This permit may be reopened to include TMDL requirements.

C. CWA SECTION 303(d) LIST AND TMDLS:

Pursuant to Section 303(b) of the CWA, the 1998 water quality assessment conducted by the Regional Board listed a number of water bodies within the Region under Section 303(d) of the CWA as impaired water bodies. These are water bodies where the designated beneficial uses are not met and the water quality objectives are being violated. The sources of the impairments include POTW discharges, and runoff from agricultural, open space and urban land uses. The impaired water bodies in Riverside County within the Santa Ana Regional Board's jurisdiction are listed in Table 2.

Federal regulations require that a total maximum daily load (TMDL) be established for each 303(d) listed waterbody for each of the pollutants causing impairment. The TMDL is the total amount of the problem pollutant that can be discharged while water quality standards in the receiving water are attained, i.e., water quality objectives are met and the beneficial uses are protected. It is the sum of the individual wasteload allocations (WLA) for point source inputs, load allocations (LA) for non-point source inputs and natural background, with a margin of safety. The TMDLs are the basis for limitations established in waste discharge requirements. TMDLs are being developed for all pollutants identified in Table 2. The Permittees shall revise their DAMP, at the direction of the Executive Officer, to incorporate program implementation amendments so as to comply with regional, watershed specific requirements, and/or waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Maximum Daily Loads (TMDLs) for impaired water bodies.

**Table 2**  
**CWA Section 303(d) Listed Waterbodies, 1998 List**

<i>WATER BODY</i>	<i>HYDRO UNIT</i>	<i>POLLUTANT/ STRESSOR</i>	<i>SOURCE</i>	<i>PRIORITY</i>	<i>SIZE AFFECTED</i>
Canyon Lake	802.120	Nutrients	Nonpoint Source	Medium	600 Acres
		Pathogens	Nonpoint Source	Medium	600 Acres
Lake Elsinore	802.310	Nutrients	Unknown Nonpoint Source	Medium	3300 Acres
		Org. enrichment /low D.O.	Unknown Nonpoint Source	Medium	3300 Acres
		Sediment / Siltation	Urban Runoff and Storm Drains	Medium	3300 Acres
		Unknown Toxicity	Unknown Nonpoint Source	Medium	3300 Acres
Lake Fulmor	802.210	Pathogens	Unknown Nonpoint Source	Low	9 Acres
Santa Ana River, Reach 3	801.200	Nutrients	Dairies	Medium	3 Miles
		Pathogens	Dairies	Medium	3 Miles
		Salinity/TDS/Chlorides	Dairies	Medium	3 Miles
Santa Ana River, Reach 4	801.120	Pathogens	Nonpoint Source	Low	12 Miles

**VI. FIRST AND SECOND TERM PERMITS: STORM WATER POLLUTION CONTROL PROGRAMS AND POLICIES**

Prior to USEPA's promulgation of the final regulations implementing the storm water requirements of the 1987 CWA amendments, the counties of Orange, Riverside and San Bernardino requested an area-wide NPDES permits for storm water runoff. On July 13, 1990, the Regional Board issued Order No. 90-104 to the Permittees (first term permit). In 1996, the Regional Board adopted Order No. 96-30 (second term permit). First and second term permits included the following requirements:

1. Prohibited non-storm water discharges to the MS4s with certain exceptions.
2. Required the municipalities to develop and implement a DAMP to reduce pollutants in Urban Runoff to the MEP.
3. Required the discharges from the MS4s to meet water quality standards in Receiving Waters.
4. Required the municipalities to identify and eliminate illicit connections and illegal discharges to the MS4s.
5. Required the municipalities to establish legal authority to enforce Storm Water Ordinances.
6. Required monitoring of dry weather flows, storm flows, and receiving water quality, and program assessment.

During the first term permit, the Permittees developed a DAMP which was approved by the Executive Officer on January 18, 1994. The DAMP included five BMP groups: environmental education activities, solid waste activities, road drainage system operations and maintenance, regulatory and enforcement activities, and structural controls. The DAMP will be revised to include program components developed during the term of the 1996 Permit and to address requirements of this Order. The Permittees also indicated that the monitoring program would be revised and incorporated into the revised DAMP.

The RCFC&WCD performs water quality monitoring activities in support of three separate area-wide NPDES MS4 Permits (Santa Ana, San Diego and Colorado River basins) under the Consolidated Monitoring Program (CMP). Water samples and/or sediment samples have been collected at a total of 74 locations over the last nine years. These 74 locations are comprised of 45 storm drain outfalls, 12 receiving water, 15 sediment, and 2 special interest sampling locations. The August 30, 2000, ROWD indicated that in order to assess long-term trends and BMP effectiveness they would need more data points, with at least 5 samples (of similar types) obtained for many years. The ROWD indicated that the CMP would have to be revised. In the future, these monitoring stations and monitoring will be used to identify problem areas and to re-evaluate the monitoring program and the effectiveness of the BMPs. The future direction of some of these program elements will depend upon the results of the ongoing studies and a holistic approach to watershed management.

Other elements of the Urban Runoff management program included identification and elimination of illegal discharges, illicit connections, and establishment of adequate legal authority to control pollutants in storm water discharges. Most of the Permittees have completed a survey of their MS4s to identify illegal/illicit connections and have adopted

appropriate ordinances to establish legal authority. Some of the more specific achievements during the first and second term permits are as follows:

1. During the term of the 1996 Permit, the Permittees have operated under an Implementation Agreement that sets forth the responsibilities of the Permittees as defined in the 1996 Permit. The Permittees have adopted Storm Water Ordinances regarding the management of Urban Runoff. The Storm Water Ordinances provide the Permittees with the legal authority to implement the requirements of the 1996 Permit and the key regulatory requirements contained in 40 CFR Section 122.26(d)(2)(I)(A-F).
2. The Permittees have participated in the CMP.
3. The Permittees administered area-wide programs including: hazardous materials emergency response, household hazardous waste collection, industrial/commercial compliance assistance program and public education and outreach. Some of these programs were coordinated with Caltrans and local agencies.
4. A Municipal Facilities Strategy was established, a New Development Guideline was developed, pet waste brochure, BMP brochure for horse owners, BMP brochure for pool discharges and a general outreach brochure for residents that hire contractors were developed.
5. A Technical Advisory Committee for overall program development and implementation was established.
6. Program Review: A number of existing programs were reviewed to determine their effectiveness in combating urban runoff pollution and to recommend alternatives and or improvements, including public agency activities and facilities, illegal discharges and illicit connections to the MS4 systems, and existing monitoring programs.
7. Public Education: A number of steps were taken to educate the public, businesses, industries, and commercial establishments regarding their role in urban runoff pollution controls. The industrial dischargers were notified of the storm water regulatory requirements. For a number of unregulated activities, BMP guidances were developed and a toll free hotline was established for reporting any suspected water quality problems.
8. Public Agency Training: Training was provided to public agency employees to implement New Development Guidelines and Public Works BMPs.
9. Related Activities: Modified MS4s by channel stabilization and creation of sediment basins; eliminated or permitted and documented illicit connections to the MS4s.

An accurate and quantifiable measurement of the impact of the above stated Urban Runoff management programs is difficult, due to a variety of reasons, such as the variability in chemical water quality data, the incremental nature of BMP implementation, lack of baseline monitoring data, and the existence of some of the programs and policies prior to initiation of formal Urban Runoff management programs. There are generally two accepted methodologies for assessing water quality improvements: (1) conventional monitoring such as chemical-specific water quality monitoring; and (2) non-conventional monitoring, such as monitoring of the amount of household hazardous waste collected and disposed off at appropriate disposal sites, the amount of used oil collected, and the amount of debris removed by the debris boom, etc.

The water quality monitoring data could not be used to indicate any discernible trends or significant changes. It is expected that continuation of these programs and policies will reduce or control pollutants in Urban Runoff.

During the second term permit, there was an increased focus on watershed management initiatives and coordination among the municipal permittees in Orange, Riverside and San Bernardino Counties. These efforts resulted in a number of regional monitoring programs and other coordinated program and policy developments.

It is anticipated that with continued implementation of the revised DAMP and other requirements specified in this Order, the goals and objectives of the storm water regulations will be met, including protection of the beneficial uses of all Receiving Waters.

## **VII. FUTURE DIRECTION/2000 ROWD**

The ROWD (2000 ROWD) included an overview of the programs and policies the Permittees are proposing to implement during the third term permit. One of the proposed activities is to revise the 1993 DAMP. The 2000 ROWD specified that the revised DAMP will be the principal guidance document for Urban Runoff management programs in the Permit Area. The suggested outline for the revised DAMP include the following major components:

1. Continues a framework for the program management activities and DAMP update.
2. Continues to provide the legal authority to control discharges to the MS4s.
3. Includes a description of land use and population characteristics.
4. Improves current BMPs to achieve further reduction in pollutant loading to the MS4s.
5. Identifies TMDL concerns and an implementation schedule and other tools for addressing those concerns.
6. Identifies pollutants of concern in the regional water bodies.
7. Includes programs and policies to increase public education processes and to seek public support for Urban Runoff pollution prevention BMPs.
8. Continue with Management Steering Committee and other technical/advisory committees.
9. Includes sections on construction sites, development planning, industrial and commercial sources, and public education and outreach.
10. Includes programs and policies to eliminate illegal discharges and illicit connections to the MS4s.
11. Includes a continued and revised monitoring program for Urban Runoff.
12. Includes provisions for any special focus studies and/or control measures.

A combination of these programs and policies and the requirements specified in this Order should ensure control of pollutants in storm water runoff from owned and/or controlled by the Permittees.

## **VIII. PERMIT REQUIREMENTS AND PROVISIONS**

The legislative history of storm water statutes (1987 CWA Amendments), USEPA regulations (40CFR Parts 122, 123, and 124), and clarifications issued by the State Board (State Board Orders No. WQ 91-03 and WQ 92-04) indicate that a non-traditional NPDES

permitting strategy was anticipated for regulating urban runoff. Due to the economic and technical infeasibility of full-scale end-of-pipe treatments and the complexity of urban runoff quality and quantity, MS4 permits generally include narrative requirements for the implementation of BMPs in place of numeric effluent limits.

The requirements included in this Order are meant to specify those management practices, control techniques and system design and engineering methods that will result in MEP protection of the beneficial uses of the Receiving Waters. The State Board (Orders No. WQ 98-01 and WQ 99-05) concluded that MS4s must meet the technology-based MEP standard and water quality standards (water quality objectives and beneficial uses). The U.S. Court of Appeals for the Ninth Circuit subsequently held that strict compliance with water quality standards in MS4 permits is at the discretion of the local permitting agency. Any requirements included in the Order that are more stringent than the federal storm water regulations are in accordance with the CWA Section 402(p)(3)(iii), and the California Water Code Section 13377 and are consistent with the Regional Board's interpretation of the requisite MEP standard.

The ROWD included a discussion of the current status of Riverside County's Urban Runoff management program and the proposed programs and policies for the next five years (third term permit). This Order incorporates these documents and specifies performance commitments for specific elements of the Permittees Urban Runoff management program.

This Order recognizes the progress made by the Permittees during the first and second term permits in implementing the storm water regulations. The Order also recognizes regional and innovative solutions to such a complex problem. For these reasons, the Order is less prescriptive compared to some of the MS4 NPDES permits for urban runoff issued by other Regional Boards. However, it should achieve the same or better water quality benefits because of the programs and policies already being implemented or proposed for implementation, including regional and watershed wide solutions.

The essential components of the Urban Runoff Management Program, as established by federal regulations [40 CFR 122.26(d)] are: (i) Adequate Legal Authority, (ii) Fiscal Resources, (iii) Storm Water Quality Management Program (SQMP) - (Public Information and Participation Program, Industrial/Commercial Facilities Program, Development Planning Program, Development Construction Program, Public Agency Activities Program, Illicit Connection and Illicit Discharges Elimination Program), and (iv) Monitoring and Reporting Program. The major sections of the requirements in this Order include: I. Responsibilities; II. Discharge Limitations/Prohibitions; III. Receiving Water Limitations; IV. Implementation Agreement; V. Legal Authority/Enforcement; VI. Illegal/Illicit Connections/Illegal Discharges; Litter, Debris and Trash Control; VII. Sewage Spills, Infiltration into MS4 Systems from Leaking Sanitary Sewer Lines, Septic System Failures, and Portable Toilet Discharges; VIII. New Development (including significant re-development); IX. Municipal Inspection Program; X. Public Education and Outreach; XI. Municipal Facilities Programs and Policies/Activities; XII. Municipal Construction Projects/Activities; XIII. Program Management/Damp Review; XIV. Monitoring and Reporting Requirements; XV. Provisions; XVI. Permit Expiration and Renewal. These programs and policies are intended to improve urban storm water quality and protect the beneficial uses of receiving waters of the region.

A. RESPONSIBILITIES

The responsibilities of the Principal Permittee is to coordinate the overall Urban Runoff management program and the Co-Permittees are responsible for managing the Urban Runoff Program within their jurisdictions as detailed in the ROWD and Order No. 96-30 and 90-104.

B. DISCHARGE PROHIBITIONS

In accordance with CWA Section 402(p)(3)(B)(ii), this Order prohibits the discharge of non-storm water to the MS4s, with a few exceptions. The specified exceptions are consistent with 40 CFR 122.26(d)(2)(iv)(B)(1). If the Permittees or the Executive Officer determines that any of the exempted non-storm water discharges is a significant source of pollutants, a separate NPDES permit or coverage under the Regional Board's De Minimus permit will be required.

C. RECEIVING WATER LIMITATIONS

Receiving water limitations are included to ensure that discharges of Urban Runoff from MS4 systems do not cause or contribute to violations of applicable water quality standards in Receiving Waters. The compliance strategy for receiving water limitations is consistent with the USEPA and State Board guidance and recognizes the complexity of Urban Runoff management.

This Order requires the Permittees to meet water quality standards in Receiving Waters in accordance with USEPA requirements, as specified in State Board Order No. WQ 99-05. If water quality standards are not met by implementation of current BMPs, the Permittees are required to re-evaluate the programs and policies and to propose additional BMPs. Compliance determination will be based on this iterative BMP implementation process.

D. IMPLEMENTATION AGREEMENT

The existing Implementation Agreement needs to be revised to include the cities that were not signatories to this Agreement. This section requires that a copy of the signature page and any revisions to the Agreement shall be included in the Annual Report.

E. LEGAL AUTHORITY/ENFORCEMENT

Each Permittee has adopted a number of ordinances, municipal codes, and other regulations to establish legal authority to control discharges to the MS4s and to enforce these regulations as specified in 40 CFR 122.26(d)(2)(1)(B, C, E, and F). The Permittees are required to enforce these ordinances and to take enforcement actions against violators (40 CFR 122.26(d)(2)(iv)(A-D).

The enforcement activities undertaken by a majority of the Permittees have consisted primarily of Notices of Violation, which act to educate the public on the environmental consequences of illegal discharges. In the case of the County, additional action has sometimes included recovery of investigation and clean-up

costs from a responsible party. In the event of egregious or repeated violations, the option exists for a referral to the County District Attorney for possible prosecution or to the Regional Board for enforcement under the State Water Code or the CWA. In order to eliminate unauthorized, non-storm water discharges, reduce the amount of pollutants commingling with Urban Runoff and thereby protect water quality, an additional level of enforcement is required between Notices of Violation and District Attorney referrals. Therefore, within 18 months of the Order's adoption, the Permittees are required to establish the authority and resources to administer either civil or criminal fines and/or penalties for violations of their Storm Water Ordinances. The progress in establishing this program must be fully documented in the Annual Reports submitted by the Permittees and the number, nature and amount of fines and/or penalties levied must be reported, beginning with the 2003/2004 Annual Report.

F. Illicit Connections/Illegal Discharges; Litter, Debris and Trash Control;

Most of the Permittees have completed their survey of the MS4 systems and eliminated or permitted all identified illicit connections. The Permittees have also established a program to address illegal discharges and a mechanism to respond to spills and leaks and other incidents of discharges to the MS4s. The Permittees are required to continue these programs to ensure that the MS4s do not become a source of pollutants in Receiving Waters.

G. Sewage Spills, Infiltration into MS4 Systems from Leaking Sanitary Sewer Lines, Septic System Failures, and Portable Toilet Discharges;

In recent years, sewage spills/leaks into MS4s that discharge into Waters of the U.S. have become one of the leading causes of beneficial use impairment. To address these concerns, a set of separate waste discharge requirements for local sanitary sewer agencies is being prepared by the Regional Board. Failing septic systems and improper use of portable toilets have also been linked to microbial contamination of urban runoff. The Permittees shall identify, with the appropriate local agency, a mechanism to prevent failure of these septic systems from causing or contributing to pollution of Receiving Waters. The Permittees shall also review their local oversight program for the placement and maintenance of portable toilets to determine the need for any revision.

H. New Development (including Significant Redevelopment);

During the second term permit, the Permittees developed New Development guidelines. The Permittees are required to implement these guidelines. Additionally, this Order requires the Permittees to work towards the goal of maintaining the beneficial uses of Receiving Waters. To accomplish this goal, the Permittees have the option of using a number of methodologies. The Permittees/project proponents may propose BMPs based on a watershed approach, establish other innovative and proven alternatives to address Urban Runoff pollution. Numeric sizing criteria for controls at New and Significant Redevelopment sites are specified in this Order. Any proposed regional or watershed-wide (or sub-watershed) pollution control measure should afford water quality protection equivalent to or better than that from the prescribed numeric

sizing criteria. If a set of measures acceptable to the Executive Officer is not developed and approved by January 1, 2005, the Permittees are required to use the numeric sizing criteria specified in the Order. The numeric criteria are identical to the one used by the San Diego Regional Board in its MS4 permit for permittees within the San Diego County area (Order No. 2001-01).

I. Municipal Inspection Program;

Co-Permittee inspections of construction, industrial, and commercial activities within their jurisdiction will be conducted, in order to control the loading of pollutants entering the MS4. The Co-Permittees will inventory facilities and sites in the above categories, prioritize these facilities based on threat to water quality, and perform regular inspections to insure compliance with local ordinances. While initial observations of non-compliance may result in 'educational' type enforcement, repeated non-compliance will result in more disciplinary forms of enforcement, such as monetary penalties, stop work orders or permit revocation. Chapter four of the Enforcement/Compliance Strategy (the "E/CS") proposes a prioritization scheme and response outline.

J. Public Education and Outreach;

Public outreach is an important element of the overall urban pollution prevention program. The Permittees have committed to implement a strategic and comprehensive public education program to maintain the integrity of the Receiving Waters and their ability to sustain beneficial uses. The Principal Permittee has taken the lead role in the outreach programs and has targeted various groups including businesses, industry, development, utilities, environmental groups, institutions, homeowners, school children, and the general public. The Permittees have developed a number of educational materials, have established a storm water pollution prevention hotline, started an advertising and educational campaign, and distributed public education materials at a number of public events. The Permittees are required to continue these efforts and to expand public participation and education programs.

K. Municipal Facilities Programs and Policies/Activities;

Education of municipal planning, inspection, and maintenance staff is critical to ensure that municipal facilities and activities do not cause or contribute to an exceedance of Receiving Water quality standards. The second term permit required the Permittees to report on an annual basis the actions taken to eliminate the discharge of pollutants from public agency activities and facilities. The Permittees are required to inspect and maintain their MS4s free of waste materials to control pollutants in Urban Runoff flowing through these systems. This Order requires the Permittees to re-evaluate their MS4s annually to see if additional BMPs are needed to ensure protection of Receiving Water quality.

L. Municipal Construction Projects/Activities;

This section addresses the requirements for the construction projects by the Permittees themselves.

M. Program Management/Damp Review;

The DAMP is a management document that needs to be updated with the new requirements of this Order.

N. Monitoring and Reporting Requirements;

During the first term permit and part of the second term permit, the Permittees conducted monitoring of the storm water flows, Receiving Water quality, and sediment quality. The Riverside County monitoring programs, as well as other monitoring programs nationwide, have shown that there is a high degree of uncertainty in the quality of storm water runoff and that there are significant variations in the quality of urban runoff spatially and temporally. However, most of the monitoring programs to date have indicated that there are a number of pollutants in urban runoff. Only in a few cases a definite link between pollutants in urban runoff and beneficial use impairments has been established.

Currently the Permittees are cooperating with the Regional Board in the development and implementation of appropriate monitoring programs to support the development of the Canyon Lake and Lake Elsinore TMDLs. This monitoring program includes sampling stormwater runoff at a variety of sites located throughout the watershed for three storm events per year. Stormwater samples will be collected and analyzed for a variety of constituents, principally nutrients. In addition to these efforts, the Permittees are reevaluating their overall Urban Runoff monitoring program to determine its effectiveness in meeting the following objectives:

1. Assess rates of mass loading
2. Assess influence of land use on water quality
3. Assess compliance with water quality objectives
4. Assess effectiveness of water quality controls
5. Detect illicit connections and illegal discharges
6. Identify problem areas and/or trends
7. Identify pollutants of concern
8. Identify baseline conditions
9. Establish/maintain a water quality database

To accomplish these goals, the following activities are conducted:

1. Collect water quality data
2. Collect rainfall/runoff data
3. Establish quality assurance/control procedures
4. Conduct data analysis and archiving
5. Install and maintain appropriate equipment
6. Prepare an annual report

The RCFC&WCD, in its role as Principal Permittee, participates in the Southern California Cooperative Stormwater Research/Monitoring Program. The key focus of this Cooperative Monitoring Program is to develop methodologies and assessment tools to more effectively understand urban stormwater and non-stormwater impacts to receiving waters. Additionally, some of the municipal permittees in the San Bernardino County and Riverside County have been requested to participate in the investigation of bacteriological water quality impairments in the Upper Santa Ana River.

The Permittees are encouraged to continue their participation in regional and watershed-wide monitoring programs. The Permittees are required to submit a revised water quality monitoring plan for the Executive Officer's approval.

#### **IX. WATER QUALITY BENEFITS, COST ANALYSIS, AND FISCAL ANALYSIS**

There are direct and indirect benefits from clean lake beaches, clean water, and a clean environment. It is difficult to assign a dollar value to the benefits the public derives from fishable and swimmable waters. In 1972, at the start of the NPDES program, only 1/3 of the U.S. waters were swimmable and fishable. In 2001, 2/3 of the U.S. waters meet these criteria. In the 1995 "Money" magazine survey of the "Best Places to Live", clean water and air ranked as the most important factors in choosing a place to live. Thus environmental quality has a definite link to property values.

The true magnitude of the urban runoff problem is still elusive and any cost estimate for cleaning up urban runoff would be premature short of end-of-pipe treatments. For urban runoff, end-of-pipe treatments are cost prohibitive and are not generally considered as a technologically feasible option. Over the last decade, the Permittees have attempted to define the problem and implemented BMPs to the MEP to combat the problem.

The costs incurred by the Permittees in implementing these programs and policies can be divided into three broad categories:

1. Shared costs: These are costs that fund activities performed mostly by the Principal Permittee under the Implementation Agreement. These activities include overall storm water program coordination; intergovernmental agreements; representation at the Storm Water Quality Task Force, Regional Board/State Board meetings and other public forums; preparation and submittal of compliance reports and other reports required under the NPDES permits, Water Code Section 13267 requests, budget and other program documentation; coordination of consultant studies, Co-Permittee meetings, and training seminars.

2. Individual Costs for DAMP Implementation: These are costs incurred by each Permittee for implementing the BMPs (drainage facility inspections for illicit connections, drain inlet/catch basin stenciling, public education, etc.) included in the DAMP. A number of programs and policies for non-point and storm water pollution controls existed prior to the urban runoff NPDES program. However, the DAMP that was developed and implemented in response to the urban runoff program required additional programs and policies for pollution control.
3. Individual Costs of Pre-Existing Programs: These are costs incurred by each Permittee for water pollution control measures which were already in existence prior to the urban runoff NPDES program. These programs included recycling, litter control, street sweeping, drainage facility maintenance, and emergency spill response.

Historically, the Permittees have employed four distinct funding methods to finance their NPDES Activities. Many Permittees utilize a combination of these funding sources. The different methods include:

1. Santa Ana Watershed Benefit Assessment Area

In 1991, the RCFC&WCD established the Santa Ana Watershed Benefit Assessment Area (SAWBAA) to fund its NPDES activities. Currently, SAWBAA revenues fund both area-wide NPDES program activities and the RCFC&WCD's individual permit compliance activities.

2. County Service Area 152

In December 1991, the County of Riverside formed County Service Area 152 (CSA 152) to provide funding for compliance activities associated with its NPDES permit activities. Under the laws that govern CSAs, sub-areas may be established within the overall CSA area with different assessment rates set within each sub-area. The cities of Corona, Moreno Valley, Norco, Riverside, Lake Elsinore and San Jacinto elected to participate in CSA 152.

3. Utility Charge

The City of Hemet funds a portion of its NPDES program activities through a utility charge.

4. General Fund /Other Revenues

The remaining Permittees utilize general fund revenue to finance their NPDES activities. Several Permittees also report using general fund and other revenue sources (e.g., gas taxes, developer fees, etc.) to fund a portion of their Urban Runoff management activities.

The Annual Report provides the most recent budgets and expenditures projections available for the costs incurred by the Permittees in implementing these programs and policies.

**X. ANTIDegradation Analysis**

The Regional Board has considered whether a complete antidegradation analysis, pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, is required for these Urban Runoff discharges. The Regional Board finds that the pollutant loading rates to the Receiving Waters will be reduced with the implementation of the requirements in this Order. As a result, the quality of Urban Runoff discharges and Receiving Waters will be improved, thereby improving protection for the beneficial uses of Waters of the U.S. Since this Order will not result in a lowering of water quality, a complete antidegradation analysis is not necessary, consistent with the federal and state antidegradation requirements.

**XI. Public Workshop**

A number of workshops have been held to discuss the draft MS4 permits for the Orange and San Bernardino counties within the Regional Board's jurisdiction. The details regarding these permits are posted on the Regional Board's website or may be obtained by calling the office at 909-782-4130. Building upon those permits, a workshop for the Order was conducted on May 31, 2002, in Huntington Beach, California and a second workshop was conducted on September 6, 2002, in Loma Linda, California. The Public Hearing for consideration of adoption of the Order is scheduled for the October 25, 2002, Board Meeting in Corona.

The Regional Board recognizes the significance of Riverside County's Storm Water/Clean Water Protection Program and will conduct, participate, and/or assist with at any workshop during the term of this Order to promote and discuss the progress of the Urban Runoff management program. The details of the workshop will be posted on the Regional Board's website, published in local newspapers and mailed to interested parties. Persons wishing to be included in the mailing list for any of the items related to this permit may register their name, mailing address and phone number with the Regional Board office at the address given below.

**XII. Public Hearing**

The Regional Board will hold a public hearing regarding the proposed waste discharge requirements. The public hearing will be scheduled at a later time (tentatively on October 25, 2002, in the City of Corona) and information regarding the public hearing will also be posted on the website. Further information regarding the conduct and nature of the public hearing concerning these waste discharge requirements may be obtained by writing or visiting the Santa Ana Regional Board office, 3737 Main Street, Suite 500, Riverside, CA 92501.

**XIII. Information and Copying**

Persons wishing further information may write to the above address or call Keith Elliott at (909) 782-4925. Copies of the application, proposed waste discharge requirements, and other documents (other than those which the Executive Officer maintains as confidential) are available at the Regional Board office for inspection and copying by appointment scheduled between the hours of 10:00 a.m. and 4:00 p.m., Monday through Friday (excluding holidays).

**XIV. REGISTER OF INTERESTED PERSONS**

Any person interested in a particular application or group for applications may leave his name, address and phone number as part of the file for an application. Copies of tentative waste discharge requirements will be mailed to all interested parties.

**XV. RECOMMENDATION**

Adopt the proposed Order.

TAB 4

California Constitution, article XIII B, section 6

CALIFORNIA CONSTITUTION  
ARTICLE 13B GOVERNMENT SPENDING LIMITATION

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

(1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) (1) Except as provided in paragraph (2), for the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) Payable claims for costs incurred prior to the 2004-05 fiscal year that have not been paid prior to the 2005-06 fiscal year may be paid over a term of years, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject

to this section.

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

TAB 5

33 U.S.C. § 1251

SEC. 101 [33 U.S.C. 1251] Declaration of Goals and Policy

(a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act--

(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State;

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans; and

(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.

[101(a)(7) added by PL 100-41]

(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is the policy of Congress that the States manage the construction grant program under this Act and implement the permit programs under sections 402 and 404 of this Act. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

(c) It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, reduction, and elimination of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of

discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.

(d) Except as otherwise expressly provided in this Act, the Administrator of the Environmental Protection Agency (hereinafter in this Act called "Administrator") shall administer this Act.

(e) Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

(f) It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.

(g) It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this Act. It is the further policy of Congress that nothing in this Act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall cooperate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.

TAB 6

33 U.S.C. § 1342

SEC. 402 [33 U.S.C. 1342] National Pollutant Discharge Elimination System

(a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301(a), upon condition that such discharge will meet either (A) all applicable requirements under sections 301, 302, 306, 307, 308 and 403 of this Act, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act. [402(a)(1)(A) and (B) designated by PL 100-4]

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304(i)(2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

(b) At any time after the promulgation of the guidelines required by subsection (i)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent

legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which--

(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in

which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of this Act into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 306 if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 301 if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308.

(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those discharges subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(i)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

[402(c)(1) amended by PL 100-4]

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(i)(2) of this Act.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(4) Limitations on Partial Permit Program Returns and Withdrawals.--A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of--

(A) a State partial permit program approved under subsection (n)(4) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.

[402(c)(4) added by PL 100-4]

(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after the date of enactment of this paragraph, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, or request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act.

(e) In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 304 of this Act, the Administrator authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) In the event any condition of a permit for discharges from a treatment works (as defined in section 212 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(j) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, and 402, of this Act, or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

(l) Limitation on Permit Requirement.--

(1) Agricultural Return Flows.--The Administrator shall not require a permit under this section, for discharge composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.  
[402(l)(1) designated by PL 100-4]

(2) Stormwater Runoff From Oil, Gas, and Mining Operations.--The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any

State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

[402(1)(2) added by PL 100-4]

(m) Additional Pretreatment of Conventional Pollutants Not Required.--To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

[402(m) added by PL 100-4]

(n) Partial Permit Program.--

(1) State Submission.--The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) Minimum Coverage.--A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

(3) Approval of Major Category Partial Permit Programs.--The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if--

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

(4) Approval of Major Component Partial Permit Programs.--The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b)

if--

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.  
[402(n) added by PL 100-4]

(o) Anti-Backsliding.--

(1) General Prohibition.--In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303 (d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

(2) Exceptions.--A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if--

(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at

the time of permit renewal, reissuance, or modification). Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

(3) Limitations.--In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.  
[402(o) added by PL 100-4]

(p) Municipal and Industrial Stormwater Discharges.--

(1) General Rule.--Prior to October 1, 1994, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.  
[402(p)(1) amended by PL 102-580]

(2) Exceptions.--Paragraph (1) shall not apply with respect to the following stormwater discharges:

(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

(B) A discharge associated with industrial activity.

(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) Permit Requirements.--

(A) Industrial Discharges.--Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

(B) Municipal Discharge.--Permits for discharges from municipal storm sewers--

(i) may be issued on a system--or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(4) Permit Application Requirements.--

(A) Industrial and Large Municipal Discharges.--Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(B) Other Municipal Discharges.-- Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(5) Studies.--The Administrator, in consultation with the States, shall conduct a study for the purposes of--

(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the

Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

[402(p)(6) amended by PL 102-580]

(6) Regulations.--Not later than October 1, 1994, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.

[402(p) added by PL 100-4]

TAB 7

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**§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).**

(a) *Permit requirement.* (1) Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain a NPDES permit except:

(i) A discharge with respect to which a permit has been issued prior to February 4, 1987;

(ii) A discharge associated with industrial activity (see § 122.26(a)(4));

(iii) A discharge from a large municipal separate storm sewer system;

(iv) A discharge from a medium municipal separate storm sewer system;

(v) A discharge which the Director, or in States with approved NPDES programs, either the Director or the EPA Regional Administrator, determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States. This designation may include a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under paragraph (a)(2) of this section or agricultural storm water runoff which is exempted from the definition of point source at § 122.2.

The Director may designate discharges from municipal separate storm sewers on a system-wide or jurisdiction-wide basis. In making this determination the Director may consider the following factors:

(A) The location of the discharge with respect to waters of the United States as defined at 40 CFR 122.2.

(B) The size of the discharge;

(C) The quantity and nature of the pollutants discharged to waters of the United States; and

(D) Other relevant factors.

(2) The Director may not require a permit for discharges of storm water runoff from the following:

(i) Mining operations composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation

runoff and which are not contaminated by contact with or that have not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations, except in accordance with paragraph (c)(1)(iv) of this section.

(ii) All field activities or operations associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities, except in accordance with paragraph (c)(1)(iii) of this section. Discharges of sediment from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities are not subject to the provisions of paragraph (c)(1)(iii)(C) of this section.

NOTE TO PARAGRAPH (a)(2)(ii): EPA encourages operators of oil and gas field activities or operations to implement and maintain Best Management Practices (BMPs) to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities to help ensure protection of surface water quality during storm events. Appropriate controls would be those suitable to the site conditions and consistent with generally accepted engineering design criteria and manufacturer specifications. Selection of BMPs could also be affected by seasonal or climate conditions.

(3) *Large and medium municipal separate storm sewer systems.* (i) Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.

(ii) The Director may either issue one system-wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to: all discharges owned or operated by the same municipality; located within the same jurisdiction; all discharges within a system that discharge to the same watershed; discharges

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within a system that are similar in nature; or for individual discharges from municipal separate storm sewers within the system.

(iii) The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must either:

(A) Participate in a permit application (to be a permittee or a co-permittee) with one or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system;

(B) Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible; or

(C) A regional authority may be responsible for submitting a permit application under the following guidelines:

(1) The regional authority together with co-applicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time part 1 of the application is due;

(2) The permit applicant or co-applicants shall establish their ability to make a timely submission of part 1 and part 2 of the municipal application;

(3) Each of the operators of municipal separate storm sewers within the systems described in paragraphs (b)(4) (i), (ii), and (iii) or (b)(7) (i), (ii), and (iii) of this section, that are under the purview of the designated regional authority, shall comply with the application requirements of paragraph (d) of this section.

(iv) One permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The Director may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

(v) Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems

that are issued on a system-wide, jurisdiction-wide, watershed or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

(vi) Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.

(4) *Discharges through large and medium municipal separate storm sewer systems.* In addition to meeting the requirements of paragraph (c) of this section, an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or 180 days prior to commencing such discharge: the name of the facility; a contact person and phone number; the location of the discharge; a description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility; and any existing NPDES permit number.

(5) *Other municipal separate storm sewers.* The Director may issue permits for municipal separate storm sewers that are designated under paragraph (a)(1)(v) of this section on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

(6) *Non-municipal separate storm sewers.* For storm water discharges associated with industrial activity from point sources which discharge through a non-municipal or non-publicly owned separate storm sewer system, the Director, in his discretion, may issue: a single NPDES permit, with each discharger a co-permittee to a permit issued to the operator of the portion of the system that discharges into waters of the United States; or, individual permits to each discharger of storm water associated with industrial activity through the non-municipal conveyance system.

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(i) All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the United States, with each discharger to the non-municipal conveyance a co-permittee to that permit.

(ii) Where there is more than one operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications.

(iii) Any permit covering more than one operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.

(7) *Combined sewer systems.* Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain NPDES permits in accordance with the procedures of §122.21 and are not subject to the provisions of this section.

(8) Whether a discharge from a municipal separate storm sewer is or is not subject to regulation under this section shall have no bearing on whether the owner or operator of the discharge is eligible for funding under title II, title III or title VI of the Clean Water Act. See 40 CFR part 35, subpart I, appendix A(b)H.2.j.

(9)(i) On and after October 1, 1994, for discharges composed entirely of storm water, that are not required by paragraph (a)(1) of this section to obtain a permit, operators shall be required to obtain a NPDES permit only if:

(A) The discharge is from a small MS4 required to be regulated pursuant to §122.32;

(B) The discharge is a storm water discharge associated with small construction activity pursuant to paragraph (b)(15) of this section;

(C) The Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, determines that storm water controls are needed for the discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs) that address the pollutant(s) of concern; or

(D) The Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(i) Operators of small MS4s designated pursuant to paragraphs (a)(9)(i)(A), (a)(9)(i)(C), and (a)(9)(i)(D) of this section shall seek coverage under an NPDES permit in accordance with §§122.33 through 122.35. Operators of non-municipal sources designated pursuant to paragraphs (a)(9)(i)(B), (a)(9)(i)(C), and (a)(9)(i)(D) of this section shall seek coverage under an NPDES permit in accordance with paragraph (c)(1) of this section.

(ii) Operators of storm water discharges designated pursuant to paragraphs (a)(9)(i)(C) and (a)(9)(i)(D) of this section shall apply to the Director for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the Director (see §124.52(c) of this chapter).

(b) *Definitions.* (1) *Co-permittee* means a permittee to a NPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

(2) *Illicit discharge* means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

(3) *Incorporated place* means the District of Columbia, or a city, town, township, or village that is incorporated under the laws of the State in which it is located.

(4) *Large municipal separate storm sewer system* means all municipal separate storm sewers that are either:

(i) Located in an incorporated place with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of the Census (Appendix F of this part); or

(ii) Located in the counties listed in appendix H, except municipal separate

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storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) Owned or operated by a municipality other than those described in paragraph (b)(4) (i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (b)(4) (i) or (ii) of this section. In making this determination the Director may consider the following factors:

(A) Physical interconnections between the municipal separate storm sewers;

(B) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (b)(4)(i) of this section;

(C) The quantity and nature of pollutants discharged to waters of the United States;

(D) The nature of the receiving waters; and

(E) Other relevant factors; or

(iv) The Director may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraph (b)(4) (i), (ii), (iii) of this section.

(5) *Major municipal separate storm sewer outfall* (or "major outfall") means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent

(discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

(6) *Major outfall* means a major municipal separate storm sewer outfall.

(7) *Medium municipal separate storm sewer system* means all municipal separate storm sewers that are either:

(i) Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census (Appendix G of this part); or

(ii) Located in the counties listed in appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) Owned or operated by a municipality other than those described in paragraph (b)(7) (i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (b)(7) (i) or (ii) of this section. In making this determination the Director may consider the following factors:

(A) Physical interconnections between the municipal separate storm sewers;

(B) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (b)(7)(i) of this section;

(C) The quantity and nature of pollutants discharged to waters of the United States;

(D) The nature of the receiving waters; or

(E) Other relevant factors; or

(iv) The Director may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs (b)(7) (i), (ii), (iii) of this section.

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(8) *Municipal separate storm sewer* means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

(ii) Designed or used for collecting or conveying storm water;

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

(9) *Outfall* means a *point source* as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

(10) *Overburden* means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by mining operations.

(11) *Runoff coefficient* means the fraction of total rainfall that will appear at a conveyance as runoff.

(12) *Significant materials* includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III

of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

(13) *Storm water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

(14) *Storm water discharge associated with industrial activity* means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under this part 122. For the categories of industries identified in this section, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (b)(14)(i) through (xi) of this

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section) include those facilities designated under the provisions of paragraph (a)(1)(v) of this section. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of paragraph (b)(14):

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) in paragraph (b)(14) of this section);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 31, 32 (except 323), 33, 3441, 373;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (b)(14) (i)-(vii) or (ix)-(xi) of this section are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the CWA;

(x) Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a

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part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25;

(15) *Storm water discharge associated with small construction activity* means the discharge of storm water from:

(i) Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The Director may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

(A) The value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of *Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE)*, pages 21-64, dated January 1997. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C 552(a) and 1 CFR part 51. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M St. SW, Washington, DC 20460. A copy is also available for inspection at the U.S.

EPA Water Docket, 401 M Street SW, Washington, DC 20460, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). An operator must

certify to the Director that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

(B) Storm water controls are not needed based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for non-impaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this paragraph, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the Director that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

(ii) Any other construction activity designated by the Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

EXHIBIT 1 TO § 122.26(B)(15)—SUMMARY OF COVERAGE OF "STORM WATER DISCHARGES ASSOCIATED WITH SMALL CONSTRUCTION ACTIVITY" UNDER THE NPDES STORM WATER PROGRAM

Automatic Designation: Nationwide Coverage.	Required	• Construction activities that result in a land disturbance of equal to or greater than one acre and less than five acres.
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EXHIBIT 1 TO § 122.26(b)(15)—SUMMARY OF COVERAGE OF “STORM WATER DISCHARGES ASSOCIATED WITH SMALL CONSTRUCTION ACTIVITY” UNDER THE NPDES STORM WATER PROGRAM—Continued

<p>Potential Designation: Optional Evaluation and Designation by the NPDES Permitting Authority or EPA Regional Administrator.                  Potential Waiver: Waiver from Requirements as Determined by the NPDES Permitting Authority..</p>	<ul style="list-style-type: none"> <li>• Construction activities disturbing less than one acre if part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and less than five acres. (see § 122.26(b)(15)(i).)</li> <li>• Construction activities that result in a land disturbance of less than one acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants. (see § 122.26(b)(15)(ii).)</li> </ul> <p>Any automatically designated construction activity where the operator certifies: (1) A rainfall erosivity factor of less than five, or (2) That the activity will occur within an area where controls are not needed based on a TMDL or, for non-impaired waters that do not require a TMDL, an equivalent analysis for the pollutant(s) of concern. (see § 122.26(b)(15)(i).)</p>
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(16) *Small municipal separate storm sewer system* means all separate storm sewers that are:

(i) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.

(ii) Not defined as “large” or “medium” municipal separate storm sewer systems pursuant to paragraphs (b)(4) and (b)(7) of this section, or designated under paragraph (a)(1)(v) of this section.

(iii) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

(17) *Small MS4* means a small municipal separate storm sewer system.

(18) *Municipal separate storm sewer system* means all separate storm sewers that are defined as “large” or “medium” or “small” municipal separate

storm sewer systems pursuant to paragraphs (b)(4), (b)(7), and (b)(16) of this section, or designated under paragraph (a)(1)(v) of this section.

(19) *MS4* means a municipal separate storm sewer system.

(20) *Uncontrolled sanitary landfill* means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runoff or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(c) *Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity*—(1) *Individual application*. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit or any discharge of storm water which the Director is evaluating for designation (see §124.52(c) of this chapter) under paragraph (a)(1)(v) of this section and is not a municipal storm sewer, shall submit an NPDES application in accordance with the requirements of §122.21 as modified and supplemented by the provisions of this paragraph.

(i) Except as provided in §122.26(c)(1)(ii)-(iv), the operator of a storm water discharge associated with industrial activity subject to this section shall provide:

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(A) A site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including: each of its drainage and discharge structures; the drainage area of each storm water outfall; paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant materials, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners and fertilizers are applied, each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 CFR 262.34); each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive storm water discharges from the facility;

(B) An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following: Significant materials that in the three years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water; method of treatment, storage or disposal of such materials; materials management practices employed, in the three years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(C) A certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for

the presence of non-storm water discharges which are not covered by a NPDES permit; tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

(D) Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application;

(E) Quantitative data based on samples collected during storm events and collected in accordance with §122.21 of this part from all outfalls containing a storm water discharge associated with industrial activity for the following parameters:

(1) Any pollutant limited in an effluent guideline to which the facility is subject;

(2) Any pollutant listed in the facility's NPDES permit for its process wastewater (if the facility is operating under an existing NPDES permit);

(3) Oil and grease, pH, BOD<sub>5</sub>, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(4) Any information on the discharge required under §122.21(g)(7)(vi) and (vii);

(5) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and

(6) The date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

(F) Operators of a discharge which is composed entirely of storm water are exempt from the requirements of §122.21 (g)(2), (g)(3), (g)(4), (g)(5), (g)(7)(iii), (g)(7)(iv), (g)(7)(v), and (g)(7)(viii); and

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(G) Operators of new sources or new discharges (as defined in §122.2 of this part) which are composed in part or entirely of storm water must include estimates for the pollutants or parameters listed in paragraph (c)(1)(i)(E) of this section instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in paragraph (c)(1)(i)(E) of this section within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the NPDES permit for the discharge. Operators of a new source or new discharge which is composed entirely of storm water are exempt from the requirements of §122.21 (k)(3)(ii), (k)(3)(iii), and (k)(5).

(ii) An operator of an existing or new storm water discharge that is associated with industrial activity solely under paragraph (b)(14)(x) of this section or is associated with small construction activity solely under paragraph (b)(15) of this section, is exempt from the requirements of §122.21(g) and paragraph (c)(1)(i) of this section. Such operator shall provide a narrative description of:

(A) The location (including a map) and the nature of the construction activity;

(B) The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

(C) Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable State and local erosion and sediment control requirements;

(D) Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable State or local erosion and sediment control requirements;

(E) An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is

completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(F) The name of the receiving water.

(iii) The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with paragraph (c)(1)(i) of this section, unless the facility:

(A) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

(B) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

(C) Contributes to a violation of a water quality standard.

(iv) The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

(v) Applicants shall provide such other information the Director may reasonably require under §122.21(g)(13) of this part to determine whether to issue a permit and may require any facility subject to paragraph (c)(1)(i) of this section to comply with paragraph (c)(1)(i) of this section.

(2) [Reserved]

(d) *Application requirements for large and medium municipal separate storm sewer discharges.* The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the Director under paragraph (a)(1)(v) of this section, may submit a jurisdiction-wide or system-wide permit application. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent

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or interconnected municipal separate storm sewer systems), such operators may be a coapplicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under paragraph (a)(1)(v) of this section shall include;

(1) *Part 1.* Part 1 of the application shall consist of;

(i) *General information.* The applicants' name, address, telephone number of contact person, ownership status and status as a State or local government entity.

(ii) *Legal authority.* A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in paragraph (d)(2)(i) of this section, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria.

(iii) *Source identification.* (A) A description of the historic use of ordinances, guidance or other controls which limited the discharge of non-storm water discharges to any Publicly Owned Treatment Works serving the same area as the municipal separate storm sewer system.

(B) A USGS 7.5 minute topographic map (or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost effective) extending one mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. The following information shall be provided:

(1) The location of known municipal storm sewer system outfalls discharging to waters of the United States;

(2) A description of the land use activities (e.g. divisions indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a ten year period within the drainage area served by the separate storm sewer. For each land use type, an estimate of an average runoff coefficient shall be provided;

(3) The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste;

(4) The location and the permit number of any known discharge to the municipal storm sewer that has been issued a NPDES permit;

(5) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and

(6) The identification of publicly owned parks, recreational areas, and other open lands.

(iv) *Discharge characterization.* (A) Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events.

(B) Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used.

(C) A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving such discharges have been:

(1) Assessed and reported in section 305(b) reports submitted by the State, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of Clean Water Act (CWA) goals (fishable and swimmable waters), and causes of nonsupport of designated uses;

(2) Listed under section 304(1)(1)(A)(i), section 304(1)(1)(A)(ii), or section 304(1)(1)(B) of the CWA that is not expected to meet water quality standards or water quality goals;

(3) Listed in State Nonpoint Source Assessments required by section 319(a) of the CWA that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water

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quality standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards);

(4) Identified and classified according to eutrophic condition of publicly owned lakes listed in State reports required under section 314(a) of the CWA (include the following: A description of those publicly owned lakes for which uses are known to be impaired; a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes; and a description of methods and procedures to restore the quality of such lakes);

(5) Areas of concern of the Great Lakes identified by the International Joint Commission;

(6) Designated estuaries under the National Estuary Program under section 320 of the CWA;

(7) Recognized by the applicant as highly valued or sensitive waters;

(8) Defined by the State or U.S. Fish and Wildlife Services's National Wetlands Inventory as wetlands; and

(9) Found to have pollutants in bottom sediments, fish tissue or biosurvey data.

(D) *Field screening.* Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two grab samples shall be collected during a 24 hour period with a minimum period of four hours between samples. For all such samples, a narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) shall be provided along

with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR part 136, the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. The field screening points shall be established using the following guidelines and criteria:

(1) A grid system consisting of perpendicular north-south and east-west lines spaced  $\frac{1}{4}$  mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells;

(2) All cells that contain a segment of the storm sewer system shall be identified; one field screening point shall be selected in each cell; major outfalls may be used as field screening points;

(3) Field screening points should be located downstream of any sources of suspected illegal or illicit activity;

(4) Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination;

(5) Hydrological conditions; total drainage area of the site; population density of the site; traffic density; age of the structures or buildings in the area; history of the area; and land use types;

(6) For medium municipal separate storm sewer systems, no more than 250 cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than 500 cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than 250 cells in medium municipal sewers are created,

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and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system shall be subject to field screening (unless access to the separate storm sewer system is impossible); and

(7) Large or medium municipal separate storm sewer systems which are unable to utilize the procedures described in paragraphs (d)(1)(iv)(D) (1) through (6) of this section, because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than 500 or 250 major outfalls respectively (or all major outfalls in the system, if less); in such circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced ¼ mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells; the applicant will then select major outfalls in as many cells as possible until at least 500 major outfalls (large municipalities) or 250 major outfalls (medium municipalities) are selected; a field screening analysis shall be undertaken at these major outfalls.

(E) *Characterization plan.* Information and a proposed program to meet the requirements of paragraph (d)(2)(iii) of this section. Such description shall include: the location of outfalls or field screening points appropriate for representative data collection under paragraph (d)(2)(iii)(A) of this section, a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, a description of the sampling equipment. The proposed location of outfalls or field screening points for such sampling should reflect water quality concerns (see paragraph (d)(1)(iv)(C) of this section) to the extent practicable.

(v) *Management programs.* (A) A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls, that are currently being implemented. Such controls may in-

clude, but are not limited to: Procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under State law as well as local requirements.

(B) A description of the existing program to identify illicit connections to the municipal storm sewer system. The description should include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented.

(vi) *Fiscal resources.* (A) A description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs.

(2) *Part 2.* Part 2 of the application shall consist of:

(i) *Adequate legal authority.* A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant at a minimum to:

(A) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;

(B) Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer;

(C) Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water;

(D) Control through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

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(E) Require compliance with conditions in ordinances, permits, contracts or orders; and

(F) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

(ii) *Source identification.* The location of any major outfall that discharges to waters of the United States that was not reported under paragraph (d)(1)(iii)(B)(1) of this section. Provide an inventory, organized by watershed of the name and address, and a description (such as SIC codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity;

(iii) *Characterization data.* When "quantitative data" for a pollutant are required under paragraph (d)(2)(iii)(A)(3) of this section, the applicant must collect a sample of effluent in accordance with 40 CFR 122.21(g)(7) and analyze it for the pollutant in accordance with analytical methods approved under part 136 of this chapter. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

(A) Quantitative data from representative outfalls designated by the Director (based on information received in part 1 of the application, the Director shall designate between five and ten outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five outfalls covered in the application, the Director shall designate all outfalls) developed as follows:

(1) For each outfall or field screening point designated under this subparagraph, samples shall be collected of storm water discharges from three storm events occurring at least one month apart in accordance with the re-

quirements at §122.21(g)(7) (the Director may allow exemptions to sampling three storm events when climatic conditions create good cause for such exemptions);

(2) A narrative description shall be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;

(3) For samples collected and described under paragraphs (d)(2)(iii)(A)(1) and (A)(2) of this section, quantitative data shall be provided for: the organic pollutants listed in Table II; the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of appendix D of 40 CFR part 122, and for the following pollutants:

Total suspended solids (TSS)  
Total dissolved solids (TDS)  
COD  
BOD<sub>5</sub>  
Oil and grease  
Fecal coliform  
Fecal streptococcus  
pH  
Total Kjeldahl nitrogen  
Nitrate plus nitrite  
Dissolved phosphorus  
Total ammonia plus organic nitrogen  
Total phosphorus

(4) Additional limited quantitative data required by the Director for determining permit conditions (the Director may require that quantitative data shall be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to insure representativeness);

(B) Estimates of the annual pollutant load of the cumulative discharges to waters of the United States from all identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from all identified municipal outfalls during a storm event (as described under §122.21(c)(7)) for BOD<sub>5</sub>, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead,

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and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modelling, data analysis, and calculation methods;

(C) A proposed schedule to provide estimates for each major outfall identified in either paragraph (d)(2)(ii) or (d)(1)(iii)(B)(1) of this section of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under paragraph (d)(2)(iii)(A) of this section; and

(D) A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment.

(iv) *Proposed management program.* A proposed management program covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each coapplicant. Proposed programs may impose controls on a systemwide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the Director when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. Such programs shall be based on:

(A) A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm

sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

(1) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers;

(2) A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed. (Controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in paragraph (d)(2)(iv)(D) of this section;

(3) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

(4) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible;

(5) A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under paragraph (d)(2)(iv)(C) of this section); and

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(6) A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities.

(B) A description of a program, including a schedule, to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

(1) A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges, however the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to waters of the United States);

(2) A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens;

(3) A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling procedures for constituents such as fecal coliform, fecal streptococcus, surfactants (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other considerations allow. Such description shall include the location of storm sewers that have been identified for such evaluation);

(4) A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer;

(5) A description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

(6) A description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

(7) A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

(C) A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

(1) Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges;

(2) Describe a monitoring program for storm water discharges associated

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with the industrial facilities identified in paragraph (d)(2)(iv)(C) of this section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for a facility; oil and grease, COD, pH, BOD<sub>5</sub>, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under § 122.21(g)(7) (vi) and (vii).

(D) A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include:

(1) A description of procedures for site planning which incorporate consideration of potential water quality impacts;

(2) A description of requirements for nonstructural and structural best management practices;

(3) A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

(4) A description of appropriate educational and training measures for construction site operators.

(v) *Assessment of controls.* Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.

(vi) *Fiscal analysis.* For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs (d)(2) (iii) and (iv) of this section. Such analysis shall include a description of the source of funds that are proposed to meet the necessary ex-

penditures, including legal restrictions on the use of such funds.

(vii) Where more than one legal entity submits an application, the application shall contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination.

(viii) Where requirements under paragraph (d)(1)(iv)(E), (d)(2)(ii), (d)(2)(iii)(B) and (d)(2)(iv) of this section are not practicable or are not applicable, the Director may exclude any operator of a discharge from a municipal separate storm sewer which is designated under paragraph (a)(1)(v), (b)(4)(ii) or (b)(7)(ii) of this section from such requirements. The Director shall not exclude the operator of a discharge from a municipal separate storm sewer identified in appendix F, G, H or I of part 122, from any of the permit application requirements under this paragraph except where authorized under this section.

(e) *Application deadlines.* Any operator of a point source required to obtain a permit under this section that does not have an effective NPDES permit authorizing discharges from its storm water outfalls shall submit an application in accordance with the following deadlines:

(1) *Storm water discharges associated with industrial activity.* (i) Except as provided in paragraph (e)(1)(ii) of this section, for any storm water discharge associated with industrial activity identified in paragraphs (b)(14)(i) through (xi) of this section, that is not part of a group application as described in paragraph (c)(2) of this section or that is not authorized by a storm water general permit, a permit application made pursuant to paragraph (c) of this section must be submitted to the Director by October 1, 1992;

(ii) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, powerplant, or uncontrolled sanitary landfill, the permit application must be submitted to the Director by March 10, 2003.

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(2) For any group application submitted in accordance with paragraph (c)(2) of this section:

(i) *Part 1.* (A) Except as provided in paragraph (e)(2)(i)(B) of this section, part 1 of the application shall be submitted to the Director, Office of Wastewater Enforcement and Compliance by September 30, 1991;

(B) Any municipality with a population of less than 250,000 shall not be required to submit a part 1 application before May 18, 1992.

(C) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, powerplant, or uncontrolled sanitary landfill, permit applications requirements are reserved.

(ii) Based on information in the part 1 application, the Director will approve or deny the members in the group application within 60 days after receiving part 1 of the group application.

(iii) *Part 2.* (A) Except as provided in paragraph (e)(2)(iii)(B) of this section, part 2 of the application shall be submitted to the Director, Office of Wastewater Enforcement and Compliance by October 1, 1992;

(B) Any municipality with a population of less than 250,000 shall not be required to submit a part 1 application before May 17, 1993.

(C) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, powerplant, or uncontrolled sanitary landfill, permit applications requirements are reserved.

(iv) *Rejected facilities.* (A) Except as provided in paragraph (e)(2)(iv)(B) of this section, facilities that are rejected as members of the group shall submit an individual application (or obtain coverage under an applicable general permit) no later than 12 months after the date of receipt of the notice of rejection or October 1, 1992, whichever comes first.

(B) Facilities that are owned or operated by a municipality and that are rejected as members of part 1 group application shall submit an individual application no later than 180 days after

the date of receipt of the notice of rejection or October 1, 1992, whichever is later.

(v) A facility listed under paragraph (b)(14) (i)-(xi) of this section may add on to a group application submitted in accordance with paragraph (e)(2)(i) of this section at the discretion of the Office of Water Enforcement and Permits, and only upon a showing of good cause by the facility and the group applicant; the request for the addition of the facility shall be made no later than February 18, 1992; the addition of the facility shall not cause the percentage of the facilities that are required to submit quantitative data to be less than 10%, unless there are over 100 facilities in the group that are submitting quantitative data; approval to become part of group application must be obtained from the group or the trade association representing the individual facilities.

(3) For any discharge from a large municipal separate storm sewer system;

(i) Part 1 of the application shall be submitted to the Director by November 18, 1991;

(ii) Based on information received in the part 1 application the Director will approve or deny a sampling plan under paragraph (d)(1)(iv)(E) of this section within 90 days after receiving the part 1 application;

(iii) Part 2 of the application shall be submitted to the Director by November 16, 1992.

(4) For any discharge from a medium municipal separate storm sewer system;

(i) Part 1 of the application shall be submitted to the Director by May 18, 1992.

(ii) Based on information received in the part 1 application the Director will approve or deny a sampling plan under paragraph (d)(1)(iv)(E) of this section within 90 days after receiving the part 1 application.

(iii) Part 2 of the application shall be submitted to the Director by May 17, 1993.

(5) A permit application shall be submitted to the Director within 180 days of notice, unless permission for a later date is granted by the Director (see §124.52(c) of this chapter), for:

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(i) A storm water discharge that the Director, or in States with approved NPDES programs, either the Director or the EPA Regional Administrator, determines that the discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States (see paragraphs (a)(1)(v) and (b)(15)(ii) of this section);

(ii) A storm water discharge subject to paragraph (c)(1)(v) of this section.

(6) Facilities with existing NPDES permits for storm water discharges associated with industrial activity shall maintain existing permits. Facilities with permits for storm water discharges associated with industrial activity which expire on or after May 18, 1992 shall submit a new application in accordance with the requirements of 40 CFR 122.21 and 40 CFR 122.26(c) (Form 1, Form 2F, and other applicable Forms) 180 days before the expiration of such permits.

(7) The Director shall issue or deny permits for discharges composed entirely of storm water under this section in accordance with the following schedule:

(i)(A) Except as provided in paragraph (e)(7)(i)(B) of this section, the Director shall issue or deny permits for storm water discharges associated with industrial activity no later than October 1, 1993, or, for new sources or existing sources which fail to submit a complete permit application by October 1, 1992, one year after receipt of a complete permit application;

(B) For any municipality with a population of less than 250,000 which submits a timely Part I group application under paragraph (e)(2)(i)(B) of this section, the Director shall issue or deny permits for storm water discharges associated with industrial activity no later than May 17, 1994, or, for any such municipality which fails to submit a complete Part II group permit application by May 17, 1993, one year after receipt of a complete permit application;

(ii) The Director shall issue or deny permits for large municipal separate storm sewer systems no later than November 16, 1993, or, for new sources or existing sources which fail to submit a complete permit application by No-

vember 16, 1992, one year after receipt of a complete permit application;

(iii) The Director shall issue or deny permits for medium municipal separate storm sewer systems no later than May 17, 1994, or, for new sources or existing sources which fail to submit a complete permit application by May 17, 1993, one year after receipt of a complete permit application.

(8) For any storm water discharge associated with small construction activities identified in paragraph (b)(15)(i) of this section, see § 122.21(c)(1). Discharges from these sources require permit authorization by March 10, 2003, unless designated for coverage before then.

(9) For any discharge from a regulated small MS4, the permit application made under § 122.33 must be submitted to the Director by:

(i) March 10, 2003 if designated under § 122.32(a)(1) unless your MS4 serves a jurisdiction with a population under 10,000 and the NPDES permitting authority has established a phasing schedule under § 123.35(d)(3) (see § 122.33(c)(1)); or

(ii) Within 180 days of notice, unless the NPDES permitting authority grants a later date, if designated under § 122.32(a)(2) (see § 122.33(c)(2)).

(f) *Petitions.* (1) Any operator of a municipal separate storm sewer system may petition the Director to require a separate NPDES permit (or a permit issued under an approved NPDES State program) for any discharge into the municipal separate storm sewer system.

(2) Any person may petition the Director to require a NPDES permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) The owner or operator of a municipal separate storm sewer system may petition the Director to reduce the Census estimates of the population served by such separate system to account for storm water discharged to combined sewers as defined by 40 CFR 35.2005(b)(11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of

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population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the NPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

(4) Any person may petition the Director for the designation of a large, medium, or small municipal separate storm sewer system as defined by paragraph (b)(4)(iv), (b)(7)(iv), or (b)(16) of this section.

(5) The Director shall make a final determination on any petition received under this section within 90 days after receiving the petition with the exception of petitions to designate a small MS4 in which case the Director shall make a final determination on the petition within 180 days after its receipt.

(g) *Conditional exclusion for "no exposure" of industrial activities and materials to storm water.* Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to rain, snow, snowmelt and/or runoff, and the discharger satisfies the conditions in paragraphs (g)(1) through (g)(4) of this section. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

(1) *Qualification.* To qualify for this exclusion, the operator of the discharge must:

(i) Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and runoff;

(ii) Complete and sign (according to §122.22) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in paragraph (g)(2) of this section;

(iii) Submit the signed certification to the NPDES permitting authority once every five years;

(iv) Allow the Director to inspect the facility to determine compliance with the "no exposure" conditions;

(v) Allow the Director to make any "no exposure" inspection reports available to the public upon request; and

(vi) For facilities that discharge through an MS4, upon request, submit a copy of the certification of "no exposure" to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

(2) *Industrial materials and activities not requiring storm resistant shelter.* To qualify for this exclusion, storm resistant shelter is not required for:

(i) Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak ("Sealed" means banded or otherwise secured and without operational taps or valves);

(ii) Adequately maintained vehicles used in material handling; and

(iii) Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

(3) *Limitations.* (i) Storm water discharges from construction activities identified in paragraphs (b)(14)(x) and (b)(15) are not eligible for this conditional exclusion.

(ii) This conditional exclusion from the requirement for an NPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be "no exposure" discharges, individual permit requirements should be adjusted accordingly.

(iii) If circumstances change and industrial materials or activities become exposed to rain, snow, snow melt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for un-permitted discharge. Any conditionally exempt discharger who

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anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

(iv) Notwithstanding the provisions of this paragraph, the NPDES permitting authority retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

(4) *Certification.* The no exposure certification must require the submission of the following information, at a minimum, to aid the NPDES permitting authority in determining if the facility qualifies for the no exposure exclusion:

(i) The legal name, address and phone number of the discharger (see §122.21(b));

(ii) The facility name and address, the county name and the latitude and longitude where the facility is located;

(iii) The certification must indicate that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

(A) Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water;

(B) Materials or residuals on the ground or in storm water inlets from spills/leaks;

(C) Materials or products from past industrial activity;

(D) Material handling equipment (except adequately maintained vehicles);

(E) Materials or products during loading/unloading or transporting activities;

(F) Materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

(G) Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;

(H) Materials or products handled/stored on roads or railways owned or maintained by the discharger;

(I) Waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

(J) Application or disposal of process wastewater (unless otherwise permitted); and

(K) Particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow;

(iv) All "no exposure" certifications must include the following certification statement, and be signed in accordance with the signatory requirements of §122.22: "I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from NPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under paragraph (g)(2)) of this section. I understand that I am obligated to submit a no exposure certification form once every five years to the NPDES permitting authority and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the NPDES permitting authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware there are significant penalties for submitting false

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information, including the possibility of fine and imprisonment for knowing violations.”

[55 FR 48063, Nov. 16, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 122.26, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 122.27 **Silvicultural activities (applicable to State NPDES programs, see § 123.25).**

(a) *Permit requirement.* Silvicultural point sources, as defined in this section, as point sources subject to the NPDES permit program.

(b) *Definitions.* (1) *Silvicultural point source* means any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA section 404 permit (See 33 CFR 209.120 and part 233).

(2) *Rock crushing and gravel washing facilities* means facilities which process crushed and broken stone, gravel, and riprap (See 40 CFR part 436, subpart B, including the effluent limitations guidelines).

(3) *Log sorting and log storage facilities* means facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). (See 40 CFR part 429, subpart I, including the effluent limitations guidelines).

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§ 122.28 **General permits (applicable to State NPDES programs, see § 123.25).**

(a) *Coverage.* The Director may issue a general permit in accordance with the following:

(1) *Area.* The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area should correspond to existing geographic or political boundaries such as:

- (i) Designated planning areas under sections 208 and 303 of CWA;
- (ii) Sewer districts or sewer authorities;
- (iii) City, county, or State political boundaries;
- (iv) State highway systems;
- (v) Standard metropolitan statistical areas as defined by the Office of Management and Budget;
- (vi) Urbanized areas as designated by the Bureau of the Census according to criteria in 30 FR 13202 (May 1, 1974); or
- (vii) Any other appropriate division or combination of boundaries.

(2) *Sources.* The general permit may be written to regulate one or more categories or subcategories of discharges or sludge use or disposal practices or facilities, within the area described in paragraph (a)(1) of this section, where the sources within a covered subcategory of discharges are either:

(i) Storm water point sources; or (ii) One or more categories or subcategories of point sources other than storm water point sources, or one or more categories or subcategories of “treatment works treating domestic sewage”, if the sources or “treatment works treating domestic sewage” within each category or subcategory all:

- (A) Involve the same or substantially similar types of operations;
- (B) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;
- (C) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal;
- (D) Require the same or similar monitoring; and (E) In the opinion of the

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~~finding that the failure of the regional board to act was inappropriate or improper, the state board may direct that appropriate action be taken by the regional board, refer the matter to another state agency having jurisdiction, take appropriate action itself, or take any combination of those actions. In taking any action, the state board is vested with all the powers of the regional boards under this division.~~

#### ARTICLE 4. WASTE DISCHARGE REQUIREMENTS

##### § 13260. Reports; fees; exemptions

(a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

(1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

(2) Any person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.

(3) Any person operating, or proposing to construct, an injection well.

(b) No report of waste discharge need be filed pursuant to subdivision (a) if the requirement is waived pursuant to Section 13269.

(c) Every person subject to subdivision (a) shall file with the appropriate regional board a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge.

(d)(1)(A) Each person who is subject to subdivision (a) or (c) shall submit an annual fee according to a fee schedule established by the state board.

(B) The total amount of annual fees collected pursuant to this section shall equal that amount necessary to recover costs incurred in connection with the issuance, administration, reviewing, monitoring, and enforcement of waste discharge requirements and waivers of waste discharge requirements.

(C) Recoverable costs may include, but are not limited to, costs incurred in reviewing waste discharge reports, prescribing terms of waste discharge requirements and monitoring requirements, enforcing and evaluating compliance with waste discharge requirements and waiver requirements, conducting surface water and groundwater monitoring and modeling, analyzing laboratory samples,

and reviewing documents prepared for the purpose of regulating the discharge of waste, and administrative costs incurred in connection with carrying out these actions.

(D) In establishing the amount of a fee that may be imposed on any confined animal feeding and holding operation pursuant to this section, including, but not limited to, any dairy farm, the state board shall consider all of the following factors:

(i) The size of the operation.

(ii) Whether the operation has been issued a permit to operate pursuant to Section 1342 of Title 33 of the United States Code.

(iii) Any applicable waste discharge requirement or conditional waiver of a waste discharge requirement.

(iv) The type and amount of discharge from the operation.

(v) The pricing mechanism of the commodity produced.

(vi) Any compliance costs borne by the operation pursuant to state and federal water quality regulations.

(vii) Whether the operation participates in a quality assurance program certified by a regional water quality control board, the state board, or a federal water quality control agency.

(2)(A) Subject to subparagraph (B), any fees collected pursuant to this section shall be deposited in the Waste Discharge Permit Fund, which is hereby created. The money in the fund is available for expenditure by the state board, upon appropriation by the Legislature, solely for the purposes of carrying out this division.

(B)(i) Notwithstanding subparagraph (A), the fees collected pursuant to this section from stormwater dischargers that are subject to a general industrial or construction stormwater permit under the national pollutant discharge elimination system (NPDES) shall be separately accounted for in the Waste Discharge Permit Fund.

(ii) Not less than 50 percent of the money in the Waste Discharge Permit Fund that is separately accounted for pursuant to clause (i) is available, upon appropriation by the Legislature, for expenditure by the regional board with jurisdiction over the permitted industry or construction site that generated the fee to carry out stormwater programs in the region.

(iii) Each regional board that receives money pursuant to clause (ii) shall spend not less than 50 percent of that money solely on stormwater inspection and regulatory compliance issues associated with industrial and construction stormwater programs.

(3) Any person who would be required to pay the annual fee prescribed by paragraph (1) for waste discharge requirements applicable to discharges of solid waste, as defined in Section 40191 of the Public Resources Code, at a waste management unit that is also regulated under Division 30 (commencing with Section 40000) of the Public Resources Code, shall be entitled to a waiver of the annual fee for the discharge of solid waste at the waste management unit imposed by paragraph (1) upon verification by the state board of payment of the fee imposed by Section 48000 of the Public Resources Code, and provided that the fee established pursuant to Section 48000 of the Public Resources Code generates revenues sufficient to fund the programs specified in Section 48004 of the Public Resources Code and the amount appropriated by the Legislature for those purposes is not reduced.

(e) Each person discharges [sic] waste in a manner regulated by this section shall pay an annual fee to the state board. The state board shall establish, by regulation, a timetable for the payment of the annual fee. If the state board or a regional board determines that the discharge will not affect, or have the potential to affect, the quality of the waters of the state, all or part of the annual fee shall be refunded.

(f)(1) The state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivision (d). The total revenue collected each year through annual fees shall be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual fees each fiscal year to conform with the revenue levels set forth in the Budget Act for this activity. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the state board may further adjust the annual fees to compensate for the over and under collection of revenue.

(2) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.

(h) Each report submitted under this section shall be sworn to, or submitted under penalty of perjury.

(i) The regulations adopted by the state board pursuant to subdivision (f) shall include a provision that annual fees shall not be imposed on those who pay fees under the national pollutant discharge elimination system until the time when those fees are again due, at which time the fees shall become due on an annual basis.

(j) Any person operating or proposing to construct an oil, gas, or geothermal injection well subject to paragraph (3) of subdivision (a), shall not be required to pay a fee pursuant to subdivision (d), if the injection well is regulated by the Division of Oil and Gas of the Department of Conservation, in lieu of the appropriate California regional water quality control board, pursuant to the memorandum of understanding, entered into between the state board and the Department of Conservation on May 19, 1988. This subdivision shall remain operative until the memorandum of understanding is revoked by the state board or the Department of Conservation.

(k) In addition to the report required by subdivision (a), before any person discharges mining waste, the person shall first submit both of the following to the regional board:

(1) A report on the physical and chemical characteristics of the waste that could affect its potential to cause pollution or contamination. The report shall include the results of all tests required by regulations adopted by the board, any test adopted by the Department of Toxic Substances Control pursuant to Section 25141 of the Health and Safety Code for extractable, persistent, and bioaccumulative toxic substances in a waste or other material, and any other tests that the state board or regional board may require, including, but not limited to, tests needed to determine the acid-generating potential of the mining waste or the extent to which hazardous substances may persist in the waste after disposal.

(2) A report that evaluates the potential of the discharge of the mining waste to produce, over the long term, acid mine drainage, the discharge or leaching of heavy metals, or the release of other hazardous substances.

(l) Except upon the written request of the regional board, a report of waste discharge need not be filed pursuant to subdivision (a) or (c) by a user of recycled water that is being supplied by a supplier or distributor of recycled water for whom a master recycling permit has been issued pursuant to Section 13523.1.

TAB 9

California Water Code § 13263

**§ 13260.2. Fee for no exposure certifications**

(a) The state board shall establish a fee in an amount sufficient to recover its costs in reviewing, processing, and enforcing "no exposure" certifications issued to facilities that apply for those certifications in accordance with a general industrial stormwater permit.

(b) Revenue generated pursuant to this section shall be deposited in the Waste Discharge Permit Fund.

**§ 13260.3. Fee Report**

On or before January 1 of each year, the state board shall report to the Governor and the Legislature on the expenditure of annual fees collected pursuant to Section 13260.

**§ 13261. Civil liability**

(a) ~~Any~~ A person ~~fails who fails~~ to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b) (1) Civil liability may be administratively imposed by a regional board or the state board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount ~~that may not exceed~~ exceeding one thousand dollars (\$1,000) for each day in which the violation occurs. ~~For purposes of this section only, the state board shall have the same authority and shall follow the same procedures as set forth in Article 2.5 (commencing with Section 13323) of Chapter 5, except that the executive director shall issue the complaint with review by the state board. Civil liability may~~ Civil liability shall not be imposed by the regional board pursuant to this section if the state board has imposed liability against the same person for the same violation.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount ~~that may not exceed~~ exceeding five thousand dollars (\$5,000) for each day the violation occurs.

(c) ~~Any~~ A person ~~discharging or proposing who discharges or proposes~~ to discharge hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly furnishes a false report under Section 13260, or who either willfully fails to furnish a report or willfully withholds material information under Section 13260 despite actual knowledge of that requirement, may be liable in accordance with subdivision (d) and is guilty of a misdemeanor.

This subdivision does not apply to any waste discharge that is subject to Chapter 5.5 (commencing with Section 13370).

(d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount ~~that may not exceed~~ exceeding five thousand dollars (\$5,000) for each day the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount ~~that may not exceed~~ exceeding twenty-five thousand dollars (\$25,000).

**§ 13262. Injunctive relief**

The Attorney General, at the request of the regional board or the state board, shall petition the superior court for the issuance of a temporary restraining order, temporary injunction, or permanent injunction, or combination thereof, as may be appropriate, requiring any person not complying with Section 13260 to comply therewith.

**§ 13263. Requirements for discharge**

(a) The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.

(b) A regional board, in prescribing requirements, need not authorize the utilization of the full waste assimilation capacities of the receiving waters.

(c) The requirements may contain a time schedule, subject to revision in the discretion of the board.

(d) The regional board may prescribe requirements although no discharge report has been filed.

(e) Upon application by any affected person, or on its own motion, the regional board may review and revise requirements. All requirements shall be reviewed periodically.

(f) The regional board shall notify in writing the person making or proposing the discharge or the change therein of the discharge requirements to be met. After receipt of the notice, the person so notified shall provide adequate means to meet the requirements.

(g) No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

(h) The regional board may incorporate the requirements prescribed pursuant to this section into a master recycling permit for either a supplier or distributor, or both, of recycled water.

(i) The state board or a regional board may prescribe general waste discharge requirements for a category of discharges if the state board or that regional board finds or determines that all of the following criteria apply to the discharges in that category:

(1) The discharges are produced by the same or similar operations:

(2) The discharges involve the same or similar types of waste.

(3) The discharges require the same or similar treatment standards.

(4) The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

(j) The state board, after any necessary hearing, may prescribe waste discharge requirements in accordance with this section.

#### **§ 13263.1. Mining waste**

Before a regional board issues or revises waste discharge requirements pursuant to Section 13263 for any discharge of mining waste, the regional board shall first determine that the proposed mining waste discharge is consistent with a waste management strategy that prevents the pollution or contamination of the waters of the state, particularly after closure of any waste management unit for mining waste.

#### **§ 13263.2. Groundwater treatment facilities**

The owner or operator of a facility that treats groundwater which qualifies as a hazardous waste pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code is exempt from the requirement to obtain a hazardous waste facility permit pursuant to Section 25201 of the Health and Safety Code for the treatment of groundwater if all of the following conditions are met:

(a) The facility treats groundwater which is extracted for the purposes of complying with one or more of the following:

(1) Waste discharge requirements prescribed pursuant to Section 13263.

(2) A cleanup or abatement order issued pursuant to Section 13304.

(3) A written authorization issued by a regional board or local agency designated pursuant to Section 25288 of the Health and Safety Code.

(4) An order or approved remedial action plan issued pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(b) The facility meets, at a minimum, all of the following operating standards:

(1) The treatment does not require a hazardous waste facilities permit pursuant to the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sec. 6901 et seq.).

(2) The facility operator prepares and maintains written operating instructions and a record of the dates, amounts, and types of waste treated.

(3) The facility operator prepares and maintains a written inspection schedule and log of inspections conducted.

(4) The records specified in paragraphs (2) and (3) are maintained by the owner or operator of the facility for a period of three years.

(5) The owner or operator maintains adequate records to demonstrate that it is in compliance with all of the pretreatment standards and with all of the applicable industrial waste discharge requirements issued by the agency operating the publicly owned treatment works into which the wastes are discharged.

(6)(A) Upon terminating the operation of any treatment process or unit exempted pursuant to this section, the owner or operator that conducted the treatment removes or decontaminates all waste residues, containment system components, soils, and other structures or equipment contaminated with hazardous waste from the unit. The removal of the unit from service shall be conducted in a manner that does both of the following:

(i) Minimizes the need for further maintenance.

(ii) Eliminates the escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or waste decomposition products to the environment after the treatment process ceases operation.

(B) Any owner or operator who permanently ceases operation of a treatment process or unit that is exempted pursuant to this section shall provide written notification

TAB 10

California Water Code § 13370

1990 (16 U.S.C. Sec. 1455b), and this division in the preparation of this detailed implementation program.

(2)(A) The program shall include all of the following components:

(i) Nonregulatory implementation of best management practices.

(ii) Regulatory-based incentives for best management practices.

(iii) The adoption and enforcement of waste discharge requirements that will require the implementation of best management practices.

(B) In connection with its duties under this subdivision to prepare and implement the state's nonpoint source management plan, the state board shall develop, on or before February 1, 2001, guidance to be used by the state board and the regional boards for the purpose of describing the process by which the state board and the regional boards will enforce the state's nonpoint source management plan, pursuant to this division.

(C) The adoption of the guidance developed pursuant to this section is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The state board, in consultation with the California Coastal Commission and other appropriate agencies, as necessary, on or before December 31 of each year, shall submit to the Legislature, and make available to the public, both of the following:

(1) Copies of all state and regional board reports that contain information related to nonpoint source pollution and that the state or regional boards were required to prepare in the previous fiscal year pursuant to Sections 303, 305(b), and 319 of the Clean Water Act (33 U.S.C. Secs. 1313, 1315(b), and 1329), Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec. 1455b), related regulations, and this division.

(2) A summary of information related to nonpoint source pollution that is set forth in the reports described pursuant to paragraph (1) including, but not limited to, summaries of both of the following:

(A) Information that is related to nonpoint source pollution and that is required to be included in reports prepared pursuant to Section 305(b) of the Clean Water Act (33 U.S.C. 1315(b)).

(B) Information that is required to be in reports prepared pursuant to Section 319(h)(11) of the Clean Water Act (33 U.S.C. Sec. 1329(h)(11)).

***CHAPTER 5.5. COMPLIANCE WITH THE PROVISIONS OF THE FEDERAL WATER POLLUTION CONTROL ACT AS AMENDED IN 1972***

**§ 13370. Legislative intent**

The Legislature finds and declares as follows:

(a) The Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), as amended, provides for permit systems to regulate the discharge of pollutants and dredged or fill material to the navigable waters of the United States and to regulate the use and disposal of sewage sludge.

(b) The Federal Water Pollution Control Act, as amended, provides that permits may be issued by states which are authorized to implement the provisions of that act.

(c) It is in the interest of the people of the state, in order to avoid direct regulation by the federal government of persons already subject to regulation under state law pursuant to this division, to enact this chapter in order to authorize the state to implement the provisions of the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto, provided, that the state board shall request federal funding under the Federal Water Pollution Control Act for the purpose of carrying out its responsibilities under this program.

**§ 13370.5. Legislative findings**

(a) The Legislature finds and declares that, since the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), as amended, and applicable federal regulations (40 C.F.R. § 403 et seq.) provide for a pretreatment program to regulate the discharge of pollutants into publicly owned treatment works and provide that states with approved national pollutant discharge elimination system (NPDES) permit programs shall apply for approval of a state pretreatment program, it is in the interest of the people of the state to enact this section in order to avoid direct regulation by the federal government of publicly owned treatment works already subject to regulation under state law pursuant to this division.

(b) The state board shall develop a state pretreatment program and shall, not later than September 1, 1985, apply to the Environmental Protection Agency for approval of the pretreatment program in accordance with federal requirements.

**§ 13372. Consistency**

(a) This chapter shall be construed to ensure consistency with the requirements for state programs implementing the Federal Water Pollution Control Act and acts

TAB 11

*City of Burbank v. State Water Resources Control Board* (2005) 35  
Cal.4<sup>th</sup> 613

CITY OF BURBANK, Plaintiff and Appellant, v. STATE WATER RESOURCES CONTROL BOARD et al., Defendants and Appellants. CITY OF LOS ANGELES, Plaintiff and Respondent, v. STATE WATER RESOURCES CONTROL BOARD et al., Defendants and Appellants.

S119248

SUPREME COURT OF CALIFORNIA

35 Cal. 4th 613; 108 P.3d 862; 26 Cal. Rptr. 3d 304; 2005 Cal. LEXIS 3486; 60 ERC (BNA) 1470; 2005 Cal. Daily Op. Service 2861; 2005 Daily Journal DAR 3870; 35 ELR 20071

April 4, 2005, Filed

**SUBSEQUENT HISTORY:** Time for Granting or Denying Rehearing Extended Burbank, City of v. State Water Resources Control Board, 2005 Cal. LEXIS 4271 (Cal., Apr. 21, 2005) Rehearing denied by, Request denied by City of Burbank v. State Water Res. Control Bd., 2005 Cal. LEXIS 7185 (Cal., June 29, 2005)

**PRIOR-HISTORY:** Superior Court of Los Angeles County, Nos. BS060960, BS060957, Dzintra I. Janavs, Judge. Court of Appeal, Second Dist., Div. Three, Nos. B150912, B151175 & B152562.

City of Burbank v. State Water Resources Control Bd., 111 Cal. App. 4th 245, 4 Cal. Rptr. 3d 27, 2003 Cal. App. LEXIS 1236 (Cal. App. 2d Dist., 2003)

**COUNSEL:** Bill Lockyer, Attorney General, Manuel M. Medeiros, State Solicitor General, Richard M. Frank and Tom Greene, Chief Assistant Attorneys General, Mary E. Hackenbracht, Assistant Attorney General, Marilyn H. Levin and Gregory J. Newmark, Deputy Attorneys General, for Defendants and Appellants.

David S. Beckman and Dan L. Gildor for Natural Resources Defense Counsel, Butte Environmental Council, California Coastkeeper Alliance, CalTrout, Clean Water Action, Clean Water Fund, Coalition on the Environment and Jewish Life of Southern California, Coast Action Group, Defend the Bay, Ecological Rights Foundation, Environment in the Public Interest, Environmental Defense Center, Heal the Bay, Los Angeles Interfaith Environment Council, Ocean Conservancy, Orange County Coastkeeper, San Diego Baykeeper, Santa Barbara Channelkeeper, Santa Monica Baykeeper, Southern California Watershed Alliance, Ventura Coastkeeper, Waterkeeper Alliance, Waterkeepers Northern California, Westside Aquatics, Inc., and Wishtoyo Foundation as Amici Curiae on behalf of Defendants and Appellants.

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Dennis A. Barlow, City Attorney, and Carolyn A. Barnes, Assistant City Attorney, for Defendant and Appellant City of Burbank.

Rockard J. Delgadillo, City Attorney, and Christopher M. Westhoff, Assistant City Attorney, for Plaintiff and Appellant City of Los Angeles.

Rutan & Tucker and Richard Montevideo for Cities of Baldwin Park, Bell, Cerritos, Diamond Bar, Downey, Gardena, Montebello, Monterey Park, Paramount, Pico Rivera, Rosemead, San Gabriel, San Marino, Santa Fe Springs, Sierra Madre, Signal Hill, Temple City and West

Covina, the California Building Industry Association and the Building Industry Legal Defense Foundation as Amici Curiae on behalf of Plaintiffs and Appellants.

Stoel Rives and Lawrence S. Bazel for Western Coalition of Arid States as Amicus Curiae on behalf of Plaintiffs and Appellants.

Richards, Watson & Gershon and John J. Harris for the League of California Cities as Amicus Curiae on behalf of Plaintiffs and Appellants.

Squire, Sanders & Dempsey, Joseph A. Meckes; David W. Burchmore; and Alexandra Dapolito Dunn for Association of Metropolitan Sewerage Agencies as Amicus Curiae on behalf of Plaintiffs and Appellants.

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Fulbright & Jaworski, Colin Lennard, Patricia Chen; Archer Norris and Peter W. McGaw for California Association of Sanitation Agencies as Amicus Curiae on behalf of Plaintiffs and Appellants.

**JUDGES:** Kennard, J., with George, C. J., Baxter, Werdegar, Chin, and Moreno, JJ., concurring. Concurring opinion by Brown, J.

**OPINION BY: KENNARD**

## **OPINION**

**KENNARD, J.**—Federal law establishes national water quality standards but allows the states to enforce their own water quality laws so long as they comply with federal standards. Operating within this federal-state framework, California's nine Regional Water Quality Control Boards establish water quality policy. They also issue permits for the discharge of treated wastewater; these permits specify the maximum allowable concentration of chemical pollutants in the discharged wastewater.

The question here is this: When a regional board issues a permit to a wastewater treatment facility, must the board take into account the facility's costs of complying with the board's restrictions on pollutants in the wastewater to be discharged? The trial court ruled that California law required a regional board to weigh the economic burden on the facility against the expected environmental benefits of reducing pollutants in the wastewater discharge. The Court of Appeal disagreed. On petitions by the municipal operators of three wastewater treatment facilities, we granted review.

We reach the following conclusions: Because both California law and federal law require regional boards to comply with federal clean water standards, and because the supremacy clause of the United States Constitution requires state law to yield to federal law, a regional board, when issuing a wastewater discharge permit, may not consider economic factors to justify imposing pollutant restrictions that are *less stringent* than the applicable federal standards require. When, however, a regional board is considering whether to make the pollutant restrictions in a wastewater discharge permit *more stringent* than federal law requires, California law allows the board to take into account economic factors, including the

wastewater discharger's cost of compliance. We remand this case for further proceedings to determine whether the pollutant limitations in the permits challenged here meet or exceed federal standards.

## **I. Statutory Background**

The quality of our nation's waters is governed by a "complex statutory and regulatory scheme ... that implicates both federal and state administrative responsibilities." (*PUD No. 1 of Jefferson County v. Washington Department of Ecology* (1994) 511 U.S. 700, 704 [128 L. Ed. 2d 716, 114 S. Ct. 1900].) We first discuss California law, then federal law.

### **A. California Law**

In California, the controlling law is the Porter-Cologne Water Quality Control Act (Porter-Cologne Act), which was enacted in 1969. (Wat. Code, § 13000 et seq., added by Stats. 1969, ch. 482, § 18, p. 1051.)<sup>1</sup> Its goal is "to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible." (§ 13000.) The task of accomplishing this belongs to the State Water Resources Control Board (State Board) and the nine Regional Water Quality Control Boards; together the State Board and the regional boards comprise "the principal state agencies with primary responsibility for the coordination and control of water quality." (§ 13001.) As relevant here, one of those regional boards oversees the Los Angeles region (the Los Angeles Regional Board).<sup>2</sup>

## **FOOTNOTES**

<sup>1</sup> Further undesignated statutory references are to the Water Code.

<sup>2</sup> The Los Angeles water region "comprises all basins draining into the Pacific Ocean between the southeasterly boundary, located in the westerly part of Ventura County, of the watershed of Rincon Creek and a line which coincides with the southeasterly boundary of Los Angeles County from the ocean to San Antonio Peak and follows thence the divide between San Gabriel River and Lytle Creek drainages to the divide between Sheep Creek and San Gabriel River drainages." (§ 13200, subd. (d).)

Whereas the State Board establishes statewide policy for water quality control (§ 13140), the regional boards "formulate and adopt water quality control plans for all areas within [a] region" (§ 13240). The regional boards' water quality plans, called "basin plans," must address the beneficial uses to be protected as well as water quality objectives, and they must establish a program of implementation. (§ 13050, subd. (j).) Basin plans must be consistent with "state policy for water quality control." (§ 13240.)

### **B. Federal Law**

In 1972, Congress enacted amendments (Pub.L. No. 92-500 (Oct. 18, 1972) 86 Stat. 816)

to the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), which, as amended in 1977, is commonly known as the Clean Water Act. The Clean Water Act is a "comprehensive water quality statute designed to 'restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'" ( *PUD No. 1 of Jefferson County v. Washington Dept. of Ecology*, supra, 511 U.S. at p. 704, quoting 33 U.S.C. § 1251(a).) The act's national goal was to eliminate by the year 1985 "the discharge of pollutants into the navigable waters" of the United States. (33 U.S.C. § 1251(a)(1).) To accomplish this goal, the act established "effluent limitations," which are restrictions on the "quantities, rates, and concentrations of chemical, physical, biological, and other constituents"; these effluent limitations allow the discharge of pollutants only when the water has been satisfactorily treated to conform with federal water quality standards. (33 U.S.C. §§ 1311, 1362(11).)

Under the federal Clean Water Act, each state is free to enforce its own water quality laws so long as its effluent limitations are not "less stringent" than those set out in the Clean Water Act. (33 U.S.C. § 1370.) This led the California Legislature in 1972 to amend the state's Porter-Cologne Act "to ensure consistency with the requirements for state programs implementing the Federal Water Pollution Control Act." (§ 13372.)

Roughly a dozen years ago, the United States Supreme Court, in *Arkansas v. Oklahoma* (1992) 503 U.S. 91 [117 L. Ed. 2d 239, 112 S. Ct. 1046], described the distinct roles of the state and federal agencies in enforcing water quality: "The Clean Water Act anticipates a partnership between the States and the Federal Government, animated by a shared objective: 'to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.' 33 U.S.C. § 1251(a). Toward this end, [the Clean Water Act] provides for two sets of water quality measures. 'Effluent limitations' are promulgated by the [Environmental Protection Agency (EPA)] and restrict the quantities, rates, and concentrations of specified substances which are discharged from point sources.<sup>3</sup> See §§ 1311, 1314. '[W]ater quality standards' are, in general, promulgated by the States and establish the desired condition of a waterway. See § 1313. These standards supplement effluent limitations 'so that numerous point sources, despite individual compliance with effluent limitations, may be further regulated to prevent water quality from falling below acceptable levels.' *EPA v. California ex rel. State Water Resources Control Bd.*, 426 U.S. 200, 205, n. 12 [48 L. Ed. 2d 578, 96 S. Ct. 2022, 2025, n. 12] (1976).

## FOOTNOTES

<sup>3</sup> A "point source" is "any discernible, confined and discrete conveyance" and includes "any pipe, ditch, channel ... from which pollutants ... may be discharged." (33 U.S.C. § 1362 (14).)

"The EPA provides States with substantial guidance in the drafting of water quality standards. See generally 40 CFR pt. 131 (1991) (setting forth model water quality standards). Moreover, [the Clean Water Act] requires, *inter alia*, that state authorities periodically review water quality standards and secure the EPA's approval of any revisions in the standards. If the EPA recommends changes to the standards and the State fails to comply with that recommendation, the Act authorizes the EPA to promulgate water quality standards for the State. 33 U.S.C. § 1313(c)." ( *Arkansas v. Oklahoma*, supra, 503 U.S. at p. 101.)

Part of the federal Clean Water Act is the National Pollutant Discharge Elimination System (NPDES), "[t]he primary means" for enforcing effluent limitations and standards under the Clean Water Act. ( *Arkansas v. Oklahoma*, *supra*, 503 U.S. at p. 101.) The NPDES sets out the conditions under which the federal EPA or a state with an approved water quality control program can issue permits for the discharge of pollutants in wastewater. (33 U.S.C. § 1342(a) & (b).) In California, wastewater discharge requirements established by the regional boards are the equivalent of the NPDES permits required by federal law. (§ 13374.)

With this federal and state statutory framework in mind, we now turn to the facts of this case.

## **II. Factual Background**

This case involves three publicly owned treatment plants that discharge wastewater under NPDES permits issued by the Los Angeles Regional Board.

The City of Los Angeles owns and operates the Donald C. Tillman Water Reclamation Plant (Tillman Plant), which serves the San Fernando Valley. The City of Los Angeles also owns and operates the Los Angeles-Glendale Water Reclamation Plant (Los Angeles-Glendale Plant), which processes wastewater from areas within the City of Los Angeles and the independent cities of Glendale and Burbank. Both the Tillman Plant and the Los Angeles-Glendale Plant discharge wastewater directly into the Los Angeles River, now a concrete-lined flood control channel that runs through the City of Los Angeles, ending at the Pacific Ocean. The State Board and the Los Angeles Regional Board consider the Los Angeles River to be a navigable water of the United States for purposes of the federal Clean Water Act.

The third plant, the Burbank Water Reclamation Plant (Burbank Plant), is owned and operated by the City of Burbank, serving residents and businesses within that city. The Burbank Plant discharges wastewater into the Burbank Western Wash, which drains into the Los Angeles River.

All three plants, which together process hundreds of millions of gallons of sewage each day, are tertiary treatment facilities; that is, the treated wastewater they release is processed sufficiently to be safe not only for use in watering food crops, parks, and playgrounds, but also for human body contact during recreational water activities such as swimming.

In 1998, the Los Angeles Regional Board issued renewed NPDES permits to the three wastewater treatment facilities under a basin plan it had adopted four years earlier for the Los Angeles River and its estuary. That 1994 basin plan contained general narrative criteria pertaining to the existing and potential future beneficial uses and water quality objectives for the river and estuary. <sup>4</sup> The narrative criteria included municipal and domestic water supply, swimming and other recreational water uses, and fresh water habitat. The plan further provided: "All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life." The 1998 permits sought to reduce these narrative criteria to specific numeric requirements setting daily maximum limitations for more than 30 pollutants present in the treated wastewater, measured in milligrams or micrograms per liter of effluent. <sup>5</sup>

## **FOOTNOTES**

4 This opinion uses the terms "narrative criteria" or descriptions, and "numeric criteria" or effluent limitations. Narrative criteria are broad statements of desirable water quality goals in a water quality plan. For example, "no toxic pollutants in toxic amounts" would be a narrative description. This contrasts with numeric criteria, which detail specific pollutant concentrations, such as parts per million of a particular substance.

5 For example, the permits for the Tillman and Los Angeles-Glendale Plants limited the amount of fluoride in the discharged wastewater to 2 milligrams per liter and the amount of mercury to 2.1 micrograms per liter.

The Cities of Los Angeles and Burbank (Cities) filed appeals with the State Board, contending that achievement of the numeric requirements would be too costly when considered in light of the potential benefit to water quality, and that the pollutant restrictions in the NPDES permits were unnecessary to meet the narrative criteria described in the basin plan. The State Board summarily denied the Cities' appeals.

Thereafter, the Cities filed petitions for writs of administrative mandate in the superior court. They alleged, among other things, that the Los Angeles Regional Board failed to comply with sections 13241 and 13263, part of California's Porter-Cologne Act, because it did not consider the economic burden on the Cities in having to reduce substantially the pollutant content of their discharged wastewater. They also alleged that compliance with the pollutant restrictions set out in the NPDES permits issued by the regional board would greatly increase their costs of treating the wastewater to be discharged into the Los Angeles River. According to the City of Los Angeles, its compliance costs would exceed \$ 50 million annually, representing more than 40 percent of its entire budget for operating its four wastewater treatment plants and its sewer system; the City of Burbank estimated its added costs at over \$ 9 million annually, a nearly 100 percent increase above its \$ 9.7 million annual budget for wastewater treatment.

The State Board and the Los Angeles Regional Board responded that sections 13241 and 13263 do not require consideration of costs of compliance when a regional board issues a NPDES permit that restricts the pollutant content of discharged wastewater.

The trial court stayed the contested pollutant restrictions for each of the three wastewater treatment plants. It then ruled that sections 13241 and 13263 of California's Porter-Cologne Act required a regional board to consider costs of compliance not only when it adopts a basin or water quality plan but also when, as here, it issues an NPDES permit setting the allowable pollutant content of a treatment plant's discharged wastewater. The court found no evidence that the Los Angeles Regional Board had considered economic factors at either stage. Accordingly, the trial court granted the Cities' petitions for writs of mandate, and it ordered the Los Angeles Regional Board to vacate the contested restrictions on pollutants in the wastewater discharge permits issued to the three municipal plants here and to conduct hearings to consider the Cities' costs of compliance before the board's issuance of new permits. The Los Angeles Regional Board and the State Board filed appeals in both the Los Angeles and Burbank cases. <sup>6</sup>

## FOOTNOTES

<sup>6</sup> Unchallenged on appeal and thus not affected by our decision are the trial court's rulings that (1) the Los Angeles Regional Board failed to show how it derived from the narrative criteria in the governing basin plan the specific numeric pollutant limitations included in the permits; (2) the administrative record failed to support the specific effluent limitations; (3) the permits improperly imposed daily maximum limits rather than weekly or monthly averages; and (4) the permits improperly specified the manner of compliance.

The Court of Appeal, after consolidating the cases, reversed the trial court. It concluded that sections 13241 and 13263 require a regional board to take into account "economic considerations" when it adopts water quality standards in a basin plan but not when, as here, the regional board sets specific pollutant restrictions in wastewater discharge permits intended to satisfy those standards. We granted the Cities' petition for review.

### III. Discussion

#### A. Relevant State Statutes

The California statute governing the issuance of *wastewater permits* by a regional board is section 13263, which was enacted in 1969 as part of the Porter-Cologne Act. (See *ante*, at p. 619.) Section 13263 provides in relevant part: "*The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge [of wastewater]. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.*" (§ 13263, subd. (a), italics added.)

Section 13241 states: "Each regional board shall establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance; however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses. Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily be limited to, all of the following:

"(a) Past, present, and probable future beneficial uses of water.

"(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.

"(c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.

"(d) *Economic considerations.*

"(e) The need for developing housing within the region.

"(f) The need to develop and use recycled water." (Italics added.)

The Cities here argue that section 13263's express reference to section 13241 requires the Los Angeles Regional Board to consider section 13241's listed factors, notably "[e]conomic considerations," before issuing NPDES permits requiring specific pollutant reductions in discharged effluent or treated wastewater.

Thus, at issue is language in section 13263 stating that when a regional board "prescribe[s] requirements as to the nature of any proposed discharge" of treated wastewater it must "take into consideration" certain factors including "the provisions of Section 13241." According to the Cities, this statutory language requires that a regional board make an independent evaluation of the section 13241 factors, including "economic considerations," before restricting the pollutant content in an NPDES permit. This was the view expressed in the trial court's ruling. The Court of Appeal rejected that view. It held that a regional board need consider the section 13241 factors only when it adopts a basin or water quality plan, but not when, as in this case, it issues a wastewater discharge permit that sets specific numeric limitations on the various chemical pollutants in the wastewater to be discharged. As explained below, the Court of Appeal was partly correct.

## **B. Statutory Construction**

When construing any statute, our task is to determine the Legislature's intent when it enacted the statute "so that we may adopt the construction that best effectuates the purpose of the law." ( *Hassan v. Mercy American River Hospital* (2003) 31 Cal.4th 709, 715 [3 Cal. Rptr. 3d 623, 74 P.3d 726]; see *Esberg v. Union Oil Co.* (2002) 28 Cal.4th 262, 268 [121 Cal. Rptr. 2d 203, 47 P.3d 1069].) In doing this, we look to the statutory language, which ordinarily is "the most reliable indicator of legislative intent." ( *Hassan, supra*, at p. 715.)

As mentioned earlier, our Legislature's 1969 enactment of the Porter-Cologne Act, which sought to ensure the high quality of water in this state, predated the 1972 enactment by Congress of the precursor to the federal Clean Water Act. Included in California's original Porter-Cologne Act were sections 13263 and 13241. Section 13263 directs regional boards, when issuing wastewater discharge permits, to take into account various factors, including those set out in section 13241. Listed among the section 13241 factors is "[e]conomic considerations." (§ 13241, subd. (d).) The plain language of sections 13263 and 13241 indicates the Legislature's intent in 1969, when these statutes were enacted, that a regional board consider the cost of compliance when setting effluent limitations in a wastewater discharge permit.

Our construction of sections 13263 and 13241 does not end with their plain statutory language, however. We must also analyze them in the context of the statutory scheme of which they are a part. ( *State Farm Mutual Automobile Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029, 1043 [12 Cal. Rptr. 3d 343, 88 P.3d 71].) Like sections 13263 and 13241, section 13377 is part of the Porter-Cologne Act. But unlike the former two statutes, section 13377 was not enacted until 1972, shortly after Congress, through adoption of the Federal Water Pollution Control Act Amendments, established a comprehensive water quality policy for the nation.

Section 13377 specifies that wastewater discharge permits issued by California's regional boards must meet the federal standards set by federal law. In effect, section 13377 forbids

a regional board's consideration of any economic hardship on the part of the permit holder if doing so would result in the dilution of the requirements set by Congress in the Clean Water Act. That act prohibits the discharge of pollutants into the navigable waters of the United States unless there is compliance with federal law (33 U.S.C. § 1311(a)), and publicly operated wastewater treatment plants such as those before us here must comply with the act's clean water standards, regardless of cost (see *id.*, §§ 1311(a), (b)(1)(B) & (C), 1342(a)(1) & (3)). Because section 13263 cannot authorize what federal law forbids, it cannot authorize a regional board, when issuing a wastewater discharge permit, to use compliance costs to justify pollutant restrictions that do not comply with federal clean water standards. <sup>z</sup> Such a construction of section 13263 would not only be inconsistent with federal law, it would also be inconsistent with the Legislature's declaration in section 13377 that all discharged wastewater must satisfy federal standards. <sup>g</sup> This was also the conclusion of the Court of Appeal. Moreover, under the federal Constitution's supremacy clause (art. VI), a state law that conflicts with federal law is "without effect." ( *Cipollone v. Liggett Group, Inc.* (1992) 505 U.S. 504, 516 [120 L. Ed. 2d 407, 112 S. Ct. 2608]; see *Dowhal v. SmithKline Beecham Consumer Healthcare* (2004) 32 Cal.4th 910, 923 [12 Cal. Rptr. 3d 262, 88 P.3d 1].) To comport with the principles of federal supremacy, California law cannot authorize this state's regional boards to allow the discharge of pollutants into the navigable waters of the United States in concentrations that would exceed the mandates of federal law.

#### FOOTNOTES

<sup>z</sup> The concurring opinion misconstrues both state and federal clean water law when it describes the issue here as "whether the Clean Water Act prevents or prohibits the regional water board from considering economic factors to justify pollutant restrictions *that meet the clean water standards in more cost-effective and economically efficient ways.*" (Conc. opn. of Brown, J., *post*, at p. 629, some italics added.) This case has nothing to do with meeting federal standards in more cost effective and economically efficient ways. State law, as we have said, allows a regional board to consider a permit holder's compliance cost to *relax* pollutant concentrations, as measured by numeric standards, for pollutants in a wastewater discharge permit. (§§ 13241 & 13263.) Federal law, by contrast, as stated above in the text, "prohibits the discharge of pollutants into the navigable waters of the United States unless there is compliance with federal law (33 U.S.C. § 1311(a)), and publicly operated wastewater treatment plants such as those before us here must comply with the [federal] act's *clean water standards, regardless of cost* (see *id.*, §§ 1311(a), (b)(1)(B) & (C), 1342(a)(1) & (3))." (Italics added.)

<sup>g</sup> As amended in 1978, section 13377 provides for the issuance of waste discharge permits that comply with federal clean water law "together with any more stringent

effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance." We do not here decide how this provision would affect the cost-consideration requirements of sections 13241 and 13263 when more stringent effluent standards or limitations in a permit are justified for some reason independent of compliance with federal law.

Thus, in this case, whether the Los Angeles Regional Board should have complied with sections 13263 and 13241 of California's Porter-Cologne Act by taking into account "economic considerations," such as the costs the permit holder will incur to comply with the numeric pollutant restrictions set out in the permits, depends on whether those restrictions meet or exceed the requirements of the federal Clean Water Act. We therefore remand this matter for the trial court to resolve that issue.

### C. Other Contentions

The Cities argue that requiring a regional board at the wastewater discharge permit stage to consider the permit holder's cost of complying with the board's restrictions on pollutant content in the water is consistent with federal law. In support, the Cities point to certain provisions of the federal Clean Water Act. They cite section 1251(a)(2) of title 33 United States Code, which sets, as a national goal "*wherever attainable*," an interim goal for water quality that protects fish and wildlife, and section 1313(c)(2)(A) of the same title, which requires consideration, among other things, of waters' "*use and value* for navigation" when revising or adopting a "water quality standard." (Italics added.) These two federal statutes, however, pertain not to permits for wastewater discharge, at issue here, but to establishing water quality standards, not at issue here. Nothing in the federal Clean Water Act suggests that a state is free to disregard or to weaken the federal requirements for clean water when an NPDES permit holder alleges that compliance with those requirements will be too costly.

At oral argument, counsel for amicus curiae National Resources Defense Council, which argued on behalf of California's State Board and regional water boards, asserted that the federal Clean Water Act incorporates state water policy into federal law, and that therefore a regional board's consideration of economic factors to justify greater pollutant concentration in discharged wastewater would conflict with the federal act even if the specified pollutant restrictions were not less stringent than those required under federal law. We are not persuaded. The federal Clean Water Act reserves to the states significant aspects of water quality policy (33 U.S.C. § 1251(b)), and it specifically grants the states authority to "enforce any effluent limitation" that is not "*less stringent*" than the federal standard (33 U.S.C. § 1370, italics added). It does not prescribe or restrict the factors that a state may consider when exercising this reserved authority, and thus it does not prohibit a state—when imposing effluent limitations that are *more stringent* than required by federal law—from taking into account the economic effects of doing so.

Also at oral argument, counsel for the Cities asserted that if the three municipal wastewater treatment facilities ceased releasing their treated wastewater into the concrete channel that makes up the Los Angeles River, it would (other than during the rainy season) contain no water at all, and thus would not be a "navigable water" of the United States subject to the Clean Water Act. (See *Solid Waste Agency v. United States Army Corps of Engineers* (2001) 531 U.S. 159, 172 [148 L. Ed. 2d 576, 121 S. Ct. 675] ["The term 'navigable' has at least

the import of showing us what Congress had in mind as its authority for enacting the CWA: its traditional jurisdiction over waters that were or had been navigable in fact or which could reasonably be so made.”].) It is unclear when the Cities first raised this issue. The Court of Appeal did not discuss it in its opinion, and the Cities did not seek rehearing on this ground. (See Cal. Rules of Court, rule 28(c)(2).) Concluding that the issue is outside our grant of review, we do not address it.

### **Conclusion**

Through the federal Clean Water Act, Congress has regulated the release of pollutants into our national waterways. The states are free to manage their own water quality programs so long as they do not compromise the federal clean water standards. When enacted in 1972, the goal of the Federal Water Pollution Control Act Amendments was to *eliminate* by the year 1985 the discharge of pollutants into the nation's navigable waters. In furtherance of that goal, the Los Angeles Regional Board indicated in its 1994 basin plan on water quality the intent, insofar as possible, to remove from the water in the Los Angeles River toxic substances in amounts harmful to humans, plants, and aquatic life. What is not clear from the record before us is whether, in limiting the chemical pollutant content of wastewater to be discharged by the Tillman, Los Angeles-Glendale, and Burbank wastewater treatment facilities, the Los Angeles Regional Board acted only to implement requirements of the federal Clean Water Act or instead imposed pollutant limitations that exceeded the federal requirements. This is an issue of fact to be resolved by the trial court.

### **Disposition**

We affirm the judgment of the Court of Appeal reinstating the wastewater discharge permits to the extent that the specified numeric limitations on chemical pollutants are necessary to satisfy federal Clean Water Act requirements for treated wastewater. The Court of Appeal is directed to remand this matter to the trial court to decide whether any numeric limitations, as described in the permits, are “more stringent” than required under federal law and thus should have been subject to “economic considerations” by the Los Angeles Regional Board before inclusion in the permits.

George, C. J., Baxter, J., Werdegar, J., Chin, J., and Moreno, J., concurred.

**CONCUR BY:** BROWN

### **CONCUR**

**BROWN, J.,** Concurring.—I write separately to express my frustration with the apparent inability of the government officials involved here to answer a simple question: How do the federal clean water standards (which, as near as I can determine, are the state standards) prevent the state from considering economic factors? The majority concludes that because “the supremacy clause of the United States Constitution requires state law to yield to federal law, a regional board, when issuing a wastewater discharge permit, may not consider economic factors to justify imposing pollutant restrictions that are *less stringent* than the applicable federal standards require.” (Maj. opn., *ante*, at p. 618.) That seems a pretty self-evident proposition, but not a useful one. The real question, in my view, is whether the Clean Water Act prevents or prohibits the regional water board from considering economic factors to justify pollutant restrictions that *meet* the clean water standards in more cost-effective and economically efficient ways. I can see no reason why a federal law—which purports to be an example of cooperative federalism—would decree such

a result. I do not think the majority's reasoning is at fault here. Rather, the agencies involved seemed to have worked hard to make this simple question impenetrably obscure.

A brief review of the statutory framework at issue is necessary to understand my concerns.

## I. Federal Law

"In 1972, Congress enacted the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), commonly known as the Clean Water Act (CWA) [Citation.] ... [¶] Generally, the CWA 'prohibits the discharge of any pollutant except in compliance with one of several statutory exceptions. [Citation.]' ... The most important of those exceptions is pollution discharge under a valid NPDES [National Pollution Discharge Elimination System] permit, which can be issued either by the Environmental Protection Agency (EPA), or by an EPA-approved state permit program such as California's. [Citations.] NPDES permits are valid for five years. [Citation.] [¶] Under the CWA's NPDES permit system, the states are required to develop *water quality standards*. [Citations.] A water quality standard 'establish[es] the desired condition of a waterway.' [Citation.] A water quality standard for any given waterway, or 'water body,' has two components: (1) the designated beneficial uses of the water body and (2) the *water quality criteria* sufficient to protect those uses. [Citations.] [¶] Water quality criteria can be either *narrative* or *numeric*. [Citation.]" (*Communities for a Better Environment v. State Water Resources Control Bd.* (2003) 109 Cal.App.4th 1089, 1092–1093 [1 Cal. Rptr. 3d 76].)

With respect to satisfying water quality standards, "a polluter must comply with *effluent limitations*. The CWA defines an effluent limitation as 'any restriction established by a State or the [EPA] Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.' [Citation.] 'Effluent limitations are a means of *achieving* water quality standards.' [Citation.] [¶] NPDES permits establish effluent limitations for the polluter. [Citations.] CWA's NPDES permit system provides for a two-step process for the establishing of effluent limitations. First, the polluter must comply with *technology-based effluent limitations*, which are limitations based on the best available or practical technology for the reduction of water pollution. [Citations.] [¶] Second, the polluter must also comply with more stringent *water quality-based effluent limitations* (WQBEL's) where applicable. In the CWA, Congress 'supplemented the "technology-based" effluent limitations with "water quality-based" limitations "so that numerous point sources, despite individual compliance with effluent limitations, may be further regulated to prevent water quality from falling below acceptable levels." ' [Citation.] [¶] The CWA makes WQBEL's applicable to a given polluter whenever WQBEL's are 'necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations ... .' [Citations.] Generally, NPDES permits must conform to state water quality laws insofar as the state laws impose more stringent pollution controls than the CWA. [Citations.] Simply put, WQBEL's implement water quality standards." (*Communities for a Better Environment v. State Water Resources Control Bd.*, *supra*, 109 Cal.App.4th at pp. 1093–1094, fns. omitted.)

This case involves water quality-based effluent limitations. As set forth above, "[u]nder the CWA, states have the primary role in promulgating water quality standards." (*Piney Run Preservation Ass'n v. Comms. of Carroll Co.* (4th Cir. 2001) 268 F.3d 255, 265, fn. 9.) "Under the CWA, the water quality standards referred to in section 301 [see 33 U.S.C. § 1311] are primarily the states' handiwork." (*American Paper Institute, Inc. v. U.S. Env'tl. Protection Agency* (D.C. Cir. 1993) 302 U.S. App. D.C. 80 [996 F.2d 346, 349] (*American Paper*).) In fact, upon the 1972 passage of the CWA, "[s]tate water quality standards in

effect at the time ... were deemed to be the initial water quality benchmarks for CWA purposes ... . The states were to revisit and, if necessary, revise those initial standards at least once every three years." (*American Paper*, at p. 349.) Therefore, "once a water quality standard has been promulgated, section 301 of the CWA requires all NPDES permits for point sources to incorporate discharge limitations necessary to satisfy that standard." (*American Paper*, at p. 350.) Accordingly, it appears that in most instances, state water quality standards are identical to the federal requirements for NPDES permits.

## II. State Law

In California, pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.; Stats. 1969, ch. 482, § 18, p. 1051; hereafter Porter-Cologne Act), the regional water quality control boards establish water quality standards—and therefore federal requirements for NPDES permits—through the adoption of water quality control plans (basin plans). The basin plans establish water quality objectives using enumerated factors—including economic factors—set forth in Water Code section 13241.

In addition, as one court observed: "The Porter-Cologne Act ... established nine regional boards to prepare water quality plans (known as basin plans) and issue permits governing the discharge of waste. (Wat. Code, §§ 13100, 13140, 13200, 13201, 13240, 13241, 13243.) The Porter-Cologne Act identified these permits as 'waste discharge requirements,' and provided that the waste discharge requirements must mandate compliance with the applicable regional water quality control plan. (Wat. Code, §§ 13263, subd. (a), 13377, 13374.) [¶] Shortly after Congress enacted the Clean Water Act in 1972, the California Legislature added Chapter 5.5 to the Porter-Cologne Act, for the purpose of adopting the necessary federal requirements to ensure it would obtain EPA approval to issue NPDES permits. (Wat. Code, § 13370, subd. (c).) As part of these amendments, the Legislature provided that the state and regional water boards 'shall, as required or authorized by the [Clean Water Act], issue waste discharge requirements ... which apply and ensure compliance with all applicable provisions [of the Clean Water Act], together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.' (Wat. Code, § 13377.) Water Code section 13374 provides that '[t]he term "waste discharge requirements" as referred to in this division is the equivalent of the term "permits" as used in the [Clean Water Act].' [¶] California subsequently obtained the required approval to issue NPDES permits. [Citation.] Thus, the waste discharge requirements issued by the regional water boards ordinarily also serve as NPDES permits under federal law. (Wat. Code, § 13374.)" (*Building Industry Assn. of San Diego County v. State Water Resources Control Bd.* (2004) 124 Cal.App.4th 866, 875 [22 Cal. Rptr. 3d 128].)

Applying this federal-state statutory scheme, it appears that throughout this entire process, the Cities of Burbank and Los Angeles (Cities) were unable to have economic factors considered because the Los Angeles Regional Water Quality Control Board (Board)—the body responsible to enforce the statutory framework—failed to comply with its statutory mandate.

For example, as the trial court found, the Board did not consider costs of compliance when it initially established its basin plan, and hence the water quality standards. The Board thus failed to abide by the statutory requirement set forth in Water Code section 13241 in establishing its basin plan. Moreover, the Cities claim that the initial narrative standards were so vague as to make a serious economic analysis impracticable. Because the Board does not allow the Cities to raise their economic factors in the permit approval stage, they are effectively precluded from doing so. As a result, the Board appears to be playing a game

of “gotcha” by allowing the Cities to raise economic considerations when it is not practical, but precluding them when they have the ability to do so.

Moreover, the Board acknowledges that it has neglected other statutory provisions that might have provided an additional opportunity to air these concerns. As set forth above, pursuant to the CWA, “[t]he states were to revisit and, if necessary, revise those initial standards at least once every three years—a process commonly known as triennial review. [Citation.] Triennial reviews consist of public hearings in which current water quality standards are examined to assure that they ‘protect the public health or welfare, enhance the quality of water and serve the purposes’ of the Act. [Citation.] Additionally, the CWA directs states to consider a variety of competing policy concerns during these reviews, including a waterway’s ‘use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes.’ ” ( *American Paper, supra*, 996 F.2d at p. 349.)

According to the Cities, “[t]he last time that the narrative water quality objective for toxicity contained in the Basin Plan was reviewed and modified was 1994.” The Board does not deny this claim. Accordingly, the Board has failed its duty to allow public discussion—including economic considerations—at the required intervals when making its determination of proper water quality standards.

What is unclear is why this process should be viewed as a contest. State and local agencies are presumably on the same side. The costs will be paid by taxpayers and the Board should have as much interest as any other agency in fiscally responsible environmental solutions.

Our decision today arguably allows the Board to continue to shirk its statutory duties. The majority holds that when read together, Water Code sections 13241, 13263, and 13377 do not allow the Board to consider economic factors when issuing NPDES permits to satisfy federal CWA requirements. (Maj. opn., *ante*, at pp. 625–627.) The majority then bifurcates the issue when it orders the Court of Appeal “to remand this matter to the trial court to decide whether any numeric limitations, as described in the permits, are ‘more stringent’ than required under federal law and thus should have been subject to ‘economic considerations’ by the Los Angeles Regional Board before inclusion in the permits.” (*Id.* at pp. 628–629.)

The majority overlooks the feedback loop established by the CWA, under which federal standards are linked to state-established water quality standards, including narrative water quality criteria. (See 33 U.S.C. § 1311 (b)(1)(C); 40 C.F.R. § 122.44(d)(1) (2004).) Under the CWA, NPDES permit requirements include the state narrative criteria, which are incorporated into the Board’s basin plan under the description “no toxins in toxic amounts.” As far as I can determine, NPDES permits designed to achieve this narrative criteria (as well as designated beneficial uses) will usually implement the state’s basin plan, while satisfying federal requirements as well.

If federal water quality standards are typically identical to state standards, it will be a rare instance that a state exceeds its own requirements and economic factors are taken into consideration. <sup>1</sup> In light of the Board’s initial failure to consider costs of compliance and its repeated failure to conduct required triennial reviews, the result here is an unseemly bureaucratic bait-and-switch that we should not endorse. The likely outcome of the majority’s decision is that the Cities will be economically burdened to meet standards imposed on them in a highly questionable manner. <sup>2</sup> In these times of tight fiscal budgets, it is difficult to imagine imposing additional financial burdens on municipalities without at least allowing them to present alternative views.

## FOOTNOTES

<sup>1</sup> (But see *In the Matter of the Petition of City and County of San Francisco, San Francisco Baykeeper et al.* (Order No. WQ 95-4, Sept. 21, 1995) 1995 WL 576920.)

<sup>2</sup> Indeed, given the fact that “water quality standards” in this case are composed of broadly worded components (i.e., a narrative criteria and “designated beneficial uses of the water body”), the Board possessed a high degree of discretion in setting NPDES permit requirements. Based on the Board’s past performance, a proper exercise of this discretion is uncertain.

Based on the facts of this case, our opinion today appears to largely retain the status quo for the Board. If the Board can actually demonstrate that only the precise limitations at issue here, implemented in only one way, will achieve the desired water standards, perhaps its obduracy is justified. That case has yet to be made.

Accordingly, I cannot conclude that the majority’s decision is wrong. The analysis may provide a reasonable accommodation of conflicting provisions. However, since the Board’s actions “make me wanna holler and throw up both my hands,”<sup>3</sup> I write separately to set forth my concerns and concur in the judgment—*dubitante*.<sup>4</sup>

## FOOTNOTES

<sup>3</sup> Marvin Gaye (1971) “Inner City Blues.”

<sup>4</sup> I am indebted to Judge Berzon for this useful term. (See *Credit Suisse First Boston Corp. v. Grunwald* (9th Cir. 2005) 400 F.3d 1119 [2005 WL 466202] (conc. opn. of Berzon, J.).)

The petitions of all appellants and respondent for a rehearing were denied June 29, 2005. Brown, J., did not participate therein.

TAB 12

State Water Resources Control Board Order No. 2001-015

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2001- 15

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In the Matter of the Petitions of

**BUILDING INDUSTRY ASSOCIATION OF SAN DIEGO COUNTY  
AND  
WESTERN STATES PETROLEUM ASSOCIATION**

For Review Of Waste Discharge Requirements Order No. 2001-01  
for Urban Runoff from San Diego County  
[NPDES No. CAS0108758]

Issued by the  
California Water Quality Control Board,  
San Diego Region

*SWRCB/OCC FILES A-1362, A-1362(a)*

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BY THE BOARD:

On February 21, 2001, the San Diego Regional Water Quality Control Board (Regional Water Board) issued a revised national pollutant discharge elimination system (NPDES) permit in Order No. 2001-01 (permit) to the County of San Diego (County), the 18 incorporated cities within the County, and the San Diego Unified Port District. The permit covers storm water discharges from municipal separate storm sewer systems (MS4) throughout the County. The permit is the second MS4 permit issued for the County, although the first permit was issued more than ten years earlier.<sup>1</sup>

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<sup>1</sup> NPDES permits generally expire after five years, but can be extended administratively where the Regional Water Board is unable to issue a new permit prior to the expiration date. As the record in this matter amply demonstrates, the Regional Water Board engaged in an extensive process of issuing draft permits, accepting comments, and holding workshops and hearings since at least 1995.

The permit includes various programmatic and planning requirements for the permittees, including construction and development controls, controls on municipal activities, controls on runoff from industrial, commercial, and residential sources, and public education. The types of controls and requirements included in the permit are similar to those in other MS4 permits, but also reflect the expansion of the storm water program since the first MS4 permit was adopted for San Diego County 11 years ago.<sup>2</sup>

On March 23, 2001, the State Water Resources Control Board (State Water Board or Board) received petitions for review of the permit from the Building Industry Association of San Diego County (BIA) and from the Western States Petroleum Association (WSPA).<sup>3</sup> The petitions are legally and factually related, and have therefore been consolidated for purposes of review.<sup>4</sup> None of the municipal dischargers subject to the permit filed a petition, nor did they file responses to the petitions.

## I. BACKGROUND

MS4 permits are adopted pursuant to Clean Water Act section 402(p). This federal law sets forth specific requirements for permits for discharges from municipal storm sewers. One of the requirements is that permits "shall require controls to reduce the discharge of

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<sup>2</sup> For a discussion of the evolution of the storm water program, consistent with guidance from the United States Environmental Protection Agency (U.S. EPA), see Board Order WQ 2000-11.

<sup>3</sup> On March 23, the State Water Board also received brief letters from the Ramona Chamber of Commerce, the North San Diego County Association of Realtors, the San Diego County Apartment Association, the National Association of Industrial and Office Properties, and the California Building Industry Association. All of these letters state that they are "joining in" the petition filed by BIA. None of the letters contain any of the required information for petitions, which is listed at Cal. Code of Regs., tit. 23, section 2050. These letters will be treated as comments on the BIA petition. To the extent the authors intended the letters be considered petitions, they are dismissed.

<sup>4</sup> Cal. Code of Regs., tit. 23, section 2054.

pollutants to the maximum extent practicable [MEP].” States establish appropriate requirements for the control of pollutants in the permits.

This Board very recently reviewed the need for controls on urban runoff in MS4 permits, the emphasis on best management practices (BMPs) in lieu of numeric effluent limitations, and the expectation that the level of effort to control urban runoff will increase over time.<sup>5</sup> We pointed out that urban runoff is a significant contributor of impairment to waters throughout the state, and that additional controls are needed. Specifically, in Board Order WQ 2000-11 (hereinafter, LA SUSMP order), we concluded that the Los Angeles Regional Water Board acted appropriately in determining that numeric standards for the design of BMPs to control runoff from new construction and redevelopment constituted controls to the MEP.<sup>6</sup>

The San Diego permit incorporates numeric design standards for runoff from new construction and redevelopment similar to those considered in the LA SUSMP order.<sup>7</sup> In addition, the permit addresses programmatic requirements in other areas. The LA SUSMP order was a precedential decision,<sup>8</sup> and we will not reiterate our findings and conclusions from that decision.<sup>9</sup>

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<sup>5</sup> Board Order WQ 2000-11.

<sup>6</sup> As explained in that Order, numeric design standards are not the same as numeric effluent limitations. While BIA contends that the permit under review includes numeric effluent limitations, it does not. A numeric design standard only tells the dischargers how much runoff must be treated or infiltrated; it does not establish numeric effluent limitations proscribing the quality of effluent that can be discharged following infiltration or treatment.

<sup>7</sup> The San Diego permit also includes provisions that are different from those approved in the LA SUSMP Order, but which were not the subject of either petition. Such provisions include the inclusion of non-discretionary projects. We do not make any ruling in this Order on matters that were not addressed in either petition.

<sup>8</sup> Government Code section 11425.60; State Board Order WR 96-1 (Lagunitas Creek), at footnote 11.

<sup>9</sup> BIA restates some of the issues this Board considered in the LA SUSMP order. For instance, BIA contends that it is inappropriate for the permit to regulate erosion control. While this argument was not specifically addressed in our prior Order, it is obvious that the most serious concern with runoff from construction is the potential for increased erosion. It is absurd to contend that the permit should have ignored this impact from urban runoff.

The petitioners make numerous contentions, mostly concerning requirements that they claim the dischargers will not be able to, or should not be required to, comply with. We note that none of the dischargers has joined in these contentions. We further note that BIA raises contentions that were already addressed in the LA SUSMP order. In this Order, we have attempted to glean from the petition issues that are not already fully addressed in Board Order Board Order WQ 2000-11, and which may have some impact on BIA and its members. WSPA restated the contentions it made in the petition it filed challenging the LA SUSMP order. We will not address those contentions again.<sup>10</sup> But we will address whether the Regional Water Board followed the precedent established there as it relates to retail gasoline outlets.<sup>11</sup>

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<sup>10</sup> On November 8, 2001, following the October 31 workshop meeting that was held to discuss the draft order, BIA submitted a "supplemental brief" that includes many new contentions raised for the first time. (Interested persons who were not petitioners filed comments on the draft order asking the State Water Board to address some of these.) The State Water Board will not address these contentions, as they were not timely raised. (Wat. Code § 13320; Cal. Code of Regs., tit. 23, § 2050(a).) Specific contentions that are not properly subject to review under Water Code section 13320 are objections to findings 16, 17, and 38 of the permit, the contention that permit provisions constitute illegal unfunded mandates, challenges to the permit's inspection and enforcement provisions, objections to permit provisions regarding construction sites, the contention that post-construction requirements should be limited to "discretionary" approvals, the challenge to the provisions regarding local government compliance with the California Environmental Quality Act, and contentions regarding the term "discharge" in the permit. BIA did not meet the legal requirements for seeking review of these portions of the permit.

<sup>11</sup> On November 8, 2001, the State Water Board received eight boxes of documents from BIA, along with a "Request for Entry of Documents into the Administrative Record." BIA failed to comply with Cal. Code of Regs., tit. 23, section 2066(b), which requires such requests be made "prior to or during the workshop meeting." The workshop meeting was held on October 31, 2001. The request will therefore not be considered. BIA also objected in this submittal that the Regional Water Board did not include these documents in its record. The Regional Water Board's record was created at the time the permit was adopted, and was submitted to the State Water Board on June 11, 2001. BIA's objection is not timely.

## II. CONTENTIONS AND FINDINGS<sup>12</sup>

**Contention:** BIA contends that the discharge prohibitions contained in the permit are “absolute” and “inflexible,” are not consistent with the standard of “maximum extent practicable” (MEP), and financially cannot be met.

**Finding:** The gist of BIA’s contention concerns Discharge Prohibition A.2, concerning exceedance of water quality objectives for receiving waters: “Discharges from MS4s which cause or contribute to exceedances of receiving water quality objectives for surface water or groundwater are prohibited.” BIA generally contends that this prohibition amounts to an inflexible “zero contribution” requirement.

BIA advances numerous arguments regarding the alleged inability of the dischargers to comply with this prohibition and the impropriety of requiring compliance with water quality standards in municipal storm water permits. These arguments mirror arguments made in earlier petitions that required compliance with water quality objectives by municipal storm water permittees. (See, e.g., Board Orders WQ 91-03, WQ 98-01, and WQ 99-05.) This Board has already considered and upheld the requirement that municipal storm water discharges must not cause or contribute to exceedances of water quality objectives in the receiving water. We adopted an iterative procedure for complying with this requirement, wherein municipalities must report instances where they cause or contribute to exceedances, and then must review and improve BMPs so as to protect the receiving waters. The language in the permit in Receiving

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<sup>12</sup> This Order does not address all of the issues raised by the petitioners. The Board finds that the issues that are not addressed are insubstantial and not appropriate for State Water Board review. (See *People v. Barry* (1987) 194 Cal.App.3d 158 [239 Cal.Rptr. 349]; Cal. Code Regs., tit. 23, § 2052.) We make no determination as to whether we will address the same or similar issues when raised in future petitions.

Water Limitation C.1 and 2 is consistent with the language required in Board Order WQ 99-05, our most recent direction on this issue.<sup>13</sup>

While the issue of the propriety of requiring compliance with water quality objectives has been addressed before in several orders, BIA does raise one new issue that was not addressed previously. In 1999, the Ninth Circuit Court of Appeals issued an opinion addressing whether municipal storm water permits must require “strict compliance” with water quality standards.<sup>14</sup> (*Defenders of Wildlife v. Browner* (9th Cir. 1999) 191 F.3d 1159.) The court in *Browner* held that the Clean Water Act provisions regarding storm water permits do not require that municipal storm-sewer discharge permits ensure strict compliance with water quality standards, unlike other permits.<sup>15</sup> The court determined that: “Instead, [the provision for municipal storm water permits] *replaces* the requirements of [section 301] with the requirement that municipal storm-sewer dischargers ‘reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator . . . determines appropriate for the control of such pollutants.’” (191 F.3d at 1165.) The court further held that the Clean Water Act does grant the permitting agency discretion to determine what pollution controls are appropriate for municipal storm water discharges. (*Id.* at 1166.) Specifically, the court stated

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<sup>13</sup> In addition to Discharge Prohibition A.2, quoted above, the permit includes Receiving Water Limitation C.1, with almost identical language: “Discharges from MS4s that cause or contribute to the violation of water quality standards (designated beneficial uses and water quality objectives developed to protect beneficial uses) are prohibited.” Receiving Water Limitation C.2 sets forth the iterative process for compliance with C.1, as required by Board Order WQ 99-05.

<sup>14</sup> “Water quality objectives” generally refers to criteria adopted by the state, while “water quality standards” generally refers to criteria adopted or approved for the state by the U.S. EPA. Those terms are used interchangeably for purposes of this Order.

<sup>15</sup> Clean Water Act § 301(b)(1)(C) requires that most NPDES permits require strict compliance with quality standards.

that U.S. EPA had the authority either to require "strict compliance" with water quality standards through the imposition of numeric effluent limitations, or to employ an iterative approach toward compliance with water quality standards, by requiring improved BMPs over time. (*Id.*) The court in *Browner* upheld the EPA permit language, which included an iterative, BMP-based approach comparable to the language endorsed by this Board in Order WQ 99-05.

In reviewing the language in this permit, and that in Board Order WQ 99-05, we point out that our language, similar to U.S. EPA's permit language discussed in the *Browner* case, does not require strict compliance with water quality standards. Our language requires that storm water management plans be designed to achieve compliance with water quality standards. Compliance is to be achieved over time, through an iterative approach requiring improved BMPs. As pointed out by the *Browner* court, there is nothing inconsistent between this approach and the determination that the Clean Water Act does not mandate strict compliance with water quality standards. Instead, the iterative approach is consistent with U.S. EPA's general approach to storm water regulation, which relies on BMPs instead of numeric effluent limitations.

It is true that the holding in *Browner* allows the issuance of municipal storm water permits that limit their provisions to BMPs that control pollutants to the maximum extent practicable (MEP), and which do not require compliance with water quality standards. For the reasons discussed below, we decline to adopt that approach. The evidence in the record before us is consistent with records in previous municipal permits we have considered, and with the data we have in our records, including data supporting our list prepared pursuant to Clean Water Act section 303(d). Urban runoff is causing and contributing to impacts on receiving waters throughout the state and impairing their beneficial uses. In order to protect beneficial uses and to achieve compliance with water quality objectives in our streams, rivers, lakes, and the ocean, we

must look to controls on urban runoff. It is not enough simply to apply the technology-based standards of controlling discharges of pollutants to the MEP; where urban runoff is causing or contributing to exceedances of water quality standards, it is appropriate to require improvements to BMPs that address those exceedances.

While we will continue to address water quality standards in municipal storm water permits, we also continue to believe that the iterative approach, which focuses on timely improvement of BMPs, is appropriate. We will generally not require "strict compliance" with water quality standards through numeric effluent limitations and we will continue to follow an iterative approach, which seeks compliance over time.<sup>16</sup> The iterative approach is protective of water quality, but at the same time considers the difficulties of achieving full compliance through BMPs that must be enforced throughout large and medium municipal storm sewer systems.<sup>17</sup>

We have reviewed the language in the permit, and compared it to the model language in Board Order WQ 99-05. The language in the Receiving Water Limitations is virtually identical to the language in Board Order WQ 99-05. It sets a limitation on discharges that cause or contribute to violation of water quality standards, and then it establishes an iterative approach to complying with the limitation. We are concerned, however, with the language in Discharge Prohibition A.2, which is challenged by BIA. This discharge prohibition is similar to the Receiving Water Limitation, prohibiting discharges that cause or contribute to exceedance of

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<sup>16</sup> Exceptions to this general rule are appropriate where site-specific conditions warrant. For example, the Basin Plan for the Lake Tahoe basin, which protects an outstanding national resource water, includes numeric effluent limitations for storm water discharges.

<sup>17</sup> While BIA argues that the permit requires "zero contribution" of pollutants in runoff, and "in effect" contains numeric effluent limitations, this is simply not true. The permit is clearly BMP-based, and there are no numeric effluent limitations. BIA also claims that the permit will require the construction of treatment plants for storm water similar to the publicly-owned treatment works for sanitary sewage. There is no basis for this contention; there is no requirement in the permit to treat all storm water. The emphasis is on BMPs.

water quality objectives. The difficulty with this language, however, is that it is not modified by the iterative process. To clarify that this prohibition also must be complied with through the iterative process, Receiving Water Limitation C.2 must state that it is also applicable to Discharge Prohibition A.2. The permit, in Discharge Prohibition A.5, also incorporates a list of Basin Plan prohibitions, one of which also prohibits discharges that are not in compliance with water quality objectives. (See, Attachment A, prohibition 5.) Language clarifying that the iterative approach applies to that prohibition is also necessary.<sup>18</sup>

BIA also objects to Discharge Prohibition A.3, which appears to require that treatment and control of discharges must always occur prior to entry into the MS4: "Discharges into and from MS4s containing pollutants which have not been reduced to the [MEP] are prohibited."<sup>19</sup> An NPDES permit is properly issued for "discharge of a pollutant" to waters of the United States.<sup>20</sup> (Clean Water Act § 402(a).) The Clean Water Act defines "discharge of a pollutant" as an "addition" of a pollutant to waters of the United States from a point source. (Clean Water Act section 502(12).) Section 402(p)(3)(B) authorizes the issuance of permits for discharges "from municipal storm sewers."

We find that the permit language is overly broad because it applies the MEP standard not only to discharges "from" MS4s, but also to discharges "into" MS4s. It is certainly

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<sup>18</sup> The iterative approach is not necessary for all Discharge Prohibitions. For example, a prohibition against pollution, contamination or nuisance should generally be complied with at all times. (See, Discharge Prohibition A.1.) Also, there may be discharge prohibitions for particularly sensitive water bodies, such as the prohibition in the Ocean Plan applicable to Areas of Special Biological Significance.

<sup>19</sup> Discharge Prohibition A.1 also refers to discharges into the MS4, but it only prohibits pollution, contamination, or nuisance that occurs "in waters of the state." Therefore, it is interpreted to apply only to discharges to receiving waters.

<sup>20</sup> Since NPDES permits are adopted as waste discharge requirements in California, they can more broadly protect "waters of the state," rather than being limited to "waters of the United States." In general, the inclusion of "waters (footnote continued)

true that in most instances it is more practical and effective to prevent and control pollution at its source. We also agree with the Regional Water Board's concern, stated in its response, that there may be instances where MS4s use "waters of the United States" as part of their sewer system, and that the Board is charged with protecting all such waters. Nonetheless, the specific language in this prohibition too broadly restricts all discharges "into" an MS4, and does not allow flexibility to use regional solutions, where they could be applied in a manner that fully protects receiving waters.<sup>21</sup> It is important to emphasize that dischargers into MS4s continue to be required to implement a full range of BMPs, including source control. In particular, dischargers subject to industrial and construction permits must comply with all conditions in those permits prior to discharging storm water into MS4s.

**Contention:** State law requires the adoption of wet weather water quality standards, and the permit improperly enforces water quality standards that were not specifically adopted for wet weather discharges.

**Finding:** This contention is clearly without merit. There is no provision in state or federal law that mandates adoption of separate water quality standards for wet weather conditions. In arguing that the permit violates state law, BIA states that because the permit applies the water quality objectives that were adopted in its Basin Plan, and those objectives were not specifically adopted for wet weather conditions only, the Regional Water Board violated

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of the state" allows the protection of groundwater, which is generally not considered to be "waters of the United States."

<sup>21</sup> There are other provisions in the permit that refer to restrictions "into" the MS4. (See, e.g., Legal Authority D.1.) Those provisions are appropriate because they do not apply the MEP standard to the permittees, but instead require the permittees to demand appropriate controls for discharges into their system. For example, the federal regulations require that MS4s have a program "to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system . . ." (40 C.F.R. § 122.26(d)(2)(iv)(D).)

Water Code section 13241. These allegations appear to challenge water quality objectives that were adopted years ago. Such a challenge is clearly inappropriate as both untimely, and because Basin Plan provisions cannot be challenged through the water quality petition process. (See Wat. Code § 13320.) Moreover, there is nothing in section 13241 that supports the claim that Regional Water Boards must adopt separate wet weather water quality objectives. Instead, the Regional Water Board's response indicates that the water quality objectives were based on all water conditions in the area. There is nothing in the record to support the claim that the Regional Water Board did not in fact consider wet weather conditions when it adopted its Basin Plan. Finally, Water Code section 13263 mandates the Regional Water Board to implement its Basin Plan when adopting waste discharge requirements. The Regional Water Board acted properly in doing so.

BIA points to certain federal policy documents that authorize states to promulgate water quality standards specific to wet-weather conditions.<sup>22</sup> Each Regional Water Board considers revisions to its Basin Plan in a triennial review. That would be the appropriate forum for BIA to make these comments.

**Contention:** BIA contends that the permit improperly classifies urban runoff as "waste" within the meaning of the Water Code.

**Finding:** BIA challenges Finding 2, which states that urban runoff is a waste, as defined in the Water Code, and that it is a "discharge of pollutants from a point source" under the federal Clean Water Act. BIA contends that the legislative history of section 13050(d) supports

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<sup>22</sup> These documents do not support the claim that U.S. EPA and the Clinton Administration indicated that the absence of such regulations "is a major problem that needs to be addressed," as claimed in BIA's Points and Authorities, at page 18.

its position that "waste" should be interpreted to exclude urban runoff. The Final Report of the Study Panel to the California State Water Resources Control Board (March, 1969) is the definitive document describing the legislative intent of the Porter-Cologne Water Quality Control Act. In discussing the definition of "waste," this document discusses its broad application to "current drainage, flow, or seepage into waters of the state of harmful concentrations" of materials, including eroded earth and garbage.

As we stated in Board Order WQ 95-2, the requirement to adopt permits for urban runoff is undisputed, and Regional Water Boards are not required to obtain any information on the impacts of runoff prior to issuing a permit. (At page 3.) It is also undisputed that urban runoff contains "waste" within the meaning of Water Code section 13050(d), and that the federal regulations define "discharge of a pollutant" to include "additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man." (40 C.F.R. § 122.2.) But it is the waste or pollutants in the runoff that meet these definitions of "waste" and "pollutant," and not the runoff itself.<sup>23</sup> The finding does create some confusion, since there are discharge prohibitions that have been incorporated into the permit that broadly prohibit the discharge of "waste" in certain circumstances. (See Attachment A to the permit.) The finding will therefore be amended to state that urban runoff contains waste and pollutants.

**Contention:** BIA contends that the Regional Water Board violated California Environmental Quality Act (CEQA).

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<sup>23</sup> The Regional Water Board is appropriately concerned not only with pollutants in runoff but also the volume of runoff, since the volume of runoff can affect the discharge of pollutants in the runoff. (See Board Order WQ 2000-11, at page 5.)

**Finding:** As we have stated in several prior orders, the provisions of CEQA requiring adoption of environmental documents do not apply to NPDES permits.<sup>24</sup> BIA contends that the exemption from CEQA contained in section 13389 applies only to the extent that the specific provisions of the permit are required by the federal Clean Water Act. This contention is easily rejected without addressing whether federal law mandated all of the permit provisions. The plain language of section 13389 broadly exempts the Regional Water Board from the requirements of CEQA to prepare environmental documents when adopting “any waste discharge requirement” pursuant to Chapter 5.5 (§§ 13370 et seq., which applies to NPDES permits).<sup>25</sup> BIA cites the decision in *Committee for a Progressive Gilroy v. State Water Resources Control Board* (1987) 192 Cal.App.3d 847. That case upheld the State Water Board’s view that section 13389 applies only to NPDES permits, and not to waste discharge requirements that are adopted pursuant only to state law. The case did not concern an NPDES permit, and does not support BIA’s argument.

**Contention:** WSPA contends that the Regional Water Board did not follow this Board’s precedent for retail gasoline outlets (RGOs) established in the LA SUSMP order.

**Finding:** In the LA SUSMP order, this Board concluded that construction of RGOs is already heavily regulated and that owners may be limited in their ability to construct infiltration facilities. We also noted that, in light of the small size of many RGOs and the proximity to underground tanks, it might not always be feasible or safe to employ treatment methodologies. We directed the Los Angeles Regional Water Board to mandate that RGOs

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<sup>24</sup> Water Code section 13389; see, e.g., Board Order WQ 2000-11.

<sup>25</sup> The exemption does have an exception for permits for “new sources” as defined in the Clean Water Act, which is not applicable here.

employ the BMPs listed in a publication of the California Storm Water Quality Task Force. (*Best Management Practice Guide – Retail Gasoline Outlets* (March 1997).) We also concluded that RGOs should not be subject to the BMP design standards at this time. Instead, we recommended that the Regional Water Board undertake further consideration of a threshold relative to size of the RGO, number of fueling nozzles, or some other relevant factor. The LA SUSMP order did not preclude inclusion of RGOs in the SUSMP design standards, with proper justification, when the permit is reissued.

The permit adopted by the Regional Water Board did not comply with the directions we set forth in the LA SUSMP order for the regulation of RGOs. The permit contains no findings specific to the issues discussed in our prior order regarding RGOs, and includes no threshold for inclusion of RGOs in SUSMPs. Instead, the permit requires the dischargers to develop and implement SUSMPs within one year that include requirements for “Priority Development Project Categories,” including “retail gasoline outlets.” While other priority categories have thresholds for their inclusion in SUSMPs, the permit states: “Retail Gasoline Outlet is defined as any facility engaged in selling gasoline.”<sup>26</sup>

The Regional Water Board responded that it did follow the directions in the LA SUSMP order. First, it points to findings that vehicles and pollutants they generate impact receiving water quality. But the only finding that even mentions RGOs is finding 4, which simply lists RGOs among the other priority development project categories as land uses that generate more pollutants. The Regional Water Board staff also did state some justifications for the inclusion of RGOs in two documents. The Draft Fact Sheet explains that RGOs contribute

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<sup>26</sup> Permit at F.1.b(2)(a)(x).

pollutants to runoff, and opines that there are appropriate BMPs for RGOs. The staff also prepared another document after the public hearing, which was distributed to Board Members prior to their vote on the permit, and which includes similar justifications and references to studies.<sup>27</sup> The LA SUSMP order called for some type of threshold for inclusion of RGOs in SUSMPs. The permit does not do so. Also, justifications for permit provisions should be stated in the permit findings or the final fact sheet, and should be subject to public review and debate.<sup>28</sup> The discussion in the document submitted after the hearing did not meet these criteria. There was some justification in the "Draft Fact Sheet," but the fact sheet has not been finalized.<sup>29</sup> In light of our concerns over whether SUSMP sizing criteria should apply to RGOs, it was incumbent on the Regional Water Board to justify the inclusion of RGOs in the permit findings or in a final fact sheet, and to consider an appropriate threshold, addressing the concerns we stated. The Regional Water Board also responded that when the dischargers develop the SUSMPs, the dischargers might add specific BMPs and a threshold as directed in the LA SUSMP order. But the order specifically directed that any threshold, and the justification therefore, should be included in the permit. The Regional Water Board did not comply with these directions.

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<sup>27</sup> See "Comparison Between Tentative Order No. 2001-01 SUSMP Requirements and LARWQCB SUSMP Requirements (as Supported by SWRCB Order WQ 2000-11)."

<sup>28</sup> See 40 C.F.R. sections 124.6(e) and 124.8.

<sup>29</sup> U.S. EPA regulations require that there be a fact sheet accompanying the permit. (40 C.F.R. § 124.8.) The record contains only a draft fact sheet, which was never published or distributed in final form. The Regional Water Board should finalize the fact sheet, accounting for any revisions made in the final permit, and publish it on its web site as a final document.

### III. CONCLUSIONS

Based on the discussion above, the Board concludes that:

1. The Regional Water Board appropriately required compliance with water quality standards and included requirements to achieve reduction of pollutants to the maximum extent practicable. The permit must be clarified so that the reference to the iterative process for achieving compliance applies not only to the receiving water limitation, but also to the discharge prohibitions that require compliance with water quality standards. The permit should also be revised so that it requires that MEP be achieved for discharges "from" the municipal sewer system, and for discharges "to" waters of the United States, but not for discharges "into" the sewer system.

2. The Regional Water Board was not required to adopt wet-weather specific water quality objectives.

3. The Regional Water Board inappropriately defined urban runoff as "waste."

4. The Regional Water Board did not violate the California Environmental Quality Act.

5. The permit will be revised to delete retail gasoline outlets from the Priority Development Project Categories for Standard Urban Storm Water Mitigation Plans. The Regional Water Board may consider adding retail gasoline outlets, upon inclusion of appropriate findings and a threshold describing which outlets are included in the requirements.

### IV. ORDER

IT IS HEREBY ORDERED that the Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems in San Diego County (Order No. 2001-01) are revised as follows:

1. Part A.3: The words "into and" are deleted.
2. Part C.2: Throughout the first paragraph, the words ", Part A.2, and Part A.5 as it applies to Prohibition 5 in Attachment A" shall be inserted following "Part C.1."
3. Finding 2: Revise the finding to read: **URBAN RUNOFF CONTAINS "WASTE" AND "POLLUTANTS"**: Urban runoff contains waste, as defined in the California Water Code, and pollutants, as defined in the federal Clean Water Act, and adversely affects the quality of the waters of the State.
4. Part F.1.b(2)(a): Delete section "x."

In all other respects the petitions are dismissed.

#### CERTIFICATION

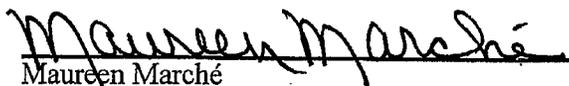
The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 15, 2001.

AYE: Arthur G. Baggett, Jr.  
Peter S. Silva  
Richard Katz

NO: None

ABSENT: None

ABSTAIN: None

  
Maureen Marché  
Clerk to the Board

TAB 13

Implementation Agreement

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**AGREEMENT**

National Pollutant Discharge Elimination System  
Stormwater Discharge Permit  
Implementation Agreement  
Santa Ana Region  
(Santa Ana Drainage Area)

This Agreement, entered into as of this 16 day of Dec, 2003 by the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (herein called DISTRICT), the COUNTY OF RIVERSIDE (herein called COUNTY), and the CITIES OF BEAUMONT, CALIMESA, CANYON LAKE, CORONA, HEMET, LAKE ELSINORE, MORENO VALLEY, MURRIETA, NORCO, PERRIS, RIVERSIDE and SAN JACINTO, (herein called CITIES), establishes the responsibilities of each party concerning compliance with the National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit (NPDES Permit) issued by the California Regional Water Quality Control Board - Santa Ana Region pursuant to Order No. R8-2002-0011.

RECITALS

WHEREAS, in 1987 Congress added Section 402(p) to the Federal Clean Water Act (CWA) (33 U.S.C. §1342(p)); and

WHEREAS, Section 402(p) of the CWA requires certain municipalities, industrial facilities and persons conducting certain construction activities to obtain an NPDES Permit before discharging stormwater into navigable waters; and

WHEREAS, Section 402(p) further requires the Federal Environmental Protection Agency (EPA) to promulgate regulations for NPDES Permit applications; and

WHEREAS, EPA adopted such regulations in November 1990; and

WHEREAS, EPA delegated authority to the California Regional Water Quality

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2 Control Board-Santa Ana Region (RWQCB-SAR) to administer the NPDES permitting process  
3 within the boundaries of that region; and

4 WHEREAS, DISTRICT was created to provide for the control of flood and  
5 stormwaters within the County of Riverside and is empowered to investigate, examine, measure,  
6 analyze, study and inspect matters pertaining to flood and stormwaters; and

7  
8 WHEREAS, on August 30, 2000 DISTRICT, COUNTY and CITIES submitted an  
9 NPDES Permit Application for an area-wide NPDES Permit; and

10 WHEREAS, the NPDES Permit Application was submitted in accordance with the  
11 previous NPDES Permit (Order No. 96-30, NPDES No. CA 618033) which expired on March 8,  
12 2001; and

13 WHEREAS, RWQCB-SAR issued a new NPDES Permit to DISTRICT, COUNTY  
14 and CITIES on October 25, 2002; and

15  
16 WHEREAS, the NPDES Permit governing municipal stormwater discharges meets  
17 both the requirements of Section 402(p)(3)(B) of the CWA and all requirements applicable to an  
18 NPDES Permit issued under RWQCB-SARs discretionary authority in accordance with Section  
19 402(a)(1)(B) of the CWA; and

20 WHEREAS, the NPDES Permit designates DISTRICT as the "Principal Permittee",  
21 and COUNTY and CITIES as "Co-Permittees"; and

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23 WHEREAS, cooperation between DISTRICT, COUNTY and CITIES in the  
24 administration and implementation of the NPDES Permit is in the best interests of DISTRICT,  
25 COUNTY and CITIES; and

26 WHEREAS, DISTRICT is willing to share the expertise of its staff with COUNTY  
27 and CITIES so that they can join in implementing the requirements of the NPDES Permit; and  
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2 WHEREAS, DISTRICT, COUNTY and CITIES are to perform certain activities  
3 prescribed in the NPDES Permit that will benefit all parties.

4 NOW, THEREFORE, the parties hereto do mutually agree as follows:

5 1. Incorporation of the NPDES Permit. The NPDES Permit issued to DISTRICT,  
6 COUNTY and CITIES by RWQCB-SAR pursuant to Order No. R8-2002-0011 is attached to this  
7 Agreement as EXHIBIT A and is hereby incorporated by reference in its entirety and made a part of  
8 this Agreement.  
9

10 2. Delegation of Responsibilities. The responsibilities of each of the parties shall  
11 be as described in the NPDES Permit and reiterated as follows:

12 a. DISTRICT, at no cost to COUNTY and CITIES, shall assume the  
13 responsibilities and meet the requirements of the NPDES Permit by:

14 (1) Complying with Section I. A. (RESPONSIBILITIES OF THE  
15 PRINCIPAL PERMITTEE).

16  
17 (2) Complying with Sections II (DISCHARGE  
18 LIMITATIONS/PROHIBITIONS), III (RECEIVING WATER  
19 LIMITATIONS), IV (IMPLEMENTATION AGREEMENT), V  
20 (LEGAL AUTHORITY), VI (ILLICIT CONNECTIONS /  
21 ILLEGAL DISCHARGES; LITTER, DEBRIS AND TRASH  
22 CONTROL), VII (SEWAGE SPILLS, INFILTRATION INTO MS4  
23 SYSTEMS FROM LEAKING SANITARY SEWER LINES,  
24 SEPTIC SYSTEM FAILURES, AND PORTABLE TOILET  
25 DISCHARGES), VIII (NEW DEVELOPMENT (INCLUDING  
26 SIGNIFICANT REDEVELOPMENT)), IX (MUNICIPAL  
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INSPECTION PROGRAM), X (EDUCATION AND OUTREACH), XI (MUNICIPAL FACILITIES PROGRAMS AND ACTIVITIES), XII (MUNICIPAL CONSTRUCTION PROJECTS / ACTIVITIES), XIII (PROGRAM MANAGEMENT / DAMP REVIEW), XIV (MONITORING AND REPORTING), XV (PROVISIONS), and XVI (PERMIT EXPIRATION AND RENEWAL) as they pertain to District facilities and operations.

(3) Performing all the sampling data collection and assessment requirements described in the NPDES Permit MONITORING AND REPORTING PROGRAM.

(4) Performing all the reporting requirements described in the NPDES Permit MONITORING AND REPORTING PROGRAM. With respect to such reporting requirements, the DISTRICT shall specifically:

- (a) Prepare the required narrative for all reports; and
- (b) Provide COUNTY and CITIES an opportunity to review and comment on any such narrative.

b. COUNTY and CITIES shall, at no cost to DISTRICT, assume the responsibilities and meet the requirements of the NPDES Permit for land area and facilities within their individual jurisdictions by:

- (1) Complying with Section I.B. (RESPONSIBILITIES OF THE CO-PERMITTEES).
- (2) Complying with Sections II (DISCHARGE LIMITATIONS /

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PROHIBITIONS), III (RECEIVING WATER LIMITATIONS), IV (IMPLEMENTATION AGREEMENT), V (LEGAL AUTHORITY), VI (ILLICIT CONNECTIONS / ILLEGAL DISCHARGES; LITTER, DEBRIS AND TRASH CONTROL), VII (SEWAGE SPILLS, INFILTRATION INTO MS4 SYSTEMS FROM LEAKING SANITARY SEWER LINES, SEPTIC SYSTEM FAILURES, AND PORTABLE TOILET DISCHARGES), VIII (NEW DEVELOPMENT (INCLUDING SIGNIFICANT REDEVELOPMENT)), IX (MUNICIPAL INSPECTION PROGRAM), X (EDUCATION AND OUTREACH), XI (MUNICIPAL FACILITIES PROGRAMS AND ACTIVITIES), XII (MUNICIPAL CONSTRUCTION PROJECTS / ACTIVITIES), XIII (PROGRAM MANAGEMENT / DAMP REVIEW), XIV (MONITORING AND REPORTING), XV (PROVISIONS), and XVI (PERMIT EXPIRATION AND RENEWAL) as they pertain to COUNTY and CITIES facilities and operations.

- (3) Demonstrating compliance with all NPDES Permit requirements through timely implementation of the approved Drainage Area Management Plan (DAMP) and any approved modifications, revisions, or amendments thereto.
- (4) Providing to DISTRICT (on DISTRICT approved forms) all information needed to satisfy the reporting requirements described

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in the NPDES Permit MONITORING AND REPORTING PROGRAM. The COUNTY and CITIES shall specifically:

- (a) Provide information on existing stormwater facilities and/or other data as it pertains to COUNTY or CITIES facilities when requested by DISTRICT.
- (b) Submit their individual reports to DISTRICT for incorporation into DISTRICT'S narrative no later than November 1 of each year.

3. Shared Costs. In the event DISTRICT requires the services of a consultant or consultants to prepare manuals, develop programs or perform studies relevant to the entire permitted area, the cost of said consultant services will be shared by DISTRICT, COUNTY and CITIES. The shared costs shall be allocated as follows:

<u>Party</u>	<u>Percentage Contribution</u>
DISTRICT	50
COUNTY & CITIES	50

The individual percentage contribution from COUNTY and individual CITIES shall be a function of population. More specifically, such contribution shall be calculated as the population of COUNTY or individual CITIES, divided by the total population of all the Co-Permittees multiplied by 50, i.e.,:

$$\begin{aligned} \text{Contribution (\%)} &= 50(x_n/x_{tot}) \\ X_n &= \text{population of COUNTY or individual CITIES} \\ X_{tot} &= \text{total population of COUNTY and CITIES in the} \\ &\quad \text{Santa Ana Drainage Area} \\ 50 &= \text{total percentage excluding DISTRICT portion} \end{aligned}$$

The population of COUNTY and CITIES will be based on the latest California State Department of Finance population figures issued in May of each year.

1  
2 The total shared cost of consultant services shall not exceed \$200,000.00  
3 annually.

4 COUNTY and CITIES shall be notified in writing of DISTRICT'S request for  
5 proposals from consultants, selection of a consultant, consultant's fee, and contract timetable and  
6 payment schedule.

7 COUNTY and CITIES shall pay to DISTRICT their share of the shared costs  
8 within 60 days of receipt of an invoice from DISTRICT.

9  
10 4. Term of the Agreement. The term of this Agreement shall commence on the  
11 date the last duly authorized representative of DISTRICT, COUNTY or CITIES executed it. The  
12 term of the Agreement shall be indefinite or as long as required for compliance with the CWA,  
13 unless each of the Co-Permittees withdraws in accordance with the terms of this Agreement.

14  
15 5. Additional Parties. Any City which incorporates after the date of issuance of  
16 the NPDES Permit and/or after the date of execution of this Agreement may file a written request  
17 with DISTRICT asking to be added as a party. Upon receipt of such a request, DISTRICT shall  
18 solicit the approval or denial of each Co-Permittee. If a majority of the Co-Permittees, each having  
19 one, co-equal vote, approves the addition of the City, DISTRICT, on behalf of the Co-Permittees,  
20 will ask RWQCB-SAR to add the City to the NPDES Permit as an additional Co-Permittee. Once  
21 the City is made an additional Co-Permittee to the NPDES Permit, this Agreement shall be amended  
22 to reflect the addition, and the City shall, thereafter, comply with all provisions of the NPDES Permit  
23 and this Agreement. Upon execution of the amended Agreement, the City shall be responsible for  
24 the shared costs discussed in Section 3 of this Agreement for the current and any subsequent budget  
25 year.  
26

27 6. Withdrawal from the Agreement. Any party may withdraw from this  
28

1  
2 Agreement 60 days after giving written notice to DISTRICT and RWQCB-SAR. The withdrawing  
3 party shall agree in such notice to file for a separate NPDES Permit and to comply with all of the  
4 requirements established by RWQCB-SAR. In addition, withdrawal shall constitute forfeiture of  
5 all of the withdrawing party's share of the costs described in Section 3 of this Agreement. The  
6 withdrawing party shall be responsible for all lawfully assessed penalties as a consequence of  
7 withdrawal. The cost allocations to the remaining parties will be recalculated in the following  
8 budget year.  
9

10           7. Non-compliance with Permit Requirements. Any party found in non-  
11 compliance with the conditions of the NPDES Permit within its jurisdictional boundaries shall be  
12 solely liable for any lawfully assessed penalties. Common or joint penalties shall be calculated and  
13 allocated between the parties according to the formula outlined in Section 3 of this Agreement.  
14

15           8. Amendments to the Agreement. This Agreement may be amended by consent  
16 of the parties which represent a majority of the percentage contribution as described in Section 3 of  
17 this Agreement. Each party's vote will be calculated according to the percentage contribution of each  
18 party as described in Section 3 of this Agreement. No amendment to this Agreement shall be  
19 effective unless it is in writing and signed by the duly authorized representatives of the majority of  
20 the parties.  
21

22           9. Authorized Signatories. The General Manager-Chief Engineer of DISTRICT,  
23 the Chief Executive Officer of COUNTY and the City Managers of CITIES (or their designees) shall  
24 be authorized to execute all documents and take all other procedural steps necessary to file for and  
25 obtain an NPDES Permit(s) or amendments thereto.  
26

27           10. Notices. All notices shall be deemed duly given when delivered by hand; or  
28 three (3) days after deposit in the U.S. Mail, postage prepaid.

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11. Governing Law. This Agreement will be governed and construed in accordance with laws of the State of California. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired hereby.

12. Consent to Waiver and Breach. No term or provision hereof shall be deemed waived and no breach excused, unless the waiver or breach is consented to in writing, and signed by the party or parties affected. Consent by any party to a waiver or breach by any other party shall not constitute consent to any different or subsequent waiver or breach.

13. Applicability of Prior Agreements. This Agreement and the exhibits attached hereto constitute the entire Agreement between the parties with respect to the subject matter; all prior agreements, representations, statements, negotiations and undertakings are superseded hereby.

14. Execution in Counterparts. This Agreement may be executed and delivered in any number of counterparts or copies ("counterpart") by the parties hereto. When each party has signed and delivered at least one counterpart to the other parties hereto, each counterpart shall be deemed an original and, taken together, shall constitute one and the same Agreement, which shall be binding and effective as to the parties hereto.

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IN WITNESS WHEREOF, this Agreement has been executed as of the day and year  
first above written.

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT**

WARREN D. WILLIAMS  
General Manager-Chief Engineer

*Warren D. Williams*  
By *James A. Venable*

JAMES A. VENABLE, Chairman  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

WILLIAM C. KATZENSTEIN  
County Counsel

NANCY ROMERO  
Clerk to the Board

By *Timothy J. Davis*  
TIMOTHY J. DAVIS, Deputy

By *Nancy Romero*  
Deputy

Dated DEC 16 2003

(SEAL)

RECOMMENDED FOR APPROVAL:

**COUNTY OF RIVERSIDE**

LARRY PARRISH  
County Executive Officer

By *Larry Parrish*

JOHN F. TAVAGLIONE, Chairman  
Riverside County Board of Supervisors

By *John F. Tavaglione*

Dated DEC 16 2003

ATTEST:

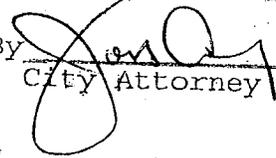
NANCY ROMERO  
Clerk to the Board

By *Nancy Romero*  
Deputy

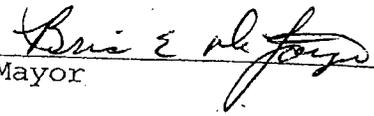
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12/02/03

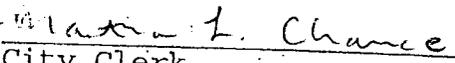
APPROVED AS TO FORM:

By   
City Attorney

CITY OF BEAUMONT

By   
Mayor

ATTEST:

By   
City Clerk

(SEAL)

Executed on May 5, 2003, at Calimesa, California.

CITY OF CALIMESA

By: Gregory V. Schook  
Gregory V. Schook, Mayor

ATTEST:

By: Harry Jensen  
Harry Jensen, City Clerk/City Manager

Approved as to form:

Marguerite P. Battersby  
Marguerite P Battersby, City Attorney

Date: May 13, 2003

APPROVED AS TO FORM:

By Elizabeth R. Malya  
City Attorney

**CITY OF CANYON LAKE**

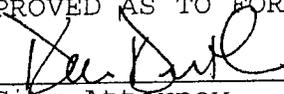
By Jack Wampler  
Mayor

ATTEST:

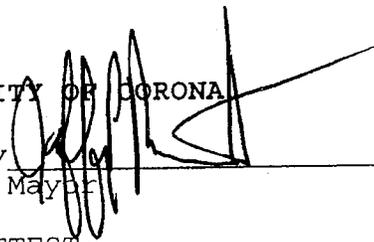
By Bennett  
City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
City Attorney

CITY OF CORONA

By   
Mayor

ATTEST:

By   
City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Julia Dwyer*  
City Attorney

CITY OF HEMET

By *Lori VanCradale*  
Mayor

ATTEST:

By *Stephen B. Clayton*  
City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Barbara Leibold*  
City Attorney

CITY OF LAKE ELSINORE

By *Samuel J. Bentley*  
Mayor

ATTEST:

By *Dieter Kasod*  
City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Robert O. Hemick*  
City Attorney

CITY OF MORENO VALLEY

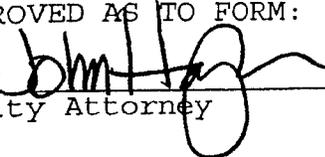
By *M. A. B. B.*  
Mayor

ATTEST:

By *Alice Reed*  
City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
City Attorney

CITY OF MURRIETA

By Richard D. Ostling  
Mayor

ATTEST:

By   
City Clerk

(SEAL)

APPROVED AS TO FORM:

By John Hag  
City Attorney

CITY OF NORCO

By [Signature]  
Mayor

ATTEST:

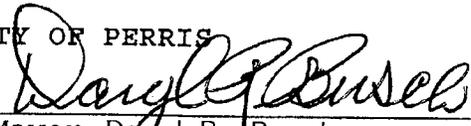
By [Signature]  
City Clerk, Deputy

(SEAL)

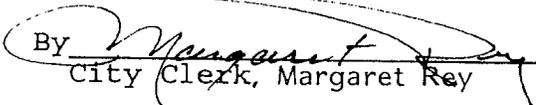
APPROVED AS TO FORM:

By   
City Attorney, Eric Dunn

CITY OF PERRIS

By   
Mayor, Daryl R. Busch

ATTEST:

By   
City Clerk, Margaret Rey

(SEAL)

APPROVED AS TO FORM:

By Jessam Wilson / for  
City Attorney

CITY OF RIVERSIDE

By Ronald Laven  
Mayor

ATTEST:

By C. J. Pical  
City Clerk

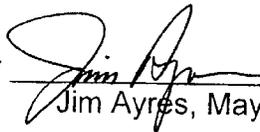
(SEAL)

APPROVED AT TO FORM:



John E. Brown, City Attorney  
Best Best & Krieger

CITY OF SAN JACINTO

By   
Jim Ayres, Mayor

ATTEST:

  
Dorothy L. Chouinard, City Clerk

TMR:pln  
rcfc\78198 v3  
4/28/03