

## ITEM 4

### PROPOSED DECISION AND PARAMETERS AND GUIDELINES

*California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0033, Sections IV. A-C; VI.D.1.a.vii; VI.D.1.c.i(8); VI.D.2.c; VI.D.2.d.ii(d); VI.D.2.i; VII.B; VII.D.2; VIII.A; VIII.H; IX.C; IX.D; IX.H; X.D; XII.A.1; XII.B; XII.H; XIV.D; XV.A; XV.C; XV.F.1; XV.F.4; XV.F.5; XVII.A.3; and Appendix 3, Section III.E.3, Adopted January 29, 2010*

10-TC-07

Period of reimbursement from January 29, 2010 through December 31, 2017

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### EXECUTIVE SUMMARY

#### I. Summary of the Mandate

These Parameters and Guidelines address state-mandated activities arising from NPDES Order No. R8-2010-0033, adopted by the Santa Ana Regional Water Quality Control Board on January 29, 2010.

On March 22, 2024, the Commission adopted its Decision finding that the test claim permit imposes a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 from January 29, 2010 through December 31, 2017. The Commission partially approved the Test Claim for the following reimbursable activities only:

#### A. Local Implementation Plans

1. Within six months of adoption of the test claim permit, the permittees shall develop a LIP template and submit for approval of the executive officer. The LIP template shall be amended as the provisions of the DAMP are amended to address the requirements of the test claim permit. 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 the items enumerated in Sections IV.A.1 through IV.A.12 of the test claim permit (Order No. R8-2010-0033, Section IV.A).
2. Within 12 months of approval of the LIP template, and amendments thereof, by the executive officer, each permittee shall complete a LIP, 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 the test claim permit (Order No. R8-2010-0033, Section IV.B).

3. Revise the LIP as necessary, following an annual review and evaluation of the effectiveness of the urban runoff programs, in compliance with Section VIII.H of the test claim permit (Order No. R8-2010-0033, Section IV.C).
4. Middle Santa Ana River permittees (Riverside County and the Cities of Corona, Norco, and Riverside) shall amend the LIP to be consistent with the revised DAMP and WQMPs to comply with the interim WQBELs for the Middle Santa Ana River Watershed Bacterial Indicator TMDL within 90 days after said revisions are approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.1.a.vii).
5. Middle Santa Ana River permittees (Riverside County and the Cities of Corona, Norco, and Riverside) shall revise the LIPs consistent with the Comprehensive Bacteria Reduction Plan (CBRP) to comply with the final WQBELs during the dry season for the Middle Santa Ana River Watershed Bacterial Indicator TMDL no more than 180 days after the CBRP is approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.1.c.i(8)).
6. Lake Elsinore/Canyon Lake permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont, Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs as necessary to implement the interim WQBEL compliance plans (Lake Elsinore In-Lake Sediment Nutrient Reduction Plan, Lake Elsinore/Canyon Lake Model Update Plan) to comply with nutrient TMDLs for the Lake Elsinore/Canyon Lake (San Jacinto Watershed) submitted pursuant to Section VI.D.2.a and b of the test claim permit (Order No. R8-2010-0033, Section VI.D.2.c).
7. Lake Elsinore/Canyon Lake Permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont, Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs consistent with the Comprehensive Nutrient Reduction Plan (CNRP), which describes in detail the specific actions that have been taken or will be taken, including the proposed method for evaluating progress, to achieve final compliance with the WQBELs for the nutrients TMDL in the San Jacinto Watershed, no more than 180 days after the CNRP is approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.2.d.ii(d)).
8. Lake Elsinore/Canyon Lake Permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont, Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs as necessary to implement the CNRP to comply with the final WQBELs for the nutrients TMDL in the San Jacinto Watershed, including any necessary revisions resulting from updates to the CNRP following a BMP effectiveness analysis as required by Section VI.D.2.f of the test claim permit (Order No. R8-2010-0033, Section VI.D.2.i).

9. The LIPs must be designed to achieve compliance with receiving water limitations associated with discharges of urban runoff to the MEP (Order No. R8-2010-0033, Section VII.B).
10. Within 30 days following approval by the executive officer of the report described in Section VII.D.1 of the test claim permit, the permittees shall revise the applicable LIPs to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required (Order No. R8-2010-0033, Section VII.D.2).
11. The permittees shall incorporate their enforcement programs into the LIPs (Order No. R8-2010-0033, Section VIII.A).
12. The permittees shall update the LIPs following an annual evaluation of the effectiveness of implementation and enforcement response procedures with respect to the items discussed in Sections VIII.A through G of the test claim permit (Order No. R8-2010-0033, Section VIII.H).
13. The permittees shall describe their procedures and authorities for managing illegal dumping in the LIPs (Order No. R8-2010-0033, Section IX.C).
14. The permittees shall update the LIPs following their review of and revisions to their IC/ID programs to include a proactive IDDE program, as set forth in Section IX.D of the test claim permit (Order No. R8-2010-0033, Section IX.D).
15. Each co-permittee shall specify in its LIP its procedure for verifying that any map or permit for a new development or significant redevelopment project for which discretionary approval is sought has obtained coverage under the General Construction Permit, where applicable, and any tools utilized for this purpose (Order No. R8-2010-0033, Section XII.A.1).
16. Within 18 months of adoption of the test claim permit, each permittee shall include in its LIP standard procedures and tools pertaining to the following:
  - a. The process for review and approval of WQMPs, including a checklist that incorporates the minimum requirements of the model WQMP.
  - b. A database to track structural post-construction BMPs, consistent with Section XII.K.4 of the test claim permit.
  - c. Ensuring that the entity or entities responsible for BMP maintenance and the mechanism for BMP funding are identified prior to WQMP approval.
  - d. Training for those involved with WQMP reviews in accordance with Section XV of the test claim permit (Training Requirements) (Order No. R8-2010-0033, Section XII.H).
17. Each permittee shall include in its LIP the inspection and cleaning frequency for all portions of its MS4 (Order No. R8-2010-0033, Section XIV.D).
18. Within 24 months of adoption of the test claim permit, each permittee shall update their LIP to include a program to provide formal and where necessary,

informal training to permittee staff that implement the provisions of the test claim permit (Order No. R8-2010-0033, Section XV.A).

## **B. Proactive Illicit Discharge Detection and Elimination Program**

1. Within 18 months of adoption of this test claim permit, review and revise the IC/ID program to include a proactive illicit discharge detection and elimination program, using the Guidance Manual for Illicit Discharge Detection and Elimination by the Center for Watershed Protection or any other equivalent program, consistent with Section IX.E of the test claim permit (Order No. R8-2010-0033, Section IX.D).
2. Report the result of the review required by Section IX.D of the test claim permit in the annual report and include a description of the permittees' revised proactive illicit discharge detection and elimination program, procedures and schedules (Order No. R8-2010-0033, Section IX.D).
3. *Except* for those responses that result in an enforcement action, maintain a database summarizing IC/ID incident response, including IC/IDs detected as part of field monitoring activities (Order No. R8-2010-0033, Section IX.H).
4. Review and update the dry weather and wet weather reconnaissance strategies to identify and eliminate IC/IDs using the Guidance Manual for Illicit Discharge Detection and Elimination by the Center for Watershed Protection or any other equivalent program (Order No. R8-2010-0033, Appendix 3, Section III.E).
5. Establish a baseline dry weather flow concentration for total dissolved solids and total inorganic nitrogen at each core monitoring location using dry weather monitoring for nitrogen and total dissolved solids (Order No. R8-2010-0033, Appendix 3, Section III.E). *Monitoring for total dissolved solids and total inorganic nitrogen is not a new requirement and is not eligible for reimbursement.*

## **C. Septic System Database**

1. The County of Riverside shall maintain updates to a database of new septic systems in the permittees' jurisdictions approved since 2008 (Order No. R8-2010-0033, Section X.D).

## **D. Watershed Action Plan**

1. Within three years of adoption of the test claim permit, the permittees shall develop and submit to the Executive Officer for approval a Watershed Action Plan and implementation tools that describes and implements the permittees' approach to coordinated watershed management (Order No. R8-2010-0033, Sections XII.B.1, 2, and 3). At a minimum, the Watershed Action Plan shall include the following:
  - a. Description of proposed regional BMP approaches that will be used to address urban TMDL WLAs.

- b. Development of 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 (Section XII.B.3).
- 2. Within two years of adoption of the test claim permit, 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 (Order No. R8-2010-0033, Section XII.B.4).
- 3. Within two years of completion of the channel delineation in Section XII.B.4 of the test claim permit, 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 subwatershed 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 (Order No. R8-2010-0033, Section XII.B.5).
- 4. 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 the channel delineation, develop a schedule to implement an integrated, world-wide-web available, regional geodatabase of the impaired waters, 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 (Order No. R8-2010-0033, Section XII.B.6).

5. Develop a schedule to maintain the watershed geodatabase and other available and relevant regulatory and technical documents associated with the Watershed Action Plan (Order No. R8-2010-0033, Section XII.B.7).
6. Within three years of adoption of the test claim permit, the permittees shall submit the Watershed Action Plan to the Executive Officer for approval and incorporation into the Drainage Area Management Plan (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 (Order No. R8-2010-0033, Section XII.B.8).
7. 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 of the test claim permit. 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 (Order No. R8-2010-0033, Section XII.B.9).
8. 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 (Order No. R8-2010-0033, Section XII.B.10).

#### **E. Employee Training**

1. Provide formal training to permittee employees responsible for implementing the requirements of the test claim order related to project specific WQMP review on the following:
  - a. Review and approval of project-specific WQMPs
  - b. Potential effects that permittee or public activities related to the employee trainee's duties can have on water quality
  - c. Principal applicable water quality laws and regulations that are the basis for the requirements in the DAMP
  - d. Provisions of the DAMP that relate to the duties of the employee trainee, including an overview of the CEQA requirements contained in Section XII.C of the test claim permit (Order No. R8-2010-0033, Section XV.C).
2. Formal training (training conducted in classrooms or using videos, DVDs or other multimedia) shall: consider all applicable permittee staff responsible for implementing the requirements of the test claim order related to project-specific WQMP review (including but not limited to planners, plan reviewers, and engineers); 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 (Order No. R8-2010-0033, Section XV.C).

3. New Permittee employees responsible for implementing requirements of the test claim permit relating to project-specific WQMP review must receive formal training within one year of hire (Order No. R8-2010-0033, Section XV.F.1).
4. Existing permittee employees responsible for implementing the requirements of test claim permit relating to project-specific WQMP review must receive formal training at least once during the term of the test claim permit (Order No. R8-2010-0033, Section XV.F.4).
5. Include the start date for formal training of permittee employees responsible for implementing the requirements of the test claim permit relating to project-specific WQMP review in the schedule of DAMP revisions required in Section III.A.1.s of the test claim permit, which shall be no later than six months after Executive Officer approval of DAMP updates applicable to the permittee activities described in Section XIV of the test claim permit (Order No. R8-2010-0033, Section XV.F.5).

#### **F. Urban Runoff Management Program Effectiveness Assessment**

1. Develop and include in the first annual report (November 2010) after the adoption of the test claim permit a proposal for assessment of urban runoff management program effectiveness on an area-wide and jurisdiction-specific basis at the six outcome levels, utilizing the California Storm Water Quality Association (CASQA) Municipal Storm Water Program Effectiveness Assessment Guidance. The assessment measures are required to target both water quality outcomes and the results of municipal enforcement activities, consistent with the requirements of Appendix 3, Section IV.B (Order No. R8-2010-0033, Section XVII.A.3).

Reimbursement for these activities is denied beginning January 1, 2018, because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d) and, thus, there are no costs mandated by the state.

In addition, reimbursement for the mandated activities from any source, including but not limited to, state and federal funds, any service charge, fees, or assessments to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes, shall be identified and deducted from any claim submitted for reimbursement.

The Test Claim was denied for the Riverside County Flood Control and Water Conservation District because there was no evidence that the District incurred costs mandated by the state from its proceeds of taxes.

All other sections, activities, and costs pled in the Test Claim were denied.<sup>1</sup>

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<sup>1</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 327-336. All references are to PDF page numbers.

## **II. Procedural History**

On March 22, 2024, the Commission adopted the Test Claim Decision.<sup>2</sup> On March 26, 2024, Commission staff issued the Draft Expedited Parameters and Guidelines.<sup>3</sup> On April 16, 2024, the State Controller (Controller) filed comments on the Draft Expedited Parameters and Guidelines, stating that no changes are recommended.<sup>4</sup> Neither the claimants nor the Department of Finance (Finance) filed comments on the Draft Expedited Parameters and Guidelines. Pursuant to section 1183.9(d) of the Commission's regulations, Commission staff did not issue a Draft Proposed Decision and Parameters and Guidelines for comment because no substantive comments were filed on the Draft Expedited Parameters and Guidelines.<sup>5</sup>

## **III. Discussion**

### **A. Eligible Claimants (Section II. of the Parameters and Guidelines)**

Only the following permittees are required to comply with Order No. R8-2010-0033 and are eligible to claim reimbursement, provided they are subject to the taxing restrictions of articles XIII A and XIII C of the California Constitution, and the spending limits of article XIII B of the California Constitution, and incur increased costs as a result of this mandate that are paid from their local proceeds of taxes:

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<sup>2</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024.

<sup>3</sup> Exhibit B, Draft Expedited Parameters and Guidelines, issued March 26, 2024.

<sup>4</sup> Exhibit C, Controllers' Comments on the Draft Expedited Parameters and Guidelines, filed April 16, 2024.

<sup>5</sup> California Code of Regulations, title 2, section 1183.9(d) provides: "If no comments are filed on the draft expedited parameters and guidelines that raise substantive issues regarding any of the elements described in section 1183.7, a draft proposed decision in accordance with section 1183.13(a) of these regulations need not be prepared and the executive director may schedule the proposed decision and parameters and guidelines for adoption at the next regularly scheduled hearing in accordance with section 1183.13(d) of these regulations."



The County of Riverside<sup>6</sup> and the cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta<sup>7</sup>, Norco, Perris, Riverside, San Jacinto, and Wildomar.<sup>8, 9</sup>

**B. Period of Reimbursement (Section III. of the Parameters and Guidelines)**

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the test claim on January 31, 2011, establishing eligibility for reimbursement for the 2009-2010 fiscal year. However, the test claim permit has a later effective date and therefore the period of reimbursement for this program begins on the permit's effective date, January 29, 2010.<sup>10</sup> Beginning January 1, 2018, there are no costs mandated by the state because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d). Therefore, for all eligible claimants *except* the cities of Murrieta and Wildomar, increased costs incurred from January 29, 2010 through December 31, 2017 are reimbursable. For the cities of Murrieta and Wildomar, increased costs incurred from January 29, 2010 up to and including June 6, 2013 only are reimbursable.<sup>11</sup>

**C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)**

Section IV. of the proposed Parameters and Guidelines identifies the mandated activities approved by the Commission and specifies when reimbursement for that activity is not required, consistent with the Test Claim Decision.

**D. Claim Preparation and Submission (Section V. of the Parameters and Guidelines)**

Section V. of the Parameters and Guidelines (Claim Preparation and Submission) identifies the direct costs that are eligible for reimbursement.

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<sup>6</sup> This Test Claim was denied for the Riverside County Flood Control and Water Conservation District because there was no evidence that the District incurred costs mandated by the state from its proceeds of taxes. Therefore the Flood Control District is not an eligible claimant.

<sup>7</sup> The Test Claim Decision found that the City of Murrieta is an eligible claimant up to and including June 6, 2013. Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

<sup>8</sup> The Test Claim Decision found that the City of Wildomar is an eligible claimant up to and including June 6, 2013. Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

<sup>9</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, page 51 (footnote 206).

<sup>10</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, page 49.

<sup>11</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

**E. Offsetting Revenues and Reimbursements (Section VII. of the Parameters and Guidelines)**

Section VII. of the Parameters and Guidelines governs offsetting revenues (i.e., funds that are not a claimant's proceeds of taxes), which are required to be identified and deducted from the costs claimed.

**F. Remaining Sections of the Parameters and Guidelines**

The remaining sections of the Parameters and Guidelines contain standard boilerplate language.

**IV. Staff Recommendation**

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

**IN RE PARAMETERS AND GUIDELINES**

California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0033, Sections IV. A-C; VI.D.1.a.vii; VI.D.1.c.i(8); VI.D.2.c; VI.D.2.d.ii(d); VI.D.2.i; VII.B; VII.D.2; VIII.A; VIII.H; IX.C; IX.D; IX.H; X.D; XII.A.1; XII.B; XII.H; XIV.D; XV.A; XV.C; XV.F.1; XV.F.4; XV.F.5; XVII.A.3; and Appendix 3, Section III.E.3, Adopted January 29, 2010

Period of reimbursement from January 29, 2010 through December 31, 2017

Case No.: 10-TC-07

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

DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.

*(Adopted May 24, 2024)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this Decision and Parameters and Guidelines during a regularly scheduled hearing on May 24, 2024. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified/rejected] the Decision and Parameters and Guidelines by a vote of [vote will be included in the adopted Decision and Parameters and Guidelines], as follows:

<b>Member</b>	<b>Vote</b>
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller	
Jennifer Holman, Representative of the Director of the Office of Planning and Research	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer, Vice Chairperson	
Michelle Perrault, Representative of the Director of the Department of Finance, Chairperson	

## **I. Summary of the Mandate**

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  - d. Training for those involved with WQMP reviews in accordance with Section XV of the test claim permit (Training Requirements) (Order No. R8-2010-0033, Section XII.H).
17. Each permittee shall include in its LIP the inspection and cleaning frequency for all portions of its MS4 (Order No. R8-2010-0033, Section XIV.D).
18. Within 24 months of adoption of the test claim permit, each permittee shall update their LIP to include a program to provide formal and where necessary, informal training to permittee staff that implement the provisions of the test claim permit (Order No. R8-2010-0033, Section XV.A).

## **B. Proactive Illicit Discharge Detection and Elimination Program**

1. Within 18 months of adoption of this test claim permit, review and revise the IC/ID program to include a proactive illicit discharge detection and elimination program, using the Guidance Manual for Illicit Discharge Detection and Elimination by the Center for Watershed Protection or any other equivalent program, consistent with Section IX.E of the test claim permit (Order No. R8-2010-0033, Section IX.D).
2. Report the result of the review required by Section IX.D of the test claim permit in the annual report and include a description of the permittees' revised proactive illicit discharge detection and elimination program, procedures and schedules (Order No. R8-2010-0033, Section IX.D).
3. *Except* for those responses that result in an enforcement action, maintain a database summarizing IC/ID incident response, including IC/IDs detected as part of field monitoring activities (Order No. R8-2010-0033, Section IX.H).

4. Review and update the dry weather and wet weather reconnaissance strategies to identify and eliminate IC/IDs using the Guidance Manual for Illicit Discharge Detection and Elimination by the Center for Watershed Protection or any other equivalent program (Order No. R8-2010-0033, Appendix 3, Section III.E).
5. Establish a baseline dry weather flow concentration for total dissolved solids and total inorganic nitrogen at each core monitoring location using dry weather monitoring for nitrogen and total dissolved solids (Order No. R8-2010-0033, Appendix 3, Section III.E). *Monitoring for total dissolved solids and total inorganic nitrogen is not a new requirement and is not eligible for reimbursement.*

### **C. Septic System Database**

1. The County of Riverside shall maintain updates to a database of new septic systems in the permittees' jurisdictions approved since 2008 (Order No. R8-2010-0033, Section X.D).

### **D. Watershed Action Plan**

1. Within three years of adoption of the test claim permit, the permittees shall develop and submit to the Executive Officer for approval a Watershed Action Plan and implementation tools that describes and implements the permittees' approach to coordinated watershed management (Order No. R8-2010-0033, Sections XII.B.1, 2, and 3). At a minimum, the Watershed Action Plan shall include the following:
  - a. Description of proposed regional BMP approaches that will be used to address urban TMDL WLAs.
  - b. Development of 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 (Section XII.B.3).
2. Within two years of adoption of the test claim permit, 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 (Order No. R8-2010-0033, Section XII.B.4).
3. Within two years of completion of the channel delineation in Section XII.B.4 of the test claim permit, 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 subwatershed 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 (Order No. R8-2010-0033, Section XII.B.5).
4. 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 the channel delineation, develop a schedule to implement an integrated, world-wide-web available, regional geodatabase of the impaired waters, 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 (Order No. R8-2010-0033, Section XII.B.6).
  5. Develop a schedule to maintain the watershed geodatabase and other available and relevant regulatory and technical documents associated with the Watershed Action Plan (Order No. R8-2010-0033, Section XII.B.7).
  6. Within three years of adoption of the test claim permit, the permittees shall submit the Watershed Action Plan to the Executive Officer for approval and incorporation into the Drainage Area Management Plan (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 (Order No. R8-2010-0033, Section XII.B.8).
  7. 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 of the test claim permit. 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 (Order No. R8-2010-0033, Section XII.B.9).
  8. 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 (Order No. R8-2010-0033, Section XII.B.10).

## **E. Employee Training**

1. Provide formal training to permittee employees responsible for implementing the requirements of the test claim order related to project specific WQMP review on the following:
  - a. Review and approval of project-specific WQMPs
  - b. Potential effects that permittee or public activities related to the employee trainee's duties can have on water quality
  - c. Principal applicable water quality laws and regulations that are the basis for the requirements in the DAMP
  - d. Provisions of the DAMP that relate to the duties of the employee trainee, including an overview of the CEQA requirements contained in Section XII.C of the test claim permit (Order No. R8-2010-0033, Section XV.C).
2. Formal training (training conducted in classrooms or using videos, DVDs or other multimedia) shall: consider all applicable permittee staff responsible for implementing the requirements of the test claim order related to project-specific WQMP review (including but not limited to planners, plan reviewers, and engineers); 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 (Order No. R8-2010-0033, Section XV.C).
3. New Permittee employees responsible for implementing requirements of the test claim permit relating to project-specific WQMP review must receive formal training within one year of hire (Order No. R8-2010-0033, Section XV.F.1).
4. Existing permittee employees responsible for implementing the requirements of test claim permit relating to project-specific WQMP review must receive formal training at least once during the term of the test claim permit (Order No. R8-2010-0033, Section XV.F.4).
5. Include the start date for formal training of permittee employees responsible for implementing the requirements of the test claim permit relating to project-specific WQMP review in the schedule of DAMP revisions required in Section III.A.1.s of the test claim permit, which shall be no later than six months after Executive Officer approval of DAMP updates applicable to the permittee activities described in Section XIV of the test claim permit (Order No. R8-2010-0033, Section XV.F.5).

## **F. Urban Runoff Management Program Effectiveness Assessment**

1. Develop and include in the first annual report (November 2010) after the adoption of the test claim permit a proposal for assessment of urban runoff management program effectiveness on an area-wide and jurisdiction-specific basis at the six

outcome levels, utilizing the California Storm Water Quality Association (CASQA) Municipal Storm Water Program Effectiveness Assessment Guidance. The assessment measures are required to target both water quality outcomes and the results of municipal enforcement activities, consistent with the requirements of Appendix 3, Section IV.B (Order No. R8-2010-0033, Section XVII.A.3).

Reimbursement for these activities is denied beginning January 1, 2018, because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d) and, thus, there are no costs mandated by the state.

In addition, reimbursement for the mandated activities from any source, including but not limited to, state and federal funds, any service charge, fees, or assessments to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes, shall be identified and deducted from any claim submitted for reimbursement.

The Test Claim was denied for the Riverside County Flood Control and Water Conservation District because there was no evidence that the District incurred costs mandated by the state from its proceeds of taxes.

All other sections, activities, and costs pled in the Test Claim were denied.<sup>12</sup>

## **II. Procedural History**

On March 22, 2024, the Commission adopted the Test Claim Decision.<sup>13</sup> On March 26, 2024, Commission staff issued the Draft Expedited Parameters and Guidelines.<sup>14</sup> On April 16, 2024, the State Controller (Controller) filed comments on the Draft Expedited Parameters and Guidelines.<sup>15</sup> Neither the claimants nor the Department of Finance (Finance) filed comments on the Draft Expedited Parameters and Guidelines. Pursuant to section 1183.9(d) of the Commission's regulations, Commission staff did not issue a Draft Proposed Decision and Parameters and Guidelines for comment because no substantive comments were filed on the Draft Expedited Parameters and Guidelines.<sup>16</sup>

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<sup>12</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 327-336. All references are to PDF page numbers.

<sup>13</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024.

<sup>14</sup> Exhibit B, Draft Expedited Parameters and Guidelines, issued March 26, 2024.

<sup>15</sup> Exhibit C, Controllers' Comments on the Draft Expedited Parameters and Guidelines, filed April 16, 2024.

<sup>16</sup> California Code of Regulations, title 2, section 1183.9(d) provides: "If no comments are filed on the draft expedited parameters and guidelines that raise substantive issues regarding any of the elements described in section 1183.7, a draft proposed decision in accordance with section 1183.13(a) of these regulations need not be prepared and the executive director may schedule the proposed decision and parameters and guidelines

### **III. Positions of the Parties**

#### **A. State Controller**

The Controller filed comments on the Draft Expedited Parameters and Guidelines stating that no changes are recommended.<sup>17</sup>

### **IV. Discussion**

The Parameters and Guidelines contain the following information:

#### **A. Eligible Claimants (Section II. of the Parameters and Guidelines)**

Only the following permittees are required to comply with Order No. R8-2010-0033 and are eligible to claim reimbursement, provided they are subject to the taxing restrictions of articles XIII A and XIII C of the California Constitution, and the spending limits of article XIII B of the California Constitution, and incur increased costs as a result of this mandate that are paid from their local proceeds of taxes:

The County of Riverside<sup>18</sup> and the cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta<sup>19</sup>, Norco, Perris, Riverside, San Jacinto, and Wildomar.<sup>20, 21</sup>

#### **B. Period of Reimbursement (Section III. of the Parameters and Guidelines)**

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the test claim on January 31, 2011, establishing eligibility for reimbursement for the 2009-2010 fiscal year. However, the test claim permit has a later effective date and therefore the period of reimbursement for this program begins on the permit's effective date, January 29, 2010.<sup>22</sup> Beginning January 1, 2018, there are no costs

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for adoption at the next regularly scheduled hearing in accordance with section 1183.13(d) of these regulations.”

<sup>17</sup> Exhibit C, Controllers’ Comments on the Draft Expedited Parameters and Guidelines, filed April 16, 2024, page 1.

<sup>18</sup> This Test Claim was denied for the Riverside County Flood Control and Water Conservation District because there was no evidence that the District incurred costs mandated by the state from its proceeds of taxes. Therefore the Flood Control District is not an eligible claimant.

<sup>19</sup> The Test Claim Decision found that the City of Murrieta is an eligible claimant up to and including June 6, 2013. Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

<sup>20</sup> The Test Claim Decision found that the City of Wildomar is an eligible claimant up to and including June 6, 2013. Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

<sup>21</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, page 51 (footnote 206).

<sup>22</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, page 49.

mandated by the state because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d). Therefore, for all eligible claimants *except* the cities of Murrieta and Wildomar, increased costs incurred from January 29, 2010 through December 31, 2017 are reimbursable. For the cities of Murrieta and Wildomar, increased costs incurred from January 29, 2010 up to and including June, 6, 2013 only are reimbursable.<sup>23</sup>

### **C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)**

The Commission partially approved the Test Claim, authorizing reimbursement for the following mandated activities from January 29, 2010 through December 31, 2017:

#### **A. Local Implementation Plans**

1. Within six months of adoption of the test claim permit, the permittees shall develop a LIP template and submit for approval of the executive officer. The LIP template shall be amended as the provisions of the DAMP are amended to address the requirements of the test claim permit. 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 the items enumerated in Sections IV.A.1 through IV.A.12 of the test claim permit (Order No. R8-2010-0033, Section IV.A).
2. Within 12 months of approval of the LIP template, and amendments thereof, by the executive officer, each permittee shall complete a LIP, 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 the test claim permit (Order No. R8-2010-0033, Section IV.B).
3. Revise the LIP as necessary, following an annual review and evaluation of the effectiveness of the urban runoff programs, in compliance with Section VIII.H of the test claim permit (Order No. R8-2010-0033, Section IV.C).
4. Middle Santa Ana River permittees (Riverside County and the Cities of Corona, Norco, and Riverside) shall amend the LIP to be consistent with the revised DAMP and WQMPs to comply with the interim WQBELs for the Middle Santa Ana River Watershed Bacterial Indicator TMDL within 90 days after said revisions are approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.1.a.vii).
5. Middle Santa Ana River permittees (Riverside County and the Cities of Corona, Norco, and Riverside) shall revise the LIPs consistent with the Comprehensive Bacteria Reduction Plan (CBRP) to comply with the final WQBELs during the dry season for the Middle Santa Ana River Watershed Bacterial Indicator TMDL no more than 180 days after the CBRP is approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.1.c.i(8)).

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<sup>23</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

6. Lake Elsinore/Canyon Lake permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont, Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs as necessary to implement the interim WQBEL compliance plans (Lake Elsinore In-Lake Sediment Nutrient Reduction Plan, Lake Elsinore/Canyon Lake Model Update Plan) to comply with nutrient TMDLs for the Lake Elsinore/Canyon Lake (San Jacinto Watershed) submitted pursuant to Section VI.D.2.a and b of the test claim permit (Order No. R8-2010-0033, Section VI.D.2.c).
7. Lake Elsinore/Canyon Lake Permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont, Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs consistent with the Comprehensive Nutrient Reduction Plan (CNRP), which describes in detail the specific actions that have been taken or will be taken, including the proposed method for evaluating progress, to achieve final compliance with the WQBELs for the nutrients TMDL in the San Jacinto Watershed, no more than 180 days after the CNRP is approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.2.d.ii(d)).
8. Lake Elsinore/Canyon Lake Permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont, Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs as necessary to implement the CNRP to comply with the final WQBELs for the nutrients TMDL in the San Jacinto Watershed, including any necessary revisions resulting from updates to the CNRP following a BMP effectiveness analysis as required by Section VI.D.2.f of the test claim permit (Order No. R8-2010-0033, Section VI.D.2.i).
9. The LIPs must be designed to achieve compliance with receiving water limitations associated with discharges of urban runoff to the MEP (Order No. R8-2010-0033, Section VII.B).
10. Within 30 days following approval by the executive officer of the report described in Section VII.D.1 of the test claim permit, the permittees shall revise the applicable LIPs to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required (Order No. R8-2010-0033, Section VII.D.2).
11. The permittees shall incorporate their enforcement programs into the LIPs (Order No. R8-2010-0033, Section VIII.A).
12. The permittees shall update the LIPs following an annual evaluation of the effectiveness of implementation and enforcement response procedures with respect to the items discussed in Sections VIII.A through G of the test claim permit (Order No. R8-2010-0033, Section VIII.H).

13. The permittees shall describe their procedures and authorities for managing illegal dumping in the LIPs (Order No. R8-2010-0033, Section IX.C).
14. The permittees shall update the LIPs following their review of and revisions to their IC/ID programs to include a proactive IDDE program, as set forth in Section IX.D of the test claim permit (Order No. R8-2010-0033, Section IX.D).
15. Each co-permittee shall specify in its LIP its procedure for verifying that any map or permit for a new development or significant redevelopment project for which discretionary approval is sought has obtained coverage under the General Construction Permit, where applicable, and any tools utilized for this purpose (Order No. R8-2010-0033, Section XII.A.1).
16. Within 18 months of adoption of the test claim permit, each permittee shall include in its LIP standard procedures and tools pertaining to the following:
  - a. The process for review and approval of WQMPs, including a checklist that incorporates the minimum requirements of the model WQMP.
  - b. A database to track structural post-construction BMPs, consistent with Section XII.K.4 of the test claim permit.
  - c. Ensuring that the entity or entities responsible for BMP maintenance and the mechanism for BMP funding are identified prior to WQMP approval.
  - d. Training for those involved with WQMP reviews in accordance with Section XV of the test claim permit (Training Requirements) (Order No. R8-2010-0033, Section XII.H).
17. Each permittee shall include in its LIP the inspection and cleaning frequency for all portions of its MS4 (Order No. R8-2010-0033, Section XIV.D).
18. Within 24 months of adoption of the test claim permit, each permittee shall update their LIP to include a program to provide formal and where necessary, informal training to permittee staff that implement the provisions of the test claim permit (Order No. R8-2010-0033, Section XV.A).

## **B. Proactive Illicit Discharge Detection and Elimination Program**

1. Within 18 months of adoption of this test claim permit, review and revise the IC/ID program to include a proactive illicit discharge detection and elimination program, using the Guidance Manual for Illicit Discharge Detection and Elimination by the Center for Watershed Protection or any other equivalent program, consistent with Section IX.E of the test claim permit (Order No. R8-2010-0033, Section IX.D).
2. Report the result of the review required by Section IX.D of the test claim permit in the annual report and include a description of the permittees' revised proactive illicit discharge detection and elimination program, procedures and schedules (Order No. R8-2010-0033, Section IX.D).
3. *Except* for those responses that result in an enforcement action, maintain a database summarizing IC/ID incident response, including IC/IDs

detected as part of field monitoring activities (Order No. R8-2010-0033, Section IX.H).

4. Review and update the dry weather and wet weather reconnaissance strategies to identify and eliminate IC/IDs using the Guidance Manual for Illicit Discharge Detection and Elimination by the Center for Watershed Protection or any other equivalent program (Order No. R8-2010-0033, Appendix 3, Section III.E).
5. Establish a baseline dry weather flow concentration for total dissolved solids and total inorganic nitrogen at each core monitoring location using dry weather monitoring for nitrogen and total dissolved solids (Order No. R8-2010-0033, Appendix 3, Section III.E). *Monitoring for total dissolved solids and total inorganic nitrogen is not a new requirement and is not eligible for reimbursement.*

### **C. Septic System Database**

1. The County of Riverside shall maintain updates to a database of new septic systems in the permittees' jurisdictions approved since 2008 (Order No. R8-2010-0033, Section X.D).

### **D. Watershed Action Plan**

1. Within three years of adoption of the test claim permit, the permittees shall develop and submit to the Executive Officer for approval a Watershed Action Plan and implementation tools that describes and implements the permittees' approach to coordinated watershed management (Order No. R8-2010-0033, Sections XII.B.1, 2, and 3). At a minimum, the Watershed Action Plan shall include the following:
  - a. Description of proposed regional BMP approaches that will be used to address urban TMDL WLAs.
  - b. Development of 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 (Section XII.B.3).
2. Within two years of adoption of the test claim permit, 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 (Order No. R8-2010-0033, Section XII.B.4).

3. Within two years of completion of the channel delineation in Section XII.B.4 of the test claim permit, 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 subwatershed 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 (Order No. R8-2010-0033, Section XII.B.5).
4. 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 the channel delineation, develop a schedule to implement an integrated, world-wide-web available, regional geodatabase of the impaired waters, 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 (Order No. R8-2010-0033, Section XII.B.6).
5. Develop a schedule to maintain the watershed geodatabase and other available and relevant regulatory and technical documents associated with the Watershed Action Plan (Order No. R8-2010-0033, Section XII.B.7).
6. Within three years of adoption of the test claim permit, the permittees shall submit the Watershed Action Plan to the Executive Officer for approval and incorporation into the Drainage Area Management Plan (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 (Order No. R8-2010-0033, Section XII.B.8).
7. 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 of the test claim permit. 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 (Order No. R8-2010-0033, Section XII.B.9).



8. 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 (Order No. R8-2010-0033, Section XII.B.10).

## **E. Employee Training**

1. Provide formal training to permittee employees responsible for implementing the requirements of the test claim order related to project specific WQMP review on the following:
  - a. Review and approval of project-specific WQMPs
  - b. Potential effects that permittee or public activities related to the employee trainee's duties can have on water quality
  - c. Principal applicable water quality laws and regulations that are the basis for the requirements in the DAMP
  - d. Provisions of the DAMP that relate to the duties of the employee trainee, including an overview of the CEQA requirements contained in Section XII.C of the test claim permit (Order No. R8-2010-0033, Section XV.C).
2. Formal training (training conducted in classrooms or using videos, DVDs or other multimedia) shall: consider all applicable permittee staff responsible for implementing the requirements of the test claim order related to project-specific WQMP review (including but not limited to planners, plan reviewers, and engineers); 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 (Order No. R8-2010-0033, Section XV.C).
3. New Permittee employees responsible for implementing requirements of the test claim permit relating to project-specific WQMP review must receive formal training within one year of hire (Order No. R8-2010-0033, Section XV.F.1).
4. Existing permittee employees responsible for implementing the requirements of test claim permit relating to project-specific WQMP review must receive formal training at least once during the term of the test claim permit (Order No. R8-2010-0033, Section XV.F.4).
5. Include the start date for formal training of permittee employees responsible for implementing the requirements of the test claim permit relating to project-specific WQMP review in the schedule of DAMP revisions required in Section III.A.1.s of the test claim permit, which shall be no later than six months after Executive Officer approval of DAMP updates applicable to the permittee activities described in Section XIV of the test claim permit (Order No. R8-2010-0033, Section XV.F.5).

## **F. Urban Runoff Management Program Effectiveness Assessment**

1. Develop and include in the first annual report (November 2010) after the adoption of the test claim permit a proposal for assessment of urban runoff management program effectiveness on an area-wide and jurisdiction-specific basis at the six outcome levels, utilizing the California Storm Water Quality Association (CASQA) Municipal Storm Water Program Effectiveness Assessment Guidance. The assessment measures are required to target both water quality outcomes and the results of municipal enforcement activities, consistent with the requirements of Appendix 3, Section IV.B (Order No. R8-2010-0033, Section XVII.A.3).

### **D. Claim Preparation and Submission (Section V. of the Parameters and Guidelines)**

Section V. of the Parameters and Guidelines (Claim Preparation and Submission) identifies the direct costs that are eligible for reimbursement.

### **E. Offsetting Revenues and Reimbursements (Section VII. of the Parameters and Guidelines)**

Section VII. of the Parameters and Guidelines governs offsetting revenues (i.e., funds that are not a claimant's proceeds of taxes), which are required to be identified and deducted from the costs claimed, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

### **F. Remaining Sections of the Parameters and Guidelines**

The remaining sections of the Parameters and Guidelines contain standard boilerplate language.

## **V. Conclusion**

Based on the foregoing analysis, the Commission hereby adopts the Proposed Decision and Parameters and Guidelines.

## **PARAMETERS AND GUIDELINES<sup>24</sup>**

*California Regional Water Quality Control Board, Santa Ana Region,  
Order No. R8-2010-0033, Sections IV.A-C; VI.D.1.a.vii; VI.D.1.c.i(8);  
VI.D.2.c; VI.D.2.d.ii(d); VI.D.2.i; VII.B; VII.D.2; VIII.A; VIII.H; IX.C; IX.D;  
IX.H; X.D; XII.A.1; XII.B; XII.H; XIV.D; XV.A; XV.C; XV.F.1; XV.F.4; XV.F.5;  
XVII.A.3; and Appendix 3, Section III.E.3, Adopted January 29, 2010*

10-TC-07

Period of reimbursement from January 29, 2010 through December 31, 2017

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<sup>24</sup> Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be posted in its entirety.

## **I. SUMMARY OF THE MANDATE**

These Parameters and Guidelines address state-mandated activities arising from National Pollutant Discharge Elimination System Program (NPDES) permit, Order No. R8-2010-0033 (test claim permit), adopted by the Santa Ana Regional Water Quality Control Board on January 29, 2010.

On March 22, 2024, the Commission on State Mandates (Commission) adopted its Decision finding that the test claim permit imposes a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 from January 29, 2010 through December 31, 2017. The Commission partially approved the Test Claim for the activities described below under Section IV., Reimbursable Activities, only.

Reimbursement for these activities is denied beginning January 1, 2018, because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d) and, thus, there are no costs mandated by the state.

In addition, reimbursement for the mandated activities from any source, including but not limited to, state and federal funds, any service charge, fees, or assessments to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes, shall be identified and deducted from any claim submitted for reimbursement.

The Test Claim was denied for the Riverside County Flood Control and Water Conservation District because there was no evidence that the District incurred costs mandated by the state from its proceeds of taxes.

All other sections, activities, and costs pled in the Test Claim were denied.<sup>25</sup>

## **II. ELIGIBLE CLAIMANTS**

The following permittees are required to comply with Order No. R8-2010-0033 and are eligible to claim reimbursement, provided they are subject to the taxing restrictions of articles XIII A and XIII C of the California Constitution, and the spending limits of article XIII B of the California Constitution, and incur increased costs as a result of this mandate that are paid from their local proceeds of taxes:

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<sup>25</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 327-336.

The County of Riverside<sup>26</sup> and the cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta<sup>27</sup>, Norco, Perris, Riverside, San Jacinto, and Wildomar.<sup>28, 29</sup>

### III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the test claim on January 31, 2011, establishing eligibility for reimbursement for the 2009-2010 fiscal year. However, the test claim permit has a later effective date and therefore, the period of reimbursement for this program begins on the permit's effective date, January 29, 2010.<sup>30</sup> Beginning January 1, 2018, there are no costs mandated by the state because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d). Therefore, for all eligible claimants *except* the cities of Murrieta and Wildomar, increased costs incurred from January 29, 2010 through December 31, 2017 are reimbursable. For the cities of Murrieta and Wildomar, increased costs incurred from January 29, 2010 up to and including June 6, 2013 only are reimbursable.<sup>31</sup>

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.

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<sup>26</sup> This Test Claim was denied for the Riverside County Flood Control and Water Conservation District because there was no evidence that the District incurred costs mandated by the state from its proceeds of taxes. Therefore the Flood Control District is not an eligible claimant.

<sup>27</sup> The Test Claim Decision found that the City of Murrieta is an eligible claimant up to and including June 6, 2013. Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

<sup>28</sup> The Test Claim Decision found that the City of Wildomar is an eligible claimant up to and including June 6, 2013. Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

<sup>29</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, page 51 (footnote 206).

<sup>30</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, page 49.

<sup>31</sup> Exhibit A, Test Claim Decision, adopted March 22, 2024, pages 49-50.

4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

#### **IV. REIMBURSABLE ACTIVITIES**

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

##### **A. Local Implementation Plans**

1. Within six months of adoption of the test claim permit, the permittees shall develop a LIP template and submit for approval of the executive officer. The LIP template shall be amended as the provisions of the DAMP are amended to address the requirements of the test claim permit. 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 the items enumerated in Sections IV.A.1 through IV.A.12 of the test claim permit (Order No. R8-2010-0033, Section IV.A).

2. Within 12 months of approval of the LIP template, and amendments thereof, by the executive officer, each permittee shall complete a LIP, 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 the test claim permit (Order No. R8-2010-0033, Section IV.B).
3. Revise the LIP as necessary, following an annual review and evaluation of the effectiveness of the urban runoff programs, in compliance with Section VIII.H of the test claim permit (Order No. R8-2010-0033, Section IV.C).
4. Middle Santa Ana River permittees (Riverside County and the Cities of Corona, Norco, and Riverside) shall amend the LIP to be consistent with the revised DAMP and WQMPs to comply with the interim WQBELs for the Middle Santa Ana River Watershed Bacterial Indicator TMDL within 90 days after said revisions are approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.1.a.vii).
5. Middle Santa Ana River permittees (Riverside County and the Cities of Corona, Norco, and Riverside) shall revise the LIPs consistent with the Comprehensive Bacteria Reduction Plan (CBRP) to comply with the final WQBELs during the dry season for the Middle Santa Ana River Watershed Bacterial Indicator TMDL no more than 180 days after the CBRP is approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.1.c.i(8)).
6. Lake Elsinore/Canyon Lake permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont, Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs as necessary to implement the interim WQBEL compliance plans (Lake Elsinore In-Lake Sediment Nutrient Reduction Plan, Lake Elsinore/Canyon Lake Model Update Plan) to comply with nutrient TMDLs for the Lake Elsinore/Canyon Lake (San Jacinto Watershed) submitted pursuant to Section VI.D.2.a and b of the test claim permit (Order No. R8-2010-0033, Section VI.D.2.c).
7. Lake Elsinore/Canyon Lake Permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont, Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs consistent with the Comprehensive Nutrient Reduction Plan (CNRP), which describes in detail the specific actions that have been taken or will be taken, including the proposed method for evaluating progress, to achieve final compliance with the WQBELs for the nutrients TMDL in the San Jacinto Watershed, no more than 180 days after the CNRP is approved by the Regional Board (Order No. R8-2010-0033, Section VI.D.2.d.ii(d)).
8. Lake Elsinore/Canyon Lake Permittees (Riverside County Flood Control and Water Conservation District, County of Riverside and Cities of Beaumont,

Canyon Lake, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Perris, San Jacinto, Riverside, and Wildomar) shall revise the LIPs as necessary to implement the CNRP to comply with the final WQBELs for the nutrients TMDL in the San Jacinto Watershed, including any necessary revisions resulting from updates to the CNRP following a BMP effectiveness analysis as required by Section VI.D.2.f of the test claim permit (Order No. R8-2010-0033, Section VI.D.2.i).

9. The LIPs must be designed to achieve compliance with receiving water limitations associated with discharges of urban runoff to the MEP (Order No. R8-2010-0033, Section VII.B).
10. Within 30 days following approval by the executive officer of the report described in Section VII.D.1 of the test claim permit, the permittees shall revise the applicable LIPs to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required (Order No. R8-2010-0033, Section VII.D.2).
11. The permittees shall incorporate their enforcement programs into the LIPs (Order No. R8-2010-0033, Section VIII.A).
12. The permittees shall update the LIPs following an annual evaluation of the effectiveness of implementation and enforcement response procedures with respect to the items discussed in Sections VIII.A through G of the test claim permit (Order No. R8-2010-0033, Section VIII.H).
13. The permittees shall describe their procedures and authorities for managing illegal dumping in the LIPs (Order No. R8-2010-0033, Section IX.C).
14. The permittees shall update the LIPs following their review of and revisions to their IC/ID programs to include a proactive IDDE program, as set forth in Section IX.D of the test claim permit (Order No. R8-2010-0033, Section IX.D).
15. Each co-permittee shall specify in its LIP its procedure for verifying that any map or permit for a new development or significant redevelopment project for which discretionary approval is sought has obtained coverage under the General Construction Permit, where applicable, and any tools utilized for this purpose (Order No. R8-2010-0033, Section XII.A.1).
16. Within 18 months of adoption of the test claim permit, each permittee shall include in its LIP standard procedures and tools pertaining to the following:
  - a. The process for review and approval of WQMPs, including a checklist that incorporates the minimum requirements of the model WQMP.
  - b. A database to track structural post-construction BMPs, consistent with Section XII.K.4 of the test claim permit.
  - c. Ensuring that the entity or entities responsible for BMP maintenance and the mechanism for BMP funding are identified prior to WQMP approval.

- d. Training for those involved with WQMP reviews in accordance with Section XV of the test claim permit (Training Requirements) (Order No. R8-2010-0033, Section XII.H).
17. Each permittee shall include in its LIP the inspection and cleaning frequency for all portions of its MS4 (Order No. R8-2010-0033, Section XIV.D).
18. Within 24 months of adoption of the test claim permit, each permittee shall update their LIP to include a program to provide formal and where necessary, informal training to permittee staff that implement the provisions of the test claim permit (Order No. R8-2010-0033, Section XV.A).

#### **B. Proactive Illicit Discharge Detection and Elimination Program**

1. Within 18 months of adoption of this test claim permit, review and revise the IC/ID program to include a proactive illicit discharge detection and elimination program, using the Guidance Manual for Illicit Discharge Detection and Elimination by the Center for Watershed Protection or any other equivalent program, consistent with Section IX.E of the test claim permit (Order No. R8-2010-0033, Section IX.D).
2. Report the result of the review required by Section IX.D of the test claim permit in the annual report and include a description of the permittees' revised proactive illicit discharge detection and elimination program, procedures and schedules (Order No. R8-2010-0033, Section IX.D).
3. *Except* for those responses that result in an enforcement action, maintain a database summarizing IC/ID incident response, including IC/IDs detected as part of field monitoring activities (Order No. R8-2010-0033, Section IX.H).
4. Review and update the dry weather and wet weather reconnaissance strategies to identify and eliminate IC/IDs using the Guidance Manual for Illicit Discharge Detection and Elimination by the Center for Watershed Protection or any other equivalent program (Order No. R8-2010-0033, Appendix 3, Section III.E).
5. Establish a baseline dry weather flow concentration for total dissolved solids and total inorganic nitrogen at each core monitoring location using dry weather monitoring for nitrogen and total dissolved solids (Order No. R8-2010-0033, Appendix 3, Section III.E). *Monitoring for total dissolved solids and total inorganic nitrogen is not a new requirement and is not eligible for reimbursement.*

#### **C. Septic System Database**

1. The County of Riverside shall maintain updates to a database of new septic systems in the permittees' jurisdictions approved since 2008 (Order No. R8-2010-0033, Section X.D).

#### **D. Watershed Action Plan**

1. Within three years of adoption of the test claim permit, the permittees shall develop and submit to the Executive Officer for approval a Watershed Action



Plan and implementation tools that describes and implements the permittees' approach to coordinated watershed management (Order No. R8-2010-0033, Sections XII.B.1, 2, and 3). At a minimum, the Watershed Action Plan shall include the following:

- a. Description of proposed regional BMP approaches that will be used to address urban TMDL WLAs.
  - b. Development of 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 (Section XII.B.3).
2. Within two years of adoption of the test claim permit, 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 (Order No. R8-2010-0033, Section XII.B.4).
  3. Within two years of completion of the channel delineation in Section XII.B.4 of the test claim permit, 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 subwatershed 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 (Order No. R8-2010-0033, Section XII.B.5).
  4. 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 the channel delineation, develop a schedule to implement an integrated, world-wide-web available, regional geodatabase of the impaired waters, 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 (Order No. R8-2010-0033, Section XII.B.6).

5. Develop a schedule to maintain the watershed geodatabase and other available and relevant regulatory and technical documents associated with the Watershed Action Plan (Order No. R8-2010-0033, Section XII.B.7).
6. Within three years of adoption of the test claim permit, the permittees shall submit the Watershed Action Plan to the Executive Officer for approval and incorporation into the Drainage Area Management Plan (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 (Order No. R8-2010-0033, Section XII.B.8).
7. 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 of the test claim permit. 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 (Order No. R8-2010-0033, Section XII.B.9).
8. 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 (Order No. R8-2010-0033, Section XII.B.10).

#### **E. Employee Training**

1. Provide formal training to permittee employees responsible for implementing the requirements of the test claim order related to project specific WQMP review on the following:
  - a. Review and approval of project-specific WQMPs
  - b. Potential effects that permittee or public activities related to the employee trainee's duties can have on water quality
  - c. Principal applicable water quality laws and regulations that are the basis for the requirements in the DAMP
  - d. Provisions of the DAMP that relate to the duties of the employee trainee, including an overview of the CEQA requirements contained in Section XII.C of the test claim permit (Order No. R8-2010-0033, Section XV.C).
2. Formal training (training conducted in classrooms or using videos, DVDs or other multimedia) shall: consider all applicable permittee staff responsible for

implementing the requirements of the test claim order related to project-specific WQMP review (including but not limited to planners, plan reviewers, and engineers); 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 (Order No. R8-2010-0033, Section XV.C).

3. New Permittee employees responsible for implementing requirements of the test claim permit relating to project-specific WQMP review must receive formal training within one year of hire (Order No. R8-2010-0033, Section XV.F.1).
4. Existing permittee employees responsible for implementing the requirements of test claim permit relating to project-specific WQMP review must receive formal training at least once during the term of the test claim permit (Order No. R8-2010-0033, Section XV.F.4).
5. Include the start date for formal training of permittee employees responsible for implementing the requirements of the test claim permit relating to project-specific WQMP review in the schedule of DAMP revisions required in Section III.A.1.s of the test claim permit, which shall be no later than six months after Executive Officer approval of DAMP updates applicable to the permittee activities described in Section XIV of the test claim permit (Order No. R8-2010-0033, Section XV.F.5).

#### **F. Urban Runoff Management Program Effectiveness Assessment**

1. Develop and include in the first annual report (November 2010) after the adoption of the test claim permit a proposal for assessment of urban runoff management program effectiveness on an area-wide and jurisdiction-specific basis at the six outcome levels, utilizing the California Storm Water Quality Association (CASQA) Municipal Storm Water Program Effectiveness Assessment Guidance. The assessment measures are required to target both water quality outcomes and the results of municipal enforcement activities, consistent with the requirements of Appendix 3, Section IV.B (Order No. R8-2010-0033, Section XVII.A.3).

#### **V. CLAIM PREPARATION AND SUBMISSION**

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

##### **A. Direct Cost Reporting**

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

##### **1. Salaries and Benefits**

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits

divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

## 2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

## 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

## 4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

## 5. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1., Salaries and Benefits, and A.2., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3., Contracted Services.

## B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central

government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter<sup>32</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no

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<sup>32</sup> This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING REVENUES AND REIMBURSEMENTS**

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the eligible claimants to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **IX. REMEDIES BEFORE THE COMMISSION**

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

## **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for

the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.