



City of Downey

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CITY OF DOWNEY
LOS ANGELES REGION

June 12, 2006

Jonathan S. Bishop
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: City of Downey Report of Waste Discharge (ROWD) in response to Los Angeles Regional Water Quality Control Board Order No. 01-182 (NPDES MS4 Permit).

Dear Mr. Bishop:

The City of Downey is pleased to submit the attached City of Downey Specific Report of Waste Discharge (ROWD) in response to Order No. 01-182 adopted by the Los Angeles Regional Water Quality Control Board on December 13, 2001. The National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit resulting from this order was issued to Los Angeles County Flood Control District as Principal Permittee, with the City of Downey, and 83 other municipal agencies, as Permittees. This, the 2001 MS4 permit, requires submission of this ROWD as a condition or application for a future (i.e. 2006) NPDES MS4 permit.

The City of Downey has implemented an aggressive stormwater program that is making significant and cost effective strides in meeting our shared current and future water quality goals. As you will note in the City's ROWD, the City's achievements in managing urban runoff demonstrate that Downey has taken a regional leadership role in integrated water management and protecting water quality.

The attached ROWD demonstrates Downey's commitment to continue improving water quality within our jurisdiction and the region. We encourage you to review our submission and consider what we have already accomplished, not just during this permit cycle, but by implementing BMPs that will produce dividends for decades into the future. The City of Downey has a demonstrated legacy of encouraging others to respect our regional water resources, and will continue to assist your staff, in motivating others to our shared water quality goals. If you have any outstanding questions or wish to discuss these issues further, please contact me at 562-904-7284.

Sincerely,

Handwritten signature of Gerald M. Caton in black ink.

Gerald M. Caton
City Manager

REPORT OF WASTE DISCHARGE

**Renewal Application for the City of Downey, California
National Pollutant Discharge Elimination System (NPDES)
Municipal Separate Storm Sewer System (MS4) Permit**

June 12, 2006

Prepared by the

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1.0 INTRODUCTION

1.1 PURPOSE

This Report of Waste Discharge (ROWD) constitutes a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit application for renewal of the Waste Discharge Requirements (WDRs) adopted on December 13, 2001 by the Regional Water Quality Control Board, Los Angeles Region (Board) in Part 6, Section S, of Order No. 01-182 (NPDES No. CAS004001). The City of Downey is one of the Permittees identified within Order No. 01-182, which was issued to the Los Angeles County Flood Control District [the Principal Permittee], the County of Los Angeles, and incorporated Cities within southern Los Angeles County, except the Cities of Long Beach and Avalon. While the Los Angeles County ROWD integrates the activities and programs implemented by all of the Permittees identified within Order No. 01-182, this Downey ROWD focuses on local programs and proposed terms for a City of Downey NPDES MS4 Permit. The city of Downey is unique in being quartered between four distinctly different hydrologic watershed units, and having its own municipal water supply, water conservation, runoff water quality protection, and enforcement programs, warranting issuance of a jurisdictionally distinct MS4 Permit.

This ROWD emphasizes Best Management Practices (“BMPs”), in lieu of strict numeric limits as was first proposed by the United States Environmental Protection Agency (“EPA”): “EPA expects that most WQBELs for NPDES-regulated municipal storm water discharges will be in the form of BMP’s and that numeric limits will only be used in rare instances.” (US. EPA Memorandum of November 22, 2002, from Robert Wayland, Director of Wetlands, Oceans and Watershed & James Hanlon, Office of Wastewater Management, EPA Headquarters, to all Water Division Managers – Regions 1-10). This BMP approach recognizes that the City of Downey has limited financial, technical and scientific resources to apply toward ineffective pollution source control programs. It also recognizes the rudimentary level of understanding regarding the cost and pollution control effectiveness of BMPs. For example, Caltrans’ “peer reviewed” studies indicate that the recent structural BMPs, such as the sand-filters identified in the Los Angeles River Metals TMDL, do not reduce the concentration of metals in surface waters, below California Toxic Rule (CTR) levels. Clearly additional investments in studies, design, construction and testing of the iterative BMPs process are warranted.

Following the issuance of Order No. 01-182, numerous Permittees, including the City of Downey, filed legal challenges to many of the terms and provisions of that order, as well as to the procedure, review, and approval process followed by the Board in adopting it. These legal challenges remain pending before the Court of Appeal of the State of California, Second Appellate District, as Appellate Court Case No. B184034.¹

¹ The following Permittees are appellants and continue to challenge many of the provisions in Order No. 01-182: The Cities of Arcadia, Artesia, Bellflower, Beverly Hills, Carson, Cerritos, Claremont, Commerce, Covina, Diamond Bar, Downey, Gardena, Hawaiian Gardens, Industry, Irwindale, La Mirada, Lawndale, Monrovia, Norwalk,

In recognition of the accelerating environmental significance of the 2001 WDRs and the Board's apparent intent to incorporate numeric objectives into future MS4 Permits, the City of Downey requests that before the City or County ROWD becomes the basis for issuance of new WDRs or Permit, the Regional Board and State Water Resources Control Board (State Board) first take all actions required to comply with the California Environmental Quality Act ("CEQA"). In particular, recognizing that any exemption provided under California Water Code section 13389 is limited to only CEQA Chapter 3. Moreover, there exists no CEQA exemption for State and Regional Board imposed permit requirements that go beyond federal law as set forth under the Clean Water Act. Compliance with CEQA requirements, prior to the issuance of a new municipal permit, is essential in order that feasible alternatives to potentially-significant environmentally-adverse permit terms can be evaluated and unavoidable adverse impacts resulting from the project (i.e. WDRs and MS4 permit) be evaluated and properly mitigated.

The City of Downey further asserts that Order No. 01-182 amounts to the imposition of an unfunded mandate and thus requests that any programs mandated under any new MS4 permits only be imposed, where the prohibiting unfunded mandate requirements of the California Constitution, have been fully complied with.

Since the Regional Board does not have State-wide jurisdiction, it also does not solely have the authority to issue an NPDES MS4 permit under the Clean Water Act. Therefore, the City of Downey requests that any NPDES MS4 permit, under which the City of Downey is a permittee, be issued only after it has been reviewed and formally approved by the State Water Resources Control Board ("State Board").

The City is submitting the Downey ROWD with the understanding that it is not waiving any rights, objections or challenges previously brought, or which may arise, in connection with the issuance of Order No. 01-182, or any other related objections and challenges that may have been brought by the City in regards to other water quality orders, directives or regulations. This ROWD is also submitted with the understanding that the City is not waiving or relinquishing any rights it already has, or may have, in connection with any new permit to be issued in replacement of Order No. 01-182. The City of Downey reserves the right to object to the terms, or modification of terms, of previous, current and future NPDES MS4 Permit, not addressed in this ROWD and the contents herein, do not constitute a waiver of the right to challenge objectionable terms

1.2 REGULATORY BACKGROUND

The 1972 Clean Water Act (CWA) established the NPDES Permit program to regulate the discharge of pollutants from point sources to waters of the United States. In response to the 1987 CWA amendments, the United States Environmental Protection Agency (USEPA) developed the 1990 Phase I NPDES Stormwater Program, which

Paramount, Pico Rivera, Rancho Palos Verdes, Rosemead, Santa Clarita, Santa Fe Springs, Signal Hill, South Pasadena, Torrance, Vernon, Walnut, West Covina, Westlake Village, Whittier, and the County of Los Angeles and the Los Angeles County Flood Control District.

established a framework for regulating urban stormwater runoff. The Phase I program addressed sources of stormwater runoff with the greatest potential to negatively impact water quality and required NPDES Permit coverage for stormwater discharges from:

- Municipal separate storm sewer systems (MS4) serving populations of 100,000 or more; and
- Companies that fall within eleven industrial activity categories, including construction activities that disturb five or more acres of land.

Phase I MS4 Operators were required to obtain NPDES Permit coverage for stormwater discharges under their control. The most significant requirement was development of a proposed stormwater management program that would meet the maximum extent practicable (MEP) standard for reducing the discharge of pollutants from the MS4.

1.3 OBJECTIVES

The objective of this City of Downey ROWD is to develop a specific MS4 Permit that focuses on the CWA goal of "reducing pollutants to the MEP" while taking into account:

- Feasibility of implementation measures, based on available resources;
- Cost, effectiveness, and dependability of those implementation measures;
- Overall water quality improvements and elimination of impairments;
- Improving regional Stormwater Quality Management Programs (SQMP);
- Considered suggestions and approaches to improve water quality;
- Integration with other impaired receiving water body specific programs.

With the Board having recently proposed to reopen the 2001 MS4 Permit to insert numeric indicator bacteria standards, when these microorganisms are known to replicate within the drainage system, the City of Downey ROWD is focus on controlling runoff discharges to the MEP; especially in city owned and maintained MS4 elements. Based on this nexus, the City of Downey has invested significant effort in identifying and distinguishing between state, county, city and privately owned and maintained elements of the drainage system. While our effort is not yet complete, due in part to outstanding contractual disputes, we have determined that most of the catch basins and underground drainage systems elements within our jurisdiction are owned and operated by Los Angeles County. While the City of Downey will continue to assist other agencies in reducing runoff generation to all MS4 drainage elements, based on the regulatory approach now being identified by the Board, it is our interpretation that that the most effective point of pollutant source control will be at the point of discharge, which is for the most part under the control (i.e. ownership and management) of other agencies.

1.4 PROGRAM DESCRIPTION

On December 13, 2001, the Regional Board adopted Order No. 01-182, which designates the Los Angeles County Flood Control District as the Principal Permittee, while the City of Downey, County of Los Angeles, and 83 other incorporated Cities are delegated Permittees. The Los Angeles County MS4 Permit for stormwater and urban runoff assigns the responsibility for coordinating and facilitating permit compliance

activities to the Principal Permittee, but not responsibility for ensuring permittee compliance. As previously indicated, many parts of Order No. 01-182 have been challenged in a lawsuit filed in Los Angeles County Superior Court by a number of the Permittees thereunder. This legal challenge remains pending on appeal, in the Court of Appeal of the State of California, Second Appellate District, Case No. B184034.

In the 2001 MS4 Permit, the Regional Board laid the foundation of implementing future watershed based management approaches to regional water quality protection. Since the City of Downey is nearly equally split between the Los Angeles and San Gabriel Rivers Watershed Management Areas, the City has contributed to the implementation of this philosophy by actively participating on both Water Management Area Committees, the county-wide NPDES MS4 Permit Executive Advisory Committee (EAC), and several other watershed efforts (e.g. watershed specific management and monitoring plans).

2.0 APPLICANT INFORMATION

The City of Downey primarily manages the Los Angeles County MS4 Permit through the Administrative and Engineering Divisions, of the Department of Public Works. The Program Administrative contact is Desi Alvarez, Director of Public Works, the Program Coordinator is Gerry Greene, Senior Civil Engineer and Water Resources Control Specialist, the Public Education Coordinator is Carol Rowland, Administrative Assistant and Keep Downey Beautiful Coordinator. These individuals can be directly contacted through telephone number 562-904-7102, facsimile number 562-904-7296, or by writing to the Department of Public Works, P.O. Box 7016, Downey, CA 90241-7016.

The official mean elevation of the City of Downey is about 117' above mean sea level (AMSL), but ranges from about 140' in the North to less than 80' in the South. At 12.56 square miles in area, the city is primarily situated on alluvial soils of mostly sandy silts with some clay lenses. As shown in Figure 1, about 5.59 and 6.97 square miles of the total City of Downey area are located in the Los Angeles and San Gabriel River Watersheds respectively. With the exception of some of the smaller drainage areas, most of the sub watersheds within the City of Downey are owned and maintained by either the County of Los Angeles or the California Department of Transportation. In some instances, short lengths of City owned drainage systems discharge in the County owned and maintained system, which may result in additional interagency discussion about proportioning of responsibility between the two MS4 operators.

Within the Los Angeles River Watershed, the most northwesterly quarter (3.40 square miles) of the City drains to Reach 1 of the Rio Hondo (A small landscaped area operated by the Los Angeles County Flood Control District appears to drain to the lowest portion of Rio Hondo Reach 2, but the irrigation system is vandalized inoperable and no dry-weather discharges have been recently observed from the area). The southwesterly 2.35 square miles of Downey drains to Reach 2 of the Los Angeles River, with Firestone Boulevard and the adjacent rail line demarcating the grade break between drainages. In this area, the Rio Hondo and Los Angeles Rivers are both concrete lined trapezoidal channels; however the former is flat bottom with very little flow, while the Los Angeles River has a center low flow channel to convey treated wastewater flows from upper watershed areas. The Rio Hondo confluence with the Los Angeles River is located just North of Imperial Highway in the City of South Gate.

Within the San Gabriel River watershed, the northeasterly 1.38 square miles of the City, drains to the rip rap lined, soft-bottom Reach 2 of the San Gabriel River, which contains and infiltrates dry weather and most storm flows behind inflatable rubber dams. Most areas South of Florence Boulevard (5.43 square miles), including the most commercial and industrial portions of Downey, drain to Reach 1 of the San Gabriel River which is characterized by an effluent-conveying, low flow channel within a concrete-lined trapezoidal channel.

City of Downey Watershed and Water Drainage Map

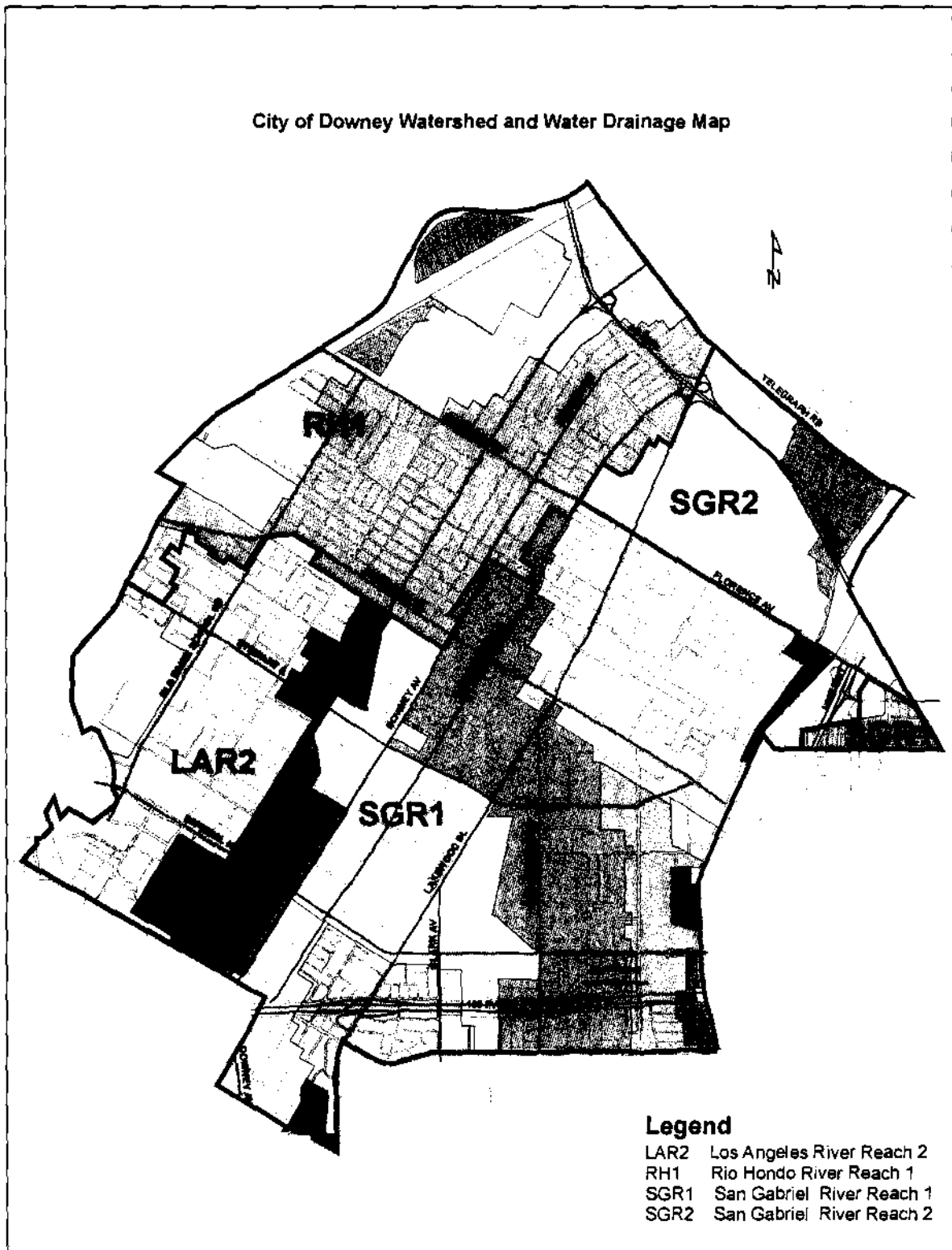


Figure 1. City of Downey Watershed and Stormwater Drainage Area Map.

During the 2000 Census, the mostly residential population was estimated at 107,323, and based on past growth is likely to reach 120,000 by early 2007. At the last census, there were 34,759 housing units, but this figure has probably risen above 35,000, due to infill redevelopment resulting from lot splits and the construction of higher density residential units. At the last census, 2,400 businesses were identified in the City of Downey; however, partially in response to permit required changes to the business license database, over 3,600 businesses were listed during the first quarter of 2006.

Groundwater elevations vary annually and seasonally, but are generally forty feet or more below ground surface. Potable water is supplied entirely by local groundwater. The City of Downey Utility Division supplies potable water and operates the city sewage collection system. The County Sanitation Districts of Los Angeles County operate a series of trunk sewers that accept wastewater from the Downey owned and operated collection system and convey it to Sanitation District treatment plants. Stormwater is collected in a series of drainage inlets, catch basins, and drains, most of which are owned and maintained by the Los Angeles County Flood Control District. Operation and maintenance of the city owned and operated portions of the drainage system is funded from the City of Downey General Fund and must compete with other public services such as the Police and Fire Departments, Parks, and Community Services for scarce fiscal resources.

Although the frequently changing level of intra-city and interdepartmental cooperation and contribution of effort make estimating MS4 Permit program related expenditures difficult or impossible to fully quantify, identifiable expenditures have increased from an estimated \$715,000 in 2001-02 to \$1,165,000 in 2004-05; a 63% increase over only 3 years and much greater than the growth in the general fund during the same period. The unfunded NPDES MS4 Permit mandates continue to impact the provision and supply of other municipal services, leading the City of Downey to seek additional support from the State Board for General Industrial and Construction Inspections and other Board mandated program requirements.

3.0 2001 NPDES MS4 PERMIT PROGRAM ACCOMPLISHMENTS

The 2001 Los Angeles County NPDES Municipal Stormwater Permit contained implementation requirements for Discharge Prohibitions, Receiving Water Limitations, Storm Water Quality Management Program Implementation, Special Provisions, Definitions, and Standard Provisions. Some of these requirements are new and were imposed on the Permittees by the Regional Board, while others have evolved over multiple permit cycles based partially on Permittee implementation experience. The MS4 permit prohibitions and limitations have been observed and implemented to the MEP standard of compliance; however, many of the Permit terms remain subject to challenge or interpretation through the pending legal challenge to Order No. 01-182.

As an individual Permittee, the City of Downey program met and often exceeded the implementation provisions of the Permit, but continued progress requires an adaptive integrated approach that's strategic, beneficial, measurable, and very cost-effective.

3.1 STORMWATER QUALITY MANAGEMENT PROGRAM (SQMP)

The City of Downey would like to gratefully acknowledge the significant efforts of the Los Angeles County Department of Public Works (LACDPW) in implementing the Countywide Monitoring Program including evaluation, assessment, and synthesis of the data that went in to the Monitoring Report which was submitted by August 15th of each year from 1994 to 2005. The County also installed channel nets and catch basin inserts and excluders, in their facilities to reduce the discharge of trash and other pollutants from their portion of the regional MS4. As Principal Permittee, it also authored the Integrated Receiving Water Impacts Report that was submitted on August 15, 2005, coordinated the collection, processing, and submittal of annual reports to the Regional Board, and developed the County-wide digital report submission format.

As a general requirement, the City of Downey implemented the components of the Los Angeles County SQMP to reduce the MS4 discharge of pollutants to the MEP. Since the Regional Board has identified each adjacent river reach as being impaired for multiple pollutants (e.g. trash, nutrients, indicator bacteria, metals, and toxicity), the City of Downey has implemented an aggressive development planning program to reduce the current and future discharge volume and mass emission of pollutants to local receiving waters. Based on the limited nationwide experience in identifying MEP-compliant best management practices (BMPs), and even more constrained fiscal resources, the City of Downey has made a good faith effort to require and implement the most effective combination for stormwater and urban runoff and pollution source controls. The City of Downey further encourages the Regional Board to adopt and endorse the adequacy of the February 2, 2004 Draft Technical Manual for Stormwater BMPs in Los Angeles County, so that another valuable tool would become available to our residents, developers, and businesses.

On February 11, 2003 the City of Downey, City Council unanimously adopted Ordinance 1142, completely revising Article 5, Chapter 7 of the City of Downey Municipal Code (DMC) and granting staff the legal authority to prohibit nonstormwater discharges to the storm drain system, as mandated through the 2001 MS4 Permit. Ordinance 1142, replaced the antiquated stormwater ordinances 1036, 1095, and 1130, which had been adopted in response to prior NPDES MS4 permit requirements, but contained conflicting water quality protection requirements. The entire DMC is available at www.downeyca.org/city_clrk_municode.php or can be located within Quick Links portion of the City website www.downeyca.org. Ordinance 1142 has been directly sent to dozens of other cities, developers, consultants and violators in association with our city stormwater program development, construction and enforcement activities.

3.2 PUBLIC INFORMATION AND PARTICIPATION

The City of Downey has actively attended and participated in the Los Angeles County Public Information and Participation Program (PIPP), including donations of \$2,000 during both 2004-5 and 2005-6. Furthermore we have reviewed draft materials for both County and State agencies so that the resulting public education materials more closely follows the intent goals of the complex regional water quality program. City of Downey staff have also made dozens of presentations to various stakeholder groups including other Watershed Management Committees, the California Water Environment Association, the Southern California Association of Governments (SCAG) Water Policy Task Force (WPTF) and, at the request of Board staff, to School District Personnel at the Los Angeles County Board of Education on May 1, 2006. While we acknowledge and share in the successes of the County Program elements identified in the County ROWD, we have continued and upgraded our own public education programs including the long standing Keep Downey Beautiful (KDB) Campaign.

In 1977, members of the Citizens' Health and Environmental Sanitation Committee (CHESC) initiated the KDB program with the goal of keeping Downey clean and safe through litter control and promoting public interest in improving the City. Since 2001, KDB has used the Litter Index (LI) method developed by Keep America Beautiful (KAB) to quantify litter control efforts, make the litter prevention work easier and reporting results credible. The annual LI is undertaken by a team of at least four scorers who visit 5 subareas, selected as a fair representation of the land uses within each City of Downey Council District. Using a four point scoring system where 1 indicates no litter observed, the sub-areas were rated and the data collected and averaged to obtain area scores. Based on the results of the LI, KDB conducts and monitors progress from monthly cleanups in the most littered areas and City-wide clean ups in the Fall and Spring. City wide cleanups consist of litter abatement, graffiti control, and planting at designated areas. KDB also assists with an average of seven community service projects per year (referred to locally as custom cleanups) and in September 2005 the Heal the Bay inland site clean up. These volunteer efforts begin with brief presentation regarding the cause and effects litter on the community and watersheds.

- **KDB averages 20 cleanups per year and over 5 tons of trash collected.**

KDB also has an after school educational and community outreach program that since 2001 has emphasized environment protection and storm water pollution prevention and annually reaches over 600 elementary and middle school youths. KDB uses a variety of educational materials including videos such as the *Synthetic Sea*, *Don't Trash California*, and *Waste in Place*. The KAB curriculum is aimed at making students more aware of the source, characteristics and disposal options for municipal solid wastes. Unsworth Elementary School recently received a grand prize award of \$1,500 in the Wal-Mart Kids Recycling Challenge by collecting 2,768 pounds of shopping bags, nearly a third of what was collectively recycled by 37 comparable Los Angeles areas schools.

KDB sponsors a booth at the annual Downey City Street Faire and, along with public educational brochures, such as "Don't Trash California" and promotional items, this year distributed a test called "*What Goes in the Storm Drain?*". At the May 13, 2006 Kid's Day event, KDB sponsored an Environmental booth and used the Los Angeles County Enviroscape model which emphasizes runoff transport and pollutants source controls.

In addition to KDB, the City of Downey Department of Public Works coordinates:

- A quarterly newspaper format newsletter, entitled *One Person's Trash* is mailed to all City of Downey residents and businesses. The front page is devoted to City specific issues such as litter prevention, used oil recycling, pollution source control, storm water and urban runoff pollution prevention, while interior pages consists of national environmentally themed articles.
- A water quality protection themed coloring contest for elementary school artists. The winners are acknowledged during a City Council meeting and the art itself used in preparing the following year's City published calendar. Three thousand 2006 calendars were printed with funding from the California Integrated Waste Management Board and 15 local business sponsors and included the name, addresses, phone numbers and a map to locate the 12 used oil and 6 oil filter recyclers in the City of Downey.
- During the annual Street Faire event, City of Downey Public Works staff hand out BMP related brochures, stickers with contact numbers for City Services, and educate residents about the municipal drainage system.

During the current Permit period, City of Downey Staff sponsored or made several professional presentations per year regarding stormwater issues, BMP applications and the challenges of TMDL implementation. During the last quarter these included:

- On February 28, 2006, the City Stormwater Coordinator was the Storm Water Programs Issues Session Chair at the California Water Environment Association (CWEA) Pretreatment, Pollution Prevention and Stormwater (P³S) Committee meetings in Burbank.
- March 9, 2006 presentation to the Southern California Association of Governments (SCAG) Water Policy Task Force (WPTF) entitled *Downey's*

BMP Strategy for Managing Stormwater Runoff: What Do the MS4 Permit Annual Reports Tell Us About BMPs?

- An April 7, 2006 Panel Session presentation entitled *Numeric TMDLs and Municipalities: Are the Science, Regulations, BMPs, Money, or Political-will there yet?* at the 78th CWEA Conference in Sacramento.
- On May 1, 2006 assisted Regional Board MS4 Permit Staff by making a presentation on Infiltration BMPs to Los Angeles County School Districts.
- A May 25, 2006 presentation on *BMPs for Public Works Projects* for the Orange County General MS4 Permittee Meeting.

The City of Downey recommends deleting from the PIPP is the effort to hold workshops to educate corporate managers of restaurants and gas station chain. Despite the commendable effort of the County and their consultants, after sending out thousands of invitations, 10 BMP workshops attracted only 145 managers and staff. At the February 22, 2006 workshop held in Lakewood at the behest of the Cities of Cerritos, Downey, Lakewood, and La Mirada, and despite sending out over 500 hundred invitation letters (along with a hundred direct letters regarding unsatisfactory DHS restaurant inspections in the City of Downey) with a follow up reminder phone call, less than a dozen participants attended. This was a regrettable and significant waste of scarce municipal resources, which appears to have been repeatedly observed.

The City of Downey managed and provided matching funds, along with Los Angeles County, several other Permittees, and the USEPA, for a Coalition for Environmental Protection Restoration and Development (CEPRD) study entitled *Market-Based Strategies for Reducing Trash Loading to Los Angeles Area Watersheds*. We hope to continue this effort during the next year with either a follow up study or the analysis and installation of a trash collecting system in conjunction with several upper Los Angeles River Watershed cities (pending further project regulatory approvals).

During the next MS4 Permit cycle, the City of Downey intends to continue participating in, and supporting, the Los Angeles County on the Public Information and Participation Program, while emphasizing our current highly successful City based effort. We will track the Los Angeles County proposed social marketing theory effort to determine if it achieves the desired behavioral changes in areas comparable to the demographic characteristics observed in the City of Downey. However it is also important to note that our existing program has made a clearly demonstrable impact on our community and does not require the same level of Regional Board oversight that other areas might.

3.3 INDUSTRIAL/COMMERCIAL FACILITIES CONTROL

As noted in our annual MS4 Permit reports, implementation of the industrial and commercial source control program, within the City of Downey, has been inconsistent due to both inter- and intra-agency challenges and our current greater emphasis on enforcement, public education, development, and construction program efforts. However progress was made in implementing all aspects of this program.

Within the City of Downey implementation of this program was initially separated into 4 tasks: 1) Database Development; 2) Restaurant Source Inspections; 3) General Industrial Activity Stormwater Permit (GIASP) Inspections, and 4) Other Critical Source Inspections. Due in part, to the challenges observed in implementing these tasks, we have also instituted a fifth task to identify businesses that are operating without the appropriate business license; however supplies needed to better implement all of these task efforts only recently became available and scheduling conflicts during the remaining period term suggest that it is unlikely to be fully implemented by late 2006.

Under the 2001 Permit, the City of Downey was to develop and maintain a database for facilities within our jurisdiction identified as critical sources of stormwater pollution. The types of "critical sources" tracked as a result of the 2001 Permit are summarized below:

- Restaurants;
- Automotive service facilities;
- Retail gasoline outlets (RGO's) and automotive dealerships;
- U.S. EPA Phase I Facilities (Tier 1 and 2);
- Federally-mandated [40 CFR 122.26(d)(2)(iv)(C)] Facilities;
- Municipal landfills;
- Hazardous waste treatment, disposal, and recovery facilities;
- Facilities subject to SARA Title III (also known as EPCRA).

The critical source information that is now being collected and regularly updated by the City of Downey includes the following information about each identified industrial and commercial facility:

- Name of facility and name of owner/operator;
- Address of facility and operator;
- Coverage under the GIASP or other individual or general NPDES permits;
- An SIC related code that reflects the activities or products at each facility.

In 2002, when the MS4 Permit requirements were first shared with the City of Downey Finance Department, they opined that our proprietary software included the necessary data. In 2003, when an ASCII file of the data was finally made available, the 4-digit industry codes was found to not be based on SIC and a wide variety of business types were spread among a few dozen codes. Due to recognized SIC limitations and NAFTA non-compliance, the City of Downey moved to implement the 6-digit North American Industrial Classification System (NAICS), but was delayed by a repeatedly extended 8 month backorder on deliveries from the National Technical Information Service (NTIS). The NAICS codes were first employed during late 2004, for the 2005 Business License Renewal effort, but by mid 2005 it was clear that about half of the designations were made by a Cashier (no longer employed by the City), who neither sought help from engineering, nor made a considered use of the common NAICS codes provided to her. Our correction effort has continued into the second quarter of 2006, but since few businesses are aware of either the SIC or NAICS codes, a significant portion of the effort is expended in correcting invalid and sometimes deceptively selected codes.

In late 2003, while waiting for the back ordered NTIS discs, the city focused on the MS4 Permit Restaurant Inspection requirement by contracting with the Los Angeles County Department of Health Services (DHS) to conduct the inspections. The DHS list of restaurants was compared with the City of Downey Business License database and found to include about 30% more records than the city license data file. The city promptly initiated an effort to bring these new businesses into licensing compliance. The DHS inspections formally began in December 2003 and have continued since then, with the two inspections per permit cycle expected to be completed by the end of 2006.

While the City of Downey Business License list expanded considerably through comparison with the DHS list, there is no comparable master list for the City automotive industry and the 2004-05 inspection effort was significantly frustrated by business licenses not in the database, licensed businesses that were closed during business hours, invalid business names, and addresses. Following the previously alluded to 2006 Business License database correction effort, a laptop has been purchased for the Stormwater Coordinator and will hopefully reduce the challenges observed during the previous inspection cycle. Despite these challenges, Code Enforcement and Public Works have continued to respond to complaints of Illicit Discharges and have both educated and initiated enforcement for the following MS4 permit violations:

- Improper oil and grease disposal;
- Trash bins open, loose trash in the bin area, illegal bin area washout;
- Illicit wash water discharges (e.g. floormats, filters or garbage containers);
- Improper/infrequent removal of food waste and rubbish from parking area;
- Evidence of excessive staining, food wastes, or excessive wash down;
- Lack of housekeeping BMPs to prevent spills and leaks;
- Improper discharge of wastewaters or non-stormwater drainage;
- Improper raw, waste or hazardous materials disposal;
- Improper exposure of work and storage areas to rainfall and runoff;
- Improper maintenance of privately owned drainage inlets on the facility;
- Lack of employee stormwater pollution prevention training re-enforcement;
- Lack of fuel-dispensing area maintenance and spill or leak controls;
- Improper washdown of facility areas and facilities to the MS4;
- Lack of appropriate BMPs to mitigate pollutant source design flaws;
- Lack of annual on-site drainage inlet maintenance, prior to October first;
- Lack of fueling station signage about "topping off";
- Lack of automatic shut-off dispenser nozzles;
- Excessive spill, staining or failure to use watertight waste receptacles;
- Improper employee training regarding hazardous materials and wastes;
- GIASP identified facilities must have a current WDID and active SWPPP.

The City of Downey did not explicitly track GIASP coverage status, choosing to annually compare the subset of the GIASP requiring City of Downey Business Licenses (based on industry code) to the state maintained list of GIASP Permittees. Nineteen (two incorrectly identified as being in Downey) facilities were identified in June of 2002. Since then, three facilities ceased operation, one corrected its address, three joined the GIASP permit without municipal action, and six have been directed (one in May 2006),

by the City, to obtain coverage. Currently there are 23 GIASP Permittees listed in the City of Downey; however one is physically on the South Gate side of our City boundary. Efforts to complete the GIASP inspections have been frustrated by conflicting information supplied by Industrial Permittees in early 2005, indicating that they had already had a state inspection, the slow posting of state inspections, indicating that the site had actually not been inspected, and various challenges with SIC and NAICS codes. A more skeptical inspection effort is planned for the summer of 2006.

As indicated above, and by the Principal Permittee, municipal Permittees found it impossible to schedule GIASP inspections based on the lack of timely information regarding planned or completed state inspections on the Board website (see link: www.waterboards.ca.gov/rwgcb4/html/programs/stormwater/swindustrial/inspections.html). While overlapping inspections resulted in additional BMP attention at critical source facilities, the acknowledged resource limitations of both state and local agencies, demands that more specific and complete information be available from the Regional Board, during future Permit cycles, to avoid redundant efforts. Until that time the critical source program should be curtailed or focused on more significant pollutant sources. Despite these challenges, the City promptly responds to complaint calls and refers firms to the Board to obtain, or settle disputes regarding inclusion under, the industrial permit.

The City of Downey Critical Source Control Program was designed to meet the objectives of the 2001 NPDES Permit. Some of the select accomplishments of our staff related to the 2001 Permit include:

- One fourth of the 24 GIASP Permittees currently in the City of Downey, were directed into the program through the efforts of City Staff;
- Downey Restaurant Critical Source Inspections have located and eliminated both illicit connections and illegal discharges, many of which have been previously reported to the Regional Board by letter;
- Downey Automotive Critical Source Inspections have eliminated both illicit connections and illegal discharges, many of which have been previously reported to the Regional Board by letter;
- Downey has converted to the NAICS classification system, which is more precise and avoids spurious inappropriate critical source listing (e.g. coin laundromats and dry-cleaners) that exist in the 2001 MS4 permit;
- Downey has taken the initiative to identify and license, businesses that were unlicensed in 2001, prioritizing small automotive repair facilities;
- Based on an Industrial Wastewater Permit termination, City and Regional Board staff cooperated in forcing an owner to obtain a NOT for their site;
- While the 2000 census reported 2,400 Downey businesses, partially due to our MS4 Permit efforts, that figure now exceeds 3,600 (most of which are not critical pollutant source business types).

The Industrial/Commercial Facilities Control Program remains subject to legal challenge, and is a program which the City of Downey does not intend to continue under the renewed permit. Any inspection obligations, that exceed federal regulations, constitute a State mandate and should be funded by the Board in accordance with the

precepts set forth in Article XIII, section 6 of the California Constitution. The Board shall consider the economic impacts of mandating Permit requirements that exceed federal regulations. The federal regulations only require Permittees to have a program to monitor and control pollutants in stormwater discharges from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986, and industrial facilities that the municipalities determine are contributing a substantial pollutant loading to the MS4. The City therefore objects to any additional requirements being included in the renewed Permit without compensatory support.

3.4 DEVELOPMENT PLANNING

The City of Downey has generally emphasized infiltration as a decentralized response to the unfunded MS4 Permit mandate and the City Planning Department typically refers most building projects to the Public Works Department for review. With the exception of the 160 acre NASA Boeing redevelopment, most projects fall planning into one of four categories: 1) Single family Residential; 2) Non-SUSMP; 3) SUSMP; and 4) GCASP.

Small residential construction and addition projects of 400 square feet or more typically submit the square footage of their new impervious structures and can either submit an infiltration design of their own, or adopt a "standard" device configuration that is available from the Engineering Department. While other watersheds are moving toward a ¼ to 1/2 inch retention design, the City of Downey has retained the SUSMP 0.75" design criteria for sizing infiltration devices, and configures them to utilize inlets under downspouts or trench drains to intercept general site flows and convey them to a stand alone infiltration unit available from a local vendor. Although the infiltration volume is based on the area of the additional impervious surfaces, the inlet is often placed to maximize whole site flow interception and "mitigate" more surface area than just the addition. Since these devices do not connect directly to building elements and are quite rudimentary to install, the infiltration unit may be sketched or simply attached and referenced on the construction drawings. Once approved, the parcel location and device are recorded in the City of Downey GIS system. No maintenance agreements or covenants accompany these installations, which cost between five hundred and a few thousand dollars each. These residential redevelopment requirements are identified as needed to address regional water quality protection and runoff reduction initiatives.

Larger, non-SUSMP projects, typically receive a focused Engineering Division review of their plan submittal, to insure that 0.75" design criteria is correctly calculated and that a landscaped area is included immediately upstream of the infiltration unit inlet whenever possible. Those projects that increase site imperviousness over the existing condition are required to provide peak flow detention capacity. The plans must include a list of standard erosion control measures to be in place during construction. Projects that might shift to the SUSMP category based on unexpected demolition (e.g. parking lot replacement), are cautioned that prior stop work orders have resulted in construction delays of 1 to 6 months, with significantly higher costs for SUSMP review and approval.

Projects that might require SUSMP preparation are typically conditioned on meeting applicable Water Board imposed requirements and the proponents are encouraged to meet with the City Stormwater Coordinator at the earliest stage of the development process. Projects that increase the amount of impervious area following redevelopment are generally required to file a more rigorous SUSMP that includes peak flow detention design considerations. Typically City of Downey SUSMP projects are designed to meet the 0.75" design standard using at minimum a combination of landscaped (bio) swales and infiltration. City Engineering staff assist developers and their design professionals in evaluating and selecting among potential BMP solutions to their development challenges. Projects in this category are required to include a BMP and erosion control plan with their plan submittals. On three occasions, Board remediation efforts and SUSMP infiltration design efforts occurred, indicative of a regulatory conflict or overlap that should be addressed. All SUSMP projects are required to file a Covenant and Agreement with the County Recorder for BMP maintenance and design conservation, prior to issuance of occupancy permits. A standard email, with hotlinks to the SUSMP guidelines and other supporting regulatory information such as the MS4 Permit and 303(d) listings, is liberally provided to developers and their consultants, even though the SUSMP provisions are being challenged by the city. Applicable projects will continue to be conditioned on meeting SUSMP requirements prior to new MS4 Permit issuance.

Redevelopment projects, over one acre in extent, are required to meet City of Downey SUSMP infiltration requirements and file a Notice of Intent (NOI) prior to issuance of a City Grading Permit. (Due to delays in Waste Discharge Identification Number issuance by the State, Downey has accepted other indicators of NOI application.) Exceptions to the normal City of Downey SUSMP and GCASP process have occurred at the Downey Landing Redevelopment Projects, which file a separate appendix to the City of Downey annual MS4 report, and at Downey Unified School District projects, due to the District's contention that the City does not have jurisdiction over their operations. In order to minimize construction phase misunderstandings, Engineering Staff pre-review project SWPPPs before construction begins, at the developer's or contractor's request. While this effort has resulted in site specific SWPPPs that include fewer generic and unused BMPs, it has not reversed the tendency for these documents to fall into disuse and be poorly maintained after the initiation of construction.

Despite the delay of Regional Board Staff in adopting the February 2, 2004 draft LACDPW technical manual for siting and design of BMPs for the development community, the City has tried to distribute and incorporate its recommendations to the developer, consultant and contractor communities. During this permit period developers in the City of Downey have incorporated into their projects: basin inserts, hydrodynamic devices, vortex separators, biofilters, on-site clarifiers, vegetative swales, perforated pipes in rock filled trenches, various infiltration systems, retention, and detention basins.

Since the development constructed today, will impact water quality forty or more years into the future, the City of Downey Development Planning Program was designed to exceed the 2001 Permit objectives. The following Figure 2 shows that through this aggressive city program, more that 550 infiltration BMP projects have been permitted and most are already constructed and operational. The accomplishments of this City

directed program are scattered nearly randomly throughout each of the adjacent watershed drainage areas and benefits the regional MS4 systems owned and operated by several agencies. Over time, this important City of Downey contribution will reduce the discharge of runoff and the indicator bacteria that current replicate in the drainage systems of these agencies. A summary of the City of Downey Development Planning program accomplishments include:

- By 2005, all single family residential redevelopments, or additions of more than 400 square feet, included a 0.75" design criteria infiltration device;
- Over 550 redevelopment projects in the City of Downey are conditioned to include BMPs; most based on infiltration of the 0.75" design criteria;
- These BMP projects have been recorded in the City GIS system and can be queried and displayed by BMP type, volume and other parameters;
- Over 1% of the City of Downey housing stock already incorporates some infiltration feature, usually sized based on the 0.75" design criteria;
- By June 1, 2006, over 1.4 million cubic feet (32 acre-feet) of infiltration storage volume, has been constructed within the City of Downey;
- Ignoring evaporation, transpiration, and over-irrigation, an average 14" storm season that is 80% retained (based on the 0.75" design criteria), could potentially infiltrate 20 million cubic feet or 500 acre feet of water;
- Based on the above assumptions, the City of Downey Integrated Water Management Effort could already be potentially infiltrating nearly 3% of our annual groundwater supplied potable demand of 17,000 acre-feet;
- A significant fraction of this same volume should be credited as the City of Downey's contribution to regional pollution source control efforts.

The City of Downey has implemented one of the most focused and aggressive Development Planning Programs in Los Angeles County. While the City intends to comply with the Standard Urban Stormwater Mitigation Plan (SUSMP) program during the duration of this permit, this element is subject to a legal challenge and the City of Downey is proposing to discontinue its application during the next MS4 permit cycle.

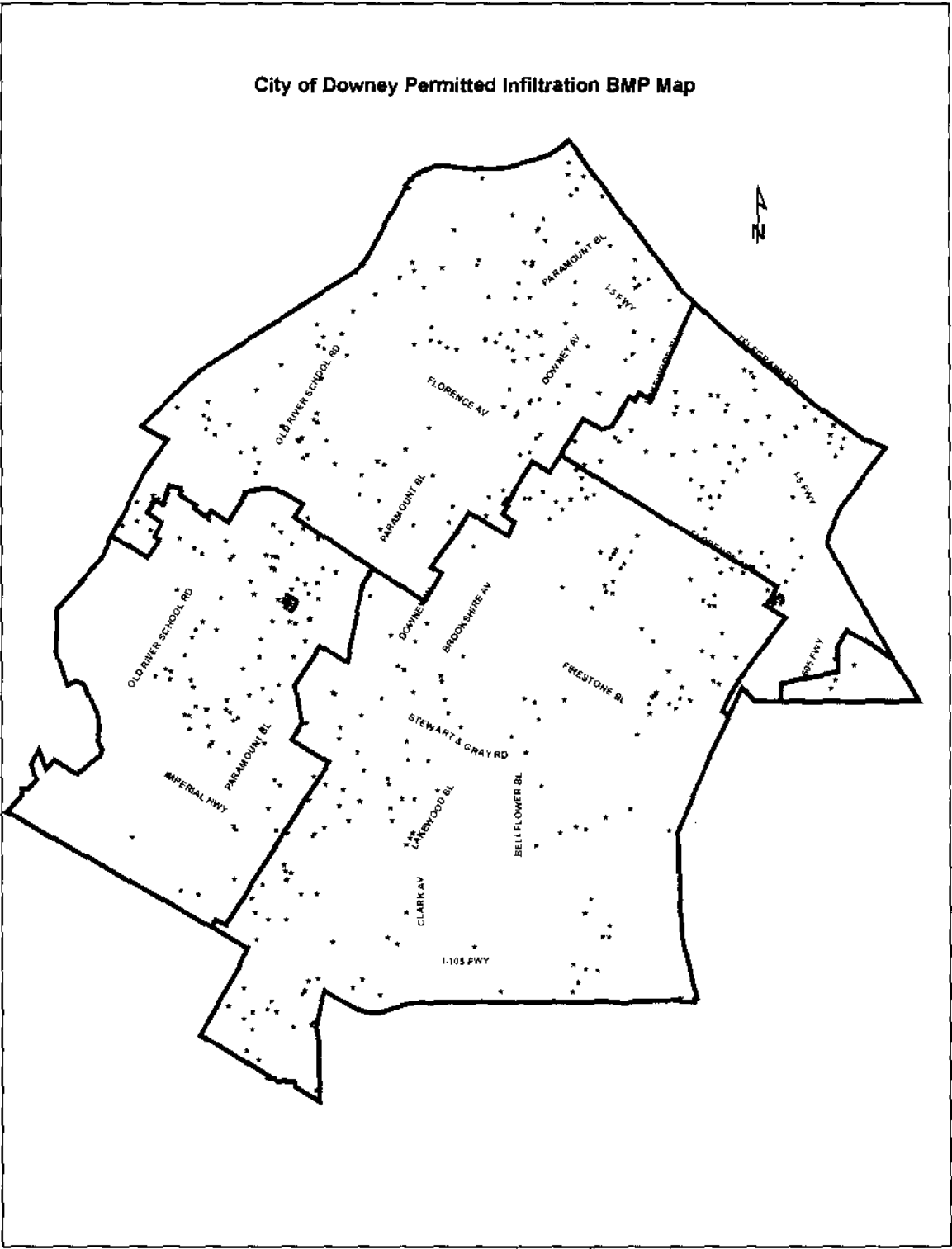


Figure 2. City of Downey Permitted Infiltration BMP Map.

3.5 DEVELOPMENT CONSTRUCTION

The Principal Permittee Development Construction Program requirements are on its website and in a Water Quality Regulations brochure which is available to the public.

The City of Downey Development Construction Program focuses on addressing runoff issues during the design phase, by developing construction site drawings that address the potential site pollution generation issues for each of the four levels identified in the Development planning section. Construction projects were adequately reviewed for compliance with NPDES Permit requirements, including development of Storm Water Pollution Prevention Plans (SWPPP) and compliance with the SUSMP requirements of the 2001 NPDES Permit. Various levels of enforcement actions were taken against construction sites found to be in violation of MS4 Permit requirements as identified through the modified Downey Municipal Code (Stormwater Ordinance 1142).

The City of Downey Building and Safety Department provides informal, but frequent, oversight of private construction projects while conducting their required structural inspections. This oversight may include informal suggestions, preventive actions, and the issuance of correction or violation notices for erosion or other pollution control failures. They also observe whether infiltration devices are installed at project sites and may suggest installation tips; however, they do not provide a formal installation inspection service since these devices are not characterized in the Building Code.

Public Works inspectors, observe and inspect projects that impact the Public Right of Way or other publicly-owned structures, such as the drainage system, including sidewalks, driveway approaches and culverts. During this activity they will also note and initiate corrective action for sediment tracking or other pollution generating activity.

Recalcitrant sites, or projects that are significant or intentional pollutant sources, are referred to Code Enforcement, the Stormwater Coordinator, or both when firm enforcement measures are potentially warranted. Referrals can be initiated by Building and Safety Inspectors, Public Works Inspectors, other municipal staff, other agency staff, and the public, including contractors and developers. Enforcement measures are proportional, progressive, and may also be forwarded for attention by Board staff. The latter is especially true for repeat offenders and specialty contractors that tend to spend little time in the City of Downey (e.g. swimming pool gunite services), but show a blatant disregard for regional water quality protection and MS4 Permit requirements.

Formal GCASP site inspections occur annually during the rainy season, however the City Stormwater Coordinator and Public Works Inspector also conduct informal Friday site visits to verify weekend BMP placement. These inspections have noted significant resistance among contractors in updating SWPPPs, but much less resistance to BMP upkeep and maintenance. While we have issued NOVs and reported technical violations to the Board for further action, our emphasis has been on controlling the discharge of construction site pollutants, especially sediments. We have also expended significant effort in persuading these sites to obtain their Notice of Termination (NOT) at project conclusion, but efforts to link issuance of Certificate of Occupancy to NOT

confirmation have been unproductive due to delays and complications in NOT processing and acceptance by the Board. Since the State Board collects fees for GCASP sites and is responsible for the discharges that emanate from them, the City of Downey proposes to eliminate inspections at these sites during the next permit cycle.

Certain aspects of this program remain subject to a legal challenge by the City of Downey, other 2001 MS4 Permittees, the Construction Industry Coalition on Water Quality ("CICWQ"), and the Building Industry Legal Defense Foundation. The challenged portions of this program are therefore not being proposed for inclusion during the next permit cycle. Inspection obligations in exceedance of federal regulations constitute a State mandate and should be funded by the Board in accordance with the precepts set forth in Article XIII, section 6 of the California Constitution, which mandate that the Board consider the economic impacts of Permit requirements which exceed federal regulations. The City of Downey reserves its objections to the broad scope of construction site inspections required by the 2001 NPDES Permit, which go beyond the requirements of federal regulations.

3.6 PUBLIC AGENCY ACTIVITIES

The Utilities Division of the City of Downey Department of Public Works maintains the City Sewer Collection System. In response to the MS4 Permit, the prior Spill Prevention Manual was significantly revised and distributed to the implementing Staff in June 2003 and subsequently to the Board. As noted in our annual reports, City Staff are constantly at work maintaining this sewer system and infrequently responding to spills, usually originating with private laterals or abandoned facilities. With the adoption of recent Sanitary Sewer Overflows Waste Discharge Requirements by the State Board, this program element is duplicative and should be discontinued from future MS4 Permits. The 2001 Permittees, in cooperation with the County Sanitation Districts of Los Angeles, completed the Treatment Feasibility Study. This study investigated the possible diversion of dry weather discharges or the use of alternative treatment control BMPs to treat flows that may impact public health and safety and/or the environment. No diversion opportunities were identified within jurisdiction of the City of Downey.

The City of Downey initiated four GCASP construction projects during the 2001 MS4 permit cycle and participated extensively in the design of a fifth for the Metropolitan Transit Authority (MTA) Division 4 Non Revenue Vehicle Maintenance Facility. Adequate SWPPPs with appropriate construction BMPs were prepared for each project. Two of these projects were for the Firestone and Lakewood Boulevard reconstruction projects, which because of traffic loading are deemed unsuitable for direct infiltration; however, as with all City of Downey streets, the gutters on these Boulevards are vacuum swept weekly to control pollutants in conformance with the Los Angeles River Metals TMDL recommendations. A grant was submitted to the Board for construction of an inverted bioswale median within Lakewood Boulevard, but was not highly prioritized by Board staff, leading the City back to utilize the original state highway cross sections. The MTA facility complied with SUSMP by utilizing two large rock filled infiltration trenches to reduce the discharge of metals to the impaired Rio Hondo Reach 1 receiving water as characterized in a two page information sheet previously forwarded

to the Board for consideration. The Rio Hondo Event Center and Golf Course exceeds SUSMP requirements by redirecting parking lot pollutants to landscaped swales, an infiltration system and the golf course water hazards, eliminating a significant parking lot pollutant source from the impaired Rio Hondo Reach 1 receiving water. The Downey (NASA) Park project is still under design, but current plans call for the conversion of a 10 acre parking lot into a municipal park that includes an innovative underground infiltration basin with 8 acre-feet of retention and detention capacity.

Storm Water Pollution Prevention Plans were prepared for both the City of Downey Utility and Maintenance Service Yards. BMPs were implemented to reduce pollutants to the MEP; however both facilities are nearing the end of their useful life and costly new structures (e.g. a fuel station canopy) have been deferred for incorporation at the proposed combined yard that is planned for construction and completion with the next three years. Portions of each existing facility are served by clarifier structures, where vehicle rinsing is allowed, while most of the solid waste and construction materials handling occur in an unpaved area where suspended solid mobilization is controlled.

As indicated in the City of Downey Annual MS4 Permit Reports, pesticides are stored in a locked portion of the Maintenance Service Yard and applied under the supervision of a State Certified Pest Applicator. Banned or unregistered pesticides were long ago purged from this locker. Pesticides and fertilizers are not applied when rain is anticipated and mulches are stored outdoors in an unpaved area that encourages infiltration. Wavelength specific light inhibitors, rather than aquatic herbicides, are used to control aquatic vegetation in ornamental city ponds and vector control of large temporary pools is managed by the Greater Los Angeles County Vector Control District.

The Operation and Management of City of Downey Storm Drain is undertaken by the Department of Public Works with maintenance by the Utilities Division. Although none of the City owned catch basins have been designated as collecting significant amounts of trash, the acknowledged city owned catch basins are cleaned twice annually. During this permit cycle, an Eagle Scout with the Boy Scouts of America and the City of Downey undertook a significant review of the drainage information in the Geographical Information System (GIS) and repainting of catch basin stencils. Many previously unrecognized catch basins and drainage systems belonging to the City, County, and Caltrans were located, while the ownership of others remains unresolved. More GIS corrections are planned at which point the city drainage map and maintenance schedules will be formally updated and available for review. City owned "channels" (often just cement lined easements at street level) are cleaned at least annually or more often if needed due to illegal dumping. All City transit stops have trash receptacles that are emptied daily. During special events, such as the Holiday (Christmas) Parade, Street Fair, and Kid's Day catch basin blocks are placed in advance and trash control initiated in conjunction with crowd dispersal; after which the blocks are removed.

During this permit cycle, the City of Downey vacuum swept all of its streets and parking lots on a weekly basis. Most streets are posted for parking enforcement on the scheduled weekday, but a few residents have opted out of this public service and are responsible for their own litter control. There also remain a small number of private

streets on which the residents are responsible for litter and dust control. Sawcutting of public streets requires an encroachment permit and a Public Works Inspector ensures that unfamiliar contractors are educated in relation to local construction practices. The Stormwater Coordinator provided MS4 Permit related training to the majority of the Public Works Utility and Maintenance Services employees during two training sessions. Code Enforcement and Building and Safety officials received similarly focused training.

There are no municipal facilities which warrant management under the GIASP program. City of Downey employees and contractors are advised that emergency repair and clean up activities should be undertaken in an environmentally friendly manner that incorporates applicable BMPs. Although the City of Downey participated and identified drains for potential inclusion in the Treatment Feasibility Study, none were of high priority or recommended for immediate implementation.

3.7 ILLICIT CONNECTIONS/ILLICIT DISCHARGES ELIMINATION

Since 2002 the City of Downey has supplied the Los Angeles County Department of Public Works with a GIS representation of the location of any observed illicit connections and illicit discharges. By the fall of 2006, City of Downey staff will have investigated over 300 reported Illicit discharges and while many events became public education opportunities, an increasing number of violation notices and a limited number of enforcement actions have resulted. The City Code Enforcement Division also maintains separate Police Department files of additional minor discharge events.. In addition, 5 illicit or undocumented connections have been terminated or permitted with the County. While we have received a few tips through the Los Angeles County Public Hotline (1-888-CLEAN-LA) the vast majority of calls are from residents to the City of Downey Department of Pubic Works, Code Enforcement or Fire Department. These three city departments cooperate in handling minor events semi-autonomously, but are mutually dependent for specific professional experience and skill sets. Furthermore, when County drainage facilities are involved, the city reports the incident to the Los Angeles County Flood Control District via their 24 hour internal hotline.

The City of Downey Utilities Department has completed the MS4 permit required field screening of all city-owned channels and is continuing to screen city storm drains as they are identified during the GIS correction effort; however it is notable that all illicit connections identified to this point, were either cryptic (e.g. unpermitted curb cores) or unpermitted extensions/connections, of private drains.

While the Los Angeles County Department of Public Works has prepared the MS4 Permit required formal analysis of the regional Illicit Discharge and Connection data accumulated from the Permittees that submitted data, the City of Downey specific data shown in Figure 3 suggests a near random pattern that is slightly weighted towards City Hall. The most common incidents are typically associated with residential remodel and repair work, including the washing down of materials and supplies or surfaces; however swimming pool discharges or construction activities and commercial auto detailing are also often observed. Illicit connections have included:

- A un-permitted residential landscaping curb core
- Extension of the private drain line in auto dealership
- Washing food into a drain line at rear of a fast food restaurant
- Residential washing machine connected to a Caltrans surface drain;
- Bathroom connected to the roof drain of a multi story office building.

A significant fraction of the illicit discharges are from contractors, construction materials suppliers, auto detailers, pool and building maintenance services, many of which have neither a City of Downey Business License, nor are headquartered within the city. It is our supposition that many of these firms operate the same way throughout Los Angeles County, but are rarely in any one, actively enforcing, jurisdiction long enough to establish a pattern or modus operandi. For this reason, nearly two dozen City of Downey letters, to those businesses that blatantly ignored proper pollution source control practices, have been copied to the Board enforcement staff in anticipation that a list of these establishments might be developed and more universally addressed. As an example, developers for the McDonald's Restaurant Corporation and Jay's Gunite, were each reported to be violation of MS4 Permit requirements twice, at different projects.

4.0 PRIORITIES FOR PROGRAM IMPROVEMENT

Municipal stormwater and urban runoff management programs in the Los Angeles region were initiated with the June 18, 1990 adoption of Order No. 90-079. A revised Municipal NPDES Permit was issued in July 1996, and the current permit in December 2001 (Order No. 01-182.) The City of Downey in invigorated to have accomplished so much during the third Permit cycle, but remains frustrated by the unequal distribution of responsibilities, costs, and risk among Permittees, Regulators, and Stakeholder groups. Reflecting on the current state of affairs we conducted a review of our current management programs with an eye toward future efforts. As public agencies, all of the 2001 Permittees and Regulators have an obligation to responsibly manage public funds and protect the quality of life and environmental resources within our jurisdictions. The City of Downey has developed and implemented as outstanding program for managing stormwater and urban runoff impacts in a cost effective manner, that is commensurate with the Maximum Extent Practicable (MEP) standard and regional best interests.

As summarized, the City of Downey has an aggressive water quality program that:

- Supports both local and regional public education efforts;
- Has investigated over 300 illicit discharge reports;
- Interacts with other regional programs to improve regulation;
- Contributes to our understanding of water quality science;
- Continues to revise and correct the municipal drainage mapping system;
- Vacuum sweeps street gutters on a weekly basis;
- Cleans city owned channels and catch basins annually;
- Identifies transient regional waste dischargers for Board action;
- Provides professional education and training regarding program progress;
- Inspects critical pollutant sources within available resource constraints;
- Is recognized by the APWA and Board Staff for progressive actions;
- Encouraged installation of over 1.4 million cubic feet of retention storage;
- Is already infiltrating hundreds of acre feet of potential runoff per year;
- Values the conservation and enhancement reasonably achievable receiving water beneficial uses, that do not endanger the public welfare;

The remainder of this City of Downey Report of Waste Discharge (ROWD) provides an in-depth discussion of our specific priorities and proposed programs for implementation under a City of Downey 2006 NPDES MS4 Permit. A significant part of this effort will be working with adjacent stakeholders and other MS4 operators to address indicator bacteria regrowth and other stormwater and runoff constituents within the underground drainage those agencies operate and maintain. Any 2001 NPDES Permit program not identified below as being a part of the 2006 Permit, has been excluded from the 2006 Permit terms for either legal, practical, or cost effectiveness reasons. It further bears repeating that many of the 2001 Permit terms remain subject to legal challenge, and that, as such, the City of Downey has not included various portions of the 2001 NPDES Permit which it contends may be contrary to State and/or federal law.

4.1 PROGRAM COMPONENTS

The following recommended improvements for the next NPDES MS4 Permit cycle include streamlining specific requirements, eliminating other requirements, providing the City of Downey with a safe harbor provision, maintaining steady implementation of programs that have not been challenged, or that have proven to work well for our City, and emphasizing results-based modifications to other programs to better utilize limited resources. Components in each of the programs have been identified as requiring some modification to improve the overall intent of the Permit, which is to develop, achieve, and implement a timely, comprehensive, cost-effective stormwater pollution control program to reduce the discharge of pollutants in stormwater from the MS4 to the MEP Standard and be consistent with the reasonableness standards under State Law.

4.2 PRIORITY 1 – RECOMMENDED ALTERNATIVE LANGUAGE FOR RECEIVING WATER LIMITATIONS

The Receiving Water Limitations language in Order No. 01-182 is a section of the 2001 Permit that is subject to the pending legal challenge. The City of Downey recommends that the Permit contain Receiving Water Limitations language which is consistent with applicable law and with which the City can comply. Order No. 96-054, the 1996 NPDES Permit, included language which stated “Timely and complete implementation by a Permittee of the storm water management programs prescribed in this Order shall satisfy the requirements of this section and constitute compliance with receiving water limitations.” It further provided that where an exceedance of a water quality objective had occurred, the Permittees were to submit stormwater programs that “will increase the likelihood of preventing future exceedances of water quality objectives.” This language was omitted from Regional Board Order No. 01-182. It is imperative that the City of Downey have the support of the Regional Board when making a good faith effort to comply with costly Permit requirements, and not be required to implement BMPs that go beyond the MEP or reasonableness standards under federal and state law.

The City of Downey, like other municipal Permittees, should not be required to strictly comply with water quality standards or objectives, especially those that have obvious or ubiquitous natural sources and are assimilable in the environment. Rather, compliance with such standards should be limited to compliance through the use of reasonable and cost-effective MEP-compliant BMPs. Constraining the City of Downey, or other Permittees, to an immediate, or never-ending, state of non-compliance, while requiring strict compliance with water quality standards or objectives that are neither reasonably achievable, nor practicable, is arbitrary and capricious, as well as contrary to law. Exposing the City of Downey, and other Permittees, to immediate third party initiated lawsuits is unproductive, discourages the potential for collaborative working relationships with non-governmental organizations, and doesn't achieve the laudable and primary goal of improving receiving water quality.

The following are proposed Findings of Fact and suggested Receiving Water Limitations language and definitions that should form the basis for the 2006 City of Downey NPDES MS4 permit:

Findings of Fact:

1. *Urban Runoff includes discharges from residential, industrial, commercial, and construction areas throughout the adjacent watersheds. In addition to accepting Urban Runoff from the City of Downey MS4, adjacent rivers receive flows from agricultural, open space, state and federal lands and facilities, schools, community colleges, state universities, and several other land use agencies not under the control or legal jurisdiction of the City of Downey or any other municipal Permittee.*

2. *Utilities, special districts, wastewater management agencies, and other point and non-point sources, which are otherwise permitted by or under the jurisdiction of the State or Regional Board, also contribute discharges that may enter the City of Downey MS4 and adjacent water bodies. The Regional Board recognizes that the City of Downey cannot be held legally responsible for any discharges or pollutants, either in stormwater or nonstormwater, running off of any such state regulated properties or facilities. Similarly, certain other activities that generate pollutants present in Urban Runoff are beyond the control or authority of the City of Downey to regulate or prohibit. Examples include internal combustion engine emissions, atmospheric deposition, brake pad and tire wear, pesticide residues, agricultural runoff, onsite wastewater treatment systems, and background conditions (e.g. wildlife, microbial replication, brush fires, and other naturally occurring sources of elements derived from local soils and geology).*

3. *The Regional Board finds that the unique aspects of the regulation of Urban Runoff discharges through MS4s, includes, but is not limited to, the intermittent and unpredictable nature of discharges, difficulties in monitoring, and limited physical control over the discharge conveyance systems. These attributes will require adequate time and resources to determine what persons or entities are responsible for reducing the discharge of pollutants in Urban Runoff discharged from the MS4.*

Receiving Water Limitations:

1. *The City of Downey shall continue to implement BMPs that reduce the discharge of pollutants from the City MS4 where such Urban Runoff discharges cause or contributes to an exceedance of water quality standards and objectives.*

2. *The City of Downey shall comply with Paragraph 1 through the use of reasonable, cost-effective, and MEP-compliant BMPs. The BMPs shall be designed taking into consideration those water quality standards or objectives that are reasonably required to ensure the reasonable protection of properly designated beneficial uses. Only water quality standards or objectives which can reasonably be achieved need to be complied with by the City of Downey, and only after the Board has considered: (a) the past, present and probable future beneficial uses of the receiving water; (b) the environmental characteristics of the hydrographic unit at issue, including the quality of water available thereto; (c) the water quality conditions that could reasonable be achieved through the coordinated control of all factors which affect water quality in the area; (d) economic considerations; (e) the need for developing housing in the region; and (f) the need to develop and use recycled water. In determining whether any*

particular water quality standard or objective must be complied with by the City of Downey, in addition to the above, the Regional Board shall further consider all demands being made, or to be made, on the subject waters, and the total values involved, beneficial and detrimental, economic and social, tangible and intangible. Compliance with applicable water quality standards or objectives is to occur through an iterative BMP process consistent with the provisions of this paragraph.

3. If an exceedance of a water quality standard or objective is believed to be due to discharges to the MS4 that are outside the City of Downey's jurisdiction or control, the City shall advise the Executive Officer of such in writing.

4. If the City of Downey has acted reasonably and in good faith in complying with the procedure set forth above, the City does not need to repeat the procedure for recurring exceedances of the same water quality standards or objectives. The Executive Officer may determine and provides written notice to the City that additional BMPs, consistent with Paragraph 2 above, should be implemented to comply with the water quality standards or objectives including the basis for the determination.

5. Reasonable and good faith compliance with the procedures set forth in this section shall satisfy the requirements of this Order and shall constitute compliance with applicable water quality standards or objectives.

Definitions:

- 1. "Maximum Extent Practicable" or "MEP" is the standard established by Congress in Clean Water Act section 402(p)(3)(B)(iii) that municipal dischargers of stormwater MS4s must meet. MEP generally emphasizes pollution prevention and source control and includes consideration of technical feasibility, practicability, cost effectiveness, benefits derived, regulatory compliance and public acceptance. Where cumulative costs exceed cumulative benefits, a program or BMP is not considered practicable.*
- 2. "Urban Runoff" is that water discharged to the MS4 for which the City of Downey is partially responsible when further discharged from the MS4 to receiving waters. Urban Runoff includes discharges from residential, industrial, commercial, and construction areas (that are not governed by a State issued NPDES Permit) within the Permit area, but the term "Urban Runoff" expressly excludes stormwater and nonstormwater discharges from agricultural, State permitted industrial activities or construction sites, open space, state and federal properties and facilities, school district properties, colleges and universities, waste water management agencies, other NPDES-permitted discharges, and other point and non-point source discharges that are not subject to regulation by the City of Downey.*

4.3 PRIORITY 2 – FUNCTION OF WATERSHED MANAGEMENT COMMITTEES

Order No. 01-182 requires Watershed Management Committees (WMCs) to carry out specific responsibilities as a group. These responsibilities included:

- a. Facilitating cooperation and exchange of information among Permittees;
- b. Establish goals and objectives and associated deadlines for the WMA, as the program implementation progresses;
- c. Prioritize pollution control efforts based on beneficial use impairment(s), watershed characteristics and analysis of results from studies and the monitoring program;
- d. Develop and/or update and monitor the adequate implementation, on an annual basis, of the tasks identified for the WMA;
- e. Assess the effectiveness of, prepare revisions for, and recommend appropriate changes to the SQMP and its components;
- f. Continue to prioritize the Industrial/Commercial critical sources for investigation, outreach and follow-up; and
- g. Meet four times per year and, as necessary.

The City's resources are limited. Requiring the City to perform additional tasks under the WMCs is extremely difficult because it takes valuable resources away from working on other Permit requirements that have a more significant impact on water quality.

While it is important for key personnel within a WMA to meet quarterly to facilitate cooperation in implementing stormwater programs and to exchange experiences and valuable information, the City recommends having the flexibility to independently determine how to implement its Permit programs, whether that be individually or as part of a WMA. The City recommends combining the WMC and impaired water body jurisdictional groups meetings, since the representatives will handle both obligations. This recommendation would reduce the need for unnecessary parallel meetings.

4.4 PRIORITY 3 – INDUSTRIAL AND COMMERCIAL FACILITIES CONTROL PROGRAM IMPROVEMENTS

Under Order No. 01-182, the 2001, the City of Downey was required to track, inspect, and ensure compliance at industrial and commercial facilities that the Regional Board has asserted are critical sources of pollutants in stormwater. Those provisions of Order No. 01-182 are presently being challenged by many of the 2001 Permittees, including the City of Downey, in the previously referenced legal challenge.

The City proposes that the so-called "Critical Sources" referenced in the 2001 Permit, such as commercial facilities (restaurants, automotive service facilities, retail gasoline outlets and automotive dealerships), and Phase I Facilities (both Tier 1 and 2), not be inspected under the new Permit, unless the City first determines that the facility is an industrial facility that is contributing a substantial pollutant load to the MS4.

There is no authority under state or federal law requiring the City of Downey to inspect commercial facilities, such as restaurants, automobile dealerships or gasoline service stations. For industrial facilities, the federal regulations leave it to the Permittee to determine which facilities to inspect, and when, and provide for the inspection of those industrial facilities which a Permittee determines are contributing a substantial pollutant load to the MS4. Accordingly, the City requests that the existing Industrial and Commercial Facility Control Program requirements under Order No. 01-182 be replaced with a provision that gives the City the discretion to inspect industrial facilities it determines are contributing a substantial pollutant load to the MS4.

Also, the 2001 Permittees found it unnecessary and a waste of resources to repeatedly inspect facilities that are found to be in compliance with the General Industrial Activities Stormwater Permit (GIASP). A more effective inspection strategy would target industrial facilities that are not in compliance where the Board, or City of Downey, determines the industrial facility has contributed a substantial pollutant load to the MS4.

Moreover, for those industrial facilities the City chooses to inspect or that the Board determines are not in compliance, the City recommends that the Annual GIASP inspection fees collected by the State Water Resources Control Board be distributed to the City for conducting any such inspections. This would encourage the City to make such inspections and avoid forcing industry to pay twice for a single inspection, or being subject to redundant inspections. In addition, to the legal objections to the inspection program in Order No. 01-182, financial constraints make it difficult for the City of Downey to carry out the required level of inspections and providing local agencies with monetary resources will facilitate more City inspections.

4.5 PRIORITY 4 – PEAK FLOW CONTROL AND STANDARD URBAN STORMWATER MITIGATION PLAN (SUSMP)

The City of Downey proposes that the Development Planning Program provisions as contained in Order No. 01-182 be deleted and not carried forward into the new Permit. State and Regional Boards are without authority to impose these provisions, and as such, the program provisions are inconsistent with state and/or federal law and should not be carried forward in the next Permit cycle. Moreover, these provisions under Order No. 01-182 are being challenged by many of the 2001 Permittees.

Continuing to require compliance with the SUSMP provisions, which reference a particular design criteria or other particular manner of compliance, is contrary to the prohibition of California Water Code section 13360. Require compliance with SUSMP provisions that compel municipalities to impose certain mitigation measures from undefined numerous "development" and "redevelopment" projects discharges,

irrespective of what mitigation measures may or may not be properly required under CEQA and the review process set forth therein, is arbitrary action that is contrary to law, and the Regional and State Boards lack the authority to impose any such requirements.

The Peak Flow Control provisions included in the 2001 Municipal NPDES Permit are in excess of the Regional and State Boards' authority, and therefore contrary to law, as neither the Clean Water Act, nor the Porter-Cologne Act, authorizes the State to regulate the "quantity" of stormwater or urban runoff.

The State and Regional Boards must consider the impacts that the Development Planning Program provisions will have on the development of low income or affordable housing as required under Water Code sections 13241(e) and 13263.

4.6 PRIORITY 5 – SPECIFIC BMP REQUIREMENTS

Under Order No. 01-182, the City of Downey was required to place and maintain trash receptacles at all transit stops within their jurisdiction. Prescriptive requirements such as this limit the ability of the City to analyze and determine the cost effectiveness and appropriateness of BMPs to address pollutants of concern in discharges from their MS4. They are further contrary to law. (See, e.g., Water Code § 13360.)

It is recommended that the City be given the flexibility to select suitable BMPs and their respective locations, to address pollutants of concern. The City also recommends that the explicit requirement to place and maintain trash receptacles at all transit stops be removed from the Permit, as it is presently the subject of the legal challenge to Order No. 01-182. Moreover, under the California Constitution, any such mandates may only be imposed upon the City if appropriate funds have been provided to fund the mandate.

4.7 PRIORITY 6 – DEVELOPMENT CONSTRUCTION PROGRAM AND STORM WATER POLLUTION PREVENTION PLANS (SWPPP) REDUNDANCY

The General Construction Activities Stormwater Permit (GCASP), Order No. 99-08-DWQ, requires all dischargers, where construction activities disturb one or more acres, to develop and implement a Storm Water Pollution Prevention Plan (SWPPP), eliminate or reduce non-stormwater discharges to storm drain systems and other waters of the nation, and perform inspections of all BMPs. Requiring a Local SWPPP to substitute for a State SWPPP is redundant, and is the subject of the legal challenge to Order No. 01-182. The City of Downey recommends eliminating any references to Local SWPPP. The City also recommends that the Development Construction Program requirements as set forth under Order No. 01-182, be modified so that the City not be required to impose "minimum" unreasonable requirements on construction sites, such as unreasonable restrictions on the discharge of sediment or construction related material (including sand, gravel and other natural material) that may erode from a construction site. This concern is also the subject of the pending legal challenge.

4.8 PRIORITY 7 – ILLICIT CONNECTION and ILLICIT DISCHARGE ELIMINATION PROGRAM IMPROVEMENTS

The City of Downey has completed field screening of City owned open channels, priority underground pipes and expected to have completed field screening of underground pipes with a diameter of 36 inches by December 12, 2006. The City of Downey has worked to eliminate illicit connections and illicit discharges to the storm drain system, resulting in 300 report investigations and control actions. No illicit connections to the underground drain system have been detected and most connections were found on private property that could be subject to access limitations. Based partially on data submitted by the City of Downey, the evaluation of patterns and trends in illicit connections and illicit discharges prepared by Los Angeles County concluded that an average of 62.2% of all illicit connections and 81.5% of all illicit discharges are from:

- High Density Single Family Residential (typical urban areas)
- Retail and Commercial
- Light Industrial
- Multiple Family Residential
- Transportation

The City of Downey IC and ID program suggests a two component pattern combining random discharge reports by area residents and businesses with a normal distribution centered along routes taken by agency staff. It is recommended that since City resources are limited, the field screening of underground pipes be abandoned in favor of conducting more thorough illicit discharge investigations and continued GIS mapping efforts to delineate drainage system ownership and maintenance responsibilities.

The City of Downey recommends deleting the term "illicit disposal" from the definitions section of the Permit, since it is not used in the Permit and serves no useful purpose. Other definitions need to be more explicitly defined, or informally clarified, to establish consistent implementation and reporting among Permittees and the intent of the Board. The definition for "illicit discharge" should be revised to read, "any uncontrolled discharge that enters, or may reasonably enter, the MS4 and is prohibited under local, state, ..." This revision identifies an illicit discharge as an uncontained, non-stormwater discharge, that may enter the constructed storm drain system, while allowing a spill or wash water, that enters the gutter or roadway, to be contained and collected, provided it should not reach the receiving water.

4.9 PRIORITY 8 – PERMIT FORMAT

The City of Downey found that in many instances the format of the 2001 Permit and Annual Report were difficult to understand, redundant and convoluted. The City encourages the Regional Board to informally provide examples, tables and matrices to assist the City with Permit requirements, expectations, and submittal deadlines.

4.10 PRIORITY 9 – PERMIT IMPLEMENTATION COSTS

The City of Downey has experienced a 63% increase in program implementation costs over the past 3 years and consistently had to budget and divert money, earmarked for other municipal programs, to meet the obligations of the 2001 NPDES MS4 Permit. The City does not foresee new revenue streams to bridge the gap between future Permit compliance and other municipal programs. The Board should acknowledge the regional lack of implementation resources, prioritize the largest and most significant sources of pollution, and thereby utilize local agency support prudently, rather than preemptively and exhaustingly. The City of Downey has cited the redundant industrial and commercial facility inspections as diverting other municipal service support. The effort to insert numeric indicator bacterial objectives into the expiring 2001 permit reaffirms our previous concerns that permit implementation costs may grow exponentially.

4.11 PRIORITY 10 – DISCHARGE EXEMPTION REFERENCE

The City of Downey proposes to continue with the same non-stormwater discharges prohibition program (2001 Permit, Part 1), except that the exemption for potable supply systems should no longer reference non-existent American Water Works Association (AWWA) guidelines for dechlorination and suspended solids reduction practices, since they are unenforceable.

4.12 PRIORITY 11 – LEGAL AUTHORITY

The task of amending and adopting an enforceable City of Downey specific stormwater and urban runoff ordinance that addressed the requirements of the 2001 Permit took a significant amount of time and effort to complete. If a similarly complex legal authority is required by the Board, the City should be provided at least 12 months from Permit adoption to complete the necessary changes and possess adequate legal authority.

4.13 PRIORITY 12 – ANNUAL REPORT ENHANCEMENTS

The City of Downey recommends streamlining the Annual Report to only demonstrate significant permit compliance and the effectiveness of BMPs used, in accordance with the MEP and reasonableness standards under federal and state law, to reduce the discharge of runoff pollutants from the MS4. Redundant requirements, such as an assessment of SQMP requirements in reducing runoff pollution, are an unnecessary waste of municipal resources. The City of Downey recommends eliminating the following Annual Report section or questions:

- **Section IV.B.2 — Inspection Program** Provide the reporting data as suggested in the following tables. and **Section IV.B.3 — BMPs Implementation** Provide the reporting data as suggested in the following table. (It is unclear what the table was meant to include, the GIASP, Critical Source Inspections, or both. Provide more example rows to complete or explain. Table should have been in portrait format.)

- Section IV.C.7 — How many of each of the following projects did your agency review and condition to meet SUSMP requirements last year?
- Section IV.C.8 — What is the percentage of total development projects that were conditioned to meet SUSMP requirements?
- Section IV.D.5 — How many building/grading permits were issued to sites requiring Local SWPPPs last year?
- Section IV.D.6 — How many building/grading permits were issued to sites requiring coverage under the General Construction Activities Stormwater Permit last year?
- Section IV.D.7 — How many building/grading permits were issued to construction sites less than one acre in size last year?

The following Annual Report tables should be modified to eliminate confusion and improve the quality of data submitted:

Section IV.F.10 — Delete and replace with the following illicit connections table:

Number of Suspected Illicit Connections Reported	Number of Suspected Illicit Connections Investigated	Number of Illicit Connections Terminated	Number of Suspected Illicit Connections found not to be Illicit	Number of Suspected Illicit Connections that resulted in Enforcement Action
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Section IV.F.13 — Delete and replace with the following illicit discharges table:

Number of Suspected Illicit Discharges Reported	Number of Suspected Illicit Discharges Investigated	Number of Illicit Discharges Terminated	Number of Suspected Illicit Discharges found not to be Illicit	Number of Suspected Illicit Discharges that resulted in Enforcement Action
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4.14 PRIORITY 13 – PUBLIC INFORMATION AND PARTICIPATION ENHANCEMENT

The City of Downey concurs with the County of Los Angeles in recommending that the minimum 35 million mass media impressions per year requirement be deleted from the next MS4 permit. Furthermore, based on the 1-2% attendance rate, the City also recommends deleting the restaurant and gas station Workshop management education, which was both costly and wholly ineffective. The City favors the cost-effective local approach used in our continuing Keep Downey Beautiful Campaign, the achievements of which were previously summarized and reported in section 3.2.

4.15 IMPLEMENTATION APPROACHES

The City of Downey has diligently initiated comprehensive watershed programs and provided education to other agencies about Board requirements. As Chair of the Executive Advisory Committee (EAC), current Chair of the San Gabriel River Watershed Management Committee (SGR WMC), active member of CREST and the San Gabriel River Monitoring Workgroup committee member, we have educated many stakeholders about Basin Plan, TMDL, MS4 Permit, Waste Discharge Requirements and their implementation in the City of Downey. Others have suggested that Permittees could meet the 2001 MS4 permit requirements and correct 303(d) list impairments by installing inexpensive catch basin inserts and trash diverting screens, covering trash cans, or sweeping parking spaces. Not surprisingly these marginally effective BMPs account for nearly 33,000 of the nearly 35,000 BMPs reported in the municipal annual reports. Many of the Integrated Water Management and Jurisdictional TMDL Implementation Plans are retreating to smaller and less effective 0.5' to 0.25" design storms. These are the collective implementation standards for most of the existing city watershed programs.

In contrast, the city of Downey has implemented a development planning and construction program that has resulted in the permitting and continuing installation of more than 550 infiltration systems based on the 0.75" SUSMP design storm. This amounts to about 1.4 million cubic feet of retention storage and at this time the potential to divert hundreds of acre feet of runoff per year. This volume is equal to more than 10 cubic feet of retention storage per City of Downey resident, more than any other Permittee and probably more retention storage than any other 2001 Permittee; perhaps more than the sum of all the other Permittees together. Adopting more prescriptive and inflexible permit requirements would be premature and could undermine this City of Downey program and our commitment to achieving regional water quality goals.

In recognition of the substantial achievements of the City of Downey, its residents, builders, and businesses, we request the issuance of a City of Downey NPDES MS4 Permit that reflects our flexible approach to runoff management and contribution toward achieving regional water quality goals. The ultimate goal of this MS4 Permit being to implement cost-effective program components that reduce the discharges of pollutants in stormwater and urban runoff from the Municipal Separate Storm Sewer System to the Maximum Extent Practicable standard and reasonableness requirements of federal and state law.

4.16 TOTAL MAXIMUM DAILY LOAD IMPLEMENTATION PLANS

Under the Federal CWA of 1972, States must develop lists of impaired waters and the pollutants causing them to be impaired, also known as a 303(d) List. With the goal of bringing each listed water body into compliance with water quality standards, the States must then establish pollutant specific TMDLs, that are consistent with State and federal law applicable to their adoption and implementation. One of the objectives of this NPDES MS4 Permit is to protect existing beneficial uses for receiving waters around the

City of Downey through an iterative BMP approach that reduces the discharge of pollutants in stormwater to the MEP and reasonableness standards.

TMDL waste load allocations may be complied with through an Implementation Plan, that identifies appropriate BMPs and may be adopted as Waste Discharge Requirements ("WDRs") or a Memorandum of Understanding ("MOU") between the Board and affected dischargers. TMDLs, applying to municipal discharges, should be implemented through the subsequent adoption by the Boards of separate MOUs which delineate the reasonable and cost-effective MEP-compliant BMPs to be undertaken. Such MOUs should provide that good faith compliance and implementation of the BMPs set forth therein shall constitute compliance with the adopted TMDLs.

US EPA has stated that TMDLs can be implemented through a variety of mechanisms, including voluntary agreements. The City of Downey proposes that TMDL's be implemented through Memorandums of Understanding (MOUs) between the Board and the City. Implementing TMDLs through the NPDES Permits is contrary to EPA policy which support the implementation of CWA stormwater requirements through an iterative BMP based approach.

The City thus recommends an MOU between the State and Regional Boards and responsible agencies be adopted in lieu of including TMDLs in the NPDES Permit. The TMDLs applicable to the City would then be implemented through the adoption of separate MOUs setting forth reasonable and cost-effective BMPs. Such MOUs should provide that good faith compliance and implementation of the BMPs set forth in the developed Implementation Plan would constitute compliance with the adopted TMDLs. The use of MOUs is authorized by the Water Quality Control Policy for Addressing Impaired Waters: Regulatory Structure and Options, adopted by State Board Resolution No. 2005-0050 (June 16, 2005). The effluent limitations in the Permit itself should be expressed as BMPs. See EPA Memorandum, Establishing Total Maximum Daily Load (TMDL) Waste Load Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs (November 22, 2002), p.4.

All BMPs proposed to be implemented to meet a TMDL's waste load allocation(s), should, moreover, be in accordance with the MEP and reasonableness requirements of federal and State law, and particularly the requirement that the City only be required to comply with those water quality standards/objectives which are "reasonably achievable," taking into account economic considerations, impacts on housing within the region, the past, present and probable future beneficial uses of the water, the environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto, and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.

As set forth in a November 22, 2002 EPA Guidance Memorandum ("EPA Guidance Memo"), EPA determined that where a TMDL is developed for stormwater discharges: "because stormwater discharges are due to storm events that are highly variable in frequency and duration and are not easily characterized, only in rare cases will it be

feasible or appropriate to establish numeric limits for municipal and small construction stormwater discharges.” EPA further found that:

Under certain circumstances, BMPs are an appropriate form of effluent limits to control pollutants in storm water. See 40 C.F.R. § 122.44(k)(2) & (3). If it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this. (*Id.* at p. 5 of EPA’s Guidance Memo.)

5.0 WATER QUALITY MONITORING

The intent of the City of Downey ROWD is to contribute to the regional monitoring effort by focusing on a drainage area in which our community's impact might become evident, while coordinating with other stakeholders whose regional programs are currently too coarse to detect the incremental changes occurring in adjacent watershed areas. The proposed City of Downey monitoring program is in conformity with the draft Los Angeles County Monitoring Program, which reallocates resources toward studies and monitoring programs that allow for a better measure of SQMP effectiveness through a reduction in pollutant loadings from urban and storm runoff.

The City has been an integral participant in the San Gabriel River Watershed Monitoring Workgroup effort, now managed by the Los Angeles and San Gabriel Rivers Watershed Council, since it was first initiated on March 2, 2004. Similarly, the City of Downey has participated in making technical decisions and reviewing the Cleaner Rivers through Effective Stakeholder-led TMDLs (CREST) process, including recent in-kind professional staff (sampling) services. The City of Downey is reluctant to betray the significant technical and monetary investment, by a variety of stakeholders, through recommendation and development of a competing monitoring program. Instead we propose to implement a monitoring effort at the upper and lower extent of Reach 1 of the Rio Hondo and cooperate with other Los Angeles or San Gabriel River monitoring efforts, provided the level of support does not undermine our local effort and is commensurate with contributions from other municipal stakeholder agencies and our contribution to the total contributory watershed area.

As contemplated, the City of Downey Monitoring effort will focus on Reach 1 of the Rio Hondo River, which begins at Interstate 5 near the northernmost corner of the City and ends at the confluence with the Los Angeles River at Imperial Highway, just west of Downey. Just over 27% (3.40 square miles) of Downey drains to the Rio Hondo along with portions of South Gate, Bell Gardens, Commerce and Montebello. In the draft 2006 303(d) listing documents, this Reach has been listed as "do not de-list" for ammonia and pH, which is primarily being addressed through treatment plant operational modifications by the County Sanitation Districts of Los Angeles County. The adopted 2002 303(d) list this reach for copper, high coliform count, lead, pH, trash and zinc. Trash is difficult to quantify effectively in low flows and pH seems to be highly correlated with algae growth and supersaturated oxygen concentrations. Since dry-weather monitoring of trash and pH is too subjective and qualitative to facilitate effective sampling, they are not currently including in our monitoring proposal.

The proposed City of Downey monitoring effort would focus on Rio Hondo Reach 1 and begin during the first quarter following City of Downey MS4 Permit acceptance, when a Monitoring and Sampling Quality Assurance Project Plan would be developed in consultation with other local agencies and Board Staff. During the quarter after acceptance of the Monitoring QAPP, samples would be taken at the upper and lower ends of this reach at locations agreed upon in consultation with Board Staff. In this area dry weather flows are generally diffuse and braided across the channel bottom, making

collection of representative samples difficult. Grab sampling are likely to require flow concentration between a narrow gap which should also facilitate more accurate flow measurement. Parameters to be tracked include flow rate, hardness, metals (broad screen ICP/MS or AES method such as 200.7), indicator bacteria, and semi-volatiles (GC/MS method such as 625).

A brief annual monitoring report would prepared and presented to the Board for consideration, along with suggestions for future monitoring or source control efforts. This report would estimate pollutant loadings within Reach 1 based on flow and concentrations as possible based on the analytical results available.